



**COUNCIL OF
THE EUROPEAN UNION**



Luxembourg, 23 October 2009
14826/09 (Presse 303)

EU/US agreements on extradition and on mutual legal assistance

The Council adopted a decision approving the conclusion of two agreements with the United States of America: one on extradition and the other on mutual legal assistance ([7746/09](#)).

Both agreements were negotiated in the aftermath of the terrorist attacks of 11 September 2001 as a means to improve the co-operation in criminal matters between the EU member states and the United States of America. The agreements supplement the bilateral agreements that exist in these fields between the US and EU member states.

P R E S S

Extradition agreement

The agreement on extradition (*Official Journal*) clarifies, among other things, the kind of offences that are extraditable, the exchange of information and transmission of documents as well as transit rules. It also significantly improves the protection against the death penalty. Extradition to the US will henceforth only be possible under the condition that the death penalty will not be imposed or, if for procedural reasons such condition cannot be complied with, that the death penalty will not be carried out. Unlike what is currently the prevailing practice, the non-execution of the death penalty will no longer depend on case-by-case guarantees from the US.

Agreement on mutual legal assistance

The agreement on mutual legal assistance (*Official Journal*) increases the possibilities to exchange financial information between EU member states and the US in the context of criminal investigations. Under certain conditions, it will be possible to ask, to a larger extent than is currently the case, whether a suspect holds a bank account in the other country and to request details of his financial transactions. Besides law enforcement bodies, also administrative authorities, such as banking supervisory authorities, will be able to obtain information when they are considering to launch criminal investigations and/or prosecutions. In addition to that, the agreement contains provisions which will enable the setting up of joint investigative teams as well as the use of video conferencing for taking witness or expert testimony in criminal proceedings. Finally, the agreement includes guarantees for the protection of personal data.

Both agreements contain so-called non-derogation clauses, by which all grounds of refusal and safeguards already contained in the existing bilateral treaties between the member states and the US are maintained.

Past and next steps

After their signature in June 2003, the agreements were published in the Official Journal of the EU L181 of 19.7.2003, p.27 and p. 34 respectively.

Following that, all Member States have in effect implemented these EU-US Agreements in their bilateral relations with the US. They did so either by amending their existing bilateral extradition and mutual legal assistance treaties with the US, or by entering into new treaty arrangements.

Now that the Presidency has been authorised to conclude the agreements, it is expected that it will exchange the instruments of ratification with the US at the EU-US Justice and Home Affairs Ministerial meeting in Washington DC on 28 October 2009.

The agreements will then enter into force on 1 February 2010.
