

**Statement of  
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**Before the  
U.S. Senate Committee on Foreign Relations**

**April 6<sup>th</sup>, 2022 at 2:30 p.m.**

Mr. Chairman, members of the committee, I am pleased to appear before you today to testify in support of two law enforcement treaties being considered by the committee: the Extradition and Mutual Legal Assistance Treaties with Croatia.

The administration appreciates the committee's prioritization of these treaties. Both the Croatia extradition and mutual legal assistance treaties advance U.S. interests. They will modernize and strengthen our law enforcement cooperation relationship with an important European partner, and thereby improve our ability to combat transborder crime, including terrorism, other forms of violent crime, drug trafficking, cybercrime, and the laundering of the proceeds of criminal activity. In addition, these treaties will advance our project to conform our law enforcement treaties with Member States of the European Union to the standards established in the extradition and mutual legal assistance agreements we have concluded with the European Union. The administration supports both of these treaties and urges the Senate to provide its advice and consent to their ratification.

The U.S. extradition relationship with Croatia is currently governed by the Treaty Between the United States of America and the Kingdom of Serbia for the Mutual Extradition of Fugitives from Justice, signed on October 25, 1901 ("the 1901 Treaty"). This treaty is not as effective as the modern treaties we have in force with other countries in ensuring that fugitives may be brought to justice, and it does not incorporate the provisions required by the Agreement on Extradition between the United States of America and the European Union signed on June 25, 2003 ("the U.S.-EU Extradition Agreement"), and to which the Senate gave its advice and consent in 2008.

We do not currently have a mutual legal assistance agreement in place with Croatia, and the treaty now before you would fill that gap and serve to implement the Agreement on Mutual Legal Assistance between the United States of America and the European Union, signed on June 25, 2003 ("the U.S.-EU Mutual Legal Assistance Agreement"), and to which the Senate gave its advice and consent in 2008.

Both of the treaties before you today are self-executing and were ratified by Croatia in April of 2020. As such, U.S. ratification would allow the parties to bring these instruments into force and immediately begin making use of them for enhanced law enforcement cooperation.

These two treaties would establish a modern law enforcement relationship with Croatia. Replacing outdated extradition treaties with modern ones (as well as negotiating extradition

treaties with new partners where appropriate) is necessary to create a seamless web of mutual obligations to facilitate the prompt location, arrest and extradition of international fugitives. Similarly, treaty-based mutual legal assistance mechanisms facilitate our ability to obtain evidence and other forms of assistance in support of our criminal investigations and prosecutions. As a result, these two treaties are an important part of the administration's efforts to ensure that those who commit crimes against Americans will face justice in the United States.

The new U.S.-Croatia Extradition Agreement contains several important provisions that will serve our law enforcement objectives:

First, it defines extraditable offenses to include conduct that is punishable by imprisonment or deprivation of liberty for a period of more than one year in both States. This is the so-called "dual criminality" approach. Our older treaties, including the 1901 Treaty, provide for extradition only for offenses appearing on a list contained in the instrument. The problem with this approach is that, as time passes, the lists grow increasingly out of date. The dual criminality approach eliminates the need to renegotiate treaties to cover new offenses in instances in which both States pass laws to address new types of criminal activity. By way of illustration, so called "list treaties" from the beginning of the 20th century do not clearly cover various forms of cybercrime or money laundering. The new treaty would fix this problem.

Second, unlike the 1901 Treaty, the new extradition treaty contains a provision that would permit the temporary surrender of a fugitive to the United States of a person facing prosecution, or serving a sentence, in Croatia. This provision is important because it can enable pending charges against a person to be resolved while the evidence is still fresh, as well as enable the prosecution of a person together with his or her codefendants.

And third, the new extradition treaty incorporates a number of other improvements over the 1901 Treaty, including procedural improvements that have the potential to expedite extradition processes by streamlining and clarifying the requirements for extradition. For example, the new treaty provides clarity on the materials required to be included in a formal extradition request, allows for direct transmission of provisional arrest requests through Justice Department channels, and sets out criteria for situations where more than one State has requested the extradition of an individual. The treaty also provides for a simplified procedure when an individual consents to extradition.

For its part, the new U.S.-Croatia Mutual Legal Assistance Agreement formalizes a framework for effective cooperation on the issues covered by the U.S.-EU Mutual Legal Assistance Agreement, including provisions on: the identification of bank information relating to individuals suspected or charged with criminal offenses; the establishment and operation of joint investigative teams; the use of video-conferencing technology to take testimony; the ability to make requests by expedited means; and the provision of assistance to administrative authorities that are conducting investigations of criminal activity. The new treaty also contains provisions concerning limitations on use, confidentiality, and grounds for refusal of a request. This treaty is consistent with treaties concluded with other EU Member States with which the United States did not have an existing mutual legal assistance treaty and establishes a crucial framework to facilitate assistance between our countries in criminal investigations and prosecutions.

For all these reasons, U.S. ratification of these two law enforcement treaties will help us and our colleagues at the Department of Justice to deepen an important law enforcement relationship and advance our objective of combatting transnational crime.