

AGREEMENT BETWEEN THE PORTUGUESE REPUBLIC AND THE REPUBLIC OF BULGARIA ON CO-OPERATION IN THE FIGHT AGAINST CRIME

The Portuguese Republic and the Republic of Bulgaria, hereinafter referred to as «Parties»,

Wishing to contribute to the development and consolidation of friendship relations and bilateral co-operation between the two States;

Recognizing the importance of strengthening and developing the co-operation in the fight against crime;

Considering that such co-operation shall be effective within the framework of the respect for human rights and fundamental principles, as provided by the main international legal instruments in this field;

Bearing in mind the purposes and principles set forth in international conventions to which both States are Parties, as well as conventions and resolutions from the United Nations and its specialized institutions in the fight against crime;

Considering the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of 28th January 1981 and the Recommendation n° R-87(15) of the Committee of Ministers regarding the Protection of Personal Data in the Police Sector, both of the Council of Europe;

Bearing in mind the respect for the principles of sovereignty, equality and mutual benefit,

Agree as follows:

Article 1 Object

This Agreement provides the legal framework for the co-operation between the Parties in the fight against crime, in accordance with the law applicable to it.

Article 2 Scope

1 – The Parties shall, in accordance with their domestic law, the international law and the provisions of this Agreement, cooperate in the prevention, detection, investigation and repression of criminal activities, especially in its organized form, through the direct co-operation between the competent authorities of each of the Parties.

2 – For that purpose, the Parties shall co-operate in the fight against crime namely in the following areas:

- a) Illicit trafficking in narcotics, psychotropic substances as well as its precursors;
- b) Illicit trafficking of fire arms, ammunition, explosives and chemical substances, including nuclear and radioactive materials;
- c) Trafficking in human beings, exploitation of prostitution by third persons and sexual exploitation of children;
- d) Smuggling of migrants, including the fraudulent use of identity and travel documents;
- e) Terrorism and terrorist groups including its financing;
- f) Theft, trafficking and forgery of identification documents of vehicles;
- g) Illicit trafficking of cultural or historical objects;
- h) Money laundering resulting from criminal activity;
- i) Corruption, financial and economic crimes and counterfeiting of trademarks and patents;
- j) Production and diffusion of child pornography and cyber criminality.

3 – The present Agreement shall not apply to mutual legal assistance in criminal matters and extradition.

Article 3 Competent authorities

Within their respective competences, the competent authorities responsible for the implementation of this Agreement are:

- a) For the Portuguese Republic:
 - (i) the Ministry of Justice (Ministério da Justiça);
 - (ii) the Ministry of Internal Affairs (Ministério da Administração Interna).
- b) For the Republic of Bulgaria, the Ministry of Interior.

Article 4 Modalities of co-operation

1 – The co-operation between the Parties translates itself in:

- a) The exchange of information and data related to the several expressions of organized crime;
- b) The exchange of operational, forensic and legal information and information related to the localization and identification of individuals and objects and support in the execution of police actions;
- c) The exchange of useful information related to crimes that are under planning or that have been committed, as well as about individuals and organizations involved in the commission of such crimes;
- d) The professional and technical training of competent authorities officials' of both Parties;

- e) The exchange of experiences and experts, including staff training actions and victim's support programs;
- f) The exchange of analytic information about the origin, development and the possible effects of criminal phenomena;
- g) The exchange of information about legislative activity, didactic publications and scientific and technical data on the functions of the competent authorities.

2- The Parties shall cooperate whenever, in the territory of one of the Parties, a crime in under preparation or has been committed, if the available data allow for the conclusion that the consequences of such crime will occur in the territory of the other Party.

Article 5 Development of co-operation

1 – Regardless of the modalities of co-operation mentioned in Article 4, the Parties may decide to develop other forms and modalities of co-operation that could include the support in specific areas.

2 – The modalities of co-operation mentioned in Article 4 may also include the use of liaison officers and telematic means of communication as well as the use of special investigative techniques.

Article 6 Contents of the request

1 – The request shall refer:

- a) The identification of the requesting authority;
- b) The identification of the requested authority;
- c) The subject;
- d) The purpose;
- e) Any other relevant information allowing the execution of the request.

2 – The request shall be enforced as soon as possible.

3 – The request and correspondent answers should be made by writing.

4 – In case of urgency, the request may be transmitted verbally and be confirmed in written immediately.

5 – If the requested falls out of its competence, the requested authority should send the request to the competent authority, informing previously the competent authority of the requesting Party.

6 – If the requested Party has doubts about the authenticity or the contents of the request or it considers that the information of the request is not sufficient for its enforcement, it may ask for additional information.

Article 7
Refusal of the request

1 – The request for co-operation may be refused, wholly or partially, if the requested Party considers that its execution may attempt against the principles of sovereignty, safety, public order of the State or that is contrary to its domestic law or to fundamental interests of the State.

2 – The requesting Party shall be notified, in writing and in due time, concerning the reasons for the full or partial refusal of the request and be provided at the same time with the grounds for refusal.

Article 8
Confidential information, documents and personal data

1 – The Parties shall, in accordance with the applicable international and domestic laws and based on this Agreement, keep confidential the information, data and personal data that have been disclosed orally or in writing and that have been obtained for the purpose defined in this Agreement.

2 – The requested Party shall notify the requesting Party that the information given pursuant to this Agreement is considered confidential under the applicable international and domestic laws.

3 – Confidential information, documents and personal data received by the competent authorities of the Parties within the framework of this Agreement shall not be transferred to a third party without the prior consent of the requested Party and the appropriate legal safeguards for the protection of personal data, in accordance with the applicable international and domestic laws.

Article 9
Use and transfer of personal data

1 – The data used and transferred within the scope of the present Agreement shall, in accordance with the applicable international and domestic laws, be:

- a) Obtained for the purposes specified in this Agreement and shall not be further processed in any way incompatible with those purposes in a subsequent moment;
- b) Adequate, relevant and not excessive in relation to the purposes for which they are collected, transferred and then processed;
- c) Accurate and, if necessary, updated; and should be taken all reasonable measures to ensure that inaccurate or incomplete data, having regard to the purposes for which they were been collected or for which they are subsequently processed, are erased or corrected;
- d) Kept in a form that allows the identification of the related persons only when necessary for the purposes for which the data were collected or for which they are subsequently processed; been erased after that period.

2 – If a person whose data are transferred requests access to them, the requested Party shall grant that person with direct access to those data and shall proceed to its correction, except when this request may be refused under the terms of the applicable international and domestic laws.

Article 10 Language

1 – The request and the supporting documents, as well other communications made in accordance to the present Agreement should be made in the language of the requesting Party accompanied by a translation into the language of the requested Party.

2 – However, the Parties may agree to use only its own language or, whenever that it is not possible, to use only a translation into English for such communications.

Article 11 Costs

1 – The requested Party shall bear the expenses of executing a request in its territory, except for the expenses related to travel and accommodations of the representatives of the requesting Party.

2 – Expenses of extraordinary nature may be subject to a special agreement between the Parties.

3 – Representatives of the competent authorities of the requesting Party shall not travel without prior consent of the requested Party.

Article 12 Consultations

Regular consultations with the aim to review the level of application of the present Agreement shall be promoted by the competent authorities of the Parties.

Article 13 Relation to other international conventions

This Agreement shall be without prejudice to any rights and obligations between the Parties pursuant to other international conventions to which both States are Parties.

Article 14 Entry into force

The present Agreement shall enter into force three months after the date of receipt of the later of the notifications in writing through diplomatic channels, conveying the completion of the internal procedures of each Party required for that purpose.

Article 15
Settlement of disputes

Any dispute concerning the interpretation or application of this Agreement shall be settled through negotiation through diplomatic channels.

Article 16
Amendments

- 1 – The present Agreement may be amended by request of any of the Parties.
- 2 – The amendments shall enter into force under the terms foreseen in Article 14 of the present Agreement.

Article 17
Duration and termination

- 1 – This Agreement shall remain in force for an indeterminate period of time.
- 2 – Either Party may at any time terminate this Agreement.
- 3 – The termination shall be notified in writing through diplomatic channels, taking effect six months after the date of receipt of such notification.

Article 18
Registration

Upon the entry into force of the present Agreement, the Party in whose territory it is signed shall transmit it to Secretariat of the United Nations for registration, in accordance with Article 102 of the Charter of the United Nations, and shall notify the other Party of the completion of this procedure as well as of its registration number.

Done at Sofia on the 28th day of January of 2011 in two originals, each in the Portuguese, Bulgarian and English languages, all texts being equally authentic. In case of divergence of interpretation the English version shall prevail.

For the Portuguese Republic

For the Republic of Bulgaria