



TREATY SERIES 2014

N° 15

**Agreement Between the Government of Ireland and the
Government of Romania on Co-operation in Preventing and
Combating Illicit Drug Trafficking, Money Laundering,
Organised Crime, Trafficking in Persons, Terrorism,
Terrorism Financing and other serious crime**

Done at Dublin on 17 January 2013

Notifications of the completion of the procedures necessary for the entry
into force of this Agreement exchanged on 2 August 2013 and 19
December 2013

Entered into force on 19 January 2014

Presented to Dáil Éireann by the Minister for Foreign Affairs and Trade

Agreement Between the Government of Ireland and the Government of Romania on Co-operation in Preventing and Combating Illicit Drug Trafficking, Money Laundering, Organised Crime, Trafficking in Persons, Terrorism, Terrorism Financing and other serious crime

The Government of Ireland and the Government of Romania (hereinafter referred to as “the Parties”)

- seeking to make a contribution to the development of their bilateral relations;
- convinced of the importance of international co-operation in preventing and combating serious crime, especially drug trafficking, money laundering, organised crime, trafficking in persons, terrorism and terrorism financing;

referring to the international conventions by which the Parties are bound have agreed as follows:

Article 1 *Scope of Agreement*

(1) This Agreement shall apply to illicit drug trafficking, money laundering, organised crime, trafficking in persons, terrorism, terrorism financing and to other serious crime as well as to economic and financial crimes which have been committed, organised or prepared, or which are in the process of being committed, organised or prepared in the territory of the state of either Party.

(2) For the purposes of the present Agreement, a serious crime is the criminal act for which the maximum length of imprisonment, provided as a punishment according to legislation of each of the Parties, is at least 5 years.

Article 2 *Competent Authorities*

1) In the implementation of this Agreement, the competent authorities are:

(i) for the Irish Party:

- the Minister for Foreign Affairs & Trade
- the Minister for Justice and Equality
- Commissioner, An Garda Síochána
- the Revenue Commissioners

(ii) for the Romanian Party:

- the Ministry of the Internal Affairs
- the Romanian Intelligence Service
- the National Office for Prevention of Counterfeiting and Money Laundering of Romania

- the Public Ministry
- 2) The competent authorities of the Parties may, in accordance with the national law of the respective states and the provisions of this Agreement, co-operate directly and determine the concrete methods and detailed rules of this co-operation.
 - 3) The competent authorities shall establish appropriate direct channels of communication with their equivalents. Any requests for information or any other action covered by this Agreement shall be made directly to the equivalent competent authority concerned, by the appropriately secured channels.
 - 4) In the absence of any other agreement, English shall be the language of communication between the competent authorities.
 - 5) Within thirty (30) days from the entering into force of this Agreement, the Parties shall exchange details of the relevant contact points of the competent authorities responsible for implementing this Agreement and shall update them whenever necessary.

Article 3 *Exchange of Information*

- 1) The exchange of information under this Agreement shall be in accordance with the national law of the states of the Parties.
- 2) The competent authorities of the states of the Parties shall, to the fullest extent possible, co-operate spontaneously or on request in the exchange of information relevant to the prevention, detection and investigation of the crimes to which this Agreement applies. Transmittal of an information request will be justified by presenting the facts related for which the request has been made, of its motives, of the purpose for which the information shall be used, as well as by providing other information which allows the Requested Authority to establish that the request is made according to its national legislation.
- 3) The exchange of information under this Article shall include in particular:
 - a) information on or relating to persons and organisations suspected of being involved in drug trafficking, money laundering, organised crime, trafficking in persons, terrorism, terrorism financing, offences related to terrorist activities and any other serious crimes;
 - b) information on the commission of or activities preparatory to such crimes;
 - c) information on the organisational structure of terrorist entities and of organised crimes groups, their modus operandi and their financing;
 - d) information on measures to control the legal trade in narcotic drugs, psychotropic substances and precursors, and on experience in implementing these measures;

- e) information on or about persons and organisations suspected to be involved in smuggling in tobacco products or historic and artistic goods belonging to the cultural heritage of their states or to international cultural heritage.

Article 4

Use and confidentiality of information

- 1) The exchange of information under this Agreement shall be in accordance with the national legislations of the states of the Parties, including those related to the protection and confidentiality of information.
- 2) The Parties undertake to:
 - (i) use any information received under this Agreement only for the purpose for which it is requested or which is specified by the forwarding Party, and
 - (ii) keep confidential any such information except to the extent authorised by the forwarding Party.
- 3) Information received under this Agreement can only be revealed to authorities of third countries if the consent of the requested authority has previously been obtained in writing.
- 4) The competent authorities of the Parties in accordance with their national law shall ensure the protection of all information received under this Agreement.

Article 5

Protection of Personal Data

The mutual exchange of personal data between the competent authorities of the Parties shall be made according to the national legislation, the conditions stated by the sending competent authority, and to the following principles, which apply to the automatic and non/automatic processing of data:

- 1) The data provided shall not be used for other purposes than those for which they were initially provided, without the consent of the sending competent authority.
- 2) The data provided shall be destroyed or updated if:
 - the data prove to be incorrect or
 - the sending competent authority has informed the receiving competent authority that the data have been gathered or provided by breaching the law or
 - the data are no longer necessary for the purpose they have been provided for, except for the cases when there is a specific authorisation according to which the data provided can be also used for other purposes.

- 3) Upon request of the sending competent authority, the receiving competent authority can provide information on the use of the data.
- 4) The sending competent authority shall ensure that the data provided are correct, sufficient and appropriate. If it is further established that the provided data have been wrong or not meant to be sent, or that the data legally provided according to the national legislation of the sending or receiving competent authority should be afterwards destroyed, the sending or receiving competent authority should be immediately notified in order to destroy them or to make the appropriate modifications in conformity with item 2.
- 5) The receiving competent authority has the duty to efficiently protect the provided data against unauthorised or accidental access, modifications or circulation.
- 6) In case of unauthorised access or dissemination of the provided data, the receiving competent authority shall immediately inform the sending competent authority about the circumstances of the unauthorised access or dissemination, as well as the measures taken in order to avoid such incidents in the future.
- 7) Both the sending and the receiving competent authority shall keep records of providing, receiving, altering or destroying the data.
- 8) When providing data, the sending competent authority shall specify the deadline for destroying the data, according to the national legislation.
- 9) Should a person on whom data has been provided make a written request for information on the data provided, this request will not be replied to unless (i) it conforms with national legislation and (ii) the sending competent authority has been afforded an opportunity to state its position. If the person to whom the data refer submits a request for accessing, modifying or destroying these data, the receiving authority shall take a decision having afforded the sending party an opportunity to state its position.
- 10) The competent authority having received such a request from a person subject to information provided by the other Party shall immediately inform the competent authority of the Party and reply to such a request having afforded the sending party an opportunity to state its position.
- 11) Data can also be provided to a third party only if the sending competent authority has been afforded the opportunity to state its position.
- 12) The Parties shall take all necessary measures according to their national legislation in order to avoid any damages to a third party, resulting from providing, receiving or using data as well as to eliminate the essential conditions leading to eventual unfavourable consequences.

Article 6
Refusal of Assistance

- 1) If a competent authority is of the opinion that a request for co-operation or assistance under this Agreement would:
 - (i) impair its state's sovereignty, security or other essential interests, or
 - (ii) be contrary to national law, or
 - (iii) impose an excessive burden, or
 - (iv) interfere with an ongoing investigation or legal proceedingsthat authority may refuse to fulfil the request or may fulfil the request subject to certain conditions.
- 2) If assistance, co-operation or information exchange are withheld or denied, the decision and the reasons therefore must be notified to the applicant authority without delay.
- 3) Where the applicant authority requests assistance which it would itself be unable to provide if so requested, it shall draw attention to that fact in its request. It shall then be left to the requested authority to decide if and how to respond to such a request.

Article 7 Training

The competent authorities of the states of the Parties shall, to the extent that may be agreed between them, co-operate in the development of training programmes designed to share expertise in the prevention, detection, and investigation of crimes to which this Agreement applies, including the secondment or exchange of personnel of the competent authorities.

Article 8 Bearing of Costs

- 1) The requested competent authority shall bear all ordinary costs incurred by it in complying with a request, but the payment of any extraordinary costs shall be agreed separately by the competent authorities concerned.
- 2) The requesting competent authority shall bear all travel and subsistence costs of its representatives unless there is agreement to the contrary.

Article 9 Implementation of Agreement

- 1) According to their legal competences, the authorities mentioned in article 2, paragraph 1 shall ensure the application of this Agreement, and senior officials, together with any relevant experts, shall meet as often as necessary to discuss any issues that may arise in the process of co-operation.
- 2) The provisions of this Agreement shall not affect the rights and obligations undertaken in bilateral and multilateral agreements concluded by the Parties or by their states.

- 3) This Agreement shall not prejudice upon the commitments deriving from the statute of the Parties as EU Member States.
- 4) Nothing in this Agreement shall affect the rights and obligations derived from the “Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters” and “Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data”.
- 5) Any differences on interpretation or application of this Agreement shall be solved by consultations between Parties.

Article 10
Closing Provisions

- 1) Each Party shall notify the other Party in writing, through the diplomatic channels, that the legal procedures required to give effect to this Agreement in their respective countries have been completed. The Agreement shall enter into force thirty days after the date of the receipt of the later of the two notifications.
- 2) Amendments to this Agreement may be proposed by either Party and shall enter into force in thirty days after the date of the receipt of the later of the two notifications regarding the completion of the necessary domestic procedures.
- 3) This Agreement may be terminated by either Party by giving notice, in writing, to the other through the diplomatic channels. The Agreement shall cease to be in force six months after the date of receipt of such notice.

Done in duplicate at Dublin on the 17th day of January 2013 in the English and Romanian languages, both texts being equally authoritative.

On behalf of
the Government of Ireland

Alan Shatter

MINISTER FOR JUSTICE
AND EQUALITY

On behalf of
the Government of Romania

Radu Stroe

MINISTER OF INTERNAL AFFAIRS