

# **A G R E E M E N T**

## **ON THE COOPERATION IN THE AREA OF WITNESS PROTECTION**

The Contracting Parties to this Agreement,

- RECALLING the cooperation between the competent Ministries of the Republic of Austria, the Republic of Bulgaria, the Republic of Croatia, the Czech Republic, Hungary, the Republic of Poland, Romania, the Slovak Republic and the Republic of Slovenia in the framework of the Salzburg Forum;
- DESIRING to develop and enhance their cooperation in witness protection;
- HAVING REGARD TO the best practice models developed by Europol in the area of witness protection;
- RECOGNIZING bilateral and multilateral agreements on police cooperation concluded between the Contracting Parties;
- HAVING REGARD TO the national legislation of the Contracting Parties and European Union law, including regulations on personal data protection;
- HAVING REGARD TO the United Nations Convention against Transnational Organized Crime of 2000, UNTOC;
- RECALLING the United Nations Convention against Corruption of 2003, UNCAC;
- HAVING REGARD TO the relevant Council of Europe instruments;
- BEARING IN MIND the free movement of persons in the European Union and the challenges thus related to the area of witness protection;

Have agreed as follows:

### **Article 1**

The purpose of this Agreement is to develop and enhance cooperation related to witness protection between the Contracting Parties.

### **Article 2**

(1) The national contact points of the Contracting Parties referred to in Article 10 shall directly cooperate in the area of witness protection upon written request. The competence of the national contact points shall be governed by the national legislation.

(2) The cooperation shall, in particular, include the relocation and protection of persons, exchange of information, administrative, technical and logistical support and training of the staff of witness protection units.

(3) The protected person to be relocated must have been placed under the national protection programme of the requesting Contracting Party or, in case of urgent need, it must be presumable that this person will be taken into the national protection programme of the requesting Contracting Party, if this is foreseen under the national legislation of the requested Contracting Party. When taking supportive measures in connection with the protection of these persons the national

legislation of the requested Contracting Party shall apply accordingly. The person to be protected shall remain under the national protection programme of the requesting Contracting Party.

(4) The requesting Contracting Party shall provide the requested Contracting Party with all necessary information which is relevant to this Contracting Party to come to a decision.

(5) Enrolling an endangered person into the national protection programme of the requesting Contracting Party shall be fully in competence of this Contracting Party. The requested Contracting Party shall not re-evaluate the reasons for the enrolment.

(6) For serious reasons and after having duly notified the requesting Contracting Party, the requested Contracting Party may cease the supportive measures. In this case, the requesting Contracting Party shall retake the person concerned.

### **Article 3**

The mutually agreed conditions for the relocation, assistance and protection of persons in each individual case shall be set forth in a separate document concluded by the national contact points referred to in Article 10 of the Contracting Parties involved in this individual case. Significant changes in the situation of the protected person should be reflected in amendments or in a new separate document.

### **Article 4**

Officers from the national contact point of one Contracting Party acting under this Agreement within the territory of another Contracting Party shall be subject to the instructions given by the national contact point of the host Contracting Party.

### **Article 5**

(1) For the carrying of arms, ammunition and equipment and the use of vehicles by officers from the national contact point of one Contracting Party acting under this Agreement within the territory of another Contracting Party, the provisions of Article 19 of the Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime shall apply accordingly.

(2) Officers from the national contact point of one Contracting Party acting under this Agreement within the territory of another Contracting Party may use their arms, ammunition and equipment only in legitimate self-defence or in the defence of others.

(3) In order to ensure the confidentiality of the protective measures officers may conceal their original identities and the vehicles used.

(4) If under this Agreement and upon prior approval officers from a requesting Contracting Party intend to act within the territory of another Contracting Party, the national contact point of the requesting Contracting Party shall provide the national contact point of the requested Contracting Party in advance with the following information:

- purpose of the action,
- identification of the officers,
- arms, ammunition and equipment carried by the officers,
- vehicles used by the officers.

## **Article 6**

Regarding protection and assistance, general rules of civil liability, criminal liability, and employment relations, the provisions of Articles 20 to 23 of the Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime shall apply accordingly.

## **Article 7**

Regarding the protection of personal data supplied by the Contracting Parties under this Agreement, the provisions of 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 shall apply. Each Contracting Party shall guarantee a level of protection of personal data in its national legislation at least equal to that resulting from the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of 28 January 1981 and its Additional Protocol of 8 November 2001 and in doing so, shall be bound by the principles of Recommendation No R (87) 15 of 17 September 1987 of the Committee of Ministers of the Council of Europe to the Member States regulating the use of personal data in the police sector, also where data are not processed automatically.

## **Article 8**

The Contracting Parties shall ensure the full confidentiality and physical protection of all information supplied by the Contracting Parties under this Agreement, by all necessary measures in accordance with their national legislation. Classified information shall be exchanged exclusively by the national contact points of the Contracting Parties.

## **Article 9**

In individual cases, where a Contracting Party is of the opinion that the granting of a request under this Agreement may adversely affect its national security, public order, state's interests or national legislation, such Contracting Party may refuse cooperation in whole or in part or make its cooperation conditional upon specified terms while complying with other international cooperation obligations.

## **Article 10**

For the purposes of the cooperation under this Agreement, each Contracting Party shall designate a national contact point when depositing the instrument of ratification, acceptance, approval or accession in accordance with Article 15 or 16. This national contact point shall be the unit running the national protection programme.

## **Article 11**

(1) The requesting Contracting Party shall bear the costs of living or other measures requested by this Contracting Party for the protected persons. The requested Contracting Party shall bear the expenses for personnel and material resources for the protection of these persons.

(2) Each Contracting Party shall bear all other costs incurred by its authorities in implementing this Agreement.

(3) In special cases, the national contact points concerned may agree in a separate document in accordance with Article 3 on different arrangement as regards the bearing of costs.

## **Article 12**

(1) The provisions of this Agreement shall apply between Member States of the European Union only in so far as they are compatible with European Union law. Should the European Union in future introduce arrangements affecting the scope of this Agreement, European Union law shall take precedence in applying the relevant provisions of this Agreement.

(2) This Agreement shall not affect rights and obligations under any existing bilateral or multilateral agreements between the Contracting Parties.

## **Article 13**

Upon request of either Contracting Party, a joint working group made up of representatives of the Contracting Parties shall evaluate the implementation of this Agreement and shall identify any need for supplements or amendments.

## **Article 14**

(1) The Government of the Republic of Slovenia shall act as Depositary of this Agreement.

(2) The Depositary shall promptly notify the Contracting Parties of ratifications, acceptances, approvals, accessions and other statements concerning this Agreement.

(3) The Depositary shall transmit a certified copy of this Agreement to each signatory party and to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

## **Article 15**

(1) This Agreement shall enter into force on the first day of the second month following the deposit of the second instrument of ratification, acceptance or approval between the two ratifying Contracting Parties. Concerning other Contracting Parties this Agreement shall enter into force on the first day of the second month following the deposit of their instrument of ratification, acceptance or approval.

(2) The Depositary shall notify all Contracting Parties of the date of entry into force.

## **Article 16**

(1) This Agreement shall be open for accession to all Member States of the European Union and other States applying the Schengen acquis. The Depositary shall transmit a certified copy of the Agreement to each acceding State.

(2) Instruments of accession shall be deposited with the Depositary.

(3) This Agreement shall enter into force for any acceding State on the first day of the second month following the deposit of its instrument of accession.

## **Article 17**

(1) This Agreement shall be concluded for an indefinite period of time.

(2) Each Contracting Party may withdraw from this Agreement by diplomatic channels with a written notification to the Depositary.

(3) The withdrawal shall take effect six months from the date on which the notification was received by the Depository.

(4) If the national contact point of the withdrawing Contracting Party has concluded separate documents in accordance with Article 3, these separate documents shall remain effective until the national contact points of the Contracting Parties concerned, have in mutual consent terminated the cooperation under the respective separate document, taking fully into account the safety of the persons to be protected in these particular cases.

Done at Štiřín, on 24 May 2012, in a single original in the English language.

**For the Republic of Austria:** Mikl-Leitner

**For the Republic of Bulgaria:** Tsvetanov

**For the Republic of Croatia:** Ostojić

**For the Czech Republic:** Kubice

**For Hungary:** Pintér

**For Romania:** Tutilescu

**For the Slovak Republic:** Buček

**For the Republic of Slovenia:** Gorenak

**For the Republic of Poland:** Cichocki

Mátraháza, 11 October 2012