

ACORD
între Republica Moldova și Regatul Spaniei privind
cooperarea în domeniul securității și luptei împotriva
criminalității

Madrid, 22 octombrie 2013



COPIE CERTIFICATĂ
TEXT ÎN LIMBA ENGLEZĂ

AGREEMENT
BETWEEN THE REPUBLIC OF MOLDOVA
AND THE KINGDOM OF SPAIN
ON CO-OPERATION ON SECURITY ISSUES AND FIGHT AGAINST CRIME

The Republic of Moldova and the Kingdom of Spain, hereinafter referred to as "the Parties";

desiring to strengthen the friendly relations and co-operation between the Parties, specifically on security issues;

considering that terrorism, international organized crime and other forms of crimes constitute a serious threat to the socio-economic development and the public security of the States of the Parties;

duly observing their respective national legislation and having due regard to the international commitments that are binding the Parties;

guided by the principles of equality, reciprocity and mutual assistance;

have agreed as follows:

Article 1
Definitions

For the purpose of this Agreement:

1. '*Competent authority*' means any public body authorized to perform certain functions within the limits of its competence, relating to public safety protecting, preventing, detecting and /or investigating criminal offences.
2. '*Official*' means any representative of a competent authority authorized to perform certain functions relating to public safety protecting, preventing, detecting and investigating criminal offences.
3. '*Embassy counsellor, embassy attache and liaison officer*' means any representative of one of the Parties seconded to the State of the other Party or a third country or international organization in order to establish and maintain contacts with the authorities of those countries and organizations with the view to assist in public safety protecting, preventing, detecting and investigating criminal offences.

4. '*Joint investigation team*' means any investigation team set up by mutual agreement of the authorities of the Parties for a specific purpose and a limited period of time, whose members, officials, may arrive at the territory of the State of the other Party to facilitate in that territory in carrying out operations related to preventing, detecting and investigating crime activity.

5. '*Information*' means personal data, as well as any information about incidents, circumstances, characteristics, and any other data within the limits of this agreement.

6. '*Personal data*' means any information of any type related to an identified or identifiable individual.

7. '*Personal data processing*' means any operation or set of operations carried out on personal data during collection, recording, organization, storage, adjustment, adaptation, modification, exclusion, consultation, access offering, use, transfer, dissemination, blocking or destruction.

Article 2 **Areas of co-operation**

1. The Parties shall co-operate in the maintenance of public safety and the fight against crime, particularly as regards:

- a) terrorism, including its financing and support;
- b) criminal offences against life and limb;
- c) production, smuggling and illegal traffic of drugs and psychotropic substances, as well as raw materials, chemical and biological substances and their precursors for manufacturing;
- d) illegal migration and trafficking in human beings;
- e) kidnappings and taking hostages;
- f) forgery, both illegal manufacturing, alteration and illegal use of identification documents, passports, visas and vehicle documents;
- g) smuggling and all its forms;
- h) money laundering stemming from criminal activities;
- i) forgery, both manufacturing, fraudulent alteration and diffusion of money;
- j) theft of, illegal traffic in motor vehicles and all the criminal activities related to them;

k) production of, trafficking in and illegal trading in arms, ammunition, explosives, as well as strategic raw materials, chemical, biological, nuclear, radioactive and other hazardous material substances, dual-use technologies and related services and goods;

l) illegal traffic in cultural assets of historical value and works of art;

m) economic crimes, including tax crimes;

n) organized forms of crime against sexual freedom, especially those connected with minors, as well as the printing, dissemination and supplying of pornographic materials with the participation of minors;

o) cyber crime and offences related to the information technologies and systems networks;

p) offences against natural resources and the environment.

2. By mutual consensus, the Parties may collaborate likewise in the fight against any kind of crime and other areas compatible with the purposes of this Agreement, such as: prevention, detection and investigation of which requires co-operation of competent authorities of both States.

3. This Agreement shall not include the issues of providing judicial assistance in criminal and extradition matters regulated by any other legal instruments.

4. This Agreement shall not include issues that concern the mutual exchange of information defined as a state secret.

Article 3 **Content of the Cooperation**

1. The Parties shall co-operate, in compliance with the provisions established in this Agreement, in providing assistance and information exchange about:

a) Terrorism, terrorist groups, their members and organizations, as well as their structure, financing, activities, operations, methods, connexions, and about ongoing investigations of interest to the Parties.

b) Organized crime, its organizations, its member, structures, financing, operations, methods, connexions, criminal activities and their investigations.

c) Search of and investigation of persons who have committed or are suspected of having committed offences; as well as the inquiry of their locations and activities in any of both Countries.

d) Search of and investigation of objects, effects or instruments involved in criminal activities, at the request of the other Party.

e) Search of and identification of missing persons, wanted or dead people by natural or unnatural causes, as well as corpses of interest to the competent authorities.

2. Likewise, the Parties shall provide mutual assistant and co-operation in:

- a) Surveillance and controlled delivery of illegal narcotic and psychotropic substances.
- b) Smuggling and illegal traffic of chemical, radioactive, explosive, toxic or hazardous materials, as well as firearms traffic.
- c) Providing transit to deported and extradited persons.
- d) Investigation and judicial procedures in those cases of interest to both Parties, in which the defendant party, witnesses or victims are in the territory of one of the Parties.
- e) Providing efficient protection to victims and witnesses, as well as to all persons who have, somehow, participated in an operative activity and provide assistance to the competent authorities of the Parties.
- f) Attachment of properties, capitals and stocks stemming from criminal activities listed in Article 2, considering their devolution to the Party who has the right to claim for them.
- g) Carrying out security checks on people and goods at ports and airports to final destination or in transit to the country of the other Party, aimed at preventing and detecting any smuggling or illegal traffic case, as well as at detecting any suspect persons or involved in related criminal activities, and exchange of information.

Article 4 Forms of collaboration

1. The Parties shall co-operate, under this Agreement, by:

- a) Exchanging general information about status and security issues and crime tendencies in their respective States.
- b) Exchanging information about the use of modern technologies related to security issues, as well as electronic and digital procedures in the criminal investigation methods and the obtaining of evidences through those methods.

- c) Exchanging information about legal, technical and operative instrument and providing expert consulting related to fighting against terrorism, criminality and public safety in general.
- d) Providing technical and scientific assistance, expert inspection methods and utilization of specialized technical equipment, instruments and means.
- e) Exchanging information regarding with scientific conferences, symposiums and seminars related to the fight against terrorism, criminality and public safety in general.
- f) Exchanging experts in order to hold meetings to discuss mutual interest issues.
- g) Exchanging brochures, publications and scientific investigation results, under this Agreement.
- h) Designing and executing training programmes related to public safety through courses, conferences, expositions, seminars, exchange of training material, as well as holding meetings and exchanging experts.

2. The Parties may arrange any other form of collaboration, by mutual consensus.

Article 5 Authorities

1. The authorities responsible for the practical implementation of this Agreement shall be:

For the Republic of Moldova:

- Ministry of Internal Affairs;
- Ministry of Foreign Affairs and European Integration;
- Customs Service of the Ministry of Finance;
- Information and Security Service;
- National Centre for Personal Data Protection;
- National Anticorruption Centre;
- General Prosecutor Office.

For the Kingdom of Spain:

- Ministry of Interior, without prejudice to the competences corresponding to other Ministries".

2. Each Party shall immediately inform the other, through written notification, of any change as regards competent authorities.

Article 6

Joint investigation teams

1. Where the authorities of one Party are conducting any complicated investigation regarding with an international nature criminal offence or where the circumstances of the case demands a concerted action of the authorities of both Parties, these shall, by mutual agreement, set up a joint investigation team for a specific purpose and a limit period of time, which may be extended by mutual consent.
2. The joint investigation team shall carry out its operations in conformity with the national legislation of the State of the Party in whose territory it operates and under the supervision of the national competent authority.

Article 7

Counsellors, attachés and liaison officers

1. In order to promote and increase the cooperation and for the appropriate implementation of this Agreement, the Parties may, by mutual agreement, appointed Embassy counsellor and attaché and liaison officer for a limited or unlimited period to be posted in each other's territory of the State.
2. Embassy counsellors and attaches and liaison officers shall provide information and shall perform other tasks under the instructions of the seconding Party, and within the limits of their competences, shall execute request for assistance of the authorities of the Party to the territory of the State whereto they have been seconded.
3. In performing their functions, Embassy counsellors and attaches and liaison officers shall comply with the national legislation of that State to which they are seconded.

Article 8

Request for assistance

1. Transmission of information and other forms of co-operation referred to in Article 4 of this Agreement shall be implemented by the competent authorities in response to request for assistance in writing. Such co-operation shall be maintained through Embassy counsellors and attachés and liaison officers, if they are designated.
2. Assistance request shall contain all the information required for its execution and shall be accompanied by duly certified copies of documents enabling its execution.
3. When the competent authority receives a request for assistance (the requested authority) which is not within its competence, it shall as soon as possible transfer such a request to the other competent authority of the same Party (the requesting authority).
4. The requested authority shall execute a request for assistance as soon as possible. It may also request the requesting authority of the other Party for additional information

when it appears necessary for the execution of the request or when it can facilitate such execution.

5. If there are grounds for the requested authority to believe that the request, if granted, is likely to prejudice sovereignty or security of the respective State or that it would be contrary to its national legislation, international commitments or other essential national interests, it may refuse to execute it, wholly or partially, or impose conditions on its execution. Assistance may also be refused if the act for which the request for assistance was made is not an offence under the national legislation of the requested authority. In that event of refusal, the requested authority shall promptly inform in writing the requesting authority and the State the reasons for that refusal.

6. The competent authorities may, on its own initiative, communicate information to the competent authorities of the other Party or take other action to assist in detecting, investigating or preventing criminal offences.

Article 9

Personal data protection

In processing personal data under this Agreement, the competent authorities of the Parties shall comply with their respective national legislation and international commitments, as well as the following provisions related to the protection of individuals with regard to automatic processing of personal data:

1. The competent authority transmitting personal data (the transmitting authority) shall be responsible for the correctness of the personal data transmitted and shall ensure that they are transmitted only to the extent necessary to the purposes of this Agreement.

2. The competent authority receiving personal data (the receiving authority) shall use the personal data transmitted to it solely for the purposes and under the conditions determined by the transmitting authority.

3. Upon request by the transmitting authority, the receiving authority shall provide information concerning the use of personal data received and the results thus achieved.

4. Should it prove that the transmitted personal data were incorrect or inaccurate or that this personal data should not have been transmitted pursuant to the national legislation of the transmitting authority, the transmitting authority shall immediately notify of this fact the receiving authority of the other Party and the latter shall without delay rectify or destroy them.

5. The person, whose personal data have been transmitted, at his request and in accordance with the national legislation of the relevant Party, must be given information on the data and their intended use. In the interest of national security and public order, the transmission of such information to the concerned person, may be refused.

6. The transmitting authority shall set a period at the expiry whereof the personal data transmitted shall be destroyed; this notwithstanding, the personal data transmitted shall be destroyed when they are no longer necessary for the purposes for which they have been transmitted; the transmitting authority shall be immediately notified of all instances and reasons of such destructions of personal data.

7. The transmitting and receiving authorities shall keep records of transmission, receipt and destruction of personal data.

8. The authorities transmitting and receiving personal data shall properly safeguard them from unauthorized access, alteration without authorization of the transmitting authority, accidental or unauthorized destruction, or unauthorized disclosure.

Article 10 **Confidentiality**

The Parties shall undertake to ensure the confidentiality of the information received by each Party, in accordance with the provisions of this Agreement, using it merely for the purposes for which such information was given. Both Parties shall undertake not to assign it to a third party without the written consent of the transmitting authority of the other Party.

Article 11 **Expert committee**

1. If necessary, the Parties may set up, temporarily or permanently, an expert committee consisting of specialists in public safety, fighting against terrorism and criminality, as well as security professional training in both countries. Their functions shall be to debate about aspects of these matters and the preparation of proposals for the development of this Agreement and its submission to the competent authorities.

2. At the first meeting, the Expert Committee may determine its composition, gathering frequency and general outline of its operation.

Article 12 **Costs**

Cost resulting from the implementation of this Agreement shall be covered by each Party to the extent necessary to fulfil its obligations under this Agreement. Where appropriate, the competent authorities of the Parties, in each individual case, may decide otherwise.

Article 13 **Other international commitments**

Nothing in this Agreement shall affect commitments between the Parties and their

States arising from other international bilateral or multilateral agreements by which either of the Parties and their States may be bound.

Article 14
Dispute settlement

Any dispute arising from the interpretation of the provisions of this Agreement shall be settled by means of negotiations between the Parties. In the event that the Parties fail to reach an agreement will be settled through diplomatic channels.

Article 15
Final provisions

1. This Agreement shall enter into force on the first day of the second month following the date of which the Parties have notified each other, through diplomatic channels, of the completion of their internal legal procedures necessary for its entry into force.


2. This Agreement may be amended by mutual agreement of the Parties. Such amendments shall come into force in accordance with the procedure laid down in paragraph 1 of this Article.

This Agreement is made for an unlimited period of time and may be terminated by either Party by giving the other Party at least (6) months' notice in writing through diplomatic channels. Termination of this Agreement shall not effect the performance of the obligations of the Parties taken on up to the effective date of such termination, unless otherwise agreed.


IN WITNESS WHEREOF, the undersigned, duly authorised thereto by their respective Governments, have signed this Agreement, in two originals in the Moldavian, Spanish and English languages, all texts being equally authentic.

Done in Madrid, on October 22, 2013.

For the Republic of Moldova


Natalia Gherman
Deputy Prime Minister
Minister of Foreign Affairs
and European Integration

For the Kingdom of Spain


Jorge Fernández Díaz
Minister of the Interior

Prin prezenta confirm că textul alăturat este o copie certificată de pe Acordul între Republica Moldova și Regatul Spaniei privind cooperarea în domeniul securității și luptei împotriva criminalității (Madrid, 22 octombrie 2013), originalul căruia este depozitat la Arhiva Tratatelor a Ministerului Afacerilor Externe și Integrării Europene.



[Signature]
Socolan,
Șeful Direcției Generale Drept
Internațional a Ministerului Afacerilor
Externe și Integrării Europene al
Republicii Moldova