

# PROTOCOL

## **on Agreement in Establishing Mutual Cooperation in Combating All Forms of Serious Crime**

**between**

**the State Attorney's Office of the Republic of Croatia  
and  
the Prosecutor's Office of Bosnia and Herzegovina**  
(hereinafter: the Participants)

### **The State Attorney's Office of the Republic of Croatia and the Prosecutor's Office of Bosnia and Herzegovina;**

**aware** of the increase in serious criminal offenses, especially organized crime, illicit trafficking in narcotic drugs, smuggling of persons, trafficking in persons, trafficking in arms, corruption, money laundering and international terrorism and related criminal offenses, the fight against which entirely or partially falls under the competence of the Participants to this Protocol,

**cognizant** of the fact that mutual exchange of information, collecting evidence and necessary facts would facilitate establishing criminal responsibility for the committed war crimes and bring suspects to justice,

**taking into account** that the above-mentioned criminal activities are markedly detrimental to the economic, financial and other social interests of their respective countries and that there is a common interest to establish culpability and punish perpetrators of war crimes,

**convinced** that a more direct and faster cooperation between the signatories of this Protocol will contribute to the common interests of their respective countries in achieving a more efficient investigation, presentation of evidence and prevention of criminal activities,

**wishing**, with the purpose of achieving that goal, to develop and enhance direct cooperation, particularly in fighting the above-mentioned criminal offenses, have agreed on the following issues:

## SCOPE OF APPLICATION

1. The Participants shall cooperate in accordance with the provisions of this Protocol and will render assistance to each other at request or at their own initiative, pursuant to the provisions of this Protocol and abiding by the laws and regulations of their respective countries.
2. The assistance may include in particular:
  - a) gathering and exchanging information, reports and documents, when no coercion is required for that purpose, including statements of suspects or other persons,
  - b) exchanging information that enable or contribute to the investigation or prevention of criminal activities,
  - c) exchanging laws and other legislation from the scope of criminal law and other fields when necessary for conducting criminal proceedings,
  - d) exchanging legal opinions in the field of criminal law, as needed,
  - e) exchanging other pieces of information, such as telephone and fax numbers, e-mail addresses and the like.
3. This Protocol shall not prevent the Participants from using other commonly acceptable modes of cooperation as well, abiding by the laws, regulations and procedures of their respective countries.  
Nothing in this Protocol shall affect the precedence of application of provisions of the international instruments on international judicial assistance.

## NOTIFICATION/INFORMATION

4. With the aim of creating the most favorable conditions for cooperation, the competent Offices of State Prosecutors shall send out and receive requests directly, pursuant to this Protocol.  
The participants shall exchange the necessary information on the names of State Prosecutors, addresses, telephone numbers operational in the course of office hours and hotline numbers, as well as the other information enabling direct communication.
5. Authorized officials for coordination of cooperation on the part of the Republic of Croatia shall be:
  - Deputy State Attorney,
  - Deputy Head of Office for Preventing Corruption and Organized Crime, and crimes under the jurisdiction of the Office.

Authorized officials on the part of (on behalf of) the Prosecutor's Office of Bosnia and Herzegovina shall be:

- Deputy Chief Prosecutor of the Prosecutor's Office of Bosnia and Herzegovina – Head of the Special Department for Organized Crime, Economic Crime and Corruption,

- Deputy Chief Prosecutor of the Prosecutor's Office of Bosnia and Herzegovina – Head of the Special Department for War Crimes.

### **FORM AND CONTENTS OF REQUEST FOR ASSISTANCE (COOPERATION)**

6. The request for assistance (cooperation) shall be submitted in writing. However, in case of emergency, the request may be submitted verbally, i.e. through means of telecommunication.  
The verbal request shall be confirmed in writing within 48 hours, unless the Participant to which the request has been submitted (the Requested Participant) agrees otherwise. Translation into the language of the country of the Requested Participant shall be attached to the request and the enclosed documents, unless otherwise agreed.
7. The request shall contain:
  - (1) the name of the State Attorney's/Prosecutor's Office conducting the procedure or other measures in relation to which the request is submitted;
  - (2) summary of the facts of the case and nature of the procedure, including the description of the particular criminal offense with reference to the appropriate articles of the law and legal description of the act;
  - (3) the reason why information or other assistance is being requested;
  - (4) description of the contents of the information or other requested assistance;
  - (5) depending on the circumstances, the information on the identity, citizenship and whereabouts of the person possessing information or the suspect.
8. When necessary and to the extent possible, the request shall also contain:
  - (1) list of questions for the person to be questioned;
  - (2) description of the procedure that would be desirable to follow when fulfilling the request;
  - (3) information on compensation, expenses that will be paid out, as well as the protection that the person required to show up is entitled to, pursuant to Item 26;
  - (4) any other piece of information that can be of assistance in the fulfillment of the request.

### **FULFILLMENT OF REQUEST**

9. The request shall be fulfilled as soon as possible, pursuant to the procedure envisaged by the laws and regulations stipulating the execution of activities by the Requested Participant.  
The Requested Participant may ask for additional information, if necessary for the fulfillment of the request.
10. The Requested Participant shall endeavor to act in compliance with the requests of the Requesting Participant, provided it is not in contravention of the fundamental legal principles of the country of the Requested Participant.
11. The Requested Participant shall pay regular expenses pertaining to the fulfillment of the request. Any extraordinary expenses shall be subject of mutual agreement of the Participants before they are incurred.

### **USE OF INFORMATION AND DOCUMENTS**

12. The Requested Participant shall undertake everything necessary to keep the request and/or the contents thereof confidential, if such confidentiality is requested by the Requesting State Prosecutor.  
If the fulfillment of the request might or will lead to violation of confidentiality, the Requesting Prosecutor shall be informed about it prior to the fulfillment. The Requesting Prosecutor may subsequently, and irrespective of it, demand that the request be fulfilled.
13. The Requested Prosecutor shall, if so requested, inform the Requesting Prosecutor on the progress in relation to the fulfillment of the request.
14. If the fulfillment of the request does not fall within the competence of the Requested Prosecutor, he shall immediately inform the Requesting Prosecutor about that fact.

### **EXCEPTIONS TO OBLIGATION TO RENDER ASSISTANCE**

15. The Requested Prosecutor may refuse to fulfill the request for assistance:
  - (1) if the fulfillment of the request may be detrimental to the sovereignty, security and/or other fundamental interests of the country of the State Prosecutor providing the assistance, or if it is contrary to the legal provisions of the country of that State Prosecutor;
  - (2) if the Requested State Prosecutor deems that the fulfillment of the request would affect criminal procedure in his country.
16. Prior to the refusal of assistance pursuant to Item 15, the Requested Prosecutor shall consult with the Requesting Prosecutor in order to determine whether

assistance could be rendered under certain conditions. If the Requesting Prosecutor accepts the conditions, he then must comply with them.

17. Should the Requested Prosecutor decline assistance, the Requesting Prosecutor shall be informed about it verbally as soon as possible, and in writing within 15 (fifteen) days in any case.

#### **RESTRICTIONS IN USE OF RESULTS OF FULFILLED REQUEST**

18. The result of the requests fulfilled pursuant to this Protocol cannot be used for the purpose different from the purpose for which assistance was requested and rendered without the permission of the Prosecutor who has rendered the assistance.
19. The information pertaining to persons may be handed over to other competent bodies only if the Requested Prosecutor explicitly grants so in writing, and if the law by which the Prosecutor of the country that receives the request abides, allows for such other use.
20. The Requested Prosecutor may ask that the result of the request fulfilled pursuant to this Protocol be kept confidential or used exclusively under the precisely specified conditions. If the Requesting Prosecutor accepts the result of the request fulfilled under those conditions, he shall do everything in his power to ensure that those conditions be complied with.
21. Nothing in this Protocol shall prevent the use or disclosure of the results of a fulfilled request where it is necessary pursuant to the law and regulations stipulating the actions of the Requesting Prosecutor in criminal procedure. The Requesting Prosecutor shall inform the Requested Prosecutor in advance about such possible or proposed use or disclosure.
22. The result of the fulfilled request announced by the Requesting Prosecutor pursuant to Item 18 may be used subsequently for all other lawful purposes.

### **PROVIDING RECORDS AND ESTABLISHING IDENTITY AND LOCATION OF PERSONS AND PROPERTY**

23. The Prosecutor may request to be forwarded records of the other Participant country that are important for conducting the procedure. The Requested Prosecutor shall hand over photocopies of publicly available records to the Requesting Prosecutor.
24. The Requested Prosecutor may hand over photocopies of all of his records that are not publicly available only insofar and under the same conditions under which they will be made available to the competent authorities of that country, and if that is not contrary to the legislation of the country of the Requested Prosecutor.
25. If a request is submitted asking to establish, through the competent police bodies, the identity and whereabouts of a person or to obtain the information on the property located in the territory of the country of the Requested Prosecutor, the Requested Prosecutor shall do everything in his power to fulfill that request in compliance with the laws and regulations of his country.

### **RETURN OF DOCUMENTS, MATERIALS AND PROPERTY**

26. If possible and if the Requested Participant so requests, the Requesting Prosecutor shall return the documents, materials and property handed over as a result of the fulfilled request.
27. The Requesting Prosecutor may, with consent of the Requested Prosecutor, postpone the return of any requested document, material or property, if it is necessary for the purpose of conducting criminal or civil court procedure.
28. The Requested Prosecutor may request from the Requesting Prosecutor to agree on the conditions necessary in order to protect the interest of third parties with regard to the documents, materials or other property that should be handed over.

**PURSUANT TO THE PRINCIPLES ESTABLISHED IN THE EUROPEAN  
CONVENTION ON THE PROTECTION OF HUMAN RIGHTS AND  
FUNDAMENTAL FREEDOMS**

29. The Participants hereby accept that mutual relations and, in particular, the activities pursuant to Items 5, 6, 9, 10, 12, 18, 19, 20, 27, 29 and 31, shall be in compliance with the principles established in the European Convention on the Protection of Human Rights and Fundamental Freedoms.

**CONSULTING**

30. The Participants shall consult with each other in order to agree on the continuous and efficient implementation of this Protocol.  
The Participants shall resolve all difficulties ensuing from this Protocol by way of consultation and negotiation.

**FINAL PROVISIONS, COMMENCEMENT AND TERMINATION**

31. The Participant to this Protocol which no longer wishes to participate in it shall inform the other State Prosecutor thereof in writing 3 (three) months in advance.
32. Any amendments or addenda to this Protocol may be made with written consent of the Participants. Other agencies may be included in this Protocol with the Prosecutor's consent.
33. The Participants shall meet in order to assess the implementation of this Protocol, upon a request or 2 (two) years from the date of its entering into force, unless they inform each other in writing that such an assessment is not necessary.
34. This Protocol shall enter into force upon its signing.

The above record constitutes the agreement reached between the State Prosecutors.

Signed in Sarajevo on 21 January 2005, in 6 (six) originals, in the Croatian, Bosnian and Serbian languages (two originals in each language), whereby all the three texts are equally valid.

**State Attorney of the  
Republic of Croatia**

**Chief Prosecutor of the Prosecutor's Office  
of Bosnia and Herzegovina**

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**Mladen Bajic**

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**Marinko Jurčević**