

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

**between**

**the Government of the Republic of Bulgaria**

**and**

**the Government of the Republic of Serbia**

**for Co-operation between Border Guard Bodies**

The Government of the Republic of Bulgaria and the Government of the Republic of Serbia, hereinafter referred to as the “Contracting Parties”,

In their aspiration for further development and strengthening of the bilateral relation in the spirit of the Memorandum between the Government of the Republic of Bulgaria and the Government of the Republic of Serbia for co-operation in the fight against terrorism, organised crime, illegal traffic of drugs and precursors, illegal migration and other serious crimes, signed in Sofia on 26 September 2003;

Taking into account the desire of the Contracting Parties to participate actively in the process of co-operation in Europe,

Convinced that close border police cooperation between the Contracting Parties is of a great importance,

Willing to counter efficiently cross border crime and illegal migration in the border regions through mutual coordination of plans and measures,

Aiming to facilitate cross border flow through enhanced surveillance and control related actions,

Have agreed as follows:

## **Chapter I**

### **GENERAL PROVISIONS**

#### **Article 1**

For the purposes of this Agreement the Contracting Parties shall use the following definitions:

- “trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud or deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. The consent of a victim of trafficking in persons to the intended exploitation is irrelevant where any of the above mentioned means have been used;

- “Smuggling of people” shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into one of the Contracting Parties of which the person is not a national or a permanent resident;

- “Illegal entry” shall mean crossing borders without complying with the necessary requirements for legal entry into the territory of one of the Contracting Parties;

- “Fraudulent travel or identity document” shall mean any travel or identity document:  
(i) That has been falsely made or altered in some material way by anyone other than a person or agency lawfully authorized to make or issue the travel or identity document on behalf of a State; or  
(ii) That has been improperly issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or  
(iii) That is being used by a person other than the rightful holder.

## **Article 2**

(1) In accordance with the provisions of their respective national legislations the competent bodies of the Contracting Parties shall co-operate for the purpose of combating cross border crime in the border regions as well as for the purpose of securing the surveillance and the control of the common State Border. The competent bodies of the Contracting Parties shall co-operate through mutual and continuous exchanging of data and information referring to violations of the law and of the border regime at their common border, namely in the following areas:

1. Combating illegal migration and related crimes and violations:
  - (a) illegal border crossing;
  - (b) illegal activities related to organizing channels for smuggling of people and illegal trafficking in persons;
  - (c) crimes and violations related to fraudulent travel and identity documents.
2. Crimes of high degree of public risk related to public order and security while crossing the State Border, in particular smuggling of drugs and psychotropic

substances, precursors, as well as in weapons and/or their integral parts, ammunitions, explosives, poisonous, nuclear and radioactive substances.

3. Crimes and violations related to vehicles detected at the State Border;
4. Operational and search activities relevant to State Border surveillance and control;
5. Countering corruption.

(2) The competent bodies of the Contracting Parties shall exchange information on their experience relevant to detection and investigation of other violations at the State Border.

(3) Co-operation shall be done in accordance with the provisions of the national legislations of the Contracting Parties.

### **Article 3**

The competent bodies for the implementations of this Agreement are:

1. For the Republic of Bulgaria:
  - General Directorate “Border Police” of the Ministry of Interior;
2. For the Republic of Serbia:
  - the Ministry of Interior - the Border Police Directorate.

## **Chapter II**

### **FORMS AND METHODS OF CO-OPERATION**

#### **Article 4**

In compliance with their national legislations, the competent bodies of the Contracting Parties designated under Article 3 shall cooperate in the field of:

1. exchange of information on crimes and violations in the border zones related to the border regime and the types of crime specified in Article 2, on the perpetrators and accomplices, persons suspected as perpetrators or accomplices of such infringements as well as on the circumstances of those crimes and on measures taken;
2. exchange of information and experience referring to the emergence of new types of crime in the border zone;
3. regular exchange of information with a view to analyzing the operational situation in the border zone;
4. timely notification for forthcoming operations or actions in the border areas;
5. exchange of information regarding fighting corruption among the staff;
6. exchange of information on possible security risks at the common border such as the movement towards or in the border area of individuals or groups of people;
7. exchange of information and documentation of scientific and technical nature;

8. mutual submission of specialized literature upon request;
9. mutual informing on law provisions and internal regulations as well as their amendments which refer to the subject of this Agreement.

### **Article 5**

(1) The competent bodies of the Contracting Parties designated under Article 3 shall inform each other of the basic aspects of combating cross border crime as well as of major projects in the area of border surveillance and control that concern the interests of the other Contracting Party. Whenever specific plans are drafted or police measures are taken the interests of both Contracting Parties relevant to security of the common border shall be observed.

(2) The competent bodies under Article 3 shall regularly exchange information on the situation in the border zone based on the specific rules previously established. The competent bodies shall analyze the key aspects of the state of security of the common border at least once a year. The competent bodies shall exchange the most homogenous type of information possible about the common border threats and about combating illegal migration and relevant crimes.

(3) In achieving the goals set in this Agreement the regional units of the competent bodies designated under Article 3 shall exchange only information that is of importance to the respective border region. The restrictions to the information exchange shall not apply in case of immediate threat to the security of the border or public order.

(4) The exchange shall mainly include information on migration flows, their scale, structure and destination, information on possible migration routes and transportation used for illicit crossings as well as information on the modus operandi of the acting criminal groups. Reports and analyses referring to specific cases as well as descriptions and analyses of the situation important to both Contracting Parties shall also be exchanged within the framework of this regular process.

(5) The correspondence for the need of the co-operation shall be done in the Bulgarian, Serbian and English languages.

### **Article 6**

The Contracting Parties shall take the due measures to improve communications among their respective competent border guard bodies via:

1. nomination of contact persons who if possible shall have knowledge of the language of the State of the other Contracting Party;
2. exchange of experts, upon request by the competent bodies designated under Article 3, for a short term, with the purpose to improve the sharing of information and experience; the competent bodies of the receiving Contracting Party shall

- cover the expenses for transport on the territory of its State as well as for accommodation and meals for the experts;
3. mutual provision of information on important telephone and fax numbers, e-mail addresses, radio links, etc. of the competent bodies designated under Article 3;
  4. mutual agreeing on specific radio link frequencies based on the needs.

### **Article 7**

The Contracting Parties shall take due measures to improve the co-operation between their respective competent bodies, by:

1. defining structures for co-ordination of actions for combating crime within the common border zone;
2. creating contact points at the common border based on special agreements; whereas rules and regulations specify their working order;
3. preparing of joint analyses of the situation and action plans in the border areas;
4. carrying out co-ordinated actions on both sides of the common border;
5. agree on surveillance and control plans as well as execution of activities with joint teams;

### **Article 8**

The competent bodies of the Contracting Parties designated under Article 3 shall mutually inform each other, in due time, on the occurrence of natural disasters, calamities and accidents, whereas they shall:

1. immediately inform the other Party of all accidents (incidents) that could have a cross border effect;
2. undertake and co-ordinate measures to avoid or limit the cross border effect.

### **Article 9**

The competent bodies of the Contracting Parties shall co-operate in the field of staff training, in particular by:

1. exchange of experience and information on the methods for detecting and investigating crimes and violations specified in Article 2;
2. mutual support by organizing language training courses in the language of the State of other Party;
3. organizing of joint seminars and other training events;
4. joint training of experts at the specialized training centers of the Contracting Parties;
5. participation of observers in trainings/exercises.

### **Article 10**

(1) The meetings of the heads of the competent bodies under Article 3 or officials nominated by them shall be held in turn on the territory of the Republic of Bulgaria

and on the territory of the Republic of Serbia at least once a year or as many times as needed depending on the situation.

(2) In case of emergencies the heads of the competent bodies under Article 3 may initiate and organize meetings at the border.

### **Article 11**

(1) With a view to implementing the tasks set up in this Agreement the competent bodies of the Contracting Parties shall establish a Joint Committee consisting of a chairman and two members from each Party. The Joint Committee shall meet annually and shall consult about the efficiency of this Agreement as well as about possible amendments and supplements.

(2) The Joint Committee shall establish joint working teams to discuss tactics for settlement of problems arising during co-operation and shall decide on where and how to work. Representatives of other authorities may participate in their meetings.

(3) The Joint Committee may decide to establish additional working groups. Grounds for establishment of working groups could be:

- tactical co-ordination of the activities relevant to identification of channels for smuggling of people and illegal trafficking in persons;
- exchange of information
- definition of specific forms of practical co-operation and their application, etc.

If needed, they may initiate higher level meetings.

(4) The topics to be discussed by the joint working teams/additional working groups, the members of the delegations, time and agendas of the meetings shall be agreed in advance by the Joint Committee.

(5) The stay expenditures of the working groups/ teams shall be borne by the hosting Contracting Party except for the travel expenses to the Republic of Bulgaria, respectively to the Republic of Serbia, and the return travel.

(6) The meetings' conclusions shall be recorded in protocols done in the Bulgarian and Serbian languages, and if necessary in the English language.

## **Chapter III**

### **PROTECTION OF DATA AND INFORMATION**

#### **Article 12**

The mutual exchange of personal data between the competent bodies of the Contracting Parties designated under Article 3 shall be done in accordance with the national legislations, observing the conditions defined by the sending body and the following principles that apply both in automated and non-automated data processing:

1. The provided data shall not be used for purposes different from those for which the data were initially provided without the consent of the sending body.
2. The provided data shall be destroyed or corrected when:
  - (a) the data have proved to be untrue, or
  - (b) the sending competent body notifies that the data were collected or provided in infringement of the law, or
  - (c) the data are no more needed for implementation of the task for which they were provided unless there is explicit permission for using these data for other purposes.
3. Upon request from the sending body, the competent body of the receiving Contracting Party shall provide information on their use.
4. The competent body that provides data shall guarantee the authenticity, necessity and actuality of the data provided. In case the data provided have turned out to be untrue or incorrect, or that they should not have been sent, or if legally provided data should be destroyed on a later stage in compliance with the national legislation of the State of the sending or receiving body, the sending or receiving body shall be immediately informed in order to destroy or correct the data in compliance with paragraph 2.
5. The receiving competent body is obliged to protect in an efficient way the provided data from illegal access, changes and dissemination.
6. In case of irregular access or dissemination of the data provided the competent body of the receiving Contracting Party shall immediately inform the sending body about the circumstances relevant to the irregular access or dissemination, as well as of the measures taken to avoid such accidents in future.
7. Both sending and receiving bodies are obliged to keep records of sending, receiving, correcting or destroying of the data.
8. Upon sending the data, the competent body that provides them shall define in compliance with its national legislation the deadline for destroying of the data.
9. The person about whom data shall be or have been provided shall receive upon his/her written request information of the data provided and the purpose for which they will be used under the condition that it is provided for in the national legislations of the Contracting Parties. If the person to whom the data refer submits an application for access, correction or destroying of those data the receiving body shall make its decision bearing in mind the statement of the sending body.
10. The competent body that has received a request for information from a citizen of the other Contracting Party is obliged to inform immediately the competent body of the other Contracting Party before providing such information.
11. Data could also be provided to a third party only if there is a written consent from the sending Contracting Party.
12. The providing of data may be denied when there is a threat to the national security or public order.
13. The Contracting Parties oblige themselves to take all necessary measures in compliance with their national legislations to avoid damages to third persons resulting from sending, receiving or using data and to eliminate the causes that could lead to possible unfavourable consequences.

**Chapter IV**  
**FINAL PROVISIONS**

**Article 13**

(1) This Agreement does not affect the rights and obligations of the Contracting Parties under any other international agreements to which they are parties.

(2) Any differences arising from the interpretation or application of the provisions of this Agreement shall be settled by the Joint Committee. The issues upon which the Joint Committee could not agree shall be settled through diplomatic channels.

**Article 14**

Either Contracting Party may refuse temporarily, totally or partially, the co-operation or the assistance, if it considers it to be against the national security or the interests of the State of the Contracting Party or contrary to its national legislation. The other Contracting Party shall be immediately informed in written on the grounds for such a denial.

**Article 15**

The competent bodies under Article 3 for implementation of this Agreement shall conclude Protocols on cooperation that regulate in detail the issues arising from the application of the provisions of this Agreement.

**Article 16**

(1) This Agreement shall come into force after 30 days from the receipt of the last of the notes by which the Contracting Parties inform each other on the fulfillment of the internal legal procedures required for its coming into force.

(2) This Agreement may be amended and supplemented upon mutual written consent of the Contracting Parties. The agreed amendments and supplements shall come into force in accordance with the same procedure set in paragraph 1 of this article.

(3) This Agreement can be denounced by either Contracting Party. In case of denunciation the present Agreement ceases its validity six months after the date when the written notice by one of the Contracting Parties has been received by the other Contracting Party through diplomatic channels.

## **Article 17**

This Agreement is concluded for a period of five years and shall automatically prolong its validity for five year periods unless one of the Contracting Parties notifies the other Contracting Party of its intention to denounce the Agreements six months before the date of its expiry.

Done in .....on November 2007 in two original copies each in the Bulgarian, Serbian and English languages, all texts being equally valid. In case of differences in the interpretation of the provisions of this Agreement, the English text shall prevail.

**FOR THE GOVERNMENT OF  
THE REPUBLIC OF BULGARIA**

**FOR THE GOVERNMENT OF  
THE REPUBLIC OF SERBIA**