



## MEMORANDUM OF UNDERSTANDING

### **REGARDING THE BILATERAL JUDICIAL COOPERATION BETWEEN THE DIRECTORATE FOR ORGANIZED CRIME AND TERRORISM OF THE PROSECUTOR'S OFFICE TO THE SUPREME COURT OF THE STATE OF ROMANIA AND THE NATIONAL PROSECUTOR'S OFFICE OF THE NETHERLANDS**

Given the close judicial cooperation in criminal matters between the Romanian and Dutch judicial authorities in order to fight organized crime and terrorism, both Participants have recognized the need for a further development of this cooperation on a structural level.

Given the existing and future framework of the cooperation, i.e. the available and future framework decisions of the European Union as well as the treaties and conventions of the Council of Europe were both Participants have adhered to.

Since this general framework of instruments can be adapted to a bilaterally more efficient and effective cooperation in criminal matters.

Referring to the bilateral meeting between the Prosecutor General of Romania and the Chairman of the Board of Procurators General of the Netherlands on 4 September 2012 in Bucharest.

Given the Joint Action Plan on cooperation between the Prosecutor's Office attached tot the High Court of Cassation and Justice of Romania and the Public Prosecution Service of the Netherlands signed on 28 september 2012.

In that scope, the Participants to this MOU establish a *common basis* for *direct cooperation* in the field of their respective competences, i.e. the prosecution of all types of organized crime and terrorism under the terms listed below.

## **1. The Participants**

The Participants to this arrangement identified as The Directorate for Organized Crime and Terrorism of the Prosecutor's Office to the Supreme Court of the State of Romania (In Romanian: "Directia de Investigare a Infracjuniilor de Criminalitate Organizată și Terrorism", herein after: "DIICOT") and the National Prosecutor's Office of The Netherlands (in Dutch: "Landelijk Parket", herein after: "LP").

## **2. Scope of the MOU**

The MOU regards the judicial cooperation between DIICOT and LP, in the field of organized crime and terrorism.

The central idea behind the reinforced, direct cooperation between DIICOT and the LP is the approach that should ensure a joint approach to tackle organized types of delinquency that affect both Romania and The Netherlands. In this integrated view there should be no borders that limit or prevent the cooperation between the Participants.

## **3. Terms of the Common Basis of the direct judicial cooperation in criminal matters**

### **3.1. Continuous exchange of information**

**A.** The Participants to this MOU exchange on a continuous basis all information that enhances direct cooperation. All relevant contact information will be made available. All changes to this information will be exchanged within a brief delay.

**B.** The Participants to this MOU exchange on a continuous basis all relevant information regarding their respective legal systems. This information regards legislation with respect to the incrimination, prosecution and sentencing of organized crime and all information regarding best practices in this field. The information regards also the ratification and implementation of international instruments in the field of international cooperation in criminal matters.

**C.** The Participants apply to the best of their efforts the "spontaneous exchange of information" with respect to casework as provided for under article 7 of the Convention of 29 May 2000 on mutual legal assistance in criminal matters between EU Member States.

**D.** As to the exchange of mutual legal assistance requests, the Participants apply as a general principle the direct transmission of mutual legal assistance requests according to 6§1 of the Convention of 29 May 2000 on mutual legal assistance in criminal matters between EU Member States. Any exception to the application of article 6§1 should be explicitly communicated between the Participants.

**E.** Given the specific context of the Dutch judiciary, DIICOT will transmit all central or local DIICOT mutual legal assistance requests to one of the International Offices for mutual legal assistance in criminal matters (in Dutch: LIRC and IRC's, list enclosed). Otherwise, LP will transmit all LP mutual legal assistance requests regarding organized crime and terrorism to the central or a local DIICOT Office (list enclosed).

**F.** Agreement on a common list of contact points. The list will include prosecutors specialised in investigating areas of common interest.

### **3.2. Periodical bilateral consultations**

The Participants will organize periodical bilateral consultations. These consultations will be conducted once a year in Rotterdam or Bucharest at dates to be determined by the Participants.

The consultations will be conducted on a basis of a timely exchanged agenda that will entail at a minimum the following topics:

**A.** All pending Dutch and Romanian mutual legal assistance requests within the scope of this MOU.

To this end, both Participants will timely, i.e. at least at the time the provisional agenda for the periodical bilateral consultations is being exchanged, compile and exchange complete lists of all pending mutual legal assistance requests in the field of organized crime and terrorism. If needed, the Participants will consult with other domestic services such as local prosecutor's offices or central authorities in order to gather all relevant information in order to produce complete lists. The lists should to the extent possible, be drawn up following a common scheme.

Whenever the need arises, the Participants will consult each other via the most appropriate means possible, including telephone or videoconference. Ad hoc consultations may be set up following a complex case or urgent legal issues as well as for the purpose of the preparation of an operation, including joint investigative teams. In this framework the national members of Eurojust should also be involved.

**B.** The discussion of horizontal problems that have risen with respect to (a) mutual legal assistance request(s) or any change in domestic legislation, case law or practices.

To this end, the Participants will timely, similar to the exchange of the lists of pending mutual legal assistance requests, exchange lists of horizontal topics.

These topics include certain legal or practical issues or trends that emerge from the exchange of mutual legal assistance requests, the development of better or new strategies or tactics to fight organized crime, the exchange of information regarding new international instruments, their ratification or implementation, the exchange of information regarding new domestic legislation in the field of criminal (procedure) law, case law or directives or practices that may affect the scope of this MOU.

**3.3. The revision of the international cooperation between the Participants and this MOU**

Finally, the ultimate goal of the periodical bilateral consultations is to revise, i.e. improve and refine the direct judicial cooperation between the Participants.

Both the periodical and ad hoc consultations and any spontaneously exchanged information should be exploited to develop the cooperation between the Participants further. This is an ongoing effort. The outcome of this effort is the fine-tuning of this MOU.

Each year, The Participants will reconsider the application of the MOU and make mutually negotiated propositions to revise the MOU.

**Done at,**

On 5<sup>th</sup> February 2013

**For the National Public Prosecutors  
Office**

**For DIICOT,**

**The Chief Prosecutor,**

**The Chief Prosecutor,**

**Gerrit van der Burg**



26/2/13

**Codrut OLARU**

