



PROTOCOL OF PARTNERSHIP

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 FEDERAL PROSECUTOR'S OFFICE OF BELGIUM

Preamble

Given the close judicial cooperation in criminal matters between the Romanian and Belgian judicial authorities in order to fight organized crime and terrorism, both parties 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 parties have adhered to.

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

Especially against the background of the widening application of the principle of mutual recognition of judicial decisions, the goal of this Protocol¹ aims at improving the mutual understanding through the continuous exchange of information about each others legal systems and best practices in order to promote a direct cooperation between the Parties.

In that scope, the Parties to this Protocol 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 Parties

The Parties to this agreement¹ 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 Infracțiunilor de Criminalitate Organizată și Terrorism", herein after: "DIICOT") and the Federal Prosecutor's Office of the Kingdom of Belgium (in French and Dutch: "Parquet federal"; "Federaal Parket") herein after: "FPO").

2. Scope of the protocol.

The protocol regards the judicial cooperation between Romania and Belgium, especially in the field of organized crime and terrorism.

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

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

3.1. Continuous exchange of information

A. The Parties to this protocol 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 Parties to this protocol 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 Parties 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 Parties 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 Parties.

Given the specific context of the Belgian judiciary, DIICOT will transmit all central or local DIICOT mutual legal assistance requests to the FPO. In case a local Belgian Prosecutor's Office has transmitted a mutual legal assistance request to the central or a local DIICOT Office, DIICOT will transmit a copy of this mutual legal assistance request to FPO in order to assure its registration and follow up.

Otherwise, FPO will transmit all FPO mutual legal assistance requests regarding organized crime and terrorism exclusively to DIICOT, besides the requests of local prosecutor's offices in which an FPO intervention is asked.

3.2. Periodical bilateral consultations

The Parties will organize periodical bilateral consultations. These consultations will be conducted twice a year in Brussels and Bucharest alternatively in February and October at dates to be determined by the Parties.

The consultations will be conducted on a basis of a timely exchanged agenda that will contain in any case the following topics.

- A. All pending Belgian and Romanian mutual legal assistance requests within the scope of this protocol.

To this end, both Parties 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 Parties 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 Parties 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.

- B. The laying of information.

The Parties will make use of the type of mutual legal assistance called "laying of information" according to article 21 of the European Convention on Mutual Legal Assistance (Council of Europe, 20 April 1959) to the greatest extent possible. This means that the parties will try to concentrate the prosecution of cases under the scope of this protocol, where the prosecution is deemed to be most appropriate.

- C. 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 Parties 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 protocol.

3.3. The revision of the international cooperation between the parties and this protocol

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

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

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

Signed at Brussels,

On 9 September, 2008

For the Federal Prosecutor's Office

The Federal Prosecutor,

For DIICOT,

The Chief Prosecutor,

Johan Delmulle

Codrut OLARU