



On approval of the Agreement between the Government of the Republic of Kazakhstan and the Government of the Kingdom of Spain on Cooperation in the Fight against Crime

Unofficial translation

Decree of the Government of the Republic of Kazakhstan dated December 30, 2011 No. 1696

Unofficial translation

The Government of the Republic of Kazakhstan **HEREBY DECREES AS FOLLOWS:**

1. That the Agreement between the Government of the Republic of Kazakhstan and the Government of the Kingdom of Spain on Cooperation in the Fight against Crime, signed in the city of Astana on June 17, 2011 shall be approved.

2. This Decree shall come into effect from the date of signing.

Prime Minister of the Republic of Kazakhstan

K. Massimov

AGREEMENT

**between the Government of the Republic of Kazakhstan
and the Government of the Kingdom of Spain
on Cooperation in the Fight against Crime**

The Government of the Republic of Kazakhstan and the Government of the Kingdom of Spain, hereinafter referred to as the "Parties",

being convinced that international cooperation is important in order to effectively prevent and combat transnational organized crime, in particular crime related to drug trafficking, illegal migration, terrorism and other types of crimes, concerned about the increase in drug trafficking and related crimes and based on the objectives of the Single Convention on Narcotic Drugs of March 30, 1961, the Additional Protocol to the Single Convention on Narcotic Drugs of 1961 of March 25, 1972, the Convention on Psychotropic Substances of February 21 1971 and the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of December 20, 1988,

reaffirming their will to conduct an effective fight against terrorism,

intending to take effective measures to combat counterfeiting of documents used for illegal migration,

have agreed as follows:

Article 1

1. The Parties, in accordance with the national laws of their states and international treaties in the field of combating crime, to which the Parties are parties at the same time, and, within the competence of the bodies implementing this Agreement, shall carry out mutual cooperation in the fight against the following criminal activities:

- 1) terrorism;
- 2) crimes against the person, public health and morality;
- 3) illicit trafficking in narcotic drugs, psychotropic substances, meaning offenses referred to in paragraphs 1 and 2 of Article 3 of the UN Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances of December 20, 1988;
- 4) crimes related to illegal migration and human trafficking;
- 5) illegal imprisonment and kidnapping;
- 6) forgery, manufacture or sale of fake documents;
- 7) economic smuggling;
- 8) money laundering or legalization of other property acquired illegally;
- 9) falsification (production, change) and distribution of counterfeit currency, means of payment, checks and values;
- 10) theft of vehicles, its illegal traffic and criminal activities associated with it and;
- 11) illegal trade in weapons, ammunition, explosives, strategic raw materials (nuclear and radioactive materials), as well as other dangerous substances;
- 12) illegal trade in cultural property of historical value, as well as the works of art;
- 13) crimes in the field of economic activity, including tax evasion, financial crimes;
- 14) organized forms of crimes against sexual freedom, especially directed against them, as well as the production, distribution and supply of pornographic materials involving minors;
- 15) crimes committed using computer systems;
- 16) environmental crimes.

2. By mutual agreement, the Parties shall also cooperate in the fight against any other crimes, the prevention, disclosure and investigation of which requires the cooperation of the competent authorities of their states.

3. This Agreement shall not affect the provision of legal assistance in criminal matters and the extradition of persons.

Article 2

1. In order to implement the provisions of this Agreement, all contacts shall be made directly through the central competent authorities of the states of the Parties, namely:

on behalf of the Republic of Kazakhstan:

- 1) the Ministry of the Interior of the Republic of Kazakhstan;
- 2) the General Prosecutor's Office of the Republic of Kazakhstan;
- 3) the National Security Committee of the Republic of Kazakhstan;
- 4) the Agency of the Republic of Kazakhstan for Fighting Economic and Corruption Crimes (Financial Police);
- 5) the Customs Control Committee of the Ministry of Finance of the Republic of Kazakhstan;
- 6) the Ministry of Defence of the Republic of Kazakhstan;
- 7) the Security Service of the President of the Republic of Kazakhstan.

on behalf of the Kingdom of Spain:

- The Ministry of the Interior without prejudice to the authority of other ministries.

2. The Parties shall immediately notify each other through diplomatic channels of a change in the official names or functions of the competent authorities of the States of the Parties in accordance with this Agreement.

Article 3

The competent authorities of the States of the Parties shall cooperate in the following forms:

- 1) execution of requests;
- 2) the exchange of operational-search, operational-reference, criminalistics and archival information;
- 3) coordinated, and if necessary, joint conduct of operational-search measures and investigations;
- 4) exchange of experience in the field of crime prevention and combating;
- 5) a temporary exchange of specialists in order to obtain information of mutual interest in various areas of the fight against organized crime and on criminal equipment;
- 6) the exchange of regulatory legal acts in the field of prevention and combating organized crime;
- 7) exchange of research results in the field of forensic science, criminology and forensic medicine;
- 8) rendering on a mutual basis assistance in training, specialization and improving the technical and professional skills of specialists.

Article 4

In order to prevent and control the illegal cultivation of plants containing narcotic drugs, psychotropic substances and their precursors, as well as the illegal production and trafficking of narcotic drugs, psychotropic substances, their analogues and precursors, as well as the illegal acquisition, possession, sale, leasing or trafficking of tools and equipment used for their production and processing, the Parties, within the framework of the national legislations of their states, shall:

- 1) exchange work experience in the field of control in the field of legal production and trafficking of narcotic drugs, psychotropic substances, their analogues and precursors, including the exchange of information on export-import operations in such production and trafficking carried out under international treaties in the field of control drugs;
- 2) jointly carry out measures aimed at preventing the illicit trafficking of narcotic drugs, psychotropic substances and their precursors;
- 3) for the purpose of detecting or preventing crimes, exchange information on the circumstances of the crime and the persons involved in them, in particular, on the places of concealment, forms and means of transportation, places of origin and methods of delivery of narcotic drugs, psychotropic substances, their analogues and precursors;

4) carry out joint actions and investigations in the fight against illicit trafficking in narcotic drugs, psychotropic substances, their analogues and precursors, as well as money laundering, using the method of “controlled delivery”;

5) exchange scientific and analytical materials related to the illicit trafficking of narcotic drugs, psychotropic substances, their analogues and precursors;

6) exchange information, experience and know-how on the prevention and control of money laundering;

7) exchange any other information the provision of which does not contradict the national legislation of the state of the requested Party.

Article 5

The Parties shall cooperate in the fight against terrorism in accordance with the provisions of this Agreement and the national legislations of their states through the exchange of relevant information and operational cooperation:

1) on individuals, groups or organizations suspected of committing acts of terrorism;

2) acts of terrorism against the interests of the states of the Parties and / or against other states, members of their governments and international organizations;

3) the exchange of information shall be carried out on the basis of a request from the interested Party or upon the initiative of one of the Parties, suggesting that such information is of interest to the other Party.

Article 6

The Parties shall cooperate within the framework of the national legislations of their states in the fight against illegal migration through operational cooperation and the exchange of information:

1) on the facts of illegal crossing of the state border by citizens of the state of any of the Parties;

2) of the criminal organizations involved in trafficking in persons, as well as related first with this activity;

3) facts of falsification of documents valid on the territory of the state of any of the Parties and used by citizens of the state of any of the Parties or other states to cross the border.

Article 7

The Parties shall cooperate within the framework of the national legislations of their states in the fight against organized crime in its various manifestations by:

1) the exchange of data on persons involved in organized crime, in particular, its organizers;

2) exchange of data on the circumstances of the commission of crimes, in particular, on the time, place and method of committing crimes, on persons and things involved in the crime, details, as well as on their qualifications under the criminal law of the states of the Parties.

Data and information shall be exchanged if necessary to investigate or identify serious crimes or prevent offenses that may pose a threat to public order in each case;

3) the implementation of coordinated actions during the implementation of operational and investigative measures, the provision of mutual practical, material and organizational assistance;

4) providing mutual assistance in the training, retraining of law enforcement officers and the exchange of specialists in order to improve the technical level in the fight against organized crime in all its manifestations and other types of crimes;

5) holding working meetings on specific criminal cases under investigation in order to organize joint events.

Article 8

1. An exchange of information and a request for the implementation of the actions provided for in this Agreement shall be sent in writing to the central competent authorities of the states of the Parties. The request shall contain:

1) a reasoned wording defining the basis, as well as requesting and requested service or body;

2) a description of the case in connection with which assistance is requested;

3) the content of the request and the information necessary for its execution.

In cases where urgent execution of requests is required to prevent, combat or solve crimes, the central competent authorities of the states of the Parties may preliminarily apply verbally for the execution of this Agreement with subsequent immediate confirmation of the request in writing through the agreed channels.

2. The request, supporting documents and subsequent communications shall be accompanied by a translation into the language of the requesting Party or into English.

3. The requesting Party may request additional information if it considers insufficient information received on a previous request. The central competent authorities of the states of the Parties shall execute such requests immediately.

Article 9

To facilitate the development of cooperation stipulated by the provisions of this Agreement, the Parties shall establish a Joint Commission consisting of senior officials of the central competent authorities of the states of the Parties, which shall meet as necessary. The Parties shall notify each other of the composition of the Joint Commission through diplomatic channels. If necessary, the Joint Commission may involve experts specially designated by it to work on individual issues.

The Parties, through separate agreements, determine the scope, powers and regulations of the Joint Commission.

Article 10

1. If one of the Parties considers that the execution of the request or the implementation of a specific event poses a threat to sovereignty, security, contradicts the basic principles of the legal system or other significant interests of its state, the said Party may refuse in whole or in part, or may put forward certain conditions for the execution of the request.

2. The central competent authority of the State of the requesting Party shall be informed of the reason for such a refusal.

Article 11

When transferring information about persons, the Parties in accordance with the national laws of their states and the provisions of this Agreement shall use the following provisions:

1) the requesting Party shall be entitled to use the data only for the purposes and in accordance with the conditions determined by the requested Party;

2) the requested Party shall have the right to require information from the requesting Party on the use of data and the results obtained therefrom;

3) data on persons shall be transmitted only to the central competent authorities of the states of the Parties as determined in Article 2 of this Agreement. Data received by the requesting Party shall be transferred to other bodies only with the prior permission of the requested Party;

4) the requested central competent authority shall ensure the reliability of the data transmitted, as well as shall verify the need for such a transfer in accordance with the objectives expressed by the requesting Party;

5) in case of transfer of false or non-transferable data, the requesting Party shall immediately inform the requested Party thereof, make the necessary changes or destroy them with the obligatory notification of the other Party;

6) the transfer of personal data shall be carried out in accordance with the national legislation of the state of the requested Party.

Each of the Parties at any time shall have the right to cite non-fulfilment of the terms of this article as a reason for the immediate suspension of this Agreement or its automatic termination by sending through diplomatic channels the corresponding written notice to the other Party.

Article 12

1. The Parties shall take all measures to ensure the safety and non-dissemination of information received, recognized by any of the Parties as information for limited access in accordance with the national laws of their states.

2. The Parties shall not have the right to transfer to a third party information, documentation and technical equipment obtained in accordance with this Agreement without the prior consent of the central competent authorities of the state of the requested Party.

Article 13

The details of the cooperation provided for by the provisions of this Agreement shall be determined by the central competent authorities of the states of the Parties through separate agreements.

By mutual agreement of the Parties, this Agreement may be amended and supplemented by separate protocols and constituting its integral parts.

Article 14

In the event of disputes in the interpretation or application of the provisions of this Agreement, the Parties shall resolve them through mutual consultation and negotiation.

If necessary, a Conciliation Commission shall be established from among the authorized representatives of the Parties to resolve disputed issues. The Protocol of the Conciliation Commission, signed by the aforementioned fully authorized representatives of the Parties, shall be accepted for execution by both Parties.

Article 15

The Parties shall independently bear the expenses incurred in the course of the implementation of this Agreement by them within the limits of the funds provided for in accordance with the national legislations of their states, unless otherwise specified in each specific case.

Article 16

This Agreement shall not affect the rights and obligations of the Parties arising from other international treaties to which they are parties, and shall not impede the elaboration and development of other mutually acceptable forms of cooperation.

Article 17

This Agreement shall enter into force on the date of receipt by diplomatic channels of the last written notice on the implementation by the Parties of the domestic procedures necessary for its entry into force.

Article 18

This Agreement shall be concluded for an indefinite period and shall remain in force until one of the Parties sends written notification through diplomatic channels to the other Party of its intention to terminate it. In this case, this Agreement shall be terminated six months after one of the Parties receives such notification.

In witness whereof, the authorized representatives of the Parties have signed this Agreement.

Signed in the city of Astana on June 17, 2011 in two original copies, each in the Kazakh, Spanish, Russian and English languages, each of which shall be deemed as original.

On behalf of the Government
of the Republic of Kazakhstan

On behalf of the Government
of the Kingdom of Spain