



TREATY SERIES 2007
N° 42

**Agreement between the Government of Ireland and the
Government of the United Kingdom Concerning Mutual
Assistance in Relation to Criminal Matters**

Done at Dublin on 26 November 1998

**Notification of completion of requirements of entry into force exchanged on 13
March 2003 and 14 April 2004**

Entered into force on 1 June 2004

Presented to Dáil Éireann by the Minister for Foreign Affairs

**AGREEMENT BETWEEN THE GOVERNMENT OF IRELAND AND THE
GOVERNMENT OF THE UNITED KINGDOM CONCERNING MUTUAL
ASSISTANCE IN RELATION TO CRIMINAL MATTERS**

The Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland:

Determined to intensify their collaboration in the fight against crime;

Desiring to establish rules to supplement and facilitate the operation, in their mutual relations, of the

Convention of the Council of Europe on Mutual Assistance in Criminal Matters of 20 April, 1959, and the Additional Protocol to that Convention of 17 March, 1978,

United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 20 December, 1988, and

Convention of the Council of Europe on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 8 November, 1990,

HAVE AGREED as follows:

*Article 1
Scope of Application*

(1) The Parties shall, in accordance with this Agreement, grant to each other assistance in investigations and proceedings in respect of crime, including the tracing, restraint and confiscation of the proceeds and instruments of crime.

(2) This Agreement shall be without prejudice to other rights and obligations between the Parties pursuant to other agreements and shall not prevent the Parties or their law enforcement authorities from providing assistance to each other pursuant to other agreements or formal or informal arrangements.

*Article 2
Definitions*

For the purposes of this Agreement:

- a) “confiscation” means any measure resulting in the final deprivation of property
- b) “instruments of crime” means any property which is or is intended to be used in connection with the commission of an offence;

- c) “proceeds of crime” means an; property derived or realized, directly or indirectly, by any person as a result of criminal conduct, or the value of any such property
- d) property includes money and all kinds of moveable or immovable and tangible or intangible property, and includes any interest in such property;
- e) “restraint of property” means any legal measure for the prevention of dealing in or transfer or disposal of property;
- f) “order” includes an order, decree, direction or judgment of a court, or any part thereof, however described.

Article 3 Central Authorities

(1) Requests for assistance under this Agreement shall be made through the central authorities of the Parties.

(2) In Ireland the central authority is the Department of Justice, Equality and Law Reform. In the United Kingdom of Great Britain and Northern Ireland the central authority is the Home Office.

Article 4 Contents of Requests

(1) Requests shall be made in writing. In urgent circumstances, or where otherwise permitted by the Requested Party, requests may be made by facsimile transmission or other electronic method, provided that a duly signed request is subsequently forwarded without delay.

(2) Requests for assistance shall include a statement of:

- a) the name of the competent authority conducting the investigation or proceedings to which the request relates;
- b) the matters, including the relevant facts and laws, to which the investigation or proceedings relates;
- c) the purpose for which the request is made and the nature of the assistance sought;
- d) details of any particular procedure or requirement that the Requesting Party wishes to be followed;
- e) any time limit within which compliance with the request is desired;
- f) where relevant, the identity, nationality and location of the person or persons who are the subject of the investigation proceedings;

g) in the case of a request for the search for or seizure of material, the offence which there are reasonable grounds for believing has been committed in the jurisdiction of the Requesting Party and a description of the conduct constituting that offence.

(3) If the Requested Party considers that the information contained in the request is not sufficient to enable the request to be dealt with, that Party may request that additional information be furnished.

Article 5 *Execution of Requests*

(1) A request shall be executed as permitted by and in accordance with the domestic law of the Requested Party and, to the extent not incompatible with such law, in accordance with any procedures specified in the request.

(2) The Requested Party shall inform the Requesting Party promptly of any circumstances which are likely to cause a significant delay in responding to the request.

(3) The Requested Party shall inform the Requesting Party promptly of a decision of the Requested Party not to comply in whole or in part with a request for assistance and the reason for that decision.

(4) The Requesting Party shall inform the Requested Party promptly of any circumstances which may affect the request or its execution or which may make it inappropriate to proceed with giving effect to it.

Article 6 *Refusal of Assistance*

(1) Assistance may be refused, in whole or in part, if:

- a) the Requested Party is of the opinion that the request, if granted, would seriously impair its sovereignty, security, national interest or other essential interest; or
- b) provision of the assistance sought could prejudice an investigation or proceedings in the territory of the Requested Party, prejudice the safety of any person or impose an excessive burden on the resources of that Party; or
- c) the action sought is contrary to fundamental principles of the law of the Requested Party; or
- d) the request concerns restraint or confiscation of proceeds or instruments of conduct which, had it occurred within the jurisdiction of the Requested Party, would not have been conduct in respect of which a confiscation order could be made; or

e) where relevant, the request relates to an offence in respect of which the person has been finally acquitted, pardoned, or made subject to an amnesty; or

f) the request relates to a confiscation order which has been satisfied.

(2) Before refusing to grant a request for assistance, the Requested Party shall consider whether assistance may be granted subject to such conditions as it deems necessary. If the Requesting Party accepts assistance subject to conditions, it shall comply with them.

Article 7

Confidentiality and Restricting use of Evidence and Information

(1) The Requested Party shall, to any extent requested, keep confidential a request for assistance, its contents and any supporting documents, and the fact of granting such assistance except to the extent that disclosure is necessary to execute the request. If the request cannot be executed without breaching such confidentiality as may be requested, the Requested Party shall so inform the Requesting Party which shall then determine the extent to which it wishes the request to be executed.

(2) The Requesting Party shall, if so requested, keep confidential any evidence and information provided by the Requested Party, except to the extent that its disclosure is necessary for the investigation or proceeding described in the request.

(3) The Requesting Party shall not use for purposes other than those stated in a request evidence or information obtained as a result of it, without the prior consent of the Requested Party.

Article 8

Information and Evidence

(1) The Parties may make requests for information and evidence for the purpose of investigations or proceedings and instruments of crime.

(2) Assistance which may be given under this Article includes but is not limited to:

a) providing information and documents or copies thereof;

b) taking evidence or statements of witnesses or other persons and producing documents, records, or other material for transmission to the Requesting Party;

c) searching for, seizing and delivering to the Requesting Party any relevant material, and providing such information as may be required by the Requesting Party concerning the place of seizure, the circumstances of seizure and the subsequent custody of the material seized prior to delivery.

(3) The Requested Party may postpone the delivery of material requested if such material is required for proceedings in respect of criminal or civil matters in its

territory. The Requested Party shall, upon request, provide certified copies of documents.

(4) The Requesting Party shall return material provided under this Article when no longer needed for the purpose for which it was supplied, unless the Requested Party agrees or indicates that it need not be returned.

Article 9 *Restraint*

(1) In accordance with the provisions of this Article, a Party may request the restraint of property to ensure that it is available for the purpose of enforcement of a confiscation order which has been or may be made.

(2) To the extent that such is not provided for in Article 4(2), a request made under this Article shall include, where relevant:

- a) (i) in the case of a request from the Government of Ireland, a certificate stating that a summons or warrant for the arrest of a person has been issued in respect of an offence, or that a person has been charged with an offence, or that an application to a court for an order for the restraint of property has been made, or that one of these measures is to be taken and, if so, when;
- (ii) in the case of a request from the Government of the United Kingdom, a certificate stating that an information has been laid before a Justice of the Peace, or a person has been charged with an offence, or a bill of indictment has been preferred, or a petition warrant has been granted, or that one of these measures is to be taken and, if so, when;
- b) a summary of the facts of the case (including, to the extent known, the date, place and circumstances of the offence and information about proceeds derived from it), a copy of the relevant enactments of the Requesting Party under which a restraint order or a confiscation order may be made and a certified copy of such order;
- c) to the extent possible, a description of the property in respect of which restraint is sought or which is believed to be available for restraint;
- d) details of the person or persons holding the property;
- e) the connection between the property and the person in respect of whom the proceedings have been or are to be instituted;
- f) details of any known link between the property held in the territory of the Requested Party and the proceeds of criminal conduct;
- g) details of known interests in the property of any person other than the person in respect of whom the proceedings have been or are to be instituted; and

- h) a statement of the amount which it is desired to restrain and the grounds on which this amount is estimated.
- (3) Each Party shall advise the other promptly of any appeal or variation made in respect of any restraint action requested or taken.
- (4) The Requested Party may impose a condition limiting the duration of the restraint. The Requested Party shall notify the Requesting Party promptly of any such condition, and the reason for it.

Article 10
Enforcement of Confiscation Orders

(1) This Article applies to an order, made by a court of the Requesting Party, for the purpose of confiscating the proceeds or instruments of crime.

(2) To the extent that such is not provided for in article 4(2), a request for assistance in enforcing such an order shall be accompanied by an original order or by a copy of the order, certified by a judge or officer of the court that made the order or by the central authority, and shall contain information indicating:

- a) that the order is enforceable in the territory of the Requesting Party;
- b) that no appeal is pending in respect of the order or any conviction to which that order may relate;
- c) that the person in respect of whom the order was made appeared in the court proceedings or, if not, received sufficient notice thereof, in accordance with the law of the Requesting Party;
- d) where appropriate, property available for enforcement or the property in respect of which assistance is sought, details of the person or persons holding that property and the person against whom the order has been made;
- e) where appropriate, and where known, the interests in the property of any person other than the person against whom the order has been made;
- f) where appropriate, the amount which it is desired to realise as a result of such assistance; and
- g) where known, details of any link between the property held in the territory of the Requested Party and the proceeds of criminal conduct.

(3) Where the law of the Requested Party does not permit effect to be given to a request in full, the Requested Party shall give effect to it insofar as it is able to do so.

(4) If a request under this Article relates to an amount of money, that amount shall be converted into the currency of the Requested Party in accordance with its domestic law and procedures.

(5) Property obtained by the Requested Party in the enforcement of an order to which this Article applies shall remain with that Party, unless otherwise agreed between the Parties.

Article 11 *Costs*

The Requested Party shall bear any costs arising within its territory as a result of action taken upon the request of the Requesting Party. Extraordinary costs may be subject to special agreement between the Parties.

Article 12 *Language*

(1) Requests to Ireland under this Agreement, and any supporting documents, shall be drawn up in either the Irish or the English language.

(2) Requests to the United Kingdom under this Agreement, and any supporting documents, shall be drawn up in the English language.

Article 13 *Authentication*

Unless otherwise required under national law, documents certified by a central authority shall not require further certification, authentication or legalization for the purposes of this Agreement.

Article 14 *Meetings between Central Authorities*

The Parties agree to arrange for regular meetings between representatives of their central authorities to exchange views on the operation of this Agreement and to discuss any issues of mutual interest arising from it.

Article 15 *Territorial Application*

This Agreement shall apply:

- (a) to Ireland, and
- (b) (i) to the United Kingdom of Great Britain and Northern Ireland, and
 - (ii) to any territory for the international relations of which the United Kingdom is responsible and to which this Agreement shall have been extended, subject to any modifications agreed, by agreement between the Parties. Such extension may be terminated by either Party by giving six months' written notice to the other through the diplomatic channel.

Article 16
Final Provisions

(1) Each Party shall notify the other of the completion of the constitutional formalities required by its laws for the entry into force of this Agreement. This Agreement shall enter into force on the first day of the month following the expiration of one calendar month after the date of the later of the two notifications.

(2) It may be terminated by either Party by giving written notice to the other Party through the diplomatic channel. It shall cease to be in force six months after the date of receipt of such notice.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at Dublin this 26th day of November 1998.