

Agreement
between
the United States of America
and
the Slovak Republic
on Enhancing Cooperation in
Preventing and Combating Crime

The United States of America and the Slovak Republic (hereinafter "Contracting Parties"),

Prompted by the desire to cooperate as partners to prevent and combat crime, particularly terrorism, more effectively,

Recognizing that information sharing is an essential component in the fight against crime, particularly terrorism,

Recognizing the importance of preventing and combating crime, particularly terrorism, while respecting fundamental rights and freedoms, notably privacy,

Inspired by the Convention on the stepping up of cross-border cooperation, particularly in combating terrorism, cross-border crime and illegal migration, done at Prüm on May 27, 2005; and

Seeking to enhance and encourage cooperation between the Contracting Parties

Have agreed as follows:

Article 1
Definitions

For the purposes of this Agreement,

1. Crime shall mean conduct constituting an offense punishable by a maximum deprivation of liberty of more than one year or a more serious penalty. To ensure compliance with their national laws, the Contracting Parties may agree to specify particular crimes for which a Contracting Party shall not be obligated to supply personal data as described in Articles 6 and 9 of this Agreement.
2. Criminal justice purpose shall include activities defined as the administration of criminal justice, which means the performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation activities of accused persons or criminal offenders. The administration of criminal justice also includes criminal identification activities.

3. DNA profiles (DNA identification patterns) shall mean a letter or numerical code representing a number of identifying features of the non-coding part of an analyzed human DNA sample, i.e. of the specific chemical form at the various DNA loci.
4. Personal data shall mean any information relating to an identified or identifiable natural person (hereinafter the "data subject").
5. Processing of personal data shall mean any operation or set of operations which is performed upon personal data, whether or not by automated means, such as collection, recording, organization, storage, adaptation or alteration, sorting, retrieval, consultation, use, disclosure by supply, dissemination or otherwise making available, combination or alignment, blocking, or deletion through erasure or destruction of personal data.
6. Reference data shall mean a DNA profile and the related reference (DNA reference data) or fingerprinting data and the related reference (fingerprinting reference data). Reference data must not contain any data from which the data subject can be directly identified. Reference data not traceable to any individual (untraceables) must be recognizable as such.

Article 2

Purpose and Scope of this Agreement

The purpose of this Agreement is to enhance the cooperation between the Contracting Parties in preventing and combating crime. Cooperation pursuant to this Agreement is without prejudice to mutual legal assistance in criminal matters which falls under the competence of judicial bodies of the Contracting Parties.

Article 3

Fingerprinting data

For the purpose of implementing this Agreement, the Contracting Parties shall ensure the availability of reference data from the file for the national automated fingerprint identification systems established for the prevention and investigation of criminal offenses. Reference data shall only include fingerprinting data and a reference.

Article 4

Automated searching of fingerprinting data

1. For the prevention and investigation of crime, each Contracting Party shall allow the other Contracting Party's national contact points, as referred to in Article 7, access to the reference data in the automated fingerprint identification system which it has established for that purpose, with the power to conduct automated searches by comparing fingerprinting data. Search powers may be exercised only in individual cases and in compliance with the searching Contracting Party's national law.
2. Firm matching of fingerprinting data with reference data held by the Contracting Party in charge of the file shall be carried out by the searching national contact points by means of the automated supply of the reference data required for a clear match.

Article 5

Alternative means to search using identifying data

1. Until it is possible to make available the process set forth in Article 4, a Contracting Party shall provide an alternative means to conduct a search using other identifying data to determine a clear match linking the individual to additional data. Search powers shall be exercised in the same manner as provided in Article 4 and a clear match shall be treated the same as a firm match of fingerprinting data to allow for the supply of additional data as provided for in Article 6.
2. The search powers provided for under the terms of this Agreement shall be used only for a criminal justice purpose, including when applied at the border where an individual for whom the additional data is sought has been identified for further inspection.

Article 6

Supply of further personal and other data

Should the procedure referred to in Article 4 show a match between fingerprinting data, the supply of any available further personal and other data relating to the reference data shall be governed by the national law, including the legal assistance rules, of the requested Contracting Party.

Article 7

National contact points and implementing agreements

1. For the purpose of the supply of data as referred to in Articles 4 and 5, each Contracting Party shall designate one or more national contact points via diplomatic channels. The powers of the contact points shall be governed by the national law applicable.
2. The technical and procedural details for the searching conducted pursuant to Articles 4 and 5 shall be set forth in one or more implementing agreements or arrangements.

Article 8

Automated searching of DNA profiles

1. If permissible under the national law of both Contracting Parties and on the basis of reciprocity, the Contracting Parties may allow each other's national contact point, as referred to in Article 10, access to the reference data in their DNA analysis files, with the power to conduct automated searches by comparing DNA profiles for the investigation of crime. Searches may be exercised only in individual cases and in compliance with the searching Contracting Party's national law.
2. Should an automated search show that a DNA profile supplied matches a DNA profile entered in the other Contracting Party's file, the searching national contact point shall receive by automated notification the reference data for which a match has been found. If no match can be found, automated notification of this shall be given.

Article 9

Supply of further personal and other data

Should the procedure referred to in Article 8 show a match between DNA profiles, the supply of any available further personal data and other data relating to the reference data shall be governed by the national law, including the legal assistance rules, of the requested Contracting Party.

Article 10

National contact point and implementing agreements

1. For the purposes of the supply of data as set forth in Article 8, each Contracting Party shall designate a national contact point via diplomatic channels. The powers of the contact point shall be governed by the national law applicable.
2. The technical and procedural details for the searching conducted pursuant to Article 8 shall be set forth in one or more implementing agreements or arrangements.

Article 11

Supply of personal and other data in order to prevent serious criminal and terrorist offenses

1. For the prevention of serious criminal and terrorist offenses, a Contracting Party may, in compliance with its national law, in individual cases, even without being requested to do so, supply the other Contracting Party's relevant national contact point, as referred to in paragraph 6, with the personal data specified in paragraph 2, in so far as is necessary because particular circumstances give reason to believe that the data subject(s):
 - a. is suspected of planning or committing or has committed a terrorist or terrorism related offense, or an offense related to a terrorist group or association, defined under the supplying Contracting Party's national law, or
 - b. is undergoing or has undergone training to commit the offenses referred to in subparagraph a, or
 - c. is suspected of planning or committing or has committed a serious criminal offense, or participates in an organized criminal group or association.
2. The personal data to be supplied shall include, if available, surname, first names, former names and surnames, other names, aliases, alternative spelling of names, sex, date and place of birth, current and former nationalities, passport number, numbers from other identity documents, and fingerprinting data, as well as a description of any conviction or of the circumstances giving rise to the belief referred to in paragraph 1.
3. The supplying Contracting Party may, in compliance with its national law, impose conditions on the use made of such data by the receiving Contracting Party. If the receiving Contracting Party accepts such data, it shall be bound by any such conditions.

4. Generic restrictions with respect to the legal standards of the receiving Contracting Party for processing personal data may not be imposed by the transmitting Contracting Party as a condition under paragraph 3 to providing data.
5. In addition to the personal data referred to in paragraph 2, the Contracting Parties may provide each other with non-personal data related to the offenses set forth in paragraph 1.
6. Each Contracting Party shall designate one or more national contact points for the exchange of personal and other data under this Article with the other Contracting Party's contact points. The powers of the national contact points shall be governed by the national law applicable.

Article 12

Other forms of cooperation for the purpose of preventing and combating crime

For the purpose of preventing and combating crime, the Contracting Parties may, in compliance with their respective national law, cooperate in other areas, including:

- a. sharing information and best practices for programs and measures for the protection of witnesses who face a threat of a bodily harm or another serious danger in connection with cooperation and testimony regarding a criminal proceeding;
- b. providing each other with personal, technical and organizational assistance in crime prevention and detection and the detection of the offenders, including information sharing regarding special investigative techniques, and immunity or plea agreements for cooperating defendants;
- c. organizing working meetings on concrete criminal cases under investigation to prepare and coordinate measures;
- d. exchanging information on the results of criminal and criminological research, on the investigation practices, methods and means of work;
- e. exchanging of information on the organization and structure of groups committing crime, the typical behavior of the offenders and groups and the methods and new forms of committing crime that cross the borders of the Contracting Parties;
- f. informing each other of trends and new developments concerning how criminals dispose of the proceeds of crime and instruments they are using to commit crimes;
- g. exchanging laws and regulations, analytical and conceptual documents and specialized literature; and
- h. cooperating in the area of education, continuing education and training of police officers and other law enforcement authorities, and exchange of specialists, in order to increase their professional knowledge, support the exchange of experience and learn about the means and methods of combating crime.

Article 13
Privacy and Data Protection

1. The Contracting Parties recognize that the handling and processing of personal data that they acquire from each other is of critical importance to preserving confidence in the implementation of this Agreement.
2. The Contracting Parties commit themselves to processing personal data fairly and in accord with their respective laws and:
 - a. ensuring that the personal data provided are adequate and relevant in relation to the specific purpose of the transfer;
 - b. retaining personal data only so long as necessary for the specific purpose for which the data were provided or further processed in accordance with this Agreement; and
 - c. ensuring that possibly inaccurate personal data are timely brought to the attention of the receiving Contracting Party in order that appropriate corrective action is taken.
3. This Agreement shall not give rise to rights on the part of any private person, including to obtain, suppress, or exclude any evidence, or to impede the sharing of personal data. Rights existing independently of this Agreement, however, shall not be affected.

Article 14
Limitation on processing to protect personal and other data

1. Without prejudice to Article 11, paragraph 3, the Contracting Parties may process data obtained under this Agreement:
 - a. for the purpose of criminal investigations;
 - b. for preventing a serious threat to its public security;
 - c. in non-criminal judicial or administrative proceedings directly related to investigations set forth in subparagraph (a); or
 - d. for any other purpose, only with the prior consent of the Contracting Party which has transmitted the data.
2. The Contracting Parties shall not communicate data provided under this Agreement to any third State, international body or private entity without the consent of the Contracting Party that provided the data and without the appropriate safeguards.
3. A Contracting Party may conduct an automated search of the other Contracting Party's fingerprint or DNA files under Articles 4 or 8, and process data received in response to such a search, including the communication whether or not a hit exists, solely in order to:
 - a. establish whether the compared DNA profiles or fingerprint data match;
 - b. prepare and submit a follow-up request for assistance in compliance with national law, including the legal assistance rules, if those data match; or

- c. conduct record-keeping, as required or permitted by its national law.
4. The Contracting Party administering the file may process the data supplied to it by the searching Contracting Party during the course of an automated search in accordance with Articles 4 and 8 solely where this is necessary for the purposes of comparison, providing automated replies to the search or record-keeping pursuant to Article 16. The data supplied for comparison shall be deleted immediately following data comparison or automated replies to searches unless further processing is necessary for the purposes mentioned under this Article, paragraph 3, subparagraphs (b) or (c).

Article 15

Correction, blockage and deletion of data

1. At the request of the supplying Contracting Party, the receiving Contracting Party shall be obliged to correct, block, or delete, consistent with its national law, data received under this Agreement that is incorrect or incomplete or if its collection or further processing contravenes this Agreement or the rules applicable to the supplying Contracting Party.
2. Where a Contracting Party becomes aware that data it has received from the other Contracting Party under this Agreement is not accurate, it shall take all appropriate measures to safeguard against erroneous reliance on such data, which shall include in particular supplementation, deletion, or correction of such data.
3. Each Contracting Party shall notify the other if it becomes aware that material data it has transmitted to the other Contracting Party or received from the other Contracting Party under this Agreement is inaccurate or unreliable or is subject to significant doubt.

Article 16

Documentation

1. Each Contracting Party shall maintain records of the transmission and receipt of data communicated to the other Contracting Party under this Agreement. These records shall serve to:
 - a. ensure effective monitoring of data protection in accordance with the national law of the respective Contracting Party;
 - b. enable the Contracting Parties to effectively make use of the rights granted to them according to Articles 15 and 19; and
 - c. ensure data security.
2. The records shall include:
 - a. information identifying the data supplied,
 - b. the date of supply and
 - c. the recipient of the data in case the data are supplied to other entities.
3. The recorded data shall be protected with suitable measures against inappropriate use and other forms of improper use and shall be kept for two years. After the

conservation period the recorded data shall be deleted immediately, unless otherwise provided by the national law.

Article 17
Data Security

1. The Contracting Parties shall ensure that the necessary technical measures and organizational arrangements are utilized to protect personal data against accidental or unlawful destruction, accidental loss or unauthorized disclosure, alteration, access or any unauthorized form of processing. The Contracting Parties in particular shall take reasonable measures to ensure that only those authorized to access personal data can have access to such data.
2. Any implementing agreements or arrangements that govern the procedures for automated searches of fingerprint and DNA files pursuant to Articles 4 and 8 shall provide:
 - a. that appropriate use is made of modern technology to ensure data protection, security, confidentiality and integrity;
 - b. that encryption and authorization procedures recognized by the competent authorities are used when having recourse to generally accessible networks; and
 - c. for a mechanism to ensure that only permissible searches are conducted.

Article 18
Transparency – Providing information to the data subjects

1. Nothing in this Agreement shall be interpreted to interfere with the Contracting Parties' legal obligations, as set forth by their respective laws, to provide data subjects with information as to the purposes of the processing and the identity of the data controller, the recipients or categories of recipients, the existence of the right of access to and the right to rectify the data concerning him or her and any further information such as the legal basis of the processing operation for which the data are intended, the time limits for storing the data and the right of recourse, in so far as such further information is necessary, having regard for the purposes and the specific circumstances in which the data are processed, to guarantee fair processing with respect to data subjects.
2. Provision of such information may only be denied in accordance with the respective laws of the Contracting Parties, including if providing this information may jeopardize:
 - a. the purposes of the processing;
 - b. investigations or prosecutions conducted by the competent authorities of the Contracting Parties; or
 - c. the rights and freedoms of third parties.

Article 19
Information

Upon request, the receiving Contracting Party shall inform the supplying Contracting Party of the processing of supplied data and the result obtained. The receiving Contracting Party shall ensure that its answer is communicated to the supplying Contracting Party in a timely manner.

Article 20
Relation to Other Agreements

1. Nothing in this Agreement shall be construed to limit or prejudice the provisions of any treaty, agreement, or other mechanism for cooperation allowing for information sharing between the Contracting Parties.
2. The rights and the obligations of the Contracting Parties resulting from other existing international treaties and agreements to which the Contracting Parties are bound are not affected by this Agreement.

Article 21
Consultations

1. The Contracting Parties shall consult each other regularly on the implementation of the provisions of this Agreement and thereby endeavor to prevent disputes.
2. In the event of any dispute regarding the interpretation or application of this Agreement, the Contracting Parties shall consult each other in order to facilitate its resolution.

Article 22
Expenses

Each Contracting Party shall bear the expenses incurred by its authorities in implementing this Agreement. In special cases, the Contracting Parties may agree on different arrangements.

Article 23
Termination of the Agreement

Either Contracting Party may terminate this Agreement by written notification through diplomatic channels. The termination shall take effect thirty (30) days after the date of such notification. The provisions of this Agreement shall continue to apply to data supplied prior to such termination.

Article 24
Amendments

1. The Contracting Parties shall enter into consultations with respect to the amendment of this Agreement at the request of either Contracting Party.
2. This Agreement may be amended by written agreement of the Contracting Parties at any time.

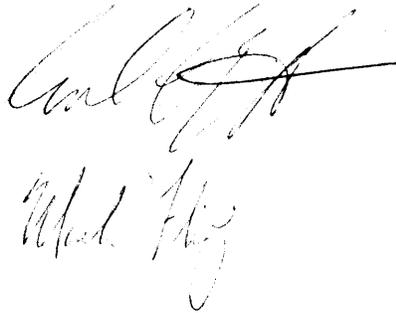
Article 25
Entry into force

This Agreement shall enter into force, with the exception of Articles 8 through 10, on the thirtieth (30) day after the date of the later note completing an exchange of diplomatic notes between the Contracting Parties indicating that each has fulfilled any national law conditions to bring this Agreement into force. Articles 8 through 10 shall enter into force following the conclusion of the implementing agreement(s) or arrangement(s) as set forth in Article 10 and on the date of the later note completing an exchange of diplomatic notes between the Contracting Parties indicating that each Contracting Party is able to implement those articles on a reciprocal basis. This exchange shall occur if the laws of both Contracting Parties permit the type of DNA screening contemplated by Articles 8 through 10.

Done at Washington, this 8th day of October, 2008, in duplicate in the English and Slovak languages, both texts being equally authentic.

FOR THE UNITED STATES OF AMERICA:

FOR THE SLOVAK REPUBLIC:



Handwritten signature of a representative of the United States of America.



Handwritten signature of a representative of the Slovak Republic.



Office of
The Ambassador

Embassy of the United States of America

Bratislava, Slovakia

October 21, 2008

Dear Mr. Minister:

I have the honor to refer to your note No. KM-2815/2008, dated September 23, 2008, regarding the Agreement between the United States of America and the Slovak Republic on Enhancing Cooperation in Preventing and Combating Crime, signed at Washington on October 8, 2008. I confirm the understanding that this Agreement is to be applied provisionally as of the date of this note until the Agreement enters into force in accordance with Article 25.

I also would like to confirm that the United States has completed its internal procedures for entry into force in accordance with Article 25 of the Agreement with the exception of Articles 8 through 10.

Accept, Excellency, the renewed assurances of my highest consideration.

Sincerely yours,

A handwritten signature in black ink, appearing to read "V. Obsitnik".

Vince Obsitnik
Ambassador

The Honorable
Robert Kaliňák,
Minister of Interior,
Bratislava,
Slovak Republic