

AGREEMENT

**between the Government of the United States of America
and
the Government of the Czech Republic**

On Enhancing Cooperation in Preventing and Combating Serious Crime

The Government of the United States of America and the Government of the Czech Republic (hereinafter "Parties"),

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

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

Recognizing the importance of preventing and combating serious 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 Parties in the spirit of partnership,

Have agreed as follows:

Article 1 Definitions

For the purposes of this Agreement,

1. "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.

2. "DNA profiles" 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.

3. "Personal data" shall mean any information relating to an identified or identifiable natural person (the "data subject").

4. "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.

5. "Reference data" shall mean either a DNA profile and the related reference or fingerprinting data and the related reference as the case may be. Reference data does not contain any data from which the data subject can be directly identified. Reference data not traceable to any individual is marked to be recognizable as such.

6. "Serious crime" shall mean conduct constituting an offense punishable by a maximum deprivation of liberty of more than one year or a more serious penalty.

Article 2 Purpose and Scope

The purpose of this Agreement is to enhance and strengthen the existing cooperation between the United States of America and the Czech Republic in preventing and combating serious crime. Cooperation pursuant to this Agreement is without prejudice to mutual legal assistance in criminal matters which fall under the competence of judicial bodies. Provisions of this Agreement are without prejudice to other existing or future mechanisms of cooperation, including information exchange, pursuant to the national law of the Parties.

Article 3 Fingerprinting data

For the purpose of implementing this Agreement, the 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 fingerprint data

1. For a criminal justice purpose related to serious crime, each Party shall allow the other 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. Searches may be conducted only in individual cases and in compliance with the searching Party's national law.

2. Firm matching of fingerprinting data held by the searching Party with reference data held by the Party in charge of the automated fingerprint identification system 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.

3. The search powers provided for under paragraph 1 shall be used only for a criminal justice purpose, which shall apply at the border when an individual for whom the additional data is sought has been identified for further inspection.

Article 5

Alternative means to search using identifying data

1. Until the Czech Republic has notified the United States of America that it is prepared to provide access pursuant to Article 4, it shall, for a criminal justice purpose related to serious crime, compare expeditiously fingerprinting reference data or other identifying data provided by the United States of America in order to establish matches. Firm matching of fingerprinting data held by the United States of America with reference data held by the Czech Republic shall be carried out by the United States of America's national contact points by means of supply of the reference data required for a clear match by the Czech Republic.

2. Other identifying data shall consist of a name and date of birth and may include other data as agreed upon by competent authorities of the Parties in implementing agreements or arrangements to this Agreement.

3. Requests for comparisons shall be made only in individual cases and in compliance with the requesting Party's national law. Search and comparison shall be made in compliance with the national law of the searching Party.

Article 6

Supply of further data on the basis of a match between fingerprinting data or other identifying data

Should the procedure referred to in Article 4 and 5 show a match between fingerprinting data or other identifying data, the supply of any available further personal data and other data relating to the reference data shall be governed, without prejudice to Article 11, by the national law, and, for the purpose of criminal proceedings, by the legal assistance rules and treaties, applicable to the requested Party.

Article 7

National contact points and implementation of Articles 4 and 5

1. For the purpose of the supply of data as referred to in Articles 4 and 5, each Party shall designate one or more national contact points and provide notice about the contacts to the other Party through diplomatic channels. The powers of the contact points shall be governed by the national law applicable. With respect to the comparison of other identifying data pursuant to Article 5, the Parties shall ensure one or more national contact points are available on a twenty-four hour, seven-days-a-week basis.

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 to this Agreement.

Article 8
Automated searching of DNA profiles

1. For a criminal justice purpose related to serious crime, if permissible under the national law of both Parties and on the basis of reciprocity, the Parties may allow the 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. Searches may be conducted only in individual cases and in compliance with the searching Party's national law.

2. Should an automated search show that a DNA profile supplied matches a DNA profile entered in the other Party's file, the searching Party 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 data on the basis of a match between DNA profiles

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, without prejudice to Article 11, be governed by the national law, and for the purpose of criminal proceedings, the legal assistance rules and treaties, applicable to the requested Party.

Article 10
National contact point and implementation of Article 8

1. For the purposes of the supply of data as set forth in Article 8, each Party shall designate a national contact point and provide notice about the contact to the other Party through 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 to this Agreement.

Article 11
Supply of information to prevent and combat serious crime, particularly terrorism

1. For the preventing and combating of serious crime, particularly terrorism, the Parties may, in compliance with their respective national law, in individual cases, even without being requested to do so, supply the other Party's relevant national contact point, as referred to in paragraph 5, with information, including personal data, in so far as is necessary because particular circumstances give reason to believe that any person:

- a. will commit or has committed terrorist or terrorism related offenses, or offenses related to a terrorist group or association, as those offenses are defined under the supplying Party's national law, or
- b. is undergoing or has undergone training to commit the offenses referred to in subparagraph a,
or

- c. will commit or has committed a serious crime, 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, 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 the circumstances giving rise to the belief referred to in paragraph 1.

3. The supplying Party may, in compliance with its national law, impose conditions on the use made of such data by the receiving Party. If the receiving Party accepts such data, it shall be bound by any such conditions.

4. Generic restrictions with respect to the legal standards of the receiving Party for processing personal data may not be imposed by the supplying Party as a condition under paragraph 3 to providing data.

5. For the purpose of the provision of information under this Article, each Party shall designate one or more national contact points and provide notice about the contacts to the other Party through diplomatic channels. 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 serious crime

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

1. searching for persons suspected of committing crime, as well as those trying to avoid criminal liability or evade the service of a sentence;
2. searching for missing persons, including actions connected with the identification of persons or mortal remains;
3. obtaining information from public records and publicly filed records;
4. 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;
5. 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;
6. organizing working meetings on concrete criminal cases under investigation to prepare and coordinate measures;
7. exchanging information on the results of forensic and criminological research, on the investigation practices, methods and means of work;

8. 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 Parties;

9. informing each other of trends and new developments concerning instruments criminals use to commit crimes, and how criminals dispose of the proceeds of crime;

10. exchanging laws and regulations, analytical and conceptual documents and specialized literature; and

11. 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 Parties recognize that the 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 Parties commit themselves to processing personal data fairly and in accord with their respective domestic laws and:

- a. ensuring that the personal data supplied are adequate and relevant in relation to the specific purpose of the supply;
- b. retaining personal data only so long as necessary for the specific purpose for which the data were supplied 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 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, are not affected.

Article 14 **Additional Protection of Special Categories of Personal Data**

1. Personal data revealing racial or ethnic origin, political opinions or religious or other beliefs, trade union membership or concerning health and sexual life may only be supplied if they are particularly relevant to the purposes of this Agreement.

2. The Parties, recognizing the special sensitivity of the above categories of personal data, shall take suitable safeguards, in particular appropriate security measures, in order to protect such data.

Article 15
Limitation on processing to protect personal and other data

1. Without prejudice to paragraph 3 and Article 11, paragraph 3, each Party may process data received under this Agreement:

- a. for the purpose of its criminal investigations and proceedings;
- b. for preventing a serious threat to its public security;
- c. in its 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 Party which has transmitted the data.

2. The Parties shall not communicate data provided under this Agreement to any third State, international body or private entity without the consent of the Party that provided the data and without the appropriate safeguards.

3. A Party may conduct an automated search of the other Party's automated fingerprint identification system or DNA analysis 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 fingerprinting data or DNA profiles 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.

The Party in charge of the automated fingerprint identification system or DNA analysis files may process the data supplied to it by the searching 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 17. 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 subparagraphs (b) or (c).

Article 16
Correction, blockage and deletion of data

1. At the request of the supplying Party, the receiving Party shall be obliged to correct, block, or delete, consistent with its national law, data received under this Agreement that are incorrect or incomplete or if its collection or further processing contravenes this Agreement or the rules applicable to the supplying Party.

2. Where a Party becomes aware that data it has received from the other Party under this Agreement are 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 Party shall notify the other if it becomes aware that material data it has supplied to the other Party or received from the other Party under this Agreement are inaccurate or unreliable or are subject to significant doubt.

Article 17 Documentation

1. Each Party shall maintain a record of the supply and receipt of data exchanged under this Agreement. This record shall serve to:

- a. ensure effective monitoring of data protection in accordance with the national law of the respective Party;
- b. enable the Parties to effectively make use of the rights granted to them according to Articles 16 and 20; and
- c. ensure data security.

2. The record shall include:

- a. information on the data supplied;
- b. the date of supply; and
- c. the recipient of the data in case the data is supplied to other entities.

3. The recorded data must be protected with suitable measures against inappropriate use and other forms of improper use and must be kept for two years. After the conservation period the recorded data must be deleted immediately, unless this is inconsistent with national law, including applicable data protection and retention rules.

Article 18 Data Security

1. The 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 Parties in particular shall ensure that only those authorized to access personal data can have access to such data.

2. The implementing agreements or arrangements that govern the procedures for automated searches of the automated fingerprint identification system or DNA analysis 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 appropriate encryption and authorization procedures are used when having recourse to generally accessible networks; and
- c. for a mechanism to ensure that only permissible searches are conducted.

Article 19

Transparency – Providing information to the data subjects

1. Nothing in this Agreement shall be interpreted to interfere with the 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. Such information may be denied in accordance with the respective laws of the Parties, including if providing this information may jeopardize:

- a. the purposes of the processing;
- b. investigations or prosecutions conducted by the competent authorities in the United States of America or by the competent authorities in the Czech Republic; or
- c. the rights and freedoms of third parties.

Article 20

Information

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

Article 21

Relation to Other Agreements

Nothing in this Agreement shall be construed to limit or prejudice the provisions of any other existing treaty or agreement applicable to the Parties.

Article 22
Consultations

1. The competent authorities of the Parties shall consult each other regularly on the implementation of the provisions of this Agreement.

2. In the event of any dispute regarding the interpretation or application of this Agreement, the Parties shall consult each other in order to facilitate its resolution.

Article 23
Expenses

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

Article 24
Termination of the Agreement

Either Party may terminate this Agreement at any time by giving written notice to the other Party, and such termination shall be effective three months after the date of such notice. The provisions of this Agreement shall continue to apply to data supplied prior to such termination.

Article 25
Amendment and Implementation of this Agreement

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

2. The Parties shall notify each other of their competent authorities in the area of prevention and combating crime under national law responsible for the implementation of this Agreement, in particular for the conclusion of necessary implementing agreements or arrangements to this Agreement.

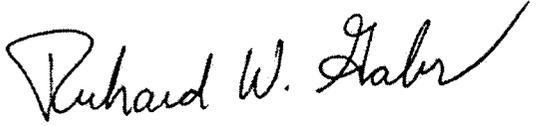
Article 26
Entry into force

This Agreement shall enter into force, with the exception of Articles 8 through 10, on the first day of the second month after the date of the later note completing an exchange of diplomatic notes between the Parties indicating that each has taken all steps necessary to bring the agreement into force. The Parties shall provisionally apply this Agreement from the date of signature to the extent consistent with their domestic law. Articles 8 through 10 of this Agreement shall enter into force only following the conclusion of the implementing agreements or arrangements referenced in Article 10 and on the first day of the second month after the date of the later note completing an exchange of diplomatic notes between the Parties indicating that each Party is able to implement those articles on a

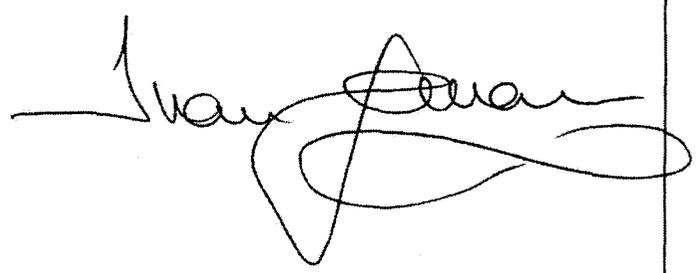
reciprocal basis. This exchange shall occur if the laws of the United States of America permit the type of DNA screening contemplated by Articles 8 through 10.

Done at Prague, this 12th day of November, 2008, in duplicate in the English and Czech languages, both texts being equally authentic.

**FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA**

Handwritten signature of Richard W. Haber in cursive script.

**FOR THE GOVERNMENT OF
THE CZECH REPUBLIC**

Handwritten signature of Ivan Stuan in cursive script.