



**Republic of Serbia
Office of the War Crimes Prosecutor**

AGREEMENT

**on cooperation in prosecuting perpetrators of war crimes,
crimes against humanity and genocide**

The State Prosecutor's Office of the Republic of Croatia and the War Crimes Prosecutor's Office of the Republic of Serbia (hereinafter referred to as »Participants«) have expressed mutual interest in the enhancement of cooperation related to the criminal prosecution of war crimes perpetrators, in particular those holding the citizenship or residing in the territories of the Republic of Croatia or the Republic of Serbia.

The Participants are convinced that direct cooperation, as well as the interchange of evidence, other documents and data will contribute to their States' mutual interests regarding improved efficiency in the investigation, identification and sentencing of all perpetrators of criminal offences recognized as war crimes.

Considering the fact that certain constitutional provisions bar extradition of their own citizens, as well as referrals of prosecution in war crimes cases; and holding that, through the interchange of evidence, mutual assistance and cooperation in further collection of essentially important evidence and data, their goal can be accomplished, i.e. that the perpetrators of these grave criminal offences can be brought to justice and duly punished, the Participants have agreed on the following issues:

AREA OF APPLICATION

1. Provisions of this Agreement shall apply to the proceeding of war crimes committed in the territory of the Republic of Croatia (i.e. to the citizens of the Republic of Croatia and the Republic of Serbia), whereof the perpetrators are residing in and/or have the citizenship of either the Republic of Croatia or the Republic of Serbia.

2. Cooperation in the interchange of evidence and other data pertinent to war crimes cases shall be possible throughout the entire course of the criminal procedure, until a final judgment is rendered by the competent court of either of the States – Participants in this Agreement.

WAY OF INTERCHANGING INFORMATION ON EVIDENCE AND OTHER DATA

3. The Participants shall, within 30 days from the signing of this Agreement, notify each other of all the cases from Clause 1 of this Agreement currently addressed by them.

In the case of any subsequent identification of a perpetrator (perpetrators), the Participants shall, within the course of three months from the day of such perpetrator's (perpetrators') identification, notify the other Participant thereof.

4. In order to facilitate decisions regarding the transfer of evidence and/or other data, the Participant providing evidence and/or other data shall, along with the notification letter, send copies of all data, letters, documents and objects related to the commission of the war crimes addressed by this Agreement.

5. The War Crimes Prosecutor, ie. The Chief State Prosecutor, can, on the basis of his personal knowledge, request the delivery of copies of files or any other documents relating to the criminal offences as specified in Clause 1 hereof.

FORM AND CONTENTS OF REQUESTS FOR REFERRAL OF EVIDENCE

6. Upon the reception of the notification letter and copies of files, data and documents, the Participant shall in due course inform the other Participant of his opinion regarding the case and specifically, whether he is going to initiate criminal prosecution thereof.

Upon his insight in the information, evidence and other letters and data, the Serbian War Crimes Prosecutor. i.e. the Croatian State Prosecutor, may conduct any procedurals as deemed necessary for an appropriate decision.

7. The notification letter of either Participant's intent to initiate criminal prosecution shall be forwarded to the War Crimes Prosecutor, i.e. to the Chief State Prosecutor. The letter may specify the documents needed in the form of originals or certified copies, any authentication due to be made prior to the referral of evidence and the time within which the evidence is to be delivered.

EXECUTION OF REQUESTS

8. Each of the Participants shall deliver the requested data and evidence in the shortest possible time, and not later than 60 days as of the request submission date.

Should any reasons preclude the execution within the stated term, the other Participant shall receive a written notification thereof.

9. Upon the request of the Participant who has decided to undertake criminal prosecution, the other Participant shall obtain all written documents, verify their authenticity and deliver certified copies of such documents etc., which are relevant to further conduct of the criminal proceedings.

10. The Participant in this Agreement who has provided evidence or other data shall, upon the reception of any new evidence or data, immediately advise the other Participant thereof.

INFORMATION ON THE STATUS OF CASE

11. Upon the reception of evidence and data, the Participant shall, at the other Participant's request, inform the other Participant on the current status of the case.

Provided the request for information specifies so, the Participant requesting such reports shall at any time be allowed to disclose their contents to the injured and other persons who might have interest in the case.

Should the Participant deem it necessary, he can inform the other Participant of the case status even in the event of the latter's failure to submit a request thereof.

USE OF INFORMATION AND DOCUMENTS

12. Whenever the other Participant requests so, the Participant who has received information or request shall make any effort to ensure that the contents of the request, evidence or other written documents be held in confidence.

13. If the execution of request might, or is certain to result in the breach of confidentiality, the Participant who has submitted the request shall be warned thereof prior to the request execution, whereupon he can regardless of the warning ask that the request be responded.

RESTRICTIONS IN THE USE OF INFORMATION AND EVIDENCE

14. Unless authorized by the Participant who has provided evidence and other data, such information, evidence or other data may not be used for any purposes other than to determine whether the proceedings should be initiated.

15. Any information relating to other persons may be delivered to other competent bodies only subject to the relevant Participant's explicit written consent, and on

condition that the law applicable in the relevant State provides for such other use.

16. In no event shall anything stated in this Agreement bar the use or disclosure of information, evidence or requests, provided that it is binding on the ground of laws and regulations stipulating the duties of the War Crimes Prosecutor, i.e. the Chief State Prosecutor who has submitted the request or provided the information, either in the course of pre-trial proceedings or during the trial. The War Crimes Prosecutor, i.e. the Chief State Prosecutor who has submitted the request or provided the information shall beforehand advise the State Prosecutor who has received the request of any such possible or proposed use or disclosure.

17. The War Crimes Prosecutor, i.e. the Chief State Prosecutor, shall be allowed to use the findings he has obtained in a particular case for any subsequent purposes, providing that such purposes are legally permissible.

DELIVERY OF RECORDS AND IDENTIFICATION OF PERSONS

18. The War Crimes Prosecutor, i.e. the Chief State Prosecutor can request to be provided with any records in the possession of the other Participant's State, that may be relevant to the conduct of proceedings. Such records shall be delivered in the form of certified copies.

19. The War Crimes Prosecutor, i.e. the Chief State Prosecutor to whom the request has been submitted, can deliver copies of all records in the possession of himself that are not available to public, only to the extent and under the conditions equal to those applying to the availability of such records granted to the competent authorities of his State, and provided that it is not in contravention of the legal framework of the State wherein the request is to be responded.

20. If a request specifies that a person's identity and whereabouts should be verified through a competent police service, the War Crimes Prosecutor, i.e. the Chief State Prosecutor shall make any effort towards the fulfillment of such a request in accordance with laws and regulations of his State.

RETURN OF EVIDENCE AND OTHER DATA

21. Wherever there is such a possibility and whenever the Participant who has received a request or information asks so, documents and other materials delivered in their original form shall be returned.

22. The return of documents and other materials delivered in their original form may be postponed where such a postponement is necessary for the conduct of a criminal or civil proceeding.

23. The Participant to whom a request or information has been submitted may seek protection of any third party's interest related to the requested documents, materials or other data.

COMPLIANCE WITH THE PRINCIPLES SET FORTH IN THE EUROPEAN CONVENTION ON PROTECTION OF HUMAN RIGHTS AND BASIC FREEDOMS

24. The Participants have hereby agreed that their mutual relations and individual activities shall be governed by the principles set forth in the European Convention on Protection of Human Rights and Basic Freedoms.

FINAL PROVISIONS, COMING INTO EFFECT AND TERMINATION

25. Should either of the Participants in this Agreement wish to terminate his participation, he shall issue a written notice of termination to the other Participant, three months prior to the termination date.

26. Any modifications, amendments or annexes to this Agreement may be made upon the written consent of the Participants. Subject to the consent of the Participants herein, other agencies may be included in this Agreement.

27. This Agreement takes effect as of its signing date.

The foregoing provisions are the expression of understanding reached between the War Crimes Prosecutor of the Republic of Serbia and the Chief State Prosecutor of the Republic of Croatia.

Signed in Zagreb, on this thirteenth day of October 2006, in two copies, one in Serbian and the other in Croatian, in Cyrillic and Latin alphabet respectively, each copy having the force of official document.

WAR CRIMES PROSECUTOR, REPUBLIC OF SERBIA
Vladimir Vukčević

CHIEF STATE PROSECUTOR, REPUBLIC OF CROATIA
Mladen Bajić