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**Ireland
and
United States of America**

Agreement between the Government of Ireland and the Government of the United States of America on enhancing cooperation in preventing and combating serious crime. Dublin, 21 July 2011

Entry into force: *19 October 2012 by notification, in accordance with article 24 with the exception of articles 8 through 10*

Authentic text: *English*

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**Irlande
et
États-Unis d'Amérique**

Accord entre le Gouvernement d'Irlande et le Gouvernement des États-Unis d'Amérique relatif au renforcement de la coopération dans la prévention et la répression de la criminalité grave. Dublin, 21 juillet 2011

Entrée en vigueur : *19 octobre 2012 par notification, conformément à l'article 24 à l'exception des articles 8 à 10*

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[ENGLISH TEXT – TEXTE ANGLAIS]

**Agreement between
the Government of Ireland
and
the Government of the United States of America
On Enhancing Cooperation in
Preventing and Combating Serious Crime**

The Government of Ireland and the Government of the United States of America (hereinafter “the Parties”),

Desiring to step up co-operation to prevent and combat serious crime, particularly terrorism,

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 EU Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime, and the Treaty done at Prüm on 27 May 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. 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.
2. Personal data shall mean any information relating to an identified or identifiable natural person (the “data subject”).
3. 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.
4. 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 recognisable as such.

Serious crime, for the purposes of this Agreement, shall mean conduct constituting a criminal offence which is not a minor offence in accordance with Irish law or a misdemeanour under United States law.

Article 2

Purpose and Scope of this Agreement

1. The purpose of this Agreement is to enhance the cooperation between Ireland and the United States in preventing and combating serious crime.
2. The querying powers provided for under this Agreement shall be used only for prevention, detection and investigation of crime because particular circumstances give reason to inquire whether the data subject will commit or has committed an offence referred to in Article 2, paragraph 3.
3. The offences in respect of which the querying powers provided for under this Agreement shall be used shall be serious offences as defined in Article 1.

To ensure compliance with the Parties' respective national laws, the Parties may agree to specify particular serious crimes for which a Party shall not be obligated to supply personal data as described in Articles 6 and 9 of the Agreement.

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 offences. Reference data shall only include fingerprinting data and a reference.

Article 4

Automated querying of fingerprint data

1. For the prevention, detection and investigation of 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 queries by comparing fingerprinting data. Queries may be conducted only in individual cases and in compliance with the querying Party's national law.
2. Comparison of fingerprinting data with reference data held by the Party in charge of the file shall be carried out by the querying national contact points by means of the automated supply of the reference data required for a clear match.

Article 5

Alternative means to query using identifying data

Until Ireland has a fully operational and automated fingerprint identification system that links to individual criminal records and is prepared to provide the United States with automated access to such a system, it shall provide an alternative means to conduct a query using other identifying data to determine a clear match linking the individual to additional data. Query powers shall be exercised in the same manner as provided in Article 4 to allow for the supply of additional data as provided for in Article 6.

Article 6

Supply of further personal and other data

Should the procedure referred to in Article 4 show a match between fingerprinting data, or should the procedure utilized pursuant to Article 5 show a match, 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 Party and shall be supplied in accordance with Article 7.

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, and the subsequent supply of further personal data as referred to in Article 6, each Party shall designate one or more national contact points. The contact point shall supply such data in accordance with the national law of the Party designating the contact point. Other available legal assistance channels need not be used unless necessary, for instance to authenticate such data for purposes of its admissibility in judicial proceedings of the requesting Party.
2. The technical and procedural details for the queries conducted pursuant to Articles 4 and 5 shall be set forth in one or more implementing agreements or arrangements.

Article 8

Automated querying of DNA profiles

1. If permissible under the national law of both Parties and on the basis of reciprocity, the 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 queries by comparing DNA profiles for the investigation of serious crime. Queries may be made only in individual cases and in compliance with the querying Party's national law.
2. Should an automated query show that a DNA profile supplied matches a DNA profile entered in the other Party's file, the querying 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 Party and shall be supplied in accordance with Article 10.

Article 10

National contact point and implementing agreements

1. For the purposes of the supply of data as set forth in Article 8, and the subsequent supply of further personal data as referred to in Article 9, each Party shall designate a national contact point. The contact point shall supply such data in accordance with the national law of the Party designating the contact point. Other available legal assistance channels need not be used unless necessary, for instance to authenticate such data for purposes of its admissibility in judicial proceedings of the requesting Party.
2. The technical and procedural details for the queries 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 offences

1. For the prevention of serious criminal and terrorist offences, 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 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) will commit or has committed an offence referred to in Article 2, paragraph 3 and, in particular, terrorist activity, terrorist-linked activity and offences related to the activities of a criminal organisation.
2. The personal data to be supplied may 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 any conviction or 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 that may be 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 transmitting Party as a condition under paragraph 3 to providing data.
5. In addition to the personal data referred to in paragraph 2, the Parties may provide each other with non-personal data related to the offences set forth in paragraph 1.
6. Each Party shall designate one or more national contact points for the exchange of personal and other data under this Article with the other Party's contact points. The powers of the national contact points shall be governed by the national law applicable.