

No. 49018

**Latvia
and
United States of America**

Agreement between the Government of the Republic of Latvia and the Government of the United States of America on enhancing cooperation in preventing and combating serious crime. Riga, 29 September 2008

Entry into force: *20 July 2010 by notification, in accordance with article 25*

Authentic texts: *English and Latvian*

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**Lettonie
et
États-Unis d'Amérique**

Accord entre le Gouvernement de la République de Lettonie et le Gouvernement des États-Unis d'Amérique relatif au renforcement de la coopération pour prévenir et combattre les délits graves. Riga, 29 septembre 2008

Entrée en vigueur : *20 juillet 2010 par notification, conformément à l'article 25*

Textes authentiques : *anglais et letton*

Enregistrement auprès du Secrétariat des Nations Unies : *Lettonie, 4 octobre 2011*

[ENGLISH TEXT – TEXTE ANGLAIS]

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

The Government of the Republic of Latvia and the Government of the United States of America (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, as well as the related June 18, 2007 European Council decision, and

Seeking to enhance and encourage cooperation between the Parties in the spirit of partnership, and seeking therefore to respect existing international obligations, including obligations of the Republic of Latvia arising from its membership in the European Union,

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 (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.
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 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.
6. Serious crimes shall mean, for purposes of implementing Articles 4 and 5 of this Agreement, conduct constituting an offense punishable by a maximum deprivation of liberty of more than one year or a more serious penalty.
 - a. For the United States of America, serious crimes shall be deemed also to include any criminal offense that would render an individual inadmissible to or removable from the United States of America under U.S. federal law.
 - b. For the Republic of Latvia serious crimes shall be deemed to also include any criminal offense that would render an individual inadmissible to or removable from the Republic of Latvia under the national law of the Republic of Latvia.

To ensure compliance with their national laws, the Parties may agree to specify particular serious crimes for which a Party shall supply personal data as described in Articles 6 and 9 of the Agreement.

Article 2

Purpose of this Agreement

The purpose of this Agreement is to enhance the cooperation between the Republic of Latvia and the United States of America in preventing and combating serious crime.

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 the prevention 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 searches by comparing fingerprinting data. Search powers may be exercised only in individual cases and in compliance with the searching Party's national law.
2. Firm matching of fingerprinting data with reference data held by the 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.
3. The Parties agree that the search powers provided for in this Agreement may be exercised for border security reasons in situations when an individual for whom the additional data is sought has been identified for further inspection. The search powers provided for under this Agreement shall be used only for a criminal justice purpose.

Article 5

Alternative means to search using identifying data

1. With regard to the search powers in Article 4, until the Republic of Latvia has a fully operational and automated fingerprint identification system that links to individual criminal records and is prepared to provide the United States of America with automated access to such a system, it shall ensure an alternative means to determine by using other identifying data whether the person of concern has been convicted of committing a serious crime. If the person of concern is registered as convicted, any available data related to the person of concern shall be supplied in accordance with the national law, including the legal assistance rules, of the requested Party.

2. Such an alternative means shall be implemented in accordance with Article 4, paragraph 3.
3. The technical and procedural details for the use of an alternative means shall be set out in one or more implementing agreements or arrangements.

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 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.

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 Party shall designate one or more national contact points. 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 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 searches by comparing DNA profiles for the investigation of serious crime. Searches may be exercised 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 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.