

No. 53236*

**Canada
and
Romania**

Treaty between the Government of Canada and the Government of Romania on mutual legal assistance in criminal matters. Ottawa, 25 May 1998

Entry into force: *30 June 1999 by notification, in accordance with article 24*

Authentic texts: *English, French and Romanian*

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**Canada
et
Roumanie**

Traité d'entraide judiciaire en matière pénale entre le Gouvernement du Canada et le Gouvernement de la Roumanie. Ottawa, 25 mai 1998

Entrée en vigueur : *30 juin 1999 par notification, conformément à l'article 24*

Textes authentiques : *anglais, français et roumain*

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[ENGLISH TEXT – TEXTE ANGLAIS]

**TREATY BETWEEN
THE GOVERNMENT OF CANADA
AND
THE GOVERNMENT OF ROMANIA
ON MUTUAL LEGAL ASSISTANCE
IN CRIMINAL MATTERS**

**THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF
ROMANIA**, hereinafter referred to as the “Contracting Parties”,

DESIRING to improve the effectiveness of both countries in the investigation, prosecution and suppression of crime through mutual legal assistance in criminal matters,

HAVE AGREED as follows:

PART I: GENERAL PROVISIONS

ARTICLE 1

Obligation to Grant Mutual Legal Assistance

1. The Contracting Parties shall, in accordance with this Treaty, provide each other with the widest possible measure of mutual legal assistance in criminal matters.
2. “Mutual legal assistance” means any assistance provided by the Requested State with respect to criminal investigations and proceedings in the Requesting State, regardless of whether the assistance is sought or is to be provided by a court or some other competent authority.
3. “Criminal matters” means, in the case of Canada, investigations and proceedings relating to any offence created by an act of Parliament or the legislature of a province, and in the case of Romania, investigations and proceedings relating to any offence provided for under Romanian law.
4. “Criminal matters” shall also include investigations or proceedings relating to offences concerning taxation, duties or customs.
5. Assistance includes:
 - (a) locating and identifying of persons and objects;
 - (b) serving documents, including documents seeking the attendance of persons;
 - (c) providing information, records or documents;

- (d) providing objects, including lending exhibits;
- (e) searches and seizures;
- (f) taking evidence and obtaining statements;
- (g) authorizing persons from the Requesting State to be present when requests are executed;
- (h) making detained persons available to give evidence or assist in investigations;
- (i) facilitating the appearance of witnesses or the assistance of persons in investigations;
- (j) taking measures to locate, restrain and forfeit the proceeds of crime;
- (k) providing other assistance consistent with the objects of this Treaty.

ARTICLE 2

Execution of Requests

1. Requests for assistance shall be executed promptly in accordance with the law of the Requested State and, insofar as it is not prohibited by that law, in the manner specified by the Requesting State.
2. Upon request, the Requested State shall inform the Requesting State of the date and place of the execution of the request for assistance.
3. The Requested State may not refuse to execute a request on the grounds of bank secrecy.

ARTICLE 3

Refusal or Postponement of Assistance

1. Assistance may be refused if:
 - (a) the Requested State is of the opinion that execution of the request would impair its sovereignty, security, public order or other essential public interest;
 - (b) there is sufficient basis for the Requested State to believe that executing the request would facilitate the prosecution of or imposition of penalties against the person who is the subject of the request by reason of that person's race, religion, nationality or political opinion; or
 - (c) the offence is regarded by the Requested State as being an offence only under military law.
2. Assistance may be postponed by the Requested State if execution of the request would interfere with an ongoing investigation or prosecution in the Requested State.

3. The Requested State shall inform the Requesting State without delay if it decides not to comply in whole or in part with a request for assistance or to postpone execution of the request and shall provide reasons for so doing.
4. Before refusing a request or postponing its execution, the Requested State shall consider whether assistance may be granted subject to such conditions as it deems necessary. If the Requesting State accepts assistance subject to these conditions, it shall comply with them.

PART II - SPECIFIC PROVISIONS

ARTICLE 4

Locating and Identifying Persons and Objects

The competent authorities in the Requested State shall make best efforts to ascertain the location and identity of persons and objects specified in the request.

ARTICLE 5

Service of Documents

1. The Requested State shall serve any document transmitted to it for this purpose by the Requesting State.
2. The Requesting State shall transmit the request for service of a document relating to a reply or to an appearance in the Requesting State within a reasonable time before the date provided for the reply or the appearance.
3. The Requested State shall transmit proof of service where possible in the form requested by the Requesting State.

ARTICLE 6

Provision of Information, Documents, Files and Objects

1. The Requested State shall provide copies of the information, documents and records in the possession of government departments and public authorities that are available to the public.
2. The Requested State shall provide the information, documents, records and objects in the possession of government departments and public authorities that are not available to the public, to the same extent and under the same conditions as it would make them available to its own law enforcement or judicial authorities.
3. The Requested State may provide certified true copies of any record or document unless the Requesting State expressly requests the originals.
4. Original records, documents or objects provided to the Requesting State shall be returned to the Requested State, upon request, as soon as possible.

5. Insofar as not prohibited by the law of the Requested State, records, documents or objects shall be provided in the form or accompanied by such certification as specified in the request in order that they will be admissible in evidence under the law of the Requesting State.

ARTICLE 7

Search and Seizure

1. The Requested State shall execute requests for search and seizure.
2. The competent authority that executes a request for search or seizure shall provide all the information as may be required by the Requesting State concerning, but not limited to, the identity, condition, integrity and continuity of possession of the documents, records or objects seized and the circumstances in which they were seized.

ARTICLE 8

Taking of Evidence and Statements in the Requested State

1. A person requested to testify or produce documents, records or objects in the Requested State shall be compelled, if necessary, by summons, or order, to appear and to testify and to produce such documents, records and objects in accordance with the law of the Requested State.
2. To the extent not prohibited by the law of the Requested State, the authorities of the Requesting State and other persons specified in the request shall be authorized to be present at the execution of the request and to participate in the proceedings in the Requested State.
3. The right to participate in proceedings shall include the right of any person present to ask questions. The persons present at the execution of a request may make a verbatim transcript of the proceedings and use technical means for this purpose.

ARTICLE 9

Presence of Designated Parties for the Execution Execution of the Request in the Requested State

The authorities of the Requesting State and other persons specified in the request shall be authorized, to the extent not prohibited by the law of the Requested State, to be present at the execution of the request.