



Algeria No.4 (2006)

The Convention

between the Government of the United Kingdom of Great Britain and
Northern Ireland and the Government of the People's Democratic
Republic of Algeria on Mutual Legal Assistance in Criminal Matters

London, 11 July 2006

[Instruments of ratification have not been exchanged]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
October 2006*

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**THE CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED
KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF THE PEOPLE’S DEMOCRATIC REPUBLIC OF
ALGERIA ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS**

PREAMBLE

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People’s Democratic Republic of Algeria hereinafter referred to as “the Parties”;

Desiring to strengthen friendly relations that exist between the two countries;

Recognising the particular importance to provide to each other the widest measure of co-operation in criminal matters in all its forms;

Considering the United Nations Convention against Transnational Organised Crime, done at New York on 15 November 2000¹ and its Protocols;^{2,3}

Conscious of the need to respect the rights conferred upon every person involved in criminal proceedings, as embodied in international instruments on human rights;

Desiring to conclude an agreement relating to mutual legal assistance in criminal matters;

HAVE AGREED as follows:

GENERAL PROVISIONS

ARTICLE 1

Definitions

For the purposes of this Convention:

the term “Proceedings” means proceedings related to criminal matters and includes any measure or step taken in connection with the investigation or prosecution of criminal offences, including the freezing, seizure or confiscation of proceeds of crime and, the instrumentalities of crime;

the terms “Property”, “Proceeds of crime”, “Freezing” or “seizure”, “Confiscation” and “instrumentalities of crime” are corresponding the sense of the convention of the United Nations against Transnational Organized Crime;

¹ Miscellaneous No. 14 (2002) Cm 5580

² Miscellaneous No. 5 (2003) Cm 5815

³ Miscellaneous No. 6 (2004) Cm 6257

the term “person” means physical or legal according to the context used within this Convention.

ARTICLE 2

Scope of Assistance

1. The Parties shall provide each other the widest measure of mutual assistance, in accordance with the provisions of the Convention, for the purpose of proceedings as defined in Article 1 above.
2. Assistance shall include:
 - a) taking the testimony or statements of persons, including by video-conference, according to the domestic law of the Requested Party;
 - b) providing documents, records, and other evidentiary material;
 - c) serving of judicial documents;
 - d) locating or identifying persons;
 - e) transferring persons in custody or other persons as witnesses;
 - f) executing requests for search and seizure;
 - g) identifying, tracing, freezing or seizing, confiscating and disposal of proceeds of crime and assistance in related proceedings;
 - h) return of assets;
 - i) such other assistance as may be agreed between the Parties.
3. Assistance shall be provided without regard to the principle of dual criminality.
4. In the case of requests being made for search, seizure, freezing or confiscation, the offence motivating the request is punishable under the law of both Parties.

ARTICLE 3

Central Authorities

1. Central Authorities shall be established by both Parties.

2. For the United Kingdom, the Central Authorities shall be:
 - (i) the Secretary of State; and/or
 - (ii) the Lord Advocate
3. For the People's Democratic Republic of Algeria, the Central Authority shall be the Ministry of Justice.
4. Requests under this Convention shall be transmitted directly by the Central Authority of the Requesting Party to the Central Authorities of the Requested Party. Each Party shall notify the other of any change of its Central Authorities.
5. In cases of urgency, requests may be transmitted via the International Criminal Police Organisation (Interpol).

ARTICLE 4

Refusal or Postponement of Assistance

1. Assistance may be refused or postponed, as the case may be if:
 - a) in the opinion of the Requested Party, the execution of the request would impair its sovereignty, national security or *ordre public*;
 - b) The request relates to an offence that is subject to investigation, prosecution, conviction or acquittal in the Requested Party;
 - c) When the offence for which assistance is requested consists solely of a breach of military law.
2. Before assistance is denied or postponed, the Requested Party shall, through its Central Authority -
 - a) forthwith inform the Requesting Party of the reason why it is considering the denial or postponement of the request; and
 - b) consult with the Requesting Party to determine whether assistance may be given subject to such terms and conditions as the Requested Party deems necessary.
3. If the Central Authority of the Requested Party denies or postpones assistance, it shall inform the Central Authority of the Requesting Party of the reasons for denial or postponement, as the case may be.

ARTICLE 5

Form and Contents of Requests

1. A request for assistance shall be in writing.
2. The request shall include the following:
 - a) the name of the requesting office and the competent authority conducting the investigation or court proceedings to which the request relates;
 - b) the subject matter and reason of the request;
 - c) a description of the facts alleged; and
 - d) a statement of the relevant law applicable.
3. To the extent necessary and possible, a request shall also include:
 - a) the identity, date of birth and location of any person from whom evidence is sought;
 - b) the identity, date of birth and location of a person to be served;
 - c) information on the identity and whereabouts of a person to be located;
 - d) a precise description of the place to be searched and of the property to be seized;
 - e) a description of the manner in which any testimony or statement is to be taken and recorded;
 - f) a list of questions to be asked of a witness or expert;
 - g) a description of any particular procedures to be followed in executing the request;
 - h) requirements for confidentiality; and
 - i) any other information which may be brought to the attention of the Requested Party to facilitate its execution of the request.

ARTICLE 6

Execution of Requests

1. The Requested Party shall, in accordance with its law, execute any requests relating to proceedings referred to in Article 1 of this Convention and addressed to it by the competent authorities of the Requesting Party for the purpose of investigation, procuring evidence or transmitting articles to be produced in evidence, records or documents, including documents of Government agencies.
2. If expressly required by the Requesting Party, the Requested Party shall give notice of the date and place of execution of the request.
3. If the Requested Party consents, officials and interested persons of the Requesting Party may be present at the examination of witnesses and, where appropriate, at the execution of other requests, and, to the extent that the laws of the Requested Party allow, may question the witnesses or have them questioned.
4. If the Requesting Party states expressly that a request described in the preceding article is to be executed in a certain manner, the Requested Party shall comply with that wish to the extent that its law allows.
5. The Central Authority of the Requested Party shall promptly inform the Central Authority of the Requesting Party of the outcome of the execution of the request.

ARTICLE 7

Expenses of Mutual Legal Assistance

Subject to the provisions of Articles 9 & 12 of this Convention mentioned, the costs of execution of requests for mutual legal assistance shall be borne by the Requested Party. The following costs shall be borne by the Requesting State, unless they are waived:

- a) those resulting from the intervention of experts on the territory of the Requested party;
- b) those resulting from the transfer of the detained persons pursuant to Article 13 of this Convention; and
- c) those resulting from a request for video-conferencing provided for in Article 2 of this Convention including related interpretation costs.

ARTICLE 8

Protection of Confidentiality

1. Upon request:
 - a) the Requested Party shall use its best endeavours to keep confidential the request for assistance, its contents and its supporting documents as well as the fact of granting of such assistance. If the request cannot be executed without breaching confidentiality, the Requested Party shall inform the Requesting Party, which shall then determine whether the request should nevertheless be executed;
 - b) the Requesting Party shall keep confidential evidence and information provided by the Requested Party, except to the extent that the evidence and information is needed for the investigation and proceedings described in the request.
2. The Requesting Party shall not, without the consent of the Requested Party, use or transfer information or evidence provided by the Requested Party for investigations or proceedings other than those stated in the request.

ARTICLE 9

Testimony in the Requested Party

1. A person in the territory of the Requested Party from whom evidence is requested pursuant to this Convention may be compelled to appear in order to testify or produce documents, records, or articles of evidence by summons or such other method as may be permitted under the law of the Requested Party.
2. A person requested to testify or to produce information; documents or articles in the territory of the Requested Party may be compelled to do so in accordance with the requirements of the law of the Requested Party. If such a person asserts a claim of immunity, incapacity or privilege under the laws of the Requesting Party, the evidence shall nonetheless be taken and the claim be made known to the Requesting Party.
3. Upon request, the Central Authority of the Requested Party shall furnish information in advance about the date and place of the taking of the evidence.

ARTICLE 10

Publicly Available and Official Documents

1. The Requested Party shall provide copies of documents and records that are available to the public.
2. The Requested Party may provide copies of any document, record or information in the possession of a Government department or agency, but not publicly available, to the same extent and under the same conditions as would be available to its own law enforcement and judicial authorities.

ARTICLE 11

Exchange of Police Records

1. The Central authorities of both Parties shall give notice to each other of the convictions mentioned in the police record and pronounced by their respective jurisdictions against the nationals of the other party and the persons born on the territory of the other party by exchanging such records at least once per year.
2. In the case of a prosecution before one of the two Parties, the competent authorities of the Requesting Party can obtain promptly from the competent authorities of the Requested Party a police record concerning the person subject to prosecution.
3. Except in the case of prosecution, where the judicial or administrative authorities of one or the other Party need to provide a police record held by the other Party, they can obtain it directly from the competent authorities in accordance with domestic law of the Requested Party.

ARTICLE 12

Testimony in the Requesting Party

1. If the Requesting Party considers the personal appearance of a witness or expert before the competent authorities necessary in order to give evidence in a criminal matter, it shall so mention in its request for service of the summons, or in its request for assistance with investigations relating to a criminal matter, and the Requested Party shall so inform the witness or expert. The Requested Party shall advise the Requesting Party of the reply given by the witness or expert.
2. In the case provided for under paragraph 1 of this Article the request or the summons shall indicate the approximate allowances payable and the travelling and living expenses refundable.

3. When appropriate, the witness may receive, through the consular authorities of the Requesting Party, an advance to cover part or the whole of his or her travelling costs.

4. A witness or an expert, regardless of his nationality, and who, in response to the request from one of the Parties, has voluntarily appeared before the jurisdictions of the other Party, shall not be prosecuted or detained for any acts or in execution of judgments which preceded that witness or expert's departure from the Requested Party.

5. However, this immunity shall cease to apply if the witness, being free to leave the Requesting Party, has not left within thirty days after his hearing.

6. A witness or expert who has failed to answer a summons to appear, service of which has been requested or effected pursuant to this Convention, shall not, even if the summons contains a notice of penalty, be subjected to any punishment or measure of restraint, unless subsequently he voluntarily enters the territory of the Requesting Party and is there again duly summoned and fails to comply.

ARTICLE 13

Temporary Transfer of Persons in Custody

1. Upon request from the Requesting Party, and if both the Requested Party and the detained person consents, that person who is on the territory of the Requested Party, and whose personal appearance as a witness or for his assistance in criminal proceedings is necessary, will be transferred to the territory of the Requesting Party.

2. For the purposes of this Article:

- a) the transferred person is maintained in custody on the territory of the Requesting Party unless the Requested Party authorises his release;
- b) the Requesting Party shall return the person transferred to the custody of the Requested Party as soon as circumstances permit and in any event no later than the date upon which he would have been released from custody in the territory of the Requested Party, unless otherwise agreed by both Central Authorities;
- c) the person transferred shall receive credit for service of the sentence imposed in the Requested Party for time served in custody of the Requesting Party.

ARTICLE 14

Service of Judicial Documents

1. The Requested Party shall, in conformity with its law, effect service of judicial documents which are transmitted to it for this purpose by the Requesting Party.
2. A request to effect service of a document requiring the appearance of a person shall be made to the Requested Party not less than 60 days before the date on which the appearance is required. In urgent cases, the Requested Party may waive this requirement.
3. Service may be effected by simple transmission of the writ or record to the person to be served. If the Requesting Party expressly so requests, personal service shall be effected by the Requested Party, to the extent permitted by its law, in the manner requested by the Requesting Party.
4. The Requested Party shall forward to the Requesting Party proof of service of the documents, setting forth the facts, the method and the date of service; where appropriate this may be in the form of a receipt dated and signed by the person served. If service cannot be effected, the Requesting Party shall be so informed without delay and advised of the reasons.

ARTICLE 15

Search and Seizure

1. The Requested Party shall, in so far as its law permits, carry out requests for search, seizure and delivery of any material to the Requesting Party for evidentiary purposes, provided that the rights of bona fide third parties are protected.
2. The Requesting Party shall observe any conditions imposed by the Requested Party in relation to any seized material which is delivered to the Requesting Party.

ARTICLE 16

Return of material to the requested Party

Any property, including original records or documents, handed over to the Requesting Party under the present Convention shall be returned to the Requested Party as soon as possible unless the latter waives its right of return thereof.

ARTICLE 17

Assistance in Freezing, Seizing and Confiscation Proceedings

1. The Parties shall assist each other in proceedings involving the identification, tracing, freezing, seizure and confiscation of the proceeds and instrumentalities of crime in accordance with the domestic law of the Requested Party.
2. In addition to the provisions contained within Article 5 of this Convention, a request for assistance in freezing, seizure or confiscation proceedings shall also include:
 - a) details of the property in relation to which co-operation is sought;
 - b) the location of the property;
 - c) the connection, if any between the property and the offences;
 - d) details of any third party interests in the property;
 - e) a certified copy of the freezing or seizing decision or final decision of confiscation made by the court.
3. Nothing in this Article shall prejudice the rights of *bona fide* third parties.

ARTICLE 18

Return of Assets

1. Where an offence has been committed and a conviction has been obtained in the Requesting Party, the assets which have been seized by the Requested Party may be returned to the Requesting Party for the purposes of confiscation, in accordance with the domestic law of the Requested Party.
2. Nothing in this Article shall prejudice the rights of *bona fide* third parties.
3. The return shall occur once a final judgment has been given in the Requesting Party.

ARTICLE 19

Return of Embezzled Public Funds

1. When the Requested Party seizes or confiscates assets that constitute public funds, whether or not these have been laundered, and which have been embezzled from the Requesting Party, the Requested Party shall return the seized or confiscated assets, less any costs of realisation, to the Requesting Party.

2. The return shall occur once a final judgment has been given in the Requesting Party.

ARTICLE 20

Authentication of supporting documents

1. In accordance with Article 5 of this Convention, any documents that accompany a request for assistance shall be admitted in evidence in the Requested Party, if duly authenticated.

2. A document is duly authenticated for the purposes of this Convention if it purports to be signed or certified by Judge or competent officer of the Requesting Party.

ARTICLE 21

Language

Any request for assistance and supporting documents shall be written in the language of the Requesting Party and shall be accompanied by a translation in language of the Requested Party.

ARTICLE 22

Data Protection

1. Personal data transferred from one Party to the other as a result of the execution of a request made under this Convention may be used by that Party only for the following purposes:

- a) for proceedings to which this Convention applies;
- b) for other judicial and administrative proceedings directly related to the proceedings mentioned under (a);
- c) for preventing an immediate and serious threat to public security.

2. Such data may however be used for any other purpose if prior consent to that effect is given by either the Party from which the data has been transferred, or the data subject.

3. Any Party may refuse to transfer personal data obtained as a result of the execution of a request made under this Convention where such data is protected under its national legislation.

ARTICLE 23

Other Agreements

The present Convention shall not affect obligations arising from other treaties or arrangements to which both Parties are signatories.

ARTICLE 24

Consultation

The Parties shall consult promptly, at the request of either, concerning the interpretation, the application or the implementation of the present Convention either generally or in relation to a particular case.

ARTICLE 25

Application

1. Requests made under this Convention can apply to offences committed prior to its entry into force.
2. This Convention shall apply:
 - a) in relation to the United Kingdom:
 - (i) to England and Wales, Scotland, and Northern Ireland; and
 - (ii) to any other territory (including the Isle of Man and the Channel Islands) for whose international relations the United Kingdom is responsible and to which this Convention shall have been extended by exchange of notes between the Parties, subject to any modifications agreed by the Parties and to either Party being able to terminate such extension by giving six months written notice to the other through the diplomatic channel;
 - b) and to the People's Democratic Republic of Algeria

ARTICLE 26

Ratification

This Convention shall be ratified in accordance with the constitutional requirements of each Party.

ARTICLE 27

Entry into Force

This Convention shall enter into force thirty days after the exchange of the instruments of ratification.

ARTICLE 28

Amendment and Termination

1. The Parties may agree to amend this Convention, provided that the same legal procedures required for entry into force are followed.
2. Either Party may terminate this Treaty.
3. Termination shall take effect six months following the date of notification in writing sent through the diplomatic channel.
4. Requests made prior to this written notice, or received during the six month notification period shall be dealt with in accordance with this Convention.
5. This Convention remains in force until terminated in accordance with this Article.

In witness whereof, the undersigned, being duly authorised, have signed this Convention.

Done at London on 11th July 2006 in two originals, in the English and Arabic languages, the two texts being equally authentic.

**For The Government of the
United Kingdom of Great Britain
and Northern Ireland:**

JOHN REID

**For the Government of the
People's Democratic Republic
of Algeria:**

TAYEB BELAIZ



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