

AGREEMENT BETWEEN THE RUSSIAN FEDERATION AND THE REPUBLIC OF MOLDOVA ON MATTERS RELATED TO JURISDICTION AND MUTUAL LEGAL ASSISTANCE ON ISSUES REGARDING THE RUSSIAN FEDERATION MILITARY FORMATIONS TEMPORARILY SITUATED ON THE TERRITORY OF THE REPUBLIC OF MOLDOVA (AGREED IN MOSCOW 21.10.94)

The text of the document as amended as of November 2007

As of 07.02.96 the Agreement has not been ratified.

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The Russian Federation and the Republic of Moldova, hereinafter referred to as the Parties,

Guided by the provisions of the Agreement between the Government of the Russian Federation and the Government of the Republic of Moldova regarding the legal status, order and time/period for the withdrawal of Russian Federation military formations temporary residing on the territory of the Republic of Moldova (hereinafter - the Agreement),

Based on the need for mutual legal assistance on matters regarding civil, criminal and administrative offenses,

Taking into consideration the need for cooperation between the competent authorities of the Russian Federation and the Republic of Moldova,

Reflecting the desire to regulate the procedure for taking certain procedural actions,

Have agreed as follows:

Article 1

The competent authorities of the Russian Federation and the competent authorities of Republic of Moldova render each other legal assistance on matters regarding civil, criminal and administrative offenses, related to the temporary stay of the Russian Federation military formations on the territory of the Republic of Moldova.

For the purposes of this Agreement the following terms mean:

1. "Competent authorities"- on the side/part of the Russian Federation - military courts and bodies of the military prosecutor's office of the Russian Federation, serving military formations, military commandants of garrisons, commanders of military units (as a body of inquiry) and other bodies located on the territory of the Republic of Moldova, regulated by this Agreement;
On the side/part of the Republic of Moldova - courts, prosecuting authorities, bodies of internal affairs of the republican and local subordination and other bodies by whose competences the issues governed in this Agreement are regulated.
2. "Russian Federation Military formations temporarily located on the territory of the Republic of Moldova", hereinafter referred to as the "military formations"- formations, units, enterprises and institutions of the Russian Federation Armed Forces.

3. "Persons included in the composition of the Russian Federation Military Formations":
 - a) Servicemen in ongoing military service as part of military units;
 - b) Civilian personnel serving in the military formations, who are not citizens of the Republic of Moldova;
Individuals seconded to the Russian Federation Military Formations on the territory of the Republic of Moldova, who are not citizens of the Republic of Moldova, have equal status with those who are part of the military formations;
4. "Family members of persons belonging to military formations"- Spouses, minors, parents, as well as other persons living together with the persons included in the military formations and in the manner prescribed by law as their dependants.
5. "Place of deployment" - the territory on which military units, enterprises and institutions (establishments) of the Russian Federation military formations are located.

Article 2

Legal assistance includes the execution of requests for the delivery of documents and taking of certain procedural actions stipulated by the procedural legislation of the Parties.

Article 3

When rendering legal assistance, the competent bodies of the Parties shall interact directly with each other, and when necessary, through the appropriate higher authorities.

In the case of a request to an improper authority, the latter immediately passes that request to the competent authority, notifying authority which requests for that.

Article 4

The requested authority shall inform the requesting authority, at its request, the place and time of execution of the errand (task).

Representatives of the requesting bodies of the Parties are given the right to be present at the procedural actions, carried out at their request, if this does not involve the disclosure of military or state secrets.

Article 5

Legal assistance is provided by the Parties at no cost. Expenses associated with the implementation of legal assistance activities are borne by the Party that produces these actions.

Article 6

The competent bodies of the Parties, when rendering legal assistance, shall use Russian or Moldovan language, in order to cooperate with each other.

Article 7

In the occurrence of a legal relation with the state bodies of the Republic of Moldova, individuals who are composing part of the Russian Federation military formations and members of their families, shall enjoy the same legal protection as citizens of the Republic of Moldova.

Article 8

The competent authorities of the Republic of Moldova shall immediately notify the competent authorities of the Russian Federation of each event of initiation of a criminal case (proceeding), detention or arrest of a person part of the military units of the Russian Federation or members of his family.

Article 9

In cases of crimes and administrative offences committed by persons who are part of the military units of the Russian Federation and members of their families outside the places of deployment, the legislation of the Republic of Moldova is shall be applied, as the court, the prosecutor's office and other competent bodies shall be acting.

Article 10

Article 9 of the present Agreement does not apply to acts committed by persons who are members of military Formations of the Russian Federation, and members of their families:

- a) in places of deployment;
- b) against the Russian Federation or against persons who are members who compose part military formations of the Russian Federation, as well as in cases of military crimes;
- c) while fulfilling official and special duties.

Official and special (liquidation of consequences of natural disasters and other extraordinary circumstances) duties of servicemen and the order of their fulfilment are determined by legislative acts, general military charters and other normative acts of the Russian Federation. In order to fulfil special duties on the territory of the Republic of Moldova, the military formations of the Russian Federation are asked at request by the local authorities. Serviceman performing official and special duties is not recognised, as performing a socially dangerous act, provided for by the criminal laws of the Russian Federation and the Republic of Moldova.

With respect to the acts provided for in this article, the legislation of the Russian Federation shall be applied and its prosecutor's office, judicial and other competent bodies shall operate.

Article 11

The Competent authorities of the Republic of Moldova on their territory of State shall provide for judicial decisions and resolutions the competent bodies of the Russian Federation, the detention of persons in custody and their escort. The execution of condemnation sentences of persons deprived of liberty referred to in Article 10 of the present Agreement shall be carried out on the territory of the Russian Federation, and in the cases specified in Article 9, by decision of the competent bodies of the Republic of Moldova.

Article 12

The competent authorities of the Russian Federation and of the Republic of Moldova may mutually appeal to each other with petitions for the transfer of jurisdiction for individuals (cases) envisaged in Articles 9 and 10 of this Agreement.

Article 13

Cases falling within the jurisdiction of the Russian Federation shall be considered by the competent authorities of the Russian Federation in places of deployment of its troops on the territory of the Republic of Moldova, and also on the territory of the Russian Federation.

In cases falling under the jurisdiction of the Republic of Moldova, procedural actions in the places of deployment of military formations of the Russian Federation shall be considered by the competent authorities of the Russian Federation on the basis of a decision of the competent bodies of the Republic of Moldova.

In case of a committed crime by a person who is part of military formations of the Russian Federation, or a member of his family, subject to the jurisdiction of the Republic of Moldova, the arrest of these persons in the places of deployment is carried out by the competent bodies of the Russian Federation on the basis of a decision of the competent bodies of the Republic of Moldova.

The competent authorities of the Republic of Moldova may conduct procedural actions with persons taken into their custody (detainees) who compose a part of the military units of the Russian Federation or members of their families in the presence of representatives of competent authorities or military authorities of the Russian Federation.

Article 14

In event of group of persons who are accused of committing one or more crimes, if the case against at least one of the accused is considered under the jurisdiction of the Republic of Moldova, and in respect of the others – under the Russian Federation jurisdiction, the case against all the accused is considered by the competent authorities of the Republic of Moldova.

In other cases, the issue is resolved in accordance with international obligations of the Parties.

Article 15

In case of disagreement in respect of jurisdiction, the matter is decided by the Russian-Moldovan Joint Commission envisaged in Article 21 of the Agreement.

Until the decision of the Joint Commission, the competent bodies of the Parties shall coordinate with each other the issue of measures to secure the traces of the crime, to establish and detain the persons who committed it.

Article 16

The competent authorities of the Russian Federation shall immediately notify competent authorities of the Republic of Moldova about crimes that have become known to them, committed by persons part of the military units of the Russian Federation or members of their families and falling under the jurisdiction of the Republic of Moldova, and also conduct initial investigative actions until the arrival of a representative of the competent authorities of the Republic of Moldova.

Article 17

The competent authorities of the Parties shall provide mutual assistance in the disclosure of crimes, as well as in the organization for cases investigation.

Article 18

The competent bodies of the Republic of Moldova, in accordance with the procedure established by law order, shall inform the military justice bodies of the Russian Federation, upon their petition for the progress of the investigation and judicial proceedings against members of the Russian Federation military units and members of their families.

Article 19

When applying the legislation of the Republic of Moldova on matters regarding the publicity of the trial, the security interests of the military formations of the Russian Federation shall be taken into account.

Article 20

In cases of crimes committed by persons who are part of the military units of the Russian Federation or members of their families that are subject to consideration by the courts of the Republic of Moldova, the accused (suspect) is provided with the same legal protection as the citizens of the Republic of Moldova. These individuals, on their will, could use the services of a Russian lawyer.

Article 21

Penalties appointed by the courts of the Republic of Moldova to persons composing a part of the military formations of the Russian Federation and members of their families shall be enforceable by the relevant competent authorities of the Parties.

Article 22

In cases of administrative offences committed by persons belonging to military units of the Russian Federation or members of their families that fall under the jurisdiction of the competent authorities of the Republic of Moldova, the legislation of the Republic of Moldova is applied.

For administrative offenses committed by military personnel who are members of Russian Federation military formations, the competent authorities of the Republic of Moldova shall inform the nearest military commandant of the garrison of the military formation of the Russian Federation.

Article 23

Reimbursement for material (property) damage extends to the compensation of all claims arising from:

- a) from causing harm due to unlawful actions and sources of increased danger for which the military formations of the Russian Federation are responsible, as well as their members and members of their families, on one hand, and institutions and citizens of the Republic of Moldova on the other;
- b) from obligations under contracts agreed by military formations and citizens of the Russian Federation, on one hand; And institutions and citizens of the Republic of Moldova - on the other hand;
- c) from other actions and omissions, as a result of which legal entities or individuals of one Party caused damage to legal entities or individuals of the other Party.

Legal costs and necessary expenses, incurred in connection with the consideration of the case by the Party in whose favour the judgment was rendered, shall also be subject to reparation.

Article 24

Decisions on claims arising from contractual relations of military formations of the Russian Federation, persons composing part of them and their families, with institutions and citizens of the Republic Moldova shall be considered by the courts of the Republic of Moldova in accordance with its Legislation.

Execution of the court's decision on these cases in respect of persons, who are part of the military formations of the Russian Federation, members of their families residing in the territory of the Russian Federation, is organized by the Ministry of Justice of the Russian Federation.

Article 25

Jurisdiction in civil cases is determined by the general rules of the civil procedure legislation of the Republic of Moldova.

If the person causing the damage is not known, the competent authorities of the Parties shall provide mutual assistance to each other for his/her/their establishment.

If it is undoubtedly established that the damage is caused by a person, who is part of the military formations of the Russian Federation, or a member of his family, and this person cannot appear as a defendant (respondent) to the relevant court of the Republic of Moldova, since he/she is no longer located on the territory of the Republic of Moldova, the claim is brought to the command of military formations of the Russian Federation.

Article 26

In the competent bodies of the Republic of Moldova, the representation of the military formations of the Russian Federation, as well as persons who are members of their composition, and members of their families, is exercised by the command of military formations of the Russian Federation in the manner established by the legislation of the Republic of Moldova.

Article 27

Control over execution of judgments in cases of past years in relation to those convicted by military courts (military tribunals of the former USSR) and those serving a sentence or living in the Republic of Moldova, is carried out by the courts of the Republic of Moldova until the full execution including particularly decisions on compensation for material damage caused by offences committed by the military units, enterprises, organizations, institutions and citizens.

The military courts of the Russian Federation pass to the relevant courts of the Republic of Moldova the necessary documents (copies) for the control mentioned above.

The funds collected from convicts on execution lists, as well as court costs, are transferred to the budget of the Party that incurred losses in connection with this particular case. In other cases, these funds remain in the budget of the exacting Party.

Citizens of the Russian Federation and the Republic of Moldova on issues related to compensation for harm caused by crimes shall turn to the relevant Party through the Ministry of Justice (judicial authorities) of their states.

Article 28

The legislation of the Republic of Moldova on labour and social insurance applies to citizens of the Republic of Moldova who are hired in the military formations of the Russian Federation.

Article 29

This Agreement does not affect the rights and obligations arising from international treaties to which the Parties are party.

Article 30

This Agreement is subject to ratification and enters into force simultaneously with the Agreement between the Government of the Russian Federation and the Government of the Republic of Moldova on the legal status, order and term/period for the withdrawal of military units of the Russian Federation, temporarily located on the territory of the Republic of Moldova, and remains in force during the term of its validity.

Agreed in Moscow on October 21, 1994, in duplicate, in Russian and Moldovan, as both texts have equal force.

Signatures

[Non-Official Translation by Kalina Peresterova, University of Edinburgh]