

LAW No. 267 of 5 October 2005

On the ratification of the Agreement between Romania and the European Union regarding the security procedures for the exchange of classified information, signed in Bucharest on 22 April 2005

ISSUER: The PARLIAMENT

PUBLISHED IN: The Official Journal no. 903 of 10 October 2005

The Parliament of Romania adopts this law.

SINGLE ARTICLE

The Agreement between Romania and the European Union regarding the security procedures for the exchange of classified information, signed in Bucharest on 22 April 2005 is ratified.

This law was adopted by the Parliament of Romania, with the observance of the provisions of Article 75 and Article 76 paragraph (2) of the Constitution of Romania, republished.

PRESIDENT OF THE CHAMBER OF DEPUTIES

ADRIAN N STASE

PRESIDENT OF THE SENATE

NICOLAE V C ROIU

Bucharest, 5 October 2005.

No. 267

AGREEMENT BETWEEN ROMANIA AND THE EUROPEAN UNION ON THE SECURITY PROCEDURES FOR THE EXCHANGE OF CLASSIFIED INFORMATION

Romania and The European Union, hereafter the EU, Represented by the Presidency of the Council of the European Union Hereinafter referred to as the Parties,

Considering that Romania and the EU share the objectives to strengthen their own security in all ways and to provide their citizens with a high level of safety within an area of security;

Considering that Romania and the EU agree that consultations and co-operation should be developed between them on questions of common interest relating to security;

Considering that, in this context, a permanent need therefore exists to exchange classified information between Romania and the EU;

Recognizing that full and effective consultation and co-operation may require access to Romania and EU classified information and material, as well as the exchange of classified information and related material between Romania and the EU;

Conscious that access to and exchange of classified information and related material requires appropriate security measures;

Have agreed as follows:

ARTICLE 1

In order to fulfill the objectives of strengthening the security of each of the Parties in all ways, the present Agreement applies to classified information or material in any form either provided or exchanged between the Parties.

ARTICLE 2

For the purposes of the present Agreement, classified information shall mean any information (namely, knowledge that can be communicated in any form) or material that shall be protected against unauthorized disclosure and which has been so designated by a security classification (hereafter: “classified information”).

ARTICLE 3

For the purposes of this Agreement, “EU” shall mean the Council of the European Union (hereafter: “Council”), the Secretary General/High Representative and the General Secretariat of the Council, and the Commission of the European Communities (hereafter: “European Commission”).

ARTICLE 4

Each Party shall:

(a) protect and safeguard classified information subject to the present Agreement provided or exchanged by the other Party;

(b) ensure that classified information subject to the present Agreement provided or exchanged keeps the security classification given to it by the providing Party. The receiving Party shall protect and safeguard the classified information according to the provisions set out in its own security regulations for information or material holding an equivalent security classification, as specified in the Security Arrangements to be established pursuant to Articles 11 and 12;

(c) not use such classified information subject to the present Agreement for purposes other than those established by the originator and those for which the information is provided or exchanged;

(d) not disclose such classified information subject to the present Agreement to third Parties, or to any EU institution or entity not mentioned in Article 3, without the prior consent of the originator.

ARTICLE 5

1. Classified information may be disclosed or released, in accordance with the principle of originator control, by one Party, “the providing Party”, to the other Party, “the receiving Party”.
2. For release to recipients other than those mentioned in Article 3, a decision on disclosure or release of classified information will be made by the receiving Party following the consent of the providing Party, in accordance with the principle of originator control as defined in its security regulations.
3. In implementing paragraphs 1 and 2 above, no generic release is possible unless procedures are established and agreed between the Parties regarding certain categories of information, relevant to their operational requirements.

ARTICLE 6

Each of the Parties, and entities thereof as defined in Article 3 of the present Agreement, shall have security organizations and security programs, based upon such basic principles and minimum standards of security which shall be implemented in the security systems of the Parties to be established pursuant to Articles 11 and 12, to ensure that an equivalent level of protection is applied to classified information subject to the present Agreement.

ARTICLE 7

1. The Parties shall ensure that all persons who, in the conduct of their official duties require access, or whose duties or functions may afford access to classified information provided or exchanged under the present Agreement, are appropriately security cleared before they are granted access to such information.
2. The security clearance procedures shall determine whether an individual can, taking into account his or her loyalty, trustworthiness and reliability, have access to classified information.

ARTICLE 8

The Parties shall provide mutual assistance with regard to security of classified information subject to the present Agreement and matters of common security interest. Reciprocal security consultations and inspections shall be conducted by the authorities as defined in Article 11 to assess the implementation process of the Security Arrangements within their respective responsibility to be established pursuant to Articles 11 and 12.

ARTICLE 9

1. For the purpose of the present Agreement

(a) As regards the EU, all correspondence shall be sent to the Council at the following address:

**Council of the European Union
Chief Registry Officer
Rue de la Loi/Wetstraat, 175
B 1048 Brussels ;**

All correspondence shall be forwarded by the Chief Registry Officer of the Council to Member States and to the European Commission subject to paragraph (b).

(b) As regards Romania,

all correspondence shall be sent, where appropriate via the Mission of Romania to the European Union, to Oficiul Registrului Național al Informațiilor Secrete de Stat (ORNISS) at the following address:

**Guvernul României
Oficiul Registrului Național al
Informațiilor Secrete de Stat (ORNISS)**

**Str. Mureș nr.4, Sector 1
București
ROMÂNIA**

2. Exceptionally, correspondence from one Party is only accessible to specific competent officials, organs or services of that Party may, for operational reasons, be addressed and only be accessible to specific competent officials, organs or services of the other Party specifically designated as recipients, taking into account their competencies and according to the need to know principle. As far as the European Union is concerned, this correspondence shall be transmitted through the Chief Registry Officer of the Council.

ARTICLE 10

The Government of Romania and the Secretaries-General of the Council and of the European Commission shall oversee the implementation of the present Agreement.

ARTICLE 11

In order to implement the present Agreement:

1. The National Registry Office for Classified Information (ORNISS), under the direction and on behalf of the Government of Romania, acting in the name of the Government of Romania and under its authority, is responsible for developing security Arrangements for the protection and safeguarding of classified information provided to Romania under the present Agreement.

2. The General Secretariat of the Council Security Office (hereinafter: "GSC Security Office"), under the direction and on behalf of the Secretary General of the Council, acting in the name of the Council and under its authority is responsible for developing security arrangements for the protection and safeguarding of classified information provided to the EU under the present Agreement.

3. The European Commission Security Directorate, acting in the name of the European Commission and under its authority, is responsible for developing security arrangements for the protection of classified information provided or exchanged under the present Agreement within the European Commission and its premises.

ARTICLE 12

The security arrangements to be established pursuant to Article 11 in agreement between the three Offices concerned will lay down the standards of the reciprocal security protection for classified information subject to the present Agreement. For the EU, these standards shall be subject to approval by the Council Security Committee.

ARTICLE 13

The Authorities defined in Article 11 shall establish procedures to be followed in the case of proven or suspected compromise of classified information subject to the present Agreement.

ARTICLE 14

Prior to the provision of classified information subject to the present Agreement between the Parties, the responsible security authorities defined in Article 11 must agree that the receiving Party is able to protect and safeguard the information subject to the present Agreement in a way consistent with the arrangements to be established pursuant to Articles 11 and 12.

ARTICLE 15

The present Agreement in no way prevents the Parties from concluding other Agreements relating to the provision or exchange of classified information subject to the present Agreement provided that they do not conflict with the provisions of the present Agreement.

ARTICLE 16

All differences arising out of the interpretation or application of the present Agreement shall be dealt with by negotiation between the Parties.

ARTICLE 17

1. The present Agreement shall enter into force on the first day of the first month after the Parties have notified each other of the completion of the internal procedures necessary for this purpose.

2. The present Agreement may be reviewed for consideration of possible amendments at the request of either Party.

3. Any amendment to the present Agreement shall only be made in writing and by common agreement of the Parties. It shall enter into force upon mutual notification as provided under paragraph 1.

ARTICLE 18

The present Agreement may be denounced by one Party by written notice of denunciation given to the other Party. Such denunciation shall take effect six months after receipt of notification by the other Party, but shall not affect obligations already contracted under the provisions of the present Agreement. In particular, all classified information provided or exchanged pursuant to the present Agreement shall continue to be protected in accordance with the provisions set forth herein.

In witness whereof the undersigned, respectively duly authorized, have signed the present Agreement.

Done at Brussels, in two copies each in the English language.

For Romania,

For the European Union,