



MANUAL INTERNATIONAL LEGAL COOPERATION IN CRIMINAL MATTERS

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Foreword

Judicial and police cooperation plays a vital and important role in the fight against (organized) crime.

In the last decades crime has become more and more international. This is caused by the fact that cooperation between lawful partners became more international. There are less boundaries today than there were a one or two decades ago. International traffic of capital, goods and people has increased dramatically. Modern and fast ways of transport and communication stimulate these cross border activities. It is no surprise that not only lawful people or businesses would use these infrastructural possibilities but so would illegal ones. For this reason states had to establish or expand nationally and internationally means to fight this crime. In a globalized world the need for states and judicial authorities in cooperating together on many issues has become more important than ever before.

The international community has developed a series of mechanisms for international cooperation in criminal matters concerned in particular with extradition, mutual legal assistance, the transfer of criminal proceedings, the transfer of convicted persons, recognition of decisions of foreign criminal jurisdictions, the freezing or seizure of assets, and cooperation between law enforcement agencies. Those mechanisms relate to all types of criminality.

This manual provides practitioners with general information on some of those mechanisms like mutual legal cooperation, transfer of proceedings, transfer of sentences and extradition.

One of the main goals of this manual is providing information on mutual legal cooperation. Not only should it give practitioners information and some basic understanding about international legal cooperation in criminal matters but most importantly it should enable them to act more effectively and efficiently and to draft a legal request. Templates in chapter 9 of the manual will provide assistance to do so.

The manual will only focus on outbound situations which means when sending requests to foreign partners. It does not aim on executing requests from another state. Chapters or paragraphs are kept as compact as possible in order to keep the manual easy to use.

Part I - International Legal Cooperation

1. Introduction

The **definition of mutual cooperation** is every requested or spontaneous assistance asked for in every phase of a criminal case or in the execution of a verdict by the **judicial and police authorities** from one state to another with the intention to gather information and evidence for the offences committed by (a) suspect(s) in proving his possible involvement or non-involvement in these offences.

In this manual only legal cooperation between judicial authorities will be described.

International legal assistance is governed by multi and bilateral agreements and national law.

Various forms of assistance can be distinguished like extradition, transfer of criminal proceedings, execution of sentences and all other investigative measures that can be subject to mutual assistance between states.

A request for international legal assistance is executed according to the national law of the requested state. Authorities of the requested state may, however take into account the rules of the national law of the requesting state as long as these are not in conflict with any law of the requested state.

A common classification in international legal cooperation is the distinction between **primary assistance and secondary assistance**.

Primary assistance, is for instance the transfer of proceedings and the transfer of sentences. In primary assistance a requested state *takes over* an essential part of the criminal proceedings on behalf of the requesting state.

Secondary assistance, is for instance extradition and mutual legal assistance. Typically for secondary legal assistance is that the requested state *only assists*, either by carrying out acts of investigation, either handing over an accused to the requesting state. Certain actions may include:

- Cross border observation;
- Controlled delivery;
- Sending documents, files, seized items;
- Providing information;
- Hearing of witnesses, experts or suspects;
- Hearing of witnesses and experts by video or telephone conference;
- Obtaining information of financial institutions and confiscation of illegal assets;
- Obtaining information from (phone) companies, Internet Service Providers (ISP's);
- Wiretapping;
- Search and seizure;
- Infiltration.

Generally it can be read in the conventions that a legal request must be made in writing. However, in very urgent and emergency situations it is always possible to make the request verbally and to write the request as soon as possible.

2. Principles of International Legal Cooperation

2.1 Introduction

It is important that when there is direct contact with foreign judicial or police authorities the practitioner is acting as a representative of his country. One should therefore act in accordance with all applicable conventions. If there is no treaty applicable, practitioners should observe a few general principles or rules of international legal cooperation. In mutual legal assistance in criminal matters, the following principles are of great importance.

2.2 Sovereignty

One of the basic principles in the relations between states is respect for the sovereignty of each individual state. The principle of sovereignty means that each state has on its own territory exclusive jurisdiction in accordance with its own law.

Through signing treaties, states “eliminate or decrease” (some of their) sovereignty. There are many treaties in which countries give away a degree of their sovereignty in favor of efficient legal cooperation.

If no treaty applies the state reserves the right to assess in each individual case whether a particular act on behalf of the requesting country can or can not be executed. If a treaty however does apply this check is no longer valid anymore.

2.3 Specialty

The principle of specialty is included in most treaties. It means that the requesting state who has, through legal cooperation, obtained evidence or information may only use this for the purpose for which assistance was requested. If the information or evidence is also going to be used for other purposes it may be possible but only after permission of the requested country, to do so.

2.4 Trust

The fact that two states have signed a treaty with each other, can be seen as an expression of mutual trust in each other's legal systems. Trust is, in the execution of a request for assistance, that states act in accordance with their own laws and respect human rights.

When a treaty basis exists a legal request is only assessed marginally. Except for serious contraindications it is trusted facts and circumstances that are written in the legal request are correct and not false.

2.5 Double Criminality

Another important principle is that of double criminality. The principle requires that the facts described in a legal request are also in the requested state a criminal offense. The requested state however is not bound to the exact label used by the requesting country and can qualify the offense otherwise.

2.6 Availability

This principle includes that **information on serious criminal offences** (for instance the planning of terrorist attacks) that is in the possession of an investigative authority in one country should be made available to another country so that this other country can act accordingly.

2.7 Reciprocity

Reciprocity is a principle that underlies to many multilateral treaties. It means that one state is prepared to offer legal assistance if the other one is equally prepared to do so.

The principle of reciprocity can effect legal cooperation in **two situations**.

On one hand a state may limit its level of cooperation through a declaration in a treaty. Other states can then limit the amount of legal assistance to the latter in the same way.

On the other hand, this principle can play a role in deciding whether or not to request assistance from a state were no treaties or bilateral agreements have been signed with yet. By sending an legal request, the requesting state could give the impression that next time the requested state needs assistance reciprocity will be offered. To prevent this from happening, the Ministry of Justice, if the request must be send through the Ministry, indicate in the cover letter accompanying the legal request, which part of the reciprocity can or can not be provided .

2.8 Ne bis in idem

The principle of ne bis in idem provides a ground for refusal to act on a request for judicial cooperation. The requested state may refuse assistance when it is clear that an accused has already been convicted or acquitted for the same offence written in the legal request.

2.9 Confidentiality

The last principle requires that any information shared by the requesting state in a legal request will be treated with confidentiality by the receiving state. After all, the information provided in any legal request is “owned” be the investigative authority in the requesting state. Using this information without prior notice or after consultation of the requesting state may seriously harm the criminal investigation.

3. Conventions & Bilateral Agreements & National Laws

3.1 Introduction

For judicial cooperation in criminal matters the *most common and most important* applicable conventions and bilateral agreements for practitioners of the beneficiary country will be summed up below. Also national laws that play a role in mutual legal cooperation are listed.

Using these will provide practitioners with the legal basis and almost all tools when assistance from abroad is asked for or needed.

3.2 European Conventions

For judicial cooperation, in particular, the following European and applicable multilateral conventions are of great importance for the beneficiary country:

- European Convention on Mutual Assistance in Criminal Matters, 20 April 1959;
- Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, 17 March 1978;
- Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, 8 November 2001;

Important:

- These conventions have the word European in them but they are not only applicable to countries in Europe. The European Convention of 1959 for instance is also applicable when cooperation is sought with for instance Israel, Georgia, Chili or the Ukraine.
- The list is an indicative one and doesn't pretend to be complete.

3.3 Multilateral Conventions

For judicial cooperation, also the following multilateral conventions are important for the beneficiary country. The list is an indicative one and doesn't pretend to be complete.

- Single Convention on Narcotic Drugs, New York, 30 March 1961;
- United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 20 December 1988;
- Convention on Money Laundering, Search, Seizure and Confiscation of the Assets of Crime; Strasbourg, 8 November 1990;
- Convention for the Suppression of Terroristic Bombings, New York, 15 December 1997;
- United Nations Convention on Corruption, 27 January 1999;
- Convention on the Suppression of the Financing of Terrorism, 9 December 1999;
- United Nations Convention against Transnational Organized Crime (UNTOC), Palermo, 15 November 2000;
- Convention on Combating Crimes Connected to Electronic Networks, 23 November 2001;
- Convention for the Suppression of Acts of Nuclear Terrorism, 13 April 2005;
- Convention on the Prevention of Terrorism, 16 May, 2005;
- Convention on Action against Trafficking in Human Beings, 16 May, 2005.

3.4 Bilateral Agreements

For judicial cooperation, also the following bilateral agreements are important for the beneficiary country:

Albania:

Agreement between the Government of the beneficiary country and Albania on Legal Assistance in Civil and Criminal Matters, Official Gazette Number 16/98, 2 October 1998;

Bosnia and Herzegovina:

Agreement between the Government of the beneficiary country and Bosnia and Herzegovina for Legal Assistance in Civil and Criminal Matters, Official Gazette Number 10/06, 6 January 2006. It was amended on 30 July 2014, Official Gazette Number 13/2014;

Croatia:

Agreement between the Government of the beneficiary country and Croatia for Legal Assistance in Civil and Criminal Matters, Official Gazette Number 19/95, 26 May 1995;

Kosovo:

Agreement between the Government of the beneficiary country and the Republic of Kosovo for Mutual Legal Assistance in Criminal Matters, Official Gazette Number 178/2011, 24 June 2012;

Montenegro:

Agreement between the Government of the beneficiary country and Montenegro on Legal Assistance in Civil and Criminal Matters, Official Gazette Number 77, 2004;

Agreement between the Government of the beneficiary country and Montenegro on Legal Assistance in Civil and Criminal Matters and execution of court decisions in criminal matters, 26 October 2016;

Serbia:

Agreement between the Government of the beneficiary country and Serbia on Legal Assistance in Civil and Criminal Matters, Official Gazette Number 77/2004, 9 March 2005.

Agreement between the Government of the beneficiary country and Serbia on Legal Assistance in Civil and Criminal Cases, Official Gazette Number 15/13, 5 February 2013;

Slovenia:

Agreement between the Government of the beneficiary country and Slovenia Legal Assistance in Civil and Criminal Matters, Official Gazette Number 24/96, 5 September 1997;

Turkey:

Agreement between the Government of the beneficiary country and Turkey on Legal Cooperation in Civil and Criminal Matters, Official Gazette Number 23/97, 28 July 2001.

3.5 National Law

The judicial cooperation in criminal matters on national level is regulated in:

- Law on Criminal Procedure (CPC), Official Gazette Number 150/2010;
- Law on International Cooperation in Criminal Matters, Official Gazette of RM, Number 124 from 20 September 2010;

The Law on International Cooperation in Criminal Matters which came into force at the end of 2013 combines multiple ways of international cooperation into one law. It deals with both incoming and outgoing requests. It provides rules for requests based on a treaty and no treaty circumstances.

3.6 Websites Legal Framework

The complete and detailed texts of the conventions and agreements on mutual legal cooperation can also be found **online** on the following websites:

For European conventions:

Multiple options are available.

1. The European Judicial Network (EJN):

https://www.ejn-crimjust.europa.eu/ejn/EJN_Home.aspx

A very good and practical website.

If you want to change the language from English into another preferred language please go to the top right of the home page and click for the right language of your choice.

The next step is to go on the home page and click on “judicial library”. Then move to “legal instruments” and from there again to “legal instrument adopted by the EU”. Then click on “treaties”, “conventions” or “protocols”. Click on the preferred document and find the page which shows you pdf files from the requested treaty/convention/or protocol in various languages.

If you go to “judicial library” again and then move to “legal instruments” and then over to “legal instrument adopted by the Council of Europe” you will get to the “treaty office”. If you click on full list you will find all treaties. Scroll through the list to find the relevant treaty for you.

2. Council of Europe (COE):

<http://www.coe.int/en/web/transnational-criminal-justice-PCOC>

You will get to the home page. Now go to the bottom of the page and click on “mutual legal assistance”. Then you click on “Council of Europe standards”. You will then see three conventions, for instance “European Convention on Mutual Assistance in Criminal Matters”. Click on this and you will get to the page of that convention. At the bottom of that page under “share” you can click on, for instance, “pdf” and will then get to see the whole convention.

For UN conventions:

<https://treaties.un.org/Pages/TreatyParticipantSearch.aspx?clang=en>

You will get to the treaty collection of the UN. Then click in the list on “certified true copies”. For criminal law you choose “ Chapter VI” which is about Narcotic Drugs and Psychotropic Substances or “Chapter XVIII” on Penal Matters. Click on one of the chapters and scroll down to find lists of conventions.

For bilateral agreements:

http://www.pravda.gov.mk/tekstovi_mpp_dogovori.asp?lang=mak&id=bidog

or

For national law:

The complete Criminal Code of Procedure can be found:

<http://pravda.gov.mk/documents/ZAKON%20ZA%20KRIVICNATA%20POSTAPKA.pdf>

The complete Law on International Cooperation in Criminal Matters can be found::

<http://pravda.gov.mk/download.asp?Lang=mak&id=478>

4. Sending a Legal Request

4.1 Introduction

Legal assistance can be sought at any stage of a criminal investigation. This can be in the trial or pre trial stage.

Legal assistance can be divided between the cooperation on **police level** and on **judicial level**. The majority of all cooperation is done on police level and goes through channels like Europol and Interpol.

In this manual the focus is on cooperation between judicial authorities.

Mutual cooperation is mostly established if there is a legal basis for it such as treaties. However even without that it is still possible to ask for assistance.

Two things are very important and should be taken into account:

- As a requested state: Treat a foreign request with the same efficiency and promptness you would like yours to be executed;
- As a requesting state: Focus on the outcome you wish to achieve when asking for legal assistance. No state will do exactly that what you would when handling the case on national level.

In a letter rogatory addressed to foreign **states you can not ask for more than legally allowed under your own national law**. If however, the requested state executes the request by using measures you did not ask you generally can use that information as evidence.

4.2 Treaty or no treaty

If requesting cooperation from another state the existence of a treaty is not especially required. The opportunity to start an international legal relationship depends on **several factors** like reciprocity, trust or human rights.

Usually states provide assistance to each other on the basis of the principle of reciprocity.

In addition, by deciding to send a legal request a state must, to some extent, also have confidence in the legal system of that other state. If a request would, for instance, result in inhumane treatment of people legal assistance normally will not be sought.

Finally, in the assessment of sending or not sending a legal request abroad the importance of the case is also taken into consideration. Generally for very minor or bagatelle cases, legal cooperation is not sought for.

If the above mentioned factors are (all) of importance states can decide to sign a treaty in order to regulate their relation on international legal cooperation and to make things more clear. The treaty then becomes the basis on how a request for assistance is offered and to whom.

If no treaty applies, the legal relationship is bound by international law and the domestic laws of the states concerned.

Even today in quite a number of cases, legal assistance is still provided without a treaty basis.

4.3 Content of a request

Before practitioners start drafting a request they must check if and what agreement(s) between the requesting and requested states apply. It must also be determined if and what reservations have been made by either party.

The request for legal assistance to a non-treaty country is effected solely through the Ministry of Justice and the diplomatic channels.

As stated before legal assistance in many cases is provided even without a treaty basis. But before drafting a legal request which will be send to a non-treaty country get in touch with the International Department of the Ministry of Justice and seek advice on how to act. As things change they can provide advice and assistance through their knowledge. Only by working together with the various partners in international legal cooperation the often difficult and extensive legal framework can be best understood and applied.

The Department can be reached by getting in touch with:

Miss Gordana Milveska, Senior Associate for Extradition

Tel : 00 389 2 3116 648
 00 389 2 3116 123
 00 389 2 3116 190

extension 128

Fax: 00 389 2 226 975

Email: gordanamilevska@mjustice.gov.mk

or

Mister Hevzat Ismani, Junior Associate for Transfer and mutual legal assistance

Tel: 00 389 2 3116 648
 00 389 2 3116 123
 00 389 2 3116 190

extension 128

Fax: 00 389 2 226 975

Email: nevzatIsmani@mjustice.gov.mk

or

Miss Marija Begovic, Junior Associate for transfer of sentenced persons

Tel: 00 389 2 3116 648
 00 389 2 3116 123
 00 389 2 3116 190

extension 128

Fax: 00 389 2 226 975

Email: marijanikolovska@mjustice.gov.mk

or

Miss Vlora Jusufi, Junior Associate for transfer of sentenced person

Tel: 00 389 2 3116 648
 00 389 2 3116 123
 00 389 2 3116 190

extension 132

Fax: 00 389 2 226 975

Email: vlorajusufi@mjustice.gov.mk

It is advisable to prepare a request for assistance on the basis mentioned in article 14 of the European Convention of 1959. Even a request for mutual legal assistance to a state that is not part of any convention or agreement can be ***drafted according to*** this ***standard***. The ***requirements*** for that can be outlined as follows:

Requesting authority:

It is extremely important for the requesting state to indicate a contact person to whom the requested state can address to when further clarification or information should be needed. For this reason, the requesting authority should always provide ***direct contact details including e-mail, fax, and/or phone numbers***.

The 2nd Additional Protocol to the EU Convention on Mutual Legal Cooperation in Criminal Matters enables **direct contact**.

It is very crucial to provide these contact details of the case prosecutor or judge or other officials making the request without restricting this type of information to heads of offices.

Requested authority:

In order to find the appropriate requested authority and addresses in Europe please go to the very useful EJN "Atlas" on the weblink <http://www.ejn-crimjust.europa.eu/ejn/> and to the website http://www.coe.int/t/dghl/standardsetting/pc-oc/Country_information2_en.asp

Subject of and reason for the request:

A request for assistance must always at least contain:

Nature of the facts and offence(s):

This requirement beholds a ***brief summary of the facts*** known at the time of writing of the request.

As a general rule, requests should be as detailed and comprehensive as possible making sure the requested authority has the necessary information for the effective execution of the request. However, information should be limited by its relevance and its impact on the execution of the request. Don't send copies of complete files or reports.

A clear description of the links between the offence and the person and between the offence and the evidence/measures/criminal assets sought in the requested State.

In addition, it is crucial to describe clearly and precisely the facts of the case in connection with the person concerned and the evidence or measure requested. It should be explained how the evidence or measures sought are linked to the ongoing criminal investigation in the requesting state.

Location (s):

The place(s) where the crime(s) was/were committed.

Date(s) on which the crime(s) was/were committed:

Be as precise as possible.

Type of the offence(s):

Short phrasings like "drugs related crime" are insufficient. In big, extensive and complicated investigations it might seem attractive to send a big part of the entire criminal file to the foreign state which would then have to analyze the facts. This however is not to be recommended as it is time consuming for colleagues abroad to read all that information. Better it is to write a summary of the findings. Also a copy of the indictment is often times not enough as they are very specific to each country and sometimes very difficult to read or understand for others.

Name(s) of person(s) (like suspect (s), witness(es) or expert(s)):

It is important to indicate clearly and precisely any personal information on the person concerned. This can be the suspect when known but it can also be a witness or an expert.

When information is given on a suspect don't only give the name, date and place of birth, gender and nationality or nationalities are of importance but also addresses, aliases, phone numbers, email address, profession or ID number(s). Also if the suspect is in custody or not.

Legal basis of the request:

Present at all times if and what multilateral UN, Council of Europe or EU conventions, bilateral agreements are applicable to the request. Just mention the specific articles that apply but don't send a copy of the text of these articles.

Urgent, sensible or confidentiality:

If the case is very urgent or sensible, please give the reasons for that.

Reasons for urgency can be:

- the suspect could be in custody;
- there are legal timeframes to take into account;
- there is a potential risk that evidence can or will be destroyed;
- the case is going to trial soon.

Specific indication at the beginning of the request will underline the expectation of the requesting authority regarding fast procedures in the requested state and its quick response.

If a high level of confidentiality is requested due to ongoing investigations, this should always be clearly indicated.

Measures required:

In paragraph 4.4 more detailed information will be given on some types of measures. In a letter rogatory addressed to foreign states you can never ask for more than legally allowed under national law.

Collected evidence:

If originals or certified copies should be handed over it has to be clearly indicated in the request.

Other information:

If during the pre trial stage information was received via police channels indicate this in the request.

Also mention with whom in the requested state or within an organization like Eurojust or Europol you have been in contact with. Provide the requested state always with the names, email addresses, fax and/or phone numbers of those people. The execution of your request will benefit from this information.

Text of your own applicable penal provisions:

Although not always required it is better to always add them to the legal request as most countries check for double criminality with their own law. Also by providing them in the first place delays in the execution can be avoided.

4.4 General types of measures

Some specific measures that are frequently asked for in legal requests will be mentioned below. These measures are not only described in various conventions like the European Convention for Mutual Assistance in Criminal Matters or the 2nd Additional Protocol to that Convention, but also in the national law on international cooperation in criminal matters.

4.4.1 Hearing of suspects, witnesses or experts

Requesting a hearing is one of the most frequently asked measures.

Generally speaking a hearing is carried out on the basis of the law of and by the competent authority of the requested state.

The hearings can be executed by a judge, a prosecutor or by police officers.

If the requesting state has special legal requirements for a hearing like reading rights to the person, hearing under oath, the presence of lawyer of the suspect or any other special request that need to be fulfilled by the requested state than this should be clearly marked in the legal request. It is very helpful to submit the legal provisions to the request in order to make it possible for the requested state to analyze exactly what requirements have to be met.

The requested state should apply the requested formalities and procedures as long as they do not result in a breach of their own national laws or principles (article 8 of the 2nd Additional Protocol of the EU Convention on Mutual Assistance in Criminal Matters of 2001).

When a delegation of the requesting country is present during the hearing, officials of the requested country ask the questions and not people from the delegation. Via the officials of the requested country all questions mentioned in the legal request and additional ones coming up during the hearing can be asked. Sometimes in practice it even happens that members of the foreign delegation may ask the questions directly.

A practical difficulty sometimes arises when a witness/suspect should be heard in the context of a legal request and it is requested for that a defense lawyer has to be present at the hearing. Especially in countries that are not part of the Council of Europe, such a request can cause problems and the simple fact of asking can cause serious difficulties when sending it abroad. It is therefore good to ask the Ministry of Justice if not sure or a Macedonian liaison officer working in the country the request should be send to. Another option is to ask the foreign liaison officer stationed in Macedonia.

In the case of witnesses it is important to indicate if they should be heard under oath and what would be the legal consequences are should the witness remain silent or not speak the truth. A list of (possible) questions should be added to the legal request. This is purely for indicative reasons and the list does not have to be exhaustive.

4.4.2 Hearing by video conference

The hearing of witnesses and experts by videoconference is a relatively new way of legal assistance. It was designed for the hearing of witnesses and experts whose presence in the requesting state is not possible or not desirable. Witnesses for instance are in danger when being in the requesting state or the health of the witness is bad and therefor travelling abroad will be out of the question. Another reason might be that the witness might have the status of undesirable alien.

The legal request must contain the following information:

- authority making the request;
- object of and the reason for the request;
- where possible, the identity and the nationality of the person concerned;
- where necessary, the name and address of the person to be served;
- reason why it is impossible or undesirable to hear the witness in person;
- list of questions;
- legal information or provisions;
- proposed date and time for a trial connection. It is very advisable to do so and to check whether connections work in advance;
- IP-addresses, log in codes or passwords to be able to connect with each other on the proposed time and date and hour;
- phone numbers (landline and/or cell number) in case something does not work on the trial date or during the actual date of the hearing;
- check times when working with different time zones (GMT/CET/UTC) between the requesting and the requested state.
- proposals concerning the payment of costs of hearing by video conference. The requesting authority usually refunds the costs, unless it is agreed otherwise (Article 20, paragraph 2, as introduced by the Article 5 of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters);
- notification of rights and obligations of a person to be heard, for example the right not to testify (according to the national law of the requesting state) and the legal consequences when these rights and obligations are not observed;
- if an translator is needed;
- if the person to be heard is facing any risk for his safety indicate this.

The requested state generally has to agree with the request for a hearing by videoconference unless:

- this would be against any fundamental rights;
- the requested country does not have the technical capabilities or instruments to execute the request.

For more details check articles 15 and 33 of the National Law on International Cooperation in Criminal Matters and article 9 of the 2nd Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters.

4.4.3 Hearing by telephone conference

This type of hearing is only applicable when national law of the requested state gives this option and the requirements set by article 10 of the 2nd Additional Protocol are met.

In the request it is strongly advisable to write that the person concerned is willing to take part in the hearing.

For more details check articles 15 and 34 of the National Law on International Cooperation in Criminal Matters and article 10 of the 2nd Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters.

4.4.4 Serving judicial documents

Such requests often need to be given priority because otherwise crucial deadlines might elapse. Like any other legal request a request to service legal documents, like a summons or a judgment, shall be executed as much as possible unless the conditions asked for are contrary to the national law of the requested state.

The following points have to be taken into account when sending a legal request to serve documents:

- specify if the documents are for a suspect, a witness or a victim;
- specify when a personal appearance is requested;
- give accurate and exact information on the time and place of the hearing (possibly with alternative dates).
- type of service required;
- specification of documents to be served;
- partial translation. if the documents are for a national of your own country you can skip the translation of those documents. Important is however that you explain in your legal request that he or she is and what the case is about that you are working on. No requested state will serve anything to someone if they have not been able to fully understand that what it is about.

Article 7 of the European Convention on Mutual Assistance in Criminal Matters of 1959 is applicable. Also check article 15 of the National Law on International Cooperation in Criminal Matters.

Some countries made a statement in article 7 paragraph 3 European Convention on Mutual Assistance in Criminal Matters of 1959 on the deadline when a request for servicing judicial document for a court hearing has to be received by their judicial authorities. This time has to be specified in declaration and may not exceed 50 days.

Some examples are:

Armenia:	at least 50 days before the hearing;
Bulgaria:	at least 50 days before the hearing;
Cyprus:	at least 40 days before the hearing;
Croatia:	at least 30 days before the hearing;
Israel:	at least 40 days before the hearing;
Poland:	at least 30 days before the hearing;
Portugal:	at least 50 days before the hearing;
Romania:	at least 40 days before the hearing;
Russia:	at least 50 days before the hearing;
Serbia, Montenegro and Monaco:	at least 30 days before the hearing;
Ukraine:	at least 40 days before the hearing;
Sweden and Switzerland:	at least 30 days before the hearing.

4.4.5 Search and seizure

The requesting state may ask for premises in the foreign state to be searched and any relevant evidence seized and transferred to it.

The execution of a legal request to search or seize shall according to article 5 of the European Convention on Mutual Assistance in Criminal Matters of 1959 be subject to the following conditions:

- it is a criminal offense under the domestic law of the parties;
- it is a criminal offence that under the law of the requested State can and may lead to extradition;
- execution of the request is compatible with the law of the requested state;
- the request only sees to items listed under article 3 of the European Convention on Mutual Assistance in Criminal Matters of 1959;
- all available information should be provided to help to identify the person to be searched. For the search of houses or other premises an indication of the exact address, if known, should be given in the request. If the name of the owner is known give that too. For car searches, information on type, color, number plate should be stated in the request;
- items to be seized should be clearly and precisely described in the request. Any request which is too general may prevent the requested state from taking any action, due to restrictions imposed by its national law;
- If the seizure concerns computer data, it is important to indicate the type of data;
- give details on the connection between the person, the foreign proceedings and the requested measures and the place to be searched. This may seem logical but all too often this is left out and causes delays in the execution as requested states have to ask for additional information;
- if a warrant is needed in the requesting country to be able to file the legal request for search and seizure add a copy of the warrant to the legal request.

Some examples of articles that make it possible to opt for this measure can be articles 1 and 5 of the European Convention on Mutual Assistance in Criminal Matters of 1959. This article claims that states should provide each other assistance in the widest sense possible.

Also article 7 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 20 December 1988 leaves a similar option open. So always check various conventions or treaties as there might be multiple options to go for.

Also check on articles 15 and 26 of the National Law on International Cooperation in Criminal Matters.

4.4.6 Obtaining cyber or electronic data

These days hardly any investigation goes by without the need to get access to or to preserve computer or other electronic data.

For the **freezing of data** the following steps have to be taken:

- provide as detailed as possible information to identify the data that need to be preserved. This includes the location of the computer;
 - explain the reasons why there is a risk of loss of the data;
 - explain that a legal request will be sent as soon as possible as soon as a freezing date and case number of the freezing has been given.
 - make sure the legal request is sent as soon as possible as most data that has been frozen will only stay that way for a limited number of time unless freezing of the data is renewed.

For the **disclosure, search, seizure of electronic data** the following steps have to be taken:

- Identification and location of data: time and place of communication in case of real time collection or interception, technical data necessary to perform such action
- To the greatest extent possible, precise identification of the person, or premises to be searched while giving details on the links between the person, data and the place to be searched;

For **obtaining IP data** the legal request will have to behold the following information:

- Provide the IP address and name and address of the suspect when known;
- Give the timespan (year, date, hour GMT);
- Give the name of the Internet Service Provider (ISP);

Act quickly as most service providers store data for a limited period of time.

Some examples of articles that make it possible to opt for this measure can be article 1 of the European Convention on Mutual Assistance in Criminal Matters of 1959. This article claims that states should provide each other assistance in the widest sense possible.

Also article 7 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 20 December 1988 leaves a similar option open. So always check various conventions or treaties as there might be multiple options to go for.

4.4.7 Obtaining information from a financial institution

For obtaining data from financial institutions the request should hold the following:

- give details of the financial institution like the name of the bank, the address of the head office or of the local branch where the account is;
- context why there are reasons to believe that the account is held in the requested state;
- the account number;
- the timespan for which the information is requested.

Some examples of articles that make it possible to opt for this measure can be article 1 of the European Convention on Mutual Assistance in Criminal Matters of 1959. This article claims that states should provide each other assistance in the widest sense possible.

Also article 7 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 20 December 1988 leaves a similar option open.

Article 15 of the National Law on International Cooperation in Criminal Matters is applicable.

4.4.8 Obtaining telephone data

For obtaining phone data the following steps have to be taken:

- indication of the telephone number;
- information concerning the holder of the telephone number;
- information on the period for which the telephone data are required

Act quickly as most providers only store data for a limited period of time.

Some examples of articles that make it possible to opt for this measure can be article 1 of the European Convention on Mutual Assistance in Criminal Matters of 1959. This article claims that states should provide each other assistance in the widest sense possible.

Also article 7 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 20 December 1988 leaves a similar option open. So always check various conventions or treaties as there might be multiple options to go for.

Check also article 35 for requirements under the National Law on International Cooperation in Criminal Matters.

4.4.9 Interception of telecommunications

The execution of legal requests relating to the interception of telephone calls will only be then rejected if the law of the requested state, the seriousness of the offense or the status of the wiretapped person, do not allow this coercive measure.

When asking a foreign state to wiretap the legal request should at least contain the following information:

- context of the case in the requesting state;
- any relevant information on the status of the person;
- information on the link between that what is asked for and the ongoing investigation;
- information on the time span for which interception of telecommunication is requested.

Some examples of articles that make it possible to opt for this measure can be article 1 of the European Convention on Mutual Assistance in Criminal Matters of 1959. This article claims that states should provide each other assistance in the widest sense possible.

Also article 7 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 20 December 1988 leaves a similar option open. So always check various conventions or treaties as there might be multiple options to go for. Article 15 of the National Law on International Cooperation in Criminal Matters is applicable.

4.4.10 Copy of judicial/criminal records

When obtaining a copy of a judicial record the legal request has to contain the following information:

- context of the case the record is needed for. Does it concern a criminal;
- identification of the person whose judicial record is requested.

For more details check articles 15 and 31 of the National Law on International Cooperation in Criminal Matters and/or article 13 of the European Convention on Mutual Legal Assistance in Criminal Matters of 1959.

4.4.11 Temporary extradition of prisoner

A person who is being detained or is serving a sentence in the territory of one state party whose presence in another state is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for investigations, prosecutions or judicial proceedings in relation to offences may be transferred. A situation may arise where a person serving a prison sentence is required as a witness in court for a trial being held in another state. The authorities of the state in which the person is serving his sentence are then asked to authorize the transfer of the prisoner to the requesting state for that purpose.

Requests for a temporary transfer of a prisoner from one state to another may be requested for in a legal request.

Article 11 of the European Convention on Mutual Legal Assistance in Criminal Matters of 1959 says that such a request may be refused when:

- the prisoner does not agree;
- the prisoner (at that time) can not be missed in the criminal proceedings in the requested state;
- the transfer is liable to prolong the period of detention provided for by the requesting state;
- there are other compelling reasons why it should be refused.

When asking a foreign state to temporarily extradite a prisoner the legal request should at least contain the following information:

- context of the case in the requesting state;
- information on the link between that what is asked for and the ongoing investigation;
- information on the period of time the temporary extradition should at least be;
- guarantee that the prisoner will not be released anytime;
- date when prisoner will be back in requested state.

For more details also check article 13 of the 2nd Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters of 1959. Also check articles 15 and 23 of the National Law on International Cooperation in Criminal Matters.

4.5 Special types of measures

Various special types of measures can be described.

4.5.1 Cross Border Observation

Cross-border observation is the situation when a person, in the context of a criminal investigation in the requesting state and who is observed, travels abroad and needs to be continuously observed in the requested state.

The request for assistance referred to in chapter 4.3 must be sent to an authority designated by each party and having jurisdiction to grant or to forward the requested authorization.

For more details check article 17 of the 2nd Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters.

Also article 18 of the UN Convention on Transnational Organized Crime of 2000 could be of assistance as it says that one state should provide assistance to another state in widest sense possible.

Articles 15 and 35 of the National Law on International Cooperation in Criminal Matters are applicable.

See also the **model request** which can be found in **chapter 9** of this manual.

4.5.2 Controlled delivery

Controlled delivery is the technique used when illegal drugs are detected and allowed to go forward under the control and surveillance of law enforcement in order to secure evidence against the drug traffickers. It has been used most effectively when the drugs are discovered in unaccompanied cargo or in the mail. Controlled deliveries involving a courier present special difficulties and should be treated with caution.

In a controlled delivery, security of information is of very important as is the appropriate knowledge and cooperation of law enforcement authorities. Such cooperation is essential between the country in which the initial detection of drugs has occurred, transit countries and the country of final destination.

For more details check article 12 of the European Convention on Mutual Assistance in Criminal Matters of 1959 and article 18 of the 2nd Additional Protocol to the Protocol to the European Convention on Mutual Assistance in Criminal Matters.

Also article 11 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 20 December 1988 can be applicable. So always check various conventions or treaties as there might be multiple options to go for.

Article 15 of the National Law on International Cooperation in Criminal Matters is applicable.

See also the **model request** which can be found in **chapter 9** of this manual.

4.5.3 Joint Investigation Team (JIT)

Working in a JIT concerns the cooperation between two or more member states in a team on the territory of one of the member states.

A JIT can only be established after a legal request has been issued. The JIT comes into force after an agreement between the contracting judicial parties has been drafted and signed. The agreement should at least contain purpose, duration and members of the team who will be working on the investigation. **After the agreement no more legal requests are required.** This is a *great advantage* for efficiency reasons.

Other advantages are that it enables the competent authorities to be informed of the state of the proceedings and investigations at all times, which can prevent problems linked to concurrent jurisdiction and *ne bis in idem*.

An investigation by a JIT is working under the national law of the country where it is located.

In a JIT a distinction must be made between members coming from the state where the team is operating from and members from the other state that is part of the JIT. The latter persons are called seconded members. For these members, different policies may be included in the JIT agreement.

The JIT agreement must indicate whether, and if so, what investigative activities the seconded members may carry out. The assumption is that these members do not exercise more powers than is possible according to their own national law.

If in one of the participating states something has to be investigated, the seconded members of the JIT can ask their own competent authorities to request such an investigation. Filing a legal request for assistance is not necessary.

For the exercise of investigative powers which are permitted only with the authorization of judicial authorities, the investigating officers must do whatever required under their own national law.

Data received by a team member from a state can be used by his authorities for the following purposes:

- for the purpose of the investigation the JIT was established for;
- with prior consent of the state where the information became available, for detecting, investigating and prosecuting other criminal offenses. Such authorization may only be refused if the use of it in the other state could harm criminal investigations in the state concerned;
- at preventing an immediate and serious threat to the public.

For more details check article 20 of the 2nd Additional Protocol to the Protocol to the European Convention on Mutual Assistance in Criminal Matters. Also check articles 15 and 38 of the National Law on International Cooperation in Criminal Matters.

See also the **model agreement** which can be found in **chapter 9** of this manual.

4.5.4 Parallel Investigation

A parallel investigation is an investigation in which a criminal organization is being simultaneously investigated in several countries. Different countries research and gather information and exchange this with each other. **Each time** they do so they will have to **file a legal request** to each other in order to receive what is required.

4.5.5 Covert Operation

A covert operation is when an investigator or another person is able to infiltrate a criminal organization to gather information or evidence.

The decision to use this technique in a specific case depends on the legislation of the state concerned and on agreements and arrangements between states and should be made on a case-by case basis.

For more details check article 19 of the 2nd Additional Protocol to the Protocol to the European Convention on Mutual Assistance in Criminal Matters.

See also the **model request** which can be found in **chapter 9** of this manual.

4.6 Before sending the request

Before sending a complicated and elaborate request abroad it might be wise to get in touch with a colleague of the requested state to discuss the case and the intended request.

Through this prior consultation with the requested State one can get a quick idea about the possibilities or impossibilities of the intended request. This saves time as one might get information on certain measures are non existing in the requested state, that time frames or other things can unfortunately not be met.

Such prior consultation can also lead to the fact that a better and more precise legal request can be drafted which can be send upfront by email or fax to the requested state to have the draft checked. After the draft or informal copy was checked by representatives of the requested state the official request can be send.

4.7 Sending the request

How a request for legal assistance should be send from the beneficiary country abroad is depending on the applicable treaty.

Based on EU conventions:

The 2nd Additional Protocol to the European Convention of 2001 on Legal Cooperation in Criminal Matters makes **direct contact** between states possible.

Is this the case the legal request does not have to be send through the Ministry of Justice and via diplomatic channels of the Ministry of Foreign Affairs.

If this is applicable use this channel as it is much faster than going through an extra channel which is not needed. The execution of the request will most certainly benefit time wise from it.

Not based on EU conventions or treaties:

But before drafting a legal request which will be send to a non-treaty country get in touch with the International Department of the Ministry of Justice and seek advice on how to act. As things change they can provide advice and assistance through their knowledge. Only by working together with the various partners in international legal cooperation the often difficult and extensive legal framework can be best understood and applied.

The Department can be reached by getting in touch with:

Miss Gordana Milveska, Senior Associate for Extradition

Tel : 00 389 2 3116 648
00 389 2 3116 123
00 389 2 3116 190
extension 128
Fax: 00 389 2 226 975
Email: gordanamilevska@mjustice.gov.mk

or

Mister Hevzat Ismani, Junior Associate for Transfer and mutual legal assistance

Tel: 00 389 2 3116 648
00 389 2 3116 123
00 389 2 3116 190
extension 128
Fax: 00 389 2 226 975
Email: nevzatIsmani@mjustice.gov.mk

or

Miss Marija Begovic, Junior Associate for transfer of sentenced persons

Tel: 00 389 2 3116 648
00 389 2 3116 123
00 389 2 3116 190
extension 128
Fax: 00 389 2 226 975
Email: marijanikolovska@mjustice.gov.mk

or

Miss Vlora Jusufi, Junior Associate for transfer of sentenced person

Tel: 00 389 2 3116 648
00 389 2 3116 123
00 389 2 3116 190
extension 132
Fax: 00 389 2 226 975
Email: vlorajusufi@mjustice.gov.mk

4.8 Translations

The request should preferably always be translated in the language of the requested state although conventions and bilateral agreements/treaties might also give other options like for instance English or French.

Article 16 of the European Convention of 1959 and Article 15 of the 2nd Additional Protocol of 2001, as well as bilateral treaties regulate issues related to the translation of the request and its annexed documents, including procedural and judicial documents to be served.

A request which is translated in the language of the requested state will cause less delays in the execution. If not translated most requested countries will have to that in order to meet domestic standards.

If no decent or proper translator can be found then choose according to conventions or bilateral agreements another language. If so, it is always best to indicate the reason for this in the cover letter.

4.9 Execution of a request

When executing a legal request the rule of thumb in the world is that the **request is executed as much as possible in alignment with the request** itself.

If officials and interested persons may be present if the requested Party this has to be honored (article 4 European Convention on Mutual Assistance in Criminal Matters 1959).

Most conventions even have a general provision at the beginning stating for instance that: "The contracting parties undertake to afford each other, in accordance with the provisions of this convention, the **widest measure of mutual assistance in** proceedings in respect of offences the punishment of which, at the time of the request for assistance, falls within the jurisdiction of the judicial authorities of the requesting party."

This provision is a great one as even things not mentioned specifically in a convention could be requested for and could be executed too. Only if it results in a (grave) breach of national law requested authorities usually don't execute. Other reasons to reject the execution of a request are:

- the request is in conflict with human rights;
- ne bis in idem;
- the accused is prosecuted in the requesting and the requested country for the same facts;
- national security could be in danger;

The execution of a legal request can usually be done fairly easy and quickly if the presence of the requesting prosecutor or judge or police is not asked for.

Official answers that are **send back directly** from the requested state **to the requesting authority can be used in court as evidence** and do not have to pass through the International Department of the Ministry of Justice to become as such.

Presence of officials:

It is sometimes is conceivable that the presence of Macedonian officials for the proper execution of the request is necessary. Factors that play a role in the assessment to go are:

- The case is very complex. Details matter very much and such information is only known to those working on the case;
- The defense must be given the opportunity to be present at the hearing abroad;
- There temporary transfer of the person to be heard to Macedonia is not possible;
- The hearing via videoconference is not possible.

Before travelling abroad the requested state may require that:

- The names of the delegation members have to be listed in the request or later in an additional letter;
- A questionnaire is submitted making preparation of the hearing better possible;

Travel only when formal permission from a competent authority of the requesting state has been granted.

Time frame:

It may be useful to add specific deadlines which are set by the requesting state to ensure that the requested state will respond adequately to its needs, in particular when the request is urgent.

Furthermore, it should be specified if any dates should be avoided (e.g. there is no flight, or a prosecutor has other duties, etc.) when the requested state considers dates for the execution of a request.

Formalities under the law of the requesting state:

It should be specifically written in the legal request if specific procedures and requirements have to be followed when executing it. In addition, in accordance with the 2nd Additional Protocol, the wording of applicable provisions should be included as well as guidance on their application which may be restricted if such procedures and requirements are contrary to the fundamental principles of the legal system of the requested state.

4.10 Costs

A common rule of thumb is that states do not ask money for the execution of legal requests. Each state bears the costs that occur on its own territory. Only in very exceptional cases costs are to be reimbursed by the requesting state.

Costs can be divided into:

Ordinary expenses are borne by the requested states unless otherwise agreed upon. The purpose of this rule is to simplify procedures, based on the hypothesis that a balance will eventually be reached, as States will at some point be both requested and requesting. However, in practice this balance does not always exist and requests are often one-sided. Accordingly, parties may decide to make an exception to the general rule, including for ordinary expenses.

Extraordinary expenses which can be agreed upon between the parties. If expenses of a substantial or extraordinary nature are or will be required in order to execute the request, the parties shall consult in advance to determine the terms and conditions on which the request shall be executed as well as the manner in which the costs shall be borne. This can happen, for example, where assistance is requested for the purpose of finding and producing commercial records, a process that can require in-depth analysis of bulky financial statements by specialized investigators and thus incur substantial costs. In practice: agreements between parties.

Nevertheless, it is often difficult to distinguish between ordinary and extraordinary expenses and the amounts of money involved may vary considerably for states having reached different levels of economic development. In practice, consultations concerning who is responsible for the cost of the mutual assistance should be left open so as to facilitate the assistance and, in particular, if the requesting state has more extensive resources at its disposal than the requested state, then the former should accept to bear the cost.

Legally article 20 of the European Convention on Mutual Assistance in Criminal Matters only allows the refunding of expenses which were necessary for the attendance of experts in the territory of the requested party or for the transfer of a person who is in custody.

The Second Additional Protocol extended this by another paragraph stipulating that costs of phone or video conferences, costs relating to interpreters and witnesses and their travel expenses are also to be paid by the requesting state, unless agreed otherwise. Details of such expenses should be included in the request as precise as possible.

4.11 Templates

For templates please see **chapter 9** of this manual.

Part II - Transfer of Proceedings

5. Transfer of Proceedings

5.1 Introduction

The definition of transfer of proceedings is sending a criminal file by the judicial authorities of one state to that of another with the request to (further) take over the criminal proceedings against a suspect. A transfer usually takes place when the suspect from the country where the crime was committed, has returned to the country of origin, and his extradition has not been requested by the state where the crime was committed.

5.2 Conventions & National law

For the transfer of proceedings in particular, the following conventions and national law are applicable for the beneficiary country:

- European Convention on the Transfer of Proceedings, Strasbourg, 15 May 1972

- European Convention on Mutual Assistance in Criminal Matters (article 21), Strasbourg, 20 April 1959;

- European Convention on Extradition (article 6), Paris, 13 December 1957 and

- Law on International Cooperation in Criminal Matters, Official Gazette of RM, Number 124 from 20 September 2010. The procedure is written down in Chapter III, part 2, articles 46 and onwards;

- No bilateral agreements seem to be signed and applicable.

5.3 Conditions

When considering making a request concerning a transfer of proceedings the requesting state should:

- a. consider the legal basis allowing for the transfer of proceedings, including the treaties ratified by the requested state, the declarations attached to it and the national legislation with regard to the jurisdiction of the requested state;

- b. pay attention to different alternatives to transfer of proceedings such as the option to extradite or the option to send a request for mutual legal assistance in which it is requested to hear certain people or to ask for a temporary transfer;

- c. the willingness and ability of witnesses to travel and give evidence in the jurisdiction of the requested state;

- d. the interests of victims and whether they would be prejudiced, for example in their possibilities to claim compensation, if any prosecution were to take place in one state rather than another;

- e. take the proportionality of the case with regard to the procedure initiated into account;

- f. take the efficiency of the procedure into account and last but not least;

- g. always apply specific requirements of the convention.

Circumstances or specific requirements under which a request for a transfer of proceedings, according to article 6 European Convention on the Transfer of Proceedings, **is considered appropriate:**

- a. if the suspected person is a resident in the requested state;
- b. if the suspected person is a national of the requested state or if that state is his state of origin;
- c. if the suspected person is undergoing or is to undergo a sentence involving deprivation of liberty in the requested state;
- d. if proceedings for the same or other offences are being taken against the suspected person in the requested state;
- e. if a transfer guarantees the interests of getting the truth and if the most important items of evidence are located in the requested state (= the so called “positive conflict”);
- f. to prevent possible impunity (the so called “negative conflict”);
- g. if it considers that the enforcement in the requested state of a sentence is likely to improve the prospects for the social rehabilitation of the person sentenced;
- h. if the presence of the suspected person cannot be ensured at the hearing of proceedings in the requesting state and that his presence in person at the hearing of proceedings in the requested state can be ensured;
- i. if it considers that it could not itself enforce a sentence if one were passed, even by having recourse to extradition, and that the requested state could do so;

Circumstances under which a transfer of proceedings **is not considered appropriate or should not be considered:**

- a. the gravity of the crime committed and the shock it caused to society;
- b. the defendant is a national of the beneficiary country;
- c. co-perpetrators can only be tried in the beneficiary country;
- d. transfer is in contradiction with the finding the truth, as the most important evidence is in the beneficiary country and can not be or is preferable not transferred;
- e. the case in the beneficiary country is eligible for dismissal.

The above mentioned should provide guidance in assessing whether a transfer of proceedings is desirable. This list is not limitative. As each case is different, different decisions have to be taken. A balance must be found between the interests of the accused and the public interest served by an effective fight against crime.

5.4 Jurisdiction

Transfer without treaty basis

Transfer of proceedings without a treaty basis is only possible if both the requesting and the requested state can claim jurisdiction under their own national law. The requesting state usually has jurisdiction based on the fact that the offense was committed on its territory.

European Conventions

On the basis of article 21 of the European Convention on Mutual Assistance in Criminal Matters of 1959 the authorities of another member state can file a report on crimes committed in order to provoke prosecution in that other member state. The report that has been filed can even relate to cases in which the requesting state has no jurisdiction itself. As the treaty itself does not establish jurisdiction in the requested state, a transfer of proceedings can only take place if that state can claim jurisdiction through his own national legislation.

The big advantage of using the European Convention on the Transfer of Proceedings is that, just by the request, jurisdiction of the requested state is established for each offense which is included in that request. This is written in article 2 of the that convention.

Double criminality

Double criminality is, according to article 7 European Convention on the Transfer of Proceedings, a condition for transfer of proceedings. The crime committed should not only be punishable under the law of the requesting state but also in that of the requested state.

5.5 First initiative

Before submitting a request organize or set up, if considered necessary, an informal **direct consultation** by phone, e-mail or videoconference with the state to which a request might be finally addressed. One can discuss up front topics like:

- the appropriateness and potential success of the request envisaged;
- ways to deal with differences in national legislation like issues on jurisdiction, admissibility of evidence;
- the timeframe and practicalities of the cooperation like the names of contact persons, elements to be included in the request and/or translation requirements and costs.

5.6 Translation

The European Convention on the Transfer of Proceedings and the European Convention on Mutual Assistance in Criminal Matters does not require the documents to be translated, unless a member state has explicitly required so in a declaration (articles 18 European Convention on the Transfer of Proceedings and 16 EU Convention on Mutual Assistance in Criminal Matters). If the intention is to transfer a huge case to another country it is preferred to send a detailed summary of the case first. It will give the requested state a chance to access the case first and translation costs and time can be spared.

5.7 Seized goods

Items seized can also be transmitted when a transfer of proceedings is going to taking place. It is best not to send these items straight away when offering the case file to the requested state. Better it is to mention in the cover letter that these items were confiscated, what they are and the requested state should inform the requesting state whether it wishes them to receive.

5.8 Decision domestic Minister of Justice

If a public prosecutor sends his proposal not directly to the foreign authorities but first to the Ministry of Justice the Minister will decide as soon as possible on the proposal to transfer the proceedings in a case.

If the Minister of Justice decides to transfer the case, he will write a formal request to the foreign authorities. It is good to inform the public prosecutor accordingly. He will also be informed about the decision of the foreign state regarding the request.

Should the Minister of Justice not decide to transfer the case, he will inform the prosecutor also as the public prosecutor will regain the right to prosecute the suspect in the beneficiary country.

5.9 Sending & arrival of request abroad

In urgent cases, requests and communications may be sent through the Interpol (article 13 European Convention on the Transfer of Proceedings in combination with article 6 European Convention on Mutual Assistance in Criminal Matters). Such a proposal is usually possible only as long as the case was not taken to court yet.

A motivated request can arrive **via Ministry of Justice** but often **directly** from the foreign authorities. Sometimes through diplomatic channels.

In urgent cases, requests and communications may be sent through the Interpol (article 13 European Convention on the Transfer of Proceedings in combination with article 6 European Convention on Mutual Assistance in Criminal Matters). Such a proposal is usually possible only as long as the case was not taken to court yet.

When the requesting state has requested proceedings, it can no longer prosecute the suspected person for the offence the proceedings have been requested for or enforce a judgment which has been pronounced previously in that state against him for that offence. Until the requested state's decision on the request for proceedings has been received, the requesting state shall, however, retain its right to take all steps in respect of prosecution, short of bringing the case to trial, or, as the case may be, allowing the competent administrative authority to decide on the case (article 21 European Convention on the Transfer of Proceedings).

5.10 Rejection by foreign Minister of Justice

The Minister of Justice has to deny a request if the treaty obliges him. He may only reject if the treaty permits it.

Article 10 European Convention on the Transfer of Proceedings says that the requested state shall not take action on the request:

- a. if the request does not comply with the provisions of articles 6, paragraph 1, and 7, paragraph 1;
- b. if the institution of proceedings is contrary to the provisions of article 35;
- c. if, at the date on the request, the time-limit for criminal proceedings has already expired in the requesting state under the legislation of that state;

Article 11 European Convention on the Transfer of Proceedings states that the requested state may not refuse acceptance of the request in whole or in part, except in any one or more of the following cases:

- a. if it considers that the grounds on which the request is based under article 8 are not justified;
- b. if the suspected person is not ordinarily resident in the requested state;
- c. if the suspected person is not a national of the requested state and was not ordinarily resident in the territory of that state at the time of the offence;
- d. if it considers that the offence for which proceedings are requested is an offence of a political nature or a purely military or fiscal one;
- e. if it considers that there are substantial grounds for believing that the request for proceedings was motivated by considerations of race, religion, nationality or political opinion;
- f. if its own law is already applicable to the offence and if at the time of the receipt of the request proceedings were precluded by lapse of time according to that law; article 26, paragraph 2, shall not apply in such a case;
- g. if its competence is exclusively grounded on article 2 and if at the time of the receipt of the request proceedings would be precluded by lapse of time according to its law, the prolongation of the time-limit by six months under the terms of article 23 being taken into consideration;
- h. if the offence was committed outside the territory of the requesting state;
- i. if proceedings would be contrary to the international undertakings of the requested state;
- j. if proceedings would be contrary to the fundamental principles of the legal system of the requested state;
- k. if the requesting State has violated a rule of procedure laid down in this convention.

5.11 Accepting & transmitting file to foreign domestic authorities

If the foreign Minister of Justice sees no reason for rejection he will send the file to the domestic public prosecutor in the district where the accused is living. If the public prosecutor has received the request directly this will, of course, not take place.

5.12 Value official reports requesting authorities

Official reports of the requesting authorities that were transferred generally have the same value as domestic reports or files do. So they can be used in court as evidence unless stated otherwise.

5.13 Hearing of suspect

Only if the request is based on a treaty and the competence to prosecute is resulting from that treaty, the suspect must first be interviewed by the public prosecutor, or at least do so to be summoned (articles 2 and 17 European Convention on the Transfer of Proceedings).

5.14 Final decision

The requested state shall decide as quickly as possible on the request for transfer of proceedings and promptly communicate the decision to the requesting state. The requested state shall inform the requesting state of a waiver of proceedings or of the decision taken as a result of proceedings. A certified copy of any written decision shall be transmitted to the requesting state (article 16 European Convention on the Transfer of Proceedings).

Even if the Minister of Justice at first saw no reason to reject the request it may still happen later in the process as things might come up which were unforeseen at time the Minister received the file.

5.15 Effects in requesting state

The scope of a transfer is limited, concerning only certain offenders and certain offences. Transfer can be implemented at any point in the procedure: from the commission of the offences to the final judgment, as long as, concerning the latter, the interested party cannot invoke the principle of ne bis in idem to the requested state.

Article 21 European Convention on the Transfer of Proceedings states that when the requesting state has requested proceedings, it can no longer prosecute the suspected person for the offence in respect of which the proceedings have been requested or enforce a judgment which has been pronounced previously in that state against him for that offence. This can change when the requested state's decision on the request for proceedings has been received.

The right of prosecution and of enforcement shall revert to the requesting state:

- a. if the requested state informs it of a decision in accordance with Article 10 not to take action on the request;
- b. if the requested state informs it of a decision in accordance with Article 11 to refuse acceptance of the request;
- c. if the requested state informs it of a decision in accordance with Article 12 to withdraw acceptance of the request;
- d. if the requested state informs it of a decision not to institute proceedings or discontinue them;
- e. if it withdraws its request.

5.16 Templates

For templates in this procedure see **chapter 9** of this manual.

Part III - Transfer of Sentenced Persons

6. Transfer of Sentenced Persons

6.1 Introduction

In a globalized world, transfers of convicted criminals to complete their sentences in their home countries are becoming more and more common. This procedure differs from extradition, because when a person whose extradition is requested, that person will travel abroad in order to be prosecuted for the crime(s) he/she is accused of. In this procedure sentence lies at the basis of it. In article 1 paragraph a. the Convention on the Transfer of Sentenced Persons describes a **sentence** as: “any punishment or measure involving deprivation of liberty ordered by a court for a limited or unlimited period of time on account of a criminal offence”.

In some countries, the common practice is to deport or otherwise remove all foreign sentenced persons immediately. On the face of it, such removal may seem to be an attractive solution, as the state in which the offence has been committed may be reluctant to allow offenders to remain there. However, it has the obvious disadvantage that such foreign sentenced persons may avoid punishment completely. Alternatively, sentenced persons could be made to serve their sentences in the country in which they have committed their crimes, and then be expelled following the completion of the sentence. This approach, however, also presents challenges. Not only may serving a sentence in a foreign country inhibit the rehabilitation of those persons, but there may be other reasons for transferring them back to their home countries to serve their sentences there.

The initiative for the procedure to transfer sentenced persons can be taken by:

- the state who sentenced the person in the first place;
- the convicted person himself or
- the state where the sentence has to be transferred to.

In practice, transfers take place without any trouble, through application of the relevant international regulations and national laws.

6.2 Conventions & Bilateral Agreements & National laws

As with other forms of international cooperation in criminal matters also in this procedure treaties and laws are of great importance here. There is no single international legal framework that governs all international transfers of sentenced persons. The list below is an indicative one and doesn't pretend to be complete.

** For the transfer of sentences the following **conventions** are important for the beneficiary country:*

- Convention on the Transfer of Sentenced Persons (CTSP), Strasbourg, 21 March 1983;
- Additional Protocol to the European Convention on the Transfer of Sentenced Persons, Strasbourg, 18 December 1997.

** For the transfer of sentences the following **bilateral agreements** are important for the beneficiary country:*

Albania:

Agreement between the Government of the beneficiary country and Albania on Mutual Enforcement of Court decisions in Criminal Cases, Official Gazette Number 16/98, 2 October 1998.

Bosnia and Herzegovina:

Agreement between the Government of the beneficiary country and Bosnia and Herzegovina on Mutual Enforcement of Court Decisions in Criminal Matters, Official Gazette Number 59/06, 2006. It was amended 30 July 2014, Official Gazette Number 135/2013.

Croatia:

Agreement between the Government of the beneficiary country and Croatia on Mutual Enforcement of Court Decisions in Criminal Matters, Official Gazette Number 17/95, 26 May 1995;

Kosovo:

Agreement between the Government of the beneficiary country and the Republic of Kosovo on the Transfer of Sentenced Persons, Official Gazette Number 178/2011, 24 June 2012.

Montenegro:

Agreement between the Government of the beneficiary country and Montenegro on the execution of court decisions in criminal matters, 26 October 2016;

Serbia:

Agreement between the Government of the beneficiary country and Serbia on Mutual Execution of Court Decisions in Criminal Cases, Official Gazette Number 24/13, 23 February 2013.

Slovenia:

Agreement between the Government of the beneficiary country and Slovenia on Mutual Enforcement of Court Decisions in Criminal Cases, Official Gazette Number 24/96, 5 September 1997;

**** As for regulation at national level:***

- Law on Criminal Procedure (CPC), Official Gazette Number 150/2010;
- Law on International Cooperation in Criminal Matters, Official Gazette of RM, Number 124 from 20 September 2010. The procedure when an imposed sentence on a foreign national is transferred abroad is written down in part two, articles 92 and onwards.

6.3 General Principles

Also in the Convention on the Transfer of Sentenced Persons, like in many other conventions as we see, that parties undertake to afford each other the **widest measure of cooperation** in respect of the transfer of sentenced persons in accordance with the provisions of this Convention.

A person sentenced in the territory of a party may be transferred to the territory of another party, in accordance with the provisions of this convention, in order to serve the sentence imposed on him. To that end, he may express his interest to the sentencing state or to the administering state in being transferred under this convention.

All the above is written in article 2 Convention on the Transfer of Sentenced Persons.

The **overriding principle** when transferring a sentenced person is that of **rehabilitation, resocialization and reintegration** into the community better than elsewhere. This is a positive reason for transferring sentenced persons to a State with which they have social links to serve their sentences. Imprisonment in a foreign country, away from family and friends, may also be counterproductive as families may provide prisoners with social capital and support, which improve the likelihood of successful resettlement and reintegration.

A **second argument** in favour of transferring sentenced persons is that, even if it cannot be demonstrated that their chances of social rehabilitation and successful reintegration into the community would be improved by transferring them, it may be **more humane** for them to serve their sentences in their home countries.

Differences in language, culture and religion and distance from family and friends may increase the difficulties of imprisonment and aggravate the impact of the sentence imposed.

6.4 Advantages requesting and requested states

The *benefits for the sentencing state* are that it can remove a foreign national prisoner at the expense of the receiving state rather than by deportation and can free up resources that can be spend on its own prisoners and their needs. Finally, by being transferred, a prisoner has the opportunity to renew and strengthen his ties with his home state. This can diminish the chance that he will return to the sentencing state and commit new crimes.

The *benefits for the requested state* are by getting exact information about the offence for which the prisoner was convicted. Not only this information but for instance also previous criminal records and his personal behaviour. This sort of detailed information is not available when a prisoner is deported at the end of his sentence. Additionally, the requested state is given the chance of using its criminal justice system to exercise some control over the prisoner prior to and following his release into society. The requested state can assist the prisoner in reintegrating into society, using all tools available through its system.

6.5 Conditions

All agreements for the transfer of sentenced persons contain explicit conditions that must be fulfilled before such a person can be transferred.

According to article 3 of the Convention on the Transfer of Sentenced Persons a sentenced person may be transferred only on the following conditions:

- a. if that person is a national of the administering state;
- b. if the judgment is final;
- c. if, at the time of receipt of the request for transfer, the sentenced person still has at least six months of the sentence to serve or if the sentence is indeterminate (*it must not need to be that period. States may agree amongst themselves to use a transfer instrument in cases where the enforceable sanction is less than six months*);
- d. if the transfer is consented to by the sentenced person or, where in view of his age or his physical or mental condition one of the two states considers it necessary, by the sentenced person's legal representative;
- e. if the acts or omissions on account of which the sentence has been imposed constitute a criminal offence according to the law of the administering states would constitute a criminal offence if committed on its territory and f if the sentencing and administering states agree to the transfer;
- f. in exceptional cases, parties may agree to a transfer even if the time to be served by the sentenced person is less than that specified in paragraph 1.c;
- g. any state may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, indicate that it intends to exclude the application of one of the procedures provided in Article 9.1.a and b in its relations with other parties;
- h. any state may, at any time, by a declaration addressed to the Secretary General of the Council of Europe, define, as far as it is concerned, the term "national" for the purposes of this Convention.

According to article 96 of the Macedonian National Law on International Cooperation in Criminal Matters a transfer may be carried out only if:

- a. the sentenced person is a citizen of the state in which the person will serve out his or her prison term;
- b. the judgment is final;
- a. at the time of receipt of the request for transfer, the sentenced person has to serve out a minimum of six months of the prison term duration, and the person has given his or her consent;
- c. the sentenced person, the person's legal representative, or the person's guardian gives consent to transfer due to the person's age or psychophysical condition;
- d. the acts for which the person was sentenced are specified as criminal offense in the state in which the sentence will be enforced (=double criminality);
- e. the beneficiary country and the foreign state reach an agreement on the terms for the transfer.

6.6 Rules of procedure request

When a sentence was imposed by a judge of the beneficiary country the following rules or procedure apply:

- if a sentenced person of foreign nationality informs the local authorities that he or she wishes to be transferred to another state the domestic authority informs the Ministry of Justice about this;
- the Ministry of Justice informs the foreign Ministry of Justice about this intention and asks that authority to send a transfer request;
- the Ministry of Justice refers the request to the competent court, which communicates its final judgment to the Ministry as soon as possible and decides whether the statutory conditions are met;
- if the statutory conditions are met the request/letter to the foreign Ministry of Justice shall include:
 - a. the name, date and place of birth of the sentenced person;
 - b. his address, if any, in the requested state;
 - c. a statement of the facts upon which the sentence was based;
 - d. a certified copy of the judgment and the law on which it was based;
 - e. the nature, duration and date of commencement of the sentence;
 - f. a document or statement that the sentenced person is a national of the state he/she wants to be transferred to.
- the beneficiary country will also ask for information on the rules on parole or other practices in the foreign country;
- the beneficiary country will transmit information about the medical situation of the person who wishes to be transferred;

- the beneficiary country will also transmit information on the early release procedure;
- the beneficiary country will not specifically transmit information on the behavior of the prisoner;
- after the consent of the foreign Ministry of Justice the requesting Ministry of Justice will inform the prison that all conditions for transfer are met;
- the foreign Ministry of Justice and the Ministry of Justice of the beneficiary state will make arrangements on the date of the transfer and the names of the officials responsible for the transfer;
- as soon as the Ministry of Justice of the foreign state has provided all the relevant information, the Ministry of Justice of the beneficiary country informs the court, the prison and the Ministry of Internal Affairs (Interpol) so that the prisoner can be escorted to the location where the hand over to the foreign authorities can take place;
- the Ministry of Internal Affairs (INTERPOL) will order the foreign prisoner to be taken to the international airport or a land border where the handover can take place;
- the transfer of sentenced persons from the sentencing state to the other state might involve transit through the territory of a third state. In principle, permission of the third state is always required for such transit. This will have to be organized by the requesting state.

6.7 Consequences

6.7.1 Effect for requesting state

According to article 8 of the Convention of Transfer of Sentenced Persons by taking over the sentenced person the requesting state will have to suspend the enforcement of the sentence in his state. The requesting state may and can no longer enforce that sentence.

6.7.2 Effect for requested state

According to article 9 of the Convention of Transfer of Sentenced Persons the competent authorities of the requested state will:

-continue the enforcement of the sentence immediately or through a court or administrative order

or

- convert the sentence, through a judicial or administrative procedure, into a decision of that state the enforcement of the sentence shall be governed by the law of the requested state shall be competent to take all appropriate decisions.

6.8 Costs

Generally all costs during the procedure are met by the requested state besides the costs that were made on the territory of the requesting state. This can be found in article 17 of the Convention on the Transfer of Sentenced Persons.

6.9 Templates

For templates in this procedure see **chapter 9** of this manual.

Part IV - Extradition

7. Extradition

7.1 Introduction

Extradition is the removal of a person from a one state to the authorities of another state for the purpose of a criminal investigation or for the enforcement of a penalty imposed on him in that state.

According to article 1 of the European Convention on Extradition of 1957 all contracting parties undertake to surrender to each other all persons against whom the competent authorities of the requesting party are proceeding for an offence or who are wanted by the said authorities for the carrying out of a sentence or detention order.

An extradition procedure is not aimed at:

- the investigation of a criminal offence;
- the investigation of facts to prove that an offence was committed;
- determining criminal charges against a person.

An extradition procedure is solely there to decide on the admissibility of the extradition request itself.

Extradition is different from expulsion or repatriation. Expulsion is when a person has to leave the territory where he or she is present without authorization. Repatriation is not in the criminal domain and consists of ensuring the return of a person to his or her country or place of origin.

7.2 Conventions & Bilateral Agreements & National Law

** For extradition the most important conventions on extradition are:*

- European Convention on Extradition, Paris, 13 December 1957;
- Additional Protocol to the European Convention on Extradition, Strasbourg, 15 October 1975;
- European Convention on Mutual Assistance in Criminal Matters, Strasbourg, 20 April 1959 in relation to the Additional Protocol (17 March 1978) and the Second Additional Protocol (8 November 2001);
- UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 20 December 1988;
- United Nations Convention against Transnational Organized Crime (UNTOC), Palermo, 15 November 2000;
- European Convention on Human Rights, Rome, 4 June 1950.

The list is an indicative one and doesn't pretend to be complete.

** The beneficiary country has several bilateral agreements on extradition with:*

Albania:

Agreement between the Government of the beneficiary state and Albania on Extradition, Official Gazette Number 16/98, 2 October 1998;

Bosnia and Herzegovina:

Agreement between the Government of the beneficiary state and Bosnia and Herzegovina on Extradition, Official Gazette Number 59/06, 2006. It was amended 30 July 2014, Official Gazette Number 135/2013;

Croatia:

Agreement between the Government of the beneficiary state and Croatia on Extradition, Official Gazette Number 57/2012, 22 November 2012;

Kosovo:

Agreement between the Government of the beneficiary state and the Republic of Kosovo on Extradition, Official Gazette Number 178/2011, 24 June 2012;

Montenegro:

Agreement between the Government of the beneficiary state and Montenegro on Extradition, Official Gazette Number 40, 17 July 2012;

Serbia:

Agreement between the Government of the beneficiary state and Serbia on Extradition, Official Gazette Number 57/12, 6 December 2012;

Convention on Extradition between the Kingdom of Serbia and the United States of America, 12/25 October 1901, Serbian Gazette Number 33/1902, 12 June 1902;

Slovenia:

Agreement between the government of the beneficiary state and Slovenia on Extradition, Official Gazette Number 24/ 96, 5 September 1997;

United States of America:

Convention on Extradition between the Kingdom of Serbia and the United States of America, 12/25 October 1901, Serbian Gazette Number 33/1902, 12 June 1902.

** In the national law information on extradition can be found in:*

Chapter IV (articles 50 onwards) of the national law on international legal cooperation in criminal matters 2010.

7.3 General conditions for extradition

An extradition request is generally granted for when, according to article 50 of the National Law on International Legal Cooperation in Criminal Matters 2010, at least the following conditions are met:

- an issued international arrest warrant;
- extradition for an offence is an offence not only in the requested state but also in the requested state (*double criminality*);
- extradition of a person based on issued international arrest warrant shall be permitted for criminal offences for which according to the domestic legislation a prison sentence with a minimum of one year can be imposed;
- extradition shall be permitted if the wanted person has to serve a sentence minimum of four months;
- extradition in the cases from the previous paragraphs of this article shall be permitted if the offence an extradition is requested for is punishable under the criminal code of the beneficiary country;

The above mentioned is in line with article 3 of the European Convention on Extradition. The convention adds a few other conditions like:

- extradition is when, in accordance with the provisions of the convention, possible for fiscal offences in connection with taxes, duties, customs and exchange but only if the contracting states to the convention have decided to do so (article 5 of the European Convention on Extradition in combination with article 56 of the National Law on International Legal Cooperation in Criminal Matters 2010);
- a person whose extradition has been requested shall only be prosecuted, sentenced or detained with a view to the carrying out of a sentence or detention order for an offence for which the extradition was requested for (article 14 of the European Convention on Extradition in combination with article 77 of the National Law on International Legal Cooperation in Criminal Matters 2010). This is also called the rule of specialty.

7.4 Objections for extradition

A request for extradition is not approved or possible:

- ne bis in idem (article 9 of the Convention on Extradition 1957 in combination with article 52 of the National Law on International Legal Cooperation in Criminal Matters 2010);
- for offences considered by the requested state as a political offence or as an offence connected with a political offence (article 3 of the European Convention on Extradition in combination with article 53 of the National Law on International Legal Cooperation in Criminal Matters 2010);
- for offences under military law which are not offences under ordinary criminal law (article 4 of the European Convention on Extradition in combination with article 54 of the National Law on International Legal Cooperation in Criminal Matters 2010);
- if it concerns a national of the beneficiary country (article 6 of the European Convention on Extradition in combination with article 52 paragraph 1 of the National Law on International Legal Cooperation in Criminal Matters 2010);

7.5 Procedure domestic judicial authority

After the provisional arrest of the wanted person by the foreign authorities the beneficiary country has to send an official request for extradition as soon as possible.

It is recommended, once the wanted person has been taken into custody for the purpose of extradition, that the transmission deadline for the request for extradition be strictly respected, or else the authority that carried out the provisional arrest could set the individual free before receiving the request for extradition.

According to articles 76 and 80 of the National Law on International Legal Cooperation in Criminal Matters 2010 the local procedure is as follows:

- 1) The domestic judicial authority which has issued an international arrest warrant will deliver to the Ministry of Justice the overall records in original or certified copies together with the request for extradition;
- 2) If there is a *criminal investigation in progress* before a domestic judicial authority against a person whose extradition is requested, the domestic judicial authority will send:
 - a) an official extradition request;
 - b) an order for a judicial investigation;

- c) a prosecution motion or indictment;
 - d) a detention sentence;
 - e) an order to issue an international arrest warrant and
 - f) an extract from the criminal code of the beneficiary country.
- 3) If the person whose extradition is requested has been *effectively sentenced*, the competent court or penal or correctional institution will send:
- a) an extradition request;
 - b) a final court verdict;
 - c) an order for a referral to serve the prison sentence or a referral act;
 - d) an order to issue an international arrest warrant and
 - e) an extract from the criminal code of the beneficiary country.
- 4) The domestic judicial authority shall deliver the extradition request and the documents listed in article 58 of the National Law on International Legal Cooperation in Criminal Matters 2010 to the Ministry of Justice written in Macedonian and translated to the language of the state the extradition request has been issued to, or in one of the official languages of the Council of Europe.

7.6 Content extradition request

The documents required by articles 12 of the European Convention on Extradition 1957 in combination with articles 58 and 74 of the National Law on International Legal Cooperation in Criminal Matters 2010 shall be delivered by the domestic judicial authority to the Ministry of Justice.

The letter to the foreign judicial authorities of the requested state will be send via diplomatic channels by the Ministry of Justice and should consist of at least following:

- a. the authority presenting the request;
- b. contact information of the requesting authority;
- c. information on the person to be extradited like name, date and place of birth but also photos, id or passport copies, birth certificate, finger prints, physical description of the suspect e.g. height, colour of hair, colour of eyes, special features, tattoo marks or other relevant information;
- d. an original or authenticated copy of the conviction;
- e. the international arrest warrant;
- f. when the case is still in the investigative or prosecution phase a statement of the facts of each offence specifying, as accurately as possible the time and place of the commission of the offence;
- g. the relevant legislation;
- h. any other documentation required under the relevant treaty;
- i. if no bilateral or multilateral convention is applicable in the relations between the requesting state and the requested state, it may be useful to indicate that the requesting country will provide the same assistance for requests for extradition received from the requested country in the future;

- j. an assurance of respect of the rule of speciality;
- k. signature of the issuing authority, date and official seal.

Other requirements are:

- a. translation into the local language of the state the request is sent to or into English;
- b. if in the foreign state a death sentence could be given for a criminal offence for which extradition is requested, the extradition may only be granted if the foreign state provides sufficient guarantees that the death penalty will not be carried out (article 11 of the Convention on Extradition 1957 in combination with article 55 of the national law on international legal cooperation in criminal matters 2010).

7.7 Costs for extradition

Traditionally, each state meets the costs made on its own territory, such as the costs connected with the arrest, detention, guarding and food, the transfer of the person and the seizure and transportation of assets.

The costs made by the transit through the territory of the requested state are traditionally met by the requesting party.

Special arrangements relating to extradition costs may be provided for between the states concerned. In practice, consultations concerning who is responsible for the cost of the extradition should be left open so as to facilitate the assistance and, in particular, if the requesting state has more extensive resources at its disposal than the requested state, then the former should accept to bear the cost.

7.8 Surrender

After examining the request, the requested party informs the requesting party of its decision regarding the extradition. Any complete or partial refusal will have to be motivated.

If the response is positive, it is advisable to proceed with the surrender of the wanted individual.

Surrender of the individual after the request has been accepted:

The requesting party is informed of the place and date of surrender, as well as the length of time for which the wanted person was detained with a view to extradition;

If circumstances beyond its control prevent the surrender or reception of the person to be extradited, the interested party shall inform the other party. The two parties shall take a joint decision on a new date for surrender.

Postponed surrender:

The requested state may, after taking its decision concerning the request for extradition, postpone the surrender of a person sought in order to prosecute that person or, if that person has already been convicted, in order to enforce a sentence imposed for an offence other than that for which extradition is sought;

Conditional surrender:

The requested state may also temporarily surrender the person sought to the requesting state on conditions to be agreed between the parties.

7.9 Unsubscribe or sign out international arrest warrant

What is often forgotten is to unsubscribe the international arrest warrant from the Interpol systems once the person has been arrested and extradited. This can cause a problem when the extradited person after his release is checked during a regular patrol of the police or by the border guards. As they check their systems they might see that this person is wanted and arrest him for the same warrant as it had not been deleted from the systems yet. For this reason once extradited this warrant should be signed out immediately.

7.10 Templates

For templates in this procedure see chapter 9 of this manual.

Part V - Bibliography

8. Bibliography

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- European Judicial Network at website http://www.ejn-crimjust.europa.eu/ejn/ejn_home.aspx.
- Council of Europe, Committee of Experts on the Operation of European Conventions on Cooperation in Criminal Matters at website <http://www.coe.int/en/web/portal/home> and click next on “rule of law”;

Part VI - Annexes

Annex I - Model Request Form International Request for Legal Assistance

Date :

Requesting authority :

Location :

Country :

Reference :

Luris :

Requested authority :

Location :

Country :

To the competent authorities

Esteemed colleague,

I would like to draw your attention to the following matter.

On (date) and under my responsibility a criminal investigation was started against:

Surname :

First names :

Other relevant name(s), if applicable :

Aliases, if applicable :

Sex :

Date of birth :

Place of birth :

Address :

Zip code and city/town :

Nationality :

Identity number or social security number :

Passport/ID card number, if available :

Language(s) which the person understands :

Photo(s) :

Relation to an earlier legal request:

Indicate whether this request supplements an earlier request. If applicable, please provide a copy of that request plus the cover letter to this one and a reference number that has been given by the issuing and executing authority):

.....

Urgency:

Please indicate if there is any urgency due to

Evidence being concealed or destroyed

Imminent trial date

Any other reason

Please specify below:

Summary of the facts:

Set out the reasons why the request is issued, including a summary of the underlying facts, a description of offences charged or under investigation, the stage the investigation has reached, the reasons for any risk factors and any other relevant information.

.....
.....

Nature and legal classification of the offence(s) for which the request is issued and the applicable statutory provision/code:

.....
.....

I respectfully request the following assistance pursuant to:

Choose the applicable convention(s)

- European Convention on Mutual Assistance in Criminal Matters (Strasbourg, 20 April 1959);
- Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, Strasbourg, 17 March 1978;
- Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, 8 November 2001;
- Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, Strasbourg, 08 November 1990;
- Criminal Law Convention on Corruption, Strasbourg, 27 January 1999;
- Additional Protocol to the Criminal Law Convention on Corruption, Strasbourg, 15 May 2003;
- Additional Protocol to the Convention on Cybercrime, concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems, Strasbourg, 28 January 2003;
- European Convention on the Transfer of Proceedings, Strasbourg, 15 May 1972;
- Protocol Amending the Single Convention on Narcotic Drugs, Geneva, 1961;
- United Nations Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances , Vienna, 20 December 1988;
- United Nations Convention for the Prevention of Terrorist Bomb Attacks, New York, 15 December 1999;
- United Nations Convention for the Suppression of the Financing of Terrorism, New York, 9 December 1999;
- United Nations Convention against Transnational Organized Crime, New York, 15 November 2000;
- United Nations Convention against corruption, New York, 31 October 2003;
- United Nations Convention on the Prevention of Nuclear Terrorism, New York, 13 April 2005;

- Non treaty basis as the request is based on the principle of reciprocity;
- Other (like bilateral agreements)

Since there is evidence suggesting that important evidentiary material for this criminal case is available within your jurisdiction, I respectfully request your assistance in the following matters.

Requirements:

Describe the assistance/investigative measure(s) required AND indicate, if applicable, if it is one of the following investigative measures:

.....
.....

- Obtaining information or evidence which is already in the possession of the executing authority
- Obtaining information contained in databases held by police or judicial authorities
- Hearing
 - witness
 - expert
 - suspected or accused person
 - victim
 - third party
- Hearing by videoconference or other audiovisual transmission
 - witness
 - expert
- suspected or accused person
- Hearing by telephone videoconference
 - witness
 - expert
- Information on bank and other financial accounts
- Information on banking and other financial operations
- Identification of persons holding a subscription of a specified phone number or IP address
- Spontaneous exchange of information
- Order to produce documents
- Sending and service of procedural documents
- Interception, recording and transcription of telecommunications (wiretapping)
- Interception and recording of other forms of communication
- Search and seizure
- Freezing of bank accounts
- Provisional measure(s) to prevent the destruction, transformation, moving, transfer or disposal of an item that may be used as evidence
- Controlled deliveries
- Cross border observation
- Cross border hot pursuit
- Cross border tracking (by placing tracking device on vehicle person)
- Infiltration
- Superficial body search
- Invasive body search
- Joint investigation teams
- Temporary transfer of a person held in custody to the issuing state
- Temporary transfer of a person held in custody to the executing state
- Other

Additional requirements for certain measures:

Fill out the sections relevant to the investigative measure(s) requested

A. Transfer of a person held in custody:

(1) If a temporary transfer to the issuing state of a person held in custody for the purpose of the investigation is requested, please indicate whether the person consented to this measure:

- Yes
- No
- I request that the person's consent is sought

(2) If a temporary transfer to the executing state of a person held in custody for the purpose of investigation is requested, please indicate whether the person consented to this measure:

- Yes
- No

B. Video or telephone conference or other audiovisual transmission:

If hearing by videoconference or telephone conference or other audiovisual transmission is requested:

Please indicate the name of the authority that will conduct the hearing (contact details/language):

Please indicate reasons for requesting this measure:

- (a) hearing by videoconference or other audiovisual transmission:
 - the suspected or accused person has given his/her consent
- (b) hearing by telephone conference

C. Provisional measures:

If a provisional measure to prevent the destruction, transformation, moving, transfer or disposal of an item that may be used as evidence, is requested, please indicate whether:

- the item is to be transferred to the issuing state
- the item is to remain in the executing state; please indicate an estimated date:

for lifting of provisional measure:

for the submission of a subsequent request concerning the item:

.....

D. Information on bank and financial accounts:

(1) If information on bank accounts or other financial accounts that the person holds or controls is requested, please indicate, for each of them, the reasons why you consider the measure relevant for the purpose of the criminal proceedings and on what grounds you presume that banks in the executing state hold the account:

- information on bank accounts that the person holds or in respect of which he or she has the power of attorney
- information on other financial accounts that the person holds or in respect of which he or she has the power of attorney

.....
.....

(2) If information on banking operations or other financial operations is requested, please indicate, for each of them, the reasons why you consider the measure relevant for the purpose of the criminal proceedings:

- information on banking operations
- information on other financial operations

.....
.....

Indicate the relevant period of time and the related accounts:

.....
.....

E. Covert investigations:

If covert investigation is requested please indicate the reasons why you consider the investigative measure likely to be relevant for the purpose of the criminal proceedings:

.....

F. Interception of telecommunications:

(1) If interception of telecommunications is requested please indicate the reasons why you consider the investigative measure relevant for the purpose of the criminal proceedings:

.....
.....

(2) Please provide following information:

(a) information for the purpose of identifying the subject of the interception:

.....

(b) the desired duration of the interception:

.....

(c) technical data (in particular the target identifier – such as mobile telephone, landline telephone, email address, internet connection), to ensure that the request can be executed:

.....

(3) Please indicate your preference concerning the method of execution:

- immediate transmission
- recording and subsequent transmission

Please indicate if you also require transcription, decoding or decrypting of the intercepted material:

.....
.....

Formalities and procedures requested for the execution:

1. Tick and complete, if applicable

It is requested that the executing authority comply with the following formalities and procedures (...):

.....

2. Tick and complete, if applicable

It is requested that one or several officials of the issuing State assist in the execution of the request in support of the competent authorities of the executing State.

Contact details of the officials:

.....
.....

Languages that may be used for communication:

Evidence or information handed over to me will not be used without your consent in other than in this legal request stated questions or in any other criminal investigation.

For consultation about the execution of this international request for legal assistance you can contact at all times:

Surname :
Address :
Zip code and city/town :
Telephone (country code) (area/city code) :
Fax: (country code) (area/city code) :
E-mail :

Thanking you very much in advance for you kind cooperation in the execution of this request.

Signature and details of the validating authority

Name:.....
Post held (title/grade):.....
Date:.....
Official stamp (if available):

Annexe(s):

- Articles of law
-

Annex II - Model Request Form Controlled Deliveries

1. Requesting authority

Official title:

Address:

Contact details: telephone, e-mail:

Languages:

2. Requested authority

Official Title:

Address:

3. Object and reason

- Type and purpose of request:

- Legal basis of the request:

- Type of offence:

- Description of the stage of criminal proceedings:

- Indication how the requested measures / the evidence sought are linked to the proceedings conducted in the requesting state:

Where applicable:

- Justification of urgency:

- Indication of a requirement to be notified about the date/place of the execution of the request as well as on the presence of particular persons with their contact details:

- Indication on previous involvement of law enforcement officials and their contact details:

- Information on previous communications/ [legal requests] (including reference numbers):

4. Person(s) concerned

- Name:

- Gender:

- Nationality:

- Address:

- Position in legal proceedings:

Where applicable and available :

- ID / Passport Number:

- Alias (excluding experts):

- Date / place of birth (excluding experts):

Information on a Legal person:

- Name:

Where applicable and available:

- Registration number address of the seat:
- Addresses of different branches:
- Contact details of the person authorized to act on behalf of the company:

5. Request for controlled delivery

- Summary of relevant facts indicating time place and manner of commission of the offence:
- Legal qualification of the offence with relevant provisions including the range of penalties
Applicable:

Information on:

- The date, hour and place of transit or transport: (if it is for example an indirect flight, then details of all flights):
- The means of transport (flight, ferry, van, etc.):
- The goods tracked (drugs, weapons, etc., including information on packaging):
- Destination:
- Declaration of intent by the requesting state to supervise and seize the items upon arrival:

Where applicable:

- Information if the goods (drugs, diamonds, etc.) are hidden in the body of the suspect:
- If delivery is routed via several countries, more than one request may be necessary:
- Identification of the courier, if other than the person concerned. Under item 4 (police informant or undercover police officer):
- Materials requested: chain of evidence report for the drug (or other illegal items):

6. Final information

- Any other information which the requesting State considers important
- Contact person (name, contact details, language)
- List of enclosures
- Seal, name, function of the official, date, and signature

Annex III - Model request form Covert Operations

1. Requesting authority

Official title:

Address:

Contact details: telephone, e-mail:

Languages:

2. Requested authority

Official Title:

Address:

3. Object and reason

- Type and purpose of request:

- Legal basis of the request:

- Type of offence:

- Description of the stage of criminal proceedings:

- Indication how the requested measures / the evidence sought are linked to the proceedings conducted in the requesting state:

Where applicable:

- Justification of urgency:

- Indication of a requirement to be notified about the date/place of the execution of the request as well as on the presence of particular persons with their contact details:

- Indication on previous involvement of law enforcement officials and their contact details:

- Information on previous communications/ [legal requests] (including reference numbers):

4. Person(s) concerned

- Name:

- Gender:

- Nationality:

- Address:

- Position in legal proceedings:

Where applicable and available :

- ID / Passport Number:

- Alias (excluding experts):

- Date / place of birth (excluding experts):

Information on a legal person

- Name:

Where applicable and available:

- Registration, number, address of the seat:

- Addresses of different branches:

- Contact details of the person authorized to act on behalf of the company:

5. Request for covert investigations

- Summary of relevant facts indicating time place and manner of commission of the offence:
- Legal qualification of the offence with relevant provisions including the range of penalties
Applicable:
- Legal status of undercover officer(s):

Information on:

- Type and duration of investigation(s) concerned:
- The crime(s) suspected and the link with the requested country:

Where applicable:

- Information on the need for preparation, supervision and arrangements for the security of the officers acting under covert or false identity:

6. Final information

- Any other information which the requesting State considers important
- Contact person (name, contact details, language)
- List of enclosures
- Seal, name, function of the official, date, and signature

Annex IV - Model request form Cross-Border Observations

1. Requesting authority

Official title:

Address:

Contact details: telephone, e-mail:

Languages:

2. Requested authority

Official Title:

Address:

3. Object and reason

- Type and purpose of request:

- Legal basis of the request:

- Type of offence:

- Description of the stage of criminal proceedings:

- Indication how the requested measures / the evidence sought are linked to the proceedings conducted in the requesting state:

- Justification of urgency:

- Indication about the date/place of the execution of the request as well as the presence of particular persons with their contact details:

Where applicable:

- Indication on previous involvement of law enforcement officials and their contact details:

- Information on previous communications/ [legal requests] (including reference numbers):

4. Person(s) concerned

- Name:

- Gender:

- Nationality:

- Address:

- Status in legal proceedings:

Where applicable and available:

- ID / Passport Number:

- Alias:

- Date / place of birth:

- Pictures:

- Level of danger (armed, criminal record):

Information on a legal person

- Name:

Where applicable and available:

- Registration number/ Address of the seat:
- Addresses of different branches:
- Contact details of the person authorized to act on behalf of the company:

5. Request for cross-border observation

Information:

- Summary of relevant facts indicating time place and manner of commission of the offence:
- Legal qualification of the offence with relevant provisions including the range of penalties Applicable:

Where applicable:

- Use of technical means (GPS tracking, pictures to be taken or videos to be recorded):

6. Final information

- Any other information which the requesting State considers important
- Contact person (name, contact details, language)
- List of enclosures
- Seal, name, function of the official, date, and signature

Annex V - Cover Letter Legal Request Outgoing PPO to Foreign Country

<Name Local> Public Prosecution Office

Name Foreign Authority
Address
Country

Contact	<i>Name</i>	Please quote date and our reference when responding
Extensions	<i>Tel:</i>	
	<i>Fax :</i>	
	<i>Email :</i>	
Date		
File number		
Our reference		
Your reference		
Enclosure(s)		
Concerning	Legal Request	

Dear Sir / Madam,

Please find attached a request for legal assistance in the case concerning

<Name suspect, date of birth, address etc. and/or case name>

The relevant conventions and/or bilateral agreements are summed up in the judicial legal request.

I kindly request you to execute this request on a short date and to furnish me with the materials / documents attesting to the execution thereof.

I thank you very much for your cooperation in this matter.

Yours sincerely,

Public Prosecutor,

<Name>

Annex VI - Cover Letter Legal Request Outgoing PPO to MoJ

Name (*Local*) Public Prosecution Office

*Ministry of Justice
Department of International Legal Cooperation
in Criminal Matters
Dimitrija Chupovski, Orce Nikolov, Skopje 1000
Skopje*

Contact	<i>Name</i>	Please quote date and our reference when responding
Extensions	<i>Tel:</i>	
	<i>Fax :</i>	
	<i>Email :</i>	
Date		
File number		
Our reference		
Your reference		
Enclosure(s)		
Concerning	Legal Request	

Dear Sir / Madam,

Please find attached a request for legal assistance in the case concerning

<Name suspect, date of birth, address etc. and/or case name>.

The relevant conventions and/or bilateral agreements are summed up in the judicial legal request.

I kindly request you to forward this request on a short date to the relevant authorities of *<country>* and to furnish me in due time with the materials / documents attesting to the execution thereof.

I thank you very much for your cooperation in this matter.

Yours sincerely,

Public Prosecutor,
<Name>

Annex VII - Model Agreement on the establishment of a Joint Investigation Team

In accordance with Article 20 of the 2nd Additional Protocol to the Convention on Mutual Assistance in Criminal Matters of 2001 on Joint Investigation Teams.

1. Parties to the Agreement

The following parties have concluded an agreement on the setting up of a Joint Investigation Team, hereinafter referred to as 'JIT':

1. (Name of the first competent agency/administration of a Member State as a Party to the agreement)

and

2. (Name of the second competent agency/administration of a Member State as a party to the agreement)

3. (Name of the last competent agency / administration of a Member State party to the agreement)

The parties to the agreement may decide by common agreement to invite other states / agencies / administrations to become parties to this agreement. For possible arrangements with third countries, bodies competent by virtue of provisions adopted within the framework of the Treaties and international bodies involved in the activities of the JIT, see Appendix I.

2. Purpose of the JIT

The agreement shall cover the setting up of a JIT for the following purpose:

Description of the specific purpose of the JIT. This should include the circumstances of the crime(s) being investigated (date, place and nature).

The parties may redefine the specific purpose of the JIT by common agreement.

3. Approach

The parties to the agreement may agree on an operational action plan (OAP) setting out the orientations according to which the purpose of the JIT is to be achieved.

4. Period covered by the agreement

The JIT shall be set up for a limited period of time. This JIT may operate during the following period:

from

[insert date]

to

[insert date]

The expiry date stated in this agreement may be extended by mutual consent of the parties in the form provided for in the appendix to this model agreement.

5. Member State(s) in which the JIT will operate

The JIT will operate in the Member State(s) designated hereafter:

[Designate Member State or States in which the JIT is intended to operate]

The team shall carry out its operations in accordance with the law of the Member State in which it operates at any particular time. Should the JIT move its operational basis to another Member State, the law of this Member State shall then apply.

6. JIT Leader(s)

The parties have designated the following person, who shall be a representative of the competent authorities in the Member State(s) where the team is operating, as the leader of the JIT and under whose leadership the members of the JIT must carry out their tasks in the Member State to which he belongs:

Member State	On secondment from (name of body)	Name	Rank and affiliation (judicial, Police or other competent authority)
-	-	-	-

-	-	-	-
---	---	---	---

Should any of the abovementioned persons be prevented from carrying out their duties, a replacement will be designated without delay by mutual consent of the parties in an appendix to the agreement. In urgent cases, it will be sufficient for the parties to the JIT to give notification of the replacement by letter. Such notification shall subsequently be confirmed in an appendix to the agreement.

7. Members of the JIT

In addition to the persons referred to in Article 6, the following persons shall be members of the JIT:

Member State	On secondment from (name of body)	Name/identification number (1)	Rank and affiliation (judicial, Police or other competent authority)	Role
-	-	-	-	-
-	-	-	-	-

(1) If there are good grounds for protecting the identity of one or more members of the JIT, such as, in cases of covert investigations or in cases of terrorism that require maximum security, identification numbers must be assigned to those persons, as far as it is compatible with the national legislation of the Member State, party to the agreement. The numbers assigned must be included in a confidential document. Should it not be possible to assign an identification number, it may be agreed that the identity of the members is set out in a confidential document, which is attached to this agreement and which is made available to all parties thereto.

Should any of the above-mentioned persons be prevented from carrying out their duties, a replacement will be designated without delay in an appendix to this agreement or by a written notification sent by the competent leader of the JIT.

8. Participants in the JIT

The provisions on participants in the JIT are dealt with in the relevant appendix to this agreement.

9. Evidence

The parties entrust the leader or a member (s) of the JIT with the task of giving advice on the obtaining of evidence. His or her role includes providing guidance to members of the JIT on aspects and procedures to be taken into account in the taking of evidence. The person(s) who carry out this function should be indicated here.

In the OAP the parties may inform each other about giving testimony by members of the JIT.

10. Amendments to the agreement

Amendments to this agreement, including but not limited to the following:

- (a) the incorporation of new members of the JIT;
- (b) changes to the purpose provided for in Article 2 of this agreement;
- (c) additions or changes to the current articles.

shall take the form provided for in the appendix to this model agreement, shall be signed by the parties and shall be attached to the original version.

11. Internal evaluation

Every six months at least, the JIT leaders shall evaluate the progress achieved as regards the general purpose of the JIT, while determining and addressing any problems thus identified.

After the operation of the JIT ends, the parties may, where appropriate, arrange a meeting to evaluate the performance of the JIT.

The JIT may draw up a report on the operation, which may show how the operational action plan was implemented and which results were achieved.

12. Specific arrangements of the agreement

The following special arrangements may apply to this agreement:

(To be inserted, if applicable. The following sub-chapters are intended to highlight possible areas that need to be specifically described).

12.1. Terms under which seconded members of the JIT may be excluded when investigative measures are taken.

12.2. Specific conditions under which seconded members may carry out investigations within the MS of operation.

12.3. Specific conditions under which a seconded member of a JIT may request his/her own national authorities to take measures which are requested by the team without submitting a letter of request.

12.4. Conditions under which seconded members may share information derived from seconding authorities.

12.5. Provisions concerning the media, in particular the need for consultation prior to the presentation of press releases and official information briefings.

12.6. Provisions concerning the confidentiality of this agreement.

12.7. The language to be used for communication must be defined.

12.8. Specific provisions on expenditure:

12.8.1. Provisions on insurance for seconded members of the JIT;

12.8.2. Provisions concerning expenditure on translation/interpreting/telephone tapping, etc.

12.8.3. Provisions on the translation of, for example, the documents obtained into the language of other members of the JIT, as well as into the official language of communication (if different), since this can entail considerable (unnecessary) expenditure;

12.8.4. Provisions concerning expenses or income arising from seized assets.

12.9. Conditions under which assistance sought and other arrangements may be given.

12.10. Specific data protection rules.

12.10.bis Confidentiality and use of information already existing and/or obtained during the operation of the JIT.

12.11. Conditions under which seconded members may carry/use weapons.

Done at (place of signature), (date)

(Signatures of all parties)

Appendix I

TO THE MODEL AGREEMENT ON THE ESTABLISHMENT OF A JOINT INVESTIGATION TEAM

Agreement to EXTEND a Joint Investigation Team

In accordance with Article 20 of the 2nd Additional Protocol to the Convention on Mutual Assistance in Criminal Matters of 2001 on joint investigation teams.

The parties have agreed to extend the Joint Investigation Team (hereinafter 'JIT') set up by agreement of [*insert date*] done at [*insert place of signature*], a copy of which is attached hereto.

The parties consider that the JIT should be extended beyond the period for which it was set up [*insert date on which period ends*] since its purpose as established in Article [*insert article on purpose of JIT here*] has not yet been achieved.

The circumstances requiring the JIT to be extended have been carefully examined by all the parties. The extension of the JIT is considered essential to the achievement of the purpose for which the JIT was set up.

The JIT will therefore remain in operation until [*insert date on which new period ends*]. The above period may be extended further by the parties by mutual agreement.

Date/Signature

Appendix II

TO THE MODEL AGREEMENT ON THE ESTABLISHMENT OF A JOINT INVESTIGATION TEAM

Suggested wording for CHANGES other than the period for which a JIT is set up

In accordance with Article 20 of the 2nd Additional Protocol to the Convention on Mutual Assistance in Criminal Matters of 2001 on joint investigation teams.

The parties have agreed to amend the written agreement setting up a joint investigation team (hereinafter 'JIT') of [*insert date*], done at [*insert place*], a copy of which is attached hereto.

The signatories have agreed that the above agreement should be amended as follows:

1. (Amendment ...)
2. (Amendment ...)

The circumstances requiring the JIT agreement to be amended have been carefully examined by all the parties. The amendment(s) to the JIT agreement is/are deemed essential to achieve the purpose for which the JIT was set up.

Date/Signature

Appendix III

CHECK LIST for the Operational Action Plan (OAP)

The following points may be addressed by the parties:

Introduction – describe the purpose of the JIT. The text used under ‘purpose of the JIT’ in the JIT agreement would normally be sufficient

Operational procedure – identify the location(s) where the JIT is likely to operate, describe how the JIT will be managed and the investigation conducted, taking note of national legislation, guidelines and procedure;

Role of members and/or participants of the JIT – identify and describe the different operational roles and tasks of each member and/or participant in the JIT if not yet described in the JIT agreement;

Special or specific measures to be implemented – identify and describe investigative activity that requires special measures or procedure e.g. child suspects, victims, dangerous/hostile working environment;

Operations and investigative powers – identify and describe special operations/investigative techniques that will be employed during the investigation e.g. intrusive surveillance, informants, undercover officers, communication intercepts etc. and related legislation/procedure;

Information exchange and communication – describe how information will be exchanged and the procedures for communication and identify competent partner or agency e.g. Europol, Interpol; it may be necessary to agree upon a language of communication; consider the use of Europol’s secure means of communication (SIENA) and the Analytical Work Files (AWFs) as a means for a secure environment to store sensitive information;

Intelligence assessment and tasking – describe the process of intelligence collection and development and any related guidelines;

Financial investigations – consider the need for following the ‘money trail’;

Evidence gathering – identify according to the jurisdiction(s) any legislation, guidelines, procedure etc. which must be taken into account including responsible agency/individual, requirement to translate evidence;

Prosecution – identify the competent authority in each country/jurisdiction and any guidelines related to decisions to prosecute including the role of Eurojust in this respect;

Testimony – identify the likelihood and procedures in place for each jurisdiction in respect of the requirement for JIT members to give evidence;

Disclosure – describe the rules and procedures for all jurisdictions where the JIT is likely to operate;

Operational and strategic meetings – identify and describe the meetings that will take place, their frequency and participants;

Administration and logistics – any issues concerning administration, equipment (such as office accommodation, vehicles, IT equipment or any other technical equipment), resources, personnel, media, confidentiality issues, etc. should be dealt with here:

- Translation
- Office accommodation
- Vehicles
- Other technical equipment

Annex VIII - Model request form Transfer of Proceedings

Request for:

Made on the basis of:

- The European Convention on the Transfer of Proceedings
- Article 21 of the European Convention on Mutual Assistance in Criminal Matters
- Article 6, paragraph 2 of the European Convention on Extradition
- Other

1. Requesting authority:

- Name of the requesting authority:
- Name and function of contact person:
- Address:
- Tel.:
- Fax:
- E-mail:
- Working language(s):

2. Requested authority:

3. Person(s) who is/are the subject(s) of the request:

- All information available on the person(s) concerned (identity, nationality, location, etc.)

4. Summary of facts (including date, place and conduct):

5. Legal qualification and provisions:

- Legal qualification
- Legal provisions concerning the offence(s) and the maximum penalty applicable (in attachment)
- Legal provisions concerning lapse of time where appropriate (in attachment)
- Other legal provisions where appropriate (in attachment)

6. Information on the procedure in the requesting state (including action taken and evidence gathered):

7. Reason(s) for the request:

- the suspected person is ordinarily resident in the requested state
- the suspected person is a national of the requested state or that state is his or her state of origin
- the suspected person is undergoing or is to undergo a sentence involving deprivation of liberty in the requested state
- proceedings for the same or other offences are being taken against the suspected person in the requested state

- the transfer of the proceedings is warranted in the interests of arriving at the truth/ the most important items of evidence are located in the requested state
- the enforcement in the requested state of a sentence if one were passed is likely to improve the prospects for the social rehabilitation of the person sentenced
- the presence of the suspected person cannot be ensured at the hearing of proceedings in the requesting state and his or her presence in person at the hearing of proceedings in the requested state can be ensured
- the requesting state cannot itself enforce a sentence if one were passed, even by having recourse to extradition, and the requested state could do so
- other

8. Additional information and requests:

- Request for confirmation of receipt of the request for transfer of proceedings (possible special requirements with regard to the confirmation)
- Indication of available information or items not attached to the request
- Readiness to furnish translations
- Any other additional information or requests such as requests for provisional measures

9. Indication of attachments (copies of documents, files, items, etc.):

10. Signature and seal

Annex IX - Cover Letter Transfer of Proceedings PPO to Foreign Country

Name (Local) Public Prosecution Office

Name Foreign Authority

Address

Country

Contact	<i>Name</i>	Please quote date and our reference when responding
Extensions	<i>Tel:</i>	
	<i>Fax :</i>	
	<i>Email :</i>	
Date		
File number		
Our reference		
Your reference		
Enclosure(s)		
Concerning	Transfer of Proceedings	

Dear Sir / Madam,

With reference to «*choose*»

- The European Convention on mutual legal assistance in criminal matters (Strasbourg, 20 April 1959);

- The European Convention on Transfer of Proceedings (Strasbourg, 15 May 1972);

I enclose herewith a criminal file committed in Macedonia concerning <*name suspect, date of birth, place of birth*>, «*address*» for the infringement of article(s) «*choose*» of the Macedonian Criminal Code («*name crime committed*»).

The reason(s) for this transfer is/are:

the suspect is a citizen of your country and is also living there permanently

the suspect is prosecuted for other or the same offence(s) in your country

the suspect is currently deprived of his liberty in your country

the most important evidence is held in your country

«other reason»

A short summary of the facts I have enclosed with this letter.

You are kindly requested to take over the proceedings.

Should it prove impossible to start criminal proceedings in this case, may I kindly ask you to return the file. If however criminal proceedings can be initiated, I would highly appreciate it if you could inform me about the outcome of the case.

I thank you very much for your cooperation in this matter.

Yours sincerely,

The Public Prosecutor,

<Name>

Annex X - Cover Letter Transfer of Proceedings PPO to MoJ

Name (Local) Public Prosecution Office

*Ministry of Justice
Department of International Legal Cooperation
in Criminal Matters
Dimitrija Chupovski, Orce Nikolov, Skopje 1000
Skopje*

Contact	<i>Name</i>	Please quote date and our reference when responding
Extensions	<i>Tel:</i>	
	<i>Fax :</i>	
	<i>Email :</i>	
Date		
File number		
Our reference		
Your reference		
Enclosure(s)		
Concerning	Transfer of Proceedings	

Dear Sir / Madam,

The Public Prosecutor of <choose region> hereby presents a file in the case against <name suspect, date of birth, place of birth> for the transfer of proceedings to <name country>.

The crime was committed in Macedonia concerning «name suspect», «address» for infringement of section(s) «choose article(s)» of the Macedonian Criminal Code («name crime committed»).

The reason(s) for this transfer is/are:

- the suspect is a citizen of your country and is also living there permanently
- the suspect is prosecuted for other or the same offence(s) in your country
- the suspect is currently deprived of his liberty in your country
- the most important evidence is held in your country
- «other reason»

A short summary of the facts I have enclosed with this letter.

You are kindly requested to forward this file to the relevant foreign authorities.

Should it prove impossible to start criminal proceedings in <choose country>, may I kindly ask you to return the file. If however criminal proceedings can be initiated, I would highly appreciate it if you could inform me about the outcome of the case.

I thank you very much for your cooperation in this matter.

Yours sincerely,

The Public Prosecutor,

<Name>

Annex XI - Model National Procedure for the Transfer of Sentenced Persons

The Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for the transfer of sentenced persons:

MINISTRY OF JUSTICE of the Republic of Macedonia
Dimitrie Chupovski 9, 1000 Skopje
Republic of Macedonia
Tel.: +389 (0)2 3116 — 493,
+389 (0)2 3116 — 648
Fax: +389 (0)2 3226 — 975
GordanaMilevska@mjustice.gov.mk

If different from the Central Authority, the authority to which the request should be sent (name of the institution, address, telephone, fax and e-mail where available):

....

If different from the Central Authority, the Authority/ies in charge of coordinating and/or implementing the physical transfer of the person concerned (name of the institutions, address, telephone, fax and e-mail where available):

....

Channels of communication for the request for the transfer of sentenced persons (directly, through diplomatic channels or other):

Directly Ministry of Justice with the Ministry of Justice of a respective country. Article 94 of the law on MLA (1) The request for transfer and the documents must be submitted to the Ministry, which shall then notify the country of citizenship in order to continue the prison term and shall carry out the transfer of the sentenced person on the basis of a international agreement or on the basis of mutuality. (2) At the request of a domestic competent authority the foreign State shall provide all additional information and vice versa.

Means of communication (e.g. by post, fax, e-mail):

All of the above, the originals have to be sent later if by mail of fax. In case of conversion of sentence, the subject-matter jurisdiction court: - is bound by the established facts contained in the judgment, - may not convert a sanction involving deprivation of freedom into pecuniary sanction, - shall fully deduct the time spent in prison by the sentenced person.

Language requirements:

Official languages used in the Council of Europe.

Documentation required:

Article 93 of MLA law Regarding the request for transfer, the following documents must be furnished:

- 1) a certified transcript of the final judgment rendered against the sentenced person;
- 2) legal provisions that were applied; 3) any information regarding the duration of the prison term that has already been served and information regarding detention or any other information regarding the serving of the prison sentence and 4) statement by the sentenced person consenting to the transfer.

Continued enforcement or conversion of the sentence:

Enforcement in the foreign state in which the person was sentenced is suspended at the moment when the authorities of the Republic of Macedonia take the sentenced person into charge. The domestic legislation shall apply for the remainder of the enforcement in terms of pardoning, amnesty, or commutation of sentence in accordance with the Constitution or with an international agreement.

General rules on early release:

The domestic subject-matter jurisdiction court shall stop the enforcement of the sentence as soon as the foreign competent authority notifies it about the decision or the resolution to terminate the enforcement.

Scope of application with regard to transfer of mentally disordered persons:

Not regulated with law.

Scope of application with regard to nationals and/or residents:

....

According to the MLA law :

Article 97 (1) Any sentenced person who is a citizen of the Republic of Macedonia and is serving a prison sentence in a foreign state may be transferred to Macedonia in order to serve out the remainder of the sentence. (2) The request for transfer of a citizen of the Republic of Macedonia together with the documents listed in Article 93 of this Law, shall be submitted through the Ministry to the subject-matter jurisdiction court for recognition

Other particularly relevant information (such as practice regarding time limits or revocation of consent):

....

Links to national legislation, national guides on procedure:

The website of the Ministry of Justice is currently being updated and information will be on its website. www.pravda.gov.mk

Link to information about the Convention (according to Article 4) in the official language(s) of the State Party):

The domestic competent authority shall send the letter rogatory or the request together with the documentation in Macedonian language and in Cyrillic script with a translation into the language of the certain state and into one of the official languages used in the Council of Europe.

For Parties to the Additional Protocol**Information on the implementation of Article 2 (e.g. interpretation of “by fleeing to”):**

Not applicable.

Information on the implementation of Article 3 (e.g. interpretation of the requirement of a consequential link between the decision on expulsion and the sentence):

We do not apply it. (More explanation on this one needed).

Documentation required

....

Other relevant information:

....

Annex XII — Prisoner information sheet - MODEL FORM TRANSFER OF SENTENCED PERSON

Country issuing:

....

Country executing:

....

Date of transfer:

....

The transfer is based on the following decision:

.....

Personal details of prisoner:

Full name:

Date of Birth:

Type of travel document:

Sentence details (details of offence):

....

Medical status:

Are there any specific medical/disabilities issues that the executing state should be aware of upon receiving the prisoner? (For example — diabetic and requires regular insulin, or any other required medication to be administered frequently or on-going treatment to be continued?)

Risk:

Risk level prior to transfer (Low/Medium/High)

Please circle

If high risk level, please supply additional information explaining the reasons:

....

Transfer details:

Departure airport:

Arrival airport:

Flight number:

Flight departure time:

Flight arrival time:

Specific requests with regards to where the escorts hand the prisoner over:

....

In the event the flight is delayed or cancelled contact:

....

Name:

Number:

Any other relevant information:

Declarations:

We ensure that the prisoner is handed over and received by the authorities of the executing state.

Issuing state

Name of authority:

Contact number:

Names of Escorting Officers:

1,.....

2,.....

Date:.....

Signature:.....

Receiving/executing state

Name of authority:....

Contact number:....

Name of receiving Officers:

1,

2,.....

Date:.....

Signature:.....

Annex XIII - Cover letter Consultation Transfer of Sentenced Persons MoJ to Foreign Country

Ministry of Justice

*Name Foreign Authority
Address
Country*

Contact	<i>Name</i>	Please quote date and our reference when responding
Extensions	<i>Tel:</i>	
	<i>Fax :</i>	
	<i>Email :</i>	
Date		
File number		
Our reference		
Your reference		
Enclosure(s)		
Concerning	Consultation Transfer of <i><name sentenced person></i>	

Esteemed colleague,

With reference to *«choose applicable»*

- Convention on the Transfer of Sentenced Persons, Strasbourg, 21 March 1983;

- Additional Protocol to the European Convention on the Transfer of Sentenced Persons, Strasbourg, 18 December 1997.

- other;

I would like to ask the following.

On *<date verdict>* (irrevocable on *<date>*) *<name prisoner, date and place of birth, country of birth>* was sentenced to *<amount prison sentence>* imprisonment by the *<name court/court of appeal>* (less the time spent in pre-trial detention), for committing (in short) *<explanation of the crime committed>*, a breach of *<articles>* of the criminal code.

Reason for consultation for instance:

<name prisoner> states that *his / her* last address of residence is *<address name prisoner>*. He / She asks for the possibility to be transferred to your country to serve the remainder of his / her sentence.

I would kindly like to ask you to inform me within 4 weeks time whether or not you can consent to forwarding a request for transfer on the basis of the above-mentioned treaty/treaties.

Should you require additional information, please do not hesitate to contact me.

I thank you very much for your cooperation in this matter.

Yours sincerely,

The Minister of Justice,

<Name>

Attachments:

1. a certified transcript of the final judgment rendered against the sentenced person;
2. legal provisions that were applied;
3. any information regarding the duration of the prison term that has already been served and information regarding detention or any other information regarding the serving of the prison sentence;
4. statement by the sentenced person consenting to the transfer;

Annex XIV - Cover letter Request Transfer of Sentenced Persons MoJ to Foreign Country

Ministry of Justice

Name Foreign Authority

Address

Country

Contact	<i>Name</i>	Please quote date and our reference when responding
Extensions	<i>Tel:</i>	
	<i>Fax :</i>	
	<i>Email :</i>	
Date		
File number		
Our reference		
Your reference		
Enclosure(s)		
Concerning	Transfer of Sentenced < <i>name person</i> >	

Esteemed colleague,

With reference to «*choose applicable*»

- Convention on the Transfer of Sentenced Persons, Strasbourg, 21 March 1983;

- Additional Protocol to the European Convention on the Transfer of Sentenced Persons, Strasbourg, 18 December 1997.

- other;

I enclose herewith a certified copy of the Macedonian verdict concerning <*name sentenced person, date of birth, place of birth*>. The verdict is final.

You are kindly requested to transfer the sentenced person to your country. Please let me know at your earliest convenience so appropriate steps can be taken.

I thank you very much for your cooperation in this matter.

Yours sincerely,

The Minister of Justice,

<*Name*>

Attachments:

1. a certified transcript of the final judgment rendered against the sentenced person;

2. legal provisions that were applied;
3. any information regarding the duration of the prison term that has already been served and information regarding detention or any other information regarding the serving of the prison sentence;
4. statement by the sentenced person consenting to the transfer;

Annex XV — International Arrest Warrant (INTERPOL WORLDWIDE)

This order has been issued by a competent judicial authority.

I request the arrest and surrender of the person mentioned below in view of prosecution or execution of a custodial sentence or of an order aiming at deprivation of liberty.

a) Information with regard to the identity of the wanted person

Name:

First name or first names:

Maiden name, if applicable:

Nick names, if applicable:

Gender:

Nationality:

Date of birth:

Place of birth:

Place of residence and/or known address:

Telephone number:

If known: language/languages understood by the wanted person:

Special characteristics/description of the wanted person

Photograph and fingerprints of the wanted person, if these are available and if it is allowed to have these sent, or contact address of the person to be contacted in order to obtain that information or a DNA profile (if these data are available and may be sent, but have not been included)

b) Decision on which this arrest warrant is based

1. Arrest warrant public prosecutor or equivalent judicial decision:

Kind of warrant:

2. Court sentence, subject to enforcement:

Reference:

c) Information concerning the duration of the sentence

1. Maximum duration of the custodial sentence or the measure aiming at deprivation of liberty which may be imposed on the basis of the offence/the offences:

2. Duration of the custodial sentence or the measure aiming at deprivation of liberty imposed:

Sentence still to be served:

d) The sentence was pronounced in absentia

- the person involved has personally been served with a writ of summons or has otherwise been notified about the date and the place of the court session leading to the sentence in absentia

or

- the person involved has personally been served with a writ of summons or has otherwise been notified about the date and the place of the court session leading to the sentence in absentia, but has the following legal guarantees after his surrender:

Legal guarantees:

e) Offences

This order relates to a total of ... offences.

Description of the circumstances under which the offence has been committed/the offences have been committed including the time, the place and the degree of involvement in the offence/offences of the wanted persons.

Nature and legal qualification of the offence/offences and applicable legal provision/code of law:

I. Indicate , where appropriate, whether it concerns one or more of the following offences on which in the issuing state a custodial sentence or an order aiming at deprivation of liberty of no less than three years may be imposed and as described in the legislation of the issuing member state (tick square):

- Participation in a criminal organization
- Terrorism
- Trafficking in human beings
- Sexual exploitation of children and child pornography
- Illegal trade in narcotic drugs and psychotropic substances
- Illegal trade in arms, ammunition and explosives
- Corruption
- Fraud, including fraud by which the financial interests of the European Communities are damaged in the meaning of the Agreement dated July 26, 1995 on the protection of the Financial Interests of the European Communities
- Laundering proceeds of crimes
- Counterfeiting including forgery of the euro
- Criminality with regard to information technologies
- Environmental crimes including the illegal trade in endangered animal species and the illegal trade in endangered species of plants and trees
- Assistance in illegal entry and illegal stay
- Murder and manslaughter, gross maltreatment
- Illegal trade in human organs and tissues
- Kidnapping, unlawful deprivation of liberty and taking of hostages
- Racism and hatred of aliens
- Organized or armed robbery
- Illegal trade in items of cultural value among which antiquities and objects of arts
- Fraud
- Racketeering and blackmail
- Imitation of products and product piracy
- Forgery of administrative documents and trade in false documents
- Falsification of legal currencies
- Illegal trade in hormonal substances and other growth stimulating substances
- Illegal trade in nuclear and radio-active substances
- Trade in stolen vehicles
- Rape
- Intentional arson

- Crimes which are covered by the jurisdiction of the International Criminal Court
- Hijacking of planes or ships
- Sabotage
- Other

II. Full description of the offence or the offences which are not covered by the offences mentioned under item I:

f) Other circumstances relevant for the case (optional information)

(Note: for instance remarks about extraterritoriality, interruption of prescription and other consequences of the offence).

g) This order also relates to the seizure and the surrender of objects which should serve as evidence

This order also relates to the seizure and surrender of objects which the wanted person has obtained by committing the offence.

Description and location of the objects (if known):

h) The offence/the offences on which this order is based, has/have been penalized with/have resulted into a custodial sentence or an order aiming at deprivation of liberty which involves lifelong deprivation of liberty:

- The legal order of the issuing member state provides in revision of the sentence imposed — on request or after at least 20 years — resulting into non-execution of the punishment .

and/or

- The legal order of the issuing member state provides in the application of measures for pardon for which the person involved may be considered pursuant to the legislation or practices of the issuing member state, and which provide for non-execution of the punishment.

i) Judicial authority that issued the order

Official name:

Name of her representative:

Position (title/rank):

File number:

Address information of the person to be contact in order to make the necessary arrangements for the surrender:

Signature of the issuing judicial authority and/or her representative:

Name:

Position (title/rank):

Date:

Annex XVI - Types of Notices

Notices are international requests for cooperation or alerts allowing police in member states to share critical crime related information.

In case of red notices, the persons concerned are wanted by national jurisdictions for prosecution or to serve a sentence based on an arrest warrant or court decision. Interpol's role is to assist national police forces in identifying and locating these persons with a view to their arrest and extradition or similar lawful action.

	<p>Red Notice To seek the location and arrest of wanted persons with a view to extradition or similar lawful action.</p>		<p>Yellow Notice To help locate missing persons, often minors, or to help identify persons who are unable to identify themselves.</p>
	<p>Blue Notice To collect additional information about a person's identity, location or activities in relation to a crime.</p>		<p>Black Notice To seek information on unidentified bodies.</p>
	<p>Green Notice To provide warnings and intelligence about persons who have committed criminal offences and are likely to repeat these crimes in other countries.</p>		<p>Orange Notice To warn of an event, a person, an object or a process representing a serious and imminent threat to public safety.</p>
	<p>INTERPOL—United Nations Security Council Special Notice Issued for groups and individuals who are the targets of UN Security Council Sanctions Committees.</p>		<p>Purple Notice To seek or provide information on modus operandi, objects, devices and concealment methods used by criminal</p>

Annex XVII - Cover Letter for Extradition MoJ to Foreign Country

Ministry of Justice

Name Foreign Authority
Address
Country

Contact
Extensions

Date
File number
Our reference
Your reference
Enclosure(s)
Concerning

Name
Tel:
Fax :
Email :

Please quote date
and our reference
when responding

Request for Extradition

Esteemed colleague,

With reference to *«choose applicable»*

- European Convention on Extradition, Paris, 13 December 1957;
- Additional Protocol to the European Convention on Extradition, Strasbourg, 15 October 1975;
- UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 20 December 1988;
- United Nations Convention against Transnational Organized Crime (UNTOC), Palermo, 15 November 2000;
- other;

I enclose herewith all the relevant documents in the case concerning:

<name suspect, date of birth, place of birth>.

All documents have been translated.

You are kindly requested to extradite the above mentioned person.

I thank you very much for your cooperation in this matter and I look forward to your decision on my request.

Yours sincerely,

The Minister of Justice,

<Name>

Attachments:

1. international arrest warrant;
2. legal provisions;
3. photos, id or passport information or other;
4. other, like....
choose or add applicable

Annex XVIII - Cover Letter for Extradition PPO to MoJ

<name local> Public Prosecution Office

*Ministry of Justice
Department of International Legal Cooperation
in Criminal Matters
Dimitrija Chupovski, Orce Nikolov, Skopje 1000
Skopje*

Contact	Name	Please quote date and our reference when responding
Extensions	Tel:	
	Fax :	
	Email :	
Date		
File number		
Our reference		
Your reference		
Enclosure(s)		
Concerning	Request for Extradition	

Esteemed colleague,

With reference to «choose applicable»

- European Convention on Extradition, Paris, 13 December 1957;
- Additional Protocol to the European Convention on Extradition, Strasbourg, 15 October 1975;
- UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 20 December 1988;
- United Nations Convention against Transnational Organized Crime (UNTOC), Palermo, 15 November 2000;
- other;

I enclose herewith all the relevant documents in the case concerning:

<name suspect, date of birth, place of birth>.

All documents have been translated.

You are kindly requested to forward these documents to the judicial authorities in <country> so the extradition of the above mentioned person can take place.

I thank you very much for your cooperation in this matter.

Yours sincerely,

Public Prosecutor,

<Name>

Attachments:

1. international arrest warrant;
2. legal provisions;
3. photos, id or passport information or other;
4. other, like....
choose or add applicable

Annex XIX - Useful websites for information

European Judicial Network:

<http://www.ejn-crimjust.europa.eu/ejn/>

If you want to change the language from English into another language please go to the top right of the page and click for the right language.

The EJN website offers great e-tools required for international cooperation in criminal matters. The website also contains other valuable information and tools on this site. It is targeted at EU member states but also for non EU member states it is a great source of information and a great use!

Judicial Atlas

It **identifies the competent authority to which to send a request** for judicial cooperation from one EU member state to another. When applicable, also geographical information can be introduced, enabling the Atlas to identify the competent authority for specific regions within the member state. Finding this information can normally be a time consuming task and requires knowledge of all national legal systems, but with the Judicial Atlas the information is very easy to get.

Fiches Belges

Whereas the Atlas gives detailed information on the authorities to send requests to, the Fiches Belges section gives **practical information on the specificities of the many measures that can be requested**. The information on this section helps practitioners to verify the applicability of a certain measure for a specific Member State, what languages can be used when drafting the request, and other particularities that need to be respected when issuing a request.

Compendium

The Compendium gives **support for drafting requests for judicial cooperation**. It guides the practitioners through the form used for the request, ensuring that all required information is inserted. The Compendium also helps the practitioner to manage translations of requests; in most cases the request needs to be translated into a language accepted by the requested Member State in order for that Member State to be able to accept and perform/execute the request.

Judicial Library

The Library is the source of information on all legal instruments applicable within the European Union relevant for judicial cooperation in criminal matters. It contains the full text, amending acts and consolidated versions, forms and other information related to the EU legislative acts in this field (Framework Decisions, Directives etc.). In addition, there are links to the data bases of the Council of Europe and United Nations Treaties Offices.

EJN Contactpoints:

The contactpoints are active intermediaries with the task of facilitating judicial cooperation between member states. They are available to enable local judicial authorities and other competent authorities in their own state, contact points in the other member states and local judicial and other competent authorities in the other member states to establish the most appropriate direct contacts. The beneficiary country has also two EJN contactpoints since about one year.

1. Bodan Lazarevski, Public Prosecutor

Tel: 00389 71 276 226

Email: bodan.lazarevski@gmail.com

2. Miss Gordana Milveska, Senior Associate for Extradition

Tel : 00 389 2 3116 648

00 389 2 3116 123

00 389 2 3116 190

extension 128

Fax: 00 389 2 226 975

Email: gordanamilevska@mjustice.gov.mk

Council of Europe, Committee of Experts on the Operation of European Conventions on Cooperation in Criminal Matters (PC-OC):

http://www.coe.int/t/DGHL/STANDARDSETTING/PC-OC/default_en.asp

The PC-OC is an expert group who focuses to improve international cooperation in criminal matters and give practical solutions to issues and problems encountered.

The website provides information on the different measures that are widely used when cooperation is sought on international level in criminal matters. It also contains the full text related to the Council of Europe standards.

Southeast European Prosecutors Advisory Network:

<http://www.seepag.info/> or http://www.seepag.info/organized_crime.php

The SEEPAG is an international mechanism of judicial cooperation, formed by the countries of the SEE region with an express intention of facilitating judicial cooperation in significant trans-border crime investigations and cases. This initiative recognizes that as trans-border crime transcends national borders, the strategy for combating it must have regional as well as national dimension. By improving upon the available facilities for mutual legal assistance, the SEEPAG seeks to significantly increase the capacity of individual states to suppress, investigate and prosecute serious trans-border crimes.

SEEPAG is a network of experienced prosecutors who assist in operational matters and facilitate, to the greatest extent possible, the rapid exchange of information and evidence in trans-border investigations. Second SEEPAG's is to provide guidance, assistance, and feedback to lawmakers in the region on justice and law enforcement issues. By combining legal skills and functional experience of prosecutors, SEEPAG assists in the creation and harmonization of laws and regional agreements aimed at combating organized crime

The website provides good information legal sources with general legal documents and more specific topics like organized crime, human trafficking, anti terrorism etc. It also gives information on useful links of national institutions and other organisations and also links to EU Law in Criminal Matters.

Conventions & Bilateral Agreements and National Laws:

For conventions:

<http://eur-lex.europa.eu/collection/eu-law/treaties.html?locale=en>

If you want to change the language from English into another language please go to the top right of the page and click for the right language.

Go to home page and than to judicial library, legal instruments, legal instruments adopted by the E, council of Europe or the UN,

<https://www.ejn-crimjust.europa.eu/ejn/libcategories.aspx?Id=19>

If you want to change the language from English into another language please go to the top right of the page and click for the right language.

For bilateral agreements:

http://www.pravda.gov.mk/tekstovi_mpp_dogovori.asp?lang=mak&id=bidog

For national law:

The complete Criminal Code of Procedure

<http://pravda.gov.mk/documents/ZAKON%20ZA%20KRIVICNATA%20POSTAPKA.pdf>

The complete Law on International Cooperation in Criminal Matters

<http://pravda.gov.mk/download.asp?Lang=mak&id=478>

Annex XX - Contact details International Department at the Ministry of Justice

Miss Gordana Milveska, Senior Associate for Extradition

Tel : 00 389 2 3116 648
 00 389 2 3116 123
 00 389 2 3116 190
extension 128
Fax: 00 389 2 226 975
Email: gordanamilevska@mjustice.gov.mk

or

Mister Hevzat Ismani, Junior Associate for Transfer and mutual legal assistance

Tel: 00 389 2 3116 648
 00 389 2 3116 123
 00 389 2 3116 190
extension 128
Fax: 00 389 2 226 975
Email: nevzatIsmani@mjustice.gov.mk

or

Miss Marija Begovic, Junior Associate for transfer of sentenced persons

Tel: 00 389 2 3116 648
 00 389 2 3116 123
 00 389 2 3116 190
extension 128
Fax: 00 389 2 226 975
Email: marijanikolovska@mjustice.gov.mk

or

Miss Vlora Jusufi, Junior Associate for transfer of sentenced person

Tel: 00 389 2 3116 648
 00 389 2 3116 123
 00 389 2 3116 190
extension 132
Fax: 00 389 2 226 975
Email: vlorajusufi@mjustice.gov.mk