

*REQUESTING INTERNATIONAL COOPERATION IN CIVIL
AND ADMINISTRATIVE PROCEEDINGS RELATING TO
CORRUPTION*

G20 GUIDE
2017

Foreword

States may exercise their jurisdiction to punish corruption through three forms of legal liability: criminal, civil and administrative. Even though a majority of countries have historically chosen to establish criminal liability for corruption, civil and administrative liability regimes may also be an efficient way of holding individuals and legal persons liable for corruption. Non-criminal tools have been strengthened in many countries so as to provide national authorities with a modern and effective Anti-Corruption system.

When conducting civil and administrative proceedings to combat corruption, public officials often face circumstances in which they need international cooperation, e.g. to locate persons, serve documents, take evidence abroad or identify, trace, freeze and recover proceeds of corruption or property acquired through corrupt practices.

International conventions provide a very useful framework for international legal cooperation on civil and administrative matters. The UNCAC states that “*where appropriate and consistent with their domestic legal system, States Parties shall consider assisting each other in investigations of and proceedings in civil and administrative matters relating to corruption*”.¹ The OECD Anti-Bribery Convention also establishes that Parties “*shall, to the fullest extent possible under its laws and relevant treaties and arrangements, provide prompt and effective legal assistance to another Party for the purpose of criminal investigations and proceedings*”, and also “*for non-criminal proceedings within the scope of this Convention brought by a Party against a legal person*”.²

The importance of cooperation for civil and administrative matters has already been recognized by G20 members. In 2015, as a result of the Antalya summit, the Leaders’ Communiqué stressed that countries should promote “*further work to strengthen international cooperation, including where appropriate and consistent with domestic legal systems, on civil and administrative procedures, as an important tool to effectively combat bribery and to support asset recovery and the denial of safe haven to corrupt officials and those who corrupt them.*”

The Action Plans of the G20 Anti-Corruption Working Group (ACWG) 2013-14 and 2015-16 reflected the need to strengthen the channels of legal cooperation, including for civil and administrative purposes. Additionally, the Implementation Plan 2017-18 states that “*the ACWG will consider ways to strengthen international cooperation on civil and administrative procedures, where appropriate and consistent with domestic legal systems*”. As one of its deliverables, the Group approved an assessment of G20 countries’ legislation relating to non-criminal proceedings against corruption and the possibility of providing cooperation in this matter. The assessment was based on the responses provided by G20 members to a standard questionnaire and was approved at the October, 2014 ACWG meeting. Taking into consideration that G20 countries have already provided preliminary information on this matter, and in order to further advance such discussions, countries decided to work on this *Guide on Requesting International Cooperation in Civil and Administrative Proceedings Relating to Corruption*, as agreed on the October 2015 ACWG meeting in Paris.

The *Guide* aims at helping countries to request assistance in the appropriate manner and through proper channels, by gathering practical information on how G20 members can provide legal cooperation for civil and administrative proceedings. It represents significant progress in the efforts to promote the use of non-criminal proceedings in the investigation and punishment of corruption. The *Guide* provides a comprehensive overview of the possibilities available for cooperation, including the scope of the assistance that may be provided as well as the

¹ UNCAC, article 43(1).

² OECD Anti-Bribery Convention, article 9(1).

requisites that must be met in a cooperation request, complementing and building on the work of the “Requesting Mutual Legal Assistance in Criminal Matters from G20 Countries Guide” (2012).

Fifteen delegations responded to the standard questionnaire that provides the basis for this *Guide*: Argentina, Brazil, China, France, Germany, India, Italy, Japan, Korea, Mexico, the Russian Federation, Spain, Turkey, the United Kingdom and the United States. Three countries - Australia, Canada and Indonesia - informed that their legislation does not provide for civil and administrative proceedings to combat corruption and, for that reason, they cannot provide assistance to foreign authorities in civil or administrative Anti-Corruption cases.

PART I

*INFORMATION PERTAINING TO G20 COUNTRIES
REGARDING INTERNATIONAL COOPERATION IN CIVIL
AND ADMINISTRATIVE PROCEEDINGS*

ARGENTINA

i. Introduction

Argentina is able to provide cooperation for the non-criminal proceedings intended to investigate and punish corruption related acts. However, it does not have internal rules regulating cooperation in civil or administrative proceedings related to corruption cases. Nevertheless, the country has ratified the United Nations Convention against Corruption and other regional and bilateral treaties that provide for international legal cooperation.

Without prejudice to the fact that in Argentina the identification, freezing, seizure and forfeiture of goods are cooperation measures included in the provisions of the International Cooperation in Criminal Matters Law (Law 24.767), and that forfeiture is provided as a measure of execution of a final conviction.

ii. Conditions to be met previously to the submission of a formal request

Argentina does not impose any specific condition to be met previously to the formal submission of a cooperation request.

iii. Scope of the assistance

Argentina may provide assistance for serving of documents, location of persons, location and identification of assets.

Freezing, seizure and forfeiture of assets can only be provided by means of a court order issued by requesting country.

iv. Information to be included in the request

When submitting a cooperation request to Argentina, a country must provide information regarding the requesting authority, the central authority (as defined within the treaty to be used as basis for the request) and the requested authority. The legal basis of the request must also be included in the assistance request, as well as a transcription of legal provisions and reference and summary of the proceedings that gave rise to the request.

Furthermore, the requesting country must provide a brief statement of the facts, and the objectives and assistance requested.

v. Urgency

Assistance requests may be solicited as a matter of urgency, by communicating the request in advance through e-mail or fax to hasten its processing.

vi. Steps to follow when seeking assistance from Argentina

Civil proceedings

- a) Requests of assistance related to civil proceedings are channeled through the Argentinean Central Authority.
- b) Central Authority, after analyzing it, communicates it to the competent Judge in order for him/her to proceed duly.

Administrative proceedings

Requests of assistance related to administrative proceedings must be sent to the competent administrative entity, in order for it to proceed duly.

vii. Contact information of the Central Authority

Ministerio de Relaciones Exteriores y Culto
Dirección de Asistencia Jurídica Internacional
Esmeralda 1212 – 4º Piso,
Ciudad Autónoma de Buenos Aires.
Código Postal: C1007ABR.
República Argentina
Número de teléfono: 54 (11) 4819 7385
Número de fax: 54 (11) 4819 7353

BRAZIL

i. Introduction

Brazil can provide international legal cooperation for non-criminal purposes, either based on a treaty or on reciprocity, provided that sovereignty, *public order* and core principles of Brazilian legal system are not violated by the execution of the request.

Brazil is, therefore, in a position to provide cooperation for civil and administrative foreign investigations, prosecutions and proceedings by providing a wide range of assistance.

ii. Conditions to be met previously to the submission of a formal request

Brazil does not impose any specific condition to be met previously to the formal submission of a cooperation request.

iii. Scope of the assistance

International cooperation may be provided for the purposes described in Articles 46, 48, 54 and 55 of UNCAC, and also to give effect to an order issued by a court in the requesting State regarding civil and administrative matters.

In that sense, assistance may be provided, both for administrative and civil proceedings, for the location of persons; serving of documents; provision of information regarding bank records; communication of procedural acts (e.g. service of process, subpoena, legal notice); recognition and enforcement of judgments; taking of evidence and statements; including precautionary measures.

iv. Information to be included in the request

When submitting a formal cooperation request to Brazil, a country must provide information regarding the requesting authority and the central authority. The request may be made under a bilateral or multilateral treaty or based on reciprocity. The legal basis of the request must also be included in the assistance request, as well as a transcription of legal provisions and reference and summary of the proceedings that gave rise to the request.

Furthermore, the requesting country must provide a brief statement of the facts, the purposes of the request and the exact description of the assistance requested.

v. Urgency

Brazil is prepared to receive and transmit urgent requests. As usually occurs, the requests can be sent in advance through the Central Authority e-mail address, which can forward it to the competent authorities in Brazil, even before the arrival of the printed version.

vi. Steps to follow when seeking assistance from Brazil

Brazil follows the steps regulated in bilateral or multilateral treaties, agreements, MOUs or agreed steps by both sides on the principle of reciprocity.

Step 1: The first important condition is to transmit requests for legal assistance through the central authorities designated in bilateral or multilateral treaties. This transmission procedure must follow international agreements requirements in order to avoid any procedural nullity and ensure the validity of the evidence gathered and the performed diligences. Requests made under the UNCAC, the OECD Convention on Combating Bribery of Foreign

Public Officials in International Business Transactions and based on the principle of reciprocity must be sent to the Brazilian Central Authority, the Department of Assets Recovery and International Legal Cooperation of the Ministry of Justice and Citizenship.

Step 2: After transmitting the request, the requesting State can ask information about its execution in Brazil whenever necessary to the Central authority. Direct contacts between the requesting and requested authorities can be made, but only with the purpose to discuss specific details, remove any technical doubts and optimize the execution.

vii. Contact information of the Central Authority

Department of Assets Recovery and International Legal Cooperation
Address: SCN Quadra 6, Conjunto A, Bloco A, 2º Andar, Ed.Venâncio 3000
70716-900 – Brasília - DF
E-mail: drci@mj.gov.br

CHINA

i. Introduction

The People's Republic of China provides cooperation for requests made under a bilateral or multilateral treaty, such as the United Convention against Corruption. China cooperates for civil proceedings related to corruption based on the Civil Procedure Law – Part Four: Special Provisions for Civil Procedure of Cases Involving Foreign Element.

ii. Conditions to be met previously to the submission of a formal request

Previous contact is required. The requesting country shall, therefore, contact relevant authorities before it submits a cooperation request to China.

iii. Scope of the assistance

In regard to civil cooperation, China may provide assistance for the location of persons; serving of documents; identification, tracing, freezing and recovering of assets; communication of procedural acts (e.g. service of process, subpoena, legal notice); bank records; taking of evidence and statements; and also for the execution of precautionary measures. China does not provide civil cooperation for the recognition and enforcement of judgments.

China does not provide legal cooperation for administrative proceedings.

iv. Information to be included in the request

When submitting a formal cooperation request to China, a country must provide information regarding the requesting authority, the central authority (as defined within the treaty to be used as basis for the request) and the requested authority. The legal basis of the request must also be included in the assistance request, as well as a transcription of legal provisions and reference and summary of the proceedings that gave rise to the request.

Furthermore, a requesting country must provide, when seeking cooperation with China, a brief statement of the facts, and the objectives and assistance requested.

No specific requirements have been indicated in consideration to the nature of the assistance sought.

v. Urgency

Assistance requests may be processed with urgency, as decided by both parts on a case-by-case basis.

vi. Steps to follow when seeking assistance from China

China will follow the steps regulated in the bilateral or multilateral treaties, agreements, MOUs that have been concluded or steps agreed by both sides on the principle of reciprocity.

vii. Contact information of the Central Authority

No information available.

FRANCE

i. Introduction

France is able to provide assistance to MLA requests concerning civil and administrative proceedings.

ii. Conditions to be met previously to the submission of a formal request

The decision for which the enforcement is requested shall be legally binding in a final judgement. In regard to requests for forfeiture of assets, the property under consideration shall be in a situation where under the French law the confiscation would also be possible. France recognizes the concept of preventive confiscation (not based on a final decision of guilt), and it is able to cooperate for requests of mutual legal assistance for that purpose.

iii. Scope of the assistance

In regard to civil cooperation, France may provide assistance for the identification, tracing, freezing and recovering of assets. Those are the same measures that may be provided regarding administrative cooperation.

iv. Information to be included in the request

When submitting a formal cooperation request to France, a country must provide information regarding the requesting and requested authorities, as well as reference and summary of the proceedings that gave rise to the request.

Additionally, the requesting country must provide the legal basis of the request, a brief statement of the facts and the scope of the assistance requested.

v. Urgency

Urgent MLA requests may be sent by e-mail to the French central authority (office for mutual legal assistance in criminal matters within ministry of justice) or to French judicial authorities on behalf conventions or reciprocity principle. Transmission channels must be respected in a second time.

vi. Steps to follow when seeking assistance from France

Step 1: The MLA office, the central authority, receives MLA requests from foreign affairs ministry or directly from other central authorities. Judicial authorities may receive them directly if provided by conventions.

Step 2: The MLA office send requests to general prosecutors where assets are located : for freezing, an investigating judge is always in charge with executing MLA requests; for confiscation requests, prosecutors request first instance court to recognize the foreign confiscation decision if it cannot be challenged anymore in the requesting state. Both decisions from investigating judges or from first instance courts can be challenged before the court of appeals. The French Supreme Court (*Cour de cassation*) would only cancel court of appeals' decisions if law was not respected.

French authorities, central or judicial, never reexamine foreign decisions.

vii. Contact information of the Central Authority

French Ministry of Justice:

Name: Céline Guillet

Title: Head of the MLA office within the Ministry of Justice

Address: 13 place Vendôme 75001 PARIS

E-mail: celine.guillet@justice.gouv.fr

GERMANY

i. Introduction

Based on its legislation on mutual legal assistance in criminal matters, Germany is, in principle, in a position to provide cooperation where a requesting state uses civil and administrative measures for the investigation and punishment of corruption offences, such as, e.g., administrative fines to be imposed on legal persons for corruption offences and “civil forfeiture” of proceeds of corruption. This presupposes that conduct involving a criminal or regulatory offence underlies such proceedings and that, where required, that conduct would constitute a criminal or regulatory offence under German law (see ii. below).

Furthermore, if the mutual legal assistance request is not covered by a relevant international agreement, international assistance is based on the German Act on International Legal Assistance in Criminal Matters. If bilateral or multilateral agreements have been concluded between Germany and the requesting state, these are the main authoritative texts governing mutual legal assistance. Reciprocity is not mandatory.

ii. Conditions to be met previously to the submission of a formal request

It is recommended that the requesting authority contacts the German Central Authority in advance of making a request for mutual legal assistance, particularly in the most serious cases, to ensure the assistance that the requesting state seeks is available under the German law and the request will meet Germany’s legal requirements. Such contact is not deemed mandatory.

Additionally, the foreign procedure must be qualified as “criminal” (in the German meaning of the word). In the field of mutual legal assistance, however, dual criminality is generally not required. An exception applies in cases where legal assistance involves taking coercive measures. Dual criminality is not, however, to be understood to require equivalence of the elements defining the criminal offense in the requesting state and in the requested state, it is sufficient if the conduct investigated may be sanctioned with a criminal penalty or a regulatory fine.

iii. Scope of the assistance

In regard to civil and administrative cooperation, Germany may provide assistance for taking of evidence and statements; obtaining bank records; executing precautionary measures; locating persons; serving of documents; identifying, tracing, freezing and recovering of assets; communicating procedural acts (e.g. service of process, subpoena, legal notice); and recognizing and enforcing judgements.

iv. Information to be included in the request

When submitting a cooperation request to Germany for civil and administrative proceedings relating to corruption, a country must provide information regarding the requesting and requested authorities. The legal basis of the request must also be included in the assistance request, as well as a transcription of legal provisions and reference and summary of the proceedings that gave rise to the request.

Furthermore, a requesting country must provide, when seeking cooperation with Germany, a brief statement of the facts, and the objectives and assistance requested.

When it comes to assistance requests relating to civil proceedings, Germany requires a description of the procedural law in the requesting state in order to verify if the proceedings could be qualified as “criminal”.

v. Urgency

It is possible for the requesting state to solicit urgency in the execution of a request. It should be identified any time limit within which compliance with the request is desired and the reason for the time constraints (for example, pending court proceeding/time-sensitive investigation). If the requesting state faces limitation periods, it should set out the precise dates.

vi. Steps to follow when seeking assistance from Germany

Cf. brochure "Asset Recovery under German Law":

<http://star.worldbank.org/star/document/asset-recovery-under-german-law-english>

vii. Contact information of the Central Authority

The competent authority depends on the state requesting assistance and the channel of communication foreseen in a treaty or the German law.

Contact information may be obtained with the German Federal Office of Justice, Division III1

Adenauerallee 99-103, 53113

Bonn, Germany

INDIA

i. Introduction

India is able to cooperate for non-criminal proceedings related to corruption on the basis of applicable bilateral and multilateral agreements. Where the mutual legal assistance sought is not covered by a bilateral agreement with the requesting State, it shall be on reciprocal basis.

The Ministry of Law and Justice, Govt. of India is the nodal authority for Civil, Commercial and Arbitration matters.

ii. Conditions to be met previously to the submission of a formal request

Previous contact is required as a condition to be met before the submission of a formal cooperation request.

Additionally, the formal submission of a request should be in the form of a Letter of Request, along with the certified copy of **decree** of any of the **superior Courts** of the **reciprocating territory** competent jurisdiction. According to India's response, "Reciprocating territory" should be understood as any country or territory outside India which the Central Government may, by notification in the Official Gazette, declare to be a reciprocating territory for the purposes of this section; and "Superior Courts", with reference to any such territory, means such Courts as may be specified in the said notification. Furthermore, "Decree" with reference to a superior Court means any decree or judgment of such Court under which a sum of money is payable, not being a sum payable in respect of taxes or other charges of a like nature or in respect to a fine or other penalty, but shall in no case include an arbitration award, even if such an award is enforceable as a decree or judgment. The nature of decrees required under Section 44 A of the Indian Code of Civil Procedure are as follows:

1. For issuing Letter of Request under Section 77 of the CPC,
2. For taking of evidence under Section 78 of the CPC and
3. For enforcement of Arbitral Awards under Section 44 (b) of the Arbitration and Conciliation Act, 1996.

iii. Scope of the assistance

In regard to civil cooperation, India may provide assistance for taking of evidence and statements; obtaining bank records; executing precautionary measures; locating persons; serving of documents; communicating procedural acts (e.g. service of process, subpoena, legal notice); recognizing and enforcing judgements; and identifying, tracing, freezing and recovering of assets. Nevertheless, recovery of assets can be done only after completion of trial.

India does not provide cooperation relating to administrative proceedings.

iv. Information to be included in the request

When submitting a formal cooperation request to India, the requesting country must provide information regarding the requesting authority, the central authority (as defined within the treaty to be used as basis for the request) and the requested authority. The legal basis of the request must also be included in the assistance request, as well as a transcription of legal provisions and reference and summary of the proceedings that gave rise to the request.

Furthermore, the requesting country must provide a brief statement of the facts, the objectives and assistance requested.

v. Urgency

It is possible for the requesting State to solicit urgency in the execution of the request, but it depends upon the facts and circumstances of the case and the contents of the MLAT signed between the two countries.

vi. Steps to follow when seeking assistance from India

India did not provide information on steps to be followed when seeking non-criminal cooperation.

vii. Contact information of the Central Authority

No information available.

ITALY

i. Introduction

Italy provides legal assistance both on the basis of bilateral and multilateral agreements. Legal assistance can also be provided on the basis of reciprocity.

For civil and administrative proceedings on anti-corruption, Italy is able to cooperate on the basis of Article 5 of Law n. 116 of August 2009, and also on the basis of STAR Program and E.U. Council Decision 2007/845/GAI.

ii. Conditions to be met previously to the submission of a formal request

Previous contact is required as a condition to be met before the submission of a formal cooperation request.

iii. Scope of the assistance

For both civil and administrative cooperation, Italy may provide evidence and statements and bank records. Italy may also provide assistance for the location of persons; serving of documents; identification, tracing, freezing and recovering of assets; and communication of procedural acts (e.g. service of process, subpoena, legal notice).

iv. Information to be included in the request

When submitting a formal cooperation request to Italy, the requesting country must provide information regarding the requesting authority, the central authority (as defined within the treaty to be used as basis for the request) and the requested authority. The legal basis of the request must also be included in the assistance request, as well as a transcription of legal provisions and reference and summary of the proceedings that gave rise to the request. Furthermore, the requesting country must provide a brief statement of the facts, the objectives and assistance requested.

v. Urgency

It is not possible for the requesting State to solicit urgency in the execution of the request.

vi. Steps to follow when seeking assistance from Italy

Following the workflow of the activities put in place by International Police Co-operation Service (acts also as ARO Italy):

Step 1: requests from countries usually come to the International Operations Room under the form of request of information;

Step 2: in particular the operators of said Operations Room handle the request sending a reply with the outcomes of the Criminal National database and other data available;

Step 3: if the application is not urgent and require more and deep investigations, the request is assigned to the operative Divisions (in this frame is important for the requesting countries to specify the main offence related to the request);

Step 4: the Operative Divisions works strictly linked with the National Services (usually the Guardia di Finanza as National Financial Police Force);

Step 5: the activities carried out by local Services consist in matching the results of databases, check the real situation of the subject under inquiry by traditional investigations getting information gathered directly on the field;

Step 6: when the information is complete, ARO Italy collects all the results and sends a report to the requesting country replying to the original request.

vii. Contact information of the Central Authority

Main Italian Authorities supporting MLA:

Italian Ministry of Justice: The Ministry serves as the Central Authority for international judicial assistance.

Ministry of Justice - Department for Justice Affairs

Directorate General for Justice- Ufficio II (International Cooperation)

Address: via Arenula 70- 00186- ROMA

Telephone: +390668852180

Fax: +390668897528

E-mail: ufficio2.dgpenale.dag@giustizia.it

International Police Cooperation Service (*Servizio per la Cooperazione Internazionale di Polizia - SCIP*): it is an interagency service for international operational police cooperation. It also comprises the National Central Bureau-Interpol, the Italian Europol National Unit and the S.I.RE.N.E. Division. Established in 2000 within the Criminal Police Central Directorate, SCIP serves as the Italian Asset Recovery Office (ARO) set up following EU Council Decision 2007/845/JHA1 in order to facilitate, through enhanced cooperation, the fastest possible EU-wide tracing of assets derived from crime.

Unità di informazione finanziaria (UIF) within the Bank of Italy: It is the Italian Financial Intelligence Unit. The UIF also participates in the work of various international organizations (the FATF, the Egmont Group).

The Guardia di Finanza (Italian Financial Police): It is an Italian law enforcement agency under the authority of the Minister of Economy and Finance. It is based on a military structure and it is a special police force aimed at prevention and repression of economic and financial violations.

JAPAN

i. Introduction

Japan is able to provide international cooperation under the framework of international cooperation regarding general civil proceedings, which is not specifically related to acts of corruption. Cooperation is therefore primarily based on domestic laws pertinent to reciprocal judicial aid and general civil proceedings, being multilateral agreements applicable to specific cases.

ii. Conditions to be met previously to the submission of a formal request

Japan does not impose any specific condition to be met previously to the formal submission of a cooperation request.

iii. Scope of the assistance

The scope of the assistance that may be granted depends on the requested matter. Assistance such as examination of evidence, service of documents, and recognition and enforcement of judgment shall be implemented in accordance with the framework of general civil proceedings and reciprocal judicial aid.

iv. Information to be included in the request

Japan did not indicate any information that must be included in a cooperation request. It will depend on the requested matter, being the information defined accordingly.

v. Urgency

It is not possible for the requesting State to solicit urgency in the execution of the request.

vi. Steps to follow when seeking assistance from Japan

Japan did not provide steps to be followed by a State seeking assistance, given that it will depend on the specific case. Assistance shall be granted in accordance with the framework of general civil proceedings and reciprocal judicial aid.

vii. Contact information of the Central Authority

No information available.

KOREA

i. Introduction

Non-criminal proceedings are proceeded in the Republic of Korea according to the Administrative Litigation Act and the Civil Procedure Act. The Act on International Judicial Mutual Assistance in Civil Matters serves as basis for cooperation in civil and administrative litigations. Reciprocity, as well as established treaties (such as Hague Conventions and bilateral agreements with Australia, China, Mongolia, Uzbekistan and Thailand) are acknowledged as grounds upon which requests for cooperation could be made.

There is no standard international cooperation procedure related to administrative penalties, such as imposition of fines, suspension of business, disqualification of participation, among others.

ii. Conditions to be met previously to the submission of a formal request

Korea does not impose conditions previously to the submission of a formal request. Nevertheless, though not mandatory, it is recommended that requesting authorities contact the relevant Korean authorities before making a formal request. Prior communication accompanied by draft requests have proven to be efficient ways of bringing constructive outcomes.

iii. Scope of the assistance

The scope of the assistance that may be granted in civil cooperation includes evidence and statements, serving of documents, and communication of procedural acts (service of process, subpoena, legal notice). The Act on International Judicial Mutual Assistance in Civil Matters provides the legal instrument that is used as basis, and further details shall be defined through mutual consultation.

With regard to cooperation for administrative proceedings, Korea clarifies that there is no standardized procedure, and requests will be analyzed on a case-by-case basis.

iv. Information to be included in the request

When submitting a formal cooperation request to Korea, a country must provide information regarding the requesting authority, the central authority and the requested authority. The legal basis of the request must also be included in the assistance request, as well as a transcription of legal provisions and reference and summary of the proceedings that gave rise to the request.

Furthermore, the requesting country must provide a brief statement of the facts, and the objectives and assistance requested.

It is important to highlight, however, that there is no standardized procedure for cooperation for administrative proceedings, and the details of a given request will be analyzed on a case-by-case basis.

v. Urgency

It is possible for the requesting State to seek facilitation of a request through mutual consultation with the Korean authorities. Such approach would be discussed on a case-by-case basis.

vi. Steps to follow when seeking assistance from Korea

Relevant authorities, such as the court or other administrative departments, will evaluate whether an incoming request meets the conditions provided by treaties and domestic legislation. If the request satisfies the given criteria,

the authorities will arrange for the execution of the request. Details on the processing of requests are provided by established agreements and national law.

vii. Contact information of the Central Authority

National Court Administration

Attn: Director of International Affairs

Seocho-daero 219

Seocho-gu

SEOUL 137-750

Republic of Korea

E-mail: international@scourt.go.kr

MEXICO

i. Introduction

Mexico has domestic legislation on non-criminal procedures for the investigation and punishment of corruption, including provisions of constitutional nature. International cooperation may be granted for administrative proceedings related to corruption.

ii. Conditions to be met previously to the submission of a formal request

Mexico does not impose any specific condition to be met previously to the formal submission of a cooperation request.

iii. Scope of the assistance

No assistance may be provided for civil cooperation.

With regard to administrative proceedings, the scope of the assistance that may be provided includes evidence and statements, bank records, precautionary measures, location of persons and serving of documents.

iv. Information to be included in the request

When submitting a cooperation request to Mexico, a country must provide information regarding the requesting authority, the central authority and the requested authority. The legal basis of the request must also be included in the assistance request, as well as a transcription of legal provisions and reference and summary of the proceedings that gave rise to the request.

Furthermore, the requesting country must provide a brief statement of the facts, and the objectives and assistance requested.

v. Urgency

The requesting State may solicit urgency in the execution of the request. It is necessary that the request be transmitted through the Mexican Ministry of Foreign Affairs (SRE) or the Attorney General's Office (PGR).

vi. Steps to follow when seeking assistance from Mexico

Administrative proceedings

Requests of assistance related to administrative proceedings must be sent to the SRE or PGR.

vii. Contact information of the Central Authority

No information available.

THE RUSSIAN FEDERATION

i. Introduction

The Russian Federation is able to provide assistance to MLA requests concerning civil and administrative proceedings.

ii. Conditions to be met previously to the submission of a formal request

For administrative proceedings, according to the Article 29.1.1 of the Code of Administrative Offences of the Russian Federation, if it is necessary to make in the territory of a foreign state the procedural actions provided for by that Code, the official carrying out proceedings on a case on an administrative offence shall forward a request for legal assistance to an appropriate official or body of the foreign state in compliance with an international treaty concluded by the Russian Federation or on a reciprocal basis, which is supposed until proved otherwise.

A request for legal assistance in respect of cases on administrative offences shall be forwarded through the following:

- 1) the Supreme Court of the Russian Federation - as regards the matters related to judicial activities of the Supreme Court of the Russian Federation;
- 2) the Ministry of Justice of the Russian Federation - as regards the matters related to judicial activities of courts, except as cited in Item 1;
- 3) the Ministry of Internal Affairs of the Russian Federation, the Federal Security Service of the Russian Federation, - as regards procedural actions related to the matters concerning their administrative activities;
- 4) the body authorized in compliance with an international treaty on rendering legal assistance concluded by the Russian Federation to forward and receive requests connected with execution of an appropriate international treaty;
- 5) the Office of the Prosecutor General of the Russian Federation - as regards all other instances.

A request for legal assistance in respect of cases on administrative offences and the documents attached thereto shall be accompanied by an attested translation thereof into the official language of the state whereto the request is to be forwarded, if not otherwise provided for by an international treaty concluded by the Russian Federation.

For civil proceedings, according to the paragraph 3 of the Article 407 of the Civil Procedure Code of the Russian Federation, the orders from foreign courts shall be executed in accordance with the procedure established by Russian law, unless otherwise stipulated in an international treaty of the Russian Federation.

iii. Scope of the assistance

In regard to civil cooperation, the Russian Federation may provide assistance for evidence and statements; serving documents; communication of procedural acts (service of process, subpoena, legal notice); recognition and enforcement of judgements; and examination on the spot. The Russian Federation does not provide assistance to

provide bank records; on precautionary measures; to locate persons; and to identify, trace, freeze and recover assets

iv. Information to be included in the request

If there is the relevant international treaty on mutual legal assistance between the Russian Federation and the requesting state, when sending request, preliminary consultations with central competent authority are not usually conducted, because the main requirements to the form and substance of the legal assistance request are provided for by the provisions of the international treaties.

At the same time, if there are questions as to the substance of the request for legal assistance, the necessary consultation will be provided by the central authorities of the Russian Federation.

Furthermore, when it comes to international cooperation in administrative proceedings, a requesting country must provide, when seeking cooperation with the Russian Federation: the Requesting Authority; the Central Authority; the Requested Authority; reference and summary of proceedings in the requesting authority that gave rise to the request; the legal basis of the request; a brief statement of facts; the transcription of legal provisions; and the scope of assistance requested.

A request for legal assistance in respect cases on administrative offences shall be drawn up in writing, signed by the official forwarding it, certified by the official stamp of an appropriate body and shall contain the following:

- 1) denomination of the body forwarding the request for legal assistance;
- 2) denomination and location of the body whereto the request for legal assistance is forwarded;
- 3) denomination of the case on an administrative offence and the nature of the request for legal assistance;
- 4) data on the persons in respect of whom the request for legal assistance is forwarded, including data on the date and place of their birth, citizenship, occupation, place of residence or place of stay, and in respect of legal entities their denomination and location;
- 5) description of the circumstances to be clarified, as well as a list of requested documents, material and other kinds of evidence;
- 6) data on the fact of the committed administrative offence, its qualification, the text of the appropriate article of the Code of Administrative Offences and, where necessary, also data on the extent of harm caused by this offence.

v. Urgency

Urgent requests can be submitted via fax or e-mail with subsequent sending of the original document and request of the competent authority.

vi. Steps to follow when seeking assistance from the Russian Federation

A request of a competent authority of a foreign state for carrying out administrative prosecution in relation to a citizen of the Russian Federation who has committed an administrative offence in the territory of the foreign state and returned to the Russian Federation or in respect of a Russian legal entity that has committed an administrative offence outside the territory of the Russian Federation shall be considered by the Office of the Prosecutor General of the Russian Federation. Proceedings relating to a case on an administrative offence and its consideration in such

instances shall be carried out in the procedure established by the Code of Administrative Offences of the Russian Federation.

vii. Contact information of the Central Authority

Administrative proceedings

The Prosecutor General's Office of the Russian Federation

The General Department of International Legal Cooperation

125993, GSP-3, Russia, Moscow, Bolshaya Dmitrovka, 15a

Phone 007 495 692 32 06

Fax 007 495 692 29 79, 007 495 692 83 80

E-Mail: transgprf@gmail.com

SPAIN

i. Introduction

Spain is able to provide mutual legal assistance based on international agreements or bilateral treaties. In Civil matters, Spain adopted the Act 29/2015, 30th July, on international legal cooperation in civil matters.

ii. Conditions to be met previously to the submission of a formal request

Previous contact of the requesting state with the Spanish central authority before the submission of a formal cooperation request is suggested.

iii. Scope of the assistance

Spain may provide assistance for taking of evidence, statements and bank records; serving of documents; identification, tracing, freezing and recovering of assets; and communication of procedural acts.

iv. Information to be included in the request

When submitting a formal cooperation request to Spain, the requesting country must provide information regarding the requesting authority and the central authority (as defined within the treaty to be used as basis for the request).

The legal basis of the request must also be included in the assistance request, as well as a transcription of legal provisions and reference and summary of the proceedings that gave rise to the request.

Furthermore, the requesting country must provide a brief statement of the facts, the objectives and assistance requested.

v. Urgency

Urgent MLA requests may be sent by e-mail to the central authority. Transmission channels must be respected in a second time.

vi. Steps to follow when seeking assistance from Spain

Step 1: The central authority receives MLA requests from foreign affairs ministry or directly from other central authorities. Judicial authorities may receive them directly if provided by conventions.

Step 2: The central authority sends requests to the competent judicial authorities for execution

vii. Contact information of the Central Authority

Ministerio de Justicia

Subdirección General de Cooperación Jurídica Internacional

C/ San Bernardo 61, 28071 Madrid

E-mail: sgcji@mjusticia.es

Fax: + 34 91 390 4457

TURKEY

i. Introduction

International cooperation in civil and administrative proceedings takes place in Turkey in two ways. Corruption is a predicate offence category of money laundering and in case of anti-money laundering and combating the financing of terrorism, MASAK (Financial Crimes Investigation Board of Turkey) is the responsible unit, which is able to cooperate with foreign counterparts, both via Egmont Secure Web Portal and through Memoranda of Understanding (MoU), signed with interested counterparts. The cooperation efforts are based on Egmont Principles of Information Exchange and MoU clauses. In addition, MASAK can suspend a suspicious transaction for seven business days (in line with the decree law no 670, 30 business days during the state of emergency time) in cases where the assets relating to a transaction are suspected to be linked to offence of money laundering or financing of terrorism. The power to suspend suspicious transactions may also be used upon reasoned request made by foreign counterparts. Regarding the investigation of corruption-related offences on EU funded projects, PMIB (Prime Ministry Inspection Board) is the responsible unit of coordination among EU-fraud services (OLAF) and national institutions.

ii. Conditions to be met previously to the submission of a formal request

Turkey does not impose any specific condition to be met previously to the formal submission of a cooperation request. Nevertheless, considering the nature of the assistance sought, requests should not require MLA (Mutual Legal Assistance). If MLA is required, requesting country has to transmit it via Ministry of Justice.

In terms of EU requests, According to article 50 (5) of the IPA framework agreement, signed in 2015 between Turkey and the EU Commission, OLAF (European Anti-fraud Office) may conduct documentary and on-the spot-checks and inspections in accordance the Regulation (EU, Euratom) No 883/2013 and Regulation (EU, Euratom) No 2185/1996 on the condition that close collaboration with Turkey's AFCOS (Service of coordination of the fight against fraud). Accordingly, OLAF should notify AFCOS in good time of the object, purpose and legal basis of the inspections, so that AFCOS can provide all the requisite support.

iii. Scope of the assistance

The PMIB may provide assistance in regard to evidence and statements and the serving of documents.

The MASAK may provide assistance for the identification and tracing of assets. In money laundering investigations, the information whether a suspect person has any bank account or asset in Turkey is searched by MASAK upon request. Afterwards, the findings may be shared with the requesting FIUs via Egmont Secure Web. This process works in line with Egmont Principles of Information Exchange.

iv. Information to be included in the request

When submitting a formal cooperation request to Turkey, a country must provide information regarding the requesting authority, the central authority (as defined within the treaty to be used as basis for the request) and the requested authority. The legal basis of the request must also be included in the assistance request, as well as a transcription of legal provisions and reference and summary of the proceedings that gave rise to the request.

Furthermore, the requesting country must provide a brief statement of the facts, and the objectives and assistance requested.

v. Urgency

It is not possible for the requesting State to solicit urgency in the execution of the cooperation request made to Turkey.

vi. Steps to follow when seeking assistance from Turkey

The steps to be followed by a requesting State when seeking cooperation for non-criminal matters in proceedings related to corruption are summarized as follows:

Step 1: The Prime Ministry Inspection Board (PMIB), acting as AFCOS, evaluates all investigation requests received from the Undersecretariat of Treasury (NAO). AFCOS assesses the irregularity and launch an investigation if necessary.

Step 2: After the decision of opening an investigation, there are two alternative ways to conduct this investigation: PMIB makes its own investigation or send the irregularity report and its first evaluation findings to related institutions. If PMIB determines to make investigation by itself, according to the Prime Minister's (PM) Approval number 18 on 14 June 2016, PMIB President is authorized to assign a PMIB Inspector to start investigation. PMIB may conduct an examination, research and investigation or make other institutions carry out an examination, research and investigation.

Step 3: If PMIB sends the irregularity report and its first evaluation findings to related ministry, Minister's or Undersecretary's Approval should be required to start investigation too.

vii. Contact information of the Central Authority

PMIB:

Cumali AYTEKİN (Prime Ministry Inspector) at cumali.aytekin@basbakanlik.gov.tr

Halil KABADAYI (Prime Ministry Inspector) at halil.kabadayi@basbakanlik.gov.tr

Seyfittin METİN (Prime Ministry Inspector) at smetin@basbakanlik.gov.tr

Yusuf Erkan ÖZÇELİK (Prime Ministry Inspector) at yusuf.ozcelik@basbakanlik.gov.tr

THE UNITED KINGDOM

i. Introduction

The United Kingdom can provide international legal cooperation for non-criminal matters related to asset recovery. Law provides for non-conviction based confiscation (known in the UK as “civil recovery”) of the proceeds of crime in cases where criminal proceedings have resulted in an acquittal, or where such proceedings have not been pursued – either because it has not been possible to do so, or because it is in the public interest not to do so.

The UK can provide assistance to any country or territory in the world, whether or not that country is able to assist the UK, and regardless of a bilateral or multilateral agreement. However, where an agreement imposes specific conditions or procedures, the UK expects these to be adhered to.

ii. Conditions to be met previously to the submission of a formal request

The United Kingdom does not impose any specific conditions that must be met previously to the formal submission of the cooperation request. Pre-MLA enquiries are recommended as good practice to identify assets and to meet UK’s legal requirements. The assets to be identified should be included in the request.

iii. Scope of the assistance

Assistance may be provided for civil proceedings, including precautionary measures, for serving of documents; provision of information regarding bank records; communication of procedural acts (e.g. service of process, subpoena, legal notice); recognition and enforcement of judgments; and taking of evidence and statements.

Within an asset recovery context, assistance may be granted for the location of persons and for identifying and tracing assets, in which case the UK requires cooperation on a police to police basis prior to the submission of a request.

iv. Information to be included in the request

When submitting a formal cooperation request to the United Kingdom, a country must provide information regarding the requesting authority, the central authority and the requested authority. The legal basis of the request must also be included in the assistance request, as well as reference and summary of the proceedings that gave rise to the request. Furthermore, the requesting country must provide a brief statement of the facts, the purposes of the request and the exact description of the assistance requested.

Furthermore, the assistance request must include court orders and supporting documents. A transcription of the legal provisions that support the request is also useful, but not mandatory.

v. Urgency

It is possible for a requesting State to solicit urgency in the execution of a request. Reasons for special urgency or attention should be included in the covering letter of request.

vi. Steps to follow when seeking assistance from the United Kingdom

As per the guidance (<https://www.gov.uk/guidance/mutual-legal-assistance-mla-requests>) requests should be sent to the relevant central authority.

European Union countries (except Denmark) can make court-to-court requests using a prescribed form pursuant to the Taking of Evidence Regulation (1206/2001/EC). The UK is also signatory to the Hague Convention on the Taking

of Evidence Abroad in Civil or Commercial Matters. This is done by way of Letter of Request to a designated Central Authority. Requests for taking evidence in civil matters in England, Wales and Northern Ireland should be made to the Foreign Process Section of the Royal Courts of Justice, and all requests for assistance in civil matters concerning Scotland should be made to The Central Authority & International Law Team (Scottish Directorate).

vii. Contact information of the Central Authority

England or Wales or Northern Ireland:

UK Central Authority

International Criminality Unit

Home Office

3rd Floor Seacole Building

2 Marsham Street

London

SW1P 4DF

Fax: +44 20 7035 6985

Tel: +44 20 7035 4040

E-mail: UKCAILOR@homeoffice.gsi.gov.uk

Scotland:

International Co-operation Unit

Crown Office

25 Chambers Street

Edinburgh

EH1 1LA

Tel: +44 131 243 8152

Fax: +44 131 243 8153

E-mail: coicu@copfs.gsi.gov.uk

THE UNITED STATES OF AMERICA

i. Introduction

As appropriate and consistent with the U.S. legal system, the United States assists other States Party to the United Nations Convention against Corruption in civil and administrative proceedings for the detection of corruption offences, pursuant to Article 43(1) of the Convention. Assistance is provided on a case-by-case basis based on the facts and circumstances supporting the specific request.

ii. Conditions to be met previously to the submission of a formal request

Given the number and variety of requests that arise, States Party seeking assistance under Article 43(1) are first encouraged to speak with U.S. personnel stationed at the U.S. Embassy in their country.

iii. Scope of the assistance

Assistance is provided on a case-by-case basis based on the facts and circumstances supporting the specific request. The nature and purpose of the request, including any relation to criminal matters, determines which U.S. agency would be primarily responsible for reviewing and, as appropriate, executing the request.

The United States may also initiate its own domestic non-conviction based (civil) confiscation proceeding based upon evidence of foreign corruption offenses because, under the U.S. Attorney General's Kleptocracy Program, U.S. prosecutors can confiscate properties both within and outside the jurisdiction of the United States which constitute, are derived from, or are traceable to, the proceeds of, or were used as instrumentalities in, a broad range of domestic and foreign offenses in the corruption and money laundering context.

iv. Information to included in the request

Given the number and variety of requests that arise, States Parties seeking assistance under article 43(1) of the UNCAC are encouraged to speak first with U.S. personnel stationed at the U.S. Embassy in their country.

Additionally, "U.S. Asset Recovery Tools & Procedures: A Practical Guide for International Cooperation" provides additional details regarding the information that must be submitted to support a request to identify, restrain or forfeit assets.

v. Urgency

The United States may be able to assist in an urgent matter depending on the nature and purpose of the request.

vi. Steps to follow when seeking assistance from the United States

Assistance is provided on a case-by-case basis based on the facts and circumstances supporting the specific request. The nature and purpose of the request, including any relation to criminal matters, determines which U.S. agency would be primarily responsible for reviewing and, as appropriate, executing the request.

vii. Contact information

For identifying forfeitable assets located in the United States, U.S. representatives to CARIN may be able to assist. For such informal assistance, please contact CARIN@usdoj.gov. For assistance regarding non-conviction based (civil) confiscation proceedings against the proceeds of foreign corruption, please contact kleptocracy@usdoj.gov.

For assistance related to a criminal matter, please contact the U.S. Department of Justice, Criminal Division, Office of International Affairs at (202) 514-000.

PART II

*SAMPLE INTERNATIONAL COOPERATION FORM -
REQUESTING CIVIL AND ADMINISTRATIVE PROCEEDINGS
RELATING TO CORRUPTION*

SAMPLE INTERNATIONAL COOPERATION FORM TO G20 COUNTRIES

Note: This Sample Form is included for illustration purposes only. When drafting a request for assistance to a G20 country, the requesting State should refer to the information provided in this Guide for specific information pertaining to each country and/or contact authorities from the requested country.

URGENT/CONFIDENTIAL

1. **TO:** *Requested authority*
2. **FROM:** *Central authority in the requesting country*
3. **REQUESTING AUTHORITY:** *The authority that is requesting the assistance*
A brief description of the agency/body requesting assistance should be provided, such as its activities, responsibilities, and competences.
4. **REFERENCE:** *Reference to the investigative proceedings that gave rise to the request*
5. **LEGAL BASE:** *Treaty or convention that is being used as legal basis for the request*
6. **STATEMENT OF THE FACTS:** *A brief summary of the facts and allegations that initiated the investigative proceeding, including the current status of the internal investigations and how it relates to the requested country*
7. **TRANSCRIPTION OF LEGAL PROVISIONS:** *Reference and transcription of legal provisions applicable to the specific case object of the request*
8. **DESCRIPTION OF THE REQUESTED ASSISTANCE:** *The measures and information that are expected to be gathered through cooperation*
9. **OBJECTIVE OF THE REQUEST:** *Information regarding the purposes of the cooperation should be included, such as the possible results of the proceedings that are expected to be achieved after its conclusion*
10. **LIST OF DOCUMENTS ATTACHED:** *Any documents deemed relevant to support the request should be attached to it*
11. **DATE AND PLACE**
12. **SIGNATURE**