Chile - Mutual Legal Assistance on Criminal Matters

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LEGAL FRAMEWORK FOR MLA REQUESTS

• MULTILATERAL CONVENTIONS
  • EUROPEAN CONVENTION OF 1959 AND ADDITIONAL PROTOCOLS
  • UNCAC
  • THE INTERAMERICAN CONVENTION OF MLA IN CRIMINAL MATTERS (NASSAU)
  • UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME AND THE PROTOCOLS

• RECIPROCITY

• BILATERAL TREATIES:
  • SPAIN - 14.04.1992
  • ITALY - 27.02.2000
LEGAL FRAMEWORK FOR MLA REQUESTS

NATIONAL LAW:

- ART. 20 BIS - CRIMINAL PROCESS CODE (CRIMINAL PROCEDURE REFORM)
  - Requests for legal assistance from the relevant authorities of a foreign country will be carried out by the Public Prosecutor’s Office, which will sought the Guarantee Judge’s authorisation when necessary according to Chilean law.
  - ART.9: Guarantee Judge’s authorization is always required when inquiries could affect (deprive, restrict or disturb) the rights of the accused or of a third party.

- ART. 76 CIVIL PROCEDURE CODE (CASES PRIOR TO THE CRIMINAL PROCEDURE REFORM)
CENTRAL AUTHORITIES

PUBLIC PROSECUTOR`S OFFICE OF CHILE

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REQUESTING STATE

Central Authority Public Prosecutor’s Office (UCIEX)

Local Prosecutor’s Office

Prosecutor opens a file

Investigative steps

UCIEX

REQUESTING STATE

Guarantee Judge
INCOMING MLA

• HONDURAS MLA: to search, seize and confiscate assets located in Chile.
• In particular, several apartments were confiscated
• Extradition request
• MLA in order to request the returning the confiscated proceeds of crime or property
• OTP opened and investigation for money laundering
INCOMING MLA

• Article 469 Procedural Criminal Code: The disposal of confiscated proceeds of crime or property will be earmarked to the Administrative Corporation of the Judicial Branch.
• OTP requested to the Judge according to article 14 of the Organize Crime Convention, the disposal of the proceeds of crime to the authorities of Honduras.

• The judge granted the returning of the confiscated proceeds of crime to Honduras based on the Convention
OUTCOMING MLA

MLA Chile to Switzerland

To freeze, seize and confiscate a bank account

Chilean convicted for fraud, tax and fiscal offenses

Bilateral agreement. Equal shares (fifty/fifty)

Swiss Confederation transferred US$310,000 to the OTP, to give compensation to the victims
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