

Many states gave various opinions on common reasons for refusals and delays in responding to mutual legal assistance requests related to corruption offences under the Convention. Main reasons included absence of bilateral agreements, incompleteness of requests in terms of formalities required by the Convention or bilateral agreements, insufficient supporting materials, absence of dual criminality, submission to wrong authority, and lack of direct channels of communication.

Keeping those in mind, I would like to present how to promote mutual legal assistance. There may be numerous ways to achieve this, but on this occasion I will emphasize three key methods for enhancing the international cooperation.

1.

First and foremost, the domestic authority in charge of international criminal affairs must be strengthened. I believe that most states, or at least their legal enforcement agencies, have reached a consensus that corruption must be rooted out and the corrupted must be punished strictly. Despite this, however, MLA requests are delayed or refused mainly because states lack the organization or budget to process and execute MLA.

In Korea, only a handful of officers including one prosecutor deal with all incoming and outgoing MLA requests. If the number of staffs in charge of MLA increases, it will naturally promote and accelerate execution of MLA.

Consequently, it comes down to the will of the states. However, often the government budget is limited, and most states are less interested in international matters. Especially, developing countries frequently prioritize domestic matters over international criminal affairs.

Therefore, if each state commit itself to allocating more resources into

international criminal affairs competence, it will surely invigorate MLA between states. I suppose the United Nations can contribute to creating such atmosphere around the world.

2.

Secondly, each state must build and maintain a system to manage MLA cases.

Korea manages about 600 MLA cases per year with only a handful of staffs, as mentioned before; the secret of such performance is in its organized and well-established system. The Korean Ministry of Justice classifies all incoming and outgoing MLA cases according to several categories such as the requesting or requested state, facts of the case, and type of the offence. Then, through an organized program, the progress of every case is uploaded and constantly reviewed. This systematical approach prevents over-delay of cases and enables effective and efficient case management. In fact, this has helped us notice cases that were overlooked for some period of time and take appropriate measures accordingly. Preventing cases from being neglected and forgotten will definitely lead to promotion of MLA.

3.

Lastly, representatives from states need to gather more often for face-to-face communications.

While the requesting state generally wishes MLA executed as soon as possible, it usually takes 6 months to 1 year due to the process required by the domestic laws of the requested state. However, there are times when the execution of a request is delayed for more than a year without special reasons, even when a mere fact inquiry is requested. This is because countries that have not entered into bilateral or multilateral agreements usually take a passive stance when giving MLA. Sometimes, when the number of outgoing requests from a certain requested state is substantially less than the number of incoming

requests to the state, the requested state may be reluctant to give assistance even if it has signed a treaty with the requesting state.

The best solution in these cases is to communicate and consult with each other more often. Also, it should be encouraged to cooperate with foreign authorities to sign treaties with more states. Frequent communication is a sure way to overcome issues regarding execution of MLA.

Even though telecommunication technology has been advanced, in my experience, face to face dialogue is still the best and most efficient way of communication. If circumstances does not allow it, occasional video or audio conferences will greatly accelerate the progress of cases. Consultation between central authorities will generally suffice; but it will work even better if the authority in charge of execution joins the consultation.

Korea is currently having a consultation with several countries periodically, and is hosting the Senior Level Workshop on Extradition and MLA in Asia and the Pacific in order to provide a regular platform of communication.

Although I haven' t been in charge of MLA that long, I wanted to share what I' ve learned from the experience so far. I hope that my thoughts will contribute to promoting international cooperation in criminal matters. Thank you all for listening.