



Ministry of Justice of the Russian Federation

**ASSET RECOVERY:
PRACTICAL STEP-BY-STEP GUIDE
ON INTERNATIONAL COOPERATION**



INTRODUCTION

- ❖ International cooperation by the Russian Federation in the field of combating corruption is one of the priority thrusts of state policy in the anti-corruption arena and is implemented as part of the fulfillment of Russia's obligations under the country's international treaties.
- ❖ The guide contains practical information on how Russia can contribute to foreign states in the recovery of assets, as well as specific steps to be followed by foreign states and their competent authorities in establishing cooperation with the relevant government bodies of the Russian Federation in order to obtain their assistance.



INTERNATIONAL LEGAL ASSISTANCE IN ASSET RECOVERY

- ❖ Request for legal assistance is a procedural document, the status of which is established in Chapter 53 of the Criminal Procedure Code of the Russian Federation and international treaties defining the scope, terms and conditions of mutual legal assistance between the Russian Federation and foreign states.

- ❖ There are two species of the requests:
 - *Requests made on the basis of an international treaty;*
 - *Requests not based on an international treaty;*

- ❖ *The requirement of double criminality* (If the act is not a crime under the laws of the Russian Federation, legal assistance can be rendered in the event that it is envisioned by an international treaty on legal assistance with the requesting state (for example, in Paragraph 3 of Article I of the Agreement between the Russian Federation and the United States of America on Mutual Legal Assistance in Criminal Matters of 1999).



CENTRAL AUTHORITIES

- ❖ According to most bilateral treaties, the central authorities of the Russian Federation for affairs on legal assistance in criminal matters are identified as the Prosecutor General's Office of the Russian Federation and the Ministry of Justice of the Russian Federation.
- ❖ In the absence of a treaty on legal assistance in criminal matters, requests for legal assistance related to the search and seizure of property are generally directed to the Prosecutor General's Office of the Russian Federation, and for the confiscation of property – to the Ministry of Justice of the Russian Federation.



RULES THAT MUST BE FOLLOWED WHEN SUBMITTING A REQUEST TO THE RUSSIAN FEDERATION

This guide provides steps that are required to obtain legal assistance from the Russian Federation.



STEP 1: CONSULT WITH THE CENTRAL AUTHORITIES BEFORE SENDING A REQUEST

- ❖ If there is an international treaty in place between the Russian Federation and the state sending a request for legal assistance in criminal matters, then when sending requests, including those involving the recovery of stolen assets, prior consultation with the central competent authority is not generally practiced, since the basic requirements governing the form and content of the request for legal assistance are set out in the provisions of international treaties.



STEP 2: SPECIFY THE BASIS ON WHICH LEGAL ASSISTANCE IS BEING SOUGHT

- ❖ The request must specify the title of the international treaty between the Russian Federation and the state sending the request for legal assistance in criminal matters serving as the basis for the request.
- ❖ In the absence of an agreement on legal assistance in criminal matters, legal assistance is rendered based on the principle of reciprocity. That said, the requesting state guarantees compliance with the principle of reciprocity by written obligation to render the Russian Federation similar legal assistance on the basis of this principle.



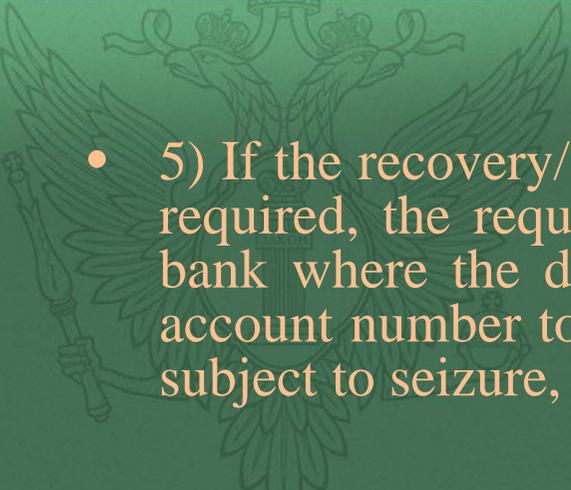
STEP 3: SPECIFY THE AUTHORITY CONDUCTING THE INVESTIGATION, CRIMINAL PROSECUTION OR JUDICIAL PROCEEDINGS

- ❖ The request must specify the full and exact name of the requestor, i.e. the authority which is conducting investigation, criminal prosecution or judicial proceedings, and the number of the criminal case in which legal assistance is requested.



STEP 4: DESCRIBE THE CIRCUMSTANCES OF THE CASE

- ❖ The contents of the request must include the following:
 - 1) Qualification of the offense with reference to the relevant law of the requesting state;
 - 2) Description of the factual circumstances of the offense;
 - 3) Information on the amount of damage caused by the offense;
 - 4) Complete background information on the persons concerning whom the request is being submitted

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- 5) If the recovery/seizure of documents (including banking/financial) is required, the request shall specify the location of the organization or bank where the documents are presumably being held, including the account number to which the documents relate, a list of the documents subject to seizure, and for what period the documents are to be seized;
 - 6) If the request requires the execution of a search, it should specify the address of the person or entity where the search is to be conducted, including a list of the items/documents to be recovered during the search;
 - 7) If the seizure of criminal proceeds is required, the location of this property shall be indicated, as well as justification for the request, explaining the relationship between the offense and the assumed proceeds;
 - 8) For each requested measure, its justification and the goals being pursued should be indicated.



STEP 5: ATTACH EXTRACTS FROM APPLICABLE LEGISLATION

- ❖ Attach extracts from all necessary legislation applicable to the investigation/prosecution, including a list of criminal sanctions.



STEP 6: DESCRIBE THE LEGAL ASSISTANCE BEING REQUESTED

- ❖ The legal assistance being requested must be logically linked to the descriptive part of the request. Otherwise, the requesting state will be asked to provide additional information, which may substantially delay execution of the request.
- ❖ It is advisable to present the legal assistance requested as separate items.
- ❖ The text of the request must contain guarantees on the use of the obtained information and documents solely for the purposes specified in the request, as well as an obligation to return the original documents and physical evidence seized during execution of the request. (full list of content requirements for the request is specified in the guide)



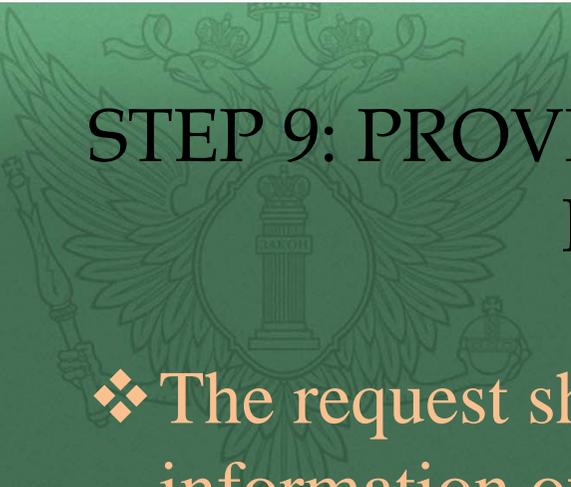
STEP 7: SPECIFY THE NEED FOR CONFIDENTIALITY

- ❖ If necessary, the request should include a request to maintain the confidentiality of the information provided, stating the reasons for which it is deemed necessary.



STEP 8: SPECIFY THE TIMEFRAME FOR EXECUTION OF THE REQUEST

- ❖ It is advisable that the request indicate the expected timeframe of its execution, providing the rationale behind said timeframe.



STEP 9: PROVIDE A LIST OF CONTACTS IN THE REQUESTING STATE

- ❖ The request should specify the full address and other information of the requestor (contact phone numbers, fax, e-mail) for the prompt resolution of issues arising during execution of the request.



STEP 10: TRANSLATE THE REQUEST

- ❖ The request and the attached documents must be accompanied by their translation into Russian or any other language envisioned by the international treaty serving as the basis for request submission.
- ❖ If there is no international treaty, the request and the accompanying documents must be translated into the Russian language.



STEP 11: RESTRICTIONS ON THE USE OF OBTAINED INFORMATION

- ❖ The information obtained during execution of the request may only be used for the purposes specified therein. The possibility of using the materials for other purposes must be agreed with the relevant central authority of the Russian Federation.



STEP 12: NOTIFICATION ON THE COURSE OF REQUEST EXECUTION

- ❖ On the basis of the submitted request, the competent authorities of the Russian Federation will take measures to ascertain whether or not the assets in question are located within its jurisdiction. The appropriate central body of the Russian Federation will then notify the initiator of the request as to the results of the search.
- ❖ In the event of the discovery of the assets in question, the competent authorities of the Russian Federation, based on the submitted request, shall proceed with their seizure in accordance with applicable Russian Federation law for the purposes of preventing any actions involving said assets, including any transfer or disposal thereof, until such time as a ruling is entered by the competent authority of the Russian Federation with respect thereto. The initiator of the request shall similarly be notified to that effect.



STEP 13: ACCEPTANCE OR REJECTION OF A REQUEST

- ❖ Based on the results of its comprehensive consideration of the request and other case materials, the central authority of the Russian Federation will notify the initiator of the request of the decision made in the matter.
- ❖ In the event that the request is rejected, it would be advisable to consult with the central authority of the Russian Federation in order to address any shortcomings in the submitted request, and, where possible, submit the request again by following steps 2 – 12.
- ❖ In the event that the request is accepted, the central authority of the Russian Federation will notify the initiator of the request to that effect.



STEP 14: EXECUTION OF THE RETURN OF ASSETS

- ❖ Upon its receipt of notification that the request has been accepted, the requesting party is advised to consult with the central authority of the Russian Federation on the volume, terms and procedure of asset return.
- ❖ Assets shall be returned to the initiator of the request in accordance with applicable Russian Federation law.
- ❖ Please be advised that under the return of assets, the rights of third-party good-faith acquirers must be observed in accordance with the legislation of the Russian Federation.
- ❖ Assets may be returned either in full or in part in due consideration, inter alia, of the possible need to reimburse the competent authorities of the Russian Federation for related expenses.

CONTACT INFORMATION

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