

Example Contents of Mutual Legal Assistance (MLA) Request

- 1. Name(s) of the foreign designated Central Authority/Competent Authority to which the request is to be sent** in the requested State. This differs according to the jurisdiction. *Central Authorities* have the function of receiving, acceding to and ensuring the execution of Mutual Legal Assistance (MLA) requests. They thereafter transmit the request for execution to the *Competent Authority*. The *Competent Authority* may be a law enforcement agency such as the Police or the Anti-Corruption Agency, or may be prosecutors or investigating judges. Some Central Authorities are also Competent Authorities and perform both tasks. To find the relevant authorities in the requested State, you can search the UNODC On-line Directory of Competent National Authorities under the UNCAC (https://www.unodc.org/compauth_uncac/en/index.html – verified user account required) or simply search online for the country's information page about MLA, which should display the details of the Central Authority. In cases where it is not clear which foreign institution will be responsible for carrying out the request, it should be simply addressed "To the Central Authority" and the name of the State in question.
- 2. Name of the institution** which is working on the criminal case and sending the international legal assistance request, and its authority/functions as Competent Authority in the requesting State.
- 3. Reference to the provisions of the international treaty** to which the requesting and the requested States are parties, or bilateral treaty if one exists. If there is no bilateral or multi-lateral treaty involved, it should contain a request to provide assistance on the basis of reciprocity.
- 4. Name and other relevant details of the criminal case** for which MLA is requested. The summary of the relevant facts should explain to the foreign authorities that a criminal offence was probably committed in the requesting State by the person under investigation and, that in order to continue with the investigation, certain evidence must be gathered in the requested State. The summary of relevant facts should tell the story as it happened and stay away from investigative acts undertaken. It should be an account of the events highlighting the elements of the crime in order to establish the reason why the person under investigation most likely committed the crimes under investigation. If there are assets to be seized, causality should be established: why are these assets the proceeds or instrumentalities of crime? Where can the assets be located? The language should be kept simple: the purpose is to communicate.
- 5. Information on the circumstances of the committed crime**, its qualification and text of the appropriate article of the Criminal Code of the requesting State, as well as

information on the damages or prejudice inflicted by this crime. After referencing the requesting authority as well as the requested authority and establishing the legal basis for the request, it is necessary to establish the offences under investigation. In this section, particular attention should be paid to dual criminality. This requirement establishes that the offences investigated by the requesting State – and which motivated the request – must also be offences under the requested State’s legislation. Non-compliance with this requirement constitutes sufficient grounds for rejecting an MLA request. To avoid dual criminality problems it is advisable not only to make reference to the offences investigated but also include a copy of the text of the offence concerned. In this way, if the requested State does not call an offence by the exact same name, it may be able to identify the relevant conduct which is punishable under a different name.

6. **Detailed information on persons** in regard to whom such request is filed, and their procedural status.
7. **Concise list of the investigative and other procedural activities** which need to be carried out by the requested State, with arguments on how these are connected to the object of investigation in the criminal case, as well as the list of necessary documents, objects and other evidential material required.
8. **When there are witnesses to be interviewed**, it is necessary to provide the requested State with all necessary information on how to find and identify those people concerned. To the list of witnesses, the following information should be attached (if available):
 - a. Full name and aliases;
 - b. Names of both parents;
 - c. Nationality and date of birth;
 - d. Passport or national identity card number;
 - e. Address and telephone number;
 - f. Occupation and employer.

This information will help the authorities of the requested State to locate the witness and verify his or her identity. If the requesting authorities have any additional information that may be helpful in the identification of a witness, it should also be included.

9. **If necessary, information on the representatives of the inquiry body**, pre-trial investigation body, prosecutor’s office or court, whose presence is deemed to be necessary in the foreign State when procedural activities are being carried out;
10. **Other data depending on the nature of the request**, and also additional data and documents which can facilitate its execution.

11. **The principle of specialty** guarantees that information received through an MLA request will only be used for the investigation and the purposes stated in the request, and should be mentioned. As stated in Article 46(19) of the UNCAC , *“The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party.”*
12. **It should be stated if urgency is a consideration.** Article 46(24) of the UNCAC – *“The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requesting State Party may make reasonable requests for information on the status and progress of measures taken by the requested State Party to satisfy its request. The requested State Party shall respond to reasonable requests by the requesting State Party on the status, and progress in its handling, of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.”*
13. **Confidentiality** is an important reminder when requesting MLA. Particularly, in the early stages of an investigation, it is advisable not to take actions that will alert the target. The letter of request can – and should – expressly refer to this issue. Article 46(20) of the UNCAC – *“The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State Party.”*