

# Introduction to Request Mutual Legal Assistance in Criminal Matters with Taiwan (R.O.C.)

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項目	內容
Central authority	<p><b>Ministry of Justice (MOJ)</b></p> <p><b>Contact:</b>            Department of International and Cross-Strait Legal Affairs;            Tel: +886 2 2191-0189;            Fax: +886 2 2312-0375;            Email address: <a href="mailto:mla-taiwan@mail.moj.gov.tw">mla-taiwan@mail.moj.gov.tw</a></p> <p><b>Address:</b>            No. 130, Sec. 1, Chongqing S. Rd., Taipei 10048, Taiwan (R.O.C.)</p>
Legal basis for the request for mutual legal assistance in criminal matters	<ol style="list-style-type: none"> <li>1. Taiwan (R.O.C.) <b>will provide</b> assistance to a foreign government/foreign institution/international organization with bilateral treaty/agreement/arrangement on mutual legal assistance (MLA).</li> <li>2. Taiwan (R.O.C.) <b>may provide</b> assistance to a foreign government/foreign institution/ international organization without a mutual legal assistance treaty/agreement/arrangement. Such assistance may be provided based on the principle of reciprocity and domestic laws.</li> </ol> <p>*Please note the central authorities or other competent government agencies of the requesting party shall issue a statement or undertaking of reciprocity to Taiwan (R.O.C.)</p>

<p>Channel for delivering a request to Taiwan (R.O.C.)</p>	<ol style="list-style-type: none"> <li>1. Taiwan (R.O.C.) requires a request for mutual legal assistance from a foreign government/foreign institution/international organization to be delivered via diplomatic channels in the form of a written Letter of Request.</li> <li>2. For requests from the countries with the bilateral treaty, agreement or arrangement with Taiwan (R.O.C.), please proceed in accordance with the terms of the treaty, agreement or arrangement respectively.</li> </ol> <p>(note)  <a href="#">Art. 7</a> of the Mutual Legal Assistance in Criminal Matters Act (2018) [hereinafter referred to as MLA Act (2018) ]</p>
<p>Request in emergency</p>	<ol style="list-style-type: none"> <li>1. In case of an emergency, the requesting party may file the request in other forms directly with the central authority with necessary documentation or material attached.</li> <li>2. The Ministry of Justice may, after review, have the request relayed or commissioned to an assisting authority for imposing necessary interim measures in connection with the assistance requested.</li> <li>3. The requesting party is required to, within the next 30 days, file a written Letter of Request with the Ministry of Foreign Affairs.</li> <li>4. In the case the requesting party fails to act as such, the Ministry of Justice may deny the request and order the assisting body to revoke whatever interim measure it had been imposed.</li> </ol> <p>(note)  <a href="#">Art.7</a> and <a href="#">Art. 8</a> of the MLA Act (2018)</p>
<p>Language requirement</p>	<ol style="list-style-type: none"> <li>1. The Letter of Request and its attachment shall be written in <b>Traditional Chinese</b>. If the Letter of Request is not prepared in Traditional Chinese, it shall be accompanied with Traditional Chinese translation that carries identical contents with the original.</li> <li>2. The Ministry of Justice may at its discretion consent</li> </ol>

	<p>to accept attachments without Traditional Chinese translation or translated in other languages.</p> <p>3. For requests from the countries with the bilateral treaty, agreement or arrangement with Taiwan (R.O.C.), please proceed in accordance with the terms of the treaty, agreement or arrangement respectively.</p> <p>(note)  <a href="#">Art. 8</a> of the MLA Act (2018)</p>
Dual criminality requirement, if applicable	<p>1. Dual criminality is <b>required</b> for compulsory measures such as search, seizure, immobilization of assets, confiscation of assets or collection of proceeds value relating to a criminal offense, and restitution of proceeds of crime.</p> <p>2. In consideration of dual criminality for mutual legal assistance, the MOJ would like to be flexible to the extent that as long as a part of the alleged action taken by the suspect or the defendant constitutes at least one criminal offence in Taiwan (R.O.C.), the MOJ is inclined to determine that the request fulfills the dual criminality requirement.</p> <p>(note)  <a href="#">Art. 22</a> and <a href="#">Art. 6</a> of the MLA Act (2018)</p>
Limitation of the use of evidence obtained	<p>Evidence provided by Taiwan (R.O.C.) pursuant to an MLA request must only be used for the specified purpose of the request.</p> <p>(note)  <a href="#">Art.16</a> of the MLA Act (2018)</p>
Grounds to refuse the assistance	<p><b>Mandatory refusal causes :</b></p> <p>1. The provision of assistance will be detrimental to Taiwan (R.O.C.)’s sovereignty, national security, public order, international reputation or any other significant public interest of Taiwan (R.O.C.).</p> <p>2. The provision of assistance will prejudice the individuals involved and may result in the person’s punishment or any other detrimental infliction</p>

	<p>because of the person’s race or ethnic origin, nationality, gender, religion, social class, or political opinion.</p> <p><b>Discretionary refusal causes :</b></p> <ol style="list-style-type: none"> <li>1. The request is not made in conformity with the MLA Act (2018).</li> <li>2. The provision of assistance violates the principle of reciprocity.</li> <li>3. The requesting party fails to provide any assurance defined under the MLA Act (2018) or an undertaking of reciprocity.</li> <li>4. Dual criminality requirement is not met.</li> <li>5. The wrongdoings specified in the request are violations of martial law, instead of violations of criminal law applicable to civilians.</li> <li>6. The provision of assistance could interfere with other ongoing investigation, prosecution, trial, enforcement or any other criminal proceedings in Taiwan (R.O.C.).</li> <li>7. The wrongdoings upon which the request is based have been determined and bound by a decision of not-to-prosecute, deferred prosecution, or withdrawal of prosecution, or a judgment, a ruling of not-to-hear-the-case, of not-to-apply-protective-measures, or of protective-measures pursuant to the Code of Criminal Procedure or the Juvenile Delinquency Act, which is final and irrevocable.</li> </ol> <p>(note)  <a href="#">Art. 10</a> of the MLA Act (2018)</p>
Timeframe	For facilitation with the assistance, if applicable, please identify any time limit within which compliance with the request is desired and the reason for the time constraints (example: pending court proceeding/time-sensitive investigation, etc.).
Others	Advance consultation with the central authority of Taiwan (R.O.C.) at the drafting stage is highly appreciated in

	either Chinese or English.
Reference	Mutual Legal Assistance in Criminal Matters Act (2018) <a href="https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=I0030053">https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=I0030053</a>  Information on the mutual legal assistance with Taiwan (R.O.C.) <a href="https://www.moj.gov.tw/2832/2833/2916/Normalnodelist">https://www.moj.gov.tw/2832/2833/2916/Normalnodelist</a>