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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

COMMITTEE OF EXPERTS
ON THE OPERATION OF EUROPEAN CONVENTIONS
ON CO-OPERATION IN CRIMINAL MATTERS
(PC-OC)

Activities undertaken within the PL project of the Eastern Partnership Judiciary Panel-facilitation of the mutual legal assistance in criminal matters through common model request forms.

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Activities undertaken within the PL project of the Eastern Partnership Judiciary Panel- facilitation of the mutual legal assistance in criminal matters through common model request forms.

In 2012 Poland launched a project (funded by the European Commission within the Eastern Partnership) to develop forms for civil and criminal assistance. The content of the forms was developed by representatives of the Ministries of Justice and the General Prosecutor Offices of all Eastern Partnership countries (Armenia, Azerbaijan, Belarus, Georgia, Moldova, Ukraine) and leading EU Member States (Lithuania, Czech Republic, Hungary, Poland). The practitioners focused on model forms for co-operation in criminal matters only. The form for mutual legal assistance in criminal matters was based on the forms produced in the Council of Europe, thanks to the work carried out in CoE Committees.

The project was finalised in June 2013 when, together with the EaP countries, common model request forms on extradition and legal assistance in criminal matters were developed and adopted. The forms are provided for voluntary use in the field of international penal co-operation based on CoE Conventions, EU instruments, bilateral treaties or the principle of reciprocity. They can also be used by the Council of Europe in its future work.

The forms are intended to contribute to the improvement in mutual legal assistance between all of the countries concerned.

DRAFT MODEL STANDARD REQUEST FORM FOR EXTRADITION¹

REQUEST FOR EXTRADITION
1. Initial elements of the request - Date and place - Reference number
2. Requesting authority - Official Title - Address - Contact details: telephone numbers, e-mail addresses
3. Requested authority - Official Title - Address - Contact details, where possible
4. Object and reason - Indication whether a person is sought in order to conduct criminal proceedings pending against him/her or in order to execute the sentence for which he/she was already convicted in the requesting state - Legal basis of the request - Statement of the offences for which extradition is requested; the time and place of their commission, their legal descriptions and a reference to the relevant legal provisions, including provisions relating to lapse of time - Where necessary, additional guarantees (e.g. regarding rule of specialty, re-extradition to a third state or the right to a retrial where judgments were rendered <i>in absentia</i>)
5. Details of the person sought - Name - Date of birth - Sex - Nationality - Place of residence or location in the requested state (exact address if possible) or information on detention - Position in Legal Proceedings <i>Where applicable:</i> - ID Number - Alias - Place of birth - Parents' names - Characteristics - Marital status - Earlier convictions

¹ This model request form is intended as a guide and a reference only. The requirements may be modified as necessary to meet the requirements of domestic law and practice.

6. Information regarding the criminal proceedings in the requesting state²

- Description of the stage of criminal proceedings in the requesting state (e.g. investigation, trial)
- Where applicable, information on the special type of proceedings (e.g. summary proceedings)
- Where applicable, information on damage caused by the offence

7. Information regarding the sentence³

- Information on the judgment (date, court, reference number etc.)
- Information when the judgment has become final
- Information on the length of imprisonment sentence imposed and the time that remains to be served
- Information whether the judgment was rendered *in absentia*

8. Attachments

- Authenticated copy of the conviction and sentence or detention order immediately enforceable or of the warrant of arrest or other order having the same effect and issued in accordance with the procedure laid down in the law of the requesting state
- Copy of the relevant legal provisions, including provisions relating to lapse of time
- Information on citizenship of the person sought
- Where necessary, description, photograph and fingerprint card of the person sought
- Any other information which will help to establish the identity, nationality and location of the person sought

9. Final information

- Any other information which the requesting State considers important
- Seal, name, function of the official and signature

² To be filled only if a person is sought in order to conduct criminal proceedings pending against him/her.

³ To be filled only if a person is sought in order to execute the sentence for which he/she was already convicted in the requesting state.

**DRAFT MODEL STANDARD REQUEST FORM FOR MUTUAL ASSISTANCE IN
CRIMINAL MATTERS¹**

TITLE OF THE REQUEST²
1. Initial elements of the request - Date and place - Reference number - Indication of urgency
2. Requesting authority - Official Title - Address - Contact details: telephone numbers, e-mail addresses
3. Requested authority - Official Title - Address - Contact details, where possible
4. Object and reason - Type and purpose of request - Legal basis of the request - Brief description of the facts related to the offence and legal qualification of the offence - Description of the stage of criminal proceedings, including if possible the expected time-frame <i>Where applicable:</i> - justification of urgency - indication of a requirement to be notified about the date/place of the execution of the request as well as on the presence of particular persons with their contact details - information on previous communications
5. Persons concerned - Name - Date of birth (excluding experts) - Sex - Nationality - Address - Position in Legal Proceedings <i>Where applicable:</i> - ID Number - Alias (excluding experts) - Place of birth - Address of the seat, registration number and contact details of the person authorised to act on behalf of the company if a Legal person is concerned

¹ This model request form is intended as a guide and a reference only. The requirements may be modified as necessary to meet the requirements of domestic law and practice.

² e.g. "request for hearing of a witness", "request for service of documents", "request for hearing and service of documents", "request for hearing by videoconference" etc.

6. Measures requested

A. Extracts from judicial records

- Type of information requested

B. Service of judicial documents (writs and records; summons to appear as a witness/expert/accused person):

i. Information common to all requests for service

- Type of service required
- Specification of documents to be served

Where applicable:

- *Information on witness protection*
- *Safe passage issues*
- *Requirements for confirmation of service*
- *Requirements if service fails*

ii. Specific modalities for summons to appear

- Date of appearance
- Time and place of hearing

Where applicable:

- *alternative date of appearance, time and place of hearing*
- *approximate allowances payable and the travelling and subsistence expenses refundable*

C. Temporary transfer of a person in custody

- Date and time-line of transfer
- Place of transfer
- Purpose of transfer (e.g. witness/confrontation)
- Ensuring (guarantee) of custody and return by the date specified

Where applicable:

- *Time and place of hearing*
- *Indication whether transit is required*
- *Contact person(s)*

D. Letters rogatory

i. Facts and legal information about the offence

- Time and place of commission of the offence
- Legal qualification of the offence with relevant provisions
- Provisions regarding the maximum penalty applicable

Where applicable

- *Damage caused by the offence*
- *Information on victims*
- *Where necessary, provisions on lapse of time*

ii. Types of measures

a. Hearing of witnesses, experts or accused persons and expertise

Hearing performed by the requested authority

- Indication of the competent authority which should perform the hearing (e.g. court, prosecutor's office)
- Information on rights and obligations to be notified to the person to be heard
- List of questions to be asked

Where applicable

- *Express request for hearing under oath*
- *Indication whether the witness to be heard requires protection (including details on possible*

existing agreements between both Parties on this issue)

Alternative modalities for a hearing by the requesting authority

Hearing by video conference

- Indication of reasons why it is not desirable or possible to attend in person
- Name of the judicial authority or of the persons conducting the hearing
- Details concerning practical arrangements (date and hour of conducting the hearing, technical information on available means, proposals concerning payment of costs, etc.)
- Notification of rights and obligations of the person to be heard

Where applicable

- *Indication of the necessity of an interpreter*
- *Indication of measures to protect the person to be heard*
- *Indication if the suspect or the accused person consents to the hearing*
- *List of questions to be asked*

Hearing by telephone conference

- Indication of the name of judicial authority or the persons who will be conducting the hearing
- Indication that the person is willing to take part in a hearing by telephone conference
- Date and hour of conducting the hearing

b. Providing documents, records or other evidence

- Indication of the articles of evidence that have to be provided
- Indication of the person, legal person or authority from which to collect evidence

Where applicable

- *Indication of the particular way in which the evidence needs to be collected*
- *Indication whether originals are needed*
- *Indicate means of transmission that need to be used by the requested State (courier, liaison officer, diplomatic representative)*

c. Locating or identifying persons or items

- Indication of the persons or items that need to be located or identified

Where applicable

- *Indicate place of residence of persons or location of objects in the requested State*

d. Other measures

- Indication of the type of requested measure

iii. General modalities of execution

- Necessary formalities and procedures under the law of the requesting State and guidance
- Presence of officials and interested persons from the requesting State
- Timeframe for execution
- Coordination between relevant and competent authorities (contact persons)
- Costs
- Language to be used

Where applicable

- *indication of requirements to keep confidential the fact and substance of the request*
- *indication of rules to ensure data protection*

7. Final information

- Any other information which the requesting State considers important
- Seal, name, function of the official and signature