

- *Indication of the status of the person to be heard*
 - *Information on rights and obligations (for instance-hearing under oath/affirmation or the right to be assisted by a lawyer/interpreter) to be notified to the person to be heard*
-

In many cases, the requesting State demands that the requested authority notifies a person to be heard of his or her rights and obligations depending, as mentioned above, on the status of the person concerned (for instance witness or suspect). Such a requirement should be included in the request or attached to it. Furthermore, the requesting State may also request for specific formalities and procedures to be observed within the frame of execution: for example, it may request the presence of the defence lawyer of the accused person, to notify the rights and obligations before a hearing, to request a person to sign each page, etc. In such a case, the request must indicate the necessity of following procedures of the requesting State in the requested State.

A request should clearly and expressly indicate whether the application of Article 8 of the 2nd Additional Protocol is expected. In this case, the requested State should apply the requested formalities and procedures as long as they are not contrary to its own fundamental principles. However, the requested State may accept to execute the request without it being based on Article 8 of the 2nd Additional Protocol.

In the case of witnesses it is important to indicate if they should be heard under oath and what would be the legal consequences should they remain silent or not speak the truth.

It should be noted that the Convention on Mutual legal assistance provides for hearing under oath if the law of the requested party does not prohibit it. Therefore, this type of assistance should be made available on the basis of the European Convention on Mutual Assistance in Criminal Matters (MLA) or, on the basis of Article 8 of the 2nd Additional Protocol. If a requesting State wishes to hear a person under oath, it should be clearly indicated on the form itself. Where such a measure is not recognised and common in the requested State but is not contrary to the fundamental principles of the requested State (in particular if Article 3, paragraph 2 of the MLA is applied) a requesting State should indicate the procedure to follow. It is also advisable/ to provide the wording of the oath.