

Republic of Korea – national procedures for mutual legal assistance on
laundrying, search, seizure and confiscation of proceeds of crime
(ETS No. 141)
Updated 11/11/2016

The information contained in this table should be updated on a yearly basis.

Procedure for search (asset-tracing) and seizure	
The Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for mutual legal assistance (including freezing and seizure):	International Criminal Affairs Division Ministry of Justice Building #1, Government Complex-Gwacheon, 47, Gwanmun-ro, Gwacheon-si, Gyeonggi-do, 13809 Republic of Korea Tel. +82-2-2110-3554 Fax +82-2-3480-3113
If different from the Central Authority, the authority to which the request should be sent (name of the institution, address, telephone, fax and e-mail where available):	N/A
Channels of communication for the request for mutual legal assistance (directly, or other):	Channels of communication are limited to diplomatic channels and direct contact between the Ministries of Justice.
Means of communication (e.g. by post, fax, e-mail):	Post
Language requirements:	Requests and supporting documents shall be accompanied by a translation into the Korean or English language.
Double criminality requirement, if applicable:	Double criminality is required.

Other requirements: for example a link between the proceeds and the criminal offence, or that a request for the confiscation judgment or measure will be made later, or that leave is given by a judge for the seizure of assets/goods:	Mutual legal assistance seeking to search a targeted asset is governed by the same standards applied to other familiar forms of MLA, such as service of documents.
Modalities/requirements for the execution of MLA requests for investigative assistance (search, tracing, special investigative techniques), existence of a central register of real estate/ bank accounts, duration of preservation of bank data, etc.:	Same as above. As for real estate information, Korea has a concentrated system to which real estate information is registered. The data of each bank are stored in their HQs, from which the authorities could receive information. Regarding the duration of data preservation, the law sets different periods for different types of information.
Limitation of use of evidence obtained:	The Minister of Justice may request the Minister of Foreign Affairs to determine matters to be observed by the Requesting State with respect to the use, return, maintenance of secret, etc. of such materials, and to ask the requesting country for a guarantee of the fulfilment thereof.
Modalities/requirements related to the execution of provisional measures (freezing, prejudgment seizing) including lifting of these measures (possibilities to seize (im)movable properties) and applicable time limits, if any:	The offence on which the request is based must be one of the predicate offences provided by Korean legislation, mainly the Act on Regulation and Punishment of Criminal Proceeds Concealment. There are also restrictions against providing assistance, one of which is where the offence is already being tried in a Korean court, or a judgment thereof has been finalized.
Available asset management system including preservative measures, (for example prejudgment selling), concerning the seized goods:	Seized items are subject to identical procedures regarding disposition provided for domestic seizure. However, after a request is submitted based on a final confiscation order, the asset may be disposed of based on mutual agreement between the requesting State and Korea.

Procedure for confiscation/ Recognition of foreign decisions. Recovery of confiscated assets.	
The Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for Confiscation/ recognition of foreign judgments/decisions/measures:	International Criminal Affairs Division Ministry of Justice Building #1, Government Complex-Gwacheon, 47, Gwanmun-ro, Gwacheon-si, Gyeonggi-do, 13809 Republic of Korea Tel. +82-2-2110-3554 Fax +82-2-3480-3113
If different from the Central Authority, the authority to which the request should be sent (name of the institution, address, telephone, fax and e-mail where available):	N/A
Channels of communication for the request for mutual legal assistance (directly, or other):	Channels of communication are limited to diplomatic channels and direct contact between the Ministries of Justice.
Means of communication (e.g. by post, fax, e-mail ¹):	Post.
Language requirements:	Requests and supporting documents shall be accompanied by a translation into the Korean or English language.
Document requirements and modalities/requirements for the procedure of confiscation:	Documents required for the procedure of confiscation would be the same as those needed in other familiar forms of MLA.

¹ Please indicate if encryption or electronic signature is required.

Other requirements, if applicable: For example: a link between the proceeds and the criminal offence. In case of money laundering, what are the requirements for the predicate offence(s):	As in the case of cooperation in seizure of assets, the offence on which the request is based must be one of the predicate offences provided by Korean legislation, mainly the Act on Regulation and Punishment of Criminal Proceeds Concealment. There are also restrictions against providing assistance, one of which is where the offence is already being tried in a Korean court, or a judgment thereof has been finalized.
Procedure /possibilities to trace assets/proceeds when a (foreign) confiscation order is already given:	Even when a confiscation order is already given, tracing assets is possible and will follow standard procedure as in other forms of MLA.
Procedure for sharing of assets, if applicable:	The requesting State could consult with Korea on a case to case basis.
Where applicable, limitations to the possibility for the requesting state to serve judicial documents directly to the persons concerned:	All judicial documents should first be sent to the Central Authority for domestic service.
Other particularly relevant information on special types of assistance	
Non Conviction Based Confiscation:	The domestic laws of the Republic of Korea do not recognize Non Conviction Based Confiscation.
MLA regarding liability of legal persons (criminal, civil or administrative):	Korea provides assistance regarding liability of legal persons, as long as it is criminal in nature.
Other information (for example, extended confiscation, confiscation for the purpose of victims):	N/A

Links to national legislation, national guides on procedure:	Information on Korean legislation : www.law.go.kr/eng/engMain.do Information on the Ministry of Justice www.moj.go.kr/HP/ENG/index.do
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