

Ukraine – national procedures for mutual legal assistance in criminal matters

Updated 30/10/2017

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

<p>The Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for mutual legal assistance:</p>	<p><u>Pre-trial stage of criminal proceedings</u></p> <p>The Prosecutor General’s Office of Ukraine</p> <p>13/15 Reznitska street, Kyiv-11, Ukraine, 01011 Tel. +38044 5967844 Fax: +380442802851 e-mail: <a href="mailto:indep@gp.gov.ua">indep@gp.gov.ua</a></p> <p><u>Trial stage of criminal proceedings</u></p> <p>The Ministry of Justice of Ukraine.</p> <p>13, Horodetskogo street, Kyiv, Ukraine, 01001 Tel: +38044 2796879 Fax: +38044 2705453 e-mail: <a href="mailto:itex@minjust.gov.ua">itex@minjust.gov.ua</a></p>
<p>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):</p>	<p>The Authority authorized to conduct direct relations with the competent authorities of a foreign state – Regional Prosecutor’s Offices and Territorial Divisions of Justice.</p>
<p>Channels of communication for the request for mutual legal assistance (directly, through diplomatic channels or other):</p>	<p>Direct communication to the relevant Central Authority.</p> <p>It is also applied the direct transmission of MLA requests under the Additional Protocols to the European Convention on Mutual Assistance in Criminal Matters or a bilateral treaty – to Regional Prosecutor’s Offices and Territorial Divisions of Justice.</p> <p>Requests may be sent to a foreign State or received from a foreign State also through the intermediary of the International Criminal Police Organization (“Interpol”). Diplomatic channels are also used in case of the absence of the international treaty.</p>

Means of communication (e.g. by post, fax, e-mail <sup>1</sup> ):	<p>By post, fax, e-mail.</p> <p>Central Authorities of Ukraine may take into consideration a request that came from the requesting party electronically, by facsimile or other means of communication. But the Requesting Party shall ensure the prompt provision of a written original of this request. Materials received as a result of the performance of such a request shall be provided to the Requesting Party after the receipt of the original request.</p>
Language requirements:	<p>According to Declaration of Ukraine to Article 16 of the European Convention on Mutual Assistance in Criminal Matters requests and annexed documents shall be sent to Ukraine together with a <u>translation into Ukrainian</u> or into one of the official languages of the Council of Europe unless they are drawn up in those languages.</p> <p>In a content of Art. 564 par. 5 of the Code of Criminal Procedure of Ukraine if the documents to be served do not contain the Ukrainian translations and are executed in a language that is not understandable to the person specified in the request, the person shall have the right to refuse to receive the documents. In this case, the documents shall be deemed those that were not served.</p>
Double criminality requirement, if applicable:	<p>In the absence of an international treaty of Ukraine the request shall be denied if the request concerns an offense, which is not a criminal offense under the law of Ukraine on criminal responsibility (Art. 557 par. 2(4) of the CCP of Ukraine).</p>
Limitation of use of evidence obtained:	<p>According to declaration of Ukraine to Article 26 of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters personal data transferred to another Party cannot be used without previous consent of Ukraine for the purposes specified in Article 26, paragraph 1, of the Second Additional Protocol, within the framework of proceeding for which Ukraine may refuse or limit the transmission or use of personal data</p>

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<sup>1</sup> Please indicate if encryption or electronic signature is required.

	<p>under the Convention or Protocols to it.</p> <p>Article 553 "Effects of the request performance in a foreign state" of the CCP of Ukraine:</p> <ol style="list-style-type: none"> <li>1. Evidence and information obtained from the requested party as a result of a request for international legal assistance may only be used in criminal proceedings concerned in the request, unless otherwise agreed with the requested party.</li> <li>2. The information contained in the materials obtained as a result of the request for international legal assistance may not be recognized as acceptable by the court, if request of the competent authority of Ukraine was transferred to the requested party in violation of the prescribed procedure established hereby or by the international treaty of Ukraine.</li> </ol> <p>According to Art. 558 par. 6 of the CCP of Ukraine when sending materials to the competent authority of a foreign state the central authority of Ukraine on international legal assistance or authority authorized to carry out relations with foreign competent authorities in accordance with the Article 545 hereof may set the restrictions on the use of such materials in accordance with the law and international treaty ratified by the Verkhovna Rada of Ukraine (Parliament of Ukraine).</p>
<p>Other particularly relevant information (e.g. documentation required for special types of assistance):</p>	<p>According to Article 14 of the European Convention on Mutual Assistance in Criminal Matters as well as Art. 552 of the CCP of Ukraine the request, among others, shall contain:</p> <p>.....</p> <ol style="list-style-type: none"> <li>4) brief description of the criminal offense that is the subject of criminal proceedings and its legal qualification;</li> <li>5) information on the reported suspicion, accusation setting out the full text of the relevant articles of the Criminal Code of Ukraine;</li> <li>6) data of the relevant person, including his/her name, procedural status, place of residence or stay, citizenship and other information that may facilitate the performance of the request, and the relationship of that person to the subject of criminal proceedings;</li> <li>7) clear list of requested proceedings and justification of their relationship with the subject of criminal proceedings;</li> <li>8) information on persons whose presence is necessary during the proceedings, and justification of such necessity;</li> </ol> <p>.....</p> <p>3. The request for interrogation of a person as a witness, victim,</p>

	<p>expert, suspect or the accused shall be attached a duly certified extract from the relevant articles of the Code to clarify procedural rights and obligations for the person. The request shall also be attached a list of questions to ask the person, or the information to be obtained from the person.</p> <p>4. The request for a search, inspection of the scene, seizure, arrest or confiscation of property or other proceedings, permission for which is provided by the court in accordance herewith, shall be attached the information about the evidence justifying the need for relevant measures.</p> <p>5. Provision of information in accordance with paragraphs 4, 5 and 8 of this Article shall not be required for the request for documents service or subpoena.</p> <p>6. At the stage of pre-trial investigation, the request for international legal assistance shall be approved in writing by the prosecutor that oversees compliance with laws when conducting the pre-trial investigation.</p>
<p>Links to national legislation, national guides on procedure:</p>	<p>Chapter IX of the Code of Criminal Procedure of Ukraine contains the relevant provisions.</p> <p><a href="http://zakon3.rada.gov.ua/laws/show/4651-17">http://zakon3.rada.gov.ua/laws/show/4651-17</a> (in Ukrainian);</p> <p><a href="http://www.minjust.gov.ua/9601">http://www.minjust.gov.ua/9601</a></p> <p><a href="http://www.gp.gov.ua/ua/nla.html">http://www.gp.gov.ua/ua/nla.html</a> (in Ukrainian)</p>
<p>Parties to the Second Additional Protocol: Link to database with contact details of competent authorities for the purpose of direct transmission of MLA requests</p>	<p><a href="http://conventions.coe.int/Treaty/EN/Declarations/Images/182-UKR%20Annexe%20II.pdf">http://conventions.coe.int/Treaty/EN/Declarations/Images/182-UKR%20Annexe%20II.pdf</a></p> <p>Ukraine declares that, in cases specified in paragraphs 1, 2 and 5 of Article 15 of the Convention, as amended in Article 4 of the Second Additional Protocol, if the direct channels of communication are not used the request in cases at the stage of judicial investigation shall be addressed to the Ministry of Justice of Ukraine, and the request at the stage of pre-trial investigation – to the General Prosecutor’s Office of Ukraine.</p>