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NOTE

From : Croatian Delegation

To : Delegations

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Subject : EU-Japan Mutual Legal Assistance Agreement

- Fact-sheet on the practical conduct of MLA procedures

Delegations will find attached information provided by the Croatian delegation on the practical conduct of mutual legal assistance procedure under the EU-Japan Mutual Legal Assistance Agreement.¹

¹ OJ, L 39, 12.2.2010, p. 20.

**Execution of a request, under the EU-Japan Mutual Legal
Assistance Agreement, in the Republic of Croatia**

Practical information

PRELIMINARY REMARKS

1. This information sheet relates only to the execution by **Republic of Croatia** of mutual legal assistance requests under the EU-Japan Mutual Legal Assistance Agreement.
2. For any information about mutual legal assistance requests issued by the competent authorities of **Republic of Croatia**, it is possible to contact **Ministry of Justice of the Republic of Croatia**.
3. This fact-sheet may be subject to amendment and can be updated at any time.

PRACTICAL DETAILS

1. Central authority or authorities designated in accordance with Article 4 of the EU-Japan MLA agreement, in view of the execution of a MLA request in **Republic of Croatia** (see also Annex I of the agreement):

- Official name(s): **Ministry of Justice of the Republic of Croatia**

- Contact details of the central authority / authorities:

Address: **Zagreb, Vukovarska street 49**

Telefon (country code) (area/city code): **+385 1 3714 558**

Telefax (country code) (area/city code): **+385 1 3714 392**

E-mail (if any): **europska.unija@pravosudje.hr**

Languages that may be used for communication: **Croatian and English**

2. Languages in which MLA requests should be forwarded to the competent authority of **Republic of Croatia**, according to Article 9 of the EU-Japan MLA agreement (see also Annex III of the agreement):

Requests for assistance and the relevant documents should be sent accompanied by translation:

- in all cases: into **Croatian**

- in urgent cases: into **Croatian and English**

3. Procedures for forwarding request for assistance to the competent authority of **Republic of Croatia**

Please indicate what specific procedures, if any, will be requested by the competent authorities of your State for forwarding MLA request.

No specific procedures will be requested.

Please indicate whether your authorities will need any confirmation in written when, in urgent cases, the request has been sent by any other means, including fax or e-mail, pursuant to Paragraph 2 of Article 8 of the EU-Japan MLA agreement.

In urgent cases, pursuant to Paragraph 2 of Article 8, supplementary confirmation of the request in writing is required.

4. Certification

Please indicate whether in order to ensure admissibility of records or documents your State will require any specific requirement under the certification procedure Article 10, paragraph 6 of the EU-Japan MLA agreement. Please specify.

No specific requirement will be requested.

5. List of possible actions sought

Regarding to Paragraph k) of Article 3 of the EU-Japan MLA agreement, please indicate, if any forms of assistance other than those listed under Paragraphs a)-j) of Article 3 of the EU-Japan MLA agreement is permitted under your national law.

International legal assistance is afforded in the widest sense in accordance with the principles of domestic *ordre public*, the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms and the International Covenant on Civil and Political Rights.

6. Double criminality requirement, if applicable

Please indicate whether your State intends to make use of the first part of Paragraph 2 of Article 11 of the EU-Japan MLA agreement.

Yes, on a case-by-case basis.

7. Confidentiality or limitation of use of evidence obtained

Please indicate whether your State intends to make use of Paragraph 2 of Article 13 of the EU-Japan MLA agreement in accordance with your national law, either on a case-by-case basis, or in general.

Yes, on a case by case basis.

If so, please indicate, as far as possible, under which conditions the use of the information collected may be authorised.

Under condition that information is used only in a particular case.

8. Any extra information on specific type of request(s):

Hearing by video-conference:

Please indicate whether any particular requirements, either legal or technical, other than those listed in Paragraph 2 of Article 16, are necessary under the domestic legislation of your State in order to execute a request for hearing by video-conference (e.g time limit for the reception of such a request).

No particular requirement is necessary.

Please indicate any practical suggestions that may help to execute such a request.

Taking testimony or statements

Please indicate the requirements under your domestic legislation for testimony or statements gathered under Article 15 of the EU-Japan MLA agreement to be considered admissible evidence, e.g. do you require the statement to be taken under oath or under a penalty of criminal punishment for false statement, to be admissible evidence.

According to the Criminal Procedure Code of the Republic of Croatia the witness shall be informed that he is bound to tell the truth, that he may not withhold any information and that giving false testimony is a criminal offence. The witness shall also be instructed that he is not bound to answer the questions referred to in Article 45 paragraph 1 item 3 and Article 286 paragraph 1 of mentioned Act and these instructions shall be entered in the record.

An expert witness may be asked to swear to give truthful testimony.

The interpreter may be asked to take an oath to faithfully communicate questions put to the defendant, as well as statements given by the defendant.

Obtaining items

Regarding "the information justifying such (coercive) measures under the laws of the requested State" stated under Article 17 of the EU-Japan MLA agreement, please elaborate on such information, including any limitation with respect to the authority which the cooperation request originated.

The requesting State has to provide information regarding the legal name and a short factual and legal description of the criminal offence. Also, an exact description of the requested legal assistance and the reason for the request for legal assistance must be provided.

Bank Accounts

Please indicate whether any particular requirements exist under your domestic legislation in order to obtain records, documents or reports of bank accounts under Article 18 of the EU-Japan MLA agreement, as well as any practical suggestion that may help to execute such a request.

The requesting State has to provide accurate data about the person and citizenship of the person in relation to whom international legal assistance is sought and his position in the procedure.

Also indicate any applicable conditions as referred in Art.18(4) which may limit the execution of the request to obtain the bank record.

The execution may be refused:

- 1. if the request concerns an act regarded as a political criminal offence, an act connected with a political criminal offence,**
- 2. if the request concerns a fiscal offence,**
- 3. if the execution of the request would likely prejudice the sovereignty, security, *ordre public* or other essential interests of the Republic of Croatia,**
- 4. if it can be justifiably presumed that the person whose extradition is sought would be criminally prosecuted or punished in the case of extradition, because of his race, religion, citizenship, affiliation with a specific social group, or because of his political beliefs, or if his position would be aggravated on the grounds of one of the mentioned reasons.**
- 5. The matter involves an insignificant criminal offence.**

The execution will be refused:

- 1. if the accused person has been declared not guilty of the same criminal offence in the Republic of Croatia, because of material-legal reasons, or if the procedure against him has been discontinued, or if he has been released from his sentence, or if the sanction has been enforced or cannot be enforced according to the law of the state in which the judgment was adopted,**
- 2. if a criminal proceeding for the same criminal offence is pending in the Republic of Croatia against the accused person, unless the enforcement of the request could lead to a decision on the release of the accused person,**
- 3. if criminal prosecution, enforcement of the sanction or of the security or protective measure would be barred by the statute of limitations under national legislation.**

9. Other particularly relevant information (such as national legislation, national guides on procedure, links to national websites...):

- website of Ministry of Justice of the Republic of Croatia: <http://www.mprh.hr/>