

MEMORANDUM OF UNDERSTANDING

between

THE SWISS FEDERAL COUNCIL

and

THE GOVERNMENT OF THE REPUBLIC OF KAZAKHSTAN

on

MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

The Swiss Federal Council and the Government of the Republic of Kazakhstan, hereinafter referred to as the Signatories,

GUIDED BY the traditional friendly relations and the fruitful cooperation between the two States;

DESIRING to improve the effectiveness of cooperation between the Signatories in the field of mutual legal assistance in criminal matters;

AWARE of the need to ensure that cooperation is carried out in the most effective way;

ON THE BASIS of mutual respect for sovereignty and territorial integrity, equality, mutual benefit and non-interference in each other's internal affairs, with full respect for international law, including human rights;

IN OBSERVANCE of the constitutional and legal regulations of the Signatories and their international obligations,

HAVE COME TO THE FOLLOWING UNDERSTANDING:

PARAGRAPH 1

Objective

1. The Signatories intend to further improve the existing cooperation in the field of mutual legal assistance in criminal matters as stated in paragraphs 2 and 3 of this Memorandum.
2. This Memorandum aims at:
 - a. developing a firm foundation for existing and future relations between the two States for cooperation in the field of mutual legal assistance in criminal matters;
 - b. defining the scope of mutual legal assistance in criminal matters;
 - c. enumerating measures for advancing cooperation;
 - d. promoting a greater understanding of the Signatories' laws, legal systems and legal institutions;
 - e. extending and strengthening the ties between the authorities of the

- Signatories directly responsible in the field of mutual legal assistance in criminal matters;
- f. simplifying certain aspects of the mutual legal assistance procedure.
- 3. The provisions of this Memorandum are without prejudice to existing obligations of the Signatories pursuant to treaties, bilateral arrangements, domestic legislation or otherwise.
- 4. This Memorandum is not an international treaty and does not create for the Signatories rights and obligations regulated by international and national law.

PARAGRAPH 2

General principles of cooperation in the field of mutual legal assistance in criminal matters

1. Mutual legal assistance in criminal matters can be sought or provided in accordance with the domestic legislation and the international obligations of the Signatories, on the basis of reciprocity and in the context of this Memorandum.
2. The Signatories reaffirm their commitment to the rule of law, human rights and fundamental freedoms, in accordance with their obligations under international law.
3. This Memorandum can also be applied to requests for mutual legal assistance in criminal matters relating to acts or omissions committed before its coming into effect.

PARAGRAPH 3

Scope

1. Mutual legal assistance may be afforded in particular for the following purposes:
 - a. service of documents;
 - b. obtaining and handing over of evidence;
 - c. seizure, confiscation and handing over of objects or assets.
2. The legal assistance may include the following measures:
 - a. effecting service of judicial documents;
 - b. taking evidence or statements of persons;
 - c. executing searches, as well as seizure, and freezing of assets;
 - d. examining objects and sites;
 - e. providing of information, documents, evidentiary items and expert evaluations;
 - f. providing of originals or copies of relevant documents and records, including bank, financial, corporate or business records;
 - g. identifying and/or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;
 - h. handing over of objects or assets with a view to forfeiture or for restitution to the entitled natural or legal person;

- i. facilitating the voluntary appearance of persons in the requesting State;
- j. any other type of assistance in accordance with the domestic legislation of the requested State;
- k. spontaneous transmission of information without prior request.

PARAGRAPH 4

Further measures for advancing cooperation

Measures with a view to further advancing the cooperation as stated in paragraphs 2 and 3 of this Memorandum may include:

- a. the exchange of materials concerning the relevant laws, legal systems and legal institutions of the Signatories;
- b. the organizing of expert meetings in order to discuss questions and issues regarding mutual legal assistance, of a more general nature or with regard to specific cases;
- c. the establishment and strengthening of appropriate contacts between the responsible authorities of the Signatories.

PARAGRAPH 5

Confidentiality

Each Signatory will apply the provisions regarding confidentiality as provided for in its domestic legislation.

PARAGRAPH 6

Central Authorities

1. The Signatories may designate Central Authorities responsible for the cooperation in accordance with this Memorandum.
 - The Central Authority for the Swiss Confederation is:
The Federal Office of Justice of the Federal Department of Justice and Police
(Bundesrain 20, CH-3003 Berne; phone: +41 58 462 11 20;
fax: +41 58 462 53 80; e-mail: irh@bj.admin.ch)
 - The Central Authority for the Republic of Kazakhstan is:
The General Prosecutor's Office
(Astana city, Mangilik El Ave. 14; phone: +7 7172 712676;
fax: +7 7172 50 64 02; e-mail: icd@prokuror.kz)
2. Any changes regarding the Central Authorities should be communicated to the other Signatory through the diplomatic channel.
3. Within the framework of this Memorandum, the Central Authorities may communicate directly with each other.

PARAGRAPH 7

Model request

1. In order to facilitate and speed up cooperation between the Central Authorities, a model request, attached as Annex to this Memorandum, taking into consideration the particularities of the national law of the Signatories, may be used.
2. The model request may serve as a guideline for the following types of mutual assistance in criminal matters:
 - a. hearing of persons;
 - b. obtaining evidence;
 - c. freezing or seizing objects and/or assets;
 - d. handing over assets for the purpose of forfeiture or return (asset recovery).
3. By agreement of the Central Authorities, requests for legal assistance and responses thereto with attached materials may be transmitted electronically.

PARAGRAPH 8

Assistance with regard to requests for legal assistance

1. In order to ensure that cooperation is carried out in the most effective way, the Central Authorities may consult each other.
2. To that end, the Central Authorities may provide advice to each other at the stage of drafting a request for mutual legal assistance.

PARAGRAPH 9

Language

1. The Central Authorities may communicate in English.
2. Requests for legal assistance and supporting documents should be accompanied with a translation into one of the languages of the requested Signatory.
3. In urgent cases or when agreed by the Central Authorities, requests for legal assistance and supporting documents may be transmitted in English.
4. Other documents falling within the framework of this Memorandum may be transmitted in English.

PARAGRAPH 10

Amendments

This Memorandum or its Annex may be amended in writing at any time by mutual consent of the Signatories.

PARAGRAPH 11
Coming into Effect

This Memorandum of Understanding comes into effect upon signature by both Signatories.

Signed at Bern on November 5, 2024, in duplicate in the English, French and Kazakh languages. In case of disagreement in the interpretation of the provisions of this Memorandum, the Signatories should refer to the English text.

For the Swiss Federal Council



**For the Government of the Republic
of Kazakhstan**



Letter-head of the Central Authority

**Annex to the Memorandum
of Understanding between
the Swiss Federal Council and
the Government of the Republic of Kazakhstan on
Mutual Legal Assistance in Criminal Matters**

REQUEST FOR MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

Procedure/reference n°:

CENTRAL AUTHORITY OF THE REQUESTING STATE

Official title:

Address:

Contact details of the responsible official dealing with the case (incl. phone numbers with country code and e-mail address):

Please find enclosed the above-mentioned request for mutual legal assistance. Kindly have it executed according to your legislation and within the scope of your possibilities.

In this context we wish to inform you that similar requests from ... might be executed under the regulations of ... law (reciprocity).

We are looking forward to your information about the decision, which will be taken by your relevant authorities and thank you very much for your cooperation.

**Name and seal of the
Central Authority:**

**Signature of the responsible
official at the Central Authority:**

Place and date:

Copies:

Embassy of the Requesting State

...

Language: Please note that the request and the accompanying documents have to be submitted together with a translation into the following languages:

- Requests submitted to Kazakhstan: Kazakh or Russian
- Requests submitted to Switzerland: German, French or Italian, as specified in each case by the Swiss central authority

Letter-head of the requesting authority primarily involved in the concrete case

REQUEST FOR MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

1. REQUESTING AUTHORITY

Official title:

Address:

Contact details of the person dealing with the case (incl. phone numbers with country code and e-mail address):

2. SUSPECT / DEFENDANT (if known)

Family name:

Given name:

Alias (if applicable):

Gender:

Nationality:

Date and place of birth:

Address:

Passport/Identity card number (if applicable):

In case of legal person:

Information on legal person:

Company name:

Where applicable and available:

Registration number/address of the seat

Address of different branches:

Contact details of person authorized to act on behalf of the company:

3. SUMMARY OF THE FACTS AND LEGAL QUALIFICATION OF THE OFFENCE

Relevant facts of the case including place, time and manner of the commission of the offence:

Legal qualification (the specific criminal offence):

Applicable penal provision(s) and maximum penalty:

4. OBJECT OF AND REASON FOR THE REQUEST

Subject matter and nature of the investigation, prosecution or judicial proceeding in the requesting State to which the request relates (stage of the criminal proceedings):

Assistance sought / acts requested:

Clear description of the links between the offence and the person and between the offence and the evidence/measure/criminal assets sought in the requested State:

5. DETAILED INFORMATION AND SPECIAL REQUIREMENTS
(MAIN TYPE(S) TO BE CHOSEN ACCORDING TO NECESSITY)

☐ **Hearing of persons:**

- Information on the person: family name, given name, alias (if applicable), gender, nationality, date and place of birth, address

- Hearing in the capacity of: ☐ witness ☐ suspect ☐ expert
 ☐ person with other procedural role ☐ defendant

- List of questions to be asked (to be attached to this document)

- Where applicable, state the rights and obligations of the person to be heard (for instance duty to give evidence, obligation to be truthful, right to refuse to give evidence as well as the consequences in case of failure to fulfil the obligations to be notified to the person to be heard:

☐ **Other evidence to be taken:**

- Evidence to be taken and the acts requested (as detailed as possible):

- Confirmation that the requested measures are also permitted in the requesting State:

☐ **Blocking of bank account(s) / seizing of assets and objects:**

- In the case of a request for the blocking of bank accounts information relating to bank account(s) in question:
 name of the bank, account number (where known), address of branch where the account is held (where known)

- State why it is believed that the account is held in the requested State:

- Confirmation that the requested measures are also permitted in the requesting State:

☐ **Handing over of assets or objects for the purpose of forfeiture or return:**

- Indicate exactly the requested measures (execution of the confiscation order, handing over of the restrained assets x or the seized objects y).

- Earlier request(s) for obtaining evidence resp. for restraining assets or seizing objects connected with the present request and date of this/these request(s):

- Stage of the proceedings in the requesting State: Has the defendant been condemned and have the assets restrained in the requested State been confiscated in the requesting State? If so, please provide a copy of the confiscation order and a confirmation that the confiscation order is final and executable.

- Confirmation that the rights of the owners of the assets/objects and possibly third persons entitled to these assets/objects have been given the occasion to defend their claims in a proceeding of the requesting State:
- Brief summary as to how the concerned persons could defend their claims and what the outcome was:

6. ADDITIONAL INFORMATION

Particular procedure or requirement the requesting authority wishes to be followed:

Reasons:

Any other details which the requesting authority considers important and which may assist the requested authority in carrying out the request:

Seal, name and function of the official of the requesting authority:

Signature:

Place and date: