

Procedures Manual for Legal Assistance and Recovery of Assets in the Kingdom of Saudi Arabia

Introduction:

Criminals benefit from the erosion of traditional barriers between States and the increasing flexibility in financial transactions and cross-border economic relations when committing crimes of an international character, such as money laundering and terrorist financing, which make it necessary for various countries to apply for legal assistance in order to protect their invaluable resources and assets, prosecute said crimes and pursue their perpetrators. In order for legal assistance applications to be successful, such applications should be legally sound and persuasive, and recipient states shall demonstrate flexibility in interpreting their laws and their willingness and desire to provide consultation to the requesting state on principal and procedural requirements.

The Kingdom of Saudi Arabia is committed to ensure the effectiveness of international cooperation in monitoring, investigating and punishing transnational crimes while maintaining its sovereignty and protecting its citizens.

Based on its firm belief in the need to combat crimes of various kinds and to cooperate with the international community in this regard, the Kingdom of Saudi Arabia has made this manual available to explain procedures for applying to the Kingdom of Saudi Arabia for legal assistance, including procedures for asset recovery and the manner of executing the assistance in line with the Kingdom's domestic laws, including the Law of Criminal Procedures, the Anti-Money Laundering Law and the Law of Combating Terrorism and its Financing.

In addition to this manual, the Kingdom has ratified a number of international agreements relevant to international cooperation, the most important of which are:

- 1) The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.
- 2) The United Nations Convention against Transnational Organized Crime and the Protocols thereto.
- 3) The United Nations Convention against Corruption.
- 4) The Arab Convention against Transnational Organized Crime.
- 5) The Arab Convention against Corruption.
- 6) The Riyadh Arab Convention on Judicial Cooperation.
- 7) Protocol on the Enforcement of Judgements, Letters Rogatory and Judicial Notices in the States of the Gulf Cooperation Council.

The Kingdom welcomes informal cooperation in this area and makes every effort to facilitate the exchange of information for preparation of legal assistance; yet, such cooperation may not replace formal legal assistance applications.

Article 1

Legal Framework

Provision of legal assistance in the Kingdom of Saudi Arabia in all criminal matters including recovery of assets shall be in accordance with international conventions and treaties and on the basis of reciprocity, and pursuant to a written request addressed to the Kingdom by the competent authorities of the state applying for legal assistance.

Article 2

Central Authority for Legal Assistance

The central authority for legal assistance in the Kingdom is the "Standing Committee on Legal Assistance Requests".

The Committee shall, in coordination with competent authorities, attend to legal assistance requests received by the Kingdom from foreign countries or issued by the Kingdom to other states regarding all crimes, in an effort to promote international cooperation in combating crimes, tracking and seizing crime proceeds and facilitating and expediting procedures. This Committee shall operate in accordance with its own adopted procedures and review provision of legal assistance according to laws applicable in the Kingdom and relevant international agreements. The Committee shall exchange information with other states and provide opinion and advice on applying for legal assistance.

Article 3

Scope of Legal Assistance Application

1. Collect evidence, information and statements of relevant individuals.
2. Serve individuals with court papers and documents, including subpoenas.
3. Carry out search, seizure and impoundment procedures.
4. Examine articles and inspect sites.
5. Provide information.
6. Consult experts.
7. Locate sites and identify persons linked to the crime.

8. Provide official documents and records received from financial institutions or other entities or companies, or certified copies thereof.
9. Identify and track assets that are or may become subject to confiscation.
10. Seize assets that are or may become subject to confiscation.
11. Seize assets as part of confiscation procedures subject to conviction or otherwise.
12. Facilitate voluntary appearance of persons before courts in the requesting states.
13. Any other form of legal assistance not conflicting with the Kingdom's domestic laws.

Article 4

Information Required for Legal Assistance Requests

A legal assistance request shall include as much information as possible to facilitate its execution, including:

- 1- Legal grounds for the request.
- 2- Name of the agency in charge of investigations, prosecutions and procedures relating to the request; contact persons to respond to relevant inquiries; and a description of the crime and its circumstances.
- 3- A description of the assistance, measures and requirements sought.
- 4- If the request relates to the inspection of a place or seizure or confiscation of items, such request must contain an accurate description thereof.
- 5- A time limit for execution of the request, if necessary.
- 6- If the request includes measures relating to inspection or seizure, or measures relating to identification, tracking, seizure or confiscation of funds, the most accurate information about the target funds, such as type, amount and location, should be provided, specifying the owners of such funds and providing information available on them, such as: bank account number, securities account, real estate number, car number, etc.
- 7- When necessary, a certified copy of the court order or ruling issued by the competent court.
- 8- A written undertaking from the requesting state to maintain the confidentiality of information or evidence provided during implementation of the request and not to use such information or evidence for purposes other than those stated in the request without prior approval of the Committee.
- 9- The requesting state shall provide any additional information or documents which the Committee deems necessary to execute the request or facilitate its execution.

- 10- The Committee may accept and review requests it receives for possible execution, even if they do not meet some of the requirements contained in this Article.

Article 5

Execution of Request

- 1- The competent authorities shall execute the application in accordance with the powers vested therein pursuant to domestic laws in the Kingdom of Saudi Arabia, including obtaining, verifying and seizing documents or evidence from reporting authorities or any other person, which may include financial records, witness statements or investigation proceedings and requirements.
- 2- If the request is for assistance not covered in paragraph 1 of this Article but covered by Saudi law in the context of a domestic criminal matter, the requested assistance may be provided.
- 3- The request for assistance shall be executed according to procedures stated in the application, unless its execution contradicts laws applicable in the Kingdom.
- 4- The Committee shall maintain confidentiality of facts and content included in the request to the extent necessary for its execution. If maintaining confidentiality is not feasible, the Committee shall notify the requesting state.
- 5- The request for legal assistance shall be processed within the time limit specified by the requesting state.
- 6- The Committee shall provide the requesting state with copies of records, documents or information available to the public. Copies of government records, documents or information that are not available to the public shall be provided fully or partially in accordance with domestic laws.
- 7- If the assistance request relates to the seizure or confiscation of assets, the Committee shall coordinate with competent authorities regarding any action to be taken.

Article 6

Obtaining Evidence and Statements

1. If the request for assistance relates to obtaining evidence or testimony from a person, whether a witness, an expert or a defendant, the requesting state shall provide the following:
 - a) Identification particulars of the person requested to provide evidence or testimony.

- b) Information on the venue where the person's statement or testimony will be taken.
 - c) A description of how the evidence or testimony will be obtained (under oath or any precautionary measures to be taken in this regard).
 - d) A description of how evidence or testimony is recorded (written text, taped audio or video recording).
 - e) A list of the main issues to be raised and questions to be asked.
2. The Committee may allow any person concerned with the investigation, trial or proceedings abroad, or his legal representative or the legal representative of the requesting state, to attend such sessions or statements.
 3. The testimony of witnesses or the recording of admissions or confessions of the defendants shall be heard in accordance with procedures in force in the Kingdom, unless the requesting state suggests a different procedure, provided that it does not conflict with the Kingdom's public policy.
 4. If the request relates to the hearing of a person who is present in the Kingdom and cannot travel to the territory of the requesting state, a hearing may be held in the Kingdom using video-conferencing. The hearing may be conducted by a judicial authority of the requesting state in the presence of a representative of a judicial authority from the Kingdom. The requesting state shall bear all expenses involved unless agreed otherwise.
 5. If a statement is required from a person unwilling to appear voluntarily before the competent authority in the Kingdom, said person may be compelled to do so pursuant to an order issued according to the Kingdom's domestic laws.

Article 7

Serving Judicial Documents

1. If a legal assistance request relates to serving a judicial document or subpoena, the requesting state shall include the following with the request:
 - a. Full name, nationality, and address of the individual to be served.
 - b. A description of the charge against him in case of a criminal offense.
2. The competent authority in the Kingdom shall serve subpoenas or judicial documents in accordance with its domestic laws. The serving may, however, be carried out in the manner specified by the requesting state provided that it is not in conflict with the Kingdom's public policy.

Article 8

Search and Seizure

1. If the legal assistance request relates to search and seizure within the Kingdom, such request shall, upon completion of legal requirements, be referred to the Kingdom of Saudi Arabia's Public Prosecution (hereinafter referred to as "the Public Prosecution") to issue a warrant for search or seizure in accordance with its relevant applicable procedures.
2. If a legal assistance request is submitted under this Article, the request shall include the following:
 - a. A detailed description of the location to be searched.
 - b. Records, documents, or evidence to be seized and whether or not they are required to be handed over.
 - c. Grounds for suspicion that such records and evidence are present in the location to be searched, and the significance of such records and documents to the criminal investigation, trial or proceedings in the requesting state, and whether or not they constitute evidence for the crime.
 - d. Any specific requirements or procedures pertaining to the search or seizure.
 - e. Individuals to be apprehended and detained during search and grounds for suspicion of being involved in the crime subject of the investigation, trial, or legal proceedings in the requesting state.

Article 9

Provision of Information, Original Records, or Copies thereof

1. If a legal assistance request relates to delivery of records, documents, or information, it shall be referred to the Public Prosecution to decide on issuing a binding order to the concerned individual or agency to deliver such records, documents, or information in accordance with domestic laws.
2. A legal assistance request under this Article shall include the following:
 - a. A detailed description of the documents, records, or evidence to be handed over and their connection to the investigation, prosecution or proceedings in the requesting state.
 - b. Location of said documents, records, or evidence and the identity of the owner, bearer or person in charge thereof, as possible.

- c. Grounds for requesting delivery of the originals of said documents, records, information or evidence.
 - d. A secure device for protection of data and electronic records against deletion, damage or tampering, if the request relates to electronic documents.
3. The Committee shall provide the requesting state with certified copies of the requested records and documents. In case the request was for the originals, it may be considered provided that the originals are returned as soon as possible.
 4. The form specified in the legal assistance request shall be taken into consideration when sending originals or copies of information, records, or documents requested to ensure they are collected as evidence in accordance with the requesting state's regulations, provided that does not conflict with domestic laws.

Article 10

Identifying and Tracking Assets subject to Confiscation or Potential Confiscation

1. If a legal assistance request relates to identifying or tracking assets subject to confiscation or potential confiscation, the requesting state shall provide a precise description of the assets, any individual in possession thereof, their estimated value and possible location as well as a statement of facts supporting the request to enable competent authorities in the Kingdom to obtain the necessary orders in accordance with domestic laws.
2. The requesting state shall provide a description of the facts leading to the belief that such assets are located in the Kingdom and measures to be taken.
3. The requesting state shall provide a copy of any judicial or procedural order relating to the request.
4. Assets subject to confiscation or potential confiscation include assets that may be confiscated within the Kingdom relating to a domestic lawsuit, the applicable laws of the requesting state in the course of an investigation, prosecution or any other legal proceeding, including civil proceedings.

Article 11

Seizure or Confiscation of Assets

First: Seizure of Assets:

- a. The Public Prosecution shall issue an order or a decision to the relevant executive authorities to seize assets for which a legal assistance request has been received based on an order or decision issued by a court or a competent authority in the requesting state.
- b. In all cases, the validity of a seizure order shall not exceed 60 days, and it may be extended if needed pursuant to a judicial order from the competent court, without prejudice to *bona fide* individuals.

Second: Confiscation of Assets:

- a. Execution of final confiscation judgments or court orders issued by a court or a competent authority in the requesting state shall be in accordance with domestic laws in the Kingdom of Saudi Arabia.
- b. The following information and documents shall be provided in order to execute the final judgments and courts orders mentioned in paragraph (a) above:
 1. A copy of the law upon which the confiscation order is issued.
 2. A statement of the procedures and measures taken by the requesting state to protect *bona fide* parties.
 3. A description of assets subject of the request sent under this Article, their estimated value, possible location and information on the individual in possession thereof. In addition, the requesting state shall provide a statement of the facts supporting the request.
 4. The confiscation order, issued within the Kingdom, shall determine the manner in which the assets are maintained and managed. The competent court in the Kingdom may appoint a legal custodian, as needed, and his fees shall be paid from said assets.

Third: Request to Confiscate Assets without a Conviction:

In case of a request where a perpetrator could not be tried due to death, escape, absence or inability to identify him, the Committee shall refer such request to the Public Prosecution to take measures provided for in First and Second above, provided the request includes a statement of circumstances and grounds for considering such assets to be connected to a criminal offense.

Article 12

Disposition of Confiscated Assets

If a legal assistance request leads, directly or indirectly, to confiscating assets, the Committee may decide, on a case by case basis, to share with or return to the requesting state the

confiscated assets, pursuant to relevant agreements and treaties, without prejudice to the rights of *bona fide* parties.

Article 13

Costs and Expenses

The Kingdom shall provide legal assistance at no fee or cost, and shall bear reasonable execution costs. If the request requires exceptional expenses or costs, or if the assistance is of an extraordinary nature, an agreement shall be concluded with the requesting state to specify terms and conditions for executing the request and payment of such costs and expenses.

Article 14

Rejecting or Deferring a Legal Assistance Request

1. The Committee may reject a legal assistance request in the following cases:
 - a. The request is not submitted in accordance with the provisions of this Manual and the Committee decides it is not possible to execute the legal assistance request in the form and manner received.
 - b. Execution of the request contradicts provisions of *Sharia* or undermines the Kingdom's sovereignty, security, public policy or other state interests.
 - c. Absence of dual criminality. However, in such cases, assistance may be provided for requests that do not involve coercive measures.
 - d. The Committee may defer execution of a legal assistance request if it conflicts with ongoing local investigation, prosecution or any other judicial proceedings.
2. Prior to rejecting or deferring a request, the Kingdom may consult with the requesting state to determine if the legal assistance request can be provided under certain terms and conditions.
3. If the Committee rejects execution of the request, wholly or partially, or defers its execution, it shall promptly notify the requesting state of the same and provide reasons therefor.
4. A request may not be rejected on grounds of banking confidentiality or due to taxation issues.

Article 15

Rules for Sending Legal Assistance Requests

1. The Committee may directly accept a legal assistance request sent by another state in any written form, including facsimile or email.
2. A legal assistance request and supporting documents sent to the Kingdom shall be in the Arabic language. It may be sent in a different language provided that a certified Arabic translation is enclosed therewith.
3. In urgent cases, a legal assistance request may be communicated verbally, provided that a written request, fulfilling all specified conditions, is provided within a period of 10 days.
4. The requesting state may provide the Kingdom with a draft of the legal assistance request for review and comments prior to sending it officially, to ensure compliance with the Kingdom's conditions.
5. A legal assistance request shall be drafted in accordance with applicable laws and regulations of the requesting state. The request and supporting documents must be signed and sealed by the requesting authority.

Article 16

Scope of Application and Interpretation of the Manual

1. This Manual and its provisions shall apply to legal assistance requests pertaining to criminal cases received by the Committee prior to or after its entry into force.
2. Provisions of this Manual shall apply to legal assistance requests filed by the International Criminal Court or any other international tribunal.
3. Procedures taken by the requesting state for legal assistance shall have the same legal effect as if taken by competent authorities of the Kingdom.
4. Provisions of this Manual may not prejudice, wholly or partially, any obligations arising from bilateral or multilateral agreements or treaties relating to legal assistance requests in criminal cases.
5. The Committee has the exclusive right to interpret this Manual and execute it pursuant to its work procedures.
6. This Manual shall enter into force on the date it is approved by the Minister of Interior.
7. Provisions of this Manual may be amended in accordance with the Committee work procedures, and such amendments shall become effective on the date of their approval.

Contact Information:

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