

**TREATY BETWEEN
THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA
AND
THE RUSSIAN FEDERATION
ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS**

The Democratic Socialist Republic of Sri Lanka and the Russian Federation hereinafter referred to as the "Parties",

recognizing the existing friendly relations and cooperation between the Parties;

desiring to strengthen the legal foundation of providing mutual legal assistance in criminal matters;

desiring to improve the effectiveness of activity of both Parties in combating crime, including crimes relating to terrorism, through cooperation and mutual legal assistance in criminal matters;

acting in accordance with their laws and also respecting generally recognized principles of international law, in particular principles of sovereign equality, territorial integrity and non-interference with internal affairs,

have agreed as follows:

**Article I
Obligation to Grant Legal Assistance**

1. The Parties shall, in accordance with this Treaty, grant each other comprehensive mutual legal assistance in criminal matters (hereinafter referred to as "legal assistance").

2. Legal assistance is provided in accordance with this Treaty if the offence, in connection with which the request was issued, is criminally punishable according to the law of both Parties. The Requested Party may upon its own consideration grant legal assistance also in case the offence, in connection with which the request was received, is not criminally punishable under its legislation.

3. The purpose of this Treaty is exclusively granting legal assistance by one Party to the other Party. Provisions of this Treaty do not lead to the creation of rights for any natural persons or legal entities to receive or exclude evidence or prevent execution of the request for legal assistance.

4. Legal assistance for the purpose of this Treaty shall be any assistance given by the Requested Party in respect of investigations or proceedings in the jurisdiction of the Requesting Party in a criminal matter, irrespective of whether the assistance is sought or to be provided by a court or other competent authority.

5. Legal assistance shall also be granted in connection to investigations, or proceedings relating to criminal offences concerning taxation, custom and similar duties, international transfer of financial assets, including the ones which to the Requesting Party appears to be furthering organized criminal activity and crimes concerning public security.

6. This Treaty does not grant to the competent authorities of one Party the rights to execute in the territory of other Party, powers, which fall exclusively within the competence of the other Party.

7. This Treaty shall apply to requests for legal assistance, presented after the entry into force of this Treaty even if the corresponding act or omission took place before this date.

Article 2

Scope of Legal Assistance

Legal assistance shall include:

- 1) service of documents;
- 2) obtaining testimony and statements of persons ;
- 3) location and identification of persons;
- 4) location and identification of objects, as well as proceeds and instrumentalities of crimes, including the ones for the purposes of terrorism;
- 5) notification to witnesses, victims and experts of a request for their voluntary appearance before the competent authorities of the Requesting Party;

- 6) temporary transfer of persons in custody or serving a sentence in the form of imprisonment to testify or to assist in investigations under this Treaty;
- 7) executing measures related to assets;
- 8) transfer of documents, objects and other evidence;
- 9) granting permission to the representatives of the competent authorities of the Requesting Party to be present at the execution of the request;
- 10) search and seizure;
- 11) granting any other types of legal assistance consistent with the purposes of this Treaty, provided it is not in contravention to the law of the Requested Party.

Article 3 **Central Authorities**

1. In order to provide for the appropriate cooperation of the Parties in the framework of this Treaty Central Authorities for the Parties shall be appointed.

For the Russian Federation the Central Authorities shall be:

The Ministry of Justice of the Russian Federation for purposes connected with the proceedings of the courts of the Russian Federation as well as for implementation of obligations provided for in Article 18 of this Treaty;

The General Prosecutor's Office for all other purposes of granting legal assistance.

For the Democratic Socialist Republic of Sri Lanka shall be:

Secretary to the Ministry of Justice of the Democratic Socialist Republic of Sri Lanka.

The Parties shall immediately notify each other through the diplomatic channels of any changes of their Central Authorities and spheres of their competence.

2. The Central Authorities of the Parties shall directly transmit and receive all requests for legal assistance provided for in this Treaty and responses to them.

3. The Central Authority will execute requests for legal assistance directly or where necessary direct it for execution to a competent authority.

Where the Central Authority directs the request for execution to a competent authority, it will facilitate prompt and appropriate execution of the request by such competent authority.

Article 4

Form and contents of the request

1. A request for legal assistance shall be made in writing. The Requested Party shall immediately receive the request for the execution upon its delivering by telex, facsimile, electronic mail or other such type of communication and the original of the request shall be submitted promptly thereafter by the Requesting Party. The Requested Party shall inform the Requesting Party of the results of the execution of the request only with the condition that it receives the original of the request.

2. Request for legal assistance shall contain:

- a) the name of the competent authority requesting legal assistance;
- b) the purpose of the request and description of the requested legal assistance;
- c) a description of the offence in connection with which the investigation or the proceedings are conducted, legal qualification applicable statutory provisions, the text of the relevant law in terms of which the offence is criminally punishable, and also if necessary the nature and extent of the loss or damage caused as a result of this offence;
- d) reasons for use and a description of any particular procedures that the Requesting Party wishes to be followed in execution of the request;
- e) data identifying persons who are the subjects of the investigation or the proceedings;
- f) any time limit within which compliance with the request is desired by the Requesting Party;

g) full names, family names (middle names) and addresses and also if possible telephone numbers of the persons who are to be notified and their connection to the investigation or proceedings in progress;

h) indication of the location and description of the place, where inspection and search is required, and of the objects to be seized;

i) questions to be asked in order to gather evidence from witnesses and other persons;

j) in case of an indication that the presence of representatives of the competent authorities of the Requesting Party is desired, their full names and official designations as well as grounds for their presence;

k) the need, if any, for confidentiality of the fact that the request was received of its contents and/or of any action undertaken in connection with the request,

l) any other information that might be useful to the Requested Party in order to execute the request.

3. If the Requested Party considers that the information contained in the request is insufficient for its execution, that Party may request additional information.

4. Request for assistance may include:

a) in the case of request for the taking of evidence, search and seizure, or the location, restraint or forfeiture of proceeds of crime, a statement indicating the basis for belief that evidence or proceeds may be found in the Requested Party;

b) in the case of request to take evidence, the information whether this evidence shall be sworn, affirmed or taken otherwise as stipulated for by the law of the Requesting Party, as well as description of the case with regard to which the evidence or statement shall be taken ;

c) in the case of request for lending of exhibits, information of the current location of the exhibits in the Requested Party and an indication of persons who will have custody of the exhibits in the Requesting Party, the place

to which the exhibit is to be transmitted, any analysis to be conducted and the date by which the exhibit shall be returned;

d) In case of request for taking restrictive measures for further forfeiture of proceeds or instrumentalities of crimes:

(i) detailed description of the proceeds or instruments including their location;

(ii) information giving grounds to believe that the assets are proceeds or instrumentalities of crimes;

(iii) description of evidence, which shall be the subject of examination in judicial proceedings in the requesting Party.

Article 5

Languages

Request for legal assistance, its supporting documents and additional information forwarded in accordance with this Treaty shall be accompanied by certified translation into the language of the Requested Party, or into English. The same procedure shall be applied to the documents and information forwarded in response to such request.

Article 6

Refusal or postponement of requests

1. Legal assistance may be refused if:

a) the execution of the request would impair the sovereignty, security, public order or other essential interests of the Requested Party;

b) the execution of the request is contrary to the law of the Requested Party or does not comply with the provisions of this Treaty;

c) the request relates to the offence for which the person accused of criminal offence in the Requesting Party was convicted or acquitted in the Requested Party in connection with the same offence;

d) the request relates to a crime under military law that is not a crime under general criminal law;

e) the Requested Party has substantial reasons to believe that the request was submitted in order to prosecute the person on grounds of race, gender, faith, citizenship, ethnic origin, affiliation with certain social group or political convictions, or the position of that person may be prejudiced because of any of these causes.

2 Bank secrecy or confidentiality of taxation may not be invoked for the refusal to grant legal assistance.

3. Legal assistance may be postponed or refused by the Requested Party if execution of the request would interfere with an ongoing investigation or proceedings in connection with a criminal matter in the Requested Party.

4. Before making a decision to postpone or refuse the execution of the request the Requested Party shall consider whether legal assistance may be granted subject to such conditions, as it deems necessary. If the Requesting Party accepts legal assistance subject to these conditions, it is obliged to comply with them.

5. The Requested Party, shall promptly inform the Requesting Party of its decision not to comply in whole or in part with a request for legal assistance, or to postpone execution, and shall give reasons for that decision.

Article 7

Validity of the Documents

1. Documents transmitted pursuant to this Treaty and attested to by the seal of competent or Central Authority of the transmitting Party are admissible in evidence without further authentication.

At the request of the Requesting Party, the documents transmitted within the framework of this Treaty, may be certified in any other form, as indicated in the request provided that is not contrary to the legislation of the Requested Party.

2. For the purposes of this Treaty the documents, which are recognized as official in the territory of one Party shall subject to provisions of this Article be recognized as such in the territory of the other Party.

Article 8
Confidentiality and the limitations of use of information

1. The Requested Party upon request of the Central Authority of the Requesting Party shall provide in accordance with its legislation for the confidentiality of the fact of the receipt of the request for legal assistance, of its contents or any action taken pursuant to the request, excluding the cases when the breach of confidentiality of the request is necessary for its execution.

If the execution of the request makes it necessary to remove this limitation, the Requested Party shall in writing seek the permission of the Requesting Party, without which the request will not be executed.

2. The Requesting Party shall not use the information or evidence obtained under this Treaty without the permission of the Requested Party for purposes other than those indicated in the request for legal assistance.

3. In cases where the Requesting Party needs to disclose and use fully or in part the information or evidence for purposes other than those stated in the request, it shall seek the consent of the Requested Party, which may either agree or refuse, fully or partially, such permission, as the case may be.

Article 9
Execution of requests

1. Requests for legal assistance shall be executed in accordance with the laws of the Requested Party and the provision of this Treaty.

At the request of the Requesting Party, the Requested Party, shall grant legal assistance in form and in accordance with any special procedure indicated in the request, insofar as it is not inconsistent with the laws of the requested Party.

2. If the Requesting Party seeks the presence of the representatives of its competent authorities during the execution of a request, the Requested Party will inform the Requesting Party about its decision. In case of a positive decision, the Requesting Party will be informed beforehand, about the time and the place of the execution of the request.

3. The Central Authority of the Requested Party will transmit the information and the evidence received consequent to the request to the Central Authority of the Requesting Party within a reasonable time.

4. If it is not possible to execute the request in full or in part, the Central Authority of the Requested Party will immediately inform the Central Authority of the Requesting Party of such inability and also the reasons therefore.

Article 10

Service of Documents

1. In accordance with the request for legal assistance the Central Authority of the Requested Party shall immediately serve or arrange through the competent authority the service of any documents.

2. The Requesting Party shall transmit a request for the service of a document pertaining to a response or appearance in the territory of the Requesting Party within a reasonable time, before the scheduled response or appearance, normally not later than 60 days before appearance.

3. The Central Authority of the Requested Party shall forward a proof of service in accordance with its laws and procedure. Such proof of service shall indicate the date, the signature of the addressee and/or the statement of the competent authority of the Requested Party, as the case may be, in which, the fact of service, the date and the manner of service are confirmed.

Article 11

Taking of evidence in the requested Party

1. Where a request is made that evidence be taken for the purpose of investigation or proceeding in relation to a criminal matter in the jurisdiction of the Requesting Party, the Requested Party shall arrange to have such evidence taken.

2. For the purposes of this Treaty giving or taking of evidence shall include testimony of the witnesses, victims and other persons connected to the criminal proceedings, conclusions of experts, the production of documents, articles or records.

3. The representatives of the competent authorities of the requesting Party that are present at the execution of the request shall be allowed to formulate questions that may be put to the corresponding person through the representative of the competent authority of the requested Party.

4. The Requesting Party shall observe any conditions, imposed by the Requested Party in relation to any documents and objects which may be delivered to it, including conditions for the protection of third party interests in any such documents and objects.

5. A person who is required to give evidence in the Requested Party, pursuant to a request for assistance, may decline to do so, where either –

a) the law of the Requested Party permits that person to decline to give evidence in similar circumstances in criminal proceedings which may have originated in the Requested Party; or

b) the law of the Requesting Party permits him to decline to give evidence in such criminal proceedings in the Requesting Party.

6. If any person claims that there is a right to decline to give evidence under the laws of the Requesting Party, the Requested Party may with respect thereto rely on a document of the Central Authority of the Requesting Party as prima facie evidence of the legal position of such a claim.

Article 12

Provision of Information, Documents, and Records

1. The Requested Party shall provide the Requesting Party with copies of documents, records and information of Government Departments and Agencies, which under its law is publicly available.

2. The Requested Party may provide the Requesting Party with any information, document and records in possession of a Government Department and Agency but not publicly available, except the ones containing data which are state secrets, to the same extent and under the same conditions as they would be available to its own law enforcement and judicial authorities.

Article 13

Search and Seizure

1. The Requested Party shall, insofar as its law permits, carry out requests for search, seizure and delivery of any material to the Requesting Party which is relevant to an investigation or other proceedings in relation to the pending criminal matter in the Requesting Party. Such request shall be based on reasonable grounds.

2. The Requested Party shall provide such information as may be required by the Requesting Party concerning the result of any search, the place of seizure, the circumstances of seizure, and the subsequent custody of the material seized.

Article 14

Location and identification of persons and objects

The competent authorities of the Requested Party shall use its best efforts as provided for by its law to ascertain the location and identity of persons and objects specified in the request.

Article 15

Personal appearance of witnesses, victims and experts in the territory of the Requesting Party

1. If the Requesting Party submits a request for personal appearance to produce evidence, carry out expert examination or for other procedural measures in its territory, the Requested Party shall inform the person concerned about the request of the Requesting Party to appear before its competent authorities.

2. The request for the person to appear shall contain information about the conditions and requirements to cover cost and the expenses associated with the appearance of the summoned person, and also the list of guarantees which this person is entitled to under Article 16 of this Treaty.

3. The request for the person to appear shall not contain any threat to use coercive measures or penalty in case of a failure of the person to appear in the territory of the Requesting Party.

4. The summoned person will take the decision to appear voluntarily. The Central Authority of the Requested Party shall promptly inform the Central Authority of the Requesting Party of the person's response.

Article 16 **Safe conduct**

1. A person present before the competent authority in the Requesting Party notwithstanding its citizenship shall not be detained or subjected to criminal prosecution, or any other restriction of personal liberty in the territory of this Party for any acts or on the basis of convictions which preceded that person's entry into the territory of the Requesting Party. If such guarantee cannot be provided for any reason, the Central Authority of the Requesting Party shall indicate this in the request, in order to inform the requested person and to allow that person to decide whether to appear taking these circumstances into account.

2. The summoned person shall lose its right to inviolability provided for in the Paragraph 1 of this Article if a person, being free to leave the territory of the Requesting Party, has not left it within a period of 15 days after being notified in writing that the person's attendance is no longer required by the corresponding competent authority or, having left that territory, has voluntarily returned.

3. The summoned person shall not be forced to present evidence in any other case than that indicated in the request.

Article 17 **Temporary transferring persons in custody** **(including those serving punishment in the form of imprisonment)**

1. A person in custody (including a person serving a sentence in the form of imprisonment) notwithstanding citizenship, with the consent of the Central Authority of the Requested Party may be temporarily transferred to the Requesting Party to give evidence as a witness or a victim or to assist in other proceedings indicated in the request provided that the person is returned to the Requested Party within the time limit imposed by it.

Initial term for which the person may be transmitted shall not be more than 90 days. Upon the request of the Central Authority of the Requesting Party, based on substantial grounds, the term of stay of the transferred person may be extended by the Central Authority of the Requested Party.

The order and the conditions of transfer and return of the person shall be coordinated by the Central Authorities of the Parties.

2. The transfer of the person may be refused or postponed as the case may be:

- a) if the person in custody (including the person serving a sentence in the form of imprisonment) does not give consent in writing to this;
- b) if participation of this person in the criminal proceedings in the territory of the Requested Party is necessary.

3. The Requesting Party shall hold the transmitted person in custody insofar as the decision of the competent authority of the Requesting Party to hold that person in custody is in force.

In case of the release of the person in custody upon the decision of the Requested Party the Requesting Party shall use in relation to that person the provisions of Articles 15, 16 and 19 of this Treaty.

4. The period during which a person in custody is transferred to the Requesting Party shall be deemed to be served in the Requested Party of an equivalent period of sentence/custody in that country, for all purposes.

5. If the person in custody (the person serving the sentence in the form of imprisonment included) does not consent to appear before the Requesting Party that person by reason thereof shall not be liable to any measure of compulsion or penalty.

Article 18
Exchange of information about convictions and of judicial records

1. Each Party shall annually provide information of convictions passed by its courts in respect of citizens of the other Party and transmit available fingerprints of these accused persons.

2. Each Party shall submit free of charge to the other Party upon its request information about previous convictions of persons if these persons are held criminally accountable in the territory of the Requesting Party.

Article 19
**Protection of the person appearing upon request
or transferred to the territory of the Requested Party**

In case of necessity the Requesting Party shall provide for the protection of the person appearing upon request or transferred to its territory in accordance with Article 15 and 17 of this Treaty.

Article 20
Special cases of granting legal assistance

The Requested Party shall submit upon request extracts from the criminal cases, (and/or) documents and articles related to them, that are necessary for the investigation (and/or) criminal proceedings if its competent authorities can receive them in similar cases, except documents or articles, containing secret of the State.

Article 21
Proceeds and instrumentalities of crime

1. The Parties in accordance with their laws, shall assist each other in locating, immobilizing/freezing and seizing assets, including proceeds from, or that are the result of, criminal activities, as well as instrumentalities of crime, for the purpose of: forfeiture; restitution to victims of crime;

2. If the Central Authority of one Party becomes aware that proceeds and instrumentalities of crime that may be subject to forfeiture are located in the territory of the other Party, it may so inform the Central Authority of the other

Party so that the other Party may take appropriate measures under paragraph 3 of this Article. The Central Authority receiving the information shall notify the Central Authority providing the information of the action taken.

3. The Central Authorities of the Parties will mutually determine on a case by case basis, the possibility of transfer of all or part of such instrumentalities and proceeds of crimes, as well as proceeds of their sale, to the other Party including for the purpose of forfeiture and restitution in so far as permitted by its laws and to the extent it deems it appropriate. After this Treaty enters into force the Parties shall consider the possibility of making appropriate arrangements concerning issues of forfeiture of proceeds and instrumentalities of crimes and disposal thereof.

Article 22

Expenses

1. The Requested Party shall meet the regular costs of executing the requests for legal assistance, except that the requesting Party shall bear:

a) the expenses associated with the conveying persons to and from its territory in accordance with Article 15 and 17 of this Treaty and their presence in that territory, and other payments due to those persons. A person who agrees to appear may request that the Requesting Party advance money to cover these expenses. Such advance may be provided through the Embassy or a Consulate of the Requesting Party;

b) the expenses and fees of experts;

c) the expenses associated with the travel and presence of the representatives of the competent authorities of the Requesting Party at the execution of the request in accordance with Paragraph 2 of Article 9 of this Treaty;

d) the expenses associated with the transition of transmitted objects from the territory of the Requested Party to the territory of the Requesting Party and back;

e) the expenses associated with the taking of evidence from the Requested Party to the Requesting Party via video, satellite or other technological means.

2. If it becomes apparent that the execution of the request requires expenses of an extraordinary nature, the Parties shall consult to determine the terms and conditions under which the requested assistance can be provided.

Article 23

Consultations and resolutions of disputes

1. The Central Authorities at the request of either of them shall consult, whenever necessary concerning the interpretation or application of this Treaty, either generally or in relation to a particular request.

2. Disputed issues between the Parties resulting from the interpretation or application of this Treaty, shall be resolved through diplomatic negotiations.

Article 24

Final provisions

1. Upon the mutual agreement of the Parties this Treaty may be amended, and such amendments shall enter into force in accordance with the procedure provided for in Paragraph 2 of this Article.

2. This Treaty shall enter into force 90 days after the last date of which the Parties have notified each other through diplomatic channels that their respective domestic legal requirements for the entry into force of this Treaty have been complied with.

3. The present Treaty shall terminate 180 days after the date either of the Parties has received through diplomatic channels a written notification by the other Party of its intention to terminate it.

4. Termination of this Treaty is without prejudice to the execution of any request for legal assistance received during the period of its validity.

DONE in duplicate at St. Petersburg.....on the 28th day of,
May..... in the Sinhala, Russian and English languages, all
texts being equally authentic. In case of any divergence of interpretation, the
English text shall prevail.

Sri Lanka

**For the Democratic Socialist
Republic of Sri Lanka**

For the Russian Federation

