

**Treaty
Between the Democratic Socialist
Republic of Sri Lanka**

and

Ukraine

on

**Mutual Legal Assistance
in Criminal Matters**

Treaty
Between the Democratic Socialist Republic of Sri Lanka and Ukraine on
Mutual Legal Assistance in Criminal Matters

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

Guided by the friendly relations between the two States and desiring to consolidate them,

Recognizing the importance of granting widest measures of mutual cooperation in the field of criminal matters,

Have agreed as follows:

Article 1
General Provisions

The Parties shall, subject to their domestic laws, grant each other under this Treaty the widest measures of mutual legal assistance in criminal matters.

Article 2
Communication

1. The Central Authority of each Party shall make and receive requests pursuant to this Treaty:

For the Democratic Socialist Republic of Sri Lanka the Central Authority shall be - **the Secretary to the Ministry of Justice.**

For Ukraine, the Central Authority shall be - **the General Prosecutor's Office of Ukraine - concerning requests of pre-trial authorities - and the Ministry of Justice of Ukraine - concerning courts' requests.**

2. The Central Authorities shall communicate with each other either through diplomatic channels or directly for the purposes of this Treaty.

Article 3

Exchange of Information

The Parties through the Central Authorities may exchange information concerning the laws in force and the judicial practice in their respective countries related to the implementation of this Treaty.

Article 4

Scope of Assistance

1. The Parties shall provide mutual assistance to each other, in accordance with the provisions of this Treaty, in respect of the investigation, prosecution and judicial proceedings related to criminal matters.

2. Legal Assistance shall include:

- a) service of judicial documents;
- b) obtaining testimony and statements of persons;
- c) location and identification of persons;
- d) location and identification of objects, as well as proceeds and instrumentalities of crimes, including the ones relating to terrorism;
- e) notification to witnesses, victims and experts of a request for their voluntary appearance before the competent authorities of the Requesting Party;
- f) temporary transfer of persons in custody, including those serving a sentence in the form of imprisonment, to testify or to assist in investigations;
- g) executing measures related to assets, including forfeiture and confiscation;
- h) transfer of documents, objects and other evidence;
- i) granting permission to the representatives of the competent authorities of the Requesting Party to be present at the execution of the request;
- j) search and seizure;
- k) 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 5
Refusal of Assistance

1. The Requested Party may deny assistance if:

- a) the execution of the request would impair its sovereignty, security, public order or other such interests;
- b) the request would facilitate the prosecution or punishment of, or cause prejudice to, any person on account of his race, religion, language, caste, sex, political opinion, place of birth or other grounds of discrimination;
- c) the request relates to an offence of a political nature;
- d) the request relates to an offence under military law that would not be an offence under ordinary criminal law;
- e) the request relates to an offence, which is subject to investigation or proceeding, or a final judgment has been rendered in respect of that offence, in the Requested Party under its jurisdiction;
- f) conduct that is the subject of the investigation, prosecution or proceeding in the Requesting Party would not constitute an offence under the laws of the Requested Party;
- g) the request is not made in conformity with the provisions of this Treaty.

2. Before denying assistance pursuant to the provisions of this Article, the Central Authority of the Requested Party shall consult with the Central Authority of the Requesting Party to consider whether assistance can be given subject to such conditions, as it deems necessary. If the Requesting Party accepts assistance subject to these conditions, it shall comply with the conditions.

3. If the Central Authority of the Requested Party denies assistance pursuant to the provisions of this Article, it shall inform the Central Authority of the Requesting Party of the reasons for the denial.

Article 6 The Request

1. A request for legal assistance shall be made in writing. The Requested Party shall immediately accept the request for the execution upon its delivery by facsimile, electronic mail or other such type of communication. The original of the request shall be submitted promptly thereafter by the Requesting Party. The Requested Party shall inform the Requesting Party of the outcome of the execution of the request only upon the receipt of the original of the request.

2. Request for legal assistance shall contain:

a) the name of the competent authority in the Requesting Party seeking 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, applicable legal or statutory provisions and, 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, addresses and also, if possible, the 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, if known;

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

j) in case the presence of representatives of the competent authorities of the Requesting Party is required, their full names and official designations as well as reasons for their intended presence;

k) if necessary, the need to maintain the confidentiality of the request, its contents and the steps taken in that regard;

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 a 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 a request to take evidence, an indication whether this evidence shall be sworn, affirmed to or taken otherwise as stipulated for by the law of the Requesting Party, as well as a description of the matter with regard to which the evidence or statement is required;

c) in the event of a request for lending of exhibits, details 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 done and the date by which the exhibit shall be returned;

d) in the case of a request for taking restrictive measure for forfeiture of proceeds or instrumentalities of crimes:

- (i) detailed description of the proceeds or instrumentalities of crime including the location thereof;
- (ii) information giving grounds to believe that the assets are proceeds or instrumentalities of crimes;
- (iii) description of evidence available with the Requesting Party relating to such proceeds or instrumentalities of crime.

Article 7

Language

1. All requests and supporting documents shall be accompanied by a certified translation into the language of the Requested Party or into the English language, and shall be officially signed and sealed by the Central Authority or the competent authority, unless the Parties agree otherwise.

2. General communication between the Central Authorities shall be in English.

Article 8

Execution of Requests

1. The Central Authority of the Requested Party shall promptly execute the request or shall transmit it to the competent authority having jurisdiction to do so. The competent authorities of the Requested Party shall take all necessary means within their power to execute the request.

2. Requests shall be executed in accordance with the laws of the Requested Party unless otherwise provided for by this Treaty. In such case, the manner of execution specified in the request shall be followed to the extent that it is not contrary to the laws of the Requested Party.

3. If the Requested Party determines that execution of a request would interfere with an ongoing investigation, prosecution or proceedings in its jurisdiction, or that the execution of the request has to be carried out subject to such conditions, as it deems necessary, the Requested Party shall consult the Requesting Party. If the Requesting Party accepts the assistance subject to the conditions specified by the Requested Party, it shall comply with such conditions.

4. The Requested Party shall keep confidential the request and its contents if the Requesting Party so requires. If the request cannot be executed without breaching such confidentiality, the Requested Party shall so inform the Requesting Party, which shall then determine whether it requires the request to be executed nevertheless.

5. The Requested Party shall respond to reasonable queries by the Requesting Party on progress towards execution of the request.

6. The Requested Party shall inform the Requesting Party of the outcome of the execution of the request. If the execution of the request is denied, delayed or postponed, the Requested Party shall indicate the reasons for such denial, delay or postponement.

7. On the express request of the Requesting Party, the Requested Party shall state the date and place of execution of the request.

8. The Requested Party may permit the presence of persons specified in the request during the execution of the request, in accordance with the procedures prescribed by the laws of the Requested Party.

Article 9

Costs

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 Articles 14 and 15 of this Treaty and their presence in that territory, and other payments due to such persons. A person who agrees to appear may request that the Requesting Party advance money to cover these expenses. Such advance money may be provided through the Embassy or a Consulate of the Requesting Party;

b) the expenses and fees of experts and interpreters;

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;

d) the expenses associated with the transmission of objects to and from the territory of the Requesting Party.

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 10
Limitation on Use

6. The Requested Party shall inform the Requesting Party of the outcome of the execution of the request. If the execution of the request is denied, delayed or postponed, the Requested Party shall indicate the reasons for such denial, delay or postponement.

7. On the express request of the Requesting Party, the Requested Party shall state the date and place of execution of the request.

8. The Requested Party may permit the presence of persons specified in the request during the execution of the request, in accordance with the procedures prescribed by the laws of the Requested Party.

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b) the expenses and fees of experts and interpreters;

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;

d) the expenses associated with the transmission of objects to and from the territory of the Requesting Party.

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.

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

Article 12

Provision of Documents and Records

1. The Requested Party shall provide certified copies of documents and records in so far as they are open to public access unless the Requesting Party expressly requests the transmission of originals, in which case the Requested Party shall make every effort to comply with such request.

2. The Requested Party may provide the Requesting Party with certified copies of any other documents or records that are not stipulated in paragraph 1 of this Article, unless those documents and records relate to the national peace and security.

Article 13

Service of Documents

1. The Requested Party shall use its best efforts to effect service of any document relating, in whole or in part, to any request for assistance made by the Requesting Party under the provisions of this Treaty.

2. The Requesting Party shall transmit any request for the service of a document requiring the appearance of a person before an authority in the Requesting Party within a reasonable time before the scheduled appearance.

3. The Requested Party shall send to the Requesting Party a proof of service of documents with a date of service indicated and a signature of a person who received documents. If the addressee refuses to receive documents or sign a receipt, this shall be indicated as proof of such fact. If service cannot be effected, the reasons for it shall promptly be communicated to the Requesting Party.

4. Summons to be served on the defendant shall be transmitted to the authorities concerned not later than sixty (60) days before the date set for the appearance before the court.

5. A witness or expert who has failed to answer summons to appear, service of which has been requested, shall not, even if the summons contains a notice of penalty for such failure, be subjected to any punishment or measure of restraint.

Article 14

Testimony Outside the Requested Party

1. When the Requesting Party requests that a person in the Requested Party appear in the Requesting Party, the Requested Party shall effect service of summons and invite the person to appear before the competent authority of the Requesting Party to testify if he so desires. The Requested Party shall inform the Requesting Party of the steps taken in that regard.
2. The Requesting Party shall indicate the extent to which the expenses of the person referred to in paragraph 1 of this Article, will be paid. A person who agrees to appear may ask the Requesting Party to make an advance payment to cover these expenses. This payment may be provided through an Embassy or a Consulate of the Requesting Party, where applicable.
3. The Requesting Party shall not subject a witness, victim, expert who is present in its territory pursuant to a request under this Treaty to service of summons, detention, any restriction of personal liberty or prosecution due to a conduct that preceded to his departure from the Requested Party.
4. If a suspect or an accused person appears in response to a summons before the competent authorities of the Requesting Party he may not be prosecuted by the Requesting Party for the conduct that had taken place prior to his departure from the Requested Party that was not indicated in the summons.
5. The summoned person shall lose his right to inviolability provided for in paragraphs 3 and 4 of this Article, if such person, being free to leave the territory of the Requesting Party, has not left it within a period of fifteen (15) days after being notified in writing that his attendance is no longer required by the competent authority of the Requesting Party or, having left that territory, has voluntarily returned thereto.
6. The summoned person shall not be forced to present evidence in any proceedings other than indicated in the request.

Article 15

Transfer of Persons in Custody

1. A person in custody, including those serving a sentence of imprisonment, in the Requested Party may be provisionally transferred to the custody of the Requesting Party for the purpose of giving evidence under this Treaty, if the person sought so consents and the Central Authorities of the Parties agree.

2. For the purpose of this Article:

- a) the Requesting Party shall keep the person transferred in custody unless otherwise authorized by the Requested Party;
- b) the Requesting Party shall return the person so transferred to the custody of the Requested Party within a month from his surrender;
- c) the person so transferred shall receive credit for service of the sentence imposed in the Requested Party for time served in the custody of the Requesting Party.

Article 16
Transit of Persons in Custody

1. The Requested Party may authorize the transit through its territory of a person in custody to the Requesting Party whose appearance has been requested by the Requesting Party from a third State for purposes described in paragraph 1 of Article 15 of this Treaty.

2. The Requested Party shall keep the person in custody during such transit, if required.

Article 17
Search and Seizure

1. The Requested Party shall in accordance with its law execute a request for search, seizure and transfer of any object related to the offence subject to investigation in the Requesting Party. If the possession of the object constitutes an offence in the Requested Party, the Requesting Party shall undertake to return the object(s) within the period agreed upon by both Parties.

2. The Requested Party may require that the Requesting Party agree to terms and conditions deemed necessary to protect third party interests in the object to be transferred.

Article 18
Postponing of Handing Over

The Requested Party may postpone the handing over of any objects, records or documents requested under this Treaty, if such objects, records or documents are required in connection with an ongoing criminal proceeding in its jurisdiction.

Article 19
Return of Objects

The Requesting Party shall return any object, including documents and records, furnished to it in execution of a request under this Treaty unless the Requested Party expressly exempts such return.

Article 20
Assistance in Forfeiture Proceedings

1. If the Central Authority of one Party becomes aware of proceeds or instrumentalities of crime that are located in the other Party and may be liable for forfeiture or otherwise subject to seizure under the law of that Party, it may so inform the Central Authority of the other Party. If that other Party has jurisdiction in this regard, it may present this information to its competent authorities to take any decision in this regard and these competent authorities shall inform their decision in accordance with their law and report to the other Party on the action taken through their respective Central Authorities.

2. Each Party shall assist the other to the extent permitted by its law in proceedings relating to the forfeiture of the proceeds and instrumentalities of crime and restitution thereof to the victims of the crime. This may include action to temporarily immobilizing the proceeds or instrumentalities of crime pending further proceedings.

3. The Party that has custody over proceeds or instrumentalities of crime shall dispose of them in accordance with its law. Either Party may transfer all or part of such assets, or the proceeds of their sale, to the other Party, to the extent permitted by the transferring Party's law and upon such terms, as it deems appropriate.

Article 21
Information on Convictions and Judgments

1. If a person is prosecuted in the territory of one Party, the other Party shall submit, upon request, the information on his convictions, if any.
2. Upon request the Parties shall inform each other on final judgments delivered in their respective jurisdictions related to the citizens of the other Party.

Article 22
Information on Offences

1. Either Party may transmit information that is in its possession to the other Party relating to any offence committed in the other Party through the respective Central Authorities.
2. The Party that receives such information shall inform the other Party about any action taken pursuant to such information, and send a copy of the relevant court decision, if any.

Article 23
Validity of Documents

The request and any documents sent under this Treaty as well as translations shall be certified by the competent authorities or the Central Authorities for the purposes of this Treaty and no further legalization or other confirmation of validity shall be required.

Article 24
Relation with Other International Treaties

The provisions of this Treaty shall not affect the rights and obligations of the Parties arising from other international treaties to which they are parties.

Article 25

Settlement of Disputes

Any dispute arising from implementation or interpretation of this Treaty shall be settled by consultations between the Central Authorities of the Parties or through diplomatic channels.

Article 26

Entry into Force and Termination

1. This Treaty is concluded for an indefinite period.
2. This Treaty is subject to ratification and shall enter into force on the fifteenth (15) day after the date of the exchange of the instruments of ratification.
3. This Treaty may be amended through the mutual written consent of the Parties. Such amendments shall enter into force according to the procedure set out in paragraph 2 of this Article.
4. Either Party may terminate this Treaty by giving written notice through diplomatic channels at any time. Termination shall take effect six (06) months after the date on which such notice is given. However, any request received up to the date of receipt of the notice of termination shall continue to be governed by this Treaty until the request is executed.

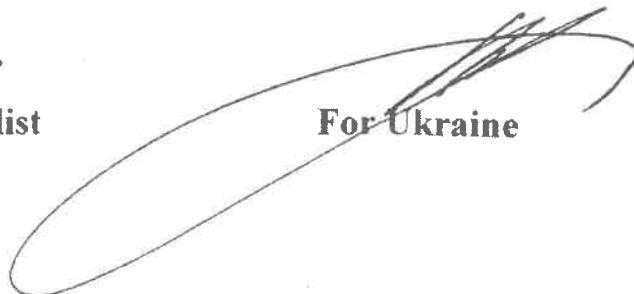
IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective States therefore, have signed this Treaty.

25th

Done at **Kyiv** on ~~24th~~ day in the month of **June 2016** in duplicate, each in Sinhala, Ukrainian and English languages, all texts being equally authentic. In the event of any divergence of interpretation of this Treaty the English text shall prevail.



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



For Ukraine