BILATERAL

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE KINGDOM OF SPAIN

Read online (full-text search, related cases, audio case brief): https://batas.org/library/5e2bb248d975/

The Republic of the Philippines and the Kingdom of Spain, hereinafter referred to as the Contracting Parties;

Wishing to maintain and strengthen the ties that unite the two countries;

Desiring to provide for more effective cooperation between them in the investigation and prosecution of crimes;

Recognizing the need to improve coordination and mutual legal assistance in criminal matters in general, in accordance with their national laws and regulations;

Have agreed as follows:

ARTICLE 1
SCOPE OF ASSISTANCE

1. The Contracting Parties undertake to provide each other, in accordance with the provisions of this Treaty, the widest measure of mutual legal assistance in any proceedings in respect of offences the punishment of which falls within the jurisdiction of the judicial authorities of the Requesting State.

2. Assistance shall include:

a) taking the testimony or statements of persons;

b) providing documents, records, and items of evidence;

c) serving documents;

d) locating or identifying persons or property;

e) transferring persons in custody for testimony or other purposes;

f) executing requests for searches and seizures;

g) freezing of assets;

h) assisting in proceedings related to forfeiture of assets, restitution, and collection of fines;

i) instituting criminal proceedings; and

j) any other form of assistance not prohibited by the laws of the Requested State.

3. Assistance shall be provided without regard to whether the conduct which is subject of the investigation, prosecution, or proceeding in the Requesting State would constitute an offence under the laws of the Requested State. However, when the assistance sought involves the carrying out of measures under paragraph 2 (f) or paragraph 2 (h) of this Article, it shall be necessary that the conduct which is subject of the investigation, prosecution, or proceeding in the Requesting State would constitute an offence under the laws of the Requested

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

State.

4. This Treaty is intended solely for mutual legal assistance between the Contracting Parties. The provisions of this Treaty shall not give rise to a right on the party of any private person to obtain, suppress, or exclude any evidence, or to impede the execution of a request.

ARTICLE 2
CENTRAL AUTHORITIES

1. Each Contracting Party shall designate a Central Authority to make and receive requests pursuant to this Treaty.

2. For the Republic of the Philippines, the Central Authority shall be the Department of Justice. For the Kingdom Spain, the Central Authority shall be the Ministry of Justice.

3. The Central Authorities shall communicate directly with each other, or through the diplomatic channel, for the purposes of this Treaty.

4. The Contracting Parties shall notify each other of any changes in the designation of their respective Central Authorities.

ARTICLE 3
GROUNDS FOR DENYING ASSISTANCE

1. The Requested State may deny assistance if:

(a) the request relates to a political offence;

(b) the request refers to an offence considered to be exclusively military in the Requested State;

(c) the execution of the request would prejudice its sovereignty, security, public order or similar essential interests;

(d) there are substantial grounds to believe that the request for assistance has been made to investigate or prosecute a person for reasons of his race, religion, nationality, ethnic origin, political opinion or sex or that the request is being made to subject that person to any other form of discrimination; or

(e) the request is not made in conformity with the Treaty.

2. For the purposes of this Agreement, in no case shall the following be considered political offences:

(a) terrorist attacks against the life of a Head of State or Government or a member of his family;

(b) any offence related to terrorism; or

(c) war crimes and crimes committed against the peace and security of mankind.

3. Before denying assistance pursuant to this Article, the Requested State shall consult with the Requesting State to consider whether assistance can be given subject to such conditions as it deems necessary. If the Requesting State accepts assistance subject to these conditions, it shall comply with the conditions.

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

ARTICLE 4
FORM AND CONTENT OF REQUESTS

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

1. A request for assistance shall be in writing with the exception that the Requested State may accept a request in another form in case of urgency. In the latter case, the request shall be confirmed in writing within ten days thereafter unless the Requested State agrees otherwise. The request and its supporting documents shall be in both English and Spanish.

2. The request shall include the following:

(a) the name of the authority conducting the investigation, prosecution, or proceeding to which the request relates;

(b) a description of the subject matter and nature of the investigation, prosecution, or proceeding, including the specific criminal offences which relate to the matter;

(c) a description of the evidence, information, or other assistance sought; and

(d) a statement of the purpose for which the evidence, information, or other assistance is sought.

3. To the extent necessary and possible, a request shall also include:

(a) information on the identity and location of any person from whom evidence is sought;

(b) information on the identity and location of a person to be served, that person's relationship to the proceedings, and the manner in which service is to be made;

(c) information on the identity and whereabouts of a person to be located;

(d) a precise description of the place or person to be searched and of the articles to be seized;

(e) a description of the manner in which any testimony or statement is to be taken and recorded;

(f) a list of questions to be asked of a witness;

(g) a description of any particular procedure to be followed in executing the request;

(h) information as to the allowances and expenses to which a person asked to appear in the Requesting State will be entitled;

(i) a description of any property sought to be restrained, frozen or forfeited; and

(j) any other information which may be brought to the attention of the Requested State to facilitate its execution of the request.

ARTICLE 5
EXECUTION OF REQUESTS

1. The Requested State shall execute in accordance with its national law a request concerning criminal matters made by the competent judicial authority of the Requesting State.

2. The Requested State shall be limited to providing certified true copies of the records or documents requested. However, on a request for the transmission of originals, best efforts shall be made to comply with the request.

3. If the Requested State determines that the execution of the request would interfere with any ongoing criminal investigation, prosecution, or proceeding in that State, it may postpone execution, or it may make execution subject to conditions determined necessary after consultations with the Central Authority of the Requesting State.

4. The Central Authority of the Requested State shall respond to reasonable inquiries by the Central Authority of the Requesting State concerning progress toward execution of the request.

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

5. The Central Authority of the Requested State shall promptly inform the Central Authority of the Requesting State of the outcome of the execution of the request. If the request is denied, the Central Authority of the Requested State shall inform in writing the Central Authority of the Requesting State of the reasons for the denial.

ARTICLE 6
EXPENSES

The Requested State shall pay all expenses relating to the execution of the request, except for the fees of witnesses and experts, the costs of translation, interpretation, and transcription, and the allowances and expenses related to travel of persons pursuant to Articles 11 and 12, which shall be paid by the Requesting State.

ARTICLE 7
LIMITATIONS ON USE

The Requesting State may not use the evidence obtained for purposes other than those specified in the request, without the previous written consent of the Requested State.

ARTICLE 8
THE HANDING OVER OF PROCEDURAL DOCUMENTS AND THE SERVICE OF WRITS IN CRIMINAL MATTERS

1. The Requested State shall proceed to hand over the procedural documents and to effect the service of writs that were transmitted to it for this purpose by the Requesting State. Service may be effected by simple transmission of the document or decision to the person to be served. If the Requesting State explicitly so requests, the Requested State shall effect the service in the manner provided under its own law for the analogous service of documents or in a special manner consistent with such law.

2. Proof of service shall be given by means of a receipt dated and signed by the person served or by means of a written statement by the competent authority of the Requested State that service has been effected, specifying the form and date of such service. Either of these documents shall be immediately transmitted to the Requesting State.

3. If the handing over or service is unable to be effected, the Requested State shall immediately inform the Requesting State about the reason therefor.

4. Summons to appear addressed to an accused person who is in the territory of the Requested State must be served at least thirty (30) days before the date set for appearance.

ARTICLE 9
TAKING TESTIMONY OR EVIDENCE IN THE REQUESTED STATE

1. A witness or expert who has failed to answer a summons to appear, service of which has been requested, shall not, even if the summons contain a note of penalty, be subjected to any punishment or measure of restraint, unless subsequently he voluntarily enters the territory of the Requesting State and is there again duly summoned.

2. Upon request, the Central Authority of the Requested State shall furnish information in advance about the date and place of the taking of the testimony or evidence pursuant to this Article.

3. The Requested State shall permit the presence of such persons as specified in the request during the execution of the request, and, to the extent allowed by its laws, shall permit such persons to question the person giving the testimony or evidence.

ARTICLE 10
RECORDS OF GOVERNMENT AGENCIES

1. The Requested State shall provide the Requesting State with copies of publicly available records, including documents or information in any form, in the possession of government departments and agencies in the Requested State.

2. The Requested State may provide copies of records, including documents or information in any form, which are in the possession of a government department or agency in that State but which are not publicly available, to the same extent and under the same conditions as they would be available to its own law enforcement or judicial authorities. The Requested State may in its discretion deny a request pursuant to this paragraph entirely or in part.

3. To the same extent and under the same conditions as they would be available to its own judicial authorities, the Requested State shall provide excerpts or information concerning a final judgment of conviction requested by judicial authorities of the Requesting State necessary for a criminal case.

ARTICLE 11
TESTIMONY IN THE REQUESTING STATE

When the Requesting State seeks the appearance of a witness or expert in that State, the Requested State shall invite that person to appear before the appropriate authority in the Requesting State. The Requesting State shall indicate the extent to which the expenses will be paid. The Central Authority of the Requested State shall promptly inform the Central Authority of the Requesting State of the response of the person, transmitting his written consent in the event that such response is in the affirmative.

ARTICLE 12
TRANSFER OF PERSONS IN CUSTODY

1. A person in the custody of the Requested State whose presence in the Requesting State is sought for purposes of assistance under this Treaty shall be transferred from the Requested State to the Requesting State for that purpose if both the person and the Central Authority of the Requested State consent to the transfer.

2. A person in the custody of the Requesting State whose presence in the Requested State is sought for purposes of assistance under this Treaty may be transferred from the Requesting State to the Requested State if the person consents and if the Central Authority of both States agree.

3. Transfer may be refused:

(a) if the person in custody does not consent;

(b) if his presence is necessary at criminal proceedings pending in the territory of the Requested State;

(c) if his transfer could prolong his detention; or

(d) if there are other overriding grounds for not transferring him to the territory of the Requesting Party.

4. For purposes of this Article:

(a) the receiving State shall have the authority and the obligation to keep the person transferred in custody unless otherwise authorized by the sending State;

(b) the return of the person transferred to the custody of the sending State shall be subject to such terms and conditions as may be agreed upon by the Central Authorities;

(c) the receiving State shall not require the sending State to initiate extradition proceedings for the return of the person transferred; and

(d)the person transferred shall receive credit for service of the sentence imposed in the sending State for time

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

served in the custody of the receiving State.

ARTICLE 13
IMMUNITY

1. No witness or expert, whatever his nationality, appearing on a summons before the judicial authorities of the requesting State, may be prosecuted or detained or subjected to any other restriction of his personal liberty in the territory of that State in respect of acts or convictions prior to his departure from the territory of the Requested State.

2. No person, whatever his nationality, summoned before the judicial authorities of the Requesting State to answer for acts forming the subject of proceedings against him, may be prosecuted or detained or subjected to any other restriction of his personal liberty in the territory of that State in respect of acts or convictions prior to his departure from the territory of the Requested State and not specified in the summons,

3. The immunity provided for under this Article shall cease when the witness or expert or accused person, having had an opportunity to leave the territory of the Requested State for a period of seven (7) consecutive days from the date when his presence is no longer required by the judicial authorities, has nevertheless remained in the territory, or having left it, has returned. The Central Authority of the Requesting State may extend this period up to fifteen (15) days if it determines that there is good cause to do so.

4. The immunity provided for in this Article shall not be applied to acts or crimes committed subsequent to departure from the territory of the Requested State.

ARTICLE 14
LOCATION OR IDENTIFICATION OF A PERSON OR PROPERTY

If the Requesting State seeks the location or identity of a person or property in the Requested State, the Requested State shall use its best efforts to ascertain the location or identity of the person or property.

ARTICLE 15
EXCHANGE OF INFORMATION

1. Upon request, each Contracting Party shall inform the other Party of criminal convictions and subsequent measures in respect of nationals of the latter Party and, if specified, provide copies of judicial decisions.

2. The Contracting Parties shall undertake to provide each other information on their criminal law and procedure as well as on judicial organization.

ARTICLE 16
SEARCH AND SEIZURE

1. The Requested State shall execute a request for the search, seizure, and delivery of any property to the Requesting State if the request includes the information justifying such action under the laws of the Requested State.

2. Upon request, every official who has custody of a seized property shall certify the continuity of custody, the identity of the property, and the integrity of its condition.

3. The Central Authority of the Requested State may require that the Requesting State agree to terms and conditions deemed necessary to protect third party interests in the item to be transferred.

ARTICLE 17

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

RETURN OF DOCUMENTS, RECORDS, AND ITEMS OF EVIDENCE

After serving the purpose for which it was requested and upon the request of the Central Authority of the Requested State at the time if furnishes documents, records, or items incident to a request, the Central Authority of the Requesting State shall return such documents, records or items furnished to it in execution of a request as soon as possible. If agreed upon by the Central Authorities, such documents, records or items shall instead be disposed of in a mutually acceptable manner.

ARTICLE 18
ASSISTANCE IN FREEZING AND FORFEITURE OF ASSETS, RESTITUTION AND COLLECTION OF FINES

1. If the Central Authority of one Contracting Party becomes aware that proceeds or instrumentalities of offences that may be forfeited or otherwise subject to seizure are located in the other Contracting Party, it shall inform the Central Authority of that other Party.

2. The Contracting Parties shall assist each other to the extent permitted by their respective laws in proceedings relating to the forfeiture of the proceeds and instruments of offences, restitution to the victims of crime, and the collection of fines imposed as sentences in criminal prosecutions. This may include action to freeze the proceeds or instrumentalities pending further proceedings.

3. The Contracting Party that has custody over proceeds or instrumentalities of offences shall dispose of them in accordance with its laws. Either Party may transfer all or part of such assets, or the proceeds of their sale, to the other Party, to the extent not prohibited by the transferring Party's laws and upon such terms as it deems appropriate.

ARTICLE 19
INSTITUTION OF CRIMINAL PROCEEDINGS IN THE REQUESTED STATE

1. Either of the Contracting Parties may file a request with a view to instituting criminal proceedings before the competent authority of the other Contracting Party.

2. The Requested State shall consider the institution of criminal proceedings in accordance with its laws, practices and procedural rules.

3. The Requested State shall notify the Requesting State of the measures adopted pursuant to the request.

ARTICLE 20
EXEMPTION FROM AUTHENTICATION

In application of this Treaty, the documents and translations formulated or certified by courts or other competent authorities of either of the Contracting Parties shall be admitted in the proceedings without any form of authentication.

ARTICLE 21
COMPATIBILITY WITH OTHER TREATIES

Assistance and procedures set forth in this Treaty shall not prevent either of the Contracting Parties from granting assistance to the other Party through other applicable international agreements, or through its national laws.

ARTICLE 22
CONSULTATION

The Central Authorities of the Contracting Parties may consult with each other to promote the most effective use of this Treaty. The Central Authorities may also agree on such practical measures as may be necessary to facilitate the implementation of this Treaty.

ARTICLE 23
SETTLEMENT OF DISPUTES

Any disputes arising from the interpretation or application of this Treaty shall be settled through diplomatic channels.

ARTICLE 24
CONFIDENTIALITY

1. The Requested State shall use its best efforts to keep confidential a request and its contents. If the request cannot be executed without breaching the confidentiality, the Central Authority of the Requested State shall so inform the Central Authority of the Requesting State, which shall then determine whether the request should nevertheless be executed.

2. The Requesting State shall make an effort to maintain confidentiality as regards evidence obtained and information provided by the Requested State in the execution of the request for assistance.

ARTICLE 25
APPLICATION

This Treaty shall apply to any request presented after the date of its entry into force whether or not the relevant acts or omissions occurred prior to that date.

ARTICLE 26
ENTRY INTO FORCE, DURATION AND TERMINATION

1. This Treaty shall enter into force thirty (30) days after the date on which the Contracting Parties have notified each other in writing that their respective requirements for the entry into force of this Treaty have been met.

2. This Treaty shall have an indefinite duration.

3. Either Contracting Party may terminate this Treaty by notice in writing at any time and it shall cease to be in force on the one hundred and eightieth (180th) day after the day on which notice is received by the other Contracting Party.

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

Done in Manila, on this 2nd day of March 2004, in English and Spanish, both text being equally authentic.

FOR THE REPUBLIC OF THE PHILIPPINES

(Sgd.) MA. MERCEDITAS N. GUTIERREZ
Acting Justice Secretary

FOR THE KINGDOM OF SPAIN

(Sgd.) RAMON GIL-CASARES SATRUSTEGUI
Secretary of State for Foreign

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

Affairs

Entry into Force: December 8, 2008

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.