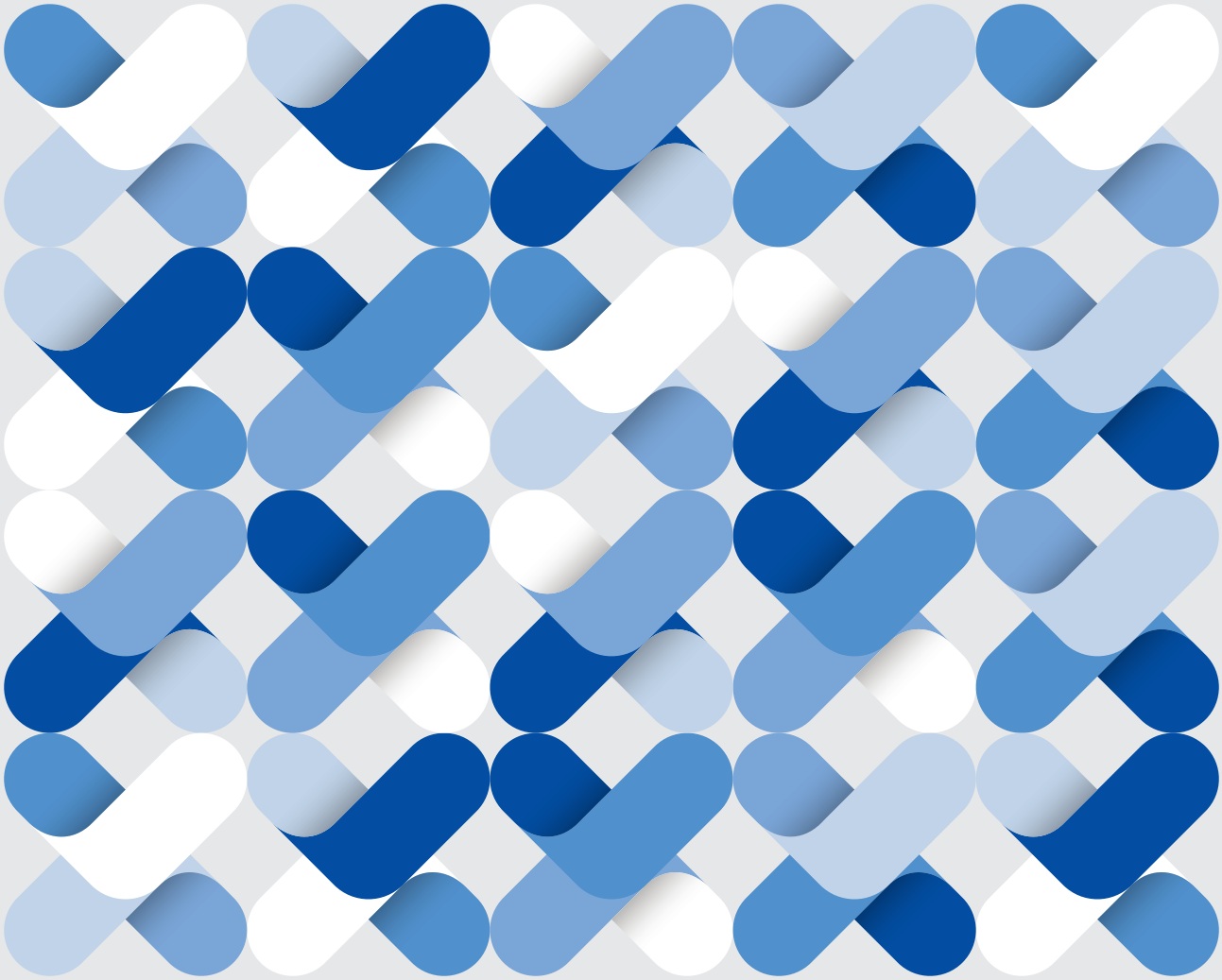
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MUTUAL LEGAL ASSISTANCE GUIDE

LUXEMBOURG



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Overview

This guide provides practical guidance on the preparation and execution of Mutual Legal Assistance (MLA) requests to Luxembourg in criminal matters. It is intended to help practitioners from non-European Union (EU) countries identify relevant information and adapt it to the specific needs of each request.

It is not a standardized template.

Important Note on Early Coordination and Informal Contact

Before submitting a formal MLA request, it is considered good practice for the Requesting State to engage in early coordination. Preliminary contact can help identify the appropriate competent authorities, clarify jurisdictional links, refine investigative leads, and ensure that the scope of the request is targeted and proportionate before formal transmission.

Early coordination may take place through central authorities, cooperation networks – such as the Camden Asset Recovery Inter-Agency Network (CARIN) – and technical-support organizations, depending on the nature of the case and the assistance sought.

Type of Contact	Purpose	Examples
Central Authorities	Clarify procedural requirements, applicable legal bases, competent authorities, and formal MLA expectations	Prosecutor General's Office (Parquet général d'état) – Service d'entraide pénale internationale (SEPI)
Cooperation Networks	Verify information, refine leads, trace or identify assets, and facilitate informal contact	CARIN, Egmont Group of Financial Intelligence Units (FIUs), INTERPOL
Technical and Advisory Organizations	Provide expertise, training, and practical assistance in structuring or refining MLA requests, and support practitioner dialogue.	UNICRI, International Centre for Asset Recovery (ICAR), Stolen Asset Recovery Initiative (StAR)

Kindly note that these channels do not replace formal MLA procedures. They support early clarification and preparation and may improve the quality and effectiveness of the requests.

The sections below outline the legal basis, formal requirements, and practical steps relevant to MLA requests to Luxembourg, providing guidance on how such requests are prepared, transmitted, and executed in practice.

I. Legal Basis for MLA Requests to Luxembourg

In Luxembourg, MLA requests may be submitted under the following frameworks:

- **Multilateral Conventions:** such as the United Nations Convention against Corruption (UNCAC) Article 46, or the United Nations Convention against Transnational Organized Crime (UNTOC) Article 18.[1]

Note: UNCAC applies to the prevention, investigation, and prosecution of corruption offences, including bribery, embezzlement, abuse of functions, illicit enrichment, and related asset recovery measures.

UNTOC applies to serious transnational offences involving an organized criminal group, including money laundering, and other forms of organized crime.

- **Bilateral MLA Treaties:** if in force between Luxembourg and the Requesting State.[2]
- **Domestic Law:** Luxembourg's Law of 8 August 2000 on International Mutual Legal Assistance in Criminal Matters (as amended) governs MLA requests.[3]
- **Reciprocity:** In the absence of a treaty, Luxembourg may accept MLA requests based on reciprocity. It is advisable that the request explicitly invoke this principle and offer assurances of mutual legal cooperation.

Draft example (legal basis section of the MLA request):

- If both States are Parties to the UNCAC or UNTOC:

This request is made pursuant to Article 46 of the United Nations Convention against Corruption (UNCAC), to which both Luxembourg and [Requesting State] are Parties, and in accordance with the Law of 8 August 2000 on international mutual legal assistance in criminal matters.

OR

This request is made pursuant to Article 18 of the United Nations Convention against Transnational Organized Crime (UNTOC), to which both Luxembourg and [Requesting State] are Parties, and in accordance with the Law of 8 August 2000 on international mutual legal assistance in criminal matters.

- If a bilateral or multilateral treaty exists:

This request is made in accordance with [relevant article] within [relevant bilateral/ multilateral treaty].

- If no bilateral or multilateral treaty exists:

In the absence of a bilateral or multilateral treaty, this request is made on the basis of reciprocity, pursuant to the Law of 8 August 2000 on international mutual legal assistance in criminal matters. We confirm our assurance of mutual cooperation.

Note: For requests involving asset freezing, confiscation, or return, the Requesting State should also cite Article 55 UNCAC in addition to Article 46, as it specifically governs cooperation for confiscation and asset recovery.

Depending on the facts of the case, MLA requests may rely on both the UNCAC and the UNTOC, in particular where corruption offences are linked to money laundering or other forms of organized criminal activity.

II. Formal Requirements for Submitting an MLA Request to Luxembourg

An MLA request to Luxembourg must comply with specific formal requirements to be accepted and efficiently processed. Key elements are outlined below:

Criminal Nature and Admissibility of Confiscation Orders

Luxembourg provides MLA in criminal matters. Requests should concern conduct that is a criminal offence under both Luxembourg law and the law of the Requesting State, in line with the principle of dual criminality.

Luxembourg's confiscation framework is grounded in criminal proceedings. The relevant legal provisions are set out in Title VIII of Book II, Articles 659 to 668, of the Code of Criminal Procedure.[4]

Foreign confiscation decisions may be recognized and enforced where they qualify as criminal in nature and meet the conditions set out under Luxembourg's Code of Criminal Procedure and the Law of 8 August 2000 on international mutual legal assistance in criminal matters.

Recognition and enforcement generally require that:

- The request stems from criminal proceedings,
- The decision is final and enforceable in the Requesting State,
- Dual criminality is satisfied where required,
- The decision was issued by a judicial or other competent authority operating under procedures that respect fundamental defence rights.

Luxembourg does not provide for a distinct non-conviction-based confiscation regime in its domestic law. As a result, foreign confiscation orders must be assessed in light of their criminal character, and recognition may be refused if the measure cannot be aligned with Luxembourg's criminal law framework.

Recognition and enforcement are subject to judicial review under Luxembourg law. Courts verify that the foreign decision meets the conditions for execution, that procedural guarantees were respected, and that enforcement would not contravene Luxembourg public order. Luxembourg courts do not re-examine the merits of the case but assess whether the decision is enforceable under domestic legal standards.[5]

Central Authority

Luxembourg's designated central authority for MLA in criminal matters, including requests relating to asset freezing and confiscation, is the Prosecutor General's Office (Parquet général d'état). Within this office, the Service d'entraide pénale internationale (SEPI) serves as the specialized unit responsible for receiving, processing, and coordinating MLA requests, particularly those involving coercive measures.[6]

Transmission Channels

When a request is made under a treaty, the transmission method specified must be followed. Most instruments, including the UNCAC and UNTOC, require transmission through the designated central authorities as the primary channel for the transmission of MLA requests.[7] In Luxembourg, the designated central authority for MLA is the Prosecutor General's Office, acting through its specialized unit for international cooperation.[8] Unless otherwise provided by the applicable treaty, requests should be transmitted through this channel. Where no treaty applies, requests may be transmitted through diplomatic channels, typically via embassies or ministries of foreign affairs.[9]

Note: Early drafts or clarifications should preferably be discussed informally before filing the MLA request.

Official Language

Under Luxembourg's domestic law, the request and supporting documents must generally be submitted in French or German. Where a relevant treaty or legal instrument permits the use of another language, including English, Luxembourg may accept such documents in accordance with that instrument. This should be confirmed with the central authority before submitting the request.[10]

Note: The Requesting State should always verify the applicable language requirements under the relevant treaty or domestic provisions before transmission to avoid delays.

Official Form

Luxembourg does not prescribe a standardized form for MLA requests. A formal written request on official letterhead is sufficient, provided it contains all required factual and legal information. Requests are commonly made in the form of a letter rogatory and should be issued and signed by a competent authority of the Requesting State. To enhance clarity and efficiency, requests should be clearly structured and should bear the issuing authority's official seal where available. Where multiple copies are transmitted, it is good practice for at least one copy to bear an original signature. Notarization or legalization is not generally required under Luxembourg law, unless expressly provided for in an applicable treaty.[11]

III. Key Content Requirements

The MLA request must include the following:

Description of the Case

An MLA request to Luxembourg should include a clear summary of the relevant facts, including dates, places, the nature of the offence, and the individuals or legal persons involved. It should also explain the connection to Luxembourg, such as the location of assets or links to suspects. This information is essential for Luxembourg authorities to evaluate dual criminality and determine whether the requested measure is legally admissible under Luxembourg's law.[12]

Legal Provisions

The request should clearly outline the offences under investigation, including the relevant legal definitions, statutory provisions, and applicable penalties under the Requesting State's law. This is particularly important where coercive measures such as search, seizure, or confiscation are sought, as Luxembourg should assess dual criminality and ensure compatibility with its own legal framework.[13]

For this reason, before submitting the request, it is recommended that the Requesting State review the relevant Luxembourg offence categories to ensure that the described conduct can satisfy the dual-criminality requirement, where applicable. Where the foreign offence does not have an exact equivalent under Luxembourg law, the Requesting State should describe the underlying conduct in neutral factual terms, enabling Luxembourg authorities to identify the closest corresponding domestic offence.[14]

Note: Where appropriate, the Requesting State may informally engage with Luxembourg's central authority to anticipate and address potential dual-criminality issues before submitting the request.

Purpose and Object of the Request

The Requesting State should clearly indicate what measures are being sought from Luxembourg, such as:[15]

- Identification of assets (bank accounts, real estate, companies in which a defendant may be a beneficial owner)
- Freezing or seizure of assets
- Gathering of evidence (bank records, property deeds, corporate documents)
- Conducting searches or seizures of evidence
- Enforcement of a foreign confiscation order
- Taking of witness statements
- Return of assets post-confiscation

If the connection to Luxembourg has not yet been fully established but reasonable grounds or clear suspicions exist, the Requesting State may seek assistance to clarify specific leads, such as the identification of assets or targeted inquiries. Such requests should be supported by a sufficient factual basis demonstrating their necessity and proportionality and must avoid overly broad or speculative requests.[16]

Note: While a single MLA request to Luxembourg can include multiple investigative or provisional measures (e.g. asset tracing, provisional freezing, evidence collection), confiscation and asset return generally require a second request once a final order is obtained. Early consultation with Luxembourg's authorities is strongly recommended to structure MLA requests accordingly.

Supporting Documentation (with certified or officially translated versions where possible)

An MLA request to Luxembourg, should be accompanied by supporting documentation to ensure it can be executed effectively. Attachments may include:[17]

- **A certified copy of any freezing or confiscation order** issued by the Requesting State. Where only a provisional measure is sought, a copy of a domestic judicial order, if available, should be attached. If no order exists, the request should explain the factual basis and urgency and indicate whether one can be issued.
- **Evidence linking the asset to the offence**, such as bank account records, property registration documents, corporate or beneficial ownership records. While not mandatory, providing such evidence strengthens the request, and can be bolstered by visual graphics showing such links.
- **Copies of the relevant legal provisions of the Requesting State**, particularly those defining the offence and governing confiscation or provisional measures. Where possible, official or certified translations should be provided.
- **Witness statements or investigator affidavits** summarizing key facts, particularly asset-related information, could also be useful.

Note: Notwithstanding the above, it is generally not good practice to send an entire case file to a Requested State, as this can serve to inundate authorities with too much information. Supporting documentation should therefore be limited to materials that are necessary and relevant to the specific assistance sought.

Early Measures and Urgency

Under Luxembourg law, judicial authorities may order urgent measures such as the freezing or seizure of assets. These measures may be taken within a domestic investigation or, where an MLA request is received, subject to judicial review and compliance with the applicable legal conditions, including dual criminality where required and the existence of a sufficient factual basis.[18]

In urgent cases, Luxembourg may accept an electronic or faxed copy of the request for the purpose of preliminary review or provisional action, provided that the original signed version follows promptly through formal channels. Any provisional measures based on such transmission remain subject to judicial control and does not replace the requirement for a formally submitted MLA request.[19]

Luxembourg may also spontaneously share or receive information relevant to asset tracing and criminal conduct in accordance with applicable domestic law and international obligations, even in the absence of a formal MLA request.[20]

Additionally, international cooperation networks such as INTERPOL,[21] CARIN,[22] and the Egmont Group[23] can support preliminary discussion and information exchange. These mechanisms support information-sharing but do not replace formal MLA procedures and do not themselves authorize coercive measures.

Note: Early communication with Luxembourg's authorities is recommended, especially for urgent or complex cases. Such advance communication has no legal effect. In cases involving assets at risk, urgency should be highlighted to allow Luxembourg's authorities to timely seek preservation or seizure orders under domestic law.

IV. Execution of the MLA Request in Luxembourg

MLA requests received in Luxembourg are generally administered as follows:

Reception and Preliminary Review

When an MLA request is sent to Luxembourg, the SEPI conducts an initial review to ensure that the request is complete, translated where required, and meets all formal and legal requirements in accordance with the Law of 8 August 2000 and any applicable treaty.[24]

If any essential elements are missing, such as legal references or case facts, the SEPI may seek clarification or request additional information from the Requesting State before proceeding.[25]

Once the request is deemed complete, the SEPI forwards it to the competent judicial authority for substantive assessment and execution in accordance with Luxembourg law.[26]

Judicial Procedure and Legal Assessment

MLA requests in Luxembourg are executed under national criminal procedure law. After completing its initial review, the SEPI forwards the request to the relevant judicial authority for substantive assessment and execution under the Law of 8 August 2000 on International Mutual Legal Assistance in Criminal Matters and the applicable provisions of the Code of Criminal Procedure.[27]

Depending on the requested measures:[28]

- The State Prosecutor may coordinate investigative actions, including cooperation with law enforcement authorities and other competent bodies.
- Judicial authorization is required for coercive measures, such as searches, seizures, freezing, or confiscation, under Luxembourg's Code of Criminal Procedure.

Note: Article 659 et seq. of Luxembourg's Code of Criminal Procedure govern the recognition and enforcement of foreign criminal decisions, including confiscation orders.

In reviewing MLA requests, Luxembourg's judicial authorities assess whether legal conditions are met, including:[29]

- Dual criminality
- Sufficient factual and legal basis to justify the requested measure
- Respect for rights of defence, third parties rights, and public order

Note: Luxembourg courts do not re-examine the merits of the case but verify enforceability and conformity with domestic legal principles.[30]

Recognition, Enforcement and Remedies

Following judicial examination, the competent Luxembourg court may recognize and authorize enforcement of the foreign decision, provided that the applicable legal conditions are satisfied. Judicial authorities verify that the confiscation order is final, enforceable, and compatible with Luxembourg's legal system.[31]

Once recognition is granted, enforcement is carried out in accordance with Luxembourg law under the supervision of the State Prosecutor. Measures may include seizure or forfeiture of assets and, where applicable, preparatory steps toward restitution.[32]

Affected individuals and third parties with a legitimate interest are entitled to challenge the recognition or enforcement decision in accordance with the remedies provided under Luxembourg law. Judicial review in this context concerns compliance with the statutory conditions for recognition and enforcement. Luxembourg courts may also request clarifications from the Requesting State where necessary before deciding on enforcement.[33]

Note: The Requesting State is strongly encouraged to maintain close communication with Luxembourg's authorities during the execution phase, particularly where clarifications or supplementary information may be required.

Asset Management

Once assets are seized, they are placed under judicial supervision and managed pursuant to the Law of 22 June 2022 and the Code of Criminal Procedure. Monetary amounts are, as a rule, transferred to the Caisse de consignation (CDC) and administered by the Bureau de gestion des avoirs (BGA) in accordance with domestic law and under judicial oversight.[34]

- **Custody and safekeeping:** Non-monetary assets are preserved under court authority and monetary amounts are held at the CDC via the BGA.
- **Administration:** Depending on the asset type, competent authorities, including the CDC and the BGA, hold and administer the property pending a final decision.
- **Disposition and sale:** Interim sales of assets are possible only with a court order and under judicial oversight.
- **Coordination of restitution:** Enforcement and any return of assets are carried out according to domestic procedures and applicable international obligations.

In an MLA request involving provisional measures, the Requesting State may:[35]

- Request provisional freezing or seizure of assets, which, if ordered, are managed in accordance with Luxembourg's domestic asset-management framework.
- Request notification of judicial decisions concerning asset management, sale, or other administrative steps.
- Indicate preferences regarding eventual return, sharing, or preservation pending final judgment. The final disposition follows Luxembourg law and applicable treaties.

Follow-Up and Communication

Luxembourg authorities typically communicate through the SEPI within the Prosecutor General's Office, and may:[36]

- Provide updates on the status of the request, or, where permissible, forward relevant judicial decisions.
- Request clarification or additional information.
- Expect prompt follow-up to avoid delays.

Note: Engaging proactively with the designated focal point in the SEPI could improve efficiency.

V. Transmission of Evidence to the Requesting State

After execution is complete, Luxembourg's authorities transmit the collected evidence to the Requesting State.

Judicial Transmission

Upon completion of the judicial measures requested, and subject to any applicable procedural requirements under Luxembourg law (including, where relevant, the resolution of remedies or appeal periods), the competent judicial authority coordinates transmission through the Prosecutor General's Office to the Requesting State. The file generally includes certified copies or, where authorized, originals of documents, seized materials, and official records, in accordance with Luxembourg's Code of Criminal Procedure and any court directions.[37]

Upon receiving the transmitted materials, it is good practice for the Requesting State to confirm receipt and verify that all requested items have been included.[38]

Another important aspect is the authentication of evidence. If the Requesting State requires the evidence to be certified or accompanied by an affidavit to be admissible in court, it should be specified in the MLA request.[39]

Use Restrictions

Luxembourg applies the use-limitation conditions in line with UNCAC and UNTOC. Evidence may only be used for the purposes stated in the MLA request. Any secondary use, for example, in another proceeding or shared with third parties, requires Luxembourg's prior consent.[40]

Note: It is advisable to specify in the MLA request the intended use in the request to mitigate any concerns of possible misuse.

VI. Confidentiality and Proportionality

The Requesting State may ask Luxembourg to treat the MLA request confidentially, particularly in cases where early disclosure could result in asset dissipation or compromise an ongoing investigation. Authorities will also assess the proportionality of the requested measures, ensuring they do not violate fundamental rights or Luxembourg's public order.

Proportionality and Public Order

Luxembourg judicial authorities assess whether the requested measures, such as freezing or confiscation, are proportionate to the nature and seriousness of the alleged offence and to the objectives pursued. In this context, courts may limit the execution of measures to ensure compliance with fundamental rights, the protection of bona fide third parties, and Luxembourg's public order.[41]

Luxembourg courts may refuse or limit cooperation if the request is not genuinely criminal in nature or if executing it would violate Luxembourg's public order, fundamental rights, or essential legal principles.[42]

Confidential Handling of Requests

If the Requesting State is conducting a sensitive investigation, it may request that the MLA proceedings be handled confidentially and justify the need for secrecy. Luxembourg may accommodate such requests, provided they comply with domestic procedural guarantees under the Code of Criminal Procedure. In practice, suspects or affected persons are not generally informed at the request stage. Notification typically occurs only when coercive measures are executed. Once notification occurs, affected individuals maintain the right to challenge or appeal the measures in accordance with Luxembourg law.[43]

Note: Requests should clearly indicate the confidentiality requirement and explain how premature disclosure could endanger the investigation or facilitate the concealment or transfer of assets.

VII. Asset Disposal and Return

Following a final confiscation decision by Luxembourg's courts, the disposition of assets depends on treaties, domestic laws, and the case's specific circumstances.

Return or Sharing of Confiscated Assets

- Luxembourg may return confiscated assets to the Requesting State, particularly in corruption cases or other offences under the UNCAC.[44]
- In the absence of a treaty or asset-sharing agreement, no fixed sharing fee or percentage applies in Luxembourg. Returns or asset-sharing arrangements are negotiated on a case-by-case basis.[45]

Responsible Authority and Process

- The Prosecutor General's Office (Parquet général d'état) oversees the enforcement of confiscation orders, and the coordination of asset return in cooperation with competent courts and relevant authorities.[46]

Note: UNCAC encourages pre-request consultations regarding the possible sharing of assets.[47]

To facilitate asset return and build trust, it is advisable for the Requesting State to include in the MLA request a brief explanation of how the returned assets would be managed or monitored. This may include victim compensation or specified public projects. It is also good practice to indicate transparency and oversight measures that would be put in place, for example, through the involvement of an independent local civil society organization.[48]

In practice, some Requested States are cautious about returning the confiscated assets to the Requesting State fearing that the funds could be misused after repatriation. Highlighting how returned assets will be handled in a transparent manner aligns with international best practices for asset recovery, can help streamline cooperation and avoid delays.[49]

Annex

I. MLA Checklist

1. Preliminary Consultation

- ☐ Identify focal point(s) in Luxembourg and hold preliminary discussion about case, including intention to submit an MLA request – ask focal point for what Luxembourg may need to see included in any MLA request.
- ☐ Confirm the appropriate transmission channel for the MLA request.
- ☐ Clarify formal requirements, including format, certifications, and supporting documentation.
- ☐ Confirm any specific requirements for coercive measures (e.g., freezing, seizure, searches).
- ☐ Identify any potential grounds for refusal under the Requested State's law.
- ☐ Where relevant, clarify the legal and procedural framework governing the return or disposal of assets.

2. Legal Basis

- ☐ Identify the applicable legal basis for the request (bilateral treaty, multilateral convention, or reciprocity).

3. Central Authorities

- ☐ Identify the competent central authority of the Requested State responsible for receiving MLA requests.

4. Official Language and Translations

- ☐ Confirm the language requirements of the Requested State.
- ☐ Attach required translations of the request and supporting documents where applicable.

5. Scope of Assistance Requested

- ☐ Identification of assets (bank accounts, real estate, companies)
- ☐ Investigative measures requested, such as:
  - ▶ Gathering of evidence (bank records, property deeds, corporate documents)
  - ▶ Taking of witness statements
  - ▶ Conducting searches or seizures

☐ Asset-related measures requested, such as:

- Freezing or seizure of assets
- Enforcement of a foreign confiscation order
- Return of assets following confiscation

6. Description of the Case

☐ Provide a clear, concise summary of the relevant facts of the case.
☐ Explain the link between the facts of the case and the assistance requested.

7. Offences and Legal Qualification

☐ Describe the offences in factual terms.
☐ Identify the relevant legal provisions, where appropriate.
☐ Address dual criminality requirements, where applicable.

8. Confidentiality and Proportionality

☐ Clearly state the purpose of the request.
☐ Explain why the requested measures are necessary and proportionate.
☐ Request confidential handling of the request, where necessary to protect the investigation.

9. Asset-Related Requests (if applicable)

☐ Clearly identify and, to the extent possible, locate the assets concerned.
☐ Explain the link between the assets and the offence.
☐ Indicate the status of confiscation proceedings (e.g., final confiscation order issued or pending).
☐ Include a request asset seizure, confiscation and/or, when appropriate (if needed in a subsequent request), return of the assets.

10. Supporting Documentation

☐ Attach relevant supporting documents, such as court orders, warrants, judgments, or evidence summaries required for the execution of the request.

II. Offences Recognized by the Luxembourg Law, and Which are Often Linked to the Issue of Asset Recovery[50]

Corruption and Bribery
Money Laundering
Tax Crimes
Predicate Crimes
Fraud and Property Offences
Terrorist Financing
Criminal Association
Drug Trafficking
Abuse of Office and Misuse of Public Funds

III. Template for MLA Requests

While no national template is provided, Luxembourg adheres to international practice. Requesting States may use widely accepted MLA templates, such as the Basel Institute's, to ensure completeness.

It is recommended to consult the relevant central authority.

IV. Contacts

Luxembourg:

Parquet général - Secrétariat du service d'entraide internationale pénale (SEPI)
parquet.general.sepi@justice.etat.lu

Other useful contact email addresses:

Camden Asset Recovery Inter-Agency Network (CARIN)
carin@europol.europa.eu

International Centre for Asset Recovery (ICAR)
info@baselgovernance.org

INTERPOL
To contact INTERPOL, complete the form available here.

Stolen Asset Recovery Initiative (StAR)
starinitiative@worldbank.org

United Nations Interregional Crime and Justice Research Institute (UNICRI)
unicri.assetrecovery@un.org

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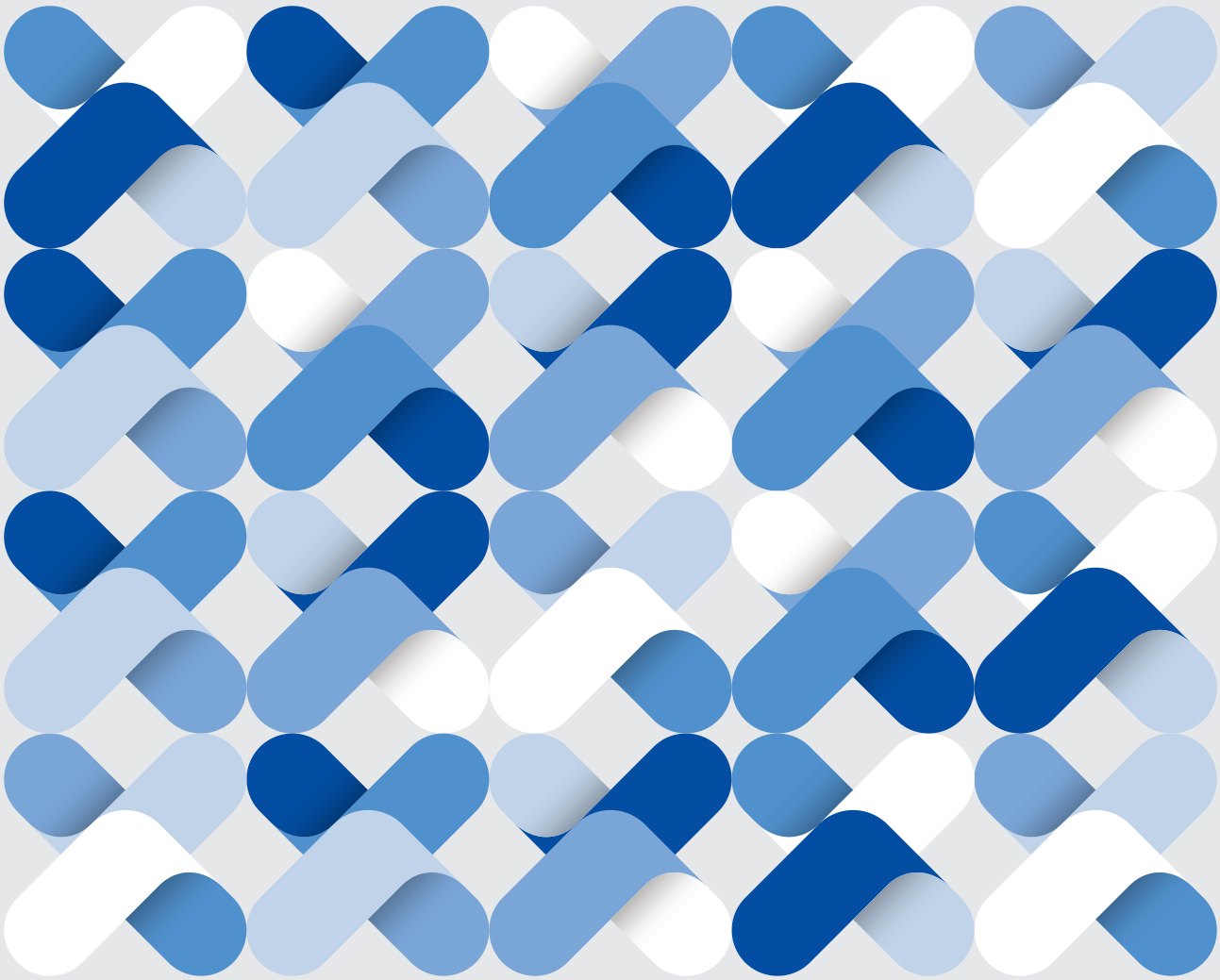
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