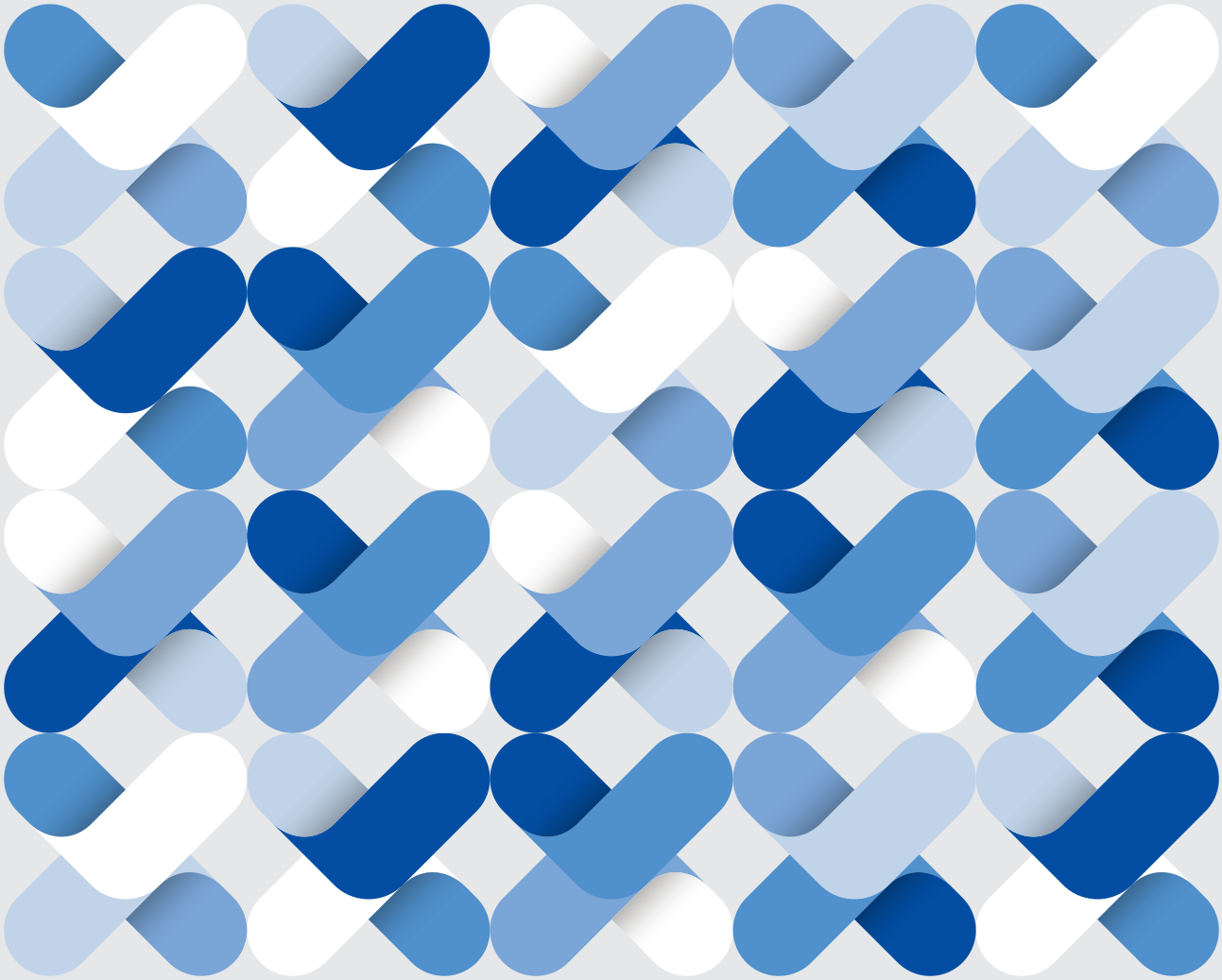
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MUTUAL LEGAL ASSISTANCE GUIDE

MALTA



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Overview

This guide provides practical guidance on the preparation and execution of Mutual Legal Assistance (MLA) requests to Malta 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	Office of the Attorney General
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 to facilitate cross-border 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 Malta, providing guidance on how such requests are prepared, transmitted, and executed in practice.

I. Legal Basis for MLA Requests to Malta

In Malta, 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:** where such treaties exist between Malta and the Requesting State.[2]

- **Maltese Domestic Law:** Requests are governed by Malta's Criminal Code (Cap. 9 of the Laws of Malta), which provides the general framework for mutual assistance and cooperation in criminal matters.[3] Where the request concerns the tracing, freezing, or confiscation of assets, the Prevention of Money Laundering Act (Cap. 373) and/or the Proceeds of Crime Act (Cap. 621) also apply.[4]

- **Reciprocity:** In instances where the Requesting State is not a party to any formal multilateral or bilateral treaty, agreement, or convention with Malta, the principle of reciprocity may be applied.[5]

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

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

This request is made pursuant to Article 46 of the United Nations Convention against Corruption (UNCAC), to which both Malta and [Requesting State] are Parties. The request is made in accordance with the relevant provisions of Maltese law governing mutual legal assistance in criminal matters under the Criminal Code (Cap. 9).

OR

This request is made pursuant to Article 18 of the United Nations Convention against Transnational Organized Crime (UNTOC), to which both Malta and [Requesting State] are Parties. The request is made in accordance with the relevant provisions of Maltese law governing mutual legal assistance in criminal matters under the Criminal Code (Cap. 9).

- 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 respectfully submitted for consideration by the Maltese authorities under Article 649(3) of the Criminal Code (Cap. 9) and, where it concerns asset tracing, freezing, or confiscation, under the Prevention of Money Laundering Act (Cap. 373). The Requesting State confirms its willingness to provide similar cooperation in return.

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 Malta

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

Criminal Nature and Admissibility of Confiscation Orders:

Malta acts on MLA requests when they relate to a criminal matter. The underlying conduct must constitute a criminal offence under both the law of the Requesting State and Maltese law, consistent with the principle of dual criminality.[6]

Confiscation in Malta is generally conviction-based and treated as a criminal sanction under the Criminal Code and the Prevention of Money Laundering Act. While criminal proceedings may, in certain circumstances, continue in the absence of the accused, Maltese law does not provide for a standalone civil or administrative non-conviction-based confiscation regime.[7] Requests seeking the enforcement of foreign confiscation measures without a conviction may be considered by Maltese authorities only if they can be executed under existing domestic criminal procedures and judicial safeguards.[8]

Central Authority:

MLA requests are generally addressed to the Office of the Attorney General, which acts as the central authority for MLA in criminal matters in Malta.[9]

Transmission Channels:

When a request is made under a treaty, the transmission method specified must be followed. Most multilateral conventions to which Malta is a Party, including the UNCAC and UNTOC, establish central authorities as the primary channel for the transmission of MLA requests. In Malta, this means that requests should be transmitted to the Office of the Attorney General.[10] In the absence of a treaty, requests are ordinarily transmitted through diplomatic channels, typically via embassies or foreign ministries.[11]

Malta has also indicated that it accepts MLA requests sent by email, provided that the transmission produces a written record and its authenticity can be verified.[12]

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

Official Language:

Requests and supporting documents must be submitted in English or Maltese, which are Malta's official languages. This applies to both the request and any annexed documentation. Where the request or supporting documents are in another language, they should be accompanied by an official translation into English or Maltese.[13]

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:

Malta does not require a standardized form for MLA requests. A formal written request on official letterhead is sufficient, provided it contains all required 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.[14] To enhance clarity and efficiency, requests should be clearly structured and bear the issuing authority's official seal where available. Where multiple copies are submitted, it is good practice for at least one copy to bear an original signature. Notarization or legalization is not generally required, unless expressly provided for in an applicable treaty.[15]

III. Key Content Requirements

The MLA request must include the following:

Description of the Case

The MLA request should include a clear summary of the facts, specifying the dates, locations, and circumstances of the alleged offences, as well as the individuals or legal entities involved. The description should allow the Maltese authorities to assess dual criminality and determine the relevance of the request under Maltese law.[16] The description should also include the connection between the criminal conduct and the assets located in Malta, including their nature, value and location, if known.[17]

Legal Provisions

The Requesting State should clearly describe the offences under investigation, citing the relevant statutory provisions and legal definitions under its own law.[18] Maltese authorities assess dual criminality on the basis of the underlying conduct rather than the foreign legal classification, particularly where coercive measures are requested.

For this reason, before submitting the request, it is recommended that the Requesting State reviews the relevant Maltese offence categories to ensure that the described conduct can satisfy the dual-criminality requirement, including the Criminal Code or the Prevention of Money Laundering Act. Where the foreign offence does not have an exact equivalent under Maltese law, the Requesting State should describe the conduct in neutral and detailed factual terms, enabling Maltese authorities to identify the closest corresponding offence for the purposes of assessing dual criminality.[19]

Note: Where appropriate, the Requesting State should strongly consider discussing the case with an official in the Maltese 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 Malta, such as:[20]

- 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 Malta has not yet been fully established but reasonable grounds or clear suspicions exist, the Requesting State may seek assistance to clarify specific leads, for example, identification of assets or targeted inquiries. Such requests must present a factual basis to demonstrate necessity and must avoid overly broad or speculative measures. Maltese authorities assess these requests on a case-by-case basis under domestic law and applicable international obligations.[21]

Note: While a single MLA request to Malta 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 Maltese authorities is strongly recommended to structure MLA requests accordingly.

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

An MLA request to Malta should be accompanied by supporting documentation to ensure it can be executed effectively. Attachments may include:[22]

- **A certified copy of any freezing, seizure, or confiscation order** issued by a competent judicial authority of the Requesting State. For provisional measures, the Requesting State should include the domestic order if available or indicate that one can be issued.
- **Evidence linking the assets or persons to the alleged offence**, such as bank records or financial statements. While not mandatory, such documentation supports judicial authorization and supports the Attorney General in establishing the link between the assets and the criminal conduct, and can be bolstered by visual graphics showing such links.

- **Copies of the relevant legal provisions from the Requesting State's criminal law**, showing the legal classification of the offences and applicable penalties. It is recommended to provide official or certified translations of these into English or Maltese.
- Witness statements or investigator affidavits summarizing the facts, particularly those showing the criminal origin of the assets or their connection to the suspect or offence.

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

Where credible information indicates that assets in Malta may have a criminal origin, the competent Maltese authorities may take early provisional measures under domestic law to preserve such assets, including in urgent cases before a formal MLA request has been transmitted. These measures may include freezing or seizure orders issued upon application by the Attorney General under the Prevention of Money Laundering Act and the Criminal Code. In urgent circumstances, Malta's Financial Intelligence Analysis Unit may also issue a directive temporarily suspending the execution of a transaction for the short statutory period provided by Maltese law.[23]

International cooperation networks, including INTERPOL[24] and CARIN,[25] can assist with preliminary discussion, information exchange and asset tracing before a formal MLA request is transmitted.[26] Another non-coercive tracing tool is the INTERPOL Silver Notice, introduced in 2025, to help identify assets linked to corruption, fraud, or money-laundering cases. While these mechanisms do not replace formal MLA requests, they can prompt targeted tracing and follow-up through MLA or FIU channels.

Malta may spontaneously share information about assets or criminal proceeds under UNCAC Article 56 and, in organized crime cases, under UNTOC Article 18(4).[27] An advance copy of the MLA request may be shared informally with the Office of the Attorney General to allow preliminary review and clarification before formal transmission through official channels. Such early coordination helps ensure compliance with Maltese legal requirements and facilitates execution once the formal request is received.[28]

Note: Early coordination with Maltese authorities can help clarify requirements and strengthen MLA requests. Such advance communication has no legal effect. In cases involving assets at risk, urgency should be highlighted to allow Maltese authorities to timely seek preservation or seizure orders under domestic law.

IV. Execution of the MLA Request in Malta

MLA requests received in Malta are generally administered as follows:

Reception and Preliminary Review

Upon receipt, in its capacity as a central authority, the Attorney General conducts a preliminary review to ensure that the request complies with Malta's formal and substantive requirements.[29]

If the request is incomplete or unclear, the Attorney General may contact the Requesting State to obtain clarifications or supplementary documents before proceeding. Once the request is found complete and admissible, the Attorney General transmits it to the competent judicial authority for execution in accordance with Maltese law.[30]

Judicial Procedure and Legal Assessment

Requests are executed under the Criminal Code and the Prevention of Money Laundering Act, depending on the nature of the assistance requested.[31]

- Execution by a magistrate: MLA requests involving the gathering of evidence, hearing of witnesses, searches or seizures are executed under the Criminal Code.[32]
- Execution by a court: Requests involving freezing or confiscation of assets, or the recognition and enforcement of foreign confiscation orders, may be handled by the Asset Recovery Bureau (ARB) and/or the office of the Attorney General, who applies to a Maltese court under the Prevention of Money Laundering Act, the Proceeds of Crime Act (Cap. 621), and, where relevant, the Criminal Code. Judicial authorization is required in all such cases.[33]

The executing magistrate or court verifies that the legal conditions are met, including:

- Dual criminality
- Sufficient factual indications
- Respect for rights of defence and third parties

Note: Maltese authorities do not reassess the foreign facts or re-litigate the case

Recognition, Enforcement and Remedies

Where the legal conditions are met, Maltese courts may recognize and enforce a foreign freezing or confiscation order under Criminal Code, the Prevention of Money Laundering Act, and the Proceeds of Crime Act (Cap. 621). Enforcement takes place under judicial supervision, following an application by the ARB and/or the office of the Attorney General before the competent court.[34] Maltese courts review the request to ensure compliance with domestic law, procedural safeguards, and international obligations.[35]

Affected persons, including third parties with legitimate rights, may challenge or appeal freezing or confiscation measures before Maltese courts. Judicial remedies are available where assets are not sufficiently linked to the alleged offence or where the foreign proceedings violated procedural fairness or human rights standards.[36]

Asset Management

Once assets are seized or confiscated in Malta, their custody and management take place under judicial supervision. The ARB, established under Maltese law and subsidiary legislation linked to the Prevention of Money Laundering Act, provides operational support for the identification and tracing of assets and, on the direction of the competent court and in coordination with the Attorney General, administers, preserves, and disposes of restrained or confiscated property.[37]

Seized or frozen bank accounts and financial instruments are maintained under court control or under arrangements approved by the court, with funds typically held in designated accounts until a final confiscation order is issued. The ARB manages and records any income or interest generated from such assets.[38]

Where property is perishable, depreciating, or costly to maintain, the court may, upon application by the Attorney General and with the ARB's involvement, order its sale or disposal prior to the conclusion of proceedings. The proceeds are held under judicial authority until a final judgment is delivered. Following confiscation, the court may direct that proceeds be credited to the Government of Malta's consolidated fund or disposed of in accordance with an applicable bilateral or multilateral asset-sharing agreement.[39]

Follow-Up and Communication

Maltese authorities typically respond via the central authority for MLA requests, the Office of the Attorney General, and may:[40]

- Provide updates or court orders
- Request clarifications or additional information
- Expect prompt follow-up to avoid delays

Note: Engaging proactively with the designated focal point in Maltese authorities could improve efficiency.[41]

V. Transmission of Evidence to the Requesting State

After execution is complete, the Maltese authorities transmit the collected evidence to the Requesting State. In cases involving the freezing or confiscation of assets, the ARB may also communicate directly with, and transmit the relevant results to, the Requesting State [42]

Judicial Transmission

Transmission of evidence in Malta normally occurs through the Office of the Attorney General, which confirms that the materials are complete, authenticated where necessary, and sent through the appropriate official channel.[43]

If the request involves the transfer of original documents, exhibits, or records, their transmission is carried out under judicial supervision, in accordance with Maltese procedural law and any relevant international obligations. Such materials are released only if their transfer is consistent with domestic evidentiary and property rules.[44]

The Office of the Attorney General may transmit the evidence with a cover letter attesting to the signature of the Inspector and/or the Court, depending on which authority executed the request. If there are certain formality requirements which need to be adhered to in the evidence gathering process, these should be specified in the MLA request to ensure that they are complied with during the execution.[45]

Upon receiving the evidence, the Requesting State should verify that everything requested is included and, if needed, request additional follow-up.

Use Restrictions

Malta applies use-limitation conditions in line with UNCAC and UNTOC. Evidence or documents provided through MLA may be used only for the purposes stated in the request and under the conditions set by the Maltese authorities. Any secondary or broader use of the transmitted materials requires the prior consent of the Office of the Attorney General.[46]

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

Maltese authorities ensure that confidentiality is maintained while respecting due process and the rights of defence. This balance is achieved through judicial oversight, which ensures that coercive measures are legally justified and proportionate to the circumstances of the case.

Proportionality and Public Order

In Malta, coercive measures are subject to judicial control and a proportionality assessment by the executing magistrate or court. Before granting an order, the competent authorities consider whether the measure is appropriate, necessary, and proportionate to the seriousness of the offence, the value of the assets, and the rights of affected persons or third parties.[47]

Formal refusal is exceptional. In assessing whether a request may be executed, the competent executing authority may consider whether the request has a sufficient legal basis, satisfies dual criminality where required, relates to a criminal matter, falls within Maltese jurisdiction, and is compatible with constitutional guarantees, fundamental procedural rights, and Malta's public interests. Such determinations are made on a case-by-case basis.[48]

In exceptional cases, Maltese authorities may examine whether execution of the request would be incompatible with fundamental rights or due process guarantees under Maltese law.[49]

Confidential Handling of Requests

Where investigative secrecy is required, for example in ongoing criminal proceedings or where early disclosure could compromise the investigation, the Requesting State should clearly indicate in the MLA request that confidentiality is required and explain the reasons for such restriction.[50]

Under multilateral treaties and Maltese law, MLA requests and related materials are handled confidentially unless disclosure is necessary for their lawful execution. In Malta, requests are processed through the Office of the Attorney General, which in turn informs the executing authority that access to the request and supporting documentation is limited to the competent judicial authorities and other authorities involved in executing the measure.[51] Disclosure of the existence or contents of an MLA request may occur only to the extent required under Maltese law for execution, such as when seeking judicial authorization or notifying a financial institution or other relevant entity.[52]

Evidence transmitted through MLA is handled in accordance with Maltese procedural law, including the Criminal Code and the Prevention of Money Laundering Act. Once evidence lawfully transmitted through MLA is incorporated into criminal proceedings in the Requesting State, it becomes subject to that State's domestic procedural rules, including any applicable disclosure obligations, unless specific confidentiality or use-limitation conditions have been agreed.[53]

VII. Asset Disposal and Return

In Malta, the Criminal Code and the Prevention of Money Laundering Act provide the legal framework, requiring judicial authorization for confiscation and giving the Attorney General the power to act on behalf of the State.[54]

Once a confiscation order becomes final and enforceable under Maltese law, the confiscated asset becomes the property of the Government of Malta, unless a treaty or applicable international agreement provides otherwise. The return of confiscated assets may take place pursuant to the UNCAC or other applicable instruments, or, in their absence, on a case-by-case basis in accordance with Maltese law and judicial procedures, once all domestic legal requirements have been satisfied.[55]

In practice, return or disposal depends on the existence of a final confiscation order issued or recognized in Malta, the establishment of the Requesting State's entitlement under the applicable legal framework, and compliance with safeguards protecting due process and the rights of bona fide third parties. The ARB supports the execution of confiscation orders and manages the administration, disposal, or return of assets under court supervision, in coordination with the Attorney General and other competent authorities where applicable.[56]

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

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 civil society organization.

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.

Annex

I. MLA Checklist

1. Preliminary Consultation

☐ Identify focal point(s) in Malta and hold preliminary discussion about case, including intention to submit an MLA request – ask focal point for what Malta 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 for 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 Maltese Law, and Which are Often Linked to the Issue of Asset Recovery.[57]

Corruption and Bribery of Public Officials
Money Laundering
Tax and Fiscal Crimes
Illicit Enrichment and Unexplained Wealth
Fraud, Embezzlement, and Property Offences
Terrorism and Terrorist Financing
Criminal Association and Organized Crime
Abuse of Office and Misuse of Public Funds

III. Template:

While no national template is provided, Malta 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

Malta:

Office of the Attorney General
https://attorneygeneral.mt/contact
ag@attorneygeneral.mt

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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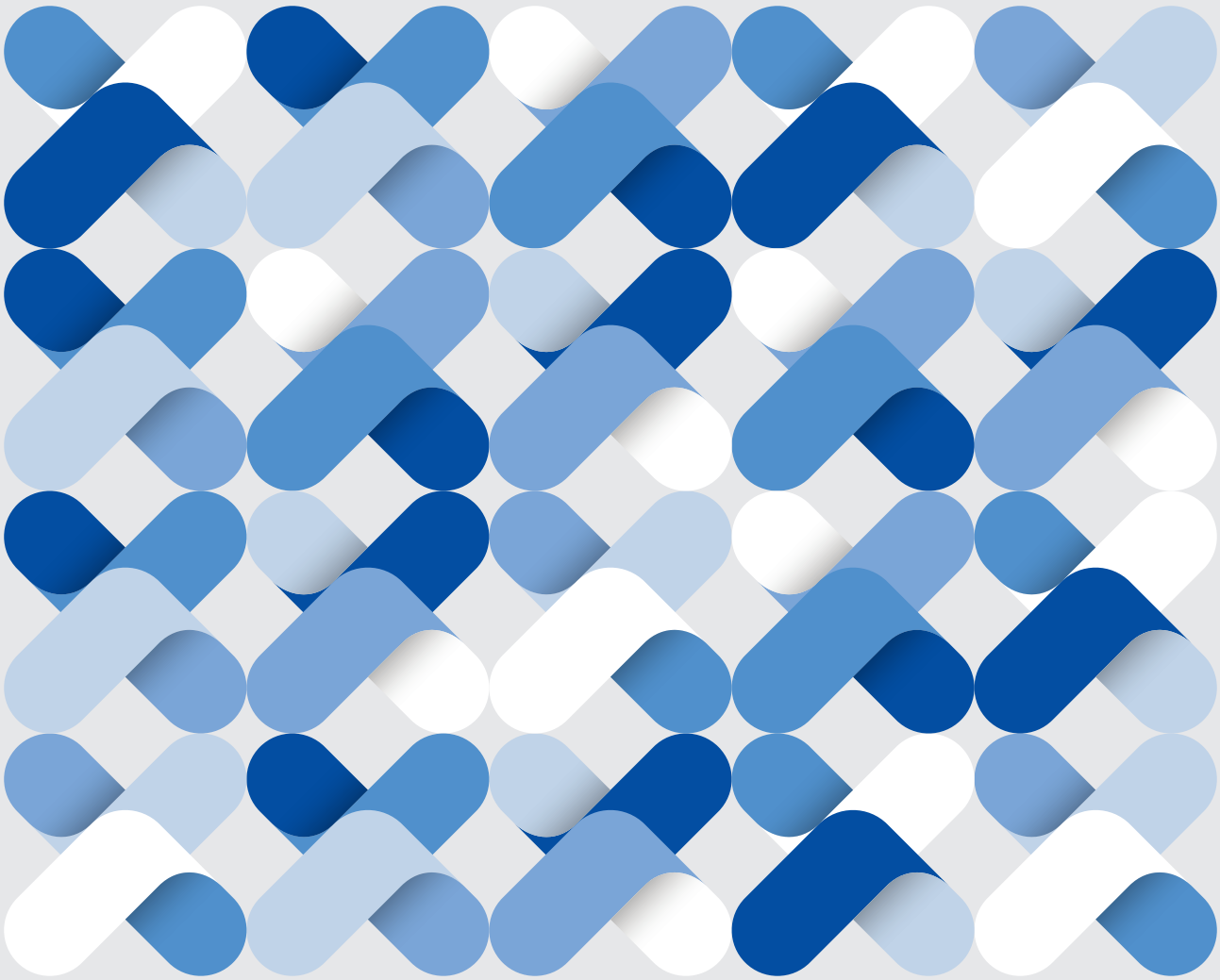
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