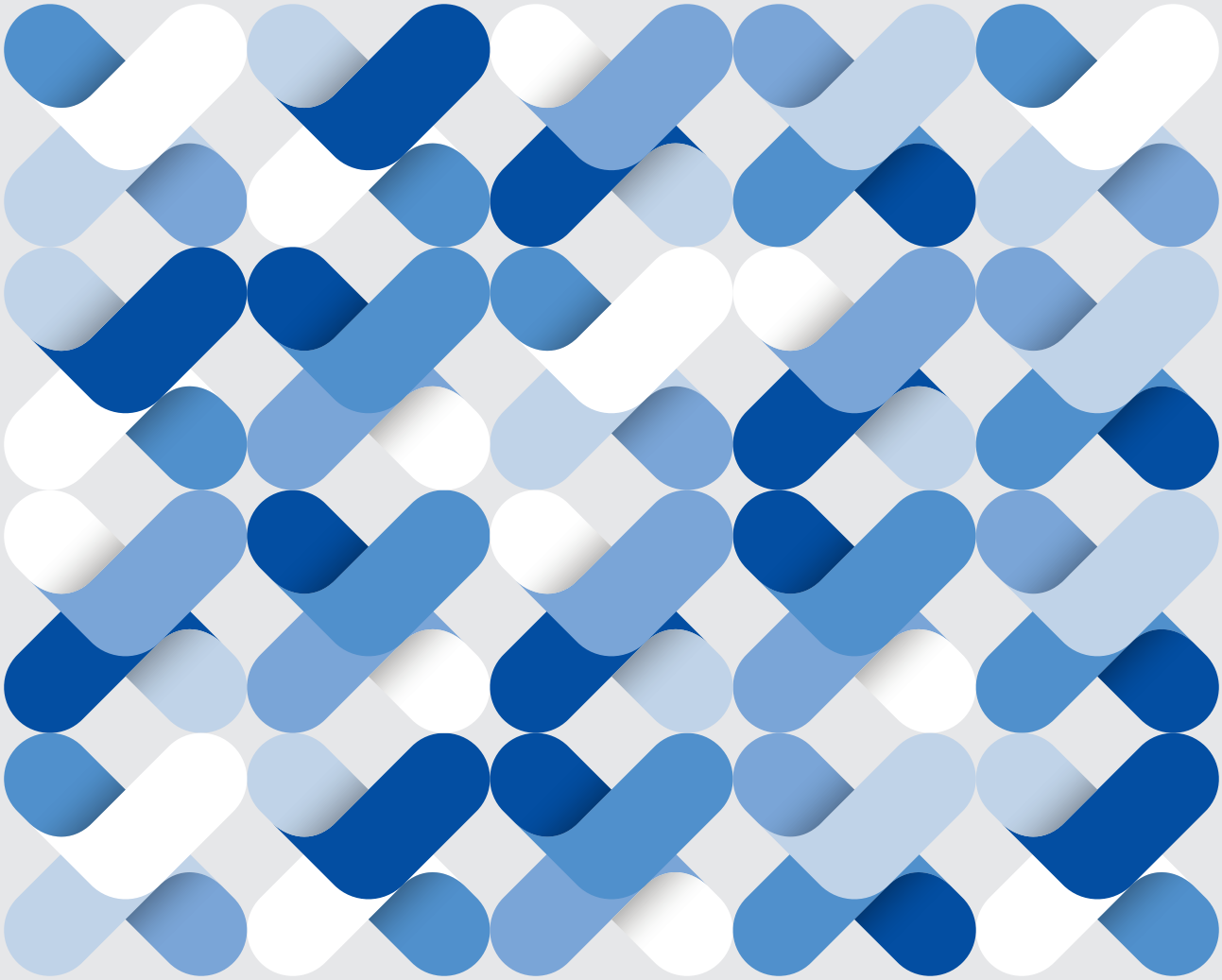
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Interregional Crime and Justice
Research Institute

MUTUAL LEGAL ASSISTANCE GUIDE

SWITZERLAND



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While this publication was funded by the European Union, its contents are the sole responsibility of UNICRI and do not necessarily reflect the views of the European Union.

Acknowledgements

This guide was produced with the generous financial support of the European Union, through the Directorate-General for the Middle East, North Africa and the Gulf (DG MENA), within the framework of the project *"Transparency Now: Strengthening Anti-Corruption Efforts in the EU Southern Neighbourhood."*

UNICRI expresses its sincere gratitude to the European Union, the Camden Asset Recovery Inter-Agency Network (CARIN) Secretariat and the relevant national authorities, in particular the Direktionsbereich Internationale Rechtshilfe des Bundesamtes für Justiz (International Legal Assistance Division of the Swiss Federal Office of Justice), for their valuable support and guidance throughout the development of this guide.

The guide was developed by Elsa Jarkhedian under the guidance of James Shaw, Senior Legal Officer at UNICRI, with special appreciation extended to Giulia Traverso for her technical support.

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Table of Contents

Overview 1

I. Legal Basis for MLA Requests to Switzerland 2

II. Formal Requirements for Submitting an MLA Request to Switzerland 4

III. Key Content Requirements 5

IV. Execution of the MLA Request in Switzerland 8

V. Transmission of Evidence to the Requesting State 9

VI. Asset Freezing and Return 10

Annex 12

Endnotes 15

Overview

This guide provides practical guidance on the preparation and execution of Mutual Legal Assistance (MLA) requests to Switzerland in criminal matters. It is intended to help practitioners from non-European Union 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	Federal Office of Justice in Bern (FOJ)
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 Switzerland, providing guidance on how such requests are prepared, transmitted, and executed in practice.

I. Legal Basis for MLA Requests to Switzerland

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

- **Multilateral Conventions:** such as the United Nations Convention against Corruption (UNCAC) Article 46 and 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 Switzerland and the Requesting State.
- **Swiss Domestic Law:** namely the Federal Act on International Mutual Assistance in Criminal Matters (IMAC).[2]
- **Reciprocity:** Where no treaty exists, Swiss authorities may grant assistance provided that the offence constitutes a criminal act in both jurisdictions and the request satisfies the applicable Swiss legal standards.

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 Switzerland and [Requesting State] are Parties, and in accordance with the Swiss Federal Act on International Mutual Assistance in Criminal Matters (IMAC).

OR

This request is made pursuant to Article 18 of the United Nations Convention against Transnational Organized Crime (UNTOC), to which both Switzerland and [Requesting State] are Parties, and in accordance with the Swiss Federal Act on International Mutual Assistance in Criminal Matters (IMAC).

- 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 Swiss Federal Act on International Mutual Assistance in Criminal Matters (IMAC). 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 Switzerland

An MLA request to Switzerland 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

The request must concern a criminal matter, such as corruption, money laundering, and fraud. The underlying conduct must constitute a criminal offence under both the law of the Requesting State and Swiss law, consistent with the principle of dual criminality.[3]

Switzerland operates a criminal-law-based confiscation system. International cooperation, including the execution of foreign confiscation measures, is governed by the IMAC and requires that the request be linked to criminal proceedings or to measures of a criminal-law nature. In the context of MLA, Switzerland may execute foreign confiscation measures where they are criminal in nature, issued by a competent authority, and satisfy the applicable conditions under IMAC, including dual criminality, respect for defence rights, and compatibility with Swiss public order.[4]

Note: The request must also confirm that the case is not politically motivated and that fulfilling the request will not threaten Switzerland's sovereignty, security, or other key interests.

Central Authority

MLA requests are generally addressed to the Swiss central authority, the Federal Office of Justice in Bern (FOJ).[5]

Transmission Channels

When a request is made under a treaty, the transmission method specified must be followed. Most instruments, including UNCAC and UNTOC, establish central authorities as the primary channel for the transmission of MLA requests. While bilateral treaties may explicitly name the central authority, most multilateral instruments require States Parties to designate a central authority.[6] In Switzerland, the designated central authority for MLA requests is typically the FOJ, unless the treaty provides otherwise. In the absence of a treaty, requests must be sent via diplomatic channels, typically through embassies or foreign ministries.[7]

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

Official Language

The request must be submitted into one of Switzerland's official languages or be accompanied by a translation in one of the following languages: German, French, or Italian. English or other languages are not officially accepted. This requirement applies both to the request itself and to any key supporting documents. In urgent situations, Switzerland may temporarily accept requests in English, provided that an official translation follows soon after.[8]

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

Although Swiss law does not explicitly require MLA requests to be formally certified or notarized, in practice the request is expected to be signed by the competent authority and presented on official letterhead, ideally bearing the authority's official seal. This is generally considered sufficient to prove the authenticity of the request. Where multiple copies are submitted, it is good practice for at least one copy to bear an original signature. It is also good practice for the Requesting State to state clearly in the letter that the information provided is accurate, and that the person signing the request is authorized to do so.[9]

III. Key Content Requirements

The MLA request must include the following:

Description of the Case

The request should include a clear summary of the facts under investigation, including dates, locations, individuals or entities involved, and the nature of the suspected offence. The request should also explicitly demonstrate the connection between the assets and Switzerland, showing how they are linked to the alleged offence or to persons under investigation. Swiss authorities will examine whether the conduct described also constitutes a criminal offence under Swiss law. Dual criminality is a significant prerequisite for granting assistance, particularly where the request involves coercive measures. Therefore, describing the underlying conduct in detail is essential, rather than merely naming the offences.[10]

Legal Provisions

The Requesting State should clearly describe the offences under investigation, citing the relevant legal provisions under its own law. Where no direct Swiss equivalent exists, for example if the foreign offence is "illicit enrichment", which is not explicitly mentioned in Swiss law, the request should explain the underlying facts, such as an unexplained increase in a public official's assets, so that Swiss authorities may consider reframing it under an equivalent Swiss offence.[11]

Note: Before submitting the request, it is considered best practice for the Requesting State to review the relevant offence categories under the Swiss criminal law to ensure that the conduct is capable of meeting the dual-criminality requirement.

Where appropriate, the Requesting State should strongly consider discussing the case with the Swiss 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 Switzerland, such as:[12]

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

The request should also describe, as precisely as possible, the link between the assets or evidence sought and the alleged criminal conduct. Switzerland does not execute vague or exploratory requests.13 If the link to Switzerland is not fully established, the Requesting State may request that Switzerland assist in clarifying or investigating specific leads (e.g. by requesting a targeted bank inquiry), provided there are reasonable grounds or clear suspicions.[14]

Note: While a single MLA request may 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 has been obtained. Early consultation with the relevant authorities is recommended to structure MLA requests accordingly.[15]

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

An MLA request to Switzerland should be accompanied by supporting documentation to ensure it can be executed effectively. Attachments may include:[16]

- **A certified copy of any freezing, seizure, or confiscation order** issued by a competent 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, persons, or entities to the alleged offence**, such as bank records, company registration extracts, or property and financial documentation. While not always mandatory, such materials strengthen the request and facilitate review by Swiss judicial authorities.
- **Copies of the relevant legal provisions** from the Requesting State's penal code or other applicable laws, preferably with an official or certified translation into one of Switzerland's official languages (German, French, or Italian).
- **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

In urgent cases, Switzerland may adopt provisional measures to prevent the dissipation of assets or the loss of evidence:[17]

- Article 18 IMAC allows the FOJ to order urgent protective actions, such as the freezing of bank accounts, even before the formal completion of MLA proceedings. These measures are usually based on credible preliminary information or foreign notifications. A formal MLA request must follow promptly.
- Article 80d bis IMAC permits Switzerland, in limited circumstances, to authorize the early transmission of evidence before the full completion of the MLA process. This mechanism is primarily intended for cases involving organized crime or terrorism where delaying transmission could jeopardise ongoing investigations.

Note: Conditions for Early Transmission
The Requesting State must provide guarantees in advance, including that:

- The evidence will be used strictly for the purpose of investigation, and not to issue a final decision or conviction at this stage.
- The Requesting State commits to notifying the parties concerned as soon as it is legally possible to do so in its proceedings.
- If Switzerland does not move forward with the MLA request, the Requesting State agrees to remove the transmitted evidence from its case files and not use it in any proceedings.

Switzerland also participates in international cooperation and asset recovery networks that facilitate early information exchange and rapid coordination. The Federal Office of Police (fedpol) serves as Switzerland's INTERPOL National Central Bureau, enabling prompt communication with foreign law enforcement agencies.[18] Swiss authorities also cooperate through CARIN[19] and the Egmont Group of FIUs, where the Money Laundering Reporting Office Switzerland (MROS) represents the Swiss FIU.[20]

The FOJ may also respond to spontaneous information-sharing or alerts under UNCAC Article 56, UNTOC Article 18(4), or through FIU cooperation.[21]

Note: Informal pre-consultation with Swiss authorities is encouraged to assess urgency, clarify procedures, and initiate early action. In urgent cases, the Requesting State may send an advance copy of the MLA request to the FOJ, particularly when there is a risk of asset flight or the loss of evidence. Such advance communication has no legal effect. The formal request must follow promptly via the appropriate official channel, in accordance with the applicable legal frameworks.[22]

IV. Execution of the MLA Request in Switzerland

Once the MLA request is formally accepted, the FOJ forwards it to the competent executing authority, typically a cantonal prosecutor or a federal authority, to carry out the requested measures.
Key steps in execution include:

- **Formal Decision:** After completing the requested measures (e.g. collecting evidence, freezing assets), the executing authority issues a formal ruling specifying whether assistance is granted and to what extent.[23]
- **Proportionality Assessment:** When deciding whether to approve and execute coercive measures, Swiss authorities assess whether the measure is proportionate in light of the alleged offence, the illicit gain, and any harm caused. The request should justify the scope and scale of the action sought. Swiss authorities may decline or limit cooperation if the request appears excessive, overly broad, or likely to cause undue harm to third parties.[24]
- **Notification Requirements:** Before evidence is transmitted, Swiss law generally requires that affected parties, such as individuals whose bank accounts are frozen, be notified and allowed to be heard. This is an important part of due process, though specific statutory exceptions exist (early transmission in defined circumstances). Confidentiality can therefore be maintained up until the notification stage, such as after a freezing or seizure order is issued.[25]
- **Possibility of Appeals:** Affected parties may appeal the final decision on MLA to the Appeals Chamber of the Federal Criminal Court. Appeals against provisional measures, such as asset-freezing orders, must generally be filed within 10 days of written notification. For other cases, in particular evidence collection, the appeal deadline is generally 30 days. The appeal must be filed in writing and must specify the contested points sought. A further appeal to the Federal Supreme Court is possible only on limited legal grounds. The Supreme Court applies strict admissibility criteria and may dismiss manifestly unfounded or inadmissible appeals in a simplified procedure, meaning it issues a short-written decision without conducting full proceedings. Only in complex cases does the Supreme Court carry out a full review with an expanded panel.[26]

- **Impact of Appeals on Confidentiality and Timing:** Appeals are a regular part of the Swiss MLA process. While they protect the rights of affected persons, they can significantly lengthen proceedings. Requesting States should be aware of this and plan accordingly.

V. Transmission of Evidence to the Requesting State

After all appeals are resolved (or if no appeals are filed within the deadline mentioned above), the executing authority prepares the collected evidence for handover:

- **Supervised Transmission:** The FOJ oversees the transmission of the collected material to the Requesting State, typically through official channels or, where necessary, via diplomatic couriers.[27]
- Cover Note and Usage Restrictions: The evidence is usually accompanied by a cover note detailing any usage restrictions, as Swiss law limits its use to the specific proceedings stated in the request. It is advisable to state clearly, in the request, the intended use to avoid misunderstandings or limitations later. Swiss law strictly limits the secondary use or onward transmission of the evidence without prior Swiss consent.[28]
- **Early Transmission (exception):** In urgent cases, Switzerland may authorize the early transmission of evidence under Article 80d bis IMAC, even before affected parties are notified or the MLA procedure is fully completed. This requires guarantees from the Requesting State that the material will be used only for the stated investigative purpose and will be destroyed or returned if the request is later refused.[29]
- **Maintaining Confidentiality:** Swiss authorities may require that the content and existence of the MLA request remain confidential, particularly during execution. If confidentiality cannot be upheld owing to procedural requirements, the Requesting State will be informed. This ensures the protection of ongoing investigations and the rights of affected individuals.[30]

VI. Asset Freezing and Return

In asset recovery cases, a two-step MLA strategy is recommended.[31]

1. Initial Step – Asset Freezing

Freezing at the Early Stage: At the beginning of the proceedings, the Requesting State should submit an MLA request to provisionally freeze assets located in Switzerland. This step is necessary to prevent them from being moved or concealed.[32]

Provisional Measures under IMAC Art. 18: Under Article 18 IMAC, upon receiving reliable information suggesting that assets connected to a criminal offence may be at risk, the FOJ may instruct the competent cantonal or federal authority to order urgent protective measures, such as the temporary freezing of bank accounts. These measures are exceptional and must be followed promptly by a formal MLA request, usually within a short deadline set by the FOJ. Failure to submit the full request within that period may result in the lifting of the provisional freeze.[33]

2. Final Step – Asset Confiscation and Return

Confiscation Order Requirement: To obtain the handover of assets, the Requesting State generally should provide a final and enforceable confiscation judgment confirming that the assets represent proceeds of crime. This judgment should be issued by a competent court and be capable of recognition and enforcement in Switzerland.[34]

Legal Basis: Under Article 74a of the IMAC, Switzerland may transfer confiscated assets to the Requesting State once the MLA proceedings have concluded. The handover may be based on:[35]

- A foreign confiscation order recognized by Swiss authorities under the IMAC; or
- Switzerland's own domestic forfeiture if necessary (in exceptional cases).

Transfer of Assets: The FOJ, in particular its Mutual Assistance Unit I, oversees the practical arrangements for the transfer. Depending on the nature of the case, the handover may involve:[36]

- Bank transfer to an official account designated by the foreign government (e.g., central bank or Ministry of Finance); or
- Physical delivery of assets, sometimes in cooperation with the Swiss Federal Department of Foreign Affairs (FDFA), particularly in politically sensitive or high-value cases.[37]

Role of the Swiss FDFA: In politically sensitive cases, the FDFA may oversee or assist the restitution process, particularly when asset return has diplomatic or reputational implications. This involvement includes negotiating the terms of restitution, ensuring that the assets are used for the benefit of the population, and establishing monitoring mechanisms.[38]

Possible Follow-up: In certain cases, Switzerland and the Requesting State may agree on mechanisms to monitor or audit the use of the returned funds, to ensure that they are applied for public benefit and in accordance with the restitution agreement.[39]

Note: It is considered good practice for the Requesting State to consult with the Swiss central authority regarding the practical arrangements for asset return, including transfer modalities, timelines, and any administrative costs that may arise.[40]

To facilitate the return of assets and build trust, it is also advisable for the Requesting State to include a proposal in the MLA request on how the returned assets will be managed or monitored. 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.[41]

Annex

I. MLA Checklist

1. Preliminary Consultation

- ☐ Identify focal point(s) in Switzerland and hold preliminary discussion about case, including intention to submit an MLA request – ask focal point for what Switzerland 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 Swiss Law, and Which are Often Linked to the Issue of Asset Recovery[42]

Corruption (active and passive)
Money laundering
Fraud
Embezzlement
Organized crime
Terrorism-related offences
Human trafficking
Drug trafficking
Cybercrime
Environmental crime
Bribery of public officials

III. Template for MLA Requests

While no national template is provided, Switzerland 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

Switzerland:

Federal Office of Justice International Legal Assistance Division (FOJ Switzerland)
irh@bj.admin.ch

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

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

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

Endnotes

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2 Swiss Confederation, Federal Act on International Mutual Assistance in Criminal Matters (Mutual Assistance Act, IMAC), adopted on 20 March 1981, status as of 1 January 2024.

3 See Annex "Offences Recognised by Swiss Law"; United Nations Office on Drugs and Crime, United Nations Convention against Corruption, New York, 2004.

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5 Federal Office of Justice (FOJ): The FOJ is Switzerland's central authority for MLA in criminal matters. It reviews requests, oversees their execution, can impose urgent measures like asset freezes, and coordinates evidence sharing and asset returns. The FOJ also works directly with foreign counterparts to resolve technical issues when needed.; Swiss Confederation, Federal Office of Justice, Recovering Unlawfully Obtained Assets Located in Switzerland, 2014; Swiss Confederation, Federal Office of Justice, The Office, 19 February 2026.

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9 United Nations Office on Drugs and Crime, Manual on Mutual Legal Assistance and Extradition, New York, September 2012; While Swiss domestic legislation may not explicitly mandate signatures and official seals for MLA requests, international agreements and standard practices establish these elements as essential for ensuring the authenticity and acceptance of such requests; Stolen Asset Recovery Initiative (StAR), Mutual Legal Assistance Requests Checklist, n.d.

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18 International Criminal Police Organization (INTERPOL), Notices, n.d.; INTERPOL may be used to share intelligence or seek the identification of criminal assets via the National Central Bureau (NCB). The Requesting State should transmit such requests through its NCB, which can liaise with fedpol.

19 Camden Asset Recovery Inter-Agency Network (CARIN), CARIN – the asset recovery network. n.d.

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30 European Commission, European Anti-Fraud Office (OLAF), Switzerland, n.d.

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37 Please note that it is increasingly common for many jurisdictions to have discussions with respect to how the assets will be used upon return, regardless of what international conventions indicate. Feedback from actual practitioners indicates that countries that may wish to return assets linked to, say, corruption, do not wish to be politically embarrassed by the corrupt diversion or misuse of any returned assets. This practical reality suggests that at least some discussion should be had been the Requesting and Requested States as to the transparent use of any returned assets.

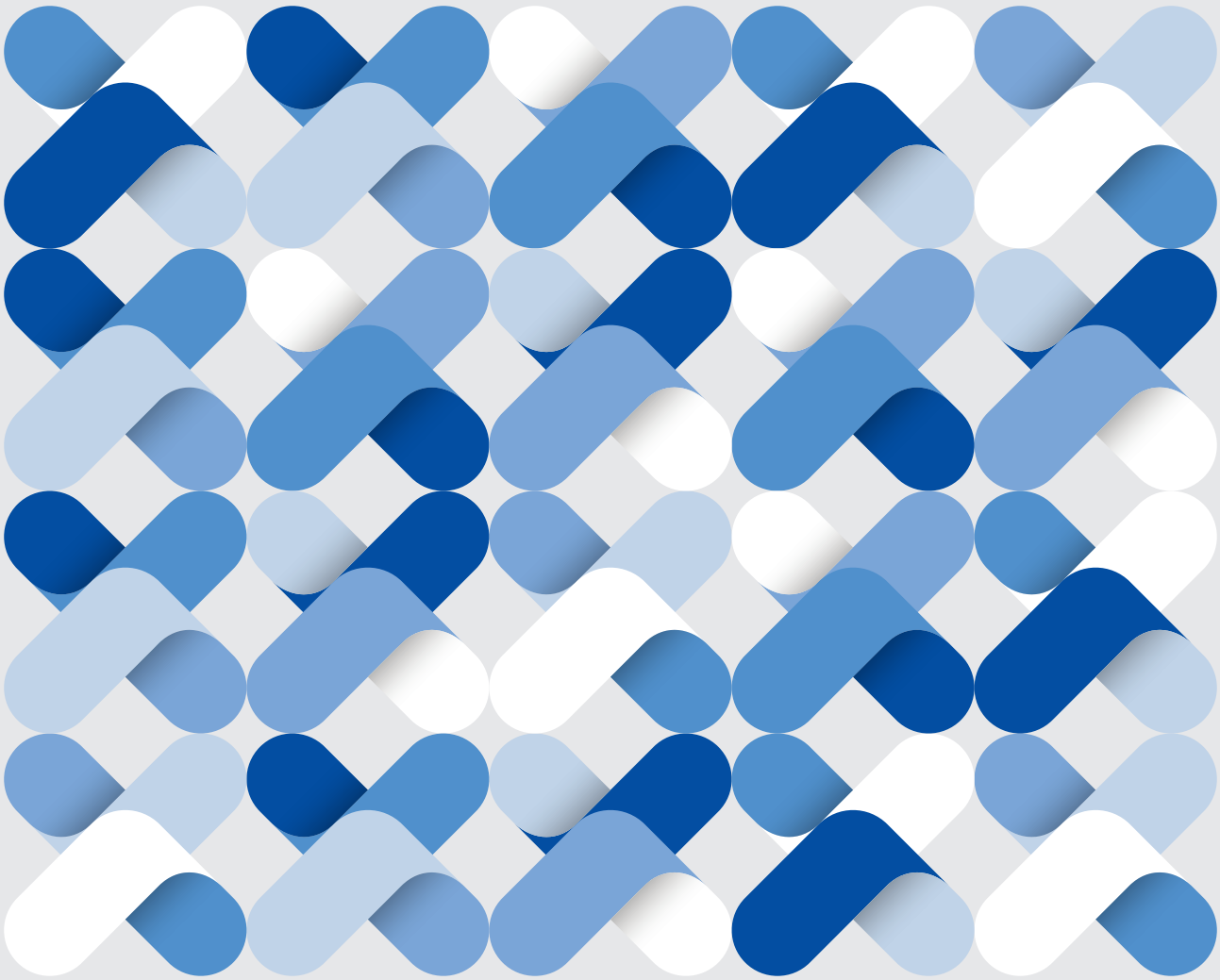
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40 United Nations Office on Drugs and Crime, United Nations Convention against Corruption, New York, 2004.

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