



**COUNCIL OF  
THE EUROPEAN UNION**

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**NOTE**

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From :	The Netherlands delegation
To :	Delegations
No. prev. doc.:	13259/11 COPEN 187 EJN 93 EUROJUST 114 COASI 127
Subject :	EU-Japan Mutual Legal Assistance Agreement - Fact-sheet on the practical conduct of MLA procedures

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Delegations will find attached information provided by the Netherlands delegation on the practical conduct of mutual legal assistance procedures under the EU-Japan Mutual Legal Assistance Agreement in The Netherlands.

**Execution of a request, under the EU-Japan Mutual Legal  
Assistance Agreement, in THE NETHERLANDS**

**Practical information**

***PRELIMINARY REMARKS***

1. This information sheet relates only to the execution by (*name of the State to be inserted*) of mutual legal assistance requests under the EU-Japan Mutual Legal Assistance Agreement.

## PRACTICAL DETAILS

1. Central authority or authorities designated in accordance with Article 4 of the EU-Japan MLA agreement, in view of the execution of a MLA request in The Netherlands (see also Annex I of the agreement):

**Ministry of Security and Justice**

**Office of International Cooperation in Criminal Matters**

**Contact details of the central authority / authorities:**

**Address: Postbus 20301, 2500 EX The Hague, The Netherlands**

**Telefon : + 31 70 370 7314**

**Telefax : + 31 70 370 7945**

**E-mail : [Airs@ minvenj.nl](mailto:Airs@minvenj.nl)**

**Languages that may be used for communication: Dutch or English**

2. Languages in which MLA requests should be forwarded to the competent authority of The Netherlands, according to Article 9 of the EU-Japan MLA agreement (see also Annex III of the agreement):

**Dutch or English**

**Requests for assistance and the relevant documents should be sent accompanied by translation:**

**- in all cases: into Dutch;**

**- in urgent cases: into English.**

3. Procedures for forwarding request for assistance to the competent authority of the Netherlands

**Requests for mutual legal assistance must be received in original form.**

**Other communications can be sent by e-mail or fax. In case of urgency the original documents can be preceded by an e-mail or fax version. The original request should be sent subsequently.**

4. Certification

**The Netherlands do not require certification of documents. Original/authentic documents are sufficient.**

5. List of possible actions sought

**No forms of mutual legal assistance are excluded. It will depend on Dutch national law if a requested action can be performed.**

6. Double criminality requirement, if applicable

**Double criminality is not always required for the execution of MLA requests.**

**Double criminality is a condition for rendering assistance where the letters rogatory request for help which would require the application of coercive measures such as search and seizure, obtaining documents, freezing and information on bank accounts.**

7. Confidentiality or limitation of use of evidence obtained

**Limitations on use will be required on a case-by-case basis.**

**In death penalty cases, additional assurances may be necessary before legal assistance can be rendered.**

**Supplied information may be used solely for the purpose of the criminal proceedings against the suspect(s)/defendant(s) mentioned in the request for legal assistance and not for any other purpose (in this case or any other proceedings concerning this/these suspect(s)/defendant(s) or other (legal) persons) without the written consent of the Dutch authorities.**

8. Any extra information on specific type of request(s):

Hearing by video-conference:

**There are no specific legal or technical requirements in Dutch law other than the grounds and criteria that are mentioned in the Treaty.**

**The Netherlands is interested to apply the videoconference, where appropriate.**

**In a given case it will be necessary to get in contact in advance of a formal request in order to discuss the practical details, such as the proper planning in view of the time differences between The Netherlands and Japan, the use of an interpreter.**

Taking testimony or statements

**Under Dutch law, a statement does not always have to be taken under oath or under a penalty of criminal punishment for false statement, to be admissible evidence. Statements made to a police officer can also be used as evidence. However, in Dutch request the need for hearing a witness under oath will be indicated expressly in the request.**

Obtaining items

**The request must be accompanied by information concerning the facts of the case including, the time and location of the crime, as well as provisions of the Japanese law describing the essential elements of (and the sentence for) the offense for which coercive measures are requested.**

## Bank Accounts

**Any prosecutor in the Netherlands can order a bank to produce information on funds or bank-accounts. Since double criminality is required, it is important that the MLA - request contains information concerning the facts of the case, including, the time and location of the crime, and the nature of the offence that is under investigation.**

**Requests for historical information of bank-accounts have to be limited by time frame.**

9. Other particularly relevant information (such as national legislation, national guides on procedure, links to national websites...):

**For information about Dutch penal system: <http://www.om.nl/?p=pg&s=10>**