



THE UNITED REPUBLIC OF TANZANIA
THE NATIONAL PROSECUTIONS SERVICE
(NPS)

**GUIDELINES TO PROSECUTORS AND
COMPETENT AUTHORITIES FOR
MAKING AND EXECUTING MUTUAL
LEGAL ASSISTANCE AND
EXTRADITION REQUEST**

MAY, 2023

Guidelines to prosecutors and competent authorities for making and executing mutual legal assistance and extradition request

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ASSISTANCE AND EXTRADITION
REQUEST**

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ABBREVIATIONS

MLA	- Mutual Legal Assistance
DPP	- Director of Public Prosecutions
MACMA	- Mutual Assistance in Criminal Matters Act, Cap. 254
NPS	- National Prosecutions Service
CMIS	- Case Management Information System
MoCLA	- Ministry of Constitutional and Legal Affairs
NPSA	- National Prosecutions Service Act, Cap. 430
URT	- United Republic of Tanzania
TOC	- Transnational Organized Crime

PREFACE

Mutual Legal Assistance (MLA) and Extradition are the most effective internationally accepted tools in combating Transnational Organized Crime (TOC) through provision of legal assistance in criminal matters by one state to another in obtaining evidence or assist in repatriation of a criminal fugitive from one state to another given the trans-national nature of organized crime.

MLA and Extradition are usually governed by bilateral or multilateral treaties that regulate the scope, limit and procedures for such assistance. Moreover, in befitting circumstances, the principle of reciprocity is also applied for offering the widest measure of Mutual Legal Assistance. The United Republic of Tanzania (URT), like many other countries, has taken several steps aiming at strengthening international cooperation at domestic level. Some of these steps include ratification and domestication of international and regional instruments catering for Mutual Legal Assistance and Extradition. In honour of these commitments, United Republic of Tanzania has enacted the Mutual Assistance in Criminal Matters Act, Cap. 254 and the Extradition Act, Cap. 368 in order to smoothen and provide the widest measure of international cooperation in combating TOC.

As a way of complimenting these steps, being the

Central Authority on Mutual Legal Assistance in criminal matters I have promulgated these guidelines to guide prosecutors and Competent Authorities in discharge of their duties on MLA. The guidelines also accommodate a guide to prosecutors in execution of Ministers Orders pertinent to Judicial Extradition proceedings in courts of law. Thus it is my conviction that these guidelines on MLA and guide on extradition will be useful for investigators, prosecutors and stakeholders for proper and smooth discharge of their duties as Competent Authorities, hence providing consistency and uniformity in handling MLA and Extradition across the country.




Sylvester Anthony Mwakitalu
DIRECTOR OF PUBLIC PROSECUTIONS

ACKNOWLEDGEMENT

These guidelines on MLA and guide of the Director of Public Prosecutions (DPP) on the execution of the Minister's Orders relating to Extradition have been developed pursuant to Sections 18(1) and 24(2) of the National Prosecutions Service Act (NPSA) read together with Section 11(a) of the NPSA and Section 15A of the Extradition Act. The aim is to compliment national legislations relating to MLA and Extradition by ensuring that requests for MLA and Ministers Order's on Extradition to and from URT is executed uniformly, efficiently, effectively and timely.

On behalf of National Prosecutions Service (NPS), I hereby convey my sincere gratitude to all stakeholders who made these guidelines possible. In similar vein, I wish to extend my appreciations to all supporting institutions including, but not limited to; the Ministry of Foreign Affairs and East African Cooperation, Ministry of Constitution and Legal Affairs, Tanzania Police Force, Prevention and Combating of Corruption Bureau, Tanzania Immigration Services Department, Tanzania Wildlife Management Authority, Ministry of Finance, and Registration, Insolvency and Trusteeship Agency for their invaluable inputs throughout the process. Their views, critiques, and contributions have immensely contributed to the improvement of the content of this document.

Moreover, in a special way I thank NPS management, under the able stewardship of the DPP Mr. Sylvester Anthony Mwakitalu, for the directives and commitment in steering the development of this document. Last but not least, I wish to commend the technical team for their tireless efforts, dedication and devotion manifested throughout the development of these guidelines despite their busy daily schedules. I believe that these guidelines are very crucial tool in improving the duties of the DPP in the discharge of his mandate as the Central Authority on Mutual Legal Assistance and Competent Authority on Extradition matters especially in executing the Ministers Orders in Court.



Joseph Sebastian Pande

DEPUTY DIRECTOR OF PUBLIC PROSECUTIONS

DEFINITION OF TERMS

Assignor - the DPP or any other officer duly authorized to assign the handling of MLA or extradition request.

Assignee - Prosecutor assigned to handle MLA and extradition request.

Central Authority - is the DPP of URT under Mutual Assistance in Criminal Matters Act or Minister responsible for Legal Affairs under Extradition Act.

Competent Authority - an institution legally vested with powers to initiate and execute MLA and extradition request in accordance with the directives of the Central Authority.

Certificate of authorization – an authorization and directives of the Central Authority to the Competent Authority for execution of MLA request.

Incoming request - A formal communication in writing from foreign state to the Central Authority of URT seeking for MLA.

Letters of Requests (LoR) / Letters Rogatory [LR]
- A formal communication in writing from one state to another seeking assistance in MLA.

Minister - Means the Minister Responsible for Legal

Affairs.

Outgoing request - A formal communication in writing from Central Authority of United Republic of Tanzania to a foreign state seeking for MLA.

Register - means physical or electronic register used for keeping records of all transactions of MLA and Extradition requests in the office of the Central Authority and Competent Authorities.

PART I

1.0 INTRODUCTION

The United Republic of Tanzania is a signatory to numerous Regional and International Instruments which provide obligations to member states to afford one another the widest measures of MLA and Extradition in investigations, prosecutions and judicial proceedings in relation to criminal offences including Asset Recovery and Forfeiture.

In giving effect to such international obligations, URT has undertaken various measures aiming at strengthening legal and institutional framework to ensure that requests for MLA and Extradition are processed expeditiously and effectively. Such measures include enactment of MACMA and Extradition Act which among other things designated the DPP as the Central Authority on Mutual Legal Assistance and Minister for Responsible for Legal Affairs as Central Authority on Extradition matters.

1.1 MANDATE

Article 59B of the Constitution of the URT, entrusts the DPP with powers to initiate, prosecute and supervise all criminal prosecutions in the country. Whereas Sections 18 and 24(2) of NPSA mandates the DPP to coordinate criminal investigations and issue among others guidelines and instructions aiming at facilitating the

effective discharge of his mandate in coordination of investigation and control of criminal cases. Moreover, Section 11(a) of NPSA requires the DPP to secure extradition of any person required to answer a charge and to the effect thereof, section 15A of the Extradition Act empowers the DPP to file applications in courts of law for reciprocal backing of warrants of arrests from foreign jurisdictions.

Acting under such authority, in December, 2021 the DPP issued *Guidance for Foreign Authorities Making Requests to the United Republic of Tanzania* which provide guidance and essential information on Tanzanian Mutual Legal Assistance framework to ensure effective and expeditious execution of Letters of Requests (LoR) or Letters Rogatory [LR] on MLA.

However, there are no clear directives and instructions to the officials of executing authorities in Tanzania on the procedures to be followed in handling both incoming and outgoing requests for MLA and Execution of Orders of the Minister relating to Extradition of fugitive offenders. Now therefore, the DPP in consultation with relevant stakeholders issues these guidelines for MLA in criminal matters and a guide to prosecutors in order to ensure uniformity, efficiency and effectiveness in processing and execution of such requests.

1.2 OBJECTIVE

The objective of these guidelines on MLA and Extradition is to provide guidance to Prosecutors and Competent Authorities in URT on the procedures to be followed in handling both incoming and outgoing requests for MLA and smoothen execution of Ministers Order's on Extradition.

1.3 SCOPE AND APPLICATION

These guidelines shall internally apply to prosecutors and Competent Authorities handling requests for MLA and execution of Minister's Orders on Extradition. Moreover, it aim at supplementing the existing legal and institutional frameworks and nothing in these guidelines is intended to alter any law, court procedure or rule regarding handling of MLA and Extradition matters.

PART II

MUTUAL LEGAL ASSISTANCE REQUEST

2.0 INTRODUCTION

MLA in criminal matter is the process by which states seek and provide assistance, guidance and other necessary information for investigative, prosecutorial or adjudication purposes. It affords states the widest measures of cooperation in freezing and confiscate proceeds of crimes, including registration of foreign forfeiture orders.

2.1 INCOMING REQUESTS

- a) These are requests from foreign jurisdictions to Tanzania seeking assistance for MLA. The MLA request made shall conform to the procedures and format prescribed under the *Guidance for Authorities Making Request to the URT of 2021*.

2.1.1 REGISTRATION OF MLA REQUEST

All MLA request shall be registered in MLA register that will be in physical and electronic form.

- a) The Legal Registry Unit shall maintain MLA Register containing:

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- i. file number,
 - ii. type of the assistance requested,
 - iii. offence involved,
 - iv. particulars of accused,
 - v. requesting state/agency,
 - vi. requested state/agency,
 - vii. date of receipt,
 - viii. registry officer
 - ix. assignee and date of assignment,
 - x. assignor and date of assignment
 - xi. date of acknowledgment of receipt,
 - xii. date of dispatch of the request,
 - xiii. total duration used,
 - xiv. date of receipt of feedback,
 - xv. date of dispatch of feedback
 - xvi. Status.
- b) Upon receipt of the MLA request the Registry Officer shall do the following;
- i. Open a separate file for the request
 - ii. Register the request in both physical and electronic registers
 - iii. Scan and upload the file to the Case Management Information System (CMIS)
 - iv. Forward the physical and electronic file to the Assignor for assignment within one day from day of receipt
 - v. Dispatch all approved MLA necessary documents on the date of receipt from the assignor.
 - vi. Maintain and update the Register monthly.

2.1.2 Review of the MLA request

MLA request must be reviewed timely and forwarded to the competent authorities for execution. In reviewing the request, the following shall be implemented:

- (a) The Assignor shall assign the file to the assignee for opinion and other directive within one working day after the receipt of the file.
- (b) The assignee immediately after being assigned, shall, on behalf of the Central Authority, acknowledge receipt of the request via official email within one working day. Acknowledgement of the receipt shall contain; reference number of the request, date received, official telephone number, fax and email together with name and contact of the prosecutor assigned, refer template **annexure MLA 1**.
- (c) The Assignee shall within five working days from the date of receipt of the file give legal opinion and submit the opinion to the assignor for approval recommending whether the request meets legal criteria for execution or not.
- (d) The assignee in the course of giving his opinion, shall consider the following: -
 - (i) Whether the request has been submitted by the Central or Competent Authority.
 - (ii) Whether key legal principles provided for under Part 1 of *Guidance for Foreign Authorities Making Requests to the*

United Republic of Tanzania, 2021 they have been met including: -

- (a) Legal basis of the request,
 - (b) Dual criminality
 - (c) That the request relates to criminal matters only
 - (d) Rule of Specialty
 - (e) Comity of nation
- (iii) Whether the request does not fall within any of the grounds for refusal
- (iv) Urgency and confidentiality of the request
- (e) The Assignor shall consider the opinion and endorse the decision to execute or not within 2 working days from the date of receipt of recommendations from the assignee and direct the assignee:
- i. If the request is approved, to draft necessary document namely covering Letter of Execution and Certificate of Authorisation as per **annexure MLA 2 and MLA 3** respectively within two days and forward the same to the competent authorities after obtaining approval from the assignor.
 - ii. In the event the request is granted, send a notification to the Requesting Foreign Authority that the request has been granted within a day, refer **annexure MLA 4**.

- iii. In the event the request is refused, communicate the decision and reasons thereto to the Requesting Foreign Authority.
- iv. Liaise with the Competent authority in all matters pertaining to execution of the request
- v. Take lead in handling the request where execution requires involvement of court process

2.2 DIRECTIVES TO COMPETENT AUTHORITIES

The execution of the MLA request is done by the competent Authority which shall be appointed by the Central Authority. The competent Authority when executing the request shall;

- a) acknowledge receipt of the Letter of execution of request, Certificate of Authorization and notify the Central Authority on any issue of concern within two working days;
- b) execute the request in accordance with the Certificate of Authorization within sixty (60) days; or as soon as practicable depending on the nature of the request;
- c) liaise with the prosecutor named in the request for coordination of execution to ensure compliance with the legal

- requirements of the requesting Foreign Authority;
- d) execute the request according to Tanzanian Laws if the request is silent on the mode of execution;
- e) notify the prosecutor in case the execution of the request requires the involvement of court process; and
- f) Submit the evidence collected in execution of the request to the Central Authority as soon as practicable.

2.3 THE ROLE OF CENTRAL AUTHORITY AFTER EXECUTION OF REQUEST

Upon the receipt of the feedback on execution of the request by a specific Competent Authority, the Central Authority shall;

- a) Review the collected evidence to ensure it complies with the certificate of authorization.
- b) Authenticate the collected evidence according to legal requirements of the requesting Foreign Authority.
- c) Authenticate the request according to Tanzanian laws if the request is silent on the manner of authentication.
- d) Notify and transmit the collected evidence to the requesting state according to the

transmission mode used by the requesting state.

- e) Oversee the use of evidence transmitted to a foreign authority.

2.4 OUTGOING REQUEST

These are requests from Tanzania to foreign jurisdictions seeking assistance for MLA. The MLA request made shall conform to the procedures and format prescribed by the relevant laws of the requested state.

2.4.1 Role of Competent Authorities

The Competent Authorities (Law Enforcement Agencies) before initiating MLA request shall:

- a) Utilize informal channels of communication before going to a Central Authority for a formal MLA request.
- b) Request the central authority, by a letter, to process the MLA request. The letter to the central authority must contain sufficient information to establish the basis for the request including the following:
 - i. Facts of the case providing the basis for the assistance required;
 - ii. Type of assistance required;
 - iii. Urgency of the request and confidentiality status;

- iv. Costs to be borne in execution of the request, if any;
 - v. Details of the contact person from investigating agency who is responsible with the matter in question.
- c) Compile the investigation file including summary of investigation and submit the same to the DPP.

2.4.2 Role of Central Authority in making the request

Mutual Legal Assistance must be processed timely to ensure the request is sent or further information is obtained from competent authorities before sending the request to the requested state. In processing the request, the following functions shall be performed:

- a) The Registry Officer shall, upon receipt of the request record that request in the MLA Register and open the file which shall be submitted to the assignor together with the request for assignment within one working day. The guidance on the details to be recorded in the register in Guideline 2.1 shall apply *mutatis mutandis* with this guidance.

- b) After the receipt of the file, the Assignor shall assign the file to the assignee within one working day to review the request.
- c) The Assignee shall, within five working days from the date of receipt of the file provide legal opinion and submit the opinion to the assignor recommending whether to make MLA request or not.
- d) The Assignee shall, in the course of writing his opinion, ensure that the following principles are adhered;
 - i. Legal basis for the request,
 - ii. Dual criminality principle,
 - iii. Rule of Specialty,
 - iv. Comity of nation,
 - v. Whether the request does not fall within any of the grounds for refusal in the requested Foreign Authority,
 - vi. Urgency and confidentiality of the request.
- e) The Assignor, shall consider the opinion and endorse the decision to make the request or not within two working days from the date of receipt of recommendations from the assignee and direct the assignee to:
 - i. In case the recommendation to make the request is approved,
 - a) Draft the request for Mutual Legal Assistance using the specimen in

- Annexure MLA 5** within 5 working days and transmit the same to the requested Foreign Authority directly or through diplomatic channels.
 - b) Notify the competent authority that initiated the request that the request for MLA has been made within one working day after the decision has been made by the Central authority; and
 - c) Liaise with the contact person in the foreign jurisdiction and follow up the execution of the request.
- ii. In case the recommendation to make the request is not approved, inform the competent authority the reasons for not making the request and seek more information, if any.

PART III

GUIDE TO PROSECUTORS ON EXECUTION OF MINISTER'S DIRECTIVES ON EXTRADITION

3.0 EXTRADITION

- a) Extradition refers to the process of returning a fugitive offender to the country where he is alleged to have committed or convicted of any extraditable offence specified in the schedule to Extradition Act.
- b) Section 5 of the Extradition Act, [Cap 368 R.E.2019] designates the Minister responsible for Legal Affairs to be the Central Authority in matters relating to extradition.
- c) Section 11(a) of the NPSA, empowers the DPP to secure extradition of any person required to answer a charge of an offence. Moreover, section 15A of the Extradition Act empowers the DPP to make a formal application in court seeking necessary orders pertinent to reciprocal backing of warrants as provided under Part III of the Extradition Act. However, the exercise of such powers is subject to the guidance of the Minister responsible for Legal Affairs as the Central Authority in Extradition.
- d) This part is therefore intended for prosecutors involved in handling judicial extradition

proceedings on courts of Law in execution of the Minister's orders.

3.1 General Principles Applicable for Extradition

When dealing with requests for extradition the following principles akin to those under Part II above have to be considered.

- a) Legal Basis of the Request;
- b) Dual Criminality;
- c) Rule of Specialty;
- d) Comity of nation and
- e) Criminal matters only.

3.2 Ground for Refusal

A request for extradition may be refused basing on any of the following grounds;

- a) Non existing international agreement,
- b) Absence of Dual criminality,
- c) If the offence involved is of a political nature,
- d) If the request is made out of discrimination nature either by race, sex, religion, nationality and political opinions,
- e) When accepted, the process of request will impose excess burden to government resources,
- f) Likelihood to prejudice the safety of any person inside or outside Tanzania, and
- g) Request is based on type of a crime and/ or punishment which if it had occurred in Tanzania at the same time, the offender would have not

been prosecuted for lapse of time or any other reason.

3.3 Registration and Assignment Procedures

Procedures for registration and assignment of extradition request are the same and similar with the procedures for MLA provided for under Part II of these guidelines.

3.4 Forms of Extradition Requests

There are two forms of extradition requests namely incoming and outgoing requests;

- a) Incoming request refers to a formal communication in writing from a foreign state to the Central Authority of URT seeking for the return of a fugitive criminal suspected to have committed or convicted of an extraditable crime.
- b) Outgoing Request refers to a formal communication in writing from URT to a foreign state seeking for the return of a fugitive criminal suspected to have committed or convicted of an extraditable crime.

3.4.1 Procedures for handling incoming extradition request

Procedures of handling incoming extradition request are provided for under Part II and Part III of the Extradition

Act. Part II applies where the Minister issues an order directly to the magistrate for issuance of warrant for the arrest and detention of fugitive criminal, whereas Part III deals with reciprocal backing of foreign warrants of arrests.

3.4.2 The role of prosecutors in handling extradition application in court

- (i) Read the package of the extradition request thoroughly and ascertain if the following documents are available:
 - (a) Order of the Minister responsible for Legal Affairs and whether it has been drawn properly.
 - (b) Forwarding letters from MoCLA and MoFA to ascertain if the request has been transmitted through Diplomatic Channels.
 - (c) Note verbale from the foreign authority or its embassy located in Tanzania.
 - (d) Whether the request stipulates legal basis for their requests
 - (e) Whether the request comply with the principle of dual criminality or commit of nation and rule of speciality.
 - (f) Whether assurance is provided in the main request.
 - (g) Certificate of authentication of documents is attached to the request.
 - (h) Deposition of witnesses.

- (i) Foreign Arrest warrant and charge sheet.
 - (j) Affidavit of chief investigator.
 - (k) Magistrate has issued arrest warrant for locating and procuring the fugitive criminal.
 - (ii) Lodge Order of the Minister together with attached extradition request to court and secure arrest warrant which automatic institute the case for extradition.
 - (iii) Submit the arrest warrant to Director of Criminal Investigation (DCI) for purposes of locating the fugitive offender and secure his presence in court.
 - a. DCI shall locate and procure the presence of the fugitive offender as soon as practicable and inform the DPP on the availability of the fugitive offender for hearing.
 - (iv) Prepare for hearing of the application of the extradition request in court.
 - (v) An application is heard by the Court and order of the court is properly secured depending on the prevailing circumstances.
 - (vi) Upon completion of the hearing and the order to that effect has been issued, the Magistrate has forward to the Minister certificate of committal to enable him to make final decision for surrender.
- a) Extradition under Part III of the Act,**
Reciprocal baking of warrant.
These are warrants from contracting nations issued in accordance with the agreement.

With regard to this Part where the request falls under Part III of the Extradition Act, then following procedures shall be observed; -

- 1) Order by the Minister published in the Gazette, declaring that Part III of the Act is applicable in any contiguous country subject to any condition, exceptions and qualifications specified in the Order.
- 2) That the order by the Minister has been laid before the National Assembly.
- 3) After the Minister responsible for Legal Affairs is satisfied there is good cause to proceed with the request, he shall then forward the foreign warrant to the DPP. The DPP upon receipt of the foreign warrant from the Minister will make formal application in court and ensure the following;
 - (i) An application by way of chamber summons supported by affidavit is filed.
 - (ii) The warrant of arrest is endorsed by the magistrate.
 - (iii) The magistrate has authorises every police officer or any of the person named in the endorsement to execute the warrant by

arresting the person named and bring him before the magistrate.

- (iv) The endorsed warrant is executed.
- (v) Cause the extradition proceeding be forwarded to the Minister for final decision.

3.5 Outgoing Extradition Request

Outgoing extradition requests originates from a normal cause of investigation of a criminal case, after investigator becomes aware that the accused is not within the jurisdiction of Tanzania investigator shall ensure that;

- 1) There are relevant witness statements connecting the accused person with the offence charged.
- 2) Documents showing the particulars, location and all details of the suspects.
- 3) There is evidence on oath showing the involvement of the suspect to the commission of the offence.
- 4) Prepare a letter to the DPP for extradition consideration.

3.6 The role of prosecutor in outgoing extradition Request

Upon being assigned the file for determination of outgoing extradition request the prosecutor has to ensure the following: -

- a) All necessary evidence featured within the case as well as the law that have been violated by the accused.
- b) Location, physical address, particulars, passport number, email and contact details, and picture of the suspect are in the file. If this has not been established advise investigator to liaise with INTERPOL for assistance.
- c) Upon satisfaction that the available evidence supports all possible offence, draft a charge and file it in Court.
- d) When the charge is registered an application will be made to the court to issue arrest warrant that can be executed outside the country.
- e) Alongside, pray for the charge and drawn order of the application to be certified by the court.
- f) After collection of all necessary documents prepare an affidavit to be signed by the Investigator and along with other certified depositions.
- g) Together with the above document prepare a covering letter, formal extradition request and certificate for authentication in compliance with the governing principles under PART II above, refer **Annexure 6, Annexure 7 and Annexure 8**.
- h) Important documents to be attached with the application for extradition request are as follows:

- (i) Warrant of Arrest issued by the Court to be executed outside the country.
 - (ii) The charge sheet that is certified by the court with its stamp.
 - (iii) Drawn order issued by the Court .
 - (iv) Affidavit of an investigator of that matter and any other depositions and/ or documentary evidence
 - (v) Statement of the Complainant
 - (vi) Fugitive Identification Document (s)
 - (vii) Certified Copy of Extract of the Laws
- i) Submit the documents to the DPP Head Quarters for review and for him to forward the same to the Central Authority.

PART IV

EVIDENCE FROM FOREIGN AUTHORITY

4.0 ADMISIBILITY OF EVIDENCE FROM FOREIGN AUTHORITY, AUTHENTICATION OF DOCUMENTS AND LIMITATION

The aspect of MLA requires that the evidence requested from one state should go in line with the laws, rules and regulations of the requesting state with due regard to its admissibility, authentication, format and limitation.

4.1 Admissibility of evidence from foreign country and Authentication of documents

The Prosecutor or Competent Authority handling MLA request of a document from a foreign country which is sought to be admitted in evidence under Mutual Legal Assistance in Criminal Matters Act, Cap. 254 must ensure the same satisfy the following conditions;

(a) Outgoing request

- i. Signed or certified by a judge of a foreign country and authenticated by an oath of a witness from a foreign country.
- ii. Signed or certified by a judge of a foreign country and authenticated by an officer of a foreign country.

- iii. Signed or certified by a judge of a foreign country and sealed by an official public seal of a foreign country.
- iv. Signed or certified by a judge of a foreign country and sealed by official public seal of a Minister of a foreign country.
- v. Signed or certified by a magistrate of a foreign country and authenticated by an oath of a witness from a foreign country.
- vi. Signed or certified by a magistrate of a foreign country and authenticated by an officer of a Government a foreign country.
- vii. Signed or certified by a magistrate of a foreign country and sealed by a public seal of a foreign country.
- viii. Signed or certified by a magistrate of a foreign country and sealed by official public seal of a Minister of a foreign country.
- ix. Signed or certified by an Officer of a foreign country and authenticated by an oath of a witness from a foreign country.
- x. Signed or certified by an Officer of a foreign country and authenticated by an Officer of a foreign country.
- xi. Signed or certified by an Officer of a foreign country and sealed by the official public seal of a foreign country.
- xii. Signed or certified by an Officer of a foreign country and sealed by public seal of Minister of a foreign country.

- xiii. In case a requested document is a witness statement, in addition to the conditions provided for above, signed, certified and containing a declaration by a person making it that it is true.
- xiv. In case a requested document is an affidavit, in addition to the conditions provided for above, signed, verified and sworn by a person who made it.

(b) Incoming request

- (i) Ensure the documents are authenticated in accordance with the mode provided by the requesting state as provided under the *DPP Guidance for Foreign Authorities Making Requests to the United Republic of Tanzania, 2021*.
- (j) In case the requesting state does not provide a particular authentication mode then requested documents shall be authenticated in accordance with Tanzanian laws.

4.2 Limitation on uses of evidence

The Prosecutor/Competent Authority in handling MLA for outgoing or incoming request shall:

- i. Ensure confidentiality of the information or evidence.
- ii. Ensure information or evidence are not used or transmitted in relation to investigation, prosecution or any other judicial proceedings apart from those stated in the request.

- iii. In case the requesting state intend to use the evidence or information for other purpose other than stated in the request, the consent from the requested state must be obtained for uplifting the conditions to the extent required by the law to allow the use of the information concerned.

PART V

5.0 Non-Compliance with Guidelines

- i. Any violation or non-compliance with these guidelines shall be reported to the DPP.
- ii. After receiving the report for non-compliance of the guidelines the DPP may issue or cause appropriate sanctions to be issued.

ANNEXURE

ANNEXURE MLA 1 AKNOWLEDGEMNT OF RECEIPT

The Central Authority of Tanzania would like to inform you that we are in receipt of your request for Mutual Legal Assistance in respect of one and we are currently working on it and you will be notified of the progress as we process.

In the event of following up of this matter please contact(name of Prosecutor) Fax Email who will be responsible for this matter.

The Central Authority would like to thank you for your continued cooperation.

.....
State Attorney

ANNEXURES MLA 2 SAMPLE COVERING LETTER OF EXECUTION OF A REQUEST FOR MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTER

I am in receipt of a Letter of request for Mutual Legal Assistance from the Government of Republic of requesting assistance in collection of evidence in respect of ongoing investigation against the suspect**(name of suspect)** a**(nationality)** national who is alleged to be involved in

Attached with this letter please find an instrument authorising you to **URGENTLY** collect the required evidence and a copy of the relevant letter of request from the*(name of the requesting authority)* I have appointed **(Prosecutor)** and **(Prosecutor)** to coordinate the execution exercise. The evidentiary requirements of the Republic of shall be shared in the course of execution.

.....
DIRECTOR OF PUBLIC PROSECUTIONS

ANNEXES 3 SAMPLE OF AUTHORISATION FOR TAKING EVIDENCE FOR FOREIGN AUTHORITY

MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS ACT, CAP 254 AUTHORISATION FOR TAKING EVIDENCE FOR FOREIGN AUTHORITY

(Made under Sections 8A, 11, 13 and 33)

I,, Director of Public Prosecutions, pursuant to the provisions of Section 9(1) of the Mutual Assistance in Criminal Matters Act, Cap. 254 have received a request for Mutual Legal Assistance from the.....(*name of the requesting authority*), , Republic of requesting for assistance in collecting evidence here in United Republic of Tanzania connected to ongoing investigation in the Republic of against on charges of

WHEREAS, upon review of the documents accompanying the request, I am satisfied that the said request conforms to the requirements of the Laws of the United Republic of Tanzania.

I, **THEREFORE**, in accordance with the powers vested in me under Section 8A (d) of the Mutual Assistance in Criminal Matters Act, Cap. 254, **DIRECT** and **AUTHORISE** officers of the

.....(investigating agency) to collect evidential materials and interview witnesses in order to;

- (a)
- (b)

.....(insert requested evidential information as per the letter of request)

And that the search, seizure and interview of witnesses be done in a manner that will satisfy(requesting state) procedural requirement as shall be availed in the course of investigation.

I FURTHER DIRECT that, upon completion of the execution process, you furnish to me the complete package of the gathered evidential material for transmission to the Competent Authority in the Republic of(requesting state).

Dated atthis..... day of , 20.....

.....
DIRECTOR OF PUBLIC PROSECUTIONS

ANNEX. 4 SAMPLE LETTER OF NOTIFICATION TO REQUESTING STATE WHETHER GRANTED OR NOT

Ref. No. Date.....

ADDRESS OF THE FOREIGN AUTHORITY

RE: LETTER OF REQUEST FOR ASSISTANCE IN COLLECTION OF EVIDENCE AGAINST

.....

Reference is made to the letter dated Ref. concerning the heading above.

2. I wish to inform you that, your request for Mutual Legal Assistance for obtaining evidence against(name of suspect) has been granted. The investigation will be conducted by the(name of investigating agency) and shall be coordinated by the National Prosecutions Service (NPS).

3. For further follow up on this matter, the focal persons shall be and (prosecutor) who may be contacted through email address copy to and

4. On behalf of the United Republic of Tanzania, I avail myself of this opportunity to renew to the Central Authority of the Republic of the assurances of our highest consideration.

.....
DIRECTOR OF PUBLIC PROSECUTIONS

ANNEX 5 SAMPLE OF REQUEST FOR MUTUAL LEGAL ASSISTANCE

Address of the Competent Central Authority in foreign country,

Re: REQUEST FOR MUTUAL LEGAL ASSISTANCE RELATING TO CRIMINAL INVESTIGATION AGAINST

.....

1.0 INTRODUCTION

I have the honour to present compliments of the United Republic of Tanzania and kindly request the assistance of the Competent Central Authority of (requesting state) in obtaining evidence for use in a criminal investigation and related criminal proceedings. The United Republic of Tanzania Police Force is conducting criminal investigation against **(name of the suspect)** for the offences of The United Republic of Tanzania now requests assistance in obtaining documentary evidence and recording of statements of material witnesses who are acquainted with the facts of this matter.

2.0 AUTHORITY MAKING THE REQUEST

The undersigned, the Director of Public Prosecutions of the United Republic of Tanzania is a Central Authority in matters relating to mutual legal assistance in terms of

the Mutual Assistance in Criminal Matters Act, Cap. 254.

The investigating Authority in this matter is the, a Competent Authority vested with the statutory powers to maintain law and order and to carry out criminal/corruption investigations within the United Republic of Tanzania.

3.0 LEGAL BASIS OF THE REQUEST

The basis for the request for legal assistance is the United Nations Convention Against Transnational Organized Crime and the Protocols thereto as revised.

The Central Authority for Mutual Legal Assistance of the United Republic of United Republic of Tanzania assures the Central Authority of(requesting state) of its full cooperation and assistance in any reciprocal requests.

4.0 SUMMARY OF FACTS

The Office of Director of Criminal Investigation is investigating the who were The above mentioned suspects were arrested for

5.0 CRIMINAL CHARGES AND RESPECTIVE LAWS OF UNITED REPUBLIC OF TANZANIA

The accused person(s) namely stand charged with the following offences:

- (i) : Contrary to

The minimum punishment for the said offences is imprisonment of one (1) years and maximum punishment of thirty (30) years imprisonment.

6.0 PERSONAL PARTICULARS OF THE SUSPECT/ACCUSED

The request relates to criminal charges instituted against the following person(s):

Particulars

Name.....

Date of birth ..,.....

Passport number.....

Gender.....

Religion.....

7.0 ASSISTANCE REQUESTED

In order to conclude this investigation, we request for the following assistance:

- i.
- ii.
- iii.

8.0 EVIDENTIARY REQUIREMENTS IN UNITED REPUBLIC OF TANZANIA

United Republic of Tanzania Law requires documents intended to be admitted in evidence to be in original form or certified copies of the original if the originals cannot be obtained. Further, such documentary evidence must;

- i. be signed or certified by a judge, magistrate or officer in or of a foreign country; or
- ii. authenticated by oath of a witness or an officer of the Government of the foreign country or sealed with an official public seal of the foreign country or of a Minister;

For a witness statement to be admissible into evidence, it must be:

- i. Signed, certified and contain a declaration by the person making it that it is true; and
- ii. Certified by a magistrate, Judge or an officer in or of the Government of a foreign country.

9.0 UNDERTAKINGS ON THE USE OF REQUESTED EVIDENCE

The Central Authority undertakes that any evidence or materials obtained pursuant to this request shall only be used criminal and ancillary proceedings against the above-mentioned accused persons and shall not under whichever circumstances be released to any other investigative or enforcement agency of another foreign authority without the express consent of the Central

Authority of (name of the requested state).

10.0 RECIPROCITY

The Government of the United Republic of Tanzania assures the Central Authority of that it shall, to the fullest extent as permitted by United Republic of Tanzanian laws, comply with future request of the Government of by providing assistance having comparable effect similar to the present case.

11.0 SPECIAL CONSIDERATION REGARDING THE REQUEST

Due to the serious nature of the criminality alleged herewith, the potential for interference with witnesses and evidence and its transnational nature, it is requested that relevant Authorities in maintain the confidential nature of this investigation, not restricting however the necessity of providing sufficient details to allow execution to be undertaken.

Further, this Request is of extreme urgency since there is time limitation allocated for investigation prior to commencement of trial.

12.0 DETAILS OF UNITED REPUBLIC OF TANZANIAN DELEGATION INVOLVED IN THE INVESTIGATION OF THIS MATTER

1.,NPS address

Further, I hasten to enclose extracts of copies of the following documents:-

- 1.
2.The Mutual Legal Assistance in Criminal Matters Act,[Cap. 254, R.E. 2022].

.....(other applicable laws)The Central Authority of the United Republic of Tanzania avails itself of this opportunity to renew to the assurances of its highest consideration.

Dated at this day of 20.....

.....
DIRECTOR OF PUBLIC PROSECUTIONS

ANNEX 6 SAMPLE OF COVERING LETTER OF REQUEST FOR EXTRADITION

(address of competent authority)

RE: LETTER OF REQUEST FOR EXTRADITION OF

.....

Refer to the subject matter above

2. I have the honour to submit to you a request for Extradition from the Republic of to the United Republic of Tanzania a criminal fugitive namely who is accused to have committed Offences of

3. Attached herewith please find a signed copy of the Letter of Request and its attachments for your consideration.

4. The Government of the United Republic of Tanzania assures the avails itself of this opportunity to renew to the Republic of the assurances of its highest consideration

.....
MINISTER FOR CONSTITUTIONAL AND LEGAL AFFAIRS

ANNEXES 7 SAMPLE OF REQUEST FOR EXTRADITION

(address of Central/competent authority)

Re: **REQUEST FOR EXTRADITION OF**

.....

1.0 introduction

On behalf of the United Republic of Tanzania I have the Honour to request the Central Authority of the Republic of to facilitate the execution of warrant of arrest, removal and extradition from the Republic of to the United Republic of Tanzania, a fugitive offender namely(Insert Nationality) holder of passport number who is in the Republic of

2.0 AUTHORITY ISSUING THE REQUEST

I, (**MP.**), the Minister for Constitutional and Legal Affairs of the United Republic of Tanzania, DO HEREBY make this request pursuant to powers vested in me as the Minister responsible for Legal Affairs in the United Republic of Tanzania in terms of the Extradition Act, [Cap. 368 R.E. 2022] of the Laws of Tanzania.

The investigating authority of the crimes committed by the fugitiveis the of the United Republic of Tanzania; an Authority vested

with statutory powers to investigate criminal offences in the United Republic of Tanzania.

3.0 LEGAL BASIS OF THE REQUEST

The Legal Basis for this request is the London Scheme on Extradition within the Commonwealth as both the Republic of and United Republic of Tanzania are Commonwealth countries. The scheme empowers competent authorities to assist one another in facilitating the Extradition proceedings among them. Moreover, the request also relies on the Commitment on reciprocity by the United Republic of Tanzania on future requests of a similar nature from the Republic of

4.0 SUMMARY OF FACTS

The brief facts of this matter are thus:

.....
.....

In view of the aforementioned, it is desirable that(Name of Fugitive) be extradited to the United Republic of Tanzania to face the charges levelled against him.

I have authenticated the Warrant of Arrest attached, and state further that all documents issued by the Resident Magistrates Court of at, receive full faith and credence in the United Republic of Tanzania.

5.0. CHARGES AND PARTINENT LAWS OF TANZANIA

In accordance with the laws of the United Republic of Tanzania, the acts of, give rise to the following offences;

- i. FORGERY: Contrary to**
- ii. UTTERING FALSE DOCUMENT: Contrary to...**

The minimum penalty provided for this offence in case the suspect is convicted shall be liable to serve.....years custodial sentence. The relevant certified copy of the charge sheet is attached to this letter of request.

6.0. PERSONAL PARTICULARS OF THE SUSPECT

NAME:

PAASPORT NO:

CURRENT LOCATION:

NATIONALITY:

CURRENT INFROMATION;

7.0 RECIPROCITY AND ASSURANCE

I am satisfied and I hereby confirm that the said is not required for, nor will he be prosecuted for an offence of a political nature, but only for criminal offences mentioned in the Warrant of Arrest. I confirm further that the said will receive fair trial in the United Republic of Tanzania.

The Government of the United Republic of Tanzania assures the Government of the Republic of that it shall, to the fullest extent, comply with future request(s) by the Government of the Republic of by providing assistance having comparable effect in respect of similar offence as in the present matter.

I,, Minister for Constitutional and Legal Affairs of the United Republic of Tanzania avails myself the opportunity to renew to the Competent Authority of the Government of the Republic of the assurance of my highest consideration.

I hasten to enclose copies of the following documents:

- (i) Warrant of Arrest of issued by the Court of at
- (ii) Drawn Order by the Court of at
- (iii) Charge sheet signed by the Public Prosecutor;
- (iv) Affidavit of, an investigator of the case.
- (v) Statements of the complainant namely
- (vi) Identification document.....
- (vii) Extracts of the the provision of the laws]

Dated at this day of.....20....

Guidelines to prosecutors and competent authorities for making and executing mutual legal assistance and extradition request

.....
**MINISTER FOR CONSTITUTIONAL AND LEGAL
AFFAIRS**

Copy to:

Address of the Institution to be copied

ANNEXES 8 SAMPLE OF CERTIFICATE FOR AUTHENTICATION

CERTIFICATE OF AUTHENTICATION

I,, (MP) Minister for Constitutional and Legal Affairs of the United Republic of Tanzania do hereby certify that the signature which appears on the Warrant of Arrest of in Economic/Criminal Case No. of 20.... in theCourt of at is authentic and that all documents attested and signed by him receive full faith and credence in the United Republic of Tanzania.

Given under my hand and seal at this.....day of..... 20.

.....
MINISTER OF CONSTITUTIONAL AND LEGAL AFFAIRS

