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## **Guideline 7: Communication**

**Requesting jurisdictions should promptly discuss relevant elements of the investigative and legal strategy as well as a case outline and subject profile with all involved jurisdictions, where appropriate.**

Early communication of the case outline and subject profile allows the involved jurisdictions to understand the needs of the requesting jurisdiction, setting the tone required for efficient international cooperation that can be maintained throughout the investigation and the asset recovery process.

Proactively sharing the relevant elements of the investigative and legal strategy (see [Guideline 3](#) [3]) with the involved jurisdictions enables both the requested and the requesting jurisdiction to identify any potential challenges or difficulties (e.g., institutional, legal, or capacity based hurdles) that may hinder the effectiveness of the strategy within any of the involved jurisdictions, and allows the identification of ways to overcome them. This is also to be understood as an important trust building measure (see [Guideline 6](#) [4]).

**Involved jurisdictions should designate a focal point of contact and inform all concerned parties.**

The focal point of contact is a person who effectively acts as a liaison between the requesting jurisdiction and other involved jurisdictions. It is the first point of communication, assisting in the co-ordination between the relevant authorities of the involved jurisdictions. Absence of focal points of contact may hamper or severely limit the effective initiation or continuation of co-ordination and cooperation among involved jurisdictions. The lack of clarity on the designated focal points at the beginning of the process may likewise affect cooperation between jurisdictions, resulting in unnecessary delays.

Assigning a focal point of contact may enhance clear and efficient communication among the involved jurisdictions. The designation of a focal point at the beginning of the process complements the direct communication that is cornerstone to the asset recovery process. (see [Guideline 6](#) [4]) The involved jurisdictions should inform one another, as well as all their own relevant domestic agencies (see [Guideline 3](#) [3]), as early as possible about their focal points for the case, and agree to use the channels of communication available to them (see [Guideline 6](#) [4]).

The designated focal point should preferably be the lead investigator or prosecutor of the investigation or case. Where this is not possible or advisable (e.g. the lead investigator or prosecutor is not fluent in a foreign language), the case officer responsible for MLA should be used as the focal point.

**Step 1 Communicate clearly the goal(s) and priority(ies) of the investigation to involved jurisdiction(s)**

Communicate clearly the goal(s) and priority(ies) of the investigation to involved jurisdiction(s). The requested jurisdiction(s) should indicate whether the appropriate legal tools are available to accomplish these goals.

### **Explanation of step 1**

Most counterparts require operational information at the early stages of cooperation. Requesting jurisdictions should present the relevant elements of the investigative and legal strategy to the involved jurisdictions, enabling them to have an overall view of the inputs required, the aims sought and the desired outcomes, and to provide an overview of legal avenues which may be available to achieve those outcomes.

Developing a comprehensive investigative and legal strategy by the requesting jurisdiction will have an impact on the information that needs to be shared with other jurisdictions (see [Guideline 3](#) [5]). Once it is clear what legal tools are available in the involved jurisdictions the need for further information can be assessed and sufficient details can be communicated. The amount of detail and information to be shared depends on the type of assistance that is sought as well as the underlying crime that needs to be proven. Furthermore, in cases involving parallel investigations details about the investigative and legal strategy may need to be communicated.

To that effect, the requesting jurisdiction should:

- Present a case outline, including: (i) the subject of the investigation; (ii) the alleged criminal behaviour under investigation; (iii) where the alleged criminal activity took place; (iv) when the alleged criminal conduct took place; (v) why the subject committed the alleged criminal activity; and (vi) how the criminal conduct was committed.
- Present the subject profile, indicating the legal entities (e.g. associations, companies, trusts) and individuals related to the subject of the investigation and the criminal activity under investigation, as well as the financial profiling of the assets of the subject and legal entities under investigation, and information on beneficial ownership where applicable (see [Guideline 1 Step 5 Prepare a subject, financial and jurisdictional profile](#) [6]).
- Clarify the relevant parts of the investigative and legal strategy (see [Guideline 3](#) [5]), and explain the asset recovery priority(ies).
- Indicate the link between the alleged crime(s), the assets obtained and the requested jurisdiction(s).
- Indicate the potential investigative powers and legal tools available (including mechanisms for freezing) in the requesting jurisdiction. This allows requested jurisdictions to take (upon request) the most appropriate investigative and legal steps applicable to the specific case.

Furthermore, if there are several involved jurisdictions, the requesting jurisdiction has to decide if it wants to communicate with one, some or all jurisdictions simultaneously or separately.

Finally, the process of cooperation is dynamic and there may be a need for continuous updating. As new action is taken in the requesting and requested jurisdictions, new information may need to be communicated to involved jurisdictions.

## **Step 2 Provide the requested jurisdiction(s) with any relevant information that impacts the execution of the request for MLA (e.g. confidentiality, timing and other procedural issues)**

### **Explanation of step 2**

Requesting and requested jurisdictions should communicate any specific information that is required for the proper execution of the request for MLA to ensure that their legal or investigative strategy is not jeopardised. The issue of confidentiality is particularly important in this context. For instance, it may be that the requested jurisdiction has to inform defendants or the subject of the pending MLA action, in which case the requesting jurisdiction may wish to consider the exact timing of the execution of the request (see [Guideline 4](#) [7]).

Achieving major goals of an investigation can be inextricably linked to the timing of accomplishing those goals. As such, both the timing and the urgency of the execution of a request may have a crucial bearing on the investigative strategy. Furthermore, procedural issues which may, for example, have an impact on admissibility of evidence need to be clearly communicated to the involved jurisdictions (see [Guideline 4](#) [7]).

### **Further reading**

- UNCAC, Articles 46, 48 and 49

- International Cooperation in Asset Recovery. In: Brun, J.-P. et al. 2011. Asset Recovery Handbook: a Guide for Practitioners. The World Bank. Available at: <http://star.worldbank.org/star/publication/asset-recovery-handbook> [8]
- Monteith, C. (2013). Case and Investigation Strategy. In: Fenner Zinkernagel, G. et al. (eds.). 2013. Emerging Trends in Asset Recovery. Peter Lang.
- Absent or Ambiguous Focal Points. In: Stephenson, K.M. et al. 2011. Barriers to Asset Recovery: An Analysis of the Key Barriers and Recommendations for Action , available at: <https://star.worldbank.org/star/publication/barriers-asset-recovery> [9]
- Lack of information on MLA requirements. In: Stephenson, K.M. et al. 2011. Barriers to Asset Recovery: An Analysis of the Key Barriers and Recommendations for Action , available at: <https://star.worldbank.org/star/publication/barriers-asset-recovery> [9]

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