

## LIMITATIONS ON ASSISTANCE

- The Requested Party shall refuse assistance if, in its opinion -
  - the request relates to the investigation, prosecution or punishment of a person for an offence that is, or is by reason of the circumstances in which it is alleged to have been committed or was committed, an offence of a political nature;
  - the request relates to the investigation, prosecution or punishment of a person in respect of an act or omission that, if it had occurred in the Requested Party, would have constituted a military offence under the laws of the Requested Party which is not also an offence under the ordinary criminal law of the Requested Party;
  - there are substantial grounds for believing that the request was made for the purpose of investigating, prosecuting, punishing or otherwise causing prejudice to a person on account of the person's race, religion, sex, ethnic origin, nationality or political opinions;
  - the request relates to the investigation, prosecution or punishment of a person for an offence in a case where the person –
    - has been convicted, acquitted or pardoned by a competent court or other authority in the Requesting or Requested Party; or
    - has undergone the punishment provided by the law of that Requesting or Requested Party,

in respect of that offence or of another offence constituted by the same act or omission as the first-mentioned offence;

- the request relates to the investigation, prosecution or punishment of a person in respect of an act or omission that, if it had occurred in the Requested Party, would not have constituted an offence against the laws of the Requested Party except that the Requested Party may provide assistance in the absence of dual criminality if permitted by its domestic laws;
- the provision of the assistance would affect the sovereignty, security, public order, public interest or essential interests of the Requested Party;

- the Requesting Party fails to undertake that it will be able to comply with a future request of a similar nature by the Requested Party for assistance in a criminal matter;
  - the Requesting Party fails to undertake that the item requested for will not be used for a matter other than the criminal matter in respect of which the request was made and the Requested Party has not consented to waive such undertaking;
  - the Requesting Party fails to undertake to return to the Requested Party, upon its request, any item obtained pursuant to the request upon completion of the criminal matter in respect of which the request was made;
  - the provision of the assistance could prejudice a criminal matter in the Requested Party; or
  - the provision of the assistance would require steps to be taken that would be contrary to the laws of the Requested Party.
- The Requested Party may refuse assistance if, in its opinion -
    - the Requesting Party has, in respect of that request, failed to comply with any material terms of this Treaty or other relevant arrangements;
    - the provision of the assistance would, or would be likely to prejudice the safety of any person, whether that person is within or outside the territory of the Requested Party; or
    - the provision of the assistance would impose an excessive burden on the resources of the Requested Party.
- For the purposes of subparagraph 1(a), the following offences shall not be held to be offences of a political nature:
    - an offence against the life or person of a Head of State or a member of the immediate family of a Head of State;
    - an offence against the life or person of a Head of a central Government, or of a Minister of a central Government;
    - an offence within the scope of any international convention to which both the Requesting and Requested Parties are parties to and which imposes

on the Parties thereto an obligation either to extradite or prosecute a person accused of the commission of that offence; and

- any attempt, abetment or conspiracy to commit any of the offences referred to in subparagraphs (a) to (c).
  
- The Requested Party may restrict the application of any of the provisions made under paragraph 3 according to whether the Requesting Party has made similar provision in its laws.
  
- Assistance shall not be refused solely on the ground of secrecy of banks and similar financial institutions or that the offence is also considered to involve fiscal matters.
  
- The Requested Party may postpone the execution of the request if its immediate execution would interfere with any ongoing criminal matters in the Requested Party.
  
- Before refusing a request or postponing its execution pursuant to this Article, the Requested Party shall consider whether assistance may be granted subject to certain conditions.
  
- If the Requesting Party accepts assistance subject to the terms and conditions imposed under paragraph 7, it shall comply with such terms and conditions.
  
- If the Requested Party refuses or postpones assistance, it shall promptly inform the Requesting Party of the grounds of refusal or postponement.
  
- The Parties shall, subject to their respective domestic laws, reciprocate any assistance granted in respect of an equivalent offence irrespective of the applicable penalty.