



BERITA NEGARA REPUBLIK INDONESIA

No.661, 2022

KEMENKUMHAM. Penanganan Bantuan Timbal Balik. Masalah Pidana.

PERATURAN MENTERI HUKUM DAN HAK ASASI MANUSIA

REPUBLIK INDONESIA

NOMOR 12 TAHUN 2022

TENTANG

PENANGANAN BANTUAN TIMBAL BALIK DALAM MASALAH PIDANA
DI LINGKUNGAN KEMENTERIAN HUKUM DAN HAK ASASI MANUSIA

DENGAN RAHMAT TUHAN YANG MAHA ESA

MENTERI HUKUM DAN HAK ASASI MANUSIA REPUBLIK INDONESIA,

- Menimbang : a. bahwa untuk mendukung pelaksanaan terhadap pemenuhan permintaan bantuan timbal balik dalam masalah pidana, khususnya terkait hal-hal yang bersifat teknis yang menjadi kewenangan Menteri Hukum dan Hak Asasi Manusia sebagai Otoritas Pusat (*Central Authority*), perlu adanya pengaturan mengenai penanganan permintaan bantuan timbal balik dalam masalah pidana di lingkungan Kementerian Hukum dan Hak Asasi Manusia;
- b. bahwa berdasarkan pertimbangan sebagaimana dimaksud dalam huruf a, perlu menetapkan Peraturan Menteri Hukum dan Hak Asasi Manusia tentang Penanganan Bantuan Timbal Balik dalam Masalah Pidana di Lingkungan Kementerian Hukum dan Hak Asasi Manusia;

- Mengingat : 1. Pasal 17 ayat (3) Undang-Undang Dasar Negara Republik Indonesia Tahun 1945;
2. Undang-Undang Nomor 1 Tahun 2006 tentang Bantuan Timbal Balik dalam Masalah Pidana (Lembaran Negara Republik Indonesia Tahun 2006 Nomor 18, Tambahan Lembaran Negara Republik Indonesia Nomor 4607);
3. Undang-Undang Nomor 39 Tahun 2008 tentang Kementerian Negara (Lembaran Negara Republik Indonesia Tahun 2008 Nomor 166, Tambahan Lembaran Negara Republik Indonesia Nomor 4916);
4. Peraturan Presiden Nomor 44 Tahun 2015 tentang Kementerian Hukum dan Hak Asasi Manusia (Lembaran Negara Republik Indonesia Tahun 2015 Nomor 84);
5. Peraturan Menteri Hukum dan Hak Asasi Manusia Nomor 41 Tahun 2021 tentang Organisasi dan Tata Kerja Kementerian Hukum dan Hak Asasi Manusia (Berita Negara Republik Indonesia Tahun 2021 Nomor 1365);

MEMUTUSKAN:

Menetapkan : PERATURAN MENTERI HUKUM DAN HAK ASASI MANUSIA TENTANG PENANGANAN BANTUAN TIMBAL BALIK DALAM MASALAH PIDANA DI LINGKUNGAN KEMENTERIAN HUKUM DAN HAK ASASI MANUSIA.

Pasal 1

Dalam Peraturan Menteri ini yang dimaksud dengan:

1. Bantuan Timbal Balik dalam Masalah Pidana yang selanjutnya disebut Bantuan adalah permintaan bantuan berkenaan dengan penyidikan, penuntutan, dan pemeriksaan di sidang pengadilan sesuai dengan ketentuan peraturan perundang-undangan negara diminta.
2. Menteri adalah menteri yang menyelenggarakan urusan pemerintahan di bidang hukum dan hak asasi manusia.
3. Direktur Jenderal adalah Direktur Jenderal Administrasi Hukum Umum.

Pasal 2

- (1) Menteri sesuai ketentuan peraturan perundang-undangan berwenang:
 - a. meminta Bantuan kepada negara diminta; dan/atau
 - b. memberikan Bantuan kepada negara peminta.
- (2) Bantuan sebagaimana dimaksud pada ayat (1) dilakukan pada tahap penyidikan, penuntutan, pemeriksaan pada sidang pengadilan, dan pelaksanaan putusan pengadilan yang telah berkekuatan hukum tetap sesuai dengan ketentuan peraturan perundang-undangan.

Pasal 3

- (1) Bantuan dapat dilakukan berdasarkan suatu perjanjian.
- (2) Dalam hal belum ada perjanjian sebagaimana dimaksud pada ayat (1), Bantuan dapat dilakukan atas dasar hubungan baik berdasarkan prinsip resiprositas.

Pasal 4

- (1) Menteri dapat menolak pemberian Bantuan.
- (2) Sebelum menolak pemberian Bantuan, Menteri harus mempertimbangkan persetujuan pemberian Bantuan dengan tata cara atau syarat khusus yang dikehendaki untuk dipenuhi.
- (3) Tata cara atau syarat khusus mengenai pertimbangan persetujuan pemberian Bantuan sebagaimana dimaksud pada ayat (2) dituangkan dalam Pedoman Penanganan Permintaan Bantuan Timbal Balik dalam Masalah Pidana di Lingkungan Kementerian Hukum Dan Hak Asasi Manusia sebagaimana tercantum dalam Lampiran yang merupakan bagian tidak terpisahkan dari Peraturan Menteri ini.

Pasal 5

- (1) Menteri mendelegasikan kepada Direktur Jenderal untuk mengelola data dan informasi Bantuan.
- (2) Pengelolaan data dan informasi Bantuan sebagaimana dimaksud pada ayat (1) dapat diselenggarakan secara elektronik.

Pasal 6

Peraturan Menteri ini mulai berlaku pada tanggal diundangkan.

Agar setiap orang mengetahuinya, memerintahkan pengundangan Peraturan Menteri ini dengan penempatannya dalam Berita Negara Republik Indonesia.

Ditetapkan di Jakarta
pada tanggal 8 Juli 2022

MENTERI HUKUM DAN HAK ASASI MANUSIA
REPUBLIK INDONESIA,

ttd.

YASONNA H. LAOLY

Diundangkan di Jakarta
pada tanggal 8 Juli 2022

MENTERI HUKUM DAN HAK ASASI MANUSIA
REPUBLIK INDONESIA,

ttd.

YASONNA H. LAOLY

LAMPIRAN
PERATURAN MENTERI HUKUM DAN
HAK ASASI MANUSIA REPUBLIK INDONESIA
NOMOR 12 TAHUN 2022
TENTANG
PENANGANAN BANTUAN TIMBAL BALIK
DALAM MASALAH PIDANA DI LINGKUNGAN
KEMENTERIAN HUKUM DAN HAK ASASI
MANUSIA

PEDOMAN PENANGANAN PERMINTAAN BANTUAN TIMBAL BALIK DALAM
MASALAH PIDANA DI LINGKUNGAN KEMENTERIAN HUKUM
DAN HAK ASASI MANUSIA

BAB I
PENDAHULUAN

A. LATAR BELAKANG

Bantuan timbal balik dalam masalah pidana merupakan metode kerja sama antarnegara untuk mendapatkan dan memberikan bantuan dalam penanganan suatu tindak pidana dalam rangka mengumpulkan bukti yang akan digunakan dalam tahap penyidikan, penuntutan, pemeriksaan pada sidang pengadilan, dan pelaksanaan putusan pengadilan yang telah berkekuatan hukum tetap sesuai dengan ketentuan peraturan perundang-undangan, serta dalam melacak, membekukan, menyita dan akhirnya merampas kekayaan yang berasal dari perbuatan pidana. Mekanisme bantuan timbal balik diperlukan, terutama karena dalam penanganan tindak pidana tersebut, seringkali timbul permasalahan hukum yang hanya dapat diselesaikan dengan penanganan bersama dalam kerangka hubungan antar negara – berdasarkan hukum di masing-masing negara. Di Indonesia, kerangka hukum untuk menjalankan bantuan timbal balik dalam masalah pidana diatur dalam Undang-Undang Nomor 1 Tahun 2006 tentang Bantuan Timbal Balik dalam Masalah Pidana. Dengan berlakunya undang-undang tersebut, pemerintah memiliki dasar hukum untuk meminta dan/atau memberikan bantuan secara timbal balik dalam masalah pidana dengan negara asing berkenaan dengan proses penyidikan, penuntutan, dan pemeriksaan di sidang pengadilan, maupun tindak lanjut

putusan pengadilan.

Terbitnya Undang-Undang Nomor 1 Tahun 2006 tentang Bantuan Timbal Balik dalam Masalah Pidana menegaskan komitmen Indonesia untuk bekerja sama dengan negara- negara lainnya dalam pemberantasan tindak pidana trans-nasional. Secara khusus, bantuan timbal balik dalam masalah pidana juga merupakan bagian dari penguatan hukum nasional Indonesia dalam kerangka Konvensi PBB Anti Korupsi (*United Nations Convention Against Corruption, UNCAC*) yang telah diratifikasi oleh Indonesia melalui Undang-Undang Nomor 7 Tahun 2006 tentang Pengesahan *United Nations Convention Against Corruption 2003*. Dalam konvensi tersebut, negara-negara anggota, termasuk Indonesia, direkomendasikan untuk mengadakan bantuan timbal balik dalam rangka pemberantasan korupsi – khususnya untuk pengembalian aset sebagai harta hasil kejahatan.

Dalam pelaksanaan bantuan timbal balik, sebagaimana diatur dalam Undang-Undang Nomor 1 Tahun 2006 tentang Bantuan Timbal Balik dalam Masalah Pidana, Menteri yang membidangi Hukum dan Hak Asasi Manusia ditugaskan sebagai Otoritas Pusat (*Central Authority*) untuk memfasilitasi dan melakukan fungsi koordinasi dalam kerangka kerja sama internasional dan pelaksanaan bantuan timbal balik dalam masalah pidana. Dengan demikian, Kementerian Hukum dan Hak Asasi Manusia diposisikan sebagai lembaga yang berwenang untuk menangani permintaan dari negara lain atau mengajukan permintaan bantuan timbal balik dalam masalah pidana kepada negara lain serta menyusun perjanjian bantuan timbal balik dalam masalah pidana dengan negara lain.

B. MAKSUD DAN TUJUAN

Pedoman ini disusun untuk aparat penegak hukum baik Indonesia maupun negara asing agar pelaksanaan bantuan timbal balik dalam masalah pidana dapat dilaksanakan sesuai dengan peraturan perundang-undangan. Di samping itu, pedoman ini juga dimaksudkan sebagai informasi dan panduan bagi Otoritas Berwenang di Indonesia dan negara lain dalam pengajuan permintaan bantuan timbal balik dalam masalah pidana.

C. RUANG LINGKUP

Ruang lingkup yang menjadi pokok pedoman ini meliputi:

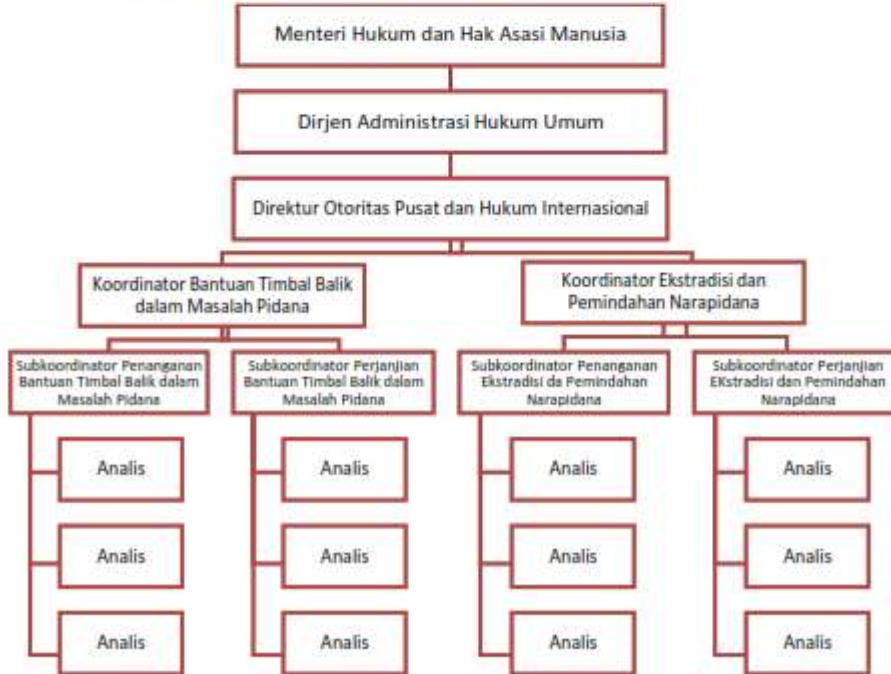
1. Pedoman bagi aparat penegak hukum untuk mengajukan permohonan bantuan timbal balik dalam masalah pidana kepada negara lain.
2. Pedoman bagi aparat penegak hukum negara asing dan Otoritas Pusat negara asing untuk mengajukan permintaan bantuan timbal balik dalam masalah pidana kepada Pemerintah Indonesia.

D. PENGERTIAN

1. Otoritas Pusat Republik Indonesia

Otoritas Pusat yang ditunjuk oleh Undang-Undang Nomor 1 Tahun 2006 untuk melaksanakan bantuan timbal balik dalam masalah pidana bagi Pemerintah Indonesia yaitu Menteri Hukum dan Hak Asasi Manusia. Pejabat yang menangani bantuan timbal balik dalam lingkup Kementerian Hukum dan Hak Asasi Manusia yaitu Direktur Otoritas Pusat dan Hukum Internasional, Direktorat Jenderal Administrasi Hukum Umum, Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia.

Struktur organisasi Otoritas Pusat untuk pelaksanaan Bantuan Timbal Balik dalam Masalah Pidana:



2. Jenis dan Lingkup Bantuan

Jenis bantuan yang dapat diperoleh dari Negara Diminta, termasuk:

- a. Mengidentifikasi dan mencari orang;
- b. Mendapatkan pernyataan atau bentuk lainnya;
- c. Menunjukkan dokumen atau bentuk lainnya;
- d. Mengupayakan kehadiran orang untuk memberikan keterangan atau membantu penyidikan;
- e. Menyampaikan surat;
- f. Melaksanakan permintaan penggeledahan dan penyitaan;
- g. Merampas harta hasil tindak pidana;
- h. Memperoleh kembali sanksi denda berupa uang sehubungan dengan tindak pidana;
- i. Membekukan aset, melarang transaksi keuangan, yang dapat dilepaskan atau disita, atau mungkin diperlukan untuk memenuhi sanksi denda yang dikenakan sehubungan dengan tindak pidana;
- j. Mencari kekayaan yang dapat dilepaskan, atau mungkin diperlukan untuk memenuhi sanksi denda yang dikenakan, sehubungan dengan tindak pidana;
- k. Bantuan lain yang sesuai dengan peraturan perundang-undangan.

Penyediaan bantuan oleh Pemerintah Indonesia, termasuk:

- a. Mengidentifikasi dan mencari orang;
- b. Mendapatkan pernyataan atau bentuk lainnya;
- c. Menunjukkan dokumen atau bentuk lainnya;
- d. Mengupayakan kehadiran orang untuk memberikan keterangan atau membantu penyidikan;
- e. Melakukan transit transportasi narapidana melalui wilayah Indonesia;
- f. Melaksanakan permintaan penggeledahan dan penyitaan;
- g. Menyampaikan surat;
- h. Menindaklanjuti putusan pengadilan;

3. Perjanjian Internasional dan Resiprositas

Bantuan timbal balik dalam masalah pidana di Indonesia dapat didasarkan pada perjanjian bilateral, regional, maupun konvensi internasional. Apabila permintaan dilakukan kepada atau oleh negara yang belum memiliki perjanjian dengan Indonesia, bantuan dapat diberikan atas dasar hubungan baik berdasarkan prinsip

resiprositas. Prinsip resiprositas dimaksud yaitu 1) Negara Peminta perlu menyatakan kesanggupannya membantu Indonesia jika diperlukan pada masa yang akan datang atau bahwa Negara Peminta pernah memberikan bantuan kepada Pemerintah Indonesia, 2) Pemerintah Indonesia akan mempertimbangkan riwayat pemberian bantuan yang dilakukan oleh Negara Asing kepada Indonesia dalam menerima permintaan.

4. Perjanjian Bantuan Timbal Balik antara Indonesia dengan Negara Lain

Sebagai kerangka pelaksanaan bantuan timbal balik dalam masalah pidana, Indonesia telah menandatangani berbagai perjanjian bilateral maupun multilateral antara lain melalui:

- a. Perjanjian kerja sama bantuan timbal balik dalam masalah pidana di antara negara ASEAN yang diratifikasi melalui Undang-Undang Nomor 15 Tahun 2008 tentang Pengesahan Perjanjian tentang Bantuan Timbal Balik dalam Masalah Pidana – Pemerintah Brunei Darussalam, Kamboja, Indonesia, Laos, Malaysia, Filipina, Singapura, Thailand, Myanmar, dan Vietnam yang ditandatangani pada tanggal 29 November 2004 di Kuala Lumpur, Malaysia;
- b. Konvensi Perserikatan Bangsa-Bangsa Menentang Tindak Pidana Trans-nasional dan Terorganisasi (*United Nations Convention Against Transnational Organized Crime*) yang diratifikasi melalui Undang-Undang Nomor 5 Tahun 2009;
- c. Konvensi Perserikatan Bangsa-Bangsa Anti Korupsi (*United Nations Convention Against Corruption*) yang diratifikasi melalui Undang-Undang Nomor 7 Tahun 2006;
- d. Konvensi Perserikatan Bangsa-Bangsa tentang Pemberantasan Peredaran Gelap Narkotika dan Psikotropika (*United Nations Convention Against Illicit Traffic in Narcotics, Drugs, and Psychotropic Substances*) yang diratifikasi melalui Undang-Undang Nomor 7 Tahun 1997;
- e. Konvensi Internasional Pemberantasan Pendanaan Terorisme (*International Convention for the Suppression of the Financing of Terrorism*) yang diratifikasi melalui Undang-Undang Nomor 6 Tahun 2006;

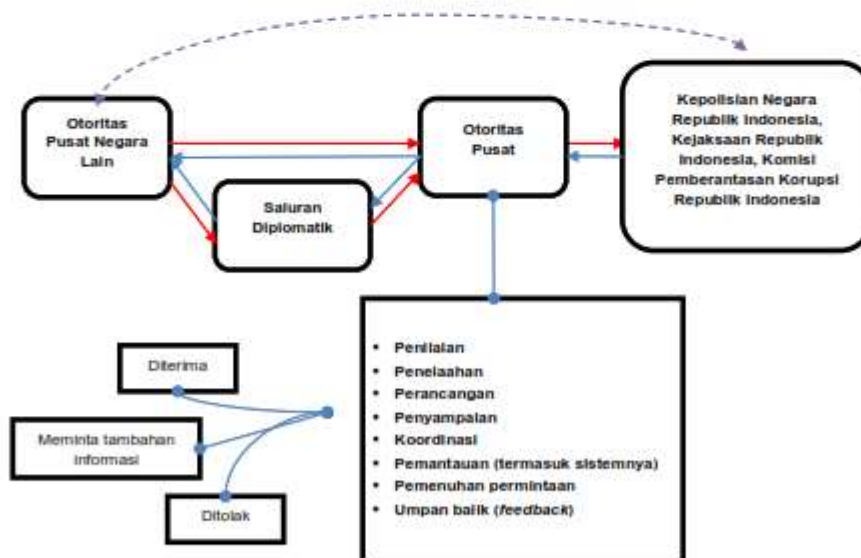
- f. Perjanjian dengan Pemerintah Australia yang diratifikasi melalui Undang-Undang Nomor 1 Tahun 1999 tentang Pengesahan Perjanjian antara Republik Indonesia dan Australia Mengenai Bantuan Timbal Balik dalam Masalah Pidana;
- g. Perjanjian dengan Pemerintah Republik Rakyat China yang diratifikasi melalui Undang-Undang Nomor 8 Tahun 2006 tentang Pengesahan Perjanjian antara Republik Indonesia dan Republik Rakyat China Mengenai Bantuan Timbal Balik dalam Masalah Pidana;
- h. Persetujuan dengan Pemerintah Hongkong SAR yang diratifikasi melalui Undang-Undang Nomor 3 Tahun 2012 tentang Pengesahan Persetujuan antara Pemerintah Republik Indonesia dan Pemerintah Daerah Administrasi Khusus Hong Kong Republik Rakyat China tentang Bantuan Timbal Balik dalam Masalah Pidana;
- i. Perjanjian dengan Pemerintah Republik Korea yang diratifikasi melalui Undang-Undang Nomor 8 Tahun 2014 tentang Pengesahan Perjanjian antara Republik Indonesia dan Republik Korea tentang Bantuan Hukum Timbal Balik dalam Masalah Pidana;
- j. Perjanjian dengan Pemerintah Republik India yang diratifikasi melalui Undang-Undang Nomor 9 Tahun 2014 tentang Pengesahan Perjanjian antara Republik Indonesia dan Republik India tentang Bantuan Hukum Timbal Balik dalam Masalah Pidana;
- k. Perjanjian dengan Pemerintah Republik Vietnam yang diratifikasi melalui Undang-Undang Nomor 13 Tahun 2015 tentang Pengesahan Perjanjian Bantuan Timbal Balik dalam Masalah Pidana antara Republik Indonesia dan Republik Sosialis Viet Nam;
- l. Perjanjian dengan Pemerintah Persatuan Emirat Arab yang diratifikasi melalui Undang-Undang Nomor 6 Tahun 2019 tentang Pengesahan Perjanjian Mengenai Bantuan Timbal Balik dalam Masalah Pidana antara Republik Indonesia dan Persatuan Emirat Arab;
- m. Perjanjian dengan Republik Islam Iran yang diratifikasi melalui Undang-Undang Nomor 10 Tahun 2019 tentang Pengesahan Perjanjian antara Republik Indonesia dan Republik Islam Iran tentang Bantuan Timbal Balik dalam Masalah Pidana;

- n. Perjanjian dengan Konfederasi Swiss yang diratifikasi melalui Undang-Undang Nomor 5 Tahun 2020 tentang Pengesahan Perjanjian tentang Bantuan Hukum Timbal Balik dalam Masalah Pidana antara Republik Indonesia dan Konfederasi Swiss; dan
- o. Perjanjian dengan Federasi Rusia yang diratifikasi melalui Undang-Undang Nomor 5 Tahun 2021 tentang Pengesahan Perjanjian antara Republik Indonesia dan Federasi Rusia tentang Bantuan Hukum Timbal Balik dalam Masalah Pidana.

BAB II TATA CARA MENGAJUKAN PERMINTAAN BANTUAN

A. PERMINTAAN BANTUAN TIMBAL BALIK

Secara formal, pengajuan permintaan bantuan timbal balik dalam masalah pidana baik Indonesia sebagai Negara Peminta maupun sebagai Negara Diminta dilakukan dengan difasilitasi dan dikoordinasikan oleh Otoritas Pusat yang ditunjuk oleh undang-undang. Komunikasi dapat dilakukan secara langsung maupun melalui saluran diplomatik. Meskipun instansi penegak hukum dapat berkomunikasi secara informal dan langsung, permohonan bantuan timbal balik secara resmi tetap harus melalui Otoritas Pusat, terutama untuk memastikan *admissibility* atau keabsahan bukti dalam proses hukum terhadap bantuan timbal balik yang dilaksanakan. Dalam proses tersebut, Otoritas Pusat akan melakukan penilaian, penelaahan, dan komunikasi dengan pihak terkait, baik instansi pemohon dalam negeri, maupun dengan otoritas pusat negara lain untuk memastikan bantuan dilaksanakan sesuai peraturan perundang-undangan yang berlaku.



B. PERMINTAAN BANTUAN TIMBAL BALIK KEPADA NEGARA LAIN OLEH APARAT PENEGAK HUKUM INDONESIA

Permintaan bantuan timbal balik dilakukan oleh aparat penegak hukum, yang dimohonkan melalui Otoritas Pusat, untuk disampaikan kepada negara lain. Alur permintaan diawali dengan penyampaian permohonan permintaan bantuan kepada Otoritas Pusat oleh penegak hukum atau otoritas berwenang. Sebagaimana diatur dalam Undang-Undang Nomor 1 Tahun 2006 tentang Bantuan Timbal Balik dalam Masalah Pidana, aparat penegak hukum yang dapat mengajukan permohonan bantuan timbal balik, yaitu:

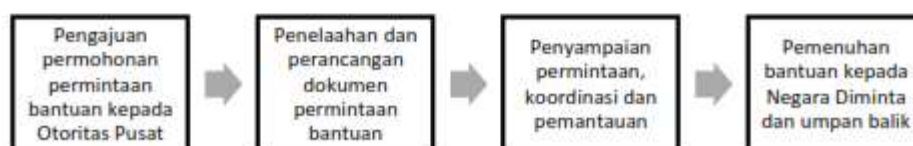
1. Kepala Kepolisian Negara Republik Indonesia;
2. Jaksa Agung Republik Indonesia;
3. Ketua Komisi Pemberantasan Korupsi Republik Indonesia (dalam hal terkait tindak pidana korupsi).

Alamat surat pengajuan permohonan permintaan bantuan ditujukan kepada:

Menteri Hukum dan Hak Asasi Manusia RI
u.p. Direktur Otoritas Pusat dan Hukum Internasional
Direktorat Jenderal Administrasi Hukum Umum
Gedung Administrasi Hukum Umum, Jl. H.R. Rasuna Said Kav. 6-7
Jakarta Selatan, D.K.I. Jakarta 12940, Indonesia

C. TAHAPAN DALAM PERMINTAAN BANTUAN TIMBAL BALIK KEPADA NEGARA ASING

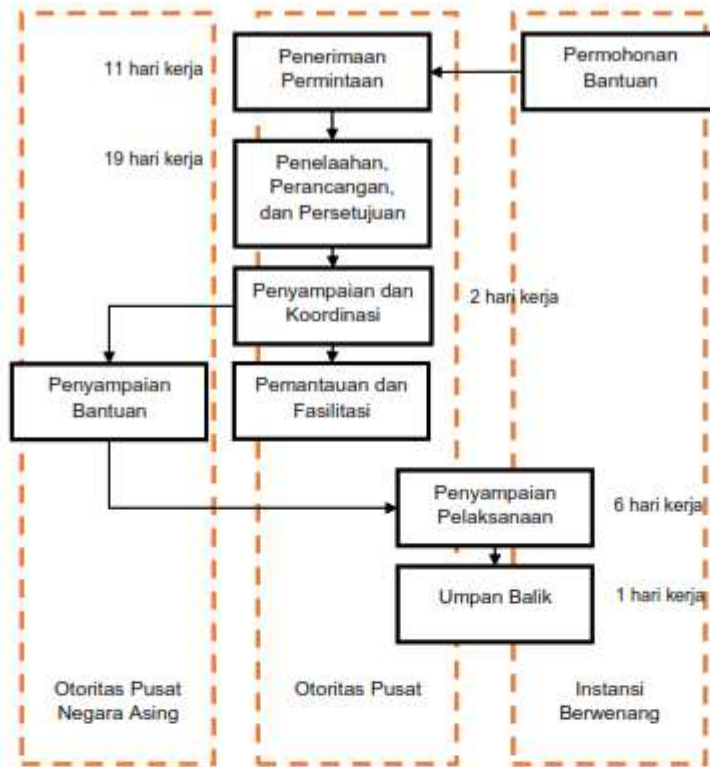
Setelah diterima oleh Otoritas Pusat, permohonan tersebut akan dinilai dan ditelaah. Kemudian, Otoritas Pusat berkoordinasi dengan penegak hukum yang mengajukan permohonan permintaan bantuan untuk merancang Surat Permintaan Bantuan. Berkas surat selanjutnya dikirimkan kepada Negara Diminta. Selama proses tersebut, Otoritas Pusat melakukan koordinasi dengan Otoritas Pusat Negara Diminta dalam pelaksanaan permintaan bantuan.



Bagan 1. Tahapan dalam Permintaan Bantuan Timbal Balik ke Negara Asing

No.	Keterangan	Waktu
1	Tahap Penerimaan Permohonan Permintaan Bantuan	11 hari kerja
	a. Penerimaan oleh Menteri	2 hari kerja
	b. Disposisi sampai ke Dirjen	4 hari kerja
	c. Disposisi sampai ke Direktur	2 hari kerja
	d. Disposisi sampai ke Koordinator	1 hari kerja
	e. Disposisi sampai ke Subkoordinator	1 hari kerja
	f. Disposisi sampai ke Analis	1 hari kerja
2	Tahap Penelaahan dan Perancangan Permintaan Bantuan	19 hari kerja
	a. Penelaahan	2 hari kerja
	(i) Pemeriksaan alur kedatangan surat	
	(ii) Pemeriksaan berkas permohonan	
	(iii) Rekomendasi tindak lanjut	
	b. Perancangan	4 hari kerja
	c. Pemeriksaan, persetujuan, dan paraf/penandatanganan secara berjenjang sampai Direktur	3 hari kerja
	d. Penerjemahan ke bahasa Negara Diminta	10 hari kerja
3	Tahap Penyampaian, Koordinasi dan Pemantauan Permintaan Bantuan	2 hari kerja
	a. Penyampaian permintaan ke Otoritas Pusat Negara Diminta	2 hari kerja
	b. Koordinasi dan pemantauan	Berkala
4	Tahap Pemenuhan Bantuan dan Umpan Balik	7 hari kerja
	a. Fasilitas pemenuhan bantuan	Disesuaikan dengan aturan Negara Diminta
	b. Penyusunan surat pengantar dan pengiriman hasil bantuan timbal balik kepada instansi pemohon	6 hari kerja
	c. Pengiriman surat umpan balik pemenuhan bantuan timbal balik	1 hari kerja

Tabel 1. Kerangka Waktu Administrasi Permintaan Bantuan ke Luar Negeri



Bagan 2. Bagan Alur Permintaan Bantuan Timbal Balik ke Negara Asing

Tahap 1. Pengajuan Permohonan Permintaan Bantuan Timbal Balik kepada Otoritas Pusat

Penegak hukum menyampaikan permohonan permintaan bantuan ke Negara Diminta melalui Otoritas Pusat dengan melampirkan informasi yang dibutuhkan. Permohonan yang telah disampaikan kepada Otoritas Pusat akan dicatat dalam aplikasi basis data secara elektronik yang berfungsi sebagai media pengelolaan data dan fasilitas komunikasi dengan instansi berwenang, sehingga instansi berwenang yang mengajukan permohonan dapat turut memantau perkembangan penanganan permintaan. Untuk memastikan efektivitas proses permintaan bantuan, instansi pemohon disarankan untuk memperhatikan format standar Surat Permohonan Bantuan. Di dalam format standar tersebut, secara umum akan terangkum perlunya instansi pemohon untuk menjelaskan posisi kasus dan

jenis bantuan yang diperlukan dan disertai dengan berbagai persyaratan permohonannya.

Persyaratan Pengajuan Permintaan Bantuan:

1. Surat Permohonan Permintaan Bantuan;
2. Identitas dari institusi yang mengajukan permohonan;
3. Pokok masalah dan hakikat dari penyidikan, penuntutan, atau pemeriksaan di sidang pengadilan yang berhubungan dengan permintaan tersebut, serta nama dan fungsi institusi yang melakukan penyidikan, penuntutan dan proses peradilan;
4. Ringkasan fakta terkait;
5. Ketentuan undang-undang terkait, pasal, dan ancaman pidananya;
6. Uraian tentang bantuan yang diminta;
7. Rincian prosedur khusus yang dikehendaki, termasuk kerahasiaan, dan tujuan bantuan;
8. Syarat lain yang ditentukan Negara Diminta

Tahap 2. Penelaahan dan Perancangan Surat Permintaan Bantuan Timbal Balik

Setelah diterimanya Surat Permohonan Permintaan Bantuan Timbal Balik dari instansi pemohon, Otoritas Pusat melakukan penilaian dan penelaahan terhadap dokumen permohonan permintaan bantuan yang diajukan oleh penegak hukum. Pada tahap ini, Otoritas Pusat akan menugaskan analis bantuan timbal balik (*case officer*) untuk menerima dan memeriksa persyaratan permohonan permintaan terkait dan dokumen pendukungnya. Otoritas Pusat kemudian melakukan penelaahan terhadap aturan perundang-undangan, kelengkapan dokumen, perkara pidana yang menjadi objek permintaan bantuan, serta jenis bantuan yang diminta. Rekomendasi hasil penilaian dan penelaahan kemudian disampaikan kepada penegak hukum selaku pemohon permintaan bantuan timbal balik. Apabila diperlukan, Otoritas Pusat dapat meminta tambahan informasi dan dokumen maupun koordinasi dengan pemohon permintaan bantuan timbal balik. Dalam rapat

koordinasi tersebut, pelibatan pihak lainnya dapat dilakukan dengan persetujuan pemohon.

Selain melakukan penelaahan, Otoritas Pusat juga merancang surat-surat yang akan disampaikan kepada Negara Diminta. Surat Permintaan Bantuan untuk ditujukan kepada Otoritas Pusat Negara Lain disertai dengan Surat Pengantar yang ditandatangani oleh Direktur. Apabila penyampaian permintaan bantuan dilakukan melalui saluran diplomatik, Otoritas Pusat juga mempersiapkan Surat Pengantar untuk disampaikan kepada Kementerian Luar Negeri cq. Direktorat Jenderal Hukum dan Perjanjian Internasional.

Tahap 3. Penyampaian, Koordinasi dan Pemantauan Bantuan Timbal Balik dengan Negara Diminta

Proses koordinasi dan penyampaian permintaan bantuan kepada Negara Diminta dapat dilakukan secara langsung oleh Otoritas Pusat maupun melalui saluran diplomatik. Untuk permintaan bantuan yang dikirimkan melalui saluran diplomatik, Otoritas Pusat kemudian berkoordinasi dengan Otoritas Pusat Negara Diminta dan Kementerian Luar Negeri. Setelah Surat Permintaan Bantuan disampaikan, Otoritas Pusat akan melakukan pemantauan terhadap permintaan dan menyampaikan perkembangan dan tindak lanjutnya kepada aparat penegak hukum sebagai instansi pemohon. Proses dan perkembangan terhadap permintaan bantuan akan dipantau dan dilaporkan kepada penegak hukum secara periodik.

Setelah menerima tanggapan terkait bantuan timbal balik dari Negara Diminta, Otoritas Pusat akan melakukan penelaahan mengenai kesesuaian tanggapan dengan permintaan. Konfirmasi kesesuaian dilakukan bersama instansi pemohon, termasuk apabila Negara Diminta meminta tambahan informasi atau dokumen sebagai syarat pemenuhan permintaan bantuan. Apabila diperlukan, konfirmasi dilakukan oleh Otoritas Pusat dengan mengirimkan surat permintaan tambahan data yang disampaikan kepada instansi pemohon bantuan.

**Tahap 4. Pemenuhan Bantuan dan Penyampaian Umpan Balik
(Feedback)**

Otoritas Pusat melakukan fasilitasi terhadap pemenuhan bantuan yang dilaksanakan oleh Negara Diminta dengan instansi pemohon. Jika diperlukan, Otoritas Pusat juga dapat secara proaktif melakukan *casework meeting* secara rinci dan komprehensif baik secara langsung, elektronik, atau *virtual meeting* dengan Negara Diminta. Proses tersebut dapat dilakukan secara bersama-sama dengan instansi terkait. Hasil pelaksanaan pemenuhan permintaan bantuan disampaikan melalui Otoritas Pusat dan kemudian diteruskan kepada instansi pemohon.

Setelah bantuan timbal balik selesai dilaksanakan, Otoritas Pusat akan menyediakan mekanisme untuk meminta umpan balik, baik kepada aparat penegak hukum maupun kepada Negara Diminta. Umpan balik dari Negara Diminta dapat mencakup kewajiban Negara Peminta sebagai peminta bantuan timbal balik, termasuk mengenai pengembalian bukti.

**D. PERMINTAAN BANTUAN TIMBAL BALIK KEPADA PEMERINTAH
INDONESIA**

Seluruh negara dapat mengajukan permintaan bantuan timbal balik kepada Pemerintah Indonesia. Permintaan bantuan dapat disampaikan secara langsung ataupun melalui saluran diplomatik. Otoritas Pusat Republik Indonesia juga dapat menerima konsultasi sebelum mengajukan permintaan bantuan secara formal, sehingga dapat membantu memberikan masukan terhadap pemenuhan syarat-syarat yang harus dipenuhi dalam rangka permintaan bantuan timbal balik. Sebagai panduan, Otoritas Pusat juga menyediakan contoh format Surat Permintaan Bantuan yang perlu diperhatikan untuk pemenuhan persyaratan atau informasi yang diperlukan oleh Otoritas Pusat Republik Indonesia dalam mempertimbangkan permintaan bantuan timbal balik.

Permintaan bantuan diajukan kepada :

Menteri Hukum dan Hak Asasi Manusia

u.p. Direktur Otoritas Pusat dan Hukum Internasional
Direktorat Jenderal Administrasi Hukum Umum

Gedung Administrasi Hukum Umum, Jl. H.R. Rasuna Said Kav 6-7
Jakarta Selatan, D.K.I. Jakarta 12940, Indonesia

E. TAHAPAN DALAM PERMINTAAN BANTUAN TIMBAL BALIK KEPADA PEMERINTAH INDONESIA

Setelah menerima permintaan bantuan timbal balik dari Otoritas Pusat Negara Asing, Otoritas Pusat akan melakukan penilaian dan penelaahan terhadap permintaan bantuan. Otoritas Pusat dapat menerima maupun menolak permintaan tersebut berdasarkan Undang-Undang Nomor 1 Tahun 2006 tentang Bantuan Timbal Balik dalam Masalah Pidana. Dalam hal diterima, Otoritas Pusat berkoordinasi dengan instansi penegak hukum yang melaksanakan bantuan timbal balik dan menyampaikan tanggapan kepada Negara Peminta. Dalam pelaksanaan bantuan timbal balik, Otoritas Pusat juga melakukan pemantauan dan memfasilitasi prosesnya, serta meminta umpan balik dari Negara Peminta bantuan setelah bantuan timbal balik selesai dipenuhi.

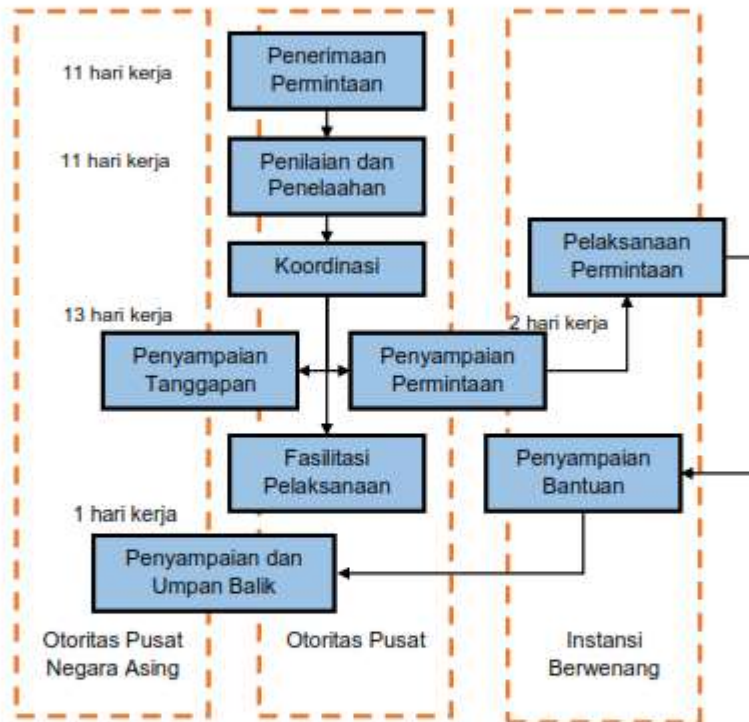


Bagan 3. Penerimaan Permintaan Bantuan Timbal Balik dari Negara Asing

No.	Keterangan	Waktu
1	Tahap Penerimaan Permintaan Bantuan	11 hari kerja
	a. Penerimaan oleh Menteri	2 hari kerja
	b. Disposisi sampai ke Dirjen	4 hari kerja
	c. Disposisi sampai ke Direktur	2 hari kerja
	d. Disposisi sampai ke Koordinator	1 hari kerja
	e. Disposisi sampai ke Subkoordinator	1 hari kerja
	f. Disposisi sampai ke Analis	1 hari kerja
2	Tahap Penilaian dan Penelaahan Permintaan Bantuan serta Perancangan Surat Tindak Lanjut	11 hari kerja
	a. Penilaian dan Penelaahan	2 hari kerja
	b. Perancangan dan Persetujuan Surat Tindak Lanjut	9 hari kerja
3	Tahap Koordinasi dan Penyampaian Permintaan dan Jawaban Permintaan	
	a. Penyampaian Surat Tindak Lanjut ke Otoritas Berwenang	2 hari kerja

b. Koordinasi dan Penerimaan Surat Tanggapan dari Otoritas Berwenang	3 hari kerja
c. Perancangan dan Penyampaian Surat Jawaban kepada Otoritas Pusat Negara Pemohon	10 hari kerja
4 Tahap Pemenuhan Bantuan Timbal Balik	1 hari kerja
a. Penyampaian hasil dan fasilitasi pelaksanaan bantuan timbal balik	-
b. Permintaan Umpan Balik	1 hari kerja

Tabel 2. Kerangka Waktu Administrasi Permintaan Bantuan Timbal Balik dari Negara Asing



Bagan 4. Bagan Alur Permintaan Bantuan Timbal Balik dari Negara Asing

Tahap 1. Penerimaan Permintaan Bantuan Timbal Balik dari Otoritas Pusat Negara Peminta

Otoritas Pusat Negara Asing dapat mengirimkan permintaan bantuan timbal balik baik melalui Otoritas Pusat secara langsung maupun saluran diplomatik. Setelah permintaan diterima, maka Otoritas Pusat akan mengirimkan surat pemberitahuan (*acknowledgement letter*) kepada Otoritas Pusat Negara Peminta.

Sebelum menerima permintaan bantuan sangat dianjurkan agar Otoritas Pusat Negara Asing memperhatikan poin-poin penting dalam permintaan bantuan yang ada dalam panduan ini. Sebagai tambahan, penting bagi Negara Peminta memperhatikan format standar Surat Permintaan Bantuan yang disediakan oleh Otoritas Pusat yang mencakup:

1. Persyaratan pengajuan permintaan bantuan;
2. Surat permintaan bantuan;
3. Identitas dari institusi yang mengajukan permintaan;
4. Pokok masalah dan hakikat dari penyidikan, penuntutan, atau pemeriksaan di sidang pengadilan yang berhubungan dengan permintaan tersebut, serta nama dan fungsi institusi yang melakukan penyidikan, penuntutan, dan proses peradilan;
5. Ringkasan fakta terkait;
6. Ketentuan undang-undang terkait, pasal, dan ancaman pidananya;
7. Uraian tentang bantuan yang diminta;
8. Rincian prosedur khusus yang dikehendaki, termasuk kerahasiaan, dan tujuan bantuan; dan
9. Syarat lain yang ditentukan.

Tahap 2. Penilaian dan Penelaahan Permintaan Bantuan Timbal Balik

Setelah penerimaan surat permintaan bantuan, Otoritas Pusat akan menugaskan analis bantuan timbal balik (*case officer*) yang akan melakukan penilaian dan penelaahan terhadap dokumen permintaan. Berdasarkan penilaian, suatu permintaan bantuan timbal balik dapat diterima atau ditolak. Dalam hal permintaan diterima, maka prosedur dilanjutkan dengan tahapan penelaahan. Penelaahan dilakukan untuk memeriksa kelengkapan dan kesesuaian dokumen permintaan bantuan dengan aturan perundang-undangan yang berlaku di Indonesia. Jika berdasarkan hasil penelaahan ditemukan kekurangan, maka Otoritas Pusat akan berkoordinasi dengan Negara Peminta baik secara langsung dengan Otoritas Pusat negara lain maupun melalui saluran diplomatik untuk mengirimkan tambahan kekurangan informasi atau data yang

diperlukan.

Dalam memproses permintaan bantuan selain didasarkan pada kriteria yang ditentukan undang-undang melalui penilaian dan penelaahan, Otoritas Pusat akan melakukan prioritas. Secara umum prioritas dilakukan terhadap permintaan dengan pertimbangan sebagai berikut:

1. Relasi antara Pemerintah Indonesia dengan Negara Peminta. Dalam hal ini termasuk adanya perjanjian bilateral, regional, maupun sebagai sesama anggota konvensi internasional yang terkait dengan bantuan timbal balik, dan adanya komitmen resiprositas.
2. Tingkat keseriusan kejahatan yang ditangani. Untuk kriteria ini Otoritas Pusat juga akan melakukan penilaian terhadap proporsionalitas permintaan dengan jenis kejahatan yang ditangani dan pertimbangan *de minimis* dari kejahatan yang dimintai bantuan. Salah satu pertimbangan *de minimis* dapat dinilai berdasarkan nilai kejahatan atau kerugian atau keuntungan dari kejahatan dengan upaya yang akan dilakukan oleh Pemerintah Indonesia untuk memenuhi permintaan bantuan tersebut.
3. Urgensitas. Selain relasi dan keseriusan, urgensi juga akan menjadi kriteria penting untuk diprioritaskan dalam pelaksanaan permintaan bantuan.

Berdasarkan telaahan, Otoritas Pusat mengirimkan dokumen permintaan bantuan timbal balik yang disertai dengan Surat Tindak Lanjut kepada Otoritas Berwenang.

Tahap 3. Koordinasi dengan Instansi Penegak Hukum Indonesia dan Penyampaian Tanggapan kepada Negara Peminta

Rekomendasi hasil penilaian dan penelaahan kemudian dikoordinasikan dengan instansi penegak hukum. Berdasarkan koordinasi dan tanggapan yang disampaikan instansi terkait dengan permintaan bantuan, Otoritas Pusat akan mengirimkan Surat Jawaban kepada Negara Peminta. Dalam penyampaian tersebut, Otoritas Pusat berkoordinasi dengan Otoritas Pusat Negara Diminta. Jika diperlukan, Otoritas Pusat juga dapat berkoordinasi langsung di Negara

Peminta untuk mendiskusikan bantuan yang dimintakan (*case work*).

Tahap 4. Pemantauan Pelaksanaan, Penyampaian dan Umpan Balik (Feedback)

Dalam hal permintaan bantuan timbal balik diterima, Otoritas Pusat memfasilitasi dan melakukan pemantauan terhadap pelaksanaan bantuan timbal balik. Pelaksanaan pemantauan dilakukan secara periodik untuk melihat perkembangan pelaksanaan bantuan timbal balik. Jika diperlukan, Otoritas Pusat dapat meminta instansi yang melaksanakan bantuan (Kepolisian atau Kejaksaan) untuk menyampaikan hasil perkembangan pelaksanaan bantuan kepada Otoritas Pusat selambatnya dalam waktu 14 (empat belas) hari kerja sejak diterimanya permintaan dari Otoritas Pusat.

Apabila pelaksanaan bantuan timbal balik telah selesai dilaksanakan oleh instansi pelaksana bantuan, Otoritas Pusat akan menyampaikan hasil pelaksanaan tersebut dan meminta umpan balik terhadap hasil pelaksanaan bantuan melalui Otoritas Pusat Negara Peminta.

F. POIN-POIN PENTING YANG PERLU DIPERHATIKAN NEGARA PEMINTA DALAM MENGAJUKAN PERMINTAAN BANTUAN TIMBAL BALIK KEPADA PEMERINTAH INDONESIA

Untuk memperlancar proses permintaan bantuan, penting bagi Otoritas Pusat Negara Peminta agar memperhatikan beberapa poin berikut ketika mengajukan permintaan bantuan timbal balik dalam masalah pidana kepada Pemerintah Indonesia:

1. Instansi penegak hukum yang mengajukan permintaan bantuan berkoordinasi dengan Otoritas Pusat Negara Peminta dalam menyampaikan permintaan bantuan timbal balik.
2. Memperhatikan kesesuaian permintaan dengan hukum yang berlaku di Indonesia dan proporsionalitas tindak pidananya.
3. Menyatakan mekanisme yang digunakan untuk mengajukan permintaan bantuan atau kesanggupan resiprositas.

4. Menyampaikan informasi terkait instansi penegak hukum yang mengajukan permintaan bantuan dan dasar hukumnya.
5. Menerangkan posisi kasus terkait dengan permintaan bantuan yang diajukan dan aturan perundang-undangan yang dilanggar serta ancaman hukumannya. Melakukan identifikasi bantuan yang akan diminta dan kerahasiaannya.
6. Menyatakan kesanggupan untuk memenuhi persyaratan wajib lainnya dan penggunaan alat/barang bukti.
7. Menjelaskan urgensi waktu pelaksanaan bantuan dan penyediaan narahubung.

Poin 1. Koordinasikan Permintaan dengan Otoritas Pusat Negara Masing-Masing

Meskipun komunikasi permintaan bantuan secara informal dapat dilakukan melalui forum antara penegak hukum, permintaan bantuan resmi kepada Pemerintah Indonesia hanya dapat diterima apabila melalui komunikasi antara Otoritas Pusat. Terutama untuk permintaan bantuan yang sangat khusus dan terkait dengan penanganan tindak pidana atau kasus yang penting, akan sangat direkomendasikan agar instansi pemohon dari negara asing berkoordinasi dengan Otoritas Pusat di negara masing-masing sebelum mengajukan permintaan bantuan timbal balik. Otoritas Pusat akan memberikan arahan apakah bantuan yang diperlukan dari Pemerintah Indonesia sesuai dengan peraturan perundang-undangan yang tersedia di Indonesia dan memenuhi persyaratan untuk pengajuan permintaan bantuan timbal balik. Dalam pengajuan permintaan bantuan kepada Pemerintah Indonesia, Surat Permintaan Bantuan disampaikan dengan menggunakan bahasa negara peminta dan Bahasa Inggris yang disertai dengan terjemahannya dalam Bahasa Indonesia. Dokumen terjemahan dari Negara Peminta harus diberi stempel penerjemah tersumpah dan disertai pernyataan bahwa dokumen terjemahan adalah sesuai dengan aslinya.

Poin 2. Pastikan Permintaan Sesuai dengan Norma Hukum di Indonesia dan Proporsional dengan Tindak Pidananya

Negara Peminta perlu memastikan agar permintaan tidak bertentangan dengan hukum nasional Indonesia dan sesuai dengan ketentuan yang diatur dalam Undang-Undang Nomor 1 Tahun 2006 tentang Bantuan Timbal Balik dalam Masalah Pidana. Selain itu, Negara Peminta juga perlu memperhatikan proporsionalitas permintaan bantuan yang diajukan dengan tingkatan kejahatan. Dengan keterbatasan sumber daya yang ada dalam sistem peradilan pidana di Indonesia, Negara Peminta diharuskan dengan tegas menyebutkan prioritas atau urgensi penanganan bantuan yang diperlukan. Jika tindak pidana yang diproses merupakan tindak pidana atau kejahatan ringan, permintaan bantuan mungkin ditindaklanjuti dengan prioritas rendah. Prioritas akan diberikan kepada permintaan bantuan yang lebih terikat waktu.

Poin 3. Dasar Hukum yang Digunakan untuk Mengajukan Permintaan Bantuan dan Prinsip Resiprositas

Ketika menyusun surat permintaan, Negara Peminta perlu menyebutkan dengan jelas perjanjian internasional yang tersedia dengan Pemerintah Indonesia yang dapat menjadi dasar hukum bantuan timbal balik dalam masalah pidana. Perjanjian, baik itu yang merupakan perjanjian bilateral (*treaty*), regional, maupun konvensi internasional, dapat dirujuk sebagai dasar permintaan bantuan timbal balik dengan Indonesia.

Dalam hal Negara Peminta bukan merupakan negara yang memiliki perjanjian dengan Pemerintah Indonesia atau bukan anggota konvensi internasional yang terkait, maka prinsip resiprositas akan berlaku terhadap negara-negara tersebut. Berlakunya prinsip resiprositas berarti bahwa Negara Peminta harus menyatakan kesanggupan untuk secara timbal balik memberikan bantuan dalam hal diperlukan oleh Pemerintah Indonesia ke depannya.

"Pemerintah [nama Negara Peminta] menyatakan kesanggupannya bahwa di masa yang akan datang akan memberikan bantuan kepada Pemerintah Indonesia untuk bantuan yang serupa dalam masalah pidana."

Poin 4. Informasi Terkait Otoritas yang Melakukan Investigasi atau Menangani Perkara

Negara Peminta perlu menyebutkan dengan jelas lembaga penegak hukum yang mengajukan permintaan bantuan timbal balik yang sedang melaksanakan proses penegakan hukum atau pemeriksaan di persidangan. Informasi tersebut juga harus disertai dengan dasar hukumnya. Surat permintaan bantuan harus juga menyebutkan tahapan dalam proses penegakan hukum.

Agar komunikasi berjalan efektif, khususnya guna proses klarifikasi maupun kebutuhan pemenuhan persyaratan dan informasi terkait, Negara Peminta juga harus menyediakan daftar kontak nama dan nomor telepon maupun jalur komunikasi lainnya yang relevan menangani penegakan hukum atau persidangan. Daftar tersebut termasuk juga kontak lain yang perlu dihubungi mewakili Otoritas Pusat Negara Peminta.

Poin 5. Jelaskan Posisi Kasus dan Aturan Perundang-undangan yang Dilanggar serta Ancaman Hukumannya

Untuk mengajukan permintaan bantuan timbal balik kepada Pemerintah Indonesia, Negara Peminta harus menyertakan informasi terkait perkara yang sedang ditangani. Informasi tersebut meliputi ringkasan perkara, ketentuan pidana yang diduga dilanggar atau didakwakan, maupun ancaman pidananya. Informasi mengenai pelanggaran aturan perundang-undangan dan ancaman pidananya harus dikutip secara langsung. Posisi kasus harus juga menjelaskan kaitannya dengan bantuan yang diminta dan alasannya.

Poin 6. Identifikasi Bantuan yang Diminta dan Kerahasiaannya

Sesuai dengan kasus posisi yang disampaikan, Negara Peminta juga diharapkan menyatakan dengan istilah yang jelas bentuk bantuan yang dimintakan kepada Pemerintah Indonesia dan pelaksanaan prosedur yang diperlukan untuk memenuhi kesesuaian kebutuhan Negara Peminta.

Perlu disebutkan bahwa dalam hukum Indonesia, permintaan bantuan secara umum merupakan informasi rahasia. Namun demikian pembukaan informasi kepada pihak tertentu dimungkinkan apabila diperlukan dalam melaksanakan permintaan bantuan sepanjang adanya persetujuan tertulis dari Otoritas Pusat dan/atau dari Negara yang memiliki informasi atas bantuan yang diminta. Terkait dengan kondisi tersebut, jika perkara dimaksud tergolong sensitif dan sangat rahasia, Negara Peminta perlu menyebutkan dengan jelas alasan kerahasiaan dalam surat permintaan dan prosedur khusus yang perlu dilaksanakan dalam menjaga kerahasiaan informasi dan menggunakan informasi yang terdapat dalam surat permintaan sesuai dengan tujuan surat permintaan.

Negara Peminta juga bertanggung jawab untuk menjaga kerahasiaan atas informasi yang diperoleh dari Negara Diminta. Jika diperlukan, Negara Peminta perlu menyampaikan komitmen secara tertulis untuk menjaga kerahasiaan informasi yang diperoleh dari Indonesia berdasarkan ketentuan yang berlaku di Indonesia dan dilakukan sepanjang tidak mengganggu kepentingan nasional dengan memperhatikan ketentuan peraturan perundang-undangan.

Poin 7. Persyaratan Wajib Lainnya dan Penggunaan Bukti

Pemerintah Indonesia juga akan meminta pernyataan kesanggupan untuk dilaksanakan oleh Negara Peminta ketika bantuan timbal balik diajukan kepada Otoritas Pusat:

1. Permintaan bantuan timbal balik tidak terkait dengan investigasi dan penuntutan terhadap subjek hukum, yang apabila perbuatannya dilakukan di wilayah Republik

Indonesia dapat dikualifikasikan sebagai tindak pidana militer berdasarkan hukum positif Indonesia;

2. Permintaan bantuan timbal balik tidak dibuat dengan tujuan untuk penuntutan atau pemidanaan yang setidaknya menyebabkan perlakuan bias terhadap seseorang dengan alasan warna, ras, etnis, gender, agama, kebangsaan dan pendapat politiknya;
3. Bahwa kecuali Jaksa Agung Pemerintah Indonesia memberikan persetujuan sebaliknya, bukti apapun yang diperoleh melalui mekanisme bantuan timbal balik tidak digunakan untuk tujuan lain selain persoalan pidana yang mendasari permintaan bantuan;
4. Apabila Jaksa Agung Pemerintah Indonesia meminta agar pengembalian terhadap bukti apapun yang diperoleh melalui bantuan timbal balik setelah proses persidangan mencapai kekuatan hukum tetap, maka bukti tersebut harus dikembalikan kepada Jaksa Agung. Apabila bukti dimaksud akan dipergunakan untuk kepentingan lain atau perkara lainnya, maka Negara Peminta harus mengajukan izin kepada Otoritas Pusat Republik Indonesia terlebih dahulu.

Poin 8. Sebutkan Urgensi Waktu Pelaksanaan Bantuan

Sebutkan dengan jelas batasan waktu yang diperlukan untuk melaksanakan tindak lanjut permintaan bantuan disertai dengan alasannya (misalnya: batasan waktu investigasi). Nyatakan juga tanggalnya jika ada batasan waktu spesifik, misalnya ketika diperlukan menghadirkan saksi ke depan persidangan secara langsung (didatangkan atau *live streaming*).

G. HAL-HAL YANG PERLU DIPERHATIKAN TERKAIT PERMINTAAN BANTUAN TIMBAL BALIK

1. Penolakan Permintaan Bantuan Timbal Balik

Permintaan bantuan memiliki prasyarat untuk dapat diterima. Beberapa syarat tersebut ada yang bersifat mutlak dan ada juga yang bersifat fakultatif. Permintaan bantuan timbal balik ditolak apabila:

- a. Tindak pidana yang dianggap sebagai tindak pidana politik, kecuali pembunuhan atau percobaan pembunuhan terhadap kepala negara/ kepala pemerintahan, terorisme, atau tindak pidana berdasarkan hukum militer;
- b. Tindak pidana yang pelakunya telah dibebaskan, diberi grasi, atau telah selesai menjalani ppidanaan;
- c. Tindak pidana yang jika dilakukan di Indonesia tidak dapat dituntut;
- d. Penegakan hukum yang dilakukan karena alasan suku, jenis kelamin, agama, kewarganegaraan, dan politik;
- e. Akan merugikan kedaulatan, keamanan, kepentingan, dan hukum nasional;
- f. Negara asing tidak dapat memberikan jaminan bahwa hal yang dimintakan bantuannya tidak digunakan untuk penanganan perkara selain dari pada yang dimintakan;
- g. Negara asing tidak memberikan jaminan pengembalian bukti yang diperoleh berdasarkan bantuan apabila diminta;

Apabila berpotensi merugikan atau tidak sesuai dengan hukum Indonesia, maka permintaan bantuan juga dapat ditolak. Selain itu, permintaan bantuan dapat ditolak apabila:

a. Tindak pidana yang apabila dilakukan di wilayah Indonesia, bukan merupakan tindak pidana

Permintaan Bantuan kepada Pemerintah Indonesia terkait ppidanaan terhadap orang atas tindak pidana yang jika dilakukan dalam wilayah Indonesia bukan merupakan tindak pidana, Menteri dapat menyetujui dengan syarat dan ketentuan khusus yang harus dipenuhi oleh Negara Peminta, sebagai berikut:

- 1) Negara Peminta menyampaikan komitmen secara tertulis untuk memberlakukan prinsip resiprositas atas pemenuhan permintaan bantuan dari Pemerintah Indonesia;
- 2) Unsur-unsur tindak pidana yang disangkakan atau didakwakan terhadap orang tersebut merupakan unsur-unsur tindak pidana berdasarkan perjanjian internasional dimana Indonesia dan Negara Peminta menjadi pihak; dan

- 3) Pemenuhan Bantuan tidak merugikan kepentingan nasional Indonesia dengan mempertimbangkan data dan informasi dari instansi, kementerian/lembaga terkait.

b. Tindak pidana yang apabila dilakukan di luar Indonesia, bukan merupakan tindak pidana

- 1) Permintaan Bantuan dari Pemerintah Indonesia terhadap orang atas tindak pidana yang jika dilakukan di luar wilayah Indonesia bukan merupakan tindak pidana, dapat ditindaklanjuti dengan syarat dan ketentuan khusus, sebagai berikut: Indonesia menyampaikan komitmen secara tertulis untuk memberlakukan prinsip resiprositas atas pemenuhan permintaan bantuan dari Negara Diminta;
- 2) Unsur-unsur tindak pidana yang disangkakan atau didakwakan terhadap orang tersebut merupakan unsur-unsur tindak pidana berdasarkan perjanjian internasional dimana Indonesia dan Negara Diminta menjadi pihak; dan
- 3) Pemenuhan Bantuan tidak merugikan kepentingan nasional Indonesia dengan mempertimbangkan data dan informasi dari instansi, kementerian/lembaga terkait.

c. Tindak pidana yang diancam dengan hukuman mati

Dalam hal permintaan dari Negara Peminta terhadap tindak pidana yang diancam hukuman mati, Menteri dapat menyetujuinya jika Negara Peminta memberikan komitmen tertulis bahwa Negara Peminta tidak akan menjatuhkan pidana mati kepada tersangka atau terdakwa. Apabila hakim menjatuhkan pidana mati, maka pidana tersebut tidak akan dilaksanakan.

d. Merugikan penegakan hukum di Indonesia

Permintaan bantuan dinyatakan merugikan penegakan hukum di Indonesia diantaranya yang apabila dilaksanakan akan menghambat pelaksanaan proses hukum di Indonesia.

Dalam hal dianggap akan merugikan suatu penyidikan, penuntutan, dan pemeriksaan di sidang pengadilan di Indonesia, bantuan dapat diberikan setelah Negara Peminta memberikan pernyataan kesediaan secara tertulis bahwa pemenuhan permintaan tersebut

akan mendahulukan atau menunggu proses penyidikan, penuntutan, dan pemeriksaan sidang pengadilan di Indonesia sampai dinyatakan selesai.

e. Membahayakan keselamatan Warga Negara Indonesia

Dalam hal pemenuhan permintaan bantuan dianggap akan membahayakan keselamatan Warga Negara Indonesia, Menteri dapat menyetujui jika Negara Peminta dapat memberikan komitmen tertulis bahwa pemenuhan permintaan tersebut tidak membahayakan keselamatan Warga Negara Indonesia dan Negara Peminta harus memberikan perlindungan terhadap keselamatan Warga Negara Indonesia.

f. Membebani kekayaan negara

Dalam hal pemenuhan permintaan bantuan dianggap akan membebani kekayaan negara, Menteri dapat menyetujui jika Negara Peminta dapat memberikan pernyataan kesanggupan untuk turut menanggung komponen-komponen biaya tambahan yang diperlukan berdasarkan kesepakatan kedua pihak atau dilakukan berdasarkan perjanjian yang mengatur mengenai *asset sharing*.

2. Kriminalitas Ganda (*Double Criminality*)

Permintaan bantuan timbal balik dalam masalah pidana di Indonesia dilaksanakan dengan asas kriminalitas ganda. Penentuan pemenuhan asas kriminalitas ganda ditentukan berdasarkan perbuatan yang memenuhi unsur-unsur tindak pidana baik di Negara Peminta maupun Negara Diminta, terlepas dari penempatan tindak pidana pada kategori yang sama atau menyebut tindak pidana tersebut dengan istilah yang sama.

3. Biaya untuk Pelaksanaan Bantuan Timbal Balik

Segala biaya yang timbul akibat pelaksanaan permintaan bantuan timbal balik dibebankan kepada Negara Peminta. Kecuali, apabila ditentukan berbeda oleh Negara Peminta dan Negara Diminta. Biaya dimaksud adalah biaya standar yang diatur penggunaannya berdasarkan pagu anggaran di Negara Diminta.

4. Bagi hasil dari harta kekayaan yang dirampas dalam Pelaksanaan Bantuan Timbal Balik

Menteri dapat membuat perjanjian atau kesepakatan dengan negara asing untuk mendapatkan penggantian biaya dan bagi hasil dari hasil harta kekayaan yang dirampas:

- a. di negara asing, sebagai hasil dari tindakan yang dilakukan berdasarkan putusan perampasan atas permintaan Menteri; atau
- b. di Indonesia, sebagai hasil dari tindakan yang dilakukan di Indonesia berdasarkan putusan perampasan atas permintaan negara asing.

Penerimaan penggantian biaya pelaksanaan permintaan bantuan timbal balik oleh Indonesia dan penerimaan pelaksanaan perjanjian atau kesepakatan atas pembagian hasil atas perampasan harta kekayaan disetor ke kas umum negara sebagai Penerimaan Negara Bukan Pajak (PNBP) sesuai dengan peraturan perundang-undangan yang berlaku.

5. Pemanfaatan sistem teknologi dan informasi dalam pelaksanaan permintaan bantuan timbal balik dalam masalah pidana

Data permintaan bantuan timbal balik dalam masalah pidana baik dari dan kepada Indonesia diolah menggunakan aplikasi basis data secara elektronik. Aplikasi ini bertujuan untuk menjaga keamanan dan kerahasiaan penanganan permintaan bantuan timbal balik, serta berfungsi sebagai sistem manajemen yang akurat dengan fitur pengingat/*reminder* sehingga permintaan bantuan timbal balik dapat ditindaklanjuti secara tepat waktu.

Dalam berkoordinasi dengan Negara Asing, Otoritas Pusat memaksimalkan penggunaan surat elektronik resmi guna menjaga keamanan dan kerahasiaan informasi terkait dengan pelaksanaan permintaan bantuan timbal balik.

Informasi yang meliputi pedoman pelaksanaan permintaan bantuan timbal balik dalam masalah pidana tersedia dalam *website* resmi Otoritas Pusat Indonesia dalam Bahasa Inggris dan Bahasa Indonesia.

BAB III
BENTUK BANTUAN TIMBAL BALIK

A. MENGIDENTIFIKASI DAN Mencari ORANG

Negara Peminta dapat mengajukan permintaan bantuan untuk mengidentifikasi dan mencari orang apabila permintaan bantuan tersebut berkaitan dengan suatu penyidikan, penuntutan, dan pemeriksaan di sidang pengadilan di Negara Peminta tersebut, sementara orang yang dicari terkait dengan permintaan bantuan tersebut diduga atau patut diduga berhubungan dengan suatu tindak pidana atau dapat memberikan pernyataan atau bantuan lainnya dalam suatu penyidikan, penuntutan, dan pemeriksaan di sidang pengadilan. Selain itu, Negara Peminta juga harus menyediakan alasan kuat atas dugaan bahwa orang yang dicari berada di Indonesia. Pelaksanaan identifikasi dan pencarian orang atas permintaan bantuan dilaksanakan oleh Kepala Kepolisian Negara Republik Indonesia.

Tahapan	Pelaksana
Penyidikan, penuntutan, dan pemeriksaan di sidang pengadilan	Kepala Kepolisian Negara Republik Indonesia

Tabel 3. Pelaksana Jenis Bantuan Mengidentifikasi dan Mencari Orang

B. BANTUAN UNTUK Mendapatkan PERNYATAAN, DOKUMEN, DAN BUKTI LAINNYA SECARA SUKARELA

Dalam permintaan bantuan untuk mendapatkan pernyataan, dokumen dan bukti lainnya maka Negara Peminta harus menjelaskan bahwa bantuan tersebut berkaitan dengan suatu penyidikan, penuntutan, dan pemeriksaan di sidang pengadilan di Negara Peminta dan statusnya sebagai tersangka atau saksi. Apabila permintaan tersebut berupa keterangan atau pernyataan, maka Negara Peminta harus juga melampirkan daftar pertanyaan dan/atau uraian bahwa Pernyataan dapat diambil di Indonesia. Dalam hal pemberian Bantuan disetujui, Negara Peminta dapat meminta salinan dokumen dilegalisasi. Menteri akan meminta pejabat yang berwenang di lingkungannya untuk melegalisasi salinan dokumen yang diperlukan dan menyerahkannya kembali kepada Menteri.

Bantuan untuk mendapatkan pernyataan, dokumen, maupun bukti lain, dilaksanakan oleh Jaksa Agung Republik Indonesia dan Kepala Kepolisian Negara Republik Indonesia sesuai dengan tahapan pemeriksaan perkara di Negara Peminta. Dalam hal pernyataan, dokumen dan bukti lainnya yang diminta terkait dengan bukti perbankan, Bantuan dapat diberikan jika memenuhi persyaratan pengecualian kerahasiaan perbankan berdasarkan ketentuan yang berlaku di Indonesia dan dilakukan sepanjang tidak mengganggu kepentingan nasional dengan memperhatikan ketentuan peraturan perundang-undangan di bidang hubungan luar negeri dan perjanjian internasional. Permintaan bantuan berupa bukti perbankan sebaiknya diajukan setelah Negara Peminta melakukan pelacakan aset (*asset tracing*) dengan mekanisme melalui kerja sama *financial intelligence units* (FIUs).

Dalam menindaklanjuti permintaan bantuan berupa dokumen dan bukti lain pada lingkup tugas dan fungsi Kementerian Hukum dan HAM RI, termasuk diantaranya data narapidana, perlintasan keimigrasian, badan hukum, merek, dan paten, Menteri dapat berkoordinasi langsung dengan bagian yang memiliki akses terhadap database dimaksud guna memastikan kecepatan dan akurasi data. Mekanisme ini tidak mengabaikan pelaksanaan permintaan bantuan oleh Jaksa Agung Republik Indonesia dan Kepala Kepolisian Negara Republik Indonesia sesuai dengan tahapan pemeriksaan perkara di Negara Peminta.

Tahapan	Pelaksana
Penyidikan	Kepala Kepolisian Negara Republik Indonesia
Penuntutan dan pemeriksaan di sidang pengadilan	Jaksa Agung Republik Indonesia

Tabel 4. Pelaksana Jenis Bantuan untuk Mendapatkan Pernyataan, Dokumen, dan Bukti Lainnya Secara Sukarela

Perlu diperhatikan, Undang-Undang mengatur bahwa orang yang terkait dengan permintaan bantuan tidak dapat dipaksa untuk memberikan pernyataan di Indonesia. Apabila orang yang terkait dengan permintaan bantuan merupakan pejabat, maka yang bersangkutan tidak dapat dipaksa untuk memberikan pernyataan, menyerahkan dokumen, atau bukti lainnya dalam suatu penyidikan, penuntutan, dan pemeriksaan di sidang pengadilan di Negara Peminta jika hukum

Indonesia melarang orang dalam kedudukan dan jabatan tersebut melakukannya.

Dalam kaitannya dengan pemberian bantuan, orang tersebut memiliki hak untuk tidak:

1. Ditahan, dituntut, diadili, dan dipidana berdasarkan hukum Negara Peminta untuk setiap tindak pidana yang diduga telah dilakukan atau yang dilakukan sebelum keberangkatannya dari Indonesia untuk memenuhi permintaan tersebut;
2. Digugat pada setiap perkara perdata Negara Peminta berkaitan dengan perbuatan atau kelalaian yang telah terjadi sebelum keberangkatan orang tersebut dari Indonesia untuk memenuhi permintaan tersebut;
3. Diharuskan untuk memberikan keterangan atau bantuan lainnya berkaitan dengan setiap masalah hukum di Indonesia selain masalah pidana yang terkait dengan permintaan tersebut; atau
4. Diharuskan, dalam proses penyidikan, penuntutan, atau pemeriksaan di sidang pengadilan yang terkait dengan permintaan tersebut untuk memberikan jawaban yang menurut hukum negaranya tidak diperbolehkan untuk dijawab.

Untuk pelaksanaan permintaan bantuan dan memastikan perlindungan terhadap orang yang terkait, surat keterangan kekebalan hukum yang disahkan berdasarkan hukum Negara Peminta diakui sebagai bukti yang diterima kebenarannya kecuali dapat dibuktikan sebaliknya tentang hal-hal yang disebutkan dalam pernyataan. Kemudian, orang yang terkait dengan permintaan bantuan sebagaimana dimaksud juga memiliki hak yang sama berkaitan dengan pemberian pernyataan, atau penyerahan dokumen atau bukti lain dan diperlakukan seolah-olah suatu penyidikan, penuntutan, dan pemeriksaan di sidang pengadilan atas diri orang tersebut belum mendapatkan putusan pengadilan yang telah memperoleh kekuatan hukum tetap di Indonesia.

C. BANTUAN UNTUK MENGUPAYAKAN KEHADIRAN ORANG DI NEGARA PEMINTA

Permintaan bantuan dapat diberikan untuk mengatur kehadiran orang yang berada di Indonesia ke Negara Peminta. Untuk permintaan tersebut, Negara Peminta harus menguraikan bahwa permintaan bantuan tersebut berkaitan dengan suatu penyidikan, penuntutan, dan pemeriksaan di sidang pengadilan, termasuk kehadiran di sidang pengadilan di Negara

Peminta tersebut. Selain itu harus disertakan dengan penjelasan bahwa orang yang diminta kehadirannya dinilai sanggup memberikan atau menunjukkan keterangan yang terkait dengan suatu penyidikan, penuntutan, dan pemeriksaan di sidang pengadilan di Negara Peminta. Apabila orang yang diminta hadir merupakan narapidana, Otoritas Pusat akan memerintahkan narapidana tersebut dikeluarkan dari lembaga pemasyarakatan dan mengatur perjalanannya ke Negara Peminta tersebut dengan pengawalan. Jika orang yang diminta untuk diatur kehadirannya adalah tahanan, Otoritas Pusat akan meminta pejabat yang melakukan penahanan untuk mengeluarkan dari tahanan dan mengatur perjalanannya ke Negara Peminta tersebut dengan pengawalan.

Penting untuk diperhatikan bahwa persetujuan permintaan bantuan untuk mengupayakan kehadiran orang di Negara Peminta hanya dapat dilakukan setelah ada jaminan dari Negara Peminta bahwa orang yang diminta kehadirannya:

1. Tidak akan ditahan, dituntut, atau diadili atas pelanggaran terhadap hukum Negara Peminta tersebut yang dituduhkan telah dilakukan orang tersebut sebelum keberangkatannya dari Indonesia;
2. Tidak akan digugat dalam perkara perdata yang dapat diajukan kepada orang tersebut apabila ia berada di Negara Peminta; atau
3. Tidak akan diminta memberikan keterangan atau menunjukkan bukti lainnya sehubungan dengan setiap penyidikan, penuntutan, dan pemeriksaan di sidang pengadilan di Negara Peminta tersebut selain dari suatu penyidikan, penuntutan, dan pemeriksaan di sidang pengadilan yang terkait dengan permintaan tersebut.

Selain itu, Negara Peminta juga harus menjamin berlakunya prinsip *non-self-incrimination* sehingga setiap keterangan yang diberikan oleh orang yang diminta kehadirannya tidak dapat digunakan dalam penuntutan terhadap orang tersebut atas pelanggaran terhadap hukum Negara Peminta. Jaminan tersebut termasuk memulangkan kembali orang tersebut ke Indonesia sesuai dengan pengaturan yang disetujui oleh Otoritas Pusat sesegera mungkin setelah memberikan keterangan.

Tahapan	Pelaksana
Penyidikan	Kepala Kepolisian Negara Republik Indonesia
Penuntutan dan pemeriksaan di sidang pengadilan	Jaksa Agung Republik Indonesia

Tabel 5. Pelaksana Jenis Bantuan untuk Mengatur Kehadiran Orang di Negara Peminta

D. TRANSIT TAHANAN

Negara Peminta dapat mengajukan permintaan transit untuk membawa saksi yang berstatus sebagai tahanan atau narapidana. Untuk mengajukan permintaan bantuan transit, Negara Peminta setidaknya harus menguraikan rute perjalanan, waktu, keterangan moda transportasi, dan lama transit. Dalam uraian tersebut termasuk juga identitas dan dokumen perjalanan tahanan atau narapidana dan pengawalnya, serta fasilitas yang diperlukan dalam masa transit.

Kepala Kepolisian Negara Republik Indonesia atau Menteri akan menindaklanjuti dengan memberikan izin transit dan menempatkan saksi di ruang transit dalam pengawasan setingkat pejabat negara asing paling lama 12 jam. Apabila transportasi yang digunakan dalam pengangkutan saksi membutuhkan waktu lebih dari 12 jam, maka orang tersebut harus dititipkan sementara di Rumah Tahanan Negara terdekat. Jika waktu transit telah melebihi permintaan, Menteri dapat memerintahkan agar orang tersebut segera dipulangkan ke Negara Peminta.

Tahapan	Pelaksana
Penyidikan, penuntutan, dan pemeriksaan di sidang pengadilan	Kepala Kepolisian Negara Republik Indonesia serta Menteri Hukum dan Hak Asasi Manusia

Tabel 6. Pelaksana Jenis Bantuan Transit Tahanan

E. BANTUAN UNTUK PENGGELEDAHAN DAN PENYITAAAN BARANG, BENDA, ATAU HARTA KEKAYAAN

Negara Peminta dapat mengajukan permintaan bantuan untuk melakukan penggeledahan dan penyitaan suatu barang, benda, atau harta kekayaan yang berada di Indonesia berdasarkan izin dan/atau penetapan pengadilan untuk kepentingan penyidikan atau pemeriksaan di sidang pengadilan. Dalam permintaan bantuannya, Negara Peminta harus

melampirkan juga surat perintah penggeledahan dan surat perintah penyitaan yang dikeluarkan oleh pejabat berwenang di Negara Peminta.

Untuk melaksanakan permintaan bantuan, Kepala Kepolisian Negara Republik Indonesia atau Jaksa Agung Republik Indonesia mengajukan permohonan surat izin penggeledahan dan penyitaan kepada Ketua Pengadilan Negeri setempat. Dalam hal ada pihak yang dirugikan atas tindakan penyitaan tersebut, pihak yang dirugikan dan/atau kuasa hukumnya dapat mengajukan keberatan atau perlawanan kepada pengadilan negeri yang mengeluarkan surat izin penyitaan sesuai hukum acara pidana.

Perlu diperhatikan bahwa pengiriman barang, benda, harta kekayaan, atau bukti penyitaan atas barang, benda, atau harta kekayaan untuk kepentingan proses peradilan pidana di Negara Peminta, hanya dapat dilakukan setelah ada pernyataan jaminan bahwa Negara Peminta akan mengembalikan barang, benda, atau harta kekayaan tersebut.

Tahapan	Pelaksana
Penyidikan	Kepala Kepolisian Negara Republik Indonesia
Penuntutan dan pemeriksaan di sidang pengadilan	Jaksa Agung Republik Indonesia

Tabel 7. Pelaksana untuk Jenis Bantuan Melakukan Penggeledahan dan Penyitaan Suatu Barang, Benda, atau Harta Kekayaan

F. BANTUAN PENYAMPAIAN SURAT

Permintaan bantuan dapat dilakukan dalam bentuk penyampaian surat kepada seseorang di Indonesia. Untuk permintaan bantuan tersebut, Negara Peminta harus menjelaskan kaitan permintaan bantuan tersebut dengan suatu proses penyidikan, penuntutan, dan pemeriksaan di sidang pengadilan di Negara Peminta. Selain itu, dalam permintaan bantuan harus dijelaskan keberadaan orang tersebut di Indonesia.

Apabila surat yang disampaikan merupakan Surat Panggilan maka permintaan bantuan setidaknya diajukan 45 (empat puluh lima) hari sebelum tanggal kehadiran orang yang dipanggil tersebut diperlukan. Bersama surat tersebut disertakan jaminan untuk tidak dikriminalisasi atau digugat sebagaimana asas *non-self incrimination*.

Penyampaian surat dilaksanakan oleh Kepala Kepolisian Negara Republik Indonesia baik berdasarkan prosedur yang ditentukan oleh Negara Peminta maupun prosedur yang berlaku dalam hukum Indonesia.

Kepala Kepolisian Negara Republik Indonesia akan melaporkan perkembangan penyampaian surat tersebut, termasuk apabila tidak dapat dilaksanakan.

Tahapan	Pelaksana
Penyidikan, penuntutan, dan pemeriksaan di sidang pengadilan	Kepala Kepolisian Negara Republik Indonesia

Tabel 8. Pelaksana untuk Jenis Bantuan Penyampaian Surat

G. BANTUAN UNTUK MENINDAKLANJUTI PUTUSAN PENGADILAN NEGARA PEMINTA

Bantuan terkait tindak lanjut putusan pengadilan dapat diberikan dalam hal:

1. Penyitaan dan perampasan harta kekayaan;
2. Pengenaan denda; dan/atau
3. Pembayaran uang pengganti.

Untuk mengajukan permintaan bantuan terkait tindak lanjut putusan pengadilan, Negara Peminta harus menyediakan uraian informasi perihal harta kekayaan yang dimaksud dan lokasinya, disertai dengan bukti-bukti kepemilikan orang atas harta kekayaan tersebut. Pelaksanaan permintaan tindak lanjut putusan pengadilan akan dilaksanakan oleh Jaksa Agung Republik Indonesia dengan izin penyitaan dari pengadilan negeri setempat.

Perlu diperhatikan bahwa Pemerintah Indonesia akan mempublikasikan upaya penyitaan tersebut dan menyediakan waktu bagi pemilik yang berkeberatan atau pihak lain yang merasa dirugikan untuk melakukan perlawanan atau keberatan. Penetapan perampasan dilakukan setelah dalam masa tenggat waktu yang ditentukan, tidak ada perlawanan atau keberatan.

Tahapan	Pelaksana
Eksekusi putusan pengadilan	Jaksa Agung Republik Indonesia

Tabel 9. Pelaksana Jenis Bantuan untuk Menindaklanjuti Putusan Pengadilan

BAB IV

FORMAT MODEL PERMINTAAN

A. MODEL FORMULIR PERMINTAAN BANTUAN DARI INSTANSI BERWENANG DI INDONESIA KEPADA NEGARA ASING (*OUTGOING*)

Sebagai panduan untuk mempermudah Analisis Bantuan Timbal Balik maupun aparat penegak hukum dari instansi yang berwenang di Indonesia dalam pengajuan permintaan bantuan, berikut ini telah disusun contoh format surat permintaan bantuan timbal balik yang digunakan oleh Otoritas Pusat Indonesia kepada Negara Asing, yang dalam penyampaiannya ke negara asing akan diterjemahkan ke dalam bahasa pergaulan internasional, yaitu bahasa Inggris, atau bahasa resmi negara tersebut. Adapun format *template* surat permintaan bantuan timbal balik yang akan disampaikan oleh Pemerintah RI kepada Negara Asing dapat dilihat dalam bentuk sistematika sebagai berikut:

Kepada:

[Nama Otoritas Pusat dari Negara yang Dituju]
[Melalui saluran diplomatik-apabila dilakukan melalui saluran diplomatik]

Dari:

Otoritas Pusat Republik Indonesia
Direktorat Otoritas Pusat dan Hukum Internasional
Direktorat Jenderal Administrasi Hukum Umum
Menteri Hukum dan Hak Asasi Manusia Republik Indonesia

Jl. H.R. Rasuna Said Kav.6-7 Kuningan, Jakarta Selatan
Republik Indonesia

PERMINTAAN BANTUAN TIMBAL BALIK DALAM MASALAH PIDANA

HAL: *(masukan detail perihal)*

PENDAHULUAN

1. Saya ... (lembaga atau badan yang ditunjuk sebagai Otoritas Pusat), ditetapkan sebagai Otoritas Pusat untuk membuat dan menerima permintaan bantuan timbal balik dalam masalah pidana untuk atas nama ... (Negara Peminta), menyampaikan permintaan ini kepada Otoritas Pusat ... (Negara Diminta).

KEWENANGAN UNTUK MELAKUKAN PERMINTAAN BANTUAN

2. Permintaan ini dibuat berdasarkan ... (sebutkan aturan yang khusus sebagai dasar hukum, seperti perjanjian bilateral atau konvensi)

SIFAT PERMINTAAN

- 3.1. Permintaan ini terkait dengan ... (perbuatan pidana yang menjadi dasar permintaan) perihal ... (jelaskan mengenai perbuatan pidana tersebut)
- 3.2. Keterangan mengenai subjek dari perbuatan pidana tersebut adalah sebagai berikut:
 - Nama/Penjelasan:
 - Umur:
 - Pekerjaan:
 - Kebangsaan:
 - Nomor Paspor:
 - Alamat/Lokasi:
- 3.3. Keterangan terhadap barang/properti untuk dilacak/dibekukan/dirampas adalah sebagai berikut:
 - Penjelasan:
 - Lokasi:
 - Informasi relevan lainnya:
- 3.4. Alasan untuk menduga bahwa orang/barang berada di ... (Negara Diminta) adalah sebagai berikut:
- 3.5. Instansi yang berwenang dalam menangani masalah pidana adalah ... (jelaskan kewenangan instansi dalam masalah pidana).

KASUS POSISI

4. (Jelaskan fakta-fakta yang berkaitan dengan masalah pidana, termasuk secara khusus, fakta yang diperlukan untuk membangun keadaan yang berkaitan dengan bukti yang diajukan kepada Negara Diminta dan relevansi bukti tersebut dengan masalah pidana yang diproses oleh Negara Peminta).

TINDAK PIDANA/ ATURAN PERUNDANG-UNDANGAN/ SANKSI

- 5.1. ... (Nama tersangka/terdakwa) yang (diduga memiliki/didakwa) telah melakukan/telah didakwa dengan perbuatan yang merupakan pelanggaran hukum, diantaranya:
 - o ... (Jelaskan pelanggaran dan aturan hukum yang dilanggar)
Sanksi maksimum untuk pelanggaran di atas, yang merupakan subjek dari (investigasi/penuntutan) ini yaitu:
 - ... (Sebutkan sanksi maksimum untuk tiap pelanggaran dan aturan hukum yang tersedia)

ATAU

- 5.1. Perintah untuk perampasan (telah/akan) dikeluarkan dalam putusan pengadilan di ... (Negara Peminta). ... (Sebutkan dasar dari pernyataan apapun bahwa perintah perampasan dapat dibuat).
Perintah perampasan tersebut berkaitan dengan ... (sebutkan pelanggaran yang relevan) di ... (Negara Peminta) dengan sanksi maksimum ... (sebutkan sanksi maksimum atas pelanggaran dan aturan yang berlaku).
- 5.2. Salinan/resume dari aturan yang relevan dilampirkan dan ditandai sebagai "Lampiran A" dari permintaan.

TUJUAN PERMINTAAN

6. Melalui surat ini, permintaan bantuan ditujukan untuk ... (sebutkan maksud dan tujuan: misal, dalam rangka mengamankan bukti untuk keperluan pemeriksaan di persidangan terhadap terdakwa, melaksanakan perintah perampasan aset, dan sebagainya).

PERNYATAAN KESANGGUPAN PEMENUHAN KEWAJIBAN

7. ... (Isi dengan pernyataan kesanggupan pemenuhan kewajiban, jika ada)

PENJELASAN MENGENAI BANTUAN YANG DIMINTA

8. ... (Lembaga yang berwenang dari Negara Diminta) diminta untuk mengambil langkah-langkah yang diperlukan:

- (a) Penyampaian keterangan tersumpah atau diafirmasi terhadap seorang saksi di hadapan ... (otoritas peradilan Negara Diminta)

(Contoh) Tuan X
PT. ABC
(alamat)

Untuk diperiksa secara tersumpah atau diafirmasi terkait dengan hal-hal sebagai berikut:

- ... (Uraikan bahwa bantuan berupa penyampaian keterangan saksi tersebut berkaitan dengan suatu penyidikan, penuntutan, dan pemeriksaan di sidang pengadilan di Negara Peminta dan/atau sediakan daftar pertanyaan)

Catatan: Jelaskan dalam bentuk apa pernyataan tersebut harus diperoleh, misal, dalam bentuk keterangan saksi atau affidavit. Contoh format harus dilampirkan.

- (b) Menghadirkan dokumen, catatan, atau benda tertentu ke muka sidang (dan memperoleh pembuktian lisan dari saksi yang menghasilkan materi tersebut untuk tujuan mengidentifikasi atau membuktikan materi yang disediakan atau dihadirkan);

(Contoh) Direktur
PT ABC
(alamat)

Diminta untuk menyediakan atau menerbitkan (jelaskan bentuk bukti, misal, 'salinan resmi') dari dokumen, catatan, atau benda lainnya berikut ini dengan jangka waktu ... (jelaskan kerangka waktu yang diperlukan):

- (Sebutkan dokumen, catatan, atau bentuk benda lainnya)

Saksi di atas diperlukan untuk secara lisan diperiksa dengan tersumpah atau untuk mengafirmasi hal-hal berikut dalam rangka mengidentifikasi dan membuktikan penerbitan atau penyediaan dokumen, catatan, atau benda lainnya:

- (Jelaskan hal-hal dimaksud).

(Contoh)

- Untuk memberikan konfirmasi dalam kapasitasnya di perusahaan dan bahwa dia bertanggung jawab untuk menyimpan/mengelola/menguasai dokumen, catatan, atau benda yang berkaitan dengan masalah yang sedang diinvestigasi;
- Bahwa dia berwenang berdasarkan aturan perundang-undangan yang berlaku di Negara Diminta untuk membuat affidavit;
- Untuk memberikan konfirmasi bahwa dia memiliki akses terhadap dokumen, catatan, atau benda yang disimpan dalam kaitan dengan masalah yang sedang diinvestigasi sesuai dengan tugasnya;
- Untuk memberikan konfirmasi mengenai keotentikan dari salinan dokumen, catatan, atau barang yang disediakan; atau

- Untuk memberikan konfirmasi bahwa dokumen, catatan, atau benda tersebut dibuat secara wajar.

Catatan:

Jelaskan bentuk pernyataan perlu diperoleh, misal, keterangan saksi atau affidavit. Contoh format harus dilampirkan.

- (c) Melakukan pencarian terhadap orang atau lokasi dokumen, catatan, atau barang;
(Contoh) Lokasi PT ABC
... (alamat)
Agar dilakukan pencarian dengan menggunakan surat perintah penggeledahan untuk melakukan penyitaan atas beberapa hal berikut dari perusahaan:
- ... (Sediakan rincian dokumen, catatan, atau benda yang diperlukan untuk dicari atau disita)
 - ... (Lengkapi alasan untuk permintaan dokumen, catatan, atau benda asli/bukan salinan yang perlu disita)
- (d) Menyediakan dokumen, catatan, atau barang melalui perintah penerbitan
(Contoh) Manajer
PT Bank ABC
(alamat)
Diminta untuk menerbitkan atau menyediakan salinan dokumen, rekaman, atau bentuk lainnya:
- ... (Jelaskan materi tertentu yang dibutuhkan untuk dihasilkan dan lokasinya)
 - ... (Sebutkan alasan untuk menduga bahwa materi yang diminta akan secara substantif berguna dalam proses penegakan hukum)
 - ... (Berikan alasan yang kuat terhadap permintaan untuk menerbitkan dokumen yang asli)
- (e) Mengatur perjalanan orang atau tahanan dari ... (nama Negara Diminta) untuk memberikan bantuan dalam hal pidana
(Contoh) Pengaturan dilakukan untuk Tuan X
... (alamat)
Untuk melakukan perjalanan ke ... (nama Negara Peminta) dalam rangka memberikan bantuan perihal sebuah ... (masalah pidana) dengan menyediakan bantuan sebagai berikut:
- ... (Jelaskan bantuan yang diperlukan)
 - ... (Sediakan kesanggupan sesuai dengan aturan perundang-undangan ... (nama Negara Diminta))
 - ... (Sediakan informasi rinci terkait tunjangan untuk orang yang akan dimintakan bantuan, dan pengaturan keamanan serta akomodasinya, selama orang tersebut berada di ... (nama Negara Peminta) untuk menyediakan bantuan)
- (f) Melaksanakan perintah perampasan/permintaan untuk membantu dalam pembekuan suatu kepemilikan;
- ... (Sebutkan sifat khusus dari perintah perampasan yang harus dieksekusi, atau kepemilikan yang harus dibekukan dan kondisi terkini mengenai proses terkait).

- (g) Memberikan bantuan dalam menemukan/mengidentifikasi orang yang diduga terlibat dalam atau mendapatkan manfaat dari pelanggaran hukum yang serius;
 (Contoh) Pengaturan untuk melakukan identifikasi atau penelusuran lokasi dari Tuan X yang diduga berada di ... (nama Negara Diminta) dengan alamat terakhir yang diketahui yaitu ... (alamat).
 • ... (Jelaskan atribut/ciri khusus dari orang yang bersangkutan).
- (h) Memberikan bantuan untuk penelusuran kepemilikan akan sesuatu yang diduga terkait dengan pelanggaran hukum serius
 (Contoh) Pengaturan untuk dilakukan penelusuran ... (jelaskan suatu kepemilikan yang dicari) ... yang diduga berada di ... (nama Negara Diminta)
 • ... (Sebutkan atribut khusus dari suatu kepemilikan yang menjadi perhatian)
- (i) Melaksanakan pemanggilan.
 (Contoh) Tuan X
 (alamat)
 Perlu dilakukan pemanggilan dengan dokumen sebagai berikut:
 • ... (Jelaskan dokumen yang perlu diterbitkan dalam melaksanakan pemanggilan)
 • ... (Sebutkan tata cara pelaksanaan pemanggilan dan periode waktu dalam dokumen yang dikirimkan untuk melakukan pemanggilan)
 • ... (Sebutkan bukti yang diperlukan dalam menyampaikan pemanggilan)

PELAKSANAAN PERMINTAAN BANTUAN

(A) KERAHASIAAN

- 9.1. Dimohon agar fakta bahwa permintaan telah dilakukan dan pelaksanaan atas permintaan dirahasiakan secara keseluruhan kecuali untuk kepentingan yang mendesak dalam pelaksanaan permintaan bantuan, yakni ... (sebutkan alasan, contohnya, kemungkinan gangguan terhadap saksi dan/atau perusakan terhadap bukti).
- 9.2. Dimohon agar penyediaan bukti terkait kesaksian diambil dengan kamera dengan memperhatikan adanya alasan yang wajar untuk menganggap bahwa kepentingan saksi untuk menyediakan bukti dengan terekam oleh kamera, karena ... (sebutkan alasan) dan masalah pidana akan secara substantif menjadi bias jika pemeriksaan dilakukan secara terbuka di muka sidang karena ... (sebutkan alasannya).

(B) PROSEDUR KHUSUS YANG HARUS DITEMPUH

10. Diharapkan prosedur berikut ini diperhatikan dalam pelaksanaan permintaan bantuan:
- o ... (Jelaskan secara rinci tata cara dan bentuk bukti yang diambil atau dikirimkan kepada Negara Peminta, jika diperlukan)
- (Contoh)
- Dalam hal perolehan bukti dilakukan melalui pemeriksaan tersumpah atau afirmasi seorang saksi, dimohon untuk menyediakan pernyataan dalam bentuk yang dapat diterima. Untuk dapat diterima, pernyataan harus dibuat dalam bentuk affidavit kecuali ketika direkam secara tertulis oleh otoritas peradilan. Jika dokumen dan rekaman yang dirujuk untuk atau selain dalam keadaan tertutup, dokumen dan rekaman harus disertai dengan pengesahan keotentikan. Salinan dari bentuk yang ditentukan untuk affidavit dan pengesahan keotentikan terlampir dalam permintaan ini dan ditandai sebagai Lampiran B dan Lampiran C secara berurutan.

- Dalam hal penyampaian pembuktian oleh ... (nama saksi-saksi yang relevan), dimohon untuk mempersiapkan agar bukti tersebut dapat disampaikan dalam persidangan di ... (nama Negara Peminta) melalui video atau tautan televisi secara langsung (atau bentuk komunikasi lainnya) dari ... (nama Negara Diminta)

- o ... (Jelaskan syarat khusus untuk otentifikasi atau sertifikasi dokumen)

(Contoh)

- Dalam hal penyediaan bukti melalui affidavit:
 - a) Affidavit harus dibuat dihadapan pejabat peradilan atau pejabat lain yang berwenang untuk mengadministrasikan pemberian keterangan tersumpah atau afirmasi di ... (nama Negara Diminta). Ketika affidavit telah diberikan dalam bentuk tersumpah atau diafirmasi, maka affidavit harus disegel dengan segel resmi pejabat publik dari ... (nama Negara Diminta) untuk memastikan kesesuaian dengan ... (sebutkan ketentuan relevan yang berkaitan di Negara Peminta), sebuah salinan dilampirkan dalam permintaan ini dan ditandai sebagai Lampiran D;
 - b) Jika affidavit lebih dari satu halaman, setiap halaman selain halaman terakhir harus diparaf, baik oleh orang yang membuat affidavit dan orang yang menyaksikan pembuatan affidavit tersebut; dan
 - c) Setiap halaman masing-masing lampiran harus diparaf, baik oleh orang yang membuat affidavit dan orang yang menyaksikan pembuatan affidavit tersebut.

(Contoh)

- Dalam hal penyediaan dokumen dilakukan oleh komputer, atau pernyataan terkandung dalam dokumen yang demikian, maka dokumen dan atau pernyataan tersebut dapat diterima sebagai bukti sebagaimana halnya fakta yang dinyatakan di dalamnya apabila dokumen tersebut dihasilkan oleh komputer dengan cara sebagaimana penggunaan biasanya. Sebuah pengesahan dilakukan oleh orang yang baik sebelum maupun sesudah dihasilkannya dokumen oleh komputer tersebut bertanggung jawab untuk pengelolaan penggunaan komputer atau untuk aktivitas yang menggunakan komputer harus dihadirkan ke pengadilan untuk membuktikan bahwa dokumen tersebut benar dihasilkan oleh sebuah komputer dengan cara yang wajar.
 - Ringkasan peraturan yang relevan ... (sebutkan ketentuan yang relevan dari Negara Peminta) sebagaimana terlampir dan ditandai sebagai Lampiran E dalam permintaan ini.
- o ... (Sebutkan jika kehadiran perwakilan otoritas yang diperlukan dari Negara Peminta pada saat pemeriksaan saksi/pelaksanaan permintaan bantuan diperlukan)

(Contoh)

- Izin dimohonkan untuk pejabat ... (nama dari otoritas yang berkepentingan di Negara Peminta) untuk melakukan perjalanan ke ... (nama Negara Diminta) dalam rangka membantu pelaksanaan permintaan bantuan.

(C) WAKTU PELAKSANAAN

11. Diharapkan permintaan dapat dilaksanakan secara segera/atau dalam ... (nyatakan tenggat waktu dan berikan alasan, misal, rinci tanggal persidangan atau pemeriksaan atau tanggal lainnya disertai alasannya)

(D) PENGIRIMAN MATERI YANG DIMINTAKAN

- 12.1. Dokumen, catatan, barang, pernyataan maupun informasi apapun yang diperoleh dalam permintaan ini harus dikirimkan kepada ... (Otoritas Pusat Negara Peminta) pada alamat berikut:

[Sediakan alamat penuh atau informasi kontak rinci seperti nama pejabat yang bisa dihubungi, telepon, faksimile serta surat elektronik]

- 12.2. ... (Nama Otoritas Pusat Negara Peminta) akan mengirimkan materi kepada ... (Nama otoritas di Negara Peminta yang berkaitan dengan masalah pidana), sebagai otoritas yang berkepentingan dalam permintaan ini.

(E) KETENTUAN PERIHAL UPAH, PENGATURAN UNTUK KEAMANAN DAN AKOMODASI

- 13.1. Tunjangan untuk ... (nama orang) akan disediakan sebagai berikut:
... (Sebutkan rincian mengenai tunjangan)
- 13.2. Pengaturan keamanan untuk ... (nama orang) akan dilaksanakan sebagai berikut:
... (Sebutkan rincian pengaturan keamanan)
- 13.3. Pengaturan akomodasi untuk ... (nama orang) akan disediakan sebagai berikut:
... (Sebutkan rincian pengaturan akomodasi)

(F) KESANGGUPAN PEMBIAYAAN UNTUK KOMUNIKASI VIDEO SECARA LANGSUNG

14. Pemerintah ... (Negara Peminta) akan bertanggungjawab terhadap seluruh biaya yang dikeluarkan oleh Pemerintah ... (Negara Diminta) dalam melaksanakan komunikasi video secara langsung atau fasilitas komunikasi lainnya yang diperlukan, biaya yang berkaitan dengan layanan jasa komunikasi video atau tautan televisi atau fasilitas komunikasi yang diperlukan lainnya, biaya penerjemah yang disediakan oleh ... (nama Negara Diminta) dan tunjangan yang disediakan kepada saksi dan biaya perjalanan mereka di ... (nama Negara Diminta).

LIAISON

- 15.1. Pejabat dari ... (Otoritas Pusat Negara Peminta) yang menangani permintaan bantuan ini yaitu:
... (nama pejabat, telepon, faksimile dan alamat surat elektronik).
- 15.2. Pejabat yang menangani kasus dari ... (nama lembaga di Negara Peminta yang menangani tindak pidana), yaitu:
... (nama pejabat, telepon, faksimile dan alamat surat elektronik).
- 15.3. Pejabat berikut ini ... (nama pejabat yang berwenang) memiliki pengetahuan perihal ini:
... (nama pejabat, telepon, faksimile dan alamat surat elektronik).
- 15.4. Jika izin diberikan kepada seorang pejabat dari ... (nama otoritas Negara Peminta yang menangani perihal tindak pidana) untuk melakukan perjalanan ke ... (nama Negara Diminta), pejabat yang akan ditunjuk yaitu ... (nama pejabat yang berwenang).

PERMINTAAN TAMBAHAN

16. ... (Nama Otoritas Pusat Negara Peminta) dapat mengajukan permintaan tambahan sebagai bagian dari bantuan yang diberikan jika diperlukan. Permintaan tambahan diperlakukan sebagai permintaan baru dengan mengikuti tahapan pengajuan sesuai dengan peraturan perundang-undangan di Negara Peminta.

KESANGGUPAN RESIPROSITAS

17. Pemerintah ... (nama Negara Peminta) memberikan jaminan kepada Pemerintah ... (Negara Diminta), bahwa Pemerintah ... (nama Negara Peminta) akan mematuhi peraturan perundang-undangan, mematuhi permintaan bantuan oleh Pemerintah ... (nama Negara Diminta) untuk memberikan bantuan timbal balik dalam masalah pidana terkait pelanggaran yang setara.

Ditandatangani oleh
Nama dan jabatan : _____
Lembaga : _____
Tanggal : _____

**B. MODEL FORMULIR PERMINTAAN BANTUAN DARI NEGARA ASING
KEPADA INDONESIA (*INCOMING*)**

Sedangkan bagi Negara Asing yang akan mengajukan permintaan bantuan timbal balik kepada Pemerintah RI, maka *template* pengajuan permintaan bantuan tersebut harus menyesuaikan dengan bentuk sistematika sebagai berikut:

To:
Minister of Law and Human Rights
of the Republic of Indonesia
Jl. H.R. Rasuna Said Kav. 6-7 Kuningan, Jakarta Selatan
Republik Indonesia

From:
[Through diplomatic channels]¹

REQUEST FOR MUTUAL ASSISTANCE IN A CRIMINAL MATTER
RE: (*insert particulars*)

INTRODUCTION

1. I,, the (*name of agency/office designated as Central Authority*), being the designated Central Authority to make and receive requests for mutual legal assistance in criminal matters on behalf of (*name of country*), present this request to the Central Authority of (*name of Requested Party*).

AUTHORITY FOR REQUEST

2. This request is made under the (*specify relevant provisions of the relevant legal basis such as international treaty/convention*).

NATURE OF REQUEST

- 3.1 This request relates to a (*criminal matter*)² concerning (*describe subject of criminal matter*).
- 3.2 The personal details of the subject of the request are as follows:
 - Name/Description:
 - Date of birth:
 - Age:
 - Occupation:
 - Nationality:
 - Passport No.
 - Address/Location:

¹ This may be deleted where the request is not made through diplomatic channels.

² State whether it is an investigation, prosecution or an ancillary criminal matter relating to the restraining of dealing with property or the enforcement or satisfaction of a forfeiture order.

3.3 The details of the property to be traced/restrained/forfeited are as follows³:

Description:

Location:

Other relevant details:

3.4 The reasons for suspecting that the person/property is in *(name of Requested Party)* are as follows⁴:

3.5 The authority having the conduct of the criminal matter is *(describe authority in Requesting Party concerned with the criminal matter)*.

STATEMENT OF FACTS

4. *(Describe the material facts of the criminal matter including, in particular, those facts necessary to establish circumstances connected to evidence sought in the Requested Party and the relevance of the evidence from the Requested Party to the criminal matter in the Requesting Party.)*

CRIMINAL OFFENCES/APPLICABLE LEGISLATION/PENALTIES

EITHER:

5.1 *(Name of suspects/defendants)* are *(suspected of having/alleged to have)* committed/have been charged with the commission of the following offences, namely -

- *(describe offences and provisions of the legislation contravened)*

The maximum penalties for the above offences, which are the subject of this *(investigation/prosecution)* are:

- *(specify maximum penalty for each offence and applicable law)*⁵.

OR:

5.1 A forfeiture order *(has been/may be)* made in proceedings in *(name of Requested Party)*. *(State basis for any statement that a forfeiture order may be made.)*

The forfeiture order is connected with *(state the relevant offences)* in *(name of Requested Party)* the maximum penalties for which are *(specify maximum penalty for the offence and applicable law)*⁶.

5.2 A copy/extract of the relevant legislation is attached and marked as "Attachment A" to this request.

PURPOSE OF THE REQUEST

6. By this request it is intended to *(state purpose: e.g. secure admissible evidence for the purpose of the criminal proceedings against the defendants, enforce the abovementioned forfeiture order, etc.)*

³ Applicable where request relates to restraint of property or enforcement of a forfeiture order.

⁴ Applicable where request relates to restraint of property or enforcement of a forfeiture order.

⁵ Applicable where request relates to an investigation or prosecution.

⁶ Applicable where request relates to restraint of property or enforcement of a forfeiture order.

MANDATORY UNDERTAKINGS

7. *[Insert relevant undertakings, if any]*⁷

DESCRIPTION OF ASSISTANCE REQUESTED

8. The *(appropriate authority of the Requested Party)* is requested to take such steps as are necessary to give effect to the following:

(a) examination on oath or affirmation of a witness before *(relevant judicial authority of Requested Party)*;

(e.g.) Mr. X
ABC Co., Ltd.
(address)

to be orally examined on oath or affirmation on the following matters:

- *(specify clearly the relevant issues/areas relating to the subject matter of the criminal proceedings/investigation on which evidence of the witness is sought and/or provide a list of the relevant questions)*

Note: Specify form in which statement is to be obtained e.g. witness statement or affidavit. Sample forms to be attached.

(b) production of documents, records or items before a court [and obtaining of oral evidence of the witness producing such material for the purpose of identifying and proving the material produced]⁸;

(e.g.) Director
ABC Co., Ltd.
(address)

to be required to produce *(describe the form of evidence e.g. "certified copies")* of the following documents, records or items for the period *(state relevant time frame)*:

- *(specify documents, records or items or classes thereof).*

The above witness to be orally examined on oath or affirmation on the following matters for the purpose of identifying and proving the documents, records or items produced:

- *(state relevant particulars).*

(e.g.)

- to provide confirmation as to his position in a company/office and that he is responsible for keeping/maintaining/holding the documents, records or items in relation to the subject-matter of the investigation

⁷ Requesting Party to insert such undertakings as may be relevant.

⁸ Include this part if it is deemed necessary for the purposes of admissibility of the documents, records or items in evidence.

- o that he is authorized by the relevant law of the Requested Party to make the affidavit
- o to confirm that he has access to the documents, records or items kept in relation to the subject-matter of the investigation in the normal course of his duties
- o to confirm the authenticity of the copies of the documents, records or items supplied
- o to confirm that the documents, records or items were created in the ordinary course of business

Note: Specify form in which statement is to be obtained e.g. witness statement or affidavit. Samples forms to be attached.

(c) search of person or premises for documents, records or items;

(e.g.) The premises of ABC Co., Ltd.
(address)

to be searched under a search warrant for the seizure of the following from the company:

- *(provide details of the documents, records or items sought to be searched for and seized).*
- *(support any request for originals of documents, records or items seized with reasons).*

(d) production of documents, records or items through production orders;

(e.g.) Manager
ABC Bank Ltd.
(address)

to be required to produce copies of the following documents, records or items under a production order:

- *(describe particulars of material required to be produced and where located).*
- *(state grounds for believing that the material sought is likely to be of substantial value to the criminal matter in Requesting Party).*
- *(support any request for the production of originals of documents with reasons).*

(e) arrangement of travel of person/prisoner from *(name of Requested Party)* to assist in a criminal matter;

(e.g.) Arrangements to be made for Mr. X
(address)

to travel to *(name of Requesting Party)* to give assistance in a *(criminal matter)*⁹ by rendering the following assistance:

- *(specify the assistance sought).*
 - *(provide the undertakings required by the law of (name of Requested Party)).*
 - *(provide details of the allowances to which the person will be entitled, and of the arrangements for security and accommodation for the person, while the person is in (name of Requesting Party) pursuant to the request).*
- (f) enforcement of a forfeiture order/request to assist in the restraining of dealing in property;
- *(state particulars of the forfeiture order to be enforced, or the property to be restrained and present state of related proceedings).*
- (g) assistance in locating/identifying a person who is suspected to be involved in/to have benefited from the commission of a serious offence;
- (e.g.) Arrangements to be made to locate/identify the location where Mr. X who is believed to be in *(name of Requested Party)* with the last known address at *(address)*.
- *(state particulars of person concerned).*
- (h) assistance in tracing property suspected to be connected to a serious offence;
- (e.g.) Arrangements to be made to trace *(description of property)* believed to be in *(name of Requested Party)*.
- *(state particulars of property concerned).*
- (i) service of process.
- (e.g.) Mr. X
(address)
- to be served with the following documents:
- *(describe documents to be served).*
 - *(specify manner of service and period within which documents to be served).*
 - *(specify required proof of service).*

EXECUTION OF REQUEST

(A) CONFIDENTIALITY

9.1. It is requested that the fact that this request has been made and the execution of the request be kept entirely confidential except to the extent necessary to execute the

⁹ State whether it is an investigation or criminal proceedings of an offence in the Requesting Party or an ancillary criminal matters.

request as *(state reasons e.g. the likelihood of interference with witnesses and /or destruction of evidence, etc.)*¹⁰

- 9.2. It is also requested that the evidence of the witness be taken *in camera* as there exist reasonable grounds for believing that it is in the interests of the witness to give evidence *in camera* because *(state reasons)* and the criminal matter would be substantially prejudiced if the examination was conducted in open court because *(state reasons)*.¹¹

(B) PARTICULAR PROCEDURES TO BE FOLLOWED

10. It is requested that the following procedures be observed in the execution of the request:

- *(state details of manner and form in which evidence is to be taken and transmitted to Requesting Party, if relevant.)*

(e.g.)

- In relation to the evidence obtained on examination on oath/affirmation of a witness, please provide the statement in admissible form. To be admissible, the statement must be made in the form of an affidavit except when recorded in writing by a judicial authority. If documents and records are referred to or are otherwise enclosed, the documents and records must be accompanied by an attestation of authenticity. Copies of the prescribed form for the affidavit and attestation of authenticity are attached to this request and marked as Attachment B and Attachment C respectively.
- In relation to the evidence of *(name of relevant witness(es))*, please arrange for the evidence to be given in a court in *(name of Requesting Party)* via live video or live television link (or other appropriate communications facilities) from *(name of Requested Party)*.
- *(state any special requirements as to certification/authentication of documents.)*

(e.g.)

In relation to evidence to be provided by affidavit:

- a) the affidavit should be made before a judicial officer or other officer who is authorized to administer oaths or affirmations in *(name of Requested Party)*. When the affidavit has been sworn or affirmed, the affidavit should be sealed with an official or public seal of *(name of Requested Party)* to ensure compliance with *(specify relevant provisions of the relevant legislation of Requesting Party)*, a copy of which is attached to this request and marked as Attachment D;
- b) if the affidavit runs for more than one page, each page other than the last should be initialled both by the person who makes the affidavit and by the person before whom the affidavit is made; and
- c) each page of each attachment should be initialled both by the person who makes the affidavit and by the person before whom the affidavit is made.

¹⁰ Necessary if confidentiality is requested.

¹¹ Applicable if the request relates to the taking of evidence before a court for the purposes of an investigation in Requesting Party.

(e.g.)

In relation to documents produced by computers, or a statement contained in such document, the document or statement, as the case may be, is admissible as evidence of any fact stated therein if the document was produced by the computer in the course of its ordinary use, whether or not the person tendering the same is the maker of such document or statement. A certificate signed by a person who either before or after the production of the document by the computer is responsible for the management of the operation of that computer or for the conduct of the activities for which that computer was used must be tendered to the court to prove that a document was produced by a computer in the course of its ordinary use.

An extract of the relevant legislation, (*specify relevant provisions of the relevant legislation of Requesting Party*) is attached and marked as "Attachment E" to this request.

- (*state if attendance by representative of appropriate authority of Requesting Party at examination of witnesses/execution of request is required and, if so, the title of the office held by the proposed representative.*)

(e.g.)

Permission is requested for an officer of (*name of appropriate authority in Requesting Party*) to travel to (*name of Requested Party*) to assist in the execution of this request.

(C) PERIOD OF EXECUTION

11. It is requested that the request be executed urgently/within (*state period giving reasons i.e. specify likely trial or hearing dates or any other dates/reasons relevant to the execution of the request*).

(D) TRANSMISSION OF REQUESTED MATERIAL

- 12.1 Any documents, records, items, statements or information obtained in response to this request should be sent to the (*Central Authority of Requesting Party*) at the following address:

[*Provide full address and other contact details such as name of contact officer, telephone and facsimile numbers and email address*]

- 12.2 The (*Central Authority of Requesting Party*) will forward the material to (*name of authority in Requesting Party concerned with the criminal matter*), being the relevant requesting authority in this matter.

(E) DETAILS OF ALLOWANCES, ARRANGEMENTS FOR SECURITY AND ACCOMMODATION¹²

- 13.1 The allowances to which (*name of person*) will be entitled are as follows:

(*State details of allowances*)

¹² If the request involves a person travelling from the Requested Party to the Requesting Party.

13.2 The arrangements for the security of *(name of person)* are as follows:

(State details of security arrangements)

13.3 The arrangements for the accommodation of *(name of person)* are as follows:

(State details of accommodation arrangements)

(F) UNDERTAKING ON EXPENSES FOR USE OF LIVE VIDEO LINK¹³

14. The Government of *(name of Requesting Party)* shall be responsible for all costs taken by the Government of *(name of Requested Party)* in order to establish the live video or television link or other appropriate communications facilities, the costs related to the servicing of the live video or television link or other appropriate communications facilities, the remuneration of interpreters provided by *(name of Requested Party)* and allowances to witnesses and their travelling expenses in *(name of Requested Party)*.¹⁴

LIAISON

15.1 The officers of the *(Central Authority of Requesting Party)* handling this request are:

(state name of officer(s))

(address)

Telephone Number:

Facsimile Number:

Electronic mail address:

15.2 The case officer of *(name of authority in Requesting Party concerned with the criminal matter)* is:

(name of officer of authority in Requesting Party concerned with the criminal matter, telephone and facsimile numbers and e-mail address)

15.3 The following officer¹³s of *(name of appropriate authority in Requested Party)* *has/*have knowledge of this matter:

(name of officer¹³s of appropriate authority in Requested Party, telephone and facsimile numbers and e-mail addresses).

15.4 If permission is given for an officer of *(name of authority in Requesting Party concerned with the criminal matter)* to travel to *(name of Requested Party)*, the officer is likely to be *(name of officer of authority in Requesting Party concerned with the criminal matter)*.

¹³ If the request involves a person travelling from the Requested Party to the Requesting Party.

¹⁴ If the request involves the giving of evidence by live video or live television link or other appropriate communication facilities, unless the Parties mutually agree otherwise.

SUPPLEMENTARY REQUEST

16. The *(Central Authority of Requesting Party)* may wish to make supplementary requests for assistance in this matter if necessary. The supplementary request is treated as new request and executed pursuant to prevailing laws and regulations in Requested Party.

RECIPROCITY UNDERTAKING

17. The Government of *(name of Requesting Party)* assures the Government of *(name of Requested Party)* that the Government of *(name of Requesting Party)* would, subject to its laws, comply with a request by the Government of *(name of Requested Party)* to *(name of Requesting Party)* for assistance of this kind in respect of an equivalent offence.

Signed by

Name and Position : _____
Office : _____
Date : _____

BAB V
STANDAR OPERASIONAL BAKU
PENANGANAN PERMINTAAN BANTUAN TIMBAL BALIK

A. PERMINTAAN BANTUAN TIMBAL BALIK DARI PEMERINTAH REPUBLIK INDONESIA KEPADA NEGARA ASING

LEMBAR KERJA IDENTIFIKASI KEGIATAN (LKIK) PENANGANAN

1. Data Kegiatan

1. Judul SOP	PELAYANAN PERMINTAAN BANTUAN TIMBAL BALIK DALAM MASALAH PIDANA DARI PEMERINTAH RI KEPADA NEGARA ASING
2. Jenis Kegiatan	PELAYANAN
3. Penanggung Jawab	
a. Produk	DIREKTUR OTORITAS PUSAT DAN HUKUM INTERNASIONAL
b. Kegiatan	KOORDINATOR BANTUAN TIMBAL BALIK DALAM MASALAH PIDANA
4. Ruang Lingkup	DIREKTORAT OTORITAS PUSAT DAN HUKUM INTERNASIONAL

2. Identifikasi Kegiatan

Judul Kegiatan	PELAYANAN PERMINTAAN BANTUAN TIMBAL BALIK DALAM MASALAH PIDANA DARI PEMERINTAH RI KEPADA NEGARA ASING
Langkah Awal	Pemohon (Kapolri, Jaksa Agung, Ketua KPK atau pejabat yang mewakilinya) mengirimkan Surat Permohonan Bantuan Timbal Balik dalam Masalah Pidana beserta dokumen kelengkapannya kepada Kementerian Hukum dan Hak Asasi Manusia sebagai Otoritas Pusat.
Langkah Utama	Otoritas Pusat melakukan penelaahan dan perancangan permintaan dari Pemohon, pemantauan terhadap permintaan, koordinasi dan fasilitasi pemenuhan bantuan timbal balik dari Negara Diminta kepada Pemohon.

Langkah Akhir	Instansi Pemohon menerima surat tindak lanjut dan pemenuhan bantuan timbal balik dari Negara Diminta.
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3. Identifikasi Langkah

Langkah Awal	1. Pemohon (Kapolri, Jaksa Agung, Ketua KPK atau pejabat yang mewakilinya) mengirimkan Surat Permohonan Bantuan Timbal Balik dalam Masalah Pidana beserta dokumen kelengkapannya kepada Kementerian Hukum dan Hak Asasi Manusia sebagai Otoritas Pusat.
	2. Kasubag TU Menteri menyampaikan dokumen/ surat permohonan disertai surat pengantar sebagai disposisi kepada Menteri Hukum dan Hak Asasi Manusia RI.
	3. Menteri menyerahkan dokumen/surat permohonan kepada Direktur Jenderal Administrasi Hukum Umum dan memberikan arahan untuk tindak lanjut.
	4. Direktur Jenderal Administrasi Hukum Umum menyerahkan dokumen/surat permohonan kepada Direktur Otoritas Pusat dan Hukum Internasional dan memberikan arahan untuk tindak lanjut.
	5. Direktur Otoritas Pusat dan Hukum Internasional menyerahkan dokumen/surat permohonan kepada Koordinator Bantuan Timbal Balik dalam Masalah Pidana dan memberikan arahan untuk tindak lanjut.
	6. Koordinator Bantuan Timbal Balik Dalam Masalah Pidana menugaskan Subkoordinator Penanganan Bantuan Timbal Balik untuk menganalisa dokumen/surat permohonan sesuai dengan ketentuan perundang-undangan di Indonesia.
	7. Subkoordinator Penanganan Bantuan Timbal Balik menugaskan Analis Bantuan Timbal Balik untuk menelaah dokumen/surat permohonan sesuai dengan ketentuan perundang-undangan di Indonesia.
Langkah Utama	8. Analis Bantuan Timbal Balik menelaah dokumen, memeriksa kelengkapan dokumen permohonan dari Pemohon berdasarkan ketentuan perundang-undangan di Indonesia. Jika dokumen/ surat permohonan tidak memenuhi persyaratan perundang-undangan atau kekurangan pemenuhan persyaratan, Analis Bantuan Timbal Balik berkomunikasi dengan pemohon untuk melengkapi persyaratan. Hasil telaahan dituangkan

	dalam surat rekomendasi.
	9. Hasil telaahan menjadi dasar bagi Analis Bantuan Timbal Balik untuk menyusun konsep surat permintaan bantuan timbal balik kepada Negara Diminta sesuai dengan format baku yang disertai dengan surat pengantar permintaan. Dalam hal dilakukan melalui saluran diplomatik, Analis Bantuan Timbal Balik juga menyusun konsep surat pengantar untuk Kementerian Luar Negeri.
	10. Subkoordinator Penanganan Bantuan Timbal Balik memeriksa rekomendasi, konsep surat permintaan yang disertai surat pengantar untuk permintaan bantuan timbal balik. Jika disetujui, dokumen diparaf dan diserahkan kepada Koordinator. Jika tidak setuju dikembalikan kepada Analis Bantuan Timbal Balik untuk diperbaiki.
	11. Koordinator Bantuan Timbal Balik dalam Masalah Pidana memeriksa rekomendasi, konsep surat permintaan yang disertai surat pengantar untuk permintaan bantuan timbal balik. Jika disetujui dokumen diparaf dan diserahkan kepada Direktur Otoritas Pusat dan Hukum Internasional. Jika tidak setuju dikembalikan kepada Subkoordinator Penanganan Bantuan Timbal Balik untuk diperbaiki.
	12. Direktur Otoritas Pusat dan Hukum Internasional memeriksa rekomendasi, konsep surat permintaan yang disertai surat pengantar untuk permintaan bantuan timbal balik. Jika disetujui dokumen ditandatangani dan diserahkan kepada Koordinator Bantuan Timbal Balik untuk dikirimkan kepada Negara Diminta.
	13. Koordinator Bantuan Timbal Balik menugaskan Subkoordinator Penanganan Bantuan Timbal Balik untuk menindaklanjuti pengarsipan dan mengirimkan surat permintaan, dokumen lampiran dan surat pengantar kepada Otoritas Pusat Negara Diminta.
	14. Subkoordinator Penanganan Bantuan Timbal Balik melakukan pengarsipan dan penerjemahan dokumen yang akan sudah ditandatangani oleh Direktur Otoritas Pusat dan Hukum Internasional. Terjemahan dilakukan ke dalam Bahasa Inggris dan Bahasa Negara Diminta jika diperlukan. Setelah terjemahan diperoleh, terjemahan dilampirkan dengan surat yang akan dikirimkan ke Otoritas Pusat Negara Diminta. Kemudian Subkoordinator menugaskan Analis Bantuan Timbal Balik untuk mengirimkan dokumen.
	15. Analis Bantuan Timbal Balik memproses pengiriman kepada Otoritas Pusat Negara Diminta dan melakukan

	pengarsipan terhadap tanda pengiriman. Dalam hal permintaan dilakukan melalui saluran diplomatik, surat disampaikan ke Kementerian Luar Negeri.
Langkah Akhir	16. Koordinator memfasilitasi pemenuhan bantuan timbal balik antara instansi pemohon dan Negara Diminta. Dalam hal diperlukan, fasilitasi tersebut dapat termasuk diskusi kasus (<i>case work</i>) antara para pihak.
	17. Direktur Otoritas Pusat dan Hukum Internasional menerima hasil tindak lanjut dari Negara Diminta sebagai jawaban permohonan bantuan timbal balik dari Pemohon dan menyerahkan kepada Koordinator untuk diproses lebih lanjut.
	18. Koordinator Bantuan Timbal Balik dalam Masalah Pidana menugaskan Subkoordinator Penanganan Bantuan Timbal Balik untuk memeriksa dokumen jawaban yang diterima dari Negara Diminta dan menyusun konsep surat tindak lanjut kepada Pemohon.
	19. Subkoordinator Penanganan Bantuan Timbal Balik dalam Masalah Pidana menugaskan Analis Bantuan Timbal Balik untuk menganalisa dokumen jawaban yang diterima dari Negara Diminta.
	20. Analis Bantuan Timbal Balik menganalisis dokumen jawaban dan menyusun konsep surat tindak lanjut kepada Pemohon kemudian diserahkan kepada Subkoordinator Penanganan Bantuan Timbal Balik untuk diperiksa.
	21. Subkoordinator Penanganan Bantuan Timbal Balik memeriksa konsep surat tindak lanjut kepada Pemohon. Jika disetujui diparaf dan diserahkan kepada Koordinator. Jika tidak disetujui dikembalikan kepada Analis Bantuan Timbal Balik untuk diperbaiki.
	22. Koordinator Bantuan Timbal Balik Dalam Masalah Pidana memeriksa konsep surat tindak lanjut kepada Pemohon. Jika disetujui diparaf dan diserahkan kepada Direktur Otoritas Pusat dan Hukum Internasional. Jika tidak setuju dikembalikan kepada Subkoordinator Penanganan Bantuan Timbal Balik untuk diperbaiki.
	23. Direktur Otoritas Pusat dan Hukum Internasional memeriksa konsep surat tindak lanjut kepada Pemohon. Jika setuju ditandatangani dan dikembalikan kepada Koordinator dan terus hingga ke Analis Bantuan Timbal Balik untuk pengiriman kepada instansi Pemohon. Jika tidak setuju dikembalikan kepada Koordinator untuk

	diperbaiki.
	24. Analis mengirimkan surat tindak lanjut kepada instansi pemohon disertai dengan hasil bantuan timbal balik.
	25. Instansi Pemohon menerima surat tindak lanjut dan pemenuhan bantuan timbal balik dari Negara Diminta.
	26. Pasca pelaksanaan bantuan timbal balik, Koordinator Bantuan Timbal Balik mengirimkan surat umpan balik pelaksanaan bantuan kepada Pemohon dan surat terima kasih kepada Negara Diminta.

B. PERMINTAAN BANTUAN TIMBAL BALIK DARI NEGARA ASING KEPADA PEMERINTAH RI

LEMBAR KERJA IDENTIFIKASI KEGIATAN (LKIK) PENANGANAN

1. Data Kegiatan

1. Judul SOP	PELAYANAN PENERIMAAN PERMINTAAN BANTUAN TIMBAL BALIK DALAM MASALAH PIDANA DARI NEGARA ASING KEPADA PEMERINTAH RI
2. Jenis Kegiatan	PELAYANAN
3. Penanggung Jawab	
a. Produk	DIREKTUR OTORITAS PUSAT DAN HUKUM INTERNASIONAL
b. Kegiatan	KOORDINATOR BANTUAN TIMBAL BALIK DALAM MASALAH PIDANA
4. Ruang Lingkup	DIREKTORAT OTORITAS PUSAT DAN HUKUM INTERNASIONAL

2. Identifikasi Kegiatan

Judul Kegiatan	PELAYANAN PENERIMAAN PERMINTAAN BANTUAN TIMBAL BALIK DALAM MASALAH PIDANA DARI NEGARA ASING KEPADA PEMERINTAH RI
Langkah Awal	Pemohon (Negara Asing) mengajukan surat permohonan bantuan timbal balik dalam masalah pidana

Langkah Utama	Pejabat Direktorat Otoritas Pusat dan Hukum Internasional melakukan penelaahan dan penilaian kesesuaian permintaan bantuan timbal balik dalam masalah pidana dari Negara Pemohon (Negara Asing) dengan ketentuan peraturan Undang-Undang No 1 Tahun 2006 tentang Bantuan Timbal Balik dalam Masalah Pidana dan melakukan koordinasi dan komunikasi dengan Negara Pemohon dan Otoritas Berwenang untuk pelaksanaan bantuan timbal balik terkait dengan permintaan bantuan dari Negara Pemohon
Langkah Akhir	Pemohon (Negara Asing) menerima pemenuhan bantuan timbal balik dalam masalah pidana

3. Identifikasi Langkah

Langkah Awal	1. Pemohon (Negara Asing - melalui Otoritas Pusat) mengajukan surat permintaan bantuan timbal balik dalam masalah pidana kepada Menteri Hukum dan Hak Asasi Manusia.
	2. Kasubag TU Menteri menyampaikan dokumen/surat permintaan disertai surat pengantar sebagai disposisi kepada Menteri Hukum dan Hak Asasi Manusia RI.
	3. Menteri menyerahkan dokumen/surat permintaan kepada Direktur Jenderal Administrasi Hukum Umum dan memberikan arahan untuk tindak lanjut.
	4. Direktur Jenderal Administrasi Hukum Umum menyerahkan dokumen/surat permintaan kepada Direktur Otoritas Pusat dan Hukum Internasional dan memberikan arahan untuk tindak lanjut.
	5. Direktur Otoritas Pusat dan Hukum Internasional menyerahkan dokumen/surat permintaan kepada Koordinator Bantuan Timbal Balik dalam Masalah Pidana dan memberikan arahan untuk tindak lanjut.
	6. Koordinator Bantuan Timbal Balik dalam Masalah Pidana menugaskan Subkoordinator Penanganan Bantuan Timbal Balik untuk melakukan penilaian dan penelaahan dokumen/surat permintaan sesuai dengan ketentuan perundang-undangan di Indonesia.
	7. Subkoordinator Penanganan Bantuan Timbal Balik menugaskan Analis Bantuan Timbal Balik untuk menilai dan menelaah dokumen/surat permintaan sesuai dengan ketentuan perundang-undangan di Indonesia.

Langkah Utama	8. Analis Bantuan Timbal Balik melakukan penilaian dan menelaah dokumen, memeriksa kelengkapan dokumen permintaan dari Pemohon berdasarkan ketentuan perundang-undangan di Indonesia. Jika dokumen/ surat permintaan tidak memenuhi persyaratan perundang-undangan atau kekurangan pemenuhan persyaratan, Analis Bantuan Timbal Balik berkomunikasi dengan pemohon untuk melengkapi persyaratan atau memproses permintaan untuk dikembalikan kepada pemohon. Hasil telaahan dituangkan dalam surat rekomendasi.
	9. Analis Bantuan Timbal Balik menyusun konsep surat tindak lanjut ke Otoritas Berwenang.
	10. Subkoordinator Penanganan Bantuan Timbal Balik memeriksa rekomendasi, konsep surat tindak lanjut kepada Otoritas Berwenang. Jika disetujui, dokumen diparaf dan diserahkan kepada Koordinator. Jika tidak setuju dikembalikan kepada Analis Bantuan Timbal Balik untuk diperbaiki.
	11. Koordinator Bantuan Timbal Balik dalam Masalah Pidana memeriksa rekomendasi, konsep surat tindak lanjut kepada Otoritas Berwenang. Jika disetujui dokumen diparaf dan diserahkan kepada Direktur Otoritas Pusat dan Hukum Internasional. Jika tidak setuju dikembalikan kepada Subkoordinator Penanganan Bantuan Timbal Balik untuk diperbaiki.
	12. Direktur Otoritas Pusat dan Hukum Internasional memeriksa rekomendasi, konsep surat tindak lanjut kepada Otoritas Berwenang. Jika disetujui dokumen ditandatangani dan diserahkan kepada Koordinator Bantuan Timbal Balik untuk dikirimkan kepada Otoritas Berwenang.
	13. Koordinator Bantuan Timbal Balik menugaskan Subkoordinator Penanganan Bantuan Timbal Balik untuk menindaklanjuti pengarsipan dan mengirimkan surat tindak lanjut dan surat permintaan beserta dokumen lampiran kepada Otoritas Berwenang.
	14. Subkoordinator Penanganan Bantuan Timbal Balik menugaskan Analis Bantuan Timbal Balik untuk melakukan pengarsipan dan mengirimkan dokumen.
	15. Direktur Otoritas Pusat dan Hukum Internasional menerima surat tanggapan dari Otoritas Berwenang sebagai jawaban permintaan bantuan timbal balik dari Pemohon dan menyerahkan kepada Koordinator untuk

	diproses lebih lanjut.
	16. Koordinator Bantuan Timbal Balik dalam Masalah Pidana menugaskan Subkoordinator Penanganan Bantuan Timbal Balik untuk menindaklanjuti surat tanggapan dari Otoritas Berwenang dengan mempersiapkan surat jawaban permintaan bantuan timbal balik.
	17. Subkoordinator Penanganan Bantuan Timbal Balik dalam Masalah Pidana menugaskan Analis Bantuan Timbal Balik untuk merancang konsep surat jawaban kepada Otoritas Pusat Negara Peminta.
	18. Analis Bantuan Timbal Balik menganalisa dokumen jawaban dan menyusun konsep surat jawaban kepada Pemohon kemudian diserahkan kepada Subkoordinator Penanganan Bantuan Timbal Balik untuk diperiksa.
	19. Subkoordinator Penanganan Bantuan Timbal Balik memeriksa konsep surat jawaban kepada Pemohon. Jika disetujui diparaf dan diserahkan kepada Koordinator. Jika tidak disetujui dikembalikan kepada Analis Bantuan Timbal Balik untuk diperbaiki.
	20. Koordinator Bantuan Timbal Balik dalam Masalah Pidana memeriksa konsep surat jawaban kepada Pemohon. Jika disetujui diparaf dan diserahkan kepada Direktur Otoritas Pusat dan Hukum Internasional. Jika tidak setuju dikembalikan kepada Subkoordinator Penanganan Bantuan Timbal Balik untuk diperbaiki.
	21. Direktur Otoritas Pusat dan Hukum Internasional memeriksa konsep surat jawaban kepada Pemohon. Jika setuju ditandatangani dan dikembalikan kepada Koordinator dan terus hingga ke Analis Bantuan Timbal Balik untuk pengiriman kepada instansi Pemohon. Jika tidak setuju dikembalikan kepada Koordinator untuk diperbaiki.
	22. Subkoordinator Penanganan Bantuan Timbal Balik melakukan pengarsipan dan penerjemahan dokumen yang sudah ditandatangani oleh Direktur Otoritas Pusat dan Hukum Internasional. Terjemahan dilakukan dalam Bahasa Inggris. Setelah terjemahan diperoleh, terjemahan dilampirkan dengan surat yang akan dikirimkan ke Otoritas Pusat Negara Peminta. Kemudian Subkoordinator menugaskan Analis untuk mengirimkan dokumen.
Langkah Akhir	23. Analis Bantuan Timbal Balik mengirimkan surat jawaban

	kepada Otoritas Pusat Negara Peminta.
	24. Negara Pemohon menerima surat jawaban yang disertai dokumen hasil tindak lanjut permohonan Bantuan Timbal Balik.
	25. Koordinator melakukan koordinasi dengan Negara Peminta, melakukan pemantauan dan memfasilitasi pelaksanaan bantuan timbal balik oleh Otoritas Berwenang. Dalam hal diperlukan untuk memenuhi bantuan timbal balik, Otoritas Pusat dapat memfasilitasi dengan diskusi kasus (<i>case work</i>) di antara para pihak terkait.
	26. Pasca pelaksanaan bantuan timbal balik, Koordinator Bantuan Timbal Balik mengirimkan surat umpan balik pelaksanaan bantuan kepada Pemohon.

BAB VI
KRITERIA PRIORITAS PERMINTAAN BANTUAN TIMBAL BALIK
DALAM MASALAH PIDANA

A. Kriteria Prioritas Permintaan Bantuan Timbal Balik dalam Masalah Pidana dari Negara Asing kepada Pemerintah RI (*Incoming Request*)

Dalam rangka memenuhi permintaan bantuan timbal balik dalam masalah pidana yang berasal dari negara asing, maka Otoritas Pusat RI dalam memberikan bantuannya akan mempertimbangkan:

1. Kerangka hukum Internasional (Perjanjian Bilateral, Perjanjian Regional dan Perjanjian Multilateral serta Konvensi-Konvensi Internasional)
2. Prinsip resiprositas dan hubungan baik
 - a. Kepentingan nasional
 - b. Riwayat pemberian bantuan timbal balik
3. Jenis kejahatan
 - a. Kejahatan serius (*extraordinary crime*)
 - United Nations Convention Against Transnational Organized Crime (UNTOC) untuk jenis Tindak Pidana (Terorisme/ Pendanaan Terorisme, Tindak Pidana Perdagangan Orang, Narkotika, Tindak Pidana Pencucian Uang)
 - United Nations Convention against Corruption (UNCAC) untuk jenis tindak pidana korupsi
 - b. Kejahatan ganda (*dual criminality*)
4. Tingkat urgensi
 - a. Batasan waktu
 - b. Jenis permintaan bantuan
 - Penelusuran aset (*asset tracing*), pembekuan aset (*asset freezing*) dan perampasan aset (*asset forfeiture*)
 - Mencari dan mengidentifikasi orang (*search and identify a person*)
 - c. Tahap penegakan hukum dari kasus yang dimintakan bantuan: eksekusi, pemeriksaan di persidangan, penuntutan, dan penyidikan.

B. Kriteria Prioritas Permintaan Bantuan Timbal Balik dalam Masalah Pidana dari Pemerintah RI kepada Negara Asing (*Outgoing Request*)

Dalam rangka memenuhi permintaan bantuan timbal balik dalam masalah pidana yang berasal dari instansi penegak hukum di Indonesia, maka Otoritas Pusat dalam memberikan bantuannya akan mempertimbangkan kriteria:

1. Kerangka hukum internasional (Perjanjian Bilateral, Perjanjian Regional dan Perjanjian Multilateral serta Konvensi-Konvensi Internasional).
2. Prinsip resiprositas dan hubungan baik
 - a. Kepentingan Nasional
 - b. Riwayat pemberian bantuan timbal balik
3. Jenis kejahatan
 - a. Berbasis risiko (*risk-based*)

Berdasarkan hasil Penilaian Risiko Nasional (*National Risk Assessment*) berupa tindak pidana asal pencucian uang, yaitu Narkotika, Korupsi dan Pajak.
 - b. Kejahatan ganda (*dual criminality*)
4. Tingkat urgensitas
 - a. Batasan waktu
 - b. Jenis permintaan bantuan
 - Penelusuran aset (*asset tracing*), pembekuan aset (*asset freezing*) dan Perampasan aset (*asset forfeiture*)
 - Mencari dan mengidentifikasi orang (*search and identify a person*)
 - c. Tahap penegakan hukum dari kasus yang dimintakan bantuan: eksekusi, pemeriksaan di persidangan, penuntutan, dan penyidikan.

BAB VII
PENUTUP

Demikian pedoman ini dibuat sebagai acuan bagi aparat penegak hukum Indonesia dan negara asing dalam mengajukan permintaan bantuan timbal balik dari dan kepada Pemerintah Republik Indonesia.

Pada saat pedoman ini mulai berlaku, Pedoman Penanganan Permintaan Bantuan Timbal Balik dalam Masalah Pidana di Lingkungan Kementerian Hukum dan HAM Nomor M.HH-01.AH.12.07 Tahun 2017 dicabut dan dinyatakan tidak berlaku.

MENTERI HUKUM DAN HAK ASASI MANUSIA
REPUBLIK INDONESIA,

ttd.

YASONNA H. LAOLY

REGULATION OF THE MINISTER OF LAW AND HUMAN RIGHTS
REPUBLIC OF INDONESIA
NUMBER 12 OF 2022
ON
THE HANDLING OF MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS
WITHIN THE MINISTRY OF LAW AND HUMAN RIGHTS

BY THE GRACE OF GOD ALMIGHTY

MINISTER OF LAW AND HUMAN RIGHTS OF THE REPUBLIC OF INDONESIA,

In view of :

- a. that in order to support implementation of the fulfillment of requests for mutual legal assistance in criminal matters, particularly related to technical matters, which are under the authority of the Minister of Law and Human Rights as the Central Authority, it is necessary to regulate the handling of requests for mutual legal assistance in criminal matters within the Ministry of Law and Human Rights;
- b. that based on considerations as referred to in letter a, it is necessary to stipulate a Regulation of the Minister of Law and Human Rights on the Handling of Mutual Legal Assistance in Criminal Matters within the Ministry of Law and Human

Rights;

- Considering :
1. Article 17 paragraph (3) of the 1945 Constitution of the Republic of Indonesia;
 2. Law Number 1 of 2006 on Mutual Assistance in Criminal Matters (State Gazette of the Republic of Indonesia of 2006 Number 18, Supplement to the State Gazette of the Republic of Indonesia Number 4607);
 3. Law Number 39 of 2008 on State Ministries (State Gazette of the Republic of Indonesia of 2008 Number 166, Supplement to the State Gazette of the Republic of Indonesia Number 4916);
 4. Presidential Regulation Number 44 of 2015 on the Ministry of Law and Human Rights (State Gazette of the Republic of Indonesia of 2015 Number 84);
 5. Regulation of the Minister of Law and Human Rights Number 41 of 2021 on Organization and Rules of Procedure of the Ministry of Law and Human Rights (State Gazette of the Republic of Indonesia of 2021 Number 1365);

DECIDES

To stipulate : REGULATION OF THE MINISTER OF LAW AND HUMAN RIGHTS ON THE HANDLING OF MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS WITHIN THE MINISTRY OF LAW AND HUMAN RIGHTS.

Article 1

In this Ministerial Regulation what is referred to as:

1. Mutual Legal Assistance in Criminal Matters, hereinafter referred to as Assistance, is a request for assistance in connection with an investigation, prosecution, and examination in court proceedings in accordance with the provisions of laws and regulations of the requested state.
2. Minister is the minister who carries out government affairs in the field of law and human rights.
3. Director General is the Director General of Legal Administrative Affairs.

Article 2

- (1) The Minister in accordance with the provisions of the law has the authority to:
 - a. request for Assistance to the requested country; and/or
 - b. provide Assistance to the requesting country.
- (2) The Assistance as referred to in paragraph (1) is carried out at the stage of investigation, prosecution, examination in court proceedings, and implementation of court decisions that have permanent legal force in accordance with the provisions of the law.

Article 3

- (1) Assistance may be made based on a treaty.
- (2) In the event that there is no treaty as referred to in paragraph (1), Assistance may be made on the basis of good relations based on the principle of reciprocity.

Article 4

- (1) The Minister may refuse the granting of Assistance.
- (2) Before refusing the granting of Assistance, the Minister shall consider the approval of the granting of Assistance with special procedures or conditions that are sought to be fulfilled.
- (3) The special procedures or requirements for consideration of approval for the granting of Assistance as referred to in paragraph (2) are set forth in the Guidelines for Handling Mutual Legal Assistance in Criminal Matters Request within the Ministry of Law and Human Rights as provided in the Appendix which is an integral part of this Ministerial Regulation.

Article 5

- (1) The Minister authorizes the Director General to manage the data and information on Assistance.
- (2) The management of Assistance data and information as referred to in paragraph (1) can be carried out electronically.

Article 6

This Ministerial Regulation comes into force on the date of its promulgation.

For public cognizance, it is hereby ordered that this Ministerial Regulation be promulgated by placement in the State Gazette of the Republic of Indonesia.

Stipulated in Jakarta

on the date of 8 July 2022

MINISTER OF LAW AND HUMAN RIGHTS OF
THE REPUBLIC OF INDONESIA,

Signed

YASONNA H. LAOLY

Promulgated in Jakarta

on the date of 8 July 2022

MINISTER OF LAW AND HUMAN RIGHTS
REPUBLIC OF INDONESIA,

Signed

YASONNA H. LAOLY

Unofficial Translation

**APPENDIX TO
REGULATION OF THE MINISTER OF LAW AND
HUMAN RIGHTS OF THE REPUBLIC OF
INDONESIA
NUMBER 12 OF 2022
ON
HANDLING OF MUTUAL LEGAL ASSISTANCE IN
CRIMINAL MATTERS
WITHIN THE MINISTRY OF LAW AND HUMAN
RIGHTS**

**GUIDELINES ON HANDLING OF MUTUAL LEGAL ASSISTANCE IN CRIMINAL
MATTERS REQUEST WITHIN THE MINISTRY OF LAW AND HUMAN RIGHTS**

**CHAPTER I
INTRODUCTION**

A. BACKGROUND

Mutual legal assistance in criminal matters is a mechanism among countries to request and provide assistance in a criminal matters to collect evidence that can be used in the stages of investigation, prosecution, and examination in court proceedings, and execution of court judgment which has obtained permanent legal force in accordance with provisions of the law, and to trace, freeze, seize and finally confiscate proceeds of crime. The mutual legal assistance mechanism is required, especially that legal issue often arises in criminal law enforcement; in which on such case can only be resolved by cooperation amongst countries within international relation framework – based on their respective domestic laws. In Indonesia, the legal framework to implement mutual legal assistance is regulated by the Law Number 1 of 2006 on Mutual Legal Assistance in Criminal Matters. The law provides legal basis for the Government of Indonesia to request and/or provide mutual assistance in criminal matters with foreign countries with regard to the investigation, prosecution, court examinations, and the following action of court judgment.

Enactment of Law Number 1 of 2006 on Mutual Legal Assistance in Criminal Matters iterates Indonesia's commitment to cooperate with international community to eradicate transnational crime. In addition, the law is also part of Indonesia's effort to strengthen their national legal framework, in accordance with the United Nations Convention against Corruption (UNCAC), which was ratified through Law Number 7 of 2006 on the Ratification of United Nations Convention Against Corruption 2003. The convention recommends its member states to develop mutual legal assistance,

in order to eradicate corruption – specifically to return assets as the proceeds of crimes.

In carrying out the duties related to mutual assistance, as stipulated in Law Number 1 of 2006 on Mutual Assistance in Criminal Matters, Minister who carries out government affairs in the field of law and human rights is designated as Central Authority to facilitate and coordinate within the international cooperation framework and to implement mutual legal assistance. Therefore, Ministry of Law and Human Rights is the coordinator which is authorized to receive requests or to submit requests for mutual assistance in criminal matters to other countries, as well as drawing up mutual legal assistance treaties in criminal matters with other countries.

B. OBJECTIVE AND GOAL

This guideline is developed both for law enforcers of Indonesia and foreign countries to ensure that the implementation of mutual legal assistance to be held according to the laws. In addition, the guideline also serves as information and handbook for Competent Authorities of Indonesia and foreign country in submitting request of mutual legal assistance in criminal matters.

C. SCOPE

The scope of this guideline includes:

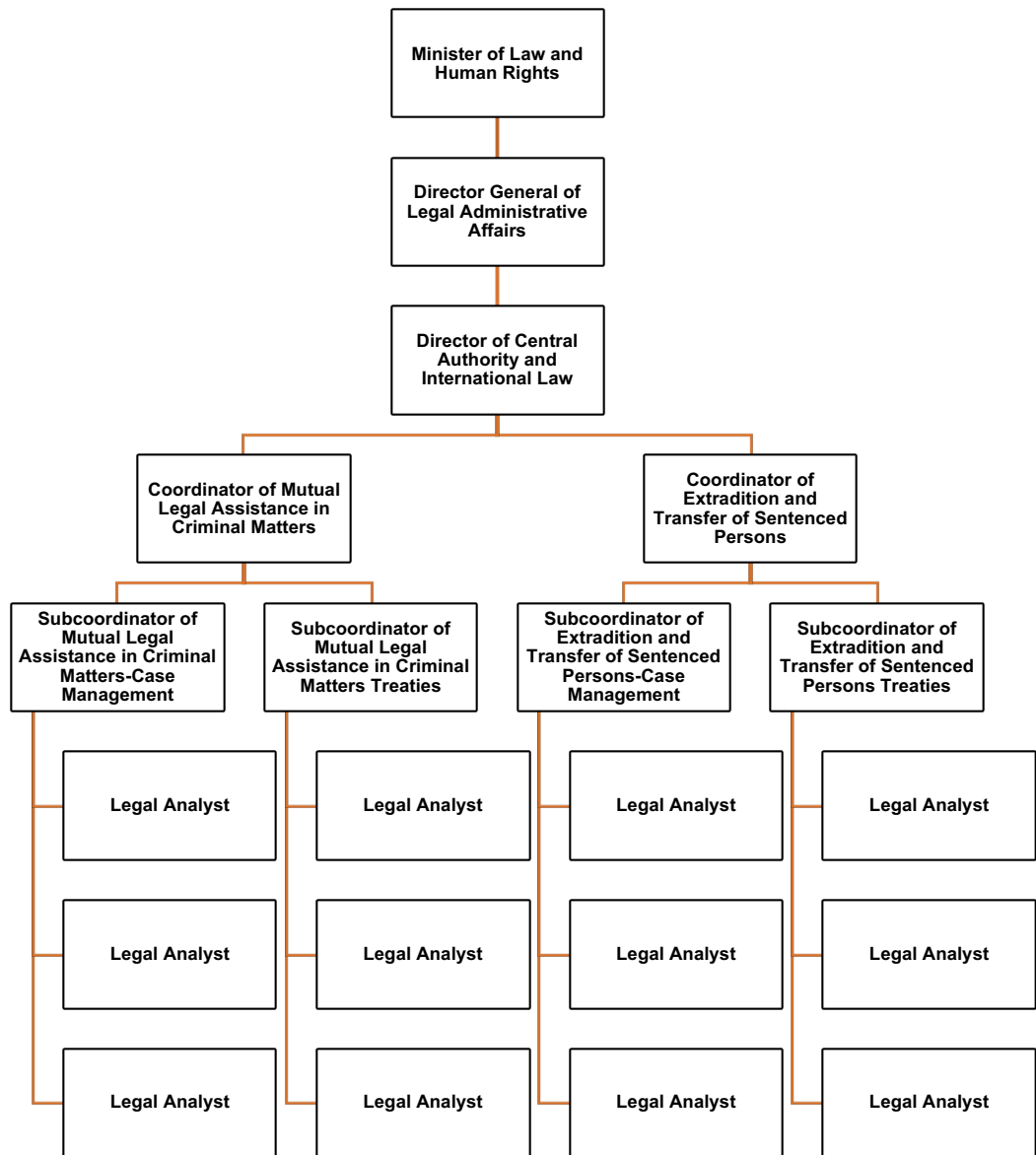
1. Guidelines for law enforcer to request legal assistance in criminal matters to foreign country.
2. Guidelines for law enforcers and Central Authorities of foreign countries to request legal assistance in criminal matters to Indonesian government.

D. DEFINITION

1. Central Authority of the Republic of Indonesia

Central Authority designated by Law Number 1 of 2006 to administer mutual legal assistance in criminal matters for the Government of Indonesia is the Minister of Law and Human Rights. The authorized officials in charge of handling mutual legal assistance within Ministry of Law and Human Rights is Directorate of Central Authority and International Law, Directorate General of Legal Administrative Affairs, Ministry of Law and Human Rights of the Republic of Indonesia.

Organizational structure of Central Authority for Mutual Legal Assistance in Criminal Matters is as follows:



2. Types and Scope of Assistance

Types of assistance that may be obtained from foreign country, include:

- a. Identification and search of persons;
- b. Obtaining witness statement or any other forms;
- c. Presenting documents or any other forms;
- d. Presenting persons to provide statement or assist in an investigation;
- e. Delivering letter;
- f. Search and seizure;
- g. Confiscation of proceeds from a criminal offense;
- h. Return of monetary fines in relation to criminal acts;
- i. Freezing assets, prohibiting financial transactions, which may be released or confiscated, or may be required to meet the sanctions imposed in connection with a criminal offense;

- j. Search of assets that may be released, or may be required to meet the sanctions imposed, in connection with a criminal offense;
- k. Other assistance in accordance with provisions of the law.

Provision of assistance by the Government of Indonesia, includes:

- a. Identification and search for persons;
- b. Obtaining witness statement or any other forms;
- c. Presenting documents or any other forms;
- d. Presenting persons to provide statement or assist in an investigation;
- e. Performing transfer of sentenced persons through Indonesian territory;
- f. Carrying out search and seizure requests;
- g. Delivering letters;
- h. Execution of court judgment;

3. Treaties and Reciprocity

Mutual legal assistance in criminal matters in Indonesia may be based on bilateral or regional treaties, or international conventions. In the event that a request is carried out to or by a state with no treaties with Indonesia, assistance may still be granted on the basis of good relations based on the principles of reciprocity. Reciprocity means that: 1) the Requesting Countries need to declare its assurance to assist Government of Indonesia when needed in the future or that the Requesting Countries have previously provided assistance to the Government of Indonesia, 2) Government of Indonesia will take into consideration of any assistance record in granting a request.

4. Mutual Legal Assistance Treaties between Indonesia and Foreign Countries

As legal framework of mutual legal assistance in criminal matters, Indonesia has signed several bilateral and multilateral treaties:

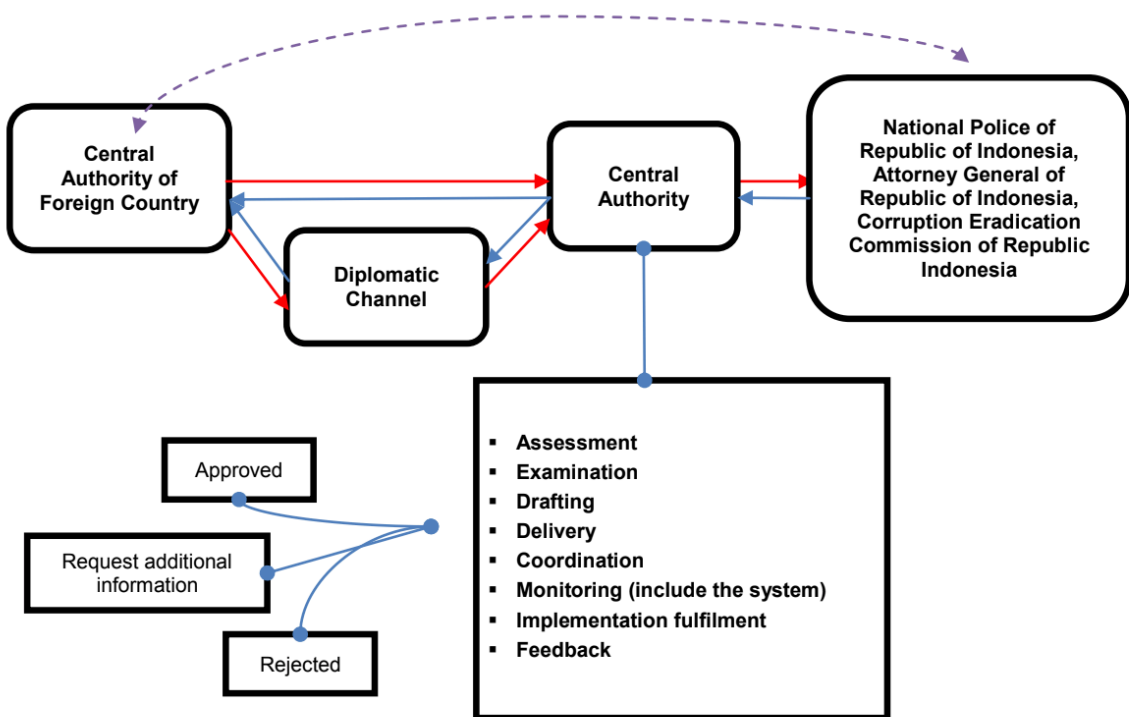
- a. Treaty on Mutual Legal Assistance in Criminal Matters as ratified by Law Number 15 of 2008 on Ratification of Treaty on Mutual Legal Assistance in Criminal Matters – Government of Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, The Philippines, Singapore, Thailand, Myanmar, and Vietnam which was signed on 29 November 2004 in Kuala Lumpur, Malaysia;
- b. United Nations Convention against Transnational Organized Crime as ratified by Law Number 5 of 2009;
- c. United Nations Convention Against Corruption as ratified by Law Number 7 of 2006;
- d. United Nations Convention against Illicit Traffic in Narcotics, Drugs, and Psychotropic Substances as ratified by Law Number 7 of 1997;

- e. International Convention for the Suppression of the Financing of Terrorism as ratified by Law Number 6 of 2006;
- f. Treaty with the Government of Australia ratified through Law Number 1 of 1999 on Ratification of treaty between Republic of Indonesia and Australia on mutual legal assistance in criminal matters;
- g. Treaty with the Government of People's Republic of China ratified through Law Number 8 of 2006 on Ratification of treaty between Republic of Indonesia and People's Republic of China on mutual legal assistance in criminal matters;
- h. Agreement with Hongkong SAR ratified through Law Number 3 of 2012 on Ratification of Treaty between Republic of Indonesia and Hong Kong SAR of the People's Republic of China on mutual legal assistance in criminal matters;
- i. Treaty with Republic of Korea ratified through Law Number 8 of 2014 on Ratification of Treaty between Republic of Indonesia and Republic of Korea on mutual legal assistance in criminal matters;
- j. Treaty with India ratified through Law Number 9 of 2014 on Ratification of Treaty between Republic of Indonesia and Republic of India on mutual legal assistance in criminal matters;
- k. Treaty with Vietnam ratified through Law Number 13 of 2015 on Ratification of Treaty on mutual legal assistance in criminal matter between Republic of Indonesia and Socialist Republic of Viet Nam;
- l. Treaty with United Arab Emirates ratified through Law Number 6 of 2019 on Ratification of Treaty between Republic of Indonesia and Uni Emirat of Arab on mutual legal assistance in criminal matters;
- m. Treaty with Islamic Republic of Iran ratified through Law Number 10 of 2019 on Ratification of Treaty between Republic of Indonesia and Islamic Republic of Iran on mutual legal assistance in criminal matters;
- n. Treaty with Swiss Confederation ratified through Law Number 5 of 2020 on Ratification of Treaty between Republic of Indonesia and Switzerland on mutual legal assistance in criminal matters;
- o. Treaty with Russian Federation ratified through Law Number 5 of 2021 on Ratification of Treaty between Republic of Indonesia and Russian Federation on mutual legal assistance in criminal matters.

CHAPTER II PROCEDURES TO REQUEST ASSISTANCE

A. MUTUAL LEGAL ASSISTANCE REQUEST

Formally, whether Indonesia as requesting parties or requested parties, the request of mutual legal assistance in criminal matters is carried out with facilitation and coordination of Central Authority that has been designated by the law. The communication process itself, however, may be delivered directly or via diplomatic channels. Despite informal communication, official request of mutual legal assistance will still have to be administered by the Central Authority. The process is required to ascertain admissibility or validity of evidence in legal proceedings for mutual assistance to be carried out. Within the process, the Central Authority will assess, analyze, and communicate with relevant parties, both in-country requesting institution and central authority of a foreign country, to ensure that any legal assistance is rendered accordingly to the regulatory framework.



B. MUTUAL LEGAL ASSISTANCE REQUEST FROM LAW ENFORCERS IN INDONESIA TO FOREIGN COUNTRY

Request of legal assistance is proposed by law enforcers through the Central Authority to be communicated to foreign country. The process of request initiated with submission of request proposal to Central Authority by law enforcers. As regulated by Law of 1 Year 2006 on Mutual Assistance in Criminal Matters, law enforcers that are allowed to request assistances from Indonesia are:

- Chief of National Police of Republic of Indonesia
- Attorney General of Republic of Indonesia
- Head of Corruption Eradication Commission (in regard to corruption)

Mutual legal assistance request letter proposal is addressed to:

Minister of Law and Human Rights of the Republic of Indonesia

For attention of Director of Central Authority and International Law

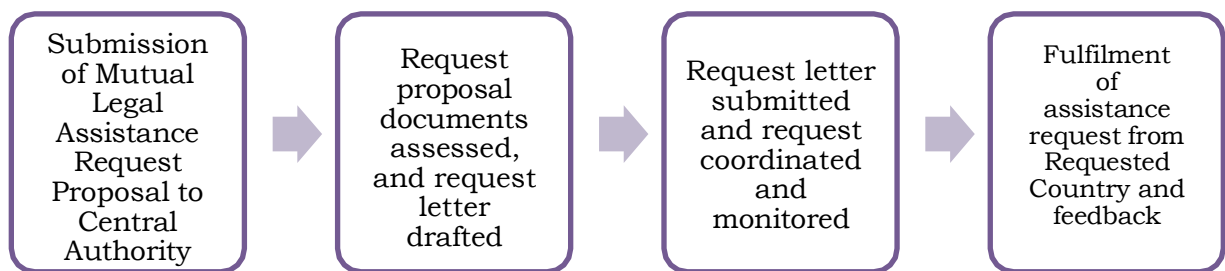
Directorate General of Legal Administrative Affairs

Gedung Administrasi Hukum Umum, Jl. HR. Rasuna Said Kav. 6-7

Jakarta Selatan, D.K.I Jakarta 12940, Indonesia

C. PHASES IN MUTUAL LEGAL ASSISTANCE REQUEST TO FOREIGN COUNTRY

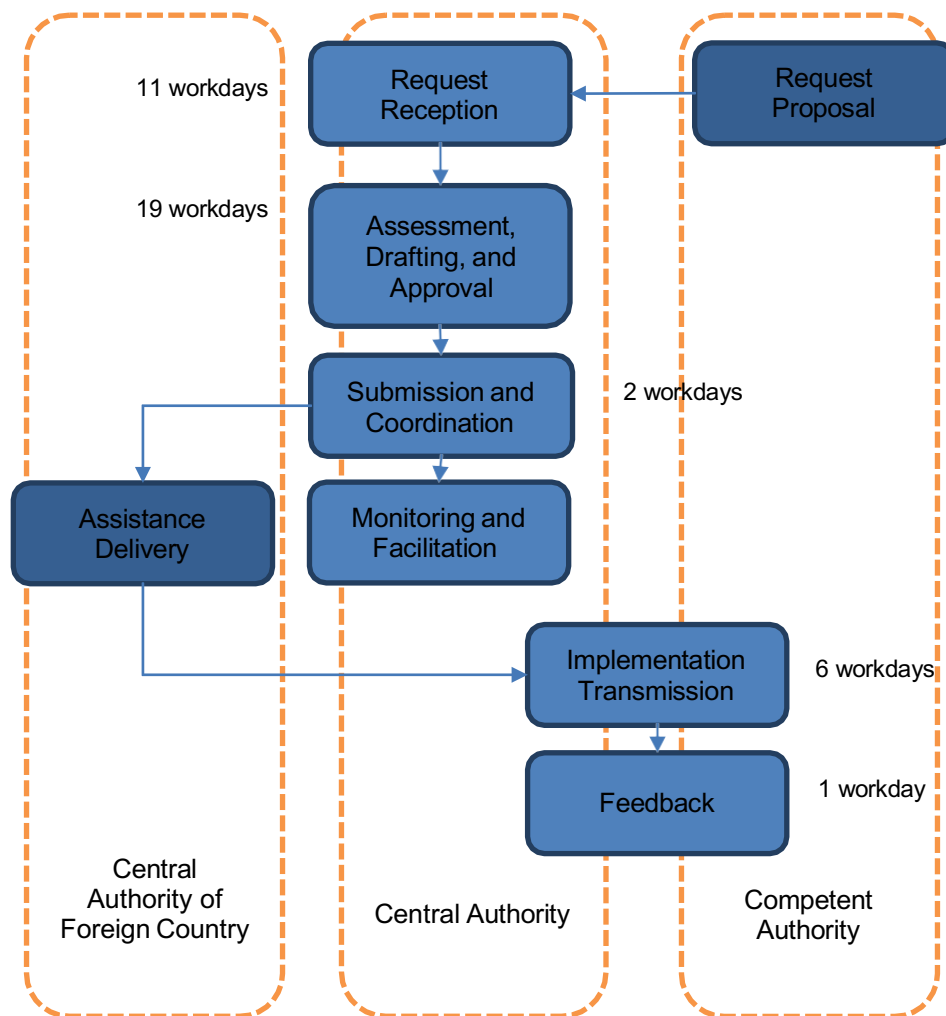
Once received by Central Authority, proposals from competent authorities will be assessed and examined. Then, the Central Authority will then coordinate with the law enforcers to draft the Legal Assistance Request Letter to a Requested Country. The file will then is delivered to the Requested Countries. Where requests are delivered, Central Authority maintains coordination with Central Authority of Requested Country in the implementation of the legal assistances.



Flowchart 1. Phases in Requesting Mutual Legal Assistance to a Foreign Country

No.	Description	Timeframe
1.	Phase of Reception of Assistance Request Proposal	11 workdays
	(a) Reception by Minister	2 workdays
	(b) Disposition to Director General	4 workdays
	(c) Disposition to Director	2 workdays
	(d) Disposition to Coordinator	1 workday
	(e) Disposition to Sub-coordinator	1 workday
	(f) Disposition to Analyst	1 workday
2.	Phase of Assessment and Drafting of Assistance Request	19 workdays
	a. Assessment	2 workdays
	(i) Assess letter incoming flows	
	(ii) Assess request documents	
	(iii) Recommend follow-ups	
	b. Drafting	4 workdays
	c. Review, approval, and signing hierarchically to Director	3 workdays
	d. Translation to Requested Country's official language	10 workdays
3.	Phase of Submission, Coordination, and Monitoring Assistance Request	2 workdays
	a. Request submission to Central Authority of Requested Country	2 workdays
	b. Coordination and monitoring	Periodically
4.	Phases of Assistance Fulfillment and Feedback	7 workdays
	a. Facilitate assistance fulfillment	to be performed according to the Requesting Country's law
	b. Cover letter drafting and transmission of mutual legal assistance fulfillment to requesting institution	6 workdays
	c. Delivering feedback letter of mutual legal assistance fulfillment	1 workday

Table 1. Timeframe of Request Administration to Foreign Country



Flowchart 2. Flowchart of Mutual Legal Assistance Request to Foreign Country

Phase 1. Submission of Mutual Legal Assistance Request Proposal to Central Authority

Law enforcer submits the proposals of mutual legal assistance through Central Authority by attaching relevant information. Proposal submitted to Central Authority will be administered, within information system, that relevant parties are able to monitor the status of the request. To ensure effective assistance request process, Applicants are recommended to consider the standard form of Legal Assistance Request. The standard form generally summarizes the need for Applicants to describe the case summary and type of assistance requested along with all the supporting requirements for application.

1. Requirements of Legal Assistance Request Application:
2. Legal assistance request proposal;
3. Identity of the institution applying the request;
4. Summary of the case, investigation, prosecution, or court examination in regard to the request; including the name and function of the institution that performs the investigation, prosecution, and judicial proceedings.
5. Summary of relevant facts.

6. Relevant laws, articles, and sanctions.
7. Description of legal assistance requested.
8. Details of inclined specific procedures such as confidentiality, and the purpose of the assistance.
9. Other pre-requirement specified by Requested Country.

Phase 2. Assessment and Drafting of Mutual Legal Assistance Request

After receiving the Legal Assistance Proposal from requesting institution, Central Authority assesses and examines the applied request. In this phase, Central Authority will assign a Mutual Legal Assistance analyst (case officer) to receive and assess the requirements of request and its relevant supporting documents. Central Authority will then examine regulatory analysis, supporting documents, criminal matters for which assistance are requested, and the type of assistance. Recommendations of the assessment and examination are transmitted to law enforcers as the applicant of mutual legal assistance request. When necessary, Central Authority may propose additional information and documents or call a coordination meeting with the requesting institution. In the said meeting, third party involvement may be allowed with approval from the applicant.

In addition to assessment, Central Authority also drafts letters to be submitted to the Requested Country. Legal Assistance Request Letter to be addressed to the Requested Country's Central Authority attached with a cover letter signed by the Director. In the case that requests are channeled via diplomatic channels, Central Authority drafts a cover letter to be delivered to the Ministry of Foreign Affairs cq. Directorate General of International Law and Treaties.

Phase 3. Submission of Letter Request to a Requested Country, Coordination, and Monitoring of Mutual Legal Assistance Request

Process of coordination and submission of legal assistance request may be carried out directly to the Central Authority or through diplomatic channels. If the request is submitted through diplomatic channels, the Central Authority coordinates with Requested Country's Central Authority and Ministry of Foreign Affairs. Following the delivery of Request Letter, Central Authority will monitor the request and report the status and its follow up to the law enforcer as the applicant. The process and progress of the request shall be monitored and reported to law enforcer periodically.

After receiving response from Requested Country, Central Authority will assess whether the response is in accordance with the request. Confirmation of the response conducted with requesting institution, including if the Requested Country asks for additional information or document as a requirement to the legal assistance. In such case,

confirmation is exercised by Central Authority by delivering letter of additional data inquiry to the requesting institution.

Phase 4. Fulfilment of Mutual Legal Assistance and Feedback

Central Authority facilitates the fulfillment of assistance from requesting institution carried out by Requested Country. If necessary, Central Authority may also proactively conduct detailed and comprehensive casework meetings either in person, electronically, or in virtual meetings with Requested Country. This may be performed jointly with the relevant institution. Results of the implementation of requests for assistance shall be submitted through Central Authority and then forwarded to requesting institution.

When the legal assistance satisfied, Central Authority administers feedback request, both to the law enforcer and the Requested Country. Feedback from Requested Country may include the mandatory undertaking of the Requesting Country, including regarding the return of evidence.

D. MUTUAL LEGAL ASSISTANCE REQUEST TO GOVERNMENT OF INDONESIA

Any country may submit mutual legal assistance request to Indonesia. The request could either be delivered directly or transmitted through diplomatic channels. Central Authority of Republic of Indonesia is also reachable to provide consultancy prior to formal request of mutual legal assistance to Indonesia, that expected to provide input for requirement fulfillment in requesting mutual legal assistance. As guidelines, the Central Authority also provides model form of Mutual Legal Assistance Request Letter which should be taken into consideration in fulfillment of the requirements or information which will be needed by Central Authority in Indonesia to assess mutual legal assistance request.

Request of assistance is addressed to:

Minister of Law and Human Rights of Republic of Indonesia

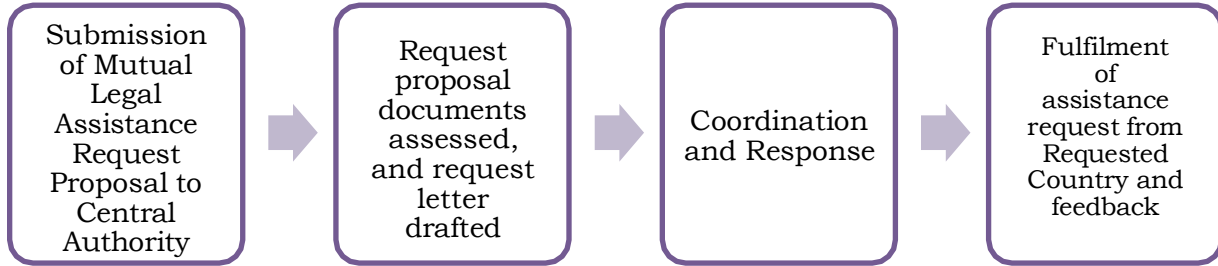
For attention of Director of Central Authority and
International Law Directorate General of Legal
Administrative Affairs

*Gedung Administrasi Hukum Umum, Jl. HR. Rasuna
Said Kav. 6-7 Jakarta Selatan, D.K.I Jakarta 12940,
Indonesia*

E. PHASES IN MUTUAL LEGAL ASSISTANCE REQUEST TO THE GOVERNMENT OF INDONESIA

Upon receiving request of mutual legal assistance from Central Authority of Foreign Country, Central Authority will assess and examine the request documents. Central Authority may approve or refuse the request in accordance with Law Number 1 of 2006 regarding Mutual Legal Assistance in Criminal Matters. If request is approved, Central Authority coordinates with competent

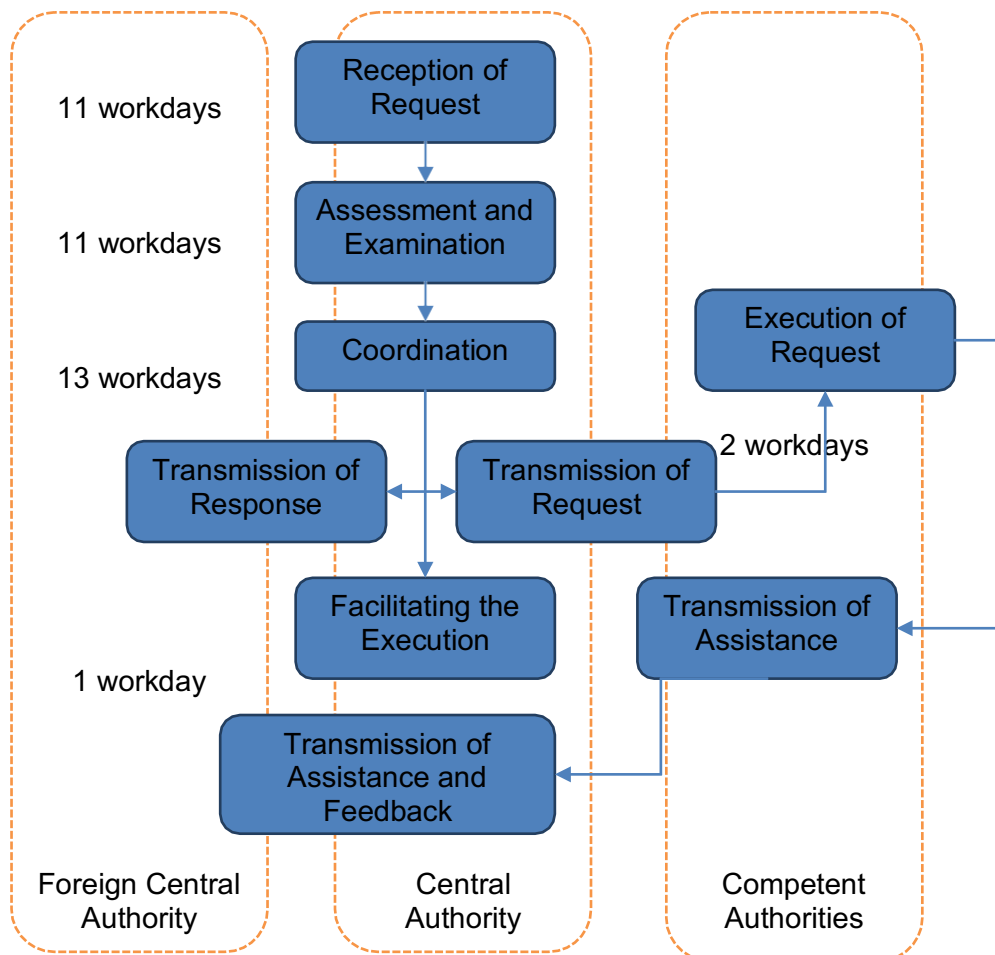
authority in providing legal assistance and maintain communication with the Requesting Country. On the implementation of mutual legal assistance, Central Authority also monitors and facilitates the process, and requests feedback from the Requesting Country when the assistance is fulfilled.



Flowchart 3. Phases of Submission of Mutual Legal Assistance Request from Foreign Country

No.	Description	Timeframe
1	Phase of Reception of Legal Assistance Request	11 workdays
	a. Reception by Minister	2 workdays
	b. Disposition to Director General	4 workdays
	c. Disposition to Director	2 workdays
	d. Disposition to Coordinator	1 workday
	e. Disposition to Sub-coordinator	1 workday
	f. Disposition to Analyst	1 workday
2	Phase of Assessment and Examination of Request and Drafting of Follow-up Letter	11 workdays
	a. Assessment and examination	2 workdays
	b. Drafting and approval of follow-up letter	9 workdays
3	Phase of Coordination and Transmission of Request and Response Letter	
	a. Delivering Follow-up Letter to the Competent Authority	2 workdays
	b. Coordination and reception of Response Letter from Competent Authority	3 workdays
	c. Drafting and transmitting Response Letter to Central Authority of Requesting Country	10 workdays
4	Phase of Implementation of Mutual Legal Assistance	1 workday
	a. Transmission and facilitation of implementation of mutual legal assistance	-
	b. Feedback request	1 workday

Table 2. Timeframe of Mutual Legal Assistance Request from Foreign Country Administration



Flowchart 4. Flowchart of Mutual Legal Assistance Request from Foreign Country

Phase 1. Submission of Mutual Legal Assistance Request Proposal to Central Authority

Central Authority of Foreign Country may submit MLA request either directly to Central Authority or through diplomatic channels. When the request is received, Central Authority will send an acknowledgement letter to Central Authority of Requesting Country.

Before submitting a request for assistance, it is advisable that Central Authority of Foreign Country be mindful of the following key points in requesting assistance as provided in the guidelines. In addition, it is also suggested that Requesting Country considers the standard form of Legal Assistance Request as provided by Central Authority, includes:

1. Requirement of legal assistance request;
2. Letter of Mutual Legal Assistance Request;
3. Identity of the institution proposing a request of assistance;
4. Summary of the case investigation, prosecution or court examination in regard to the request; including the name and function of the institution that performs the investigation, prosecution, and judicial proceedings.
5. Summary of relevant facts.
6. Relevant laws, articles, and sanctions.
7. Description of legal assistance requested.
8. Details of inclined specific procedures such as confidentiality, and the purpose of the assistance.
9. Other pre-requirement provisions.

Phase 2. Assessment and Examination of Mutual Legal Assistance Request

After the reception of request letter, Central Authority will assign a mutual legal assistance analyst (case officer) to assess and examine the document of request. Based on the assessment, a request of legal assistance may be approved or refused. If the request is approved, the procedures continued with examination of the request. This is performed to verify the supporting documents and conformity to prevailing laws in Indonesia. If the examination finds that the request is lacking some requirements, Central Authority will coordinate with Requesting Country either directly with Central Authority of Requesting Country or via diplomatic channels to provide additional information or data as required.

In administering the assistance request, in addition to the criteria provisioned by the law through assessment and examination, Central Authority will also filter the request with prioritization. In general, particular prioritization will be given on the criteria of:

1. Relations between the Government of Indonesia and a Requesting Country. In this case, they may include bilateral or regional treaties, or as fellow parties of international conventions related to mutual legal assistance, and reciprocity undertaking.
2. Degree of seriousness of the crime being handled. For this criteria, Central Authority will also assess the proportionality of request with the level of the crime and a *de minimis* consideration of the crime for which the assistance is requested. One of the *de minimis* considerations may be based on the level of the crime or the loss or profit occurring from the crime relative to the measures that shall be taken by the Government of Indonesia to fulfill the request for assistance.
3. Urgency. Beside relations and degree of crime, urgency is also an important criterion to be prioritized in the implementation of legal assistance request.

Based on the assessment, Central Authority shall transmit the MLA request documents along with the Follow-Up Letter to the Competent Authority.

Phase 3. Coordination with Competent Authority in Indonesia and Delivering Response Letter to the Requesting Country

Recommendations from the assessment and examination will then be communicated to competent authority. Based on the communication and response given by the competent authority on the legal assistance request, Central Authority delivers a Response Letter to Requesting Country. In the transmission, Central Authority will coordinate with Central Authority of Requesting Country. When necessary, the coordination can be done directly in the Requesting Country to discuss the requested assistance (case work).

Phase 4. Implementation of Mutual Legal Assistance

If mutual legal assistance request is approved, Central Authority facilitates and monitors the implementation of assistance. Monitoring is conducted periodically to provide information on the progress of assistance implementation. If necessary,

Central Authority may request the institution implementing the assistance (the Police or Prosecutor's Office) to submit progress reports of the implementation of assistance to Central Authority within 14 (fourteen) working days after receiving the request from Central Authority.

When legal assistance is completed by the competent authority, Central Authority delivers the result and asks for a feedback on the legal assistance implementation through the Central Authority of Requesting Country.

F. IMPORTANT THINGS TO BE ADDRESSED IN REQUESTING MUTUAL LEGAL ASSISTANCE TO THE GOVERNMENT OF INDONESIA

In order to ensure that request of mutual legal assistance executed efficiently, it is imperative for the Central Authority of Requesting Country to be attentive on following notes when submitting mutual legal assistance request in criminal matters to the Government of Indonesia:

1. Law enforcement agency proposing request of legal assistance needs to consult with Central Authority of Requesting Country in submitting the request.
2. Ensure that the request is in accordance with the laws in Indonesia and be considerate with the alleged crime's proportionality.
3. Indicate mechanism being used to propose request of assistance or provide undertaking of reciprocity.
4. Describe relevant information related to the institutions of law enforcing institution that requests legal assistance and its legal basis.
5. Explain case summary pertaining to the legal assistance request and applicable criminal law to the case in which the assistance are being sought and the sanctions. Identify assistance being requested and its confidentiality.
6. Declare the undertaking to comply other requirements and on the use of evidence.
7. Describe time urgency and provide contacts.

Point 1. Consult the Request with Central Authority of a Requesting Country

While informal communications may be conducted through law enforcement forums, official requests for mutual legal assistance to Indonesia can only be administered through communication between Central Authorities. With regard to specific requests related to high profile criminal case, it is highly recommended for the requesting institution of foreign country to coordinate with Central Authority in their country before transmitting a formal mutual legal assistance request. Central Authority should provide recommendations whether assistance required from Indonesia is in accordance with Indonesia's regulations and meet the MLA request requirements.

Request of legal assistance to Indonesia should be submitted in English and in requesting country's official language - with its translation in Bahasa Indonesia. Translated documents from the Requesting Country shall be certified by a sworn translator and accompanied by a statement that the translated documents are true copies of the original.

Point 2. Ensure That the Request is in Accordance with the Laws in Indonesia and the Alleged Crime's Proportionality

Requesting countries need to ensure that request for assistance is in accordance with Indonesian regulatory framework and provisions of Law No.1 of 2006 regarding Mutual Assistance in Criminal Matters. Furthermore, Requesting Country shall also consider the proportionality of assistance to the level of criminal act. With limited resources in the criminal justice system of Indonesia, requesting country needs to explain the level of urgency in the assistance. If the investigated criminal act is classified as a minor offence, the request might be given a low priority. Priority will be given to more urgent, time-sensitive request for assistance.

Point 3. Indicate Legal Basis being Used to Propose Request of Assistance and Principle of Reciprocity.

Upon drafting the request letter, Requesting Country needs to clearly identify and indicate available international legal framework to which Indonesia is a party that can be used as basis for mutual legal assistance in criminal matters request. This legal framework, either a bilateral or regional treaty, or an international convention, are referable for requesting mutual legal assistance to Indonesia.

In the case where Requesting Country does not have any treaty with the Government of Indonesia or not a member of relevant international conventions, principles of reciprocity shall apply to such countries. Effectuation of reciprocity principle means that the Requesting Country needs to provide reciprocity undertaking within the request letter for the legal assistance to Indonesia in the future.

“The Government [requesting country] undertake that it will comply with future request by Indonesia for similar assistance in a criminal matter an offence that corresponds of the foreign offence for which assistance is sought.”

Point 4. Information Relating to the Authority that Perform Investigation or Manage the Case.

The Requesting Country shall define specific competent law enforcing authority that requests mutual legal assistance and in the process of investigating or prosecuting the case, or examination before the court. The information shall also be enclosed with the legal basis. The letter of assistance request shall also describe the current law enforcement stage being sought in the Requesting Country.

Effective communication is encouraged especially on the purpose of clarification or to provide requirement or information in regard to the request. Requesting Country shall also provide list of contacts and phone numbers or other relevant communication lines of authorities dealing with the law enforcement process or prosecution. The list may include contacts that may

need to be reached in representing Central Authority of the Requesting Country.

Point 5. Describe Current Status of the Case, Applicable Criminal Law to the Case, and the Sanctions.

To request a mutual legal assistance from Indonesia, a Requesting Country shall provide summary information of the case being investigated or prosecuted. This information includes a summarized case information of the offences, applicable criminal law and its sanctions. All relevant regulation or criminal law in regard to the criminal allegation or enforcement should be provided in verbatim text. The case summary should explain how and why the request of assistance would be related to the case.

Point 6. Identify Assistance Being Requested and Its Confidentiality.

In accordance to provided case summary, a Requesting Country shall express in specific term of assistance being requested to Indonesia and any particular requirement or procedure that must be met for the need of the requesting country.

It is important to note that based on Indonesian law, the request of mutual legal assistance is considered confidential information. However, the requesting country needs to consider that disclosure may be necessary where compulsory measure is required, based on a written agreement between Central Authority and/or a Country in possession of information on the requested assistance. If the case being investigated is highly sensitive and confidential, the Requesting Country shall clearly state in the request letter the reasons for confidentiality and the special procedures that need to be implemented in maintaining confidentiality of the information and using the information contained in the request letter in accordance with the purpose of the request letter.

The Requesting Country shall also be responsible for maintaining the confidentiality of information obtained from the Requested Country. if necessary, the Requesting Country may submit a written commitment to maintain the confidentiality of information obtained from Indonesia based on the provisions applicable in Indonesia and is carried out as long as it does not interfere with the national interest, by taking into account the provisions of laws and regulations.

Point 7. Other Compulsory Requirements and the Use of Evidence.

Government of Indonesia will also require statement of undertaking to be fulfilled by a Requesting Country when any mutual legal assistance is transmitted to the Central Authority:

1. Mutual legal assistance request is not related with investigation or prosecution of a person, that had it occurred in Indonesia, it would have constituted an offence under military law in Indonesia;

2. Mutual legal assistance is not made for the purpose of prosecuting and investigating or otherwise causing bias prejudice to a person on account of that person's colour, race, ethnicity, gender, religion, nationality, or political preferences;
3. Unless the Attorney General of the Republic of Indonesia provides consent otherwise, any evidence obtained pursuant to the mutual legal assistance request will not be used for the purpose other than the criminal matter in respect to the requested assistance;
4. Should Attorney General of the Republic of Indonesia require the return of any evidence obtained pursuant to the mutual legal assistance request after the judicial processes have permanent legal force, the evidence shall be returned to the Attorney General of Republic of Indonesia. If the relevant evidence will be used for other purposes or other cases, the Requesting Country shall first apply for authorization to Central Authority of the Republic of Indonesia.

Point 8. Describe Time Urgency in Delivery of Assistance.

Specify clearly time limit in which request is sought after and the reason of the time constraint (e.g.: investigation time constraint). Also state the specific date if there is any specific deadline. For example, when there is a need to present a witness before the court directly (in person or via live streaming).

G. POINTS OF CONSIDERATION IN MUTUAL LEGAL ASSISTANCE REQUEST

1. Refusal of Mutual Legal Assistance Request

To be approved, legal assistance requires prerequisites. Some of the requirements are compulsory while others are facultative. Request of legal assistance may be refused if:

- a. Criminal acts considered as political crimes, except for assassination or attempted assassination of heads of state or government, terrorism, or other criminal offenses under military law;
- b. Criminal acts of which the perpetrator has been released, granted clemency, or have completed period of punishment;
- c. Criminal acts that cannot be prosecuted if committed in Indonesia;
- d. Law enforcement conducted for reasons of ethnicity, gender, religion, citizenship, and political views;
- e. It will obstruct national sovereignty, security, interest, and law;
- f. The foreign country cannot guarantee that the assistance being requested will not be used for purposes other than for handling the requested case;
- g. The foreign country cannot guarantee the return of evidence obtained on the basis of assistance if requested.

When considered potentially obstruct or incompatible with Indonesian law, a request for assistance may also be refused. Furthermore, request for assistance may also be refused if:

a. Criminal acts which, if committed in the territory of Indonesia, are not crimes

Requests for Assistance to the Government of Indonesia for the punishment of persons for criminal acts which, if committed within the territory of Indonesia, do not constitute criminal acts, the Minister may approve upon specific terms and conditions that shall be met by the Requesting Country as follows:

- 1) The Requesting Country submits a written commitment to undertake the principle of reciprocity to the fulfillment of requests for assistance from the Government of Indonesia;
- 2) The elements of a criminal offense suspected or indicted against the person are elements of a criminal offense based on international treaties to which Indonesia and the Requesting Country are parties; and;
- 3) Fulfillment of Assistance does not obstruct national law, by taking into account data and information from relevant agencies, ministries/institutions.

b. Criminal acts which, if committed outside Indonesia, do not constitute crimes

1. Requests for Assistance from the Government of Indonesia for persons for criminal acts which, if committed outside the territory of Indonesia, do not constitute criminal acts, may be followed up with special terms and conditions as follows: Indonesia submits a written commitment to undertake the principle of reciprocity to the fulfillment of requests for assistance from the Requested Country;
2. The elements of a criminal act suspected or indicted against the person are elements of a criminal offense based on an international treaties to which Indonesia and the Requested Country are parties; and
3. Fulfillment of Assistance does not obstruct Indonesia's national interest by considering data and information from relevant agencies, ministries/agencies.

c. Crimes punishable by death penalty

In the event of a request from the Requesting Country for a crime punishable by death penalty, the Minister may approve it if the Requesting Country provides a written commitment that the Requesting Country will not impose a death penalty on the suspect or defendant. If the judge imposes the death penalty, the sentence will not be carried out.

d. Obstructing law enforcement in Indonesia

Requests for assistance are deemed detrimental to law enforcement in Indonesia if their implementation would hinder the implementation of legal

processes in Indonesia. In the event that it is deemed to be detrimental to an investigation, prosecution, and examination before the court in Indonesia, assistance may be provided after the Requesting Country provides a written statement of undertaking that the fulfillment of the request will precede or will be pending for the process of investigation, prosecution, and examination before the court in Indonesia until it is declared as completed.

e. It endangers the safety of Indonesian citizens;

In the event that the fulfillment of a request for assistance is deemed to endanger the safety of Indonesian Citizens, the Minister may agree if the Requesting Country can provide a written commitment that the fulfillment of the request does not endanger the safety of Indonesian Citizens and the Requesting Country shall provide protection for the safety of Indonesian Citizens.

f. It burdens the national economy.

In the event that the fulfillment of a request for assistance is deemed to be burdensome to state assets, the Minister may agree if the Requesting Country can provide a statement of undertaking to also bear the components of additional costs required based on an agreement between the two parties or based on an agreement that regulates asset sharing.

2. Double Criminality

In Indonesia, a request for mutual legal assistance in criminal matters is implemented with a double criminality principle. Determination of the fulfillment of the double criminality principle shall be based on actions that meet the elements of a criminal offense in both the Requesting Country and the Requested Country, regardless of placement of the offense in the same category or identification of the offense by the same term.

3. Costs Incurred from the Implementation of Mutual Legal Assistance Request

All costs incurred from the implementation of mutual legal assistance request shall be subjected to the Requesting Country seeking for mutual legal assistance, unless stated otherwise by the Requesting Country or the Requested Country. The costs referred to are standard costs whose use is regulated based on the budget ceiling in the Requested Country.

4. Profit Sharing from Confiscated Assets in the Implementation of Mutual Assistance

The Minister may make an agreement or arrangement with a foreign country to receive reimbursement of costs and profit sharing from the proceeds of confiscated assets:

- a. in a foreign country, as a result of an action taken based on a confiscation court decision at the request of the Minister; or
- b. in Indonesia, as a result of actions taken in Indonesia based on a confiscation decision at the request of a foreign country.

Acceptance of reimbursement for the implementation of requests for mutual assistance by Indonesia and acceptance of the implementation of the agreement or arrangement on the distribution of proceeds from the confiscation of assets shall be deposited into the state treasury as Non-Tax State Revenue (PNBP) in accordance with the applicable Indonesian laws and regulations.

5. Utilization of Technology and Information Systems in Implementing Mutual Legal Assistance in Criminal Matters Requests

Data on requests for mutual legal assistance in criminal matters both from and to Indonesia is processed using an electronic database application, i.e. the Information System of Central Authority Work Management (SIMJa OP). The application was developed to maintain the security and confidentiality of the handling of mutual assistance requests, while also functioning as an accurate management system with a reminder feature so that mutual legal assistance requests can be followed up in a timely manner.

In coordinating with foreign countries, the Central Authority makes the best use of official electronic mail in order to maintain the security and confidentiality of information relating to the implementation of mutual legal assistance requests.

Information that includes guidelines for implementing mutual legal assistance in criminal matters requests is available on the official website of the Indonesian Central Authority in English and Indonesian.

CHAPTER III

FORMS OF MUTUAL LEGAL ASSISTANCE

A. IDENTIFICATION AND LOCATING OF PERSONS

The Requesting Country may request assistance to identify or locate an individual if the request is related to the investigation, prosecution, or examination before the court in the Requesting Country, whereas the person in relation to the assistance being requested is suspected or may reasonably be suspected of having connection with a criminal offense or may provide a statement or other assistance in an investigation, prosecution, and examination before the court. In addition, the Requesting Country shall also provide strong grounds that the person being sought is suspected to be in Indonesia. Implementation of identification or locating of persons upon a request of assistance shall be carried out by the Chief of Police of the Republic of Indonesia.

Phase	Implementer
Investigation, prosecution and examination in courtroom	Chief of Police of the Republic of Indonesia

Table 3. Implementer of Assistance in Identification and Locating of Persons

B. ASSISTANCE TO OBTAIN VOLUNTARY STATEMENT, DOCUMENTS, AND OTHER EVIDENCE

With regard to assistance request to obtain statement, documents, and evidence, the Requesting Country must elaborate that the assistance is related to investigation, prosecution, and examination before the court in the Requesting Country and that the status of individual is suspect or witness. If the request pertains statements, the Requesting Country shall attach a list of questions and/or statement that they may be given in Indonesia. For assistance in providing documents, the Requesting Country may request for certified copies. The Minister shall ask the competent authority to certify the required copies of the documents and the return them to the Minister.

Assistance to obtain statement, document, and other evidence is carried out by Attorney General and Chief of Police of the Republic of Indonesia in accordance with case examination phases in Requesting Country. In the event that statements, documents, and other evidence requested are related to banking evidence, Assistance may be provided if it meets the requirements for exceptions to banking secrecy based on the prevailing legislation in Indonesia and is carried out as long as it does not interfere with the national interest by taking into account the provisions of the laws and regulations in the field of foreign relations and international treaties. Requests for assistance in the form of proof of banking should be submitted after the Requesting Country has carried out asset tracing with a cooperation mechanism through financial intelligence units (FIUs).

In following up requests for assistance in the form of documents and other

evidence within the scope of tasks and responsibilities of the Indonesian Ministry of Law and Human Rights, including data on prisoners, immigration crossings, legal entities, trademarks, and patents, the Minister can coordinate directly with the unit with access to the database to ensure timely delivery and accuracy. This mechanism does not negate the implementation of requests for assistance by the Attorney General of the Republic of Indonesia and the Chief of Police of the Republic of Indonesia in accordance with the stages of case examination phases in the Requesting Country.

Phase	Implementer
Investigation	Chief of Police of the Republic of Indonesia
Prosecution and examination before the court	Attorney General of the Republic of Indonesia

Table 4. Implementers of Assistance in Voluntary Statements, Documents, and Other Evidence

It should be noted that the law stipulates that the persons associated with assistance cannot be compelled to give statement in Indonesia. Moreover, if the person is government officials, he cannot be compelled to give statement, documents, or other evidence in an investigation, prosecution, and examination in courtroom in Requesting Country should Indonesia's law prohibit people of particular positions to do so.

In relation to assistance provision, the person will have the rights to not:

1. Being detained, prosecuted, and punished based on Requesting Country's law for criminal acts he allegedly committed or committed before departure from Indonesia to comply with the request;
2. Being sued in every civil case of Requesting Country in relation to acts or omissions that had happened before his departure from Indonesia to comply with the request;
3. Being obliged to provide statements or other assistance regarding every case in Indonesia other than the criminal case related to said assistance; or
4. Being forced in the process of investigation, prosecution, or examination before the court related to the said assistance to provide answers which, according to the law of his country, shall not be given.

For the implementation of request for assistance and ensuring the protection of the person concerned, immunity certificate authorized under the law of the Requesting Country shall be acknowledged as admissible evidence unless proven otherwise. Subsequently, the person associated with the requested assistance also has the same rights with respect to the provision of statement or submission of documents or other evidence; and is treated as if an investigation, prosecution, and examination before the court of the person have not received a verdict which is legally-binding in Indonesia.

C. Assistance to Seeking the Presence of Persons in Requesting Country

A request for assistance may be provided to arrange the presence of the persons residing in Indonesia to the Requesting Country. For such request, the Requesting Country shall declare that the assistance request is related to an investigation, prosecution, and examination before the court, including the presence of persons at the trial in the Requesting Country. In addition, it must also be accompanied by a statement that the persons is considered able to provide or indicate information relating to an investigation, prosecution, and examination before the court of the Requesting Country. If the requested person is a prisoner, the Central Authority shall order the prisoner to be expelled from penitentiary and arrange the prisoner’s trip to the Requesting Country by escort. If the person requested is a detainee, the Central Authority will ask relevant officials to remove the person from detention and arrange the detainee’s trip to the Requesting Country by escort.

It is important to note that agreement of assistance request to seek the presence of the persons in the Requesting Country may only be made only upon assurance from the Requesting Country that the person:

1. Will not be detained, prosecuted, or tried for violation of the law in the Requesting Country which allegedly is committed by the person before his departure from Indonesia;
2. Will not be sued in a civil case which may be filed against the person if he is in the Requesting Country; or
3. Will not be required to provide information or indicate other evidence relating to an investigation, prosecution, or examination before the court of the Requesting Country other than an investigation, prosecution, and examination relevant to the request.

Furthermore, the Requesting Country shall also guarantee the effectuation of non-self-incrimination principle so that any information given by the requested persons cannot be used in the prosecution against the person for violation of the law in the Requesting Country. Such guarantee includes repatriation of the person to Indonesia in accordance with arrangement approved by Central Authority as soon as possible after the information has been given.

Phase	Implementer
Investigation	Chief of Police of the Republic of Indonesia
Prosecution and examination before the court	Attorney General of the Republic of Indonesia

Table 5. Implementers of Assistance in Seeking Presence of Persons in Requesting Country

D. TRANSIT OF PRISONERS

The Requesting Country may file a transit request to bring witnesses with the status of inmates or prisoners. To file this request, the Requesting Country shall at least describe the route of travel, time, and modes of transportation, and duration of transit. The description includes identity and travel document of inmates or prisoners and their escorts, as well as the facilities required during the transit

period.

The Chief of Police of the Republic of Indonesia or Minister shall follow-up by issuing a transit permit and place witnesses in a transit room by escort using the foreign officials' standard at a maximum of 12 hours. If the mode of transport used to transfer witnesses takes more than 12 hours, the said persons shall be temporarily placed in the nearest State Detention Center. If the transit time has exceeded the requested time, the Minister may order the persons to be repatriated to the Requesting Country.

Phase	Implementer
Investigation, prosecution and examination before the court	Chief of Police of the Republic of Indonesia and Minister of Law and Human Rights

Table 6. Implementers of Assistance in Transfer of Prisoners

E. ASSISTANCE FOR SEARCH AND SEIZURE OF ITEMS, OBJECTS, OR PROPERTIES

The Requesting Country may file assistance request to conduct search and seizure procedure of an item, object, or property in Indonesia under permit and/or court order for the purpose of an investigation or examination before the court. In the assistance request, the Requesting Country shall also enclose a search and confiscation warrants issued by the competent authority of the Requesting Country.

To implement the assistance request, the Chief of Police or Attorney General of the Republic of Indonesia proposes a search and seizure permit to the Head of the local District Court. In the event that any party has been harmed in the forfeiture, the injured party or his legal defender may file an objection or an opposition to the district court that issued the search and seizure permit pursuant to the criminal law procedure.

It should be noted that the delivery of items, objects, properties, or evidence of confiscation of items, objects, or properties for the purpose of the trial process in the Requesting Country can only be made if there is a guarantee that the Requesting Country shall return the items, objects, or property.

Phase	Implementer
Investigation	Chief of Police of the Republic of Indonesia
Prosecution and examination before the court	Attorney General of the Republic of Indonesia

Table 7. Implementers of Assistance in Search and Seizure of Items, Objects, or Properties

F. ASSISTANCE IN DELIVERING A LETTER

A request of assistance may be filed in the form of letter to an individual in Indonesia. For the request of such assistance, the Requesting Country shall explain the relation of the request to an investigation, prosecution, or examination before the court of the Requesting Country. In addition, the assistance request must also

explain the location of the individual in Indonesia.

If the letter conveyed is Summon Letter, the assistance request shall be submitted at least 45 days prior to the date of the person's expected presence, as well as a guarantee that the said person will not be criminalized or sued as part of the principle of non-self-incrimination.

Submission of the letter shall be performed by Chief of Police of the Republic of Indonesia by either procedures as determined by the Requesting Country or the procedures applicable in Indonesian law. Chief of Police of the Republic of Indonesia will report on the letter delivery progress, including if the letter delivery cannot be done.

Phase	Implementer
Investigation, prosecution and examination before the court	Chief of Police of the Republic of Indonesia

Table 8. Implementers of Assistance in Delivering a Letter

G. ASSISTANCE TO EXECUTE THE COURT JUDGMENT OF THE REQUESTING COUNTRY

Assistance related to execution of court judgment may be granted in the following cases:

1. Seizure and confiscation of properties;
2. Imposition of fines; and/or
3. Indemnity payment

To file a request for assistance regarding execution of court judgment, the Requesting Country shall provide a description of information concerning the said property and its location, accompanied by ownership evidences of such property. The implementation of this assistance will be executed by the Attorney General with a seizure permit from local court.

It should be noted that the Government of Indonesia will publish such foreclosure attempt and provide time for owner who object or other parties who fell aggrieved to file an objection. The determination of confiscation shall be made after there is no resistance or objection within the period of scheduled deadline.

Phase	Implementer
Execution of Court Judgment	Attorney General of the Republic of Indonesia

Table 9. Implementers of Execution of Court Judgment

CHAPTER IV
REQUEST MODEL FORM

A. REQUEST MODEL FORM FOR MUTUAL LEGAL ASSISTANCE FROM COMPETENT AUTHORITIES IN INDONESIA TO A FOREIGN COUNTRY

To facilitate the works of mutual legal assistance analyst and law enforcement officers from authorized institutions in Indonesia in submitting requests for assistance, the following is model MLA request letter used by the Central Authority of Indonesia to a foreign country. The letter submitted to a foreign country will be translated into the international language, which is English, or the official language of the Requested Country. The model letter of request for mutual assistance to be submitted by the Government of Indonesia to a foreign country is in a systematic form as follows:

To:

[Name of Central Authority Addressed]
[via diplomatic channels if delivered through diplomatic channels]

From:

Central Authority of the Republic of Indonesia
Directorate of Central Authority and International Law
Directorate General of Legal Administrative Affairs
Ministry of Law and Human Rights of the Republic of Indonesia

Jl. H.R. Rasuna Said Kav.6-7 Kuningan, Jakarta Selatan
Republik Indonesia

MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

SUBJECT: *(describe details of subject matter)*

INTRODUCTION

1. I,, the (name of agency/office designated as Central Authority), being the designated Central Authority to make and receive requests for mutual legal assistance in criminal matters on behalf of ... (Requesting Country), present this request to the Central Authority of ... (Requested Country).

AUTHORITY TO SUBMIT REQUESTS

2. This request is made under the ... (specify relevant provisions of the relevant legal basis such as a bilateral treaty/convention).

NATURE OF REQUEST

- 3.1 This request relates to a ... (criminal matter for which the assistance is sought) concerning ... (describe subject of criminal matter).
- 3.2 The personal details of the subject of the request are as follows:
 - Name/Description:
 - Age:
 - Occupation:
 - Nationality:

Passport No.

Address/Location:

3.3 The details of the property to be traced/restrained/confiscated are as follows:

Description:

Location:

Other relevant details:

3.4 Reasons for suspecting that the person/property is in ... (Requested Country) are as follows:

3.5 The authority having the conduct of the criminal matter is ... (describe the authority's capacity in the criminal matter).

STATEMENT OF FACTS

4. (Describe the material facts of the criminal matter including, in particular, those facts necessary to establish circumstances connected to evidence sought in the Requested Country and relevance of the evidence to the criminal matter in the Requesting Country.)

CRIMINAL OFFENCES/APPLICABLE LEGISLATION/SANCTIONS

5.1 ... (Name of suspects/defendants) are (suspected of having/alleged to have) committed/have been charged with the commission of the following offences, namely -

- ... (describe offences and provisions of the legislation contravened)

The maximum penalties for the above offences, which are the subject of this (investigation/prosecution) are:

- (specify maximum penalty for each offence and applicable law).

OR:

5.1 A confiscation order (has been/may be) made in proceedings in the Republic of Indonesia. ... (State basis for any statement that a confiscation order may be made.)
The confiscation order is related to (state relevant offences) in the Republic of Indonesia the maximum penalties for which are (specify maximum penalty for the offence and applicable law).

5.2 A copy/extract of the relevant legislation is attached and marked as "Attachment A" to this request.

PURPOSE OF THE REQUEST

6. By this request it is intended to (state purpose: e.g. secure admissible evidence for the purpose of the criminal proceedings against the defendants, enforce the abovementioned forfeiture order, etc.)

MANDATORY ASSURANCE AND UNDERTAKINGS

7. [Insert relevant undertakings, if any]

DESCRIPTION OF ASSISTANCE REQUESTED

8. The ... (competent authority of the Requested Country) is requested to take such steps as necessary to give effect to the following:

(a) examination on oath or affirmation of a witness before (relevant judicial authority of Requested Country);
(e.g.) Mr. X
ABC Co., Ltd.
(address)
to be orally examined on oath or affirmation on the following matters:

- ... (specify that the assistance in the form of witness statement is related to the investigation, prosecution, and court examination in the Republic of Indonesia and/or provide a list of the relevant questions)

Note: Specify form in which statement is to be obtained e.g. witness statement or affidavit. Samples forms to be attached.

- (b) production of documents, records, or items before a court [and obtaining oral evidence of the witness producing such material for the purpose of identifying and proving the material produced];

(e.g.) Director

ABC Co., Ltd.
(address)

is required to make available or produce (describe the form of evidence e.g. "certified copies") of the following documents, records, or items for the period (state relevant time frame):

- (specify documents, records or items or classes thereof).

The above witness is required to be orally examined on oath or affirmation on the following matters for the purpose of identifying and proving the documents, records, or items produced or made available:

- (state relevant particulars).

(e.g.)

- to provide confirmation as to his position in a company/office and that he is responsible for keeping/maintaining/holding the documents, records, or items in relation to the subject-matter of the investigation;
- that he is authorized by the relevant law of the Requested Country to make the affidavit;
- to confirm that he has access to the documents, records, or items kept in relation to the subject-matter of the investigation in the normal course of his duties;
- to confirm the authenticity of the copies of the documents, records or items provided; or
- to confirm that the documents, records, or items were produced in the ordinary course of business.

e.g.:

Specify form in which statement is to be obtained e.g. witness statement or affidavit. Samples forms to be attached.

- (c) search of persons or premises for documents, records, or items;

(e.g.) The premises of ABC Co., Ltd.

... (address)

to be searched under a search warrant for the seizure of the following from the company:

- ... (provide details of the documents, records or items sought to be searched for and seized).
- ... (support any request for originals of documents, records, or items seized with reasons).

- (d) production of documents, records, or items through production orders;

(e.g.) Manager

ABC Bank Ltd.
(address)

to be required to produce copies of the following documents, records, or other forms:

- ... (describe particulars of material required to be produced and its location).
- ... (state grounds for believing that the material sought is likely to be of substantial value to the law enforcement process).
- ... (support strong reason for any request for the production of original documents).

- (e) arrangement of travel of persons/prisoners from ... (name of Requested Country) to assist in a criminal matter;
(e.g.) Arrangements to be made for Mr. X
(address)
to travel to the Republic of Indonesia to give assistance in a (criminal matter) by rendering the following assistance:
- ... (Specify the assistance sought).
 - ... (provide the undertaking in accordance with the law of (name of Requested Country)).
 - ... (provide details of the allowances to which the person will be entitled, and of the arrangements for security and accommodation for the person, while the person is in the Republic of Indonesia for the assistance rendered).
- (f) enforcement of a confiscation order/request to assist in the freezing of an ownership;
- ... (state particulars of the confiscation order to be enforced, or the ownership to be frozen, and present state of related proceedings).
- (g) Provide assistance in locating/identifying persons suspected to be involved in/to have benefited from a serious offence;
(e.g.) Arrangements to be made to locate/identify and locate Mr. X who is believed to be in ... (name of Requested Country) with the last known address at (address).
- ... (describe specific attributes/features of the relevant person).
- (h) Provide assistance in tracing ownership of something suspected to be connected to a serious offence;
(e.g.) Arrangements to be made to trace ... (describe ownership being sought) believed to be in ... (name of Requested Country).
- ... (specify specific attributes of the ownership of concern).
- (i) service of process.
(e.g.) Mr. X
(address)
is to be served with the following documents:
- ... (describe documents to be issued for service of process).
 - ... (specify manner and period of service in the documents used for service of process).
 - ... (specify required proof of service).

EXECUTION OF REQUEST

(A) CONFIDENTIALITY

- 9.1 It is requested that the fact that this request has been made and the execution of the request be kept entirely confidential except to the extent necessary to execute the request as ... (state reasons e.g. the likelihood of interference with witnesses and /or destruction of evidence, etc.)
- 9.2 It is also requested that the evidence of the witness be taken in camera as there exist reasonable grounds for believing that it is in the interest of the witness to give evidence in camera because ... (state reasons) and the criminal matter would be substantially prejudiced if the examination were conducted in open court because ... (state reasons).

(B) PARTICULAR PROCEDURES TO BE FOLLOWED

10. It is requested that the following procedures be observed in the execution of the request:
- ... (state details of manner and form in which evidence is to be taken and transmitted to Republic of Indonesia, if relevant.)

(e.g.)

- In relation to the evidence obtained through examination on oath/affirmation of a witness, please provide the statement in admissible form. To be admissible, the statement shall be made in the form of an affidavit except when recorded in writing by a judicial authority. If documents and records are referred to or are otherwise enclosed, the documents and records shall be accompanied by an attestation of authenticity. Copies of the prescribed form for the affidavit and attestation of authenticity are attached to this request and marked as Attachment B and Attachment C respectively.
 - In relation to the evidence of (name of relevant witness(es)), please arrange for the evidence to be given in a court in the Republic of Indonesia via live video or live television link (or other appropriate communications facilities) from (name of Requested Country).
- ... (state any special requirements as to certification/authentication of documents.)

(e.g.)

- In relation to evidence to be provided by affidavit-
 - a) the affidavit should be made before a judicial officer or another officer authorized to administer oaths or affirmations in (name of Requested Country). When the affidavit is made on oath or affirmation, it shall be sealed with an official seal of a public official from (name of Requested Country) to ensure compliance with (specify relevant provisions in the Republic of Indonesia), a copy of which is attached to this request and marked as Attachment D;
 - b) if the affidavit runs for more than one page, each page other than the last shall be initialed both by the person who makes the affidavit and by the person before whom the affidavit is made; and
 - c) each page of each attachment shall be initialed both by the person who makes the affidavit and by the person before whom the affidavit is made.

(e.g.)

- In relation to documents produced by computers, or a statement contained in such document, the document or statement, as the case may be, is admissible as evidence of any fact stated therein if the document was produced by the computer in the course of its ordinary use. A certificate signed by a person who either before or after the production of the document by the computer is responsible for the management of the operation of that computer or for the conduct of the activities for which that computer was used must be tendered to the court to prove that a document was produced by a computer in the course of its ordinary use.
 - An extract of the relevant legislation, ... (specify relevant provisions of the relevant legislation of the Republic of Indonesia) is attached and marked as "Attachment E" to this request.
- (state if attendance by representative of appropriate authority of the Republic of Indonesia at examination of witnesses/execution of request is required.)

(e.g.)

- Permission is requested for an officer of (name of appropriate authority in Republic of Indonesia) to travel to (name of Requested Country) to assist in the execution of this request.

(C) PERIOD OF EXECUTION

11. It is requested that the request be executed urgently/within (state period giving

reasons i.e. specify likely trial or hearing dates or any other dates/reasons relevant to the execution of the request).

(D) TRANSMISSION OF REQUESTED MATERIAL

12.1 Any documents, records, items, statements, or information obtained in response to this request shall be sent to the Ministry of Law and Human Rights of the Republic of Indonesia at the following address:

[Provide full address and other contact details such as name of contact officer, telephone and facsimile numbers and email address]

12.2 The Ministry of Law and Human Rights of the Republic of Indonesia will forward the material to (name of competent authority in Republic of Indonesia concerned with the criminal matter), being the relevant requesting authority in this matter.

(E) DETAILS OF ALLOWANCES, ARRANGEMENTS FOR SECURITY AND ACCOMODATION

13.1 The allowances to which ... (name of person) will be entitled are as follows:
... (State details of allowances)

13.2 The arrangements for the security of ... (name of person) are as follows:
... (State details of security arrangements)

13.3 The arrangements for the accommodation of ... (name of person) are as follows:
... (State details of accommodation arrangements)

(F) UNDERTAKING ON EXPENSES FOR USE OF LIVE VIDEO LINK

14. The Government of the Republic of Indonesia shall be responsible for all cost takes by the Government of ... (name of Requested Country) in order to establish the live video or television link or other appropriate communications facilities, the costs related to the servicing of the live video or television link or other appropriate communications facilities, the remuneration of interpreters provided by ... (name of Requested Country) and allowances to witnesses and their traveling expenses in ... (name of Requested Country).

LIAISON

15.1 The officer of the Ministry of Law and Human Rights of the Republic of Indonesia handling this request is:

... (name of officer, telephone and facsimile numbers, and electronic mail address)

15.2 The case officer of ... (name of competent authority in Republic of Indonesia concerned with the criminal matter) is:

... (name of officer, telephone and facsimile numbers, and e-mail address)

15.3 The following officer of ... (name of authorized officer) has knowledge of this matter:

... (name of officer, telephone and facsimile numbers, and e-mail address).

15.4 If permission is given for an officer of ... (name of competent authority in Republic of Indonesia concerned with the criminal matter) to travel to ... (name of Requested Country), the officer is likely to be ... (name of authorized officer).

SUPPLEMENTARY REQUEST

16. The Ministry of Law and Human Rights of the Republic of Indonesia may submit supplementary requests for assistance in this matter if necessary. Supplementary requests shall be treated as new requests for which submission mechanism shall be followed in accordance with prevailing legislation in Republic of Indonesia.

RECIPROCITY UNDERTAKING

17. The Government of the Republic of Indonesia assures the Government of ... (name of Requested Country) that the Government of the Republic of Indonesia would adhere to the prevailing laws and regulations, comply with a request by the

Government of ... (name of Requested Country) to the Republic of Indonesia for mutual legal assistance of this kind in respect of an equivalent offence.

Signed by

Name and Position : _____
Office : _____
Date : _____

B. REQUEST MODEL FORM FOR MUTUAL LEGAL ASSISTANCE FROM A FOREIGN COUNTRY TO INDONESIA

Whereas for any foreign country that intends to submit a mutual assistance request to the Government of Indonesia, the template for submitting a request for assistance shall conform to the following systematic form:

To:

**Minister of Law and Human Rights
of the Republic of Indonesia
Jl. H.R. Rasuna Said Kav.6-7 Kuningan, Jakarta Selatan
Republik Indonesia**

From:

[Through diplomatic channels]¹

**MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS
SUBJECT: *(describe details of subject matter)***

INTRODUCTION

1. I,, the (name of agency/office designated as Central Authority), being the designated Central Authority to make and receive requests for mutual legal assistance in criminal matters on behalf of (Requesting Country), present this request to the Central Authority of the Republic of Indonesia.

AUTHORITY TO SUBMIT REQUESTS

2. This request is made under the ... *(specify relevant provisions of the relevant legal basis such as a bilateral treaty/convention)*.

NATURE OF REQUEST

- 3.1 This request relates to a *(criminal matter)*² concerning *(describe subject of criminal matter)*.
- 3.2 The personal details of the subject of the request are as follows:
 - Name/Description:
 - Date of birth:
 - Age:
 - Occupation:
 - Nationality:
 - Passport No.
 - Address/Location:
- 3.3 The details of the property to be traced/restrained/confiscated are as follows³:
 - Description:
 - Location:
 - Other relevant details:
- 3.4 Reasons for suspecting that the person/property is in the Republic of Indonesia are as follows⁴:

¹ This may be deleted where the request is not made through diplomatic channels.

² State whether it is an investigation, prosecution or an ancillary criminal matter relating to the restraining of dealing with property or the enforcement or satisfaction of a forfeiture order.

³ Applicable where request relates to restraint of property or enforcement of a forfeiture order.

⁴ Applicable where request relates to restraint of property or enforcement of a forfeiture order.

- 3.5 The authority having the conduct of the criminal matter is *(describe the authority's capacity in the criminal matter)*.

STATEMENT OF FACTS

4. *(Describe the material facts of the criminal matter including, in particular, those facts necessary to establish circumstances connected to evidence sought in the Republic of Indonesia and relevance of the evidence to the criminal matter in the Requesting Country.)*

CRIMINAL OFFENCES/APPLICABLE LEGISLATION/SANCTIONS

EITHER:

- 5.1 *(Name of suspects/defendants)* are *(suspected of having/alleged to have)* committed/have been charged with the commission of the following offences, namely -

- *(describe offences and provisions of the legislation contravened)*

The maximum penalties for the above offences, which are the subject of this (investigation/prosecution) are:

- *(specify maximum penalty for each offence and applicable law)⁵.*

OR:

- 5.1 A confiscation order *(has been/may be)* made in proceedings in *(name of Requesting Country)*. *(State basis for any statement that a confiscation order may be made)*

The confiscation order is related to *(state the relevant offences)* in *(name of Requesting Country)* the maximum penalties for which are *(specify maximum penalty for the offence and applicable law)⁶.*

- 5.2 A copy/extract of the relevant legislation is attached and marked as "Attachment A" to this request.

PURPOSE OF THE REQUEST

6. By this request it is intended to *(state purpose: e.g. secure admissible evidence for the purpose of the criminal proceedings against the defendants, enforce the abovementioned confiscation order, etc.)*

MANDATORY UNDERTAKINGS

7. [Insert relevant undertakings, if any]⁷

DESCRIPTION OF ASSISTANCE REQUESTED

8. The Government of the Republic of Indonesia is requested to take such steps as necessary to give effect to the following:

- (a) examination on oath or affirmation of a witness before *(relevant judicial authority of Republic of Indonesia)*;

(e.g.) Mr. X
ABC Co., Ltd.
(address)

⁵ Applicable where request relates to an investigation or prosecution.

⁶ Applicable where request relates to restraint of property or enforcement of a confiscation order.

⁷ Requesting Country to insert such undertakings as may be relevant.

to be orally examined on oath or affirmation on the following matters:

- *(specify clearly that the assistance in the form of witness statement is related to the investigation, prosecution, and court examination in Republic of Indonesia and/or provide a list of the relevant questions)*

Note: Specify form in which statement is to be obtained e.g. witness statement or affidavit. Samples forms to be attached.

(b) production of documents, records, or items before a court [and obtaining of oral evidence of the witness producing such material for the purpose of identifying and proving the material produced]⁸;

(e.g.) Director
ABC Co., Ltd.
(address)

To be required to make available or produce *(describe the form of evidence e.g. "certified copies")* of the following documents, records, or items for the period *(state relevant time frame)*:

- *(specify documents, records or items or classes thereof).*

The above witness is required to be orally examined on oath or affirmation on the following matters for the purpose of identifying and proving the documents, records, or items produced or made available:

- *(state relevant particulars).*

(e.g.)

- to provide confirmation as to his position in a company/office and that he is responsible for keeping/maintaining/holding the documents, records, or items in relation to the subject-matter of the investigation
- that he is authorized by the relevant law of the Republic of Indonesia to make the affidavit
- to confirm that he has access to the documents, records, or items kept in relation to the subject-matter of the investigation in the normal course of his duties
- to confirm the authenticity of the copies of the documents, records or items provided
- to confirm that the documents, records, or items were produced in the ordinary course of business

Note: Specify form in which statement is to be obtained e.g. witness statement or affidavit. Samples forms to be attached.

(c) search of persons or premises for documents, records, or items;

(e.g.) The premises of ABC Co., Ltd.
(address)

⁸ Include this part if it is deemed necessary for the purpose of admissibility of the documents, records or items in evidence.

to be searched under a search warrant for the seizure of the following from the company:

- *(provide details of the documents, records or items sought to be searched for and seized).*
- *(support any request for originals of documents, records, or items seized with reasons).*

(d) production of documents, records, or items through production orders;

(e.g.) Manager
ABC Bank Ltd.
(address)

to be required to produce copies of the following documents, records, or other forms:

- *(describe particulars of material required to be produced and location).*
- *(state grounds for believing that the material sought is likely to be of substantial value to the law enforcement process).*
- *(support any request for the production of originals of documents with reasons).*

(e) arrangement of travel of persons/prisoners from the Republic of Indonesia to assist in a criminal matter;

(e.g.) Arrangements to be made for Mr. X
(address)
to travel to *(name of Requesting Country)* to give assistance in a *(criminal matter)*⁹ by rendering the following assistance:

- *(specify the assistance sought).*
- *(provide the undertaking in accordance with the law of the Republic of Indonesia).*
- *(provide details of the allowances to which the person will be entitled, and of the arrangements for security and accommodation for the person, while the person is in (name of Requesting Country) for the assistance rendered).*

(f) enforcement of a confiscation order/request to assist in the restraining of dealing in property;

- *(state particulars of the confiscation order to be enforced, or the property to be restrained, and present state of related proceedings).*

(g) assistance in locating/identifying persons suspected to be involved in/to have benefited from a serious offence;

(e.g.) Arrangements to be made to locate/identify and locate Mr. X who is believed to be in the Republic of Indonesia with the last known address at *(address)*.

- *(describe specific attributes/features of the relevant person).*

(h) assistance in tracing property suspected to be connected to a serious offence;

⁹ State whether it is an investigation or criminal proceedings of an offences in the Requesting Country or an ancillary criminal matters.

(e.g.) Arrangements to be made to trace (*describe property being sought*) believed to be in the Republic of Indonesia.

- (specify specific attributes of the ownership of concern).

(i) service of process.

(e.g.) Mr. X
(address)

to be served with the following documents:

- (*describe documents to be issued for service of process*).
- (*specify manner and period of service in the documents used for service of process*).
- (*specify required proof of service*).

EXECUTION OF REQUEST

(A) CONFIDENTIALITY

9.1 It is requested that the fact that this request has been made and the execution of the request be kept entirely confidential except to the extent necessary to execute the request as (state reasons e.g. the likelihood of interference with witnesses and /or destruction of evidence, etc.)¹⁰

9.2 It is also requested that the evidence of the witness be taken in camera as there exist reasonable grounds for believing that it is in the interest of the witness to give evidence in camera because (state reasons) and the criminal matter would be substantially prejudiced if the examination were conducted in open court because (state reasons).¹¹

(B) PARTICULAR PROCEDURES TO BE FOLLOWED

10. It is requested that the following procedures be observed in the execution of the request:

- (*state details of manner and form in which evidence is to be taken and transmitted to Requesting Country, if relevant.*)

(e.g.)

- In relation to the evidence obtained on examination on oath/affirmation of a witness, please provide the statement in admissible form. To be admissible, the statement shall be made in the form of an affidavit except when recorded in writing by a judicial authority. If documents and records are referred to or are otherwise enclosed, the documents and records shall be accompanied by an attestation of authenticity. Copies of the prescribed form for the affidavit and attestation of authenticity are attached to this request and marked as Attachment B and Attachment C respectively.
- In relation to the evidence of (*name of relevant witness(es)*), please arrange for the evidence to be given in a court in (*name of Requesting Country*) via live video or live television link (*or other appropriate communications facilities*) from the Republic of Indonesia.
- (*state any special requirements as to certification/authentication of documents.*)

¹⁰ Necessary if confidentiality is requested.

¹¹ Applicable if the request relates to the taking of evidence before a court for the purpose of an investigation in Requesting Country.

(e.g.)

In relation to evidence to be provided by affidavit-

- a) the affidavit should be made before a judicial officer or another officer authorized to administer oaths or affirmations in Republic of Indonesia. When the affidavit is made on oath or affirmation, it shall be sealed with an official seal of a public official from Republic of Indonesia to ensure compliance with *(specify relevant provisions in the Requesting Country)*, a copy of which is attached to this request and marked as Attachment D;
- b) if the affidavit runs for more than one page, each page other than the last shall be initialed both by the person who makes the affidavit and by the person before whom the affidavit is made; and
- c) each page of each attachment shall be initialed both by the person who makes the affidavit and by the person before whom the affidavit is made.

(e.g.)

In relation to documents produced by computers, or a statement contained in such document, the document or statement, as the case may be, is admissible as evidence of any fact stated therein if the document was produced by the computer in the course of its ordinary use. A certificate signed by a person who either before or after the production of the document by the computer is responsible for the management of the operation of that computer or for the conduct of the activities for which that computer was used must be tendered to the court to prove that a document was produced by a computer in the course of its ordinary use.

An extract of the relevant legislation, *(specify relevant provisions of the relevant legislation of Requesting Country)* is attached and marked as "Attachment E" to this request.

- *(state if attendance by representative of appropriate authority of Requesting Country at examination of witnesses/execution of request is required.)*

(e.g.)

Permission is requested for an officer of *(name of appropriate authority in Requesting Country)* to travel to Republic of Indonesia to assist in the execution of this request.

(C) PERIOD OF EXECUTION

11. It is requested that the request be executed urgently/within *(state period giving reasons i.e. specify likely trial or hearing dates or any other dates/reasons relevant to the execution of the request)*.

(D) TRANSMISSION OF REQUESTED MATERIAL

- 12.1 Any documents, records, items, statements, or information obtained in response to this request shall be sent to the *(Central Authority of Requesting Country)* at the following address:

[Provide full address and other contact details such as name of contact officer, telephone and facsimile numbers and email address]

- 12.2 The *(Central Authority of Requesting Country)* will forward the material to *(name of authority in Requesting Party concerned with the criminal matter)*, being the relevant requesting authority in this matter.

(E) DETAILS OF ALLOWANCES, ARRANGEMENTS FOR SECURITY AND ACCOMODATION¹²

13.1 The allowances to which (*name of person*) will be entitled are as follows:

(*State details of allowances*)

13.2 The arrangements for the security of (*name of person*) are as follows:

(*State details of security arrangements*)

13.3 The arrangements for the accommodation of (*name of person*) are as follows:

(*State details of accommodation arrangements*)

(F) UNDERTAKING ON EXPENSES FOR USE OF LIVE VIDEO LINK¹³

14. The Government of (*name of Requesting Country*) shall responsible for all cost takes by the Government of the Republic of Indonesia in order to establish the live video or television link or other appropriate communications facilities, the costs related to the servicing of the live video or television link or other appropriate communications facilities, the remuneration of interpreters provided by the Republic of Indonesia and allowances to witnesses and their traveling expenses in the Republic of Indonesia.¹⁴

LIAISON

15.1 The officers of the (*Central Authority of Requesting Country*) handling this request are:

(*name of officer(s)*)

(*address*)

Telephone and Facsimile numbers:

Electronic mail address:

15.2 The case officer of (*name of authority in Requesting Country concerned with the criminal matter*) is:

(*name of officer, telephone and facsimile numbers, and e-mail address*)

15.3 The following officer of (*name of authorized officer*) has knowledge of this matter:

(*name of officer, telephone and facsimile numbers, and e-mail address*).

15.4 If permission is given for an officer of (*name of authority in Requesting Country concerned with the criminal matter*) to travel to the Republic of Indonesia, the officer is likely to be (*name of authorized officer in Requesting Party concerned with the criminal matter*).

SUPPLEMENTARY REQUEST

16. The (*Central Authority of Requesting Country*) may submit supplementary requests for assistance in this matter if necessary. Supplementary requests shall be treated as new requests for which submission mechanism shall be followed in accordance with prevailing legislation in Requesting Country.

¹² If the request involves a person travelling from the Requested Country to the Requesting Country.

¹³ If the request involves a person travelling from the Requested Country to the Requesting Country.

¹⁴ If the request involves the giving of evidence by live video or live television link or other appropriate communication facilities, unless the Countries mutually agree otherwise.

RECIPROCITY UNDERTAKING

17. The Government of (*name of Requesting Country*) assures the Government of the Republic of Indonesia that the Government of (*name of Requesting Country*) would adhere to the prevailing laws and regulations, comply with a request by the Government of Republic of Indonesia to (*name of Requesting Country*) for mutual legal assistance of this kind in respect of an equivalent offence.

Signed by

Name and Position : _____

Office : _____

Date : _____

CHAPTER V
STANDARD OPERATIONAL
PROCEDURE

MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS HANDLING

A. OUTGOING MUTUAL LEGAL ASSISTANCE REQUEST FROM GOVERNMENT OF REPUBLIC OF INDONESIA TO FOREIGN COUNTRY

WORKSHEET OF ACTIVITY IDENTIFICATION ON OUTGOING MUTUAL LEGAL ASSISTANCE REQUEST HANDLING

1. Activity Data

1. Title of SOP	PUBLIC SERVICE ON OUTGOING REQUEST OF MUTUAL LEGAL ASSISTANCE FROM GOVERNMENT OF REPUBLIC OF INDONESIA TO FOREIGN COUNTRY
2. Activity Type	PUBLIC SERVICE
3. Person in Charge	
a. Product	DIRECTOR OF CENTRAL AUTHORITY AND INTERNATIONAL LAW
b. Activity	COORDINATOR OF MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS
4. Scope of Work	DIRECTORATE OF CENTRAL AUTHORITY AND INTERNATIONAL LAW

2. Activity Identification

Activity Title	PUBLIC SERVICE ON OUTGOING REQUEST OF MUTUAL LEGAL ASSISTANCE FROM GOVERNMENT OF REPUBLIC OF INDONESIA TO FOREIGN COUNTRY
Initial Phase	Applicant (Chief of National Police, Attorney General, Commissioners of Corruption Eradication Commission or representing officers) submits letters of request for Mutual Legal Assistance in Criminal Matters proposal and its supporting documents to the Ministry of Law and Human Rights as Central Authority.
Main Phase	Central Authority examines and drafts legal assistance request letter from the Applicant, monitors the request, coordinates, and facilitates implementation of mutual legal assistance being requested from the Requested Countries for the Applicant.
Final Phase	Applicant receives follow-up letter and fulfillment of mutual legal assistance in criminal matters from Requested Countries.

3. Activity Phase Identification

Initial Phase	1. Applicant (Chief of National Police, Attorney General, Commissioners of Corruption Eradication Commission or representing officers) submits letter of request proposal for Mutual Legal Assistance in Criminal Matters and its supporting document to the Ministry of Law and Human Rights as Central Authority.
	2. Minister's Head of Section of Administration delivers letter of request proposal along with cover letter as disposition to the Minister of Law and Human Rights of Republic of Indonesia.
	3. Minister of Law and Human Rights of Republic of Indonesia forwards the letter of request proposal to Director General of Legal Administrative Affairs and provides instruction to follow-up.

	<p>4. Director General of Legal Administrative Affairs forwards the letter of request proposal to the Director of Central Authority and International Law and provides instruction to follow-up.</p>
	<p>5. Director of Central Authority and International Law forwards the letter of request proposal to Coordinator of Mutual Legal Assistance in Criminal Matters and provides instruction to follow-up.</p>
	<p>6. Coordinator of Mutual Legal Assistance in Criminal Matters assigns Sub-coordinator of Mutual Legal Assistance in Criminal Matters-Case Management to examine the letter of request proposal for conformity to regulatory norms in Indonesia.</p>
	<p>7. Sub-coordinator of Mutual Legal Assistance in Criminal Matters-Case Management assigns Analyst to analyze letter of request proposal for conformity to regulatory norms in Indonesia.</p>
Main Phase	<p>8. Analyst examines documents, assesses required supporting document to the in accordance with regulatory norms in Indonesia. If the document is incomplete or does not meet the requirements of the law, Analyst communicates with Applicant to complete the requirements. Analysis of the document is elaborated in the recommendation letter.</p>
	<p>9. Analysis of the document is the background substance for Analyst to draft concept letter of mutual legal assistance in criminal matters request to Requested Countries in keeping with the standard form and its cover letter. In the event the request is delivered through diplomatic channels, Analyst also drafts a cover letter to the Ministry of Foreign Affairs.</p>
	<p>10. Sub-coordinator of Mutual Legal Assistance in Criminal Matters-Case Management examines recommendation, concept letter, and cover letter for the request. If approved, documents are signed and forwarded to Coordinator. If not approved, documents are returned to Analyst for revision.</p>

	<p>11. Coordinator of Mutual Legal Assistance in Criminal Matters examines recommendation, concept letter, and cover letter for the request. If approved, documents are signed and forwarded to Director of Central Authority and International Law. If not approved, documents are returned to Sub-coordinator of Mutual Legal Assistance in Criminal Matters-Case Management for revision.</p>
	<p>12. Director of Central Authority and International Law examines recommendation, concept letter, and cover letter for the request. If approved, documents are signed and forwarded to the Coordinator of Mutual Legal Assistance in Criminal Matters to be delivered to the Requested Countries.</p>
	<p>13. Coordinator of Mutual Legal Assistance assigns Sub-coordinator of Mutual Legal Assistance-Case Management to follow up, archive, and submit letter of request, attached supporting documents, and cover letter to Central Authority of Requested Countries.</p>
	<p>14. Sub-coordinator of Mutual Legal Assistance-Case Management archives and translates signed documents by the Director of Central Authority and International Law. Translation shall be done in English and the official language of the Requested Country if necessary. After translation available, it will be delivered along with letter for the Central Authority of Requested Country. Sub-coordinator assigns Analyst to deliver the letter.</p>
	<p>15. Analyst processes delivery to Central Authority of Requested Country and archive delivery report. If transmission is channeled via diplomatic channels, a cover letter is also delivered to the Ministry of Foreign Affairs.</p>
Final Phase	<p>16. Coordinator facilitates implementation of mutual legal assistance between requesting institution and Requested Country. As required, facilitation could also include case work discussion between parties.</p>
	<p>17. Director of Central Authority and International Law receives a follow up from Requested Country as a response to the MLA request from applicant and forwards the result to Coordinator for further</p>

	process.
	18. Director of Mutual Legal Assistance in Criminal Matters assigns Sub-coordinator of Mutual Legal Assistance-Case Management to analyze received result documents from Requested Country and drafts concept letter as a follow up to the Applicant.
	19. Sub-coordinator of Mutual Legal Assistance-Case Management assigns Analyst to analyze received result documents from Requested Country.
	20. Analyst examines result documents and drafts a follow-up concept letter for the Applicant to be reviewed by the Sub-coordinator of Mutual Legal Assistance-Case Management.
	21. Sub-coordinator of Mutual Legal Assistance-Case Management reviews follow-up concept letter for the Applicant. If approved, the letter is initialed and forwarded to Coordinator. If not approved, the concept letter is returned to Analyst for revision.
	22. Coordinator of Mutual Legal Assistance in Criminal Matters reviews follow-up concept letter for the Applicant. If approved, the letter is initialed and forwarded to Director of Central Authority and International Law. If not approved, the concept letter is returned to Sub-coordinator of Mutual Legal Assistance-Case Management for revision.
	23. Director of Central Authority and International Law reviews follow-up concept letter for the Applicant. If approved, the letter is signed and returned to Coordinator and all the way to Analyst for delivery to the requesting institution. If not approved, the concept letter is returned to Coordinator for revision.
	24. Analyst delivers the follow-up letter to requesting institution along with results of mutual legal assistance.
	25. Requesting institution receives the letter of follow-up and mutual legal assistance fulfilment from Requested Country.

	<p>26. After the fulfilment of mutual legal assistance, Coordinator of Mutual Legal Assistance submits feedback request of mutual legal assistance to the Applicant and acknowledgement letter to Requested Country.</p>
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B. INCOMING MUTUAL LEGAL ASSISTANCE REQUEST FROM FOREIGN COUNTRY TO THE GOVERNMENT OF REPUBLIC OF INDONESIA

WORKSHEET OF ACTIVITY IDENTIFICATION ON INCOMING MUTUAL LEGAL ASSISTANCE REQUEST HANDLING

1. Activity Data

1. Title of SOP	PUBLIC SERVICE ON INCOMING REQUEST OF MUTUAL LEGAL ASSISTANCE FROM FOREIGN COUNTRY TO GOVERNMENT OF REPUBLIC OF INDONESIA
2. Activity Type	PUBLIC SERVICE
3. Person in Charge	
a. Product	DIRECTOR OF CENTRAL AUTHORITY AND INTERNATIONAL LAW
b. Activity	COORDINATOR OF MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS
4. Scope of Work	DIRECTORATE OF CENTRAL AUTHORITY AND INTERNATIONAL LAW

2. Activity Identification

Activity Title	PUBLIC SERVICE ON INCOMING REQUEST OF MUTUAL LEGAL ASSISTANCE FROM FOREIGN COUNTRY TO GOVERNMENT OF REPUBLIC OF INDONESIA
Initial Phase	Applicant (Foreign Country) submits letters of request for Mutual Legal Assistance in Criminal Matters proposal and its supporting documents to the Ministry of Law and Human Rights as Central Authority.

Main Phase	Officials in Directorate of Central Authority and International Law analyze and assess conformity of the mutual legal assistance in criminal matters request to the norms in Law Number No 1 of 2006 regarding Mutual Legal Assistance in Criminal Matters, coordinate, and communicate with Requesting Country and Competent Authority for the fulfilment of mutual legal assistance in criminal matters from Requesting Country.
Final Phase	Applicant (Foreign Country) receives fulfilment of mutual legal assistance in criminal matters.

3. Activity Phase Identification

Initial Phase	1. Applicant (Foreign Country) submits request letter of mutual legal assistance in criminal matters to the Minister of Law and Human Rights.
	2. Minister's Head of Section of Administration delivers request letter along with a cover letter as disposition to the Minister of Law and Human Rights of Republic of Indonesia of Law and Human Rights of Republic of Indonesia.
	3. Minister of Law and Human Rights delivers documents/letter of request to the Director General of Legal Administrative Affairs and provides instruction to follow-up.
	4. Director General of Legal Administrative Affairs forwards documents/letter of request to the Director of Central Authority and International Law and provides instruction to follow-up.
	5. Director of Central Authority and International Law forwards documents/letter of request to Coordinator of Mutual Legal Assistance in Criminal Matters and provides instruction to follow-up.
	6. Coordinator of Mutual Legal Assistance in Criminal Matters assigns Sub-coordinator of Mutual Legal Assistance-Case Management to assess and examines documents/letter for conformity to prevailing laws in Indonesia.

	<p>7. Sub-coordinator of Mutual Legal Assistance-Case Management assigns Analyst to assesses and examines documents/letter of request for conformity to prevailing laws in Indonesia.</p>
Main Phase	<p>8. Analyst examines and analyzes documents and supporting requirements from the Applicant in according with the law. If documents/letter of request does not fulfill the requirements or are incomplete, Analyst may communicate with the Applicant to update the requirement or proceed to return the request to Applicant. Assessment results are elaborated in the recommendation letter.</p>
	<p>9. Analyst drafts letter of follow-up concept to Competent Authority.</p>
	<p>10. Sub-coordinator of Mutual Legal Assistance-Case Management reviews the recommendation and follow-up concept letter to Competent Authority. If approved, the letter is initialed and forwarded to Coordinator. If not approved, it will be returned to Analyst for revision.</p>
	<p>11. Coordinator of Mutual Legal Assistance in Criminal Matters reviews the recommendation and follow-up concept letter to Competent Authority. If approved, the letter is initialed and forwarded to Director of Central Authority and International Law. If not approved, it will be returned to Sub-coordinator of Mutual Legal Assistance-Case Management for revision.</p>
	<p>12. Director of Central Authority and International Law reviews the recommendation and follow-up concept letter to Competent Authority. If approved, the letter is signed and returned to Coordinator of Mutual Legal Assistance for transmission to Competent Authority.</p>
	<p>13. Coordinator of Mutual Legal Assistance assigns Sub-coordinator of Mutual Legal Assistance-Case Management to archive request and deliver the follow-up letter and request letter, along with the attached documents to Competent Authority.</p>
	<p>14. Sub-coordinator of Mutual Legal Assistance-Case Management instruct the Analyst to archive</p>

	incoming request and send the documents.
	15. Director of Central Authority and International Law accept response letter from Competent Authority as a reply to the request of mutual legal assistance from Applicant and forward it to Coordinator for further process.
	16. Coordinator of Mutual Legal Assistance in Criminal Matters assigns Sub-coordinator of Mutual Legal Assistance-Case Management to follow up response letter from Competent Authority by drafting a reply letter to the mutual legal assistance request.
	17. Sub-coordinator of Mutual Legal Assistance-Case Management assigns Analyst to draft a reply letter to Central Authority of Requesting Country.
	18. Analyst analyzes response documents, drafts a concept reply letter to Applicant, and delivers it to Sub-coordinator of Mutual Legal Assistance-Case Management for a review.
	19. Sub-coordinator of Mutual Legal Assistance-Case Management reviews reply letter to Applicant. If approved, the concept letter is initialed and forwarded to Coordinator. If not approved, it is returned to Analyst for revision.
	20. Coordinator of Mutual Legal Assistance in Criminal Matters reviews the concept letter. If approved, concept letter is initialed and forwarded to Director of Central Authority and International Law. If not approved, it is returned to Sub-coordinator of Mutual Legal Assistance-Case Management for revision.
	21. Director of Central Authority and International Law reviews concept reply letter. If approved, the letter is signed and returned to Coordinator, all the way to Analyst for transmission. If not approved, it is returned to Coordinator for revision.
	22. Sub-coordinator of Mutual Legal Assistance-Case Management archives and translates documents that has been signed by Director of Central Authority and International Law. The documents

	<p>are translated into English. After translation is available, it will be attached to the documents that will be sent to Central Authority of Requesting Country. Sub-coordinator then assigns Analyst to transmit the documents.</p>
Final Phase	<p>23. Analyst submits reply letter to Central Authority of Requesting Country.</p>
	<p>24. Requesting Country receives reply letter and documents of provided Mutual Legal Assistance.</p>
	<p>25. Coordinator coordinates with Requesting Country, monitors, and facilitates implementation of mutual legal assistance with Competent Authority. If necessary, Central Authority might also facilitate case work between relevant parties.</p>
	<p>26. Following completion of mutual legal assistance, Coordinator of Mutual Legal Assistance in Criminal Matters submits a letter for feedback on the implementation of legal assistance to Requesting Country.</p>

CHAPTER VI

PRIORITIZATION CRITERIA OF MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

A. CRITERIA IN PRIORITIZING INCOMING REQUEST OF MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS TO GOVERNMENT OF REPUBLIC OF INDONESIA

For the purpose of providing legal assistance in criminal matters requested by foreign countries, Central Authority of Republic of Indonesia on its consideration will assess the criteria as follows:

1. International law framework (bilateral, regional, and multilateral treaties, and international conventions)
2. Reciprocity Principle and International Relation
 - a. National interest
 - b. History of mutual legal assistance provided
3. Type of Crime
 - a. Serious or extraordinary crime
 - Terrorism (financing terrorism), money laundering, trafficking in persons, illegal drugs and narcotics as defined by United Nations Convention Against Transnational Organized Crime (UNTOC)
 - Corruption as defined by United Nations Convention against Corruption (UNCAC)
 - b. Dual criminality
4. Urgency Level
 - a. Time constraints
 - b. Type of legal assistance provided
 - Asset tracing, asset freezing, and asset confiscation.
 - Locate and identify a person.
 - c. Law enforcement phase of case for which legal assistance is requested: execution of proceeding, court examination, prosecution, and investigation.

B. CRITERIA IN PRIORITIZING OUTGOING REQUEST OF MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS FROM GOVERNMENT OF REPUBLIC OF INDONESIA

For the purpose of administering legal assistance in criminal matters requested by competent authorities in Indonesia, Central Authority of Republic of Indonesia on its consideration will assess the criteria as follows:

1. International law framework (bilateral, regional, multilateral treaties, and international conventions)
2. Reciprocity principle and International Relation
 - a. National interest
 - b. History of mutual legal assistance provided
3. Type of Crime

- a. Risk based criteria
Crimes defined in national risk assessment, includes money laundering predicate offences such as narcotics, corruption, and tax crimes.
 - b. Dual criminality
4. Urgency Level
- a. Time constraints
 - b. Type of legal assistance requested
 - Asset tracing, asset freezing, and asset confiscation.
 - Locate and identification of a person.
5. Law enforcement phase of case for which legal assistance is being requested: execution of proceeding, court examination, prosecution, and investigation.

CHAPTER VII
CLOSING

The guidelines are enacted as reference for competent authorities of Indonesia and foreign country to propose mutual legal assistance in criminal matters request from or to the Government of Republic of Indonesia.

At the time the guidelines come into force, the Guidelines for Handling Requests for Mutual Legal Assistance in Criminal Matters within the Ministry of Law and Human Rights Number M.HH-01.AH.12.07 of 2017 are revoked and declared invalid.

MINISTER OF LAW AND HUMAN RIGHTS
REPUBLIC OF INDONESIA

Signed

YASONNA H. LAOLY