



STATUTORY INSTRUMENTS.

**S.I. No. 608 of 2024**

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EUROPEAN UNION (CRIMINAL JUSTICE (MUTUAL ASSISTANCE)  
ACT 2008) (AMENDMENT) REGULATIONS 2024

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I, HELEN MCENTEE, Minister for Justice, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving full effect to Title II of Part Three of the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, done at Brussels and London on 30 December 2020<sup>1</sup>, hereby make the following regulations:

1. (1) These Regulations may be cited as the European Union (Criminal Justice (Mutual Assistance) Act 2008) (Amendment) Regulations 2024.

(2) These Regulations shall come into operation on the 6<sup>th</sup> day of November 2024.

2. In these Regulations, “Act of 2008” means the Criminal Justice (Mutual Assistance) Act 2008 (No. 7 of 2008).

3. Section 2 of the Act of 2008 is amended –

(a) in subsection (1) –

(i) in the definition of “international instrument”, in paragraph (gf), by the substitution of “Titles II, VIII and XI” for “Titles VIII and XI”, and

(ii) in the definition of “offence”, in paragraph (c), by the substitution of “Title II or Title XI” for “Title XI”,

(b) in subsection (6)(gd), by the substitution of “Titles II, VIII and XI” for “Titles VIII and XI”.

4. Section 77(5)(ba) of the Act of 2008 is amended, by the insertion of “or, in the case of a request pursuant to Article 532 of the Trade and Cooperation Agreement,” after “Norway.”.

5. Section 78 of the Act of 2008 is amended –

(a) in subsection (1) –

(i) in paragraph (d), by the deletion of “and”,

(ii) in paragraph (e)(ii), by the substitution of “that member state, and” for “that member state.”, and

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<sup>1</sup> OJ L149, 30.4.2021, p. 10

- (iii) by the insertion of the following paragraph after paragraph (e):
    - “(f) in the case of a request pursuant to Article 532 of the Trade and Cooperation Agreement for the DNA profile of a person who is suspected of having committed the offence concerned whose DNA profile is not in the possession of the Garda Síochána –
      - (i) an investigation warrant in respect of the person, or
      - (ii) a statement issued by the competent authority in the United Kingdom in connection with a criminal investigation in the United Kingdom confirming that the requirements for the taking of a DNA sample from the person under the law of the United Kingdom would be complied with if the person were in the United Kingdom.”, and
  - (b) in subsection (2) –
    - (i) by the substitution of the following definition for the definition of “competent authority”:
 

“‘competent authority’ –

      - (a) in relation to a member state, means the authority in the member state that is competent to issue an investigation warrant or statement for the purposes of Article 7 of the 2008 Council Decision or that Article, insofar as it is applied by Article 1 of the 2009 Agreement with Iceland and Norway, and
      - (b) in relation to the United Kingdom, means the authority in the United Kingdom that is competent to issue an investigation warrant or statement for the purposes of Article 532 of the Trade and Cooperation Agreement;”, and
    - (ii) in the definition of “investigation warrant”, by the substitution of “member state or the United Kingdom” for “member state” in both places where it occurs.
6. Section 79A of the Act of 2008 is amended –
- (a) in subsection (1) –
    - (i) by the substitution of “member state or the United Kingdom” for “member state”,
    - (ii) by the substitution of the following paragraph for paragraph (a):
 

“(a) is pursuant to –

- (i) Article 7 of the 2008 Council Decision or that Article insofar as it is applied by Article 1 of the 2009 Agreement with Iceland and Norway, or
  - (ii) Article 532 of the Trade and Cooperation Agreement, and”,
- (b) in subsection (2) –
- (i) in paragraph (a) –
    - (I) by the insertion of “or the United Kingdom” after “member state concerned”, and
    - (II) by the insertion of “or the United Kingdom, as the case may be” after “that member state”,
  - (ii) in paragraph (b), by the insertion of “or the United Kingdom, as the case may be,” after “member state concerned”, and
  - (iii) in paragraph (c), by the insertion of “or the United Kingdom, as the case may be” after “member state concerned”,
- (c) in subsection (11) –
- (i) in paragraph (a) –
    - (I) by the insertion of “or the United Kingdom” after “member state concerned”, and
    - (II) by the insertion of “or the United Kingdom, as the case may be” after “that member state”,
  - (ii) in paragraph (d), by the insertion of “or the United Kingdom, as the case may be,” after “member state concerned”, and
  - (iii) in paragraph (e), by the insertion of “or the United Kingdom, as the case may be” after “member state concerned”,
- (d) in subsection (16)(iii), by the insertion of “or the United Kingdom, as the case may be,” after “member state concerned”, and
- (e) in subsection (22)(b), by the insertion of “or the United Kingdom, as the case may be” after “member state concerned”.

7. Section 79C of the Act of 2008 is amended –

- (a) in subsection (1), by the substitution of “Norway, or Article 532 of the Trade and Cooperation Agreement” for “Norway”,
- (b) in subsection (7), by substitution of “Norway, or Article 532 of the Trade and Cooperation Agreement,” for “Norway,”, and

(c) in subsection (8), by the substitution of “the 2008 Council Decision, the 2009 Agreement with Iceland and Norway or Title II of Part Three of the Trade and Cooperation Agreement” for “the 2008 Council Decision or the 2009 Agreement with Iceland and Norway”.

8. Schedule 7D to the Act of 2008 is amended by the substitution of the text in the Schedule to these Regulations for the text of that Schedule.

9. Section 125 of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 (No.11 of 2014) is amended by the substitution of the following subsection for subsection (7):

“(7) Subject to subsection (8) and notwithstanding section 77(7) of the Act of 2008, a data controller shall destroy data received pursuant to an Article 7 request or a request pursuant to Article 532 of the Trade and Cooperation Agreement when they are no longer required for the purpose for which they were supplied and, in any event, shall do so not later than the expiration of the maximum period (if any) prescribed by the law of the Member State concerned or Iceland, Norway or the United Kingdom, as the case may be, and specified by the authority in that Member State or Iceland, Norway or the United Kingdom, as the case may be, at the time the data were supplied.”.

## SCHEDULE

### “TITLE II

#### EXCHANGES OF DNA, FINGERPRINTS AND VEHICLE REGISTRATION DATA

##### *Article 527*

##### **Objective**

The objective of this Title is to establish reciprocal cooperation between the competent law enforcement authorities of the United Kingdom, on the one side, and the Member States, on the other side, on the automated transfer of DNA profiles, dactyloscopic data and certain domestic vehicle registration data.

##### *Article 528*

##### **Definitions**

For the purposes of this Title, the following definitions apply:

- (a) "competent law enforcement authority" means a domestic police, customs or other authority that is authorised by domestic law to detect, prevent and investigate offences or criminal activities and to exercise authority and take coercive measures in the context of such activities; agencies, bodies or other units dealing especially with national security issues are not competent law enforcement authorities for the purposes of this Title;
- (b) "search" and "comparison", as referred to in Articles 530, 531, 534 and 539 mean the procedures by which it is established whether there is a match between, respectively, DNA data or dactyloscopic data which have been communicated by one State and DNA data or dactyloscopic data stored in the databases of one, several, or all of the other States;
- (c) "automated searching", as referred to in Article 537, means an online access procedure for consulting the databases of one, several, or all of the other States;
- (d) "non-coding part of DNA" means chromosome regions not genetically expressed, i.e. not known to provide for any functional properties of an organism;
- (e) "DNA profile" means a letter or numeric code which represents a set of identification characteristics of the non-coding part of an analysed human DNA sample, i.e. the particular molecular structure at the various DNA locations (loci);
- (f) "DNA reference data" means DNA profile and reference number; DNA reference data shall only include DNA profiles established from the non-coding part of DNA and a reference number; DNA reference data shall not contain any data from which the data subject can be directly identified; DNA reference data which is not attributed to any natural person (unidentified DNA profiles) shall be recognisable as such;

- (g) "reference DNA profile" means the DNA profile of an identified person;
- (h) "unidentified DNA profile" means the DNA profile obtained from traces collected during the investigation of criminal offences and belonging to a person not yet identified;
- (i) "note" means a State's marking on a DNA profile in its domestic database indicating that there has already been a match for that DNA profile on another State's search or comparison;
- (j) "dactyloscopic data" means fingerprint images, images of fingerprint latents, palm prints, palm print latents and templates of such images (coded minutiae), when they are stored and dealt with in an automated database;
- (k) "dactyloscopic reference data" means dactyloscopic data and reference number; dactyloscopic reference data shall not contain any data from which the data subject can be directly identified; dactyloscopic reference data which is not attributed to any natural person (unidentified dactyloscopic data) shall be recognisable as such;
- (l) "vehicle registration data" means the data-set as specified in Chapter 3 of Annex 39;
- (m) "individual case", as referred to in Article 530(1), second sentence, Article 534(1), second sentence and Article 537(1), means a single investigation or prosecution file; if such a file contains more than one DNA profile, or one piece of dactyloscopic data or vehicle registration data, they may be transmitted together as one request;
- (n) "laboratory activity" means any measure taken in a laboratory when locating and recovering traces on items, as well as developing, analysing and interpreting forensic evidence regarding DNA profiles and dactyloscopic data, with a view to providing expert opinions or exchanging forensic evidence;
- (o) "results of laboratory activities" means any analytical outputs and directly associated interpretation;
- (p) "forensic service provider" means any organisation, public or private, that carries out laboratory activities at the request of competent law enforcement or judicial authorities;
- (q) "domestic accreditation body" means the sole body in a State that performs accreditation with authority derived from the State.

### *Article 529*

#### **Establishment of domestic DNA analysis files**

1. The States shall open and keep domestic DNA analysis files for the investigation of criminal offences.
2. For the purpose of implementing this Title, the States shall ensure the availability of DNA reference data from their domestic DNA analysis files as referred to in paragraph 1.
3. The States shall declare the domestic DNA analysis files to which Articles 529 to 532 and Articles 535, 536 and 539 apply and the conditions for automated searching as referred to in Article 530(1).

*Article 530***Automated searching of DNA profiles**

1. For the investigation of criminal offences, States shall allow other States' national contact points as referred to in Article 535 access to the DNA reference data in their DNA analysis files, with the power to conduct automated searches by comparing DNA profiles. Searches may be conducted only in individual cases and in compliance with the requesting State's domestic law.
2. If an automated search shows that a DNA profile supplied matches DNA profiles entered in the requested State's searched file, the requested State shall send to the national contact point of the requesting State in an automated way the DNA reference data with which a match has been found. If no match can be found, this shall be notified automatically.

*Article 531***Automated comparison of DNA profiles**

1. For the investigation of criminal offences, the States, via their national contact points, shall compare the DNA profiles of their unidentified DNA profiles with all DNA profiles from other domestic DNA analysis files' reference data in accordance with mutually accepted practical arrangements between the States concerned. DNA profiles shall be supplied and compared in automated form. Unidentified DNA profiles shall be supplied for comparison only where provided for under the requesting State's domestic law.
2. If a State, as a result of the comparison referred to in paragraph 1, finds that any DNA profiles supplied by another State match any of those in its DNA analysis files, it shall supply that other State's national contact point with the DNA reference data with which a match has been found without delay.

*Article 532***Collection of cellular material and supply of DNA profiles**

Where, in ongoing investigations or criminal proceedings, there is no DNA profile available for a particular individual present within a requested State's territory, the requested State shall provide legal assistance by collecting and examining cellular material from that individual and by supplying the DNA profile obtained to the requesting State, if:

- (a) the requesting State specifies the purpose for which it is required;
- (b) the requesting State produces an investigation warrant or statement issued by the competent authority, as required under that State's domestic law, showing that the requirements for collecting and examining cellular material would be fulfilled if the individual concerned were present within the requesting State's territory; and
- (c) under the requested State's law, the requirements for collecting and examining cellular material and for supplying the DNA profile obtained are fulfilled.

*Article 533***Dactyloscopic data**

For the purpose of implementing this Title, the States shall ensure the availability of dactyloscopic reference data from the file for the domestic automated fingerprint identification systems established for the prevention and investigation of criminal offences.

*Article 534***Automated searching of dactyloscopic data**

1. For the prevention and investigation of criminal offences, States shall allow other States' national contact points, as referred to in Article 535, access to the reference data in the automated fingerprint identification systems which they have established for that purpose, with the power to conduct automated searches by comparing dactyloscopic data. Searches may be conducted only in individual cases and in compliance with the requesting State's domestic law.
2. The confirmation of a match of dactyloscopic data with reference data held by the requested State shall be carried out by the national contact point of the requesting State by means of the automated supply of the reference data required for a clear match.

*Article 535***National contact points**

1. For the purposes of the supply of data as referred to in Articles 530, 531 and 534, the States shall designate national contact points.
2. In respect of the Member States, national contact points designated for an analogous exchange of data within the Union shall be considered as national contact points for the purpose of this Title.
3. The powers of the national contact points shall be governed by the applicable domestic law.

*Article 536***Supply of further personal data and other information**

If the procedure referred to in Articles 530, 531 and 534 show a match between DNA profiles or dactyloscopic data, the supply of further available personal data and other information relating to the reference data shall be governed by the domestic law, including the legal assistance rules, of the requested State, without prejudice to Article 539(1).

*Article 537***Automated searching of vehicle registration data**

1. For the prevention and investigation of criminal offences and in dealing with other offences within the jurisdiction of the courts or a public prosecutor in the requesting State, as well as in maintaining public security, States shall allow other States' national contact points, as referred to in paragraph 2, access to the

following domestic vehicle registration data, with the power to conduct automated searches in individual cases:

- (a) data relating to owners or operators; and
- (b) data relating to vehicles.

2. Searches may be conducted under paragraph 1 only with a full chassis number or a full registration number and in compliance with the requesting State's domestic law.

3. For the purposes of the supply of data as referred to in paragraph 1, the States shall designate a national contact point for incoming requests from other States. The powers of the national contact points shall be governed by the applicable domestic law.

*Article 538*

**Accreditation of forensic service providers carrying out laboratory activities**

1. The States shall ensure that their forensic service providers carrying out laboratory activities are accredited by a domestic accreditation body as complying with EN ISO/IEC 17025.

2. Each State shall ensure that the results of accredited forensic service providers carrying out laboratory activities in other States are recognised by its authorities responsible for the prevention, detection, and investigation of criminal offences as being equally reliable as the results of domestic forensic service providers carrying out laboratory activities accredited to EN ISO/IEC 17025.

3. The competent law enforcement authorities of the United Kingdom shall not carry out searches and automated comparison in accordance with Articles 530, 531 and 534 before the United Kingdom has implemented and applied the measures referred to in paragraph 1 of this Article.

4. Paragraphs 1 and 2 do not affect domestic rules on the judicial assessment of evidence.

5. The United Kingdom shall communicate to the Specialised Committee on Law Enforcement and Judicial Cooperation the text of the main provisions adopted to implement and apply the provisions of this Article.

*Article 539*

**Implementing measures**

1. For the purposes of this Title, States shall make all categories of data available for searching and comparison to the competent law enforcement authorities of other States under conditions equal to those under which they are available for searching and comparison by domestic competent law enforcement authorities. States shall supply further available personal data and other information relating to the reference data as referred to in Article 536 to the competent law enforcement authorities of other States for the purposes of this Title under conditions equal to those under which they would be supplied to domestic authorities.

2. For the purpose of implementing the procedures referred to in Articles 530, 531, 534 and 537, technical and procedural specifications are laid down in Annex 39.

3. The declarations made by Member States in accordance with Council Decisions 2008/615/JHA<sup>2</sup> and 2008/616/JHA<sup>3</sup> shall also apply in their relations with the United Kingdom.

#### *Article 540*

##### **Ex ante evaluation**

1. In order to verify whether the United Kingdom has fulfilled the conditions set out in Article 539 and Annex 39, an evaluation visit and a pilot run, to the extent required by Annex 39, shall be carried out in respect of, and under conditions and arrangements acceptable to, the United Kingdom. In any event, a pilot run shall be carried out in relation to the searching of data under Article 537.

2. On the basis of an overall evaluation report on the evaluation visit and, where applicable, the pilot run, as referred to in paragraph 1, the Union shall determine the date or dates from which personal data may be supplied by Member States to the United Kingdom pursuant to this Title.

3. Pending the outcome of the evaluation referred to in paragraph 1, from the date of the entry into force of this Agreement, Member States may supply to the United Kingdom personal data as referred to in Articles 530, 531, 534 and 536 until the date or dates determined by the Union in accordance with paragraph 2 of this Article, but not longer than nine months after the entry into force of this Agreement. The Specialised Committee on Law Enforcement and Judicial Cooperation may extend this period once by a maximum of nine months.

#### *Article 541*

##### **Suspension and disapplication**

1. In the event that the Union considers it necessary to amend this Title because Union law relating to the subject matter governed by this Title is amended substantially, or is in the process of being amended substantially, it may notify the United Kingdom accordingly with a view to agreeing on a formal amendment of this Agreement in relation to this Title. Following such notification, the Parties shall engage in consultations.

2. Where within nine months of that notification the Parties have not reached an agreement amending this Title, the Union may decide to suspend the application of this Title or any provisions of this Title for a period of up to nine months. Before the end of that period, the Parties may agree on an extension of the suspension for an additional period of up to nine months. If by the end of the suspension period the Parties have not reached an agreement amending this Title,

<sup>2</sup> Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ EU L 210, 6.8.2008, p. 1).

<sup>3</sup> Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ EU L 210, 6.8.2008, p. 12).

the suspended provisions shall cease to apply on the first day of the month following the expiry of the suspension period, unless the Union informs the United Kingdom that it no longer seeks any amendment to this Title. In that case, the suspended provisions of this Title shall be reinstated.

## **TITLE VIII**

### **MUTUAL ASSISTANCE**

#### *Article 633*

##### **Objective**

1. The objective of this Title is to supplement the provisions, and facilitate the application between Member States, on the one side, and the United Kingdom, on the other side, of:
  - (a) the European Convention on Mutual Assistance in Criminal Matters, done at Strasbourg on 20 April 1959 (the "European Mutual Assistance Convention");
  - (b) the Additional Protocol to the European Mutual Assistance Convention, done at Strasbourg on 17 March 1978; and
  - (c) the Second Additional Protocol to the European Mutual Assistance Convention, done at Strasbourg on 8 November 2001.
2. This Title is without prejudice to the provisions of Title IX, which takes precedence over this Title.

#### *Article 634*

##### **Definition of competent authority**

For the purposes of this Title, "competent authority" means any authority which is competent to send or receive requests for mutual assistance in accordance with the provisions of the European Mutual Assistance Convention and its Protocols and as defined by States in their respective declarations addressed to the Secretary General of the Council of Europe. "Competent authority" also includes Union bodies notified in accordance with point (d) of Article 690; with regard to such Union bodies, the provisions of this Title apply accordingly.

#### *Article 635*

##### **Form for a request for mutual assistance**

1. The Specialised Committee on Law Enforcement and Judicial Cooperation shall undertake to establish a standard form for requests for mutual assistance by adopting an annex to this Agreement.
2. If the Specialised Committee on Law Enforcement and Judicial Cooperation has adopted a decision in accordance with paragraph 1, requests for mutual assistance shall be made using the standard form.
3. The Specialised Committee on Law Enforcement and Judicial Cooperation may amend the standard form for requests for mutual assistance as may be necessary.

*Article 636*

**Conditions for a request for mutual assistance**

1. The competent authority of the requesting State may only make a request for mutual assistance if it is satisfied that the following conditions are met:
  - (a) the request is necessary and proportionate for the purpose of the proceedings, taking into account the rights of the suspected or accused person; and
  - (b) the investigative measure or investigative measures indicated in the request could have been ordered under the same conditions in a similar domestic case.
2. The requested State may consult the requesting State if the competent authority of the requested State is of the view that the conditions in paragraph 1 are not met. After the consultation, the competent authority of the requesting State may decide to withdraw the request for mutual assistance.

*Article 637*

**Recourse to a different type of investigative measure**

1. Wherever possible, the competent authority of the requested State shall consider recourse to an investigative measure other than the measure indicated in the request for mutual assistance if:
  - (a) the investigative measure indicated in the request does not exist under the law of the requested State; or
  - (b) the investigative measure indicated in the request would not be available in a similar domestic case.
2. Without prejudice to the grounds for refusal available under the European Mutual Assistance Convention and its Protocols and under Article 639, paragraph 1 of this Article does not apply to the following investigative measures, which shall always be available under the law of the requested State:
  - (a) the obtaining of information contained in databases held by police or judicial authorities that is directly accessible by the competent authority of the requested State in the framework of criminal proceedings;
  - (b) the hearing of a witness, expert, victim, suspected or accused person or third party in the territory of the requested State;
  - (c) any non-coercive investigative measure as defined under the law of the requested State; and
  - (d) the identification of persons holding a subscription to a specified phone number or IP address.
3. The competent authority of the requested State may also have recourse to an investigative measure other than the measure indicated in the request for mutual assistance if the investigative measure selected by the competent authority of the requested State would achieve the same result by less intrusive means than the investigative measure indicated in the request.
4. If the competent authority of the requested State decides to have recourse to a measure other than that indicated in the request for mutual assistance as

referred to in paragraph 1 or 3, it shall first inform the competent authority of the requesting State, which may decide to withdraw or supplement the request.

5. If the investigative measure indicated in the request does not exist under the law of the requested State or would not be available in a similar domestic case, and there is no other investigative measure which would have the same result as the investigative measure requested, the competent authority of the requested State shall inform the competent authority of the requesting State that it is not possible to provide the assistance requested.

#### *Article 638*

##### **Obligation to inform**

The competent authority of the requested State shall inform the competent authority of the requesting State by any means and without undue delay if:

- (a) it is impossible to execute the request for mutual assistance due to the fact that the request is incomplete or manifestly incorrect; or
- (b) the competent authority of the requested State, in the course of the execution of the request for mutual assistance, considers without further enquiries that it may be appropriate to carry out investigative measures not initially foreseen, or which could not be specified when the request for mutual assistance was made, in order to enable the competent authority of the requesting State to take further action in the specific case.

#### *Article 639*

##### **Ne bis in idem**

Mutual assistance may be refused, in addition to the grounds for refusal provided for under the European Mutual Assistance Convention and its Protocols, on the ground that the person in respect of whom the assistance is requested and who is subject to criminal investigations, prosecutions or other proceedings, including judicial proceedings, in the requesting State, has been finally judged by another State in respect of the same acts, provided that, if a penalty has been imposed, it has been enforced, is in the process of being enforced or can no longer be enforced under the law of the sentencing State.

#### *Article 640*

##### **Time limits**

1. The requested State shall decide whether to execute the request for mutual assistance as soon as possible and in any event no later than 45 days after the receipt of the request and shall inform the requesting State of its decision.
2. A request for mutual assistance shall be executed as soon as possible and in any event no later than 90 days after the decision referred to in paragraph 1 of this Article or after the consultation referred to in Article 636(2) has taken place.
3. If it is indicated in the request for mutual assistance that, due to procedural deadlines, the seriousness of the offence or other particularly urgent circumstances, a shorter time limit than that provided for in paragraph 1 or 2 is necessary, or if it is indicated in the request that a measure for mutual assistance is to be carried out on a specific date, the requested State shall take as full account as possible of that requirement.

4. If a request for mutual assistance is made to take provisional measures pursuant to Article 24 of the Second Additional Protocol to the European Mutual Assistance Convention, the competent authority of the requested State shall decide on the provisional measure, and shall communicate that decision to the competent authority of the requesting State, as soon as possible after the receipt of the request. Before lifting any provisional measure taken pursuant to this Article, the competent authority of the requested State, wherever possible, shall give the competent authority of the requesting State an opportunity to present its reasons in favour of continuing the measure.

5. If in a specific case, the time limit provided for in paragraph 1 or 2, or the time limit or specific date referred to in paragraph 3 cannot be met, or the decision on taking provisional measures in accordance with paragraph 4 is delayed, the competent authority of the requested State shall, without delay, inform the competent authority of the requesting State by any means, giving the reasons for the delay, and shall consult with the competent authority of the requesting State on the appropriate timing to execute the request for mutual assistance.

6. The time limits referred to in this Article do not apply if the request for mutual assistance is made in relation to any of the following offences and infringements that fall within scope of the European Mutual Assistance Convention and its Protocols, as defined in the law of the requesting State:

- (a) speeding, if no injury or death was caused to another person and if the excess speed was not significant;
- (b) failure to wear a seatbelt;
- (c) failure to stop at a red light or other mandatory stop signal;
- (d) failure to wear a safety helmet; or
- (e) using a forbidden lane (such as the forbidden use of an emergency lane, a lane reserved for public transport, or a lane closed down for road works).

7. The Specialised Committee on Law Enforcement and Judicial Cooperation shall keep the operation of paragraph 6 under review. It shall undertake to set time limits for the requests to which paragraph 6 applies within three years of the entry into force of this Agreement, taking into account the volume of requests. It may also decide that paragraph 6 shall no longer apply.

#### *Article 641*

#### **Transmission of requests for mutual assistance**

1. In addition to the channels of communication provided for under the European Mutual Assistance Convention and its Protocols, if direct transmission is provided for under their respective provisions, requests for mutual assistance may also be transmitted directly by public prosecutors in the United Kingdom to competent authorities of the Member States.

2. In addition to the channels of communication provided for under the European Mutual Assistance Convention and its Protocols, in urgent cases, any request for mutual assistance, as well as spontaneous information, may be transmitted via Europol or Eurojust, in line with the provisions in the respective Titles of this Agreement.

*Article 642***Joint Investigation Teams**

If the competent authorities of States set up a Joint Investigation Team, the relationship between Member States within the Joint Investigation Team shall be governed by Union law, notwithstanding the legal basis referred to in the Agreement on the setting up of the Joint Investigation Team.

## **TITLE XI**

### **FREEZING AND CONFISCATION**

*Article 656***Objective and principles of cooperation**

1. The objective of this Title is to provide for cooperation between the United Kingdom, on the one side, and the Member States, on the other side, to the widest extent possible for the purposes of investigations and proceedings aimed at the freezing of property with a view to subsequent confiscation thereof and investigations and proceedings aimed at the confiscation of property within the framework of proceedings in criminal matters. This does not preclude other cooperation pursuant to Article 665(5) and (6). This Title also provides for cooperation with Union bodies designated by the Union for the purposes of this Title.
2. Each State shall comply, under the conditions provided for in this Title, with requests from another State:
  - (a) for the confiscation of specific items of property, as well as for the confiscation of proceeds consisting in a requirement to pay a sum of money corresponding to the value of proceeds;
  - (b) for investigative assistance and provisional measures with a view to either form of confiscation referred to in point (a).
3. Investigative assistance and provisional measures sought under point (b) of paragraph 2 shall be carried out as permitted by and in accordance with the domestic law of the requested State. Where the request concerning one of these measures specifies formalities or procedures which are necessary under the domestic law of the requesting State, even if unfamiliar to the requested State, the latter shall comply with such requests to the extent that the action sought is not contrary to the fundamental principles of its domestic law.
4. The requested State shall ensure that the requests coming from another State to identify, trace, freeze or seize the proceeds and instrumentalities, receive the same priority as those made in the framework of domestic procedures.
5. When requesting confiscation, investigative assistance and provisional measures for the purposes of confiscation, the requesting State shall ensure that the principles of necessity and proportionality are respected.
6. The provisions of this Title apply in place of the "international cooperation" Chapters of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, done at Warsaw on 16 May 2005 (the "2005 Convention") and the Convention

on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, done at Strasbourg on 8 November 1990 (the "1990 Convention"). Article 657 of this Agreement replaces the corresponding definitions in Article 1 of the 2005 Convention and Article 1 of the 1990 Convention. The provisions of this Title do not affect the States' obligations under the other provisions of the 2005 Convention and the 1990 Convention.

### *Article 657*

#### **Definitions**

For the purposes of this Title, the following definitions apply:

- (a) "confiscation" means a penalty or a measure ordered by a court following proceedings in relation to a criminal offence or criminal offences, resulting in the final deprivation of property;
- (b) "freezing" or "seizure" means temporarily prohibiting the transfer, destruction, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority;
- (c) "instrumentalities" means any property used or intended to be used, in any manner, wholly or in part, to commit a criminal offence or criminal offences;
- (d) "judicial authority" means an authority that is, under domestic law, a judge, a court or a public prosecutor; a public prosecutor is considered a judicial authority only to the extent that domestic law so provides;
- (e) "proceeds" means any economic benefit, derived from or obtained, directly or indirectly, from criminal offences, or an amount of money equivalent to that economic benefit; it may consist of any property as defined in this Article;
- (f) "property" includes property of any description, whether corporeal or incorporeal, movable or immovable, and legal documents or instruments evidencing title or interest in such property, which the requesting State considers to be:
  - (i) the proceeds of a criminal offence, or its equivalent, whether the full amount of the value of such proceeds or only part of the value of such proceeds;
  - (ii) the instrumentalities of a criminal offence, or the value of such instrumentalities;
  - (iii) subject to confiscation under any other provisions relating to powers of confiscation under the law of the requesting State, following proceedings in relation to a criminal offence, including third party confiscation, extended confiscation and confiscation without final conviction.

### *Article 658*

#### **Obligation to assist**

The States shall afford each other, upon request, the widest possible measure of assistance in the identification and tracing of instrumentalities, proceeds and other property liable to confiscation. Such assistance shall include any measure providing and securing evidence as to the existence, location or movement, nature, legal status or value of those instrumentalities, proceeds or other property.

*Article 659***Requests for information on bank accounts and safe deposit boxes**

1. The requested State shall, under the conditions set out in this Article, take the measures necessary to determine, in answer to a request sent by another State, whether a natural or legal person that is the subject of a criminal investigation holds or controls one or more accounts, of whatever nature, in any bank located in its territory and, if so, provide the details of the identified accounts. These details shall in particular include the name of the customer account holder and the IBAN number, and, in the case of safe deposit boxes, the name of the lessee or a unique identification number.
2. The obligation set out in paragraph 1 applies only to the extent that the information is in the possession of the bank keeping the account.
3. In addition to the requirements of Article 680, the requesting State shall, in the request:
  - (a) indicate why it considers that the requested information is likely to be of substantial value for the purposes of the criminal investigation into the offence;
  - (b) state on what grounds it presumes that banks in the requested State hold the account and specify, to the widest extent possible, which banks and accounts may be involved; and
  - (c) include any additional information available which may facilitate the execution of the request.
4. The United Kingdom and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on Law Enforcement and Judicial Cooperation that this Article will be extended to accounts held in non-bank financial institutions. Such notifications may be made subject to the principle of reciprocity.

*Article 660***Requests for information on banking transactions**

1. On request by another State, the requested State shall provide the particulars of specified bank accounts and of banking operations which have been carried out during a specified period through one or more accounts specified in the request, including the particulars of any sending or recipient account.
2. The obligation set out in paragraph 1 applies only to the extent that the information is in the possession of the bank keeping the account.
3. In addition to the requirements of Article 680, the requesting State shall indicate in its request why it considers the requested information relevant for the purposes of the criminal investigation into the offence.
4. The requested State may make the execution of such a request dependent on the same conditions as it applies in respect of requests for search and seizure.
5. The United Kingdom and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on Law Enforcement and Judicial Cooperation that this Article will be extended to accounts held in non-bank financial institutions. Such notifications may be made subject to the principle of reciprocity.

*Article 661*

**Requests for the monitoring of banking transactions**

1. The requested State shall ensure that, at the request of another State, it is able to monitor, during a specified period, the banking operations that are being carried out through one or more accounts specified in the request and to communicate the results of the monitoring to the requesting State.
2. In addition to the requirements of Article 680, the requesting State shall indicate in its request why it considers the requested information relevant for the purposes of the criminal investigation into the offence.
3. The decision to monitor shall be taken in each individual case by the competent authorities of the requested State, in accordance with its domestic law.
4. The practical details regarding the monitoring shall be agreed between the competent authorities of the requesting and requested States.
5. The United Kingdom and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on Law Enforcement and Judicial Cooperation that this Article will be extended to accounts held in non-bank financial institutions. Such notifications may be made subject to the principle of reciprocity.

*Article 662*

**Spontaneous information**

Without prejudice to its own investigations or proceedings, a State may without prior request forward to another State information on instrumentalities, proceeds and other property liable to confiscation, where it considers that the disclosure of such information might assist the receiving State in initiating or carrying out investigations or proceedings or might lead to a request by that State under this Title.

*Article 663*

**Obligation to take provisional measures**

1. At the request of another State which has instituted a criminal investigation or proceedings, or an investigation or proceedings for the purposes of confiscation, the requested State shall take the necessary provisional measures, such as freezing or seizing, to prevent any dealing in, transfer or disposal of property which, at a later stage, may be the subject of a request for confiscation or which might satisfy the request.
2. A State which has received a request for confiscation pursuant to Article 665 shall, if so requested, take the measures referred to in paragraph 1 of this Article in respect of any property which is the subject of the request or which might satisfy the request.
3. Where a request is received under this Article, the requested State shall take all necessary measures to comply with the request without delay and with the same speed and priority as for a similar domestic case and send confirmation without delay and by any means of producing a written record to the requesting State.

4. Where the requesting State states that immediate freezing is necessary since there are legitimate grounds to believe that the property in question will immediately be removed or destroyed, the requested State shall take all necessary measures to comply with the request within 96 hours of receiving the request and send confirmation to the requesting State by any means of producing a written record and without delay.

5. Where the requested State is unable to comply with the time limits under paragraph 4, the requested State shall immediately inform the requesting State, and consult with the requesting State on the appropriate next steps.

6. Any expiration of the time limits under paragraph 4 does not extinguish the requirements placed on the requested State by this Article.

*Article 664*

**Execution of provisional measures**

1. After the execution of the provisional measures requested in conformity with Article 663(1), the requesting State shall provide spontaneously and as soon as possible to the requested State all information which may question or modify the extent of those measures. The requesting State shall also provide without delay all complementary information required by the requested State and which is necessary for the implementation of and the follow-up to the provisional measures.

2. Before lifting any provisional measure taken pursuant to Article 663, the requested State shall, wherever possible, give the requesting State an opportunity to present its reasons in favour of continuing the measure.

*Article 665*

**Obligation to confiscate**

1. The State which has received a request for confiscation of property situated in its territory shall:

(a) enforce a confiscation order made by a court of the requesting State in relation to such property; or

(b) submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, enforce it.

2. For the purposes of point (b) of paragraph 1, the States shall, whenever necessary, have competence to institute confiscation proceedings under their own domestic law.

3. Paragraph 1 also applies to confiscation consisting in a requirement to pay a sum of money corresponding to the value of proceeds, if property against which the confiscation can be enforced is located in the requested State. In such cases, when enforcing confiscation pursuant to paragraph 1, the requested State shall, if payment is not obtained, realise the claim on any property available for that purpose.

4. If a request for confiscation concerns a specific item of property, the requesting State and requested State may agree that the requested State may enforce the confiscation in the form of a requirement to pay a sum of money corresponding to the value of the property.

5. A State shall cooperate to the widest extent possible under its domestic law with a State requesting the execution of measures equivalent to confiscation of property, where the request has not been issued in the framework of proceedings in criminal matters, in so far as such measures are ordered by a judicial authority of the requesting State in relation to a criminal offence, provided that it has been established that the property constitutes proceeds or:

- (a) other property into which the proceeds have been transformed or converted;
- (b) property acquired from legitimate sources, if proceeds have been intermingled, in whole or in part, with such property, up to the assessed value of the intermingled proceeds; or
- (c) income or other benefit derived from the proceeds, from property into which proceeds of crime have been transformed or converted or from property with which the proceeds of crime have been intermingled, up to the assessed value of the intermingled proceeds, in the same manner and to the same extent as proceeds.

6. The measures referred to in paragraph 5 include measures which allow the seizure, detention and forfeiture of property and assets by means of applications to civil courts.

7. The requested State shall take the decision on the execution of the confiscation order without delay, and, without prejudice to paragraph 8 of this Article, no later than 45 days after receiving the request. The requested State shall send confirmation to the requesting State by any means of producing a written record and without delay. Unless grounds for postponement under Article 672 exist, the requested State shall take the concrete measures necessary to execute the confiscation order without delay and, at least, with the same speed and priority as for a similar domestic case.

8. Where the requested State is unable to comply with the time limit under paragraph 7, the requested State shall immediately inform the requesting State, and consult with the requesting State on the appropriate next steps.

9. Any expiration of the time limit under paragraph 7 does not extinguish the requirements placed on the requested State by this Article.

#### *Article 666*

##### **Execution of confiscation**

1. The procedures for obtaining and enforcing the confiscation under Article 665 shall be governed by the domestic law of the requested State.
2. The requested State shall be bound by the findings as to the facts in so far as they are stated in a conviction or judicial decision issued by a court of the requesting State or in so far as such conviction or judicial decision is implicitly based on them.
3. If the confiscation consists in the requirement to pay a sum of money, the competent authority of the requested State shall convert the amount thereof into the currency of that State at the rate of exchange applicable at the time when the decision to enforce the confiscation is taken.

*Article 667***Confiscated property**

1. Subject to paragraphs 2 and 3 of this Article, property confiscated pursuant to Articles 665 and 666 shall be disposed of by the requested State in accordance with its domestic law and administrative procedures.
2. When acting on the request made by another State pursuant to Article 665, the requested State shall, to the extent permitted by its domestic law and if so requested, give priority consideration to returning the confiscated property to the requesting State so that it can give compensation to the victims of the crime or return such property to their legitimate owners.
3. Where acting on the request made by another State in accordance with Article 665, and after having taken into account the right of a victim to restitution or compensation of property pursuant to paragraph 2 of this Article, the requested State shall dispose of the money obtained as a result of the execution of a confiscation order as follows:
  - (a) if the amount is equal to or less than EUR 10 000, the amount shall accrue to the requested State; or
  - (b) if the amount is greater than EUR 10 000, the requested State shall transfer 50 % of the amount recovered to the requesting State.
4. Notwithstanding paragraph 3, the requesting State and requested State may, on a case-by-case basis, give special consideration to concluding other such agreements or arrangements on disposal of property as they deem appropriate.

*Article 668***Right of enforcement and maximum amount of confiscation**

1. A request for confiscation made under Article 665 does not affect the right of the requesting State to enforce the confiscation order itself.
2. Nothing in this Title shall be interpreted as permitting the total value of the confiscation to exceed the amount of the sum of money specified in the confiscation order. If a State finds that this might occur, the States concerned shall enter into consultations to avoid such an effect.

*Article 669***Imprisonment in default**

The requested State shall not impose imprisonment in default or any other measure restricting the liberty of a person as a result of a request under Article 665 without the consent of the requesting State.

*Article 670***Grounds for refusal**

1. Cooperation under this Title may be refused if:
  - (a) the requested State considers that executing the request would be contrary to the principle of ne bis in idem; or
  - (b) the offence to which the request relates does not constitute an offence under the domestic law of the requested State if committed within its

jurisdiction; however, this ground for refusal applies to cooperation under Articles 658 to 662 only in so far as the assistance sought involves coercive action.

2. The United Kingdom and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on Law Enforcement and Judicial Cooperation that, on the basis of reciprocity, the condition of double criminality referred to in point (b) of paragraph 1 of this Article will not be applied provided that the offence giving rise to the request is:

- (a) one of the offences listed in Article 599(5), as defined by the law of the requesting State; and
- (b) punishable by the requesting State by a custodial sentence or a detention order for a maximum period of at least three years.

3. Cooperation under Articles 658 to 662, in so far as the assistance sought involves coercive action, and under Articles 663 and 664 may also be refused if the measures sought could not be taken under the domestic law of the requested State for the purposes of investigations or proceedings in a similar domestic case.

4. Where the domestic law of the requested State so requires, cooperation under Articles 658 to 662, in so far as the assistance sought involves coercive action, and under Articles 663 and 664 may also be refused if the measures sought or any other measures having similar effects would not be permitted under the domestic law of the requesting State, or, as regards the competent authorities of the requesting State, if the request is not authorised by a judicial authority acting in relation to criminal offences.

5. Cooperation under Articles 665 to 669 may also be refused if:

- (a) under the domestic law of the requested State, confiscation is not provided for in respect of the type of offence to which the request relates;
- (b) without prejudice to the obligation pursuant to Article 665(3), it would be contrary to the principles of the domestic law of the requested State concerning the limits of confiscation in respect of the relationship between an offence and:
  - (i) an economic advantage that might be qualified as its proceeds; or
  - (ii) property that might be qualified as its instrumentalities;
- (c) under the domestic law of the requested State, confiscation may no longer be imposed or enforced because of the lapse of time;
- (d) without prejudice to Article 665(5) and (6), the request does not relate to a previous conviction, or a decision of a judicial nature or a statement in such a decision that an offence or several offences have been committed, on the basis of which the confiscation has been ordered or is sought;
- (e) confiscation is either not enforceable in the requesting State, or it is still subject to ordinary means of appeal; or
- (f) the request relates to a confiscation order resulting from a decision rendered in absentia of the person against whom the order was issued and, in the opinion of the requested State, the proceedings conducted by the requesting State

leading to such decision did not satisfy the minimum rights of defence recognised as due to everyone against whom a criminal charge is made.

6. For the purposes of point (f) of paragraph 5 a decision is not considered to have been rendered in absentia if:

- (a) it has been confirmed or pronounced after opposition by the person concerned; or
- (b) it has been rendered on appeal, provided that the appeal was lodged by the person concerned.

7. When considering, for the purposes of point (f) of paragraph 5, whether the minimum rights of defence have been satisfied, the requested State shall take into account the fact that the person concerned has deliberately sought to evade justice or the fact that that person, having had the possibility of lodging a legal remedy against the decision made in absentia, elected not to do so. The same applies where the person concerned, having been duly served with the summons to appear, elected not to do so nor to ask for adjournment.

8. The States shall not invoke bank secrecy as a ground to refuse any cooperation under this Title. Where its domestic law so requires, a requested State may require that a request for cooperation which would involve the lifting of bank secrecy be authorised by a judicial authority acting in relation to criminal offences.

9. The requested State shall not invoke the fact that:

- (a) the person under investigation or subject to a confiscation order by the authorities of the requesting State is a legal person as an obstacle to affording any cooperation under this Title;
- (b) the natural person against whom an order of confiscation of proceeds has been issued has died or a legal person against whom an order of confiscation of proceeds has been issued has subsequently been dissolved as an obstacle to affording assistance in accordance with point (a) of Article 665(1); or
- (c) the person under investigation or subject to a confiscation order by the authorities of the requesting State is mentioned in the request both as the author of the underlying criminal offence and of the offence of money laundering as an obstacle to affording any cooperation under this Title.

#### *Article 671*

#### **Consultation and information**

Where there are substantial grounds for believing that the execution of a freezing or confiscation order would entail a real risk for the protection of fundamental rights, the requested State shall, before it decides on the execution of the freezing or confiscation order, consult the requesting State and may require any necessary information to be provided.

#### *Article 672*

#### **Postponement**

The requested State may postpone action on a request if such action would prejudice investigations or proceedings by its authorities.

*Article 673*

**Partial or conditional granting of a request**

Before refusing or postponing cooperation under this Title, the requested State shall, where appropriate after having consulted the requesting State, consider whether the request may be granted partially or subject to such conditions as it deems necessary.

*Article 674*

**Notification of documents**

1. The States shall afford each other the widest measure of mutual assistance in the serving of judicial documents to persons affected by provisional measures and confiscation.
2. Nothing in this Article is intended to interfere with:
  - (a) the possibility of sending judicial documents, by postal channels, directly to persons abroad; and
  - (b) the possibility for judicial officers, officials or other competent authorities of the State of origin to effect service of judicial documents directly through the consular authorities of that State or through the judicial authorities, including judicial officers and officials, or other competent authorities of the State of destination.
3. When serving judicial documents to persons abroad affected by provisional measures or confiscation orders issued in the sending State, that State shall indicate what legal remedies are available under its domestic law to such persons.

*Article 675*

**Recognition of foreign decisions**

1. When dealing with a request for cooperation under Articles 663 to 669 the requested State shall recognise any decision issued by a judicial authority taken in the requesting State regarding rights claimed by third parties.
2. Recognition may be refused if:
  - (a) third parties did not have adequate opportunity to assert their rights;
  - (b) the decision is incompatible with a decision already taken in the requested State on the same matter;
  - (c) it is incompatible with the ordre public of the requested State; or
  - (d) the decision was taken contrary to provisions on exclusive jurisdiction provided for by the domestic law of the requested State.

*Article 676*

**Authorities**

1. Each State shall designate a central authority to be responsible for sending and answering requests made under this Title, the execution of such requests or their transmission to the authorities competent for their execution.

2. The Union may designate a Union body which may, in addition to the competent authorities of the Member States, make and, if appropriate, execute requests under this Title. Any such request is to be treated for the purposes of this Title as a request by a Member State. The Union may also designate that Union body as the central authority responsible for the purpose of sending and answering requests made under this Title by, or to, that body.

*Article 677*

**Direct communication**

1. The central authorities shall communicate directly with one another.
2. In urgent cases, requests or communications under this Title may be sent directly by the judicial authorities of the requesting State to judicial authorities of the requested State. In such cases, a copy shall be sent at the same time to the central authority of the requested State through the central authority of the requesting State.
3. Where a request is made pursuant to paragraph 2 and the authority is not competent to deal with the request, it shall refer the request to the competent national authority and shall directly inform the requesting State that it has done so.
4. Requests or communications under Articles 658 to 662, which do not involve coercive action, may be directly transmitted by the competent authorities of the requesting State to the competent authorities of the requested State.
5. Draft requests or communications under this Title may be sent directly by the judicial authorities of the requesting State to the judicial authorities of the requested State prior to a formal request to ensure that the formal request can be dealt with efficiently upon receipt and that it contains sufficient information and supporting documentation for it to meet the requirements of the law of the requested State.

*Article 678*

**Form of request and languages**

1. All requests under this Title shall be made in writing. They may be transmitted electronically, or by any other means of telecommunication, provided that the requesting State is prepared, upon request, to produce a written record of such communication and the original at any time.
2. Requests under paragraph 1 shall be made in one of the official languages of the requested State or in any other language notified by or on behalf of the requested State in accordance with paragraph 3.
3. The United Kingdom and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on Law Enforcement and Judicial Cooperation of the language or languages which, in addition to the official language or languages of that State, may be used for making requests under this Title.
4. Requests under Article 663 for provisional measures shall be made using the prescribed form at Annex 46.

5. Requests under Article 665 for confiscation shall be made using the prescribed form at Annex 46.

6. The Specialised Committee on Law Enforcement and Judicial Cooperation may amend the forms referred to in paragraphs 4 and 5 as may be necessary.

7. The United Kingdom and the Union, acting on behalf of any of its Member States may each notify the Specialised Committee on Law Enforcement and Judicial Cooperation that it requires the translation of any supporting documents into one of the official languages of the requested State or any other language indicated in accordance with paragraph 3 of this Article. In the case of requests pursuant to Article 663(4), such translation of supporting documents may be provided to the requested State within 48 hours after transmitting the request, without prejudice to the time limits provided for in Article 663(4).

#### *Article 679*

##### **Legalisation**

Documents transmitted in application of this Title shall be exempt from all legalisation formalities.

#### *Article 680*

##### **Content of request**

1. Any request for cooperation under this Title shall specify:

(a) the authority making the request and the authority carrying out the investigations or proceedings;

(b) the object of and the reason for the request;

(c) the matters, including the relevant facts (such as date, place and circumstances of the offence) to which the investigations or proceedings relate, except in the case of a request for notification;

(d) insofar as the cooperation involves coercive action:

(i) the text of the statutory provisions or, where that is not possible, a statement of the relevant applicable law; and

(ii) an indication that the measure sought or any other measures having similar effects could be taken in the territory of the requesting State under its own domestic law;

(e) where necessary and in so far as possible:

(i) details of the person or persons concerned, including name, date and place of birth, nationality and location, and, in the case of a legal person, its seat; and

(ii) the property in relation to which cooperation is sought, its location, its connection with the person or persons concerned, any connection with the offence, as well as any available information about other persons, interests in the property; and

(f) any particular procedure the requesting State wishes to be followed.

2. A request for provisional measures under Article 663 in relation to seizure of property on which a confiscation order consisting of the requirement to pay a

sum of money may be realised shall also indicate a maximum amount for which recovery is sought in that property.

3. In addition to the information referred to in paragraph 1 of this Article, any request under Article 665 shall contain:

- (a) in the case of point (a) of Article 665(1):
  - (i) a certified true copy of the confiscation order made by the court in the requesting State and a statement of the grounds on the basis of which the order was made, if they are not indicated in the order itself;
  - (ii) an attestation by the competent authority of the requesting State that the confiscation order is enforceable and not subject to ordinary means of appeal;
  - (iii) information as to the extent to which the enforcement of the order is requested; and
  - (iv) information as to the necessity of taking any provisional measures;
- (b) in the case of point (b) of Article 665(1), a statement of the facts relied upon by the requesting State sufficient to enable the requested State to seek the order under its domestic law;
- (c) where third parties have had the opportunity to claim rights, documents demonstrating that this has been the case.

*Article 681*

**Defective requests**

- 1. If a request does not comply with the provisions of this Title or the information supplied is not sufficient to enable the requested State to deal with the request, that State may ask the requesting State to amend the request or to complete it with additional information.
- 2. The requested State may set a time limit for the receipt of such amendments or information.
- 3. Pending receipt of the requested amendments or information in relation to a request under Article 665, the requested State may take any of the measures referred to in Articles 658 to 664.

*Article 682*

**Plurality of requests**

- 1. Where the requested State receives more than one request under Article 663 or Article 665 in respect of the same person or property, the plurality of requests shall not prevent that State from dealing with the requests involving the taking of provisional measures.
- 2. In the case of a plurality of requests under Article 665, the requested State shall consider consulting the requesting States.

*Article 683*

**Obligation to give reasons**

The requested State shall give reasons for any decision to refuse, postpone or make conditional any cooperation under this Title.

*Article 684*

**Information**

1. The requested State shall promptly inform the requesting State of:
  - (a) the action initiated on the basis of a request under this Title;
  - (b) the final result of the action carried out on the basis of a request under this Title;
  - (c) a decision to refuse, postpone or make conditional, in whole or in part, any cooperation under this Title;
  - (d) any circumstances which render impossible the carrying out of the action sought or are likely to delay it significantly; and
  - (e) in the event of provisional measures taken pursuant to a request under Articles 658 to Article 663, such provisions of its domestic law as would automatically lead to the lifting of the provisional measure.
2. The requesting State shall promptly inform the requested State of:
  - (a) any review, decision or any other fact by reason of which the confiscation order ceases to be wholly or partially enforceable; and
  - (b) any development, factual or legal, by reason of which any action under this Title is no longer justified.
3. Where a State, on the basis of the same confiscation order, requests confiscation in more than one State, it shall inform all States which are affected by the enforcement of the order about the request.

*Article 685*

**Restriction of use**

1. The requested State may make the execution of a request dependent on the condition that the information or evidence obtained is not, without its prior consent, to be used or transmitted by the authorities of the requesting State for investigations or proceedings other than those specified in the request.
2. Without the prior consent of the requested State, information or evidence provided by it under this Title shall not be used or transmitted by the authorities of the requesting State in investigations or proceedings other than those specified in the request.
3. Personal data communicated under this Title may be used by the State to which they have been transferred:
  - (a) for the purposes of proceedings to which this Title applies;
  - (b) for other judicial and administrative proceedings directly related to proceedings referred to in point (a);
  - (c) for preventing an immediate and serious threat to public security; or

(d) for any other purpose, only with the prior consent of the communicating State, unless the State concerned has obtained the consent of the data subject.

4. This Article shall also apply to personal data not communicated but obtained otherwise under this Title.

5. This Article does not apply to personal data obtained by the United Kingdom or a Member State under this Title and originating from that State.

*Article 686*

**Confidentiality**

1. The requesting State may require that the requested State keep confidential the facts and substance of the request, except to the extent necessary to execute the request. If the requested State cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State.

2. The requesting State shall, if not contrary to basic principles of its domestic law and if so requested, keep confidential any evidence and information provided by the requested State, except to the extent that its disclosure is necessary for the investigations or proceedings described in the request.

3. Subject to the provisions of its domestic law, a State which has received spontaneous information under Article 662 shall comply with any requirement of confidentiality as required by the State which supplies the information. If the receiving State cannot comply with such a requirement, it shall promptly inform the transmitting State.

*Article 687*

**Costs**

The ordinary costs of complying with a request shall be borne by the requested State. Where costs of a substantial or extraordinary nature are necessary to comply with a request, the requesting and requested States shall consult in order to agree the conditions on which the request is to be executed and how the costs will be borne.

*Article 688*

**Damages**

1. Where legal action on liability for damages resulting from an act or omission in relation to cooperation under this Title has been initiated by a person, the States concerned shall consider consulting each other, where appropriate, to determine how to apportion any sum of damages due.

2. A State which has become the subject of litigation for damages shall endeavour to inform the other State of such litigation if that State might have an interest in the case.

*Article 689*

**Legal remedies**

1. Each State shall ensure that persons affected by measures under Articles 663 to 666 have effective legal remedies in order to preserve their rights.

2. The substantive reasons for requested measures under Articles 663 to 666 shall not be challenged before a court in the requested State.”



L.S.

GIVEN under my Official Seal,  
5 November, 2024.

HELEN MCENTEE,  
Minister for Justice.

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