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Government of Nepal

Ministry of Law, Justice, Constituent Assembly and Parliamentary
Affairs

Notice

Mutual Legal Assistance Regulation, 2070

In exercise of the powers conferred by Section 45 of the Mutual Legal Assistance Ordinance, 2069, the Government of Nepal has framed the following rules.

1. Short title and commencement: (1) These rules are called as the "Mutual Legal Assistance Regulation, 2070".
(2) This Regulation shall commence forthwith.
2. Definitions: Unless the subject or the context otherwise requires, in this Regulation, -
 - (a) "Ordinance" means the Mutual Legal Assistance Ordinance, 2069.
 - (b) "Investigating authority" means the authority empowered to investigate into and prosecute offences in accordance with the prevailing law.
 - (c) "Ministry" means the Ministry of Foreign Affairs.
3. Procedures for providing mutual legal assistance to foreign state on basis of reciprocity: (1) If a foreign state which does not have a bilateral treaty with Nepal on the provision of

mutual legal assistance makes a request to the Government of Nepal through the diplomatic channel in accordance with sub-section (2) of Section 3 of the Ordinance, the Ministry shall carry out a preliminary study on that matter.

(2) If, upon the study of the matter in accordance with sub-rule (1), it appears that such foreign state or a body authorized by the law of that state has given assurance through any diplomatic channel to the effect that it shall extend mutual legal assistance in the judicial proceedings of similar nature when so requested by Nepal for such mutual legal assistance in the future, and that the extension of mutual legal assistance in the matter so requested shall not impair the sovereignty or public order of Nepal, the Ministry must forward the relevant description, documents and evidence, accompanied by its recommendation for the extension of mutual legal assistance on the basis of reciprocity, to the Central Authority for necessary action.

(3) If a request, along with the recommendation, is received from the Ministry in accordance with sub-rule (2), the Central Authority must take action pursuant to section 27 of the Act.

(4) If, upon the study in accordance with sub-rule (1), the Ministry thinks that mutual legal assistance cannot be extended on the basis of reciprocity, it must give information thereof to the concerned state and the Central Authority.

(5) The Ministry must complete the study referred to in sub-rule (1) not later than fifteen days of the date of receipt of such request.

(6) A request by any foreign state to the Government of Nepal for mutual legal assistance in accordance with the

Ordinance and this Regulation must be in the form set forth in Schedule-1.

4. Procedures for obtaining mutual legal assistance from foreign state: (1) If any investigating authority is required to obtain any mutual legal assistance which may be of assistance in the investigation into or prosecution of any offence pursuant to the Ordinance, the investigating authority must make a request to the Central Authority, in the form set forth in Schedule-2, setting out the description set forth in Section 14 of the Ordinance.

(2) If any Court makes an order for making a request to a foreign state for any mutual legal assistance which may be of assistance in the judicial proceedings, the concerned Court must make a request to the Central Authority, in the form set forth in Schedule-3, setting out the description set forth in Section 14 of the Ordinance.

(3) If a request is received in accordance with sub-rule (1) or (2), the Central Authority must make a request, in the form set forth in Schedule-4, setting out the description set forth in Sections 14 and 15 of the Ordinance, to the foreign state through the diplomatic channel.

(4) If the law of the concerned foreign state has provided for any certain terms and conditions, the Central Authority must comply with such terms and conditions in making a request for mutual legal assistance pursuant to sub-rule (3).

5. Procedures for getting payment of fees or charges for mutual legal assistance: (1) If a request is received from a foreign state for mutual legal assistance and, upon an inquiry by the Central Authority into such request pursuant to Section 27 of

the Ordinance, it is decided to extend mutual legal assistance and any fee or charge is leviable thereon, the Central Authority must give information thereof to the concerned foreign state, also taking into account of reciprocity.

(2) Notwithstanding anything contained in sub-rule (1), if there is a delay in the receipt of the fee or charge leviable on the extension of mutual legal assistance from the concerned foreign state, the Central Authority must bear such fee or charge and immediately initiate the action relating to mutual legal assistance.

(3) The concerned foreign state must reimburse the fee or charge leviable on the extension of mutual legal assistance or the fee or charge borne by the Central Authority pursuant to sub-rule (2) into such bank account as may be specified by the Central Authority.

6. To give information: If a request is received from a foreign state for mutual legal assistance pursuant to Section 3 of the Ordinance, the Central Authority must give information of the receipt of such request in accordance with Section 26 of the Ordinance to the concerned foreign state through the diplomatic channel, in the form set forth in Schedule-5.
7. Power to form coordination committee: (1) There shall be formed a coordination committee consisting of the following members in order to assist the Central Authority in effectively discharging the functions set forth in the Ordinance and this Regulation:

| | | |
|-----|---|---------------|
| (a) | Joint Secretary, Ministry of Law, Justice, Constituent Assembly and Parliamentary Affairs | - Coordinator |
|-----|---|---------------|

| | | |
|-----|--|----------|
| (b) | Representative, Ministry of Foreign Affairs | - Member |
| (c) | Representative, Supreme Court | - Member |
| (d) | Representative, Office of the Attorney General | - Member |
| (e) | Representative, investigation or inquiry authority or other concerned body | - Member |

(2) The functions, duties and powers of the coordination committee formed pursuant to sub-rule (1) shall be as follows:

- (a) to give necessary suggestions on matters related to mutual legal assistance,
- (b) to render necessary support in the provision of mutual legal assistance,
- (c) to perform such other functions as may be specified by the Central Authority.

8. Provisions relating to translation: (1) The Central Authority shall make translation of a request in the English language and document and instrument attached with the request received from a foreign state pursuant to sub-section (2) of Section 40 of the Ordinance or a request and document and instrument attached with the request to be made by Nepal to a foreign state for mutual legal assistance.

(2) For the purpose of making translation pursuant to sub-rule (1), the Central Authority must prepare rosters of

translators of various languages and also update the rosters for every financial year.

(3) The Central Authority must procure the translation of requests, and documents or instruments attached therewith as required to be translated pursuant to sub-rule (1), subject to the prevailing laws on public procurement.

Provided that nothing shall prevent the procurement of translation services also from a person who is not included in the roster in cases where a special circumstance arises or where the roster does not contain any person with knowledge of any particular language.

9. To conduct capacity building programs: (1) The Central Authority may conduct various capacity building programs on mutual legal assistance, including regular training and interaction programs, for the officials of the stakeholder bodies.

(2) The Central Authority may, for the purposes of sub-rule (1), make necessary collaboration with counterpart bodies of foreign countries as well as with the concerned international institutions.

10. To maintain central records: The Central Authority must maintain updated central records of matters of requests for mutual legal assistance made by Nepal to foreign states and of received mutual legal assistance, and of mutual legal assistance extended by Nepal at the requests of foreign states and of requests not complied with and information thereof given to foreign states.

11. To submit annual report: The Central Authority must submit an annual report required to be submitted pursuant to

Section 44 of the Ordinance to the Government of Nepal, Council of Ministers, not later than three months of the expiration of every financial year.

12. Power to frame and enforce procedures or directives: The Central Authority may frame and enforce such procedures or directives as may be required for the effective implementation to the Ordinance and this Regulation and international standards on mutual legal assistance.

Schedule-1

Relating to sub-rule (6) of Rule 3

Description to be set out in a request to be made by a foreign state
to Nepal for mutual legal assistance

1. Name of requesting foreign state:
2. Name and address of court or body of foreign state:
3. Contact address:
 - (a) Phone number:
 - (b) Fax number:
 - (c) E-mail:
 - (d) Website:
4. Name of Court or body of Nepal related to mutual legal assistance requested for:
5. Case:
6. Case registration number:
7. Names, surnames and addresses of the parties to the case:

8. Matter in which mutual legal assistance is requested:

(a)

(b)

(c)

(d)

9. Date within which mutual legal assistance must be obtained:
10. If it is to be obtained earlier, reason for the same:
11. Other necessary description:

Official making request on behalf of
the concerned state:

Name:

Designation:

Signature:

Date:

Schedule-2

Relating to sub-rule (1) of Rule 4

Description to be set out by Investigating Authority in making request
for mutual legal assistance

Date:

Re- Request for mutual legal assistance:

The Central Authority,

..... Kathmandu.

Whereas, the following mutual legal assistance is required to be obtained from the following foreign state in the following case under investigation by this Authority;

Now, therefore, a request setting out the following description is hereby forwarded for that purpose.

1. Case:
2. Case registration number:
3. Name, surname and address of the defendant:
4. Name of the foreign state to be requested to:
5. Name and address of court or body of the foreign state:
6. Contact address:
 - (a) Phone number:
 - (b) Fax number:
 - (c) E-mail:
 - (d) Website:

7. Official language of the foreign state:
8. Matter in which mutual legal assistance is requested:
 - (a)
 - (b)
 - (c)
 - (d)
9. Date within which mutual legal assistance must be obtained:
10. If it is to be obtained earlier, reason for the same:
11. Description to be set out pursuant to Section 14 of the Ordinance:

Official making request:

Name:

Designation:

Signature:

Schedule-3

Relating to sub-rule (2) of Rule 4

Description to be set out by Court in requesting for mutual legal assistance

Date:

Re- Request for mutual legal assistance:

The Central Authority,

..... Kathmandu.

Whereas, on.....an order was made by this Court for requesting the following mutual legal assistance from the following foreign state in the following case *sub judice* in this Court;

Now, therefore, a request setting out the following description is hereby forwarded for that purpose.

1. Case:
2. Case registration number:
3. Name, surname and address of the defendant:
4. Name of the foreign state to be requested to:
5. Name and address of the court or body of the foreign state:
6. Contact address:
 - (a) Phone number:

- (b) Fax number:
- (c) E-mail:
- (d) Website:
- 7. Official language of the foreign state:
- 8. Matter in which mutual legal assistance is requested:
 - (a)
 - (b)
 - (c)
 - (d)
- 9. Date within which mutual legal assistance must be obtained:
- 10. If it is to be obtained earlier, reason for the same:
- 11. Description to be set out pursuant to Section 14 of the Ordinance:

Official of the Court making request:

Name:

Designation:

Signature:

Schedule-4

Relating to sub-rule (3) of Rule 4

Description to be set out by the Central Authority in a request for mutual legal assistance

Date:

1. Name of the foreign state to be requested to:
2. Name and address of the court or body of the foreign state:
3. Contact address:
 - (a) Phone number:
 - (b) Fax number:
 - (c) E-mail:
 - (d) Website:
4. Official language of the foreign state:
5. Case:
6. Case registration number:
7. Names, surnames and addresses of the parties to the case:
8. Matter in which mutual legal assistance is requested:
 - (a)
 - (b)

(c)

(d)

9. Date within which mutual legal assistance must be obtained:
10. If it is to be obtained earlier, reason for the same:
11. Description to be set out pursuant to the Ordinance:

Official making request on behalf of
the Central Authority:

Name:

Designation:

Signature:

Schedule-5

Relating to Rule 6

Description to be set out by the Central Authority in the information
of receipt of request for mutual legal assistance

Date:

Re- Information of the receipt of request for mutual legal
assistance

1. Registration number of the request:
2. Date of registration of the request:
3. Description of the request receiving body:
 - (a) Name:
 - (b) Address:
 - (c) Phone number:
 - (d) Fax number:
 - (e) E-mail:
 - (f) Website:
4. Official language:
5. Bodies of which support is required for execution of the
request for mutual legal assistance:
 - (a)
 - (b)
 - (c)
 - (d)

6. Date within which mutual legal assistance can be extended:
7. Whether the request can be executed within the specified time or not:
8. If not, reason for the same:
9. Other necessary description:

Name of information
providing official:

Name:

Designation:

Signature:

Seal of office

By order,

Bhesh Raj Sharma

Secretary