

法規名稱：Agreement between the Taipei Representative Office in Poland and the Polish Office in Taipei on the Legal Cooperation in Criminal Matters

簽訂日期：民國 108 年 06 月 17 日

生效日期：民國 110 年 02 月 23 日

The Taipei Representative Office in Poland and the Polish Office in Taipei, desiring to improve the effective legal cooperation in criminal matters based on the principles of mutual respect, respect for human rights and rule of law, have agreed as follows:

Article 1.

General Provisions

1. This Agreement regulates principles and procedures of legal cooperation in criminal matters in the areas of mutual legal assistance, extradition, transfer of sentenced persons, information sharing on law and its practical application, information sharing on prosecuting of crimes and crime prevention.
2. The Taipei Representative Office in Poland and the Polish Office in Taipei shall inform each other of the name or names of the Central Authority or Central Authorities responsible for performing functions envisaged in this Agreement, as well as of changes in the name or contact information of such Central Authorities.
3. This Agreement is without prejudice to the obligations of Poland arising from its membership in the European Union.

Article 2.

Scope of Application

1. This Agreement shall be applicable in cases that remain within the competence of courts and prosecution authorities.
2. This Agreement shall not give rise to a right on the part of any private party or natural person to obtain, suppress, or exclude any evidence, or to impede the execution of a request.

Article 3.

Mutual Legal Assistance

1. The Central Authorities shall endeavor to assure efficient cooperation of courts and prosecution authorities in the field of mutual legal assistance, in accordance with the applicable national law and this Agreement, in connection with the investigation, prosecution or court proceedings.
2. Mutual legal assistance shall include in particular transmitting the requests for:

- (a) taking the testimony or statements of persons; the authorities designated by the Requested Central Authority shall permit the presence of such persons as specified in the request during the execution of the request, and shall allow such persons to pose questions to the person giving the testimony or statement and to make minutes or a verbatim transcript, in a manner agreed to by the authorities designated by the Requested Central Authority,
- (b) paragraph 2 (a) of this Article shall be applied to authorize the authorities designated by the Requesting Central Authority to take testimony or statement of a person located in the territory to which request has been directed, by use of video transmission technology,
- (c) providing documents, records, and articles of evidence,
- (d) locating or identifying persons,
- (e) serving documents,
- (f) executing requests for searches and seizures,
- (g) examining objects and sites,
- (h) assisting in proceedings related to freezing or forfeiture of assets.

Article 4.

Extradition

The Central Authorities undertake to afford each other the widest measure of cooperation, in accordance with the applicable national law and this Agreement, in respect of extradition, with a view to preventing impunity by surrender of persons against whom criminal proceedings were instituted, for the purpose of conducting such proceedings.

Article 5.

Transfer of Sentenced Persons

The Central Authorities undertake to afford each other the widest measure of cooperation, in accordance with the applicable national law and this Agreement, in respect of the transfer of persons deprived of liberty on account of a criminal offence, with a view to facilitating their social rehabilitation into their own society.

Article 6.

Information Sharing on Law and Its Practical Application

The Central Authorities shall share, upon requests, in accordance with the applicable national law and this Agreement, information on legal rules and regulations that are or were in force on their territories and on the practice of their application.

Article 7.

Information Sharing on Prosecuting of Crimes and Crime Prevention

The Central Authorities may share, in accordance with the applicable national law and this Agreement, information necessary to prosecute and prevent crimes including terrorist crimes.

Article 8.

Transmission of Requests

1. The requests in the cases covered by this Agreement shall be transmitted directly between Central Authorities.
2. Before transmitting the request the Central Authorities shall consider whether its execution would violate human rights, sovereignty, security, fundamental principles of law or other important interest of the territory to which request has been directed; in the case of Poland such interest includes obligations resulting from its membership in the European Union.
3. Before transmitting the request the Central Authorities shall consider whether it fulfills the requirements set forth by the other Central Authority.

Article 9.

Languages

In the mutual correspondence concerning the issues under this Agreement, the Central Authorities shall use their own official languages, along with translation into English.

Article 10.

Consultations

The Central Authorities shall consult each other, at times mutually agreed by them, with a view to promoting the most effective cooperation in the areas covered by this Agreement and in order to develop better practical measures to facilitate this cooperation.

Article 11.

Execution of Requests

1. The Central Authorities shall do everything in their power in order to execute the request promptly.
2. Each of the Central Authorities shall promptly inform the other Central Authority on the result of proceedings toward execution of the request, including the denial of execution and the reason of the denial, and shall respond to inquiries by the other Central Authority on the progress toward the execution of the request.
3. The Central Authority to whom the request for mutual legal assistance has been directed shall comply with the request of

the other Central Authority to follow special procedure or special form at its execution, unless it would violate the law in force on the territory to which the request has been directed.

Article 12.

Personal Data Protection

Personal data transferred in the cases covered by this Agreement shall be protected according to applicable law of Taiwan, Poland and the European Union.

Article 13.

Working Contact

Each of the Central Authorities shall prepare a list of persons authorized to engage in the working contact in the cases covered by this Agreement including information on their scope of competence and shall transfer it to the other Central Authority. The Central Authorities shall inform each other on the change of those data.

Article 14.

Relation to Other Instruments

Assistance and procedures set forth in this Agreement shall not prevent either of the Central Authorities from granting assistance to the other Central Authority or Central Authorities through the provisions of other applicable Agreements, national or international law, principle of reciprocity or any other arrangement, or practice which may be applicable.

Article 15.

Temporal Scope of Application

This Agreement shall apply to all requests presented after its entry into force even if the relevant offenses occurred before its entry into force or the judgment in the case of the sentenced person to be transferred has been delivered before its entry into force.

Article 16.

Entry into Force

The Taipei Representative Office in Poland and the Polish Office in Taipei shall notify each other in writing when the internal procedures necessary to implement this Agreement in their respective territories are completed. This Agreement shall enter into force on the date of receipt of the latter of these notifications.

Article 17.

Amendment

This Agreement may be amended by the mutual consent of the Taipei Representative Office in Poland and the Polish Office in Taipei. The amendments shall enter into force in accordance with the procedure set out in Article 16.

Article 18.

Duration

This Agreement shall be valid for an indefinite period of time.

Article 19.

Termination

1. This Agreement may be terminated by means of written notice from the Taipei Representative Office in Poland to the Polish Office in Taipei or from the Polish Office in Taipei to the Taipei Representative Office in Poland. This Agreement shall cease to be valid after ninety days since the date of receipt of such notification.
2. In the event of a termination notice, cooperation and assistance will continue and information will be provided in accordance with this Agreement, for requests submitted before the effective date of termination. If this Agreement shall cease to be valid, personal data will continue to be protected in the manner prescribed in it.

Done in duplicate at Taipei on the 17 day of June 2019 in the Chinese, Polish and English languages, all texts being equally authentic. In the event of any differences in their interpretation, the English text shall prevail.

For the Taipei
Representative Office
in Poland

For the Polish Office
in Taipei
