

INTERNATIONAL LEGAL ASSISTANCE

LAW 5758-1998

CHAPTER ONE: DEFINITIONS

Definitions

1. In this Law -
 - "person restricted by order" - a person in respect of whom a restricting order was made;
 - "prisoner" - includes detainee;
 - "foreign prisoner" - a prisoner under an order of imprisonment or an arrest warrant of another state;
 - "taking evidence" - taking testimony or presenting an article in Court;
 - "legal proceeding" - a proceeding in a civil or in a criminal matter;
 - "investigator" - a person who belongs to a governmental agency and is authorized to investigate under law;
 - "body search of suspect" - a blood test and an external search, as defined in the Criminal Procedure Law (Powers of Enforcement - Body Search of Suspect) 5756-1996;
 - "body search upon a person" - as defined in section 22 of the Criminal Procedure (Arrest and Search) Ordinance (New Version) 5729-1969;
 - "article" - includes documents, money, computer material as defined in the Computers Law 5755-1995, and animals;
 - "legal document" - each of the following:
 - (1) a document of or on behalf of a judicial authority;
 - (2) a document, in respect of which the Law in the place where it was prepared requires that it be prepared by or served by means of the holder of a judicial office;
 - (3) a document, the service of which by a judicial officer enhances the validity of its service or of its contents under the Law in the place where it was made;
 - (4) for purposes of a criminal proceeding - a Court document or an investigator's summons;
 - "foreign legal document" - a legal document made in another country;
 - "military labor" - within its meaning in section 541 of the Military Justice Law 5715-1955 (hereafter: Military Justice Law);
 - "service labor" and "service for the benefit of the community" - within their meanings in Article Two "A" and Article Four "A" of Chapter Six of the Penal Law 5737-1977 (hereafter: Penal Law);
 - "fiscal offense" - a violation of tax laws of any kind whatsoever, including an offense in connection with currency control;
 - "military offense" - one of the following:
 - (1) an offense in connection with military service;
 - (2) an offense tried only before a military tribunal;
 - (3) an offense under military law that would not be an offense under ordinary criminal law;

"criminal matter" - an investigation, a criminal proceeding, a forfeiture of property in a criminal proceeding and a forfeiture of property in a civil proceeding;

"investigative act" - an act carried out by a governmental authority competent to do so in order to investigate an offense or to prevent an offense, or for the purpose of obtaining an order for the forfeiture of property or execution of an order to forfeit property as set out in Article Six of Chapter Three, it being one of the following:

- (1) collecting information;
- (2) interrogation and taking a statement;
- (3) the search of a place, the body search upon a person or the body search of a suspect;
- (4) seizure of evidence or of an article and their examination;
- (5) locating and surveillance of a person, property or a financial transaction;
- (6) secret monitoring;
- (7) any other investigative action, which the authority is competent to perform, exclusive of arrest;

"financial transaction" - includes a bank transaction;

"foreign forfeiture order" - an order to forfeit property made by a foreign judicial authority, either in a criminal or in a civil proceeding;

"restricting order" - any of the following:

- (1) a license under section 28 of the Prisons Ordinance (New Version) 5732-1971 or under section 49 of the Penal Law;
- (2) a probation order under any enactment;
- (3) a Court's decision that the convicted person serve his sentence of imprisonment by service labor under Article Two "A" of Chapter Six of the Penal Law;
- (4) an order for service for the benefit of the community under Article Four "A" of Chapter Six of the Penal Law;
- (5) a determination by a Military Court that the convicted person serve his penalty by military labor under section 541 of the Military Justice Law;

"property" - real estate, movables, money and rights, including consideration of any kind for aforesaid property, and any property that represents the proceeds of or that represents the profits of aforesaid property;

"foreign judicial authority" - a Court or a Tribunal in another country, as well as any other governmental authority competent to issue an order to forfeit property in that country.

CHAPTER TWO: GENERAL PROVISIONS

The nature of legal assistance

2. (a) Legal assistance between the State of Israel and another state (in this Law: legal assistance) is every one of the following: service of documents, taking evidence, search and seizure operations, transmittal of evidence and other documents, transfer of a person in

order to testify in a criminal proceeding or to participate in an investigative act, investigative acts, transmittal of information, forfeiture of property, provision of legal relief, authentication and certification of documents or the performance of any other legal act, all in connection with a civil matter or a criminal matter.

- (b) Legal assistance under this Law does not include the following:
 - (1) arrest or any other proceeding connected to extradition;
 - (2) execution of a judgment, except for execution of a judgment set out in Article Six of Chapter Three;
 - (3) transfer of prisoners for purposes of serving their sentence.
- (c) (1) The provisions of this Law shall also apply, mutatis mutandis, to legal assistance between the State of Israel and a body that is not a state and that is one of the bodies specified in Schedule One.
 - (2) Wherever this Law refers to "another state", that also implies a body set out in paragraph (1).
- (d) The provisions of this Law shall not derogate from the authority to extend or to accept legal assistance under any other Law.

The Authority competent to accept requests for legal assistance and its powers

- 3. (a) The authority competent to accept requests for legal assistance from other states and to decide on them is the Minister of Justice (hereafter: Competent Authority).
- (b) The Competent Authority may approve implementation of another country's request for legal assistance, refuse it, approve it in part, stay or delay its implementation, make its implementation conditional or postpone the decision until additional information or material concerning the request is received from the requesting state.
- (c) The Minister of Justice may delegate his powers under this section - except for the power to refuse a request on behalf of another state - to a public servant, with the concurrence of the Minister in charge of that public servant; notice of a delegation of powers shall be published in Reshumot.

Request for legal assistance from another state

- 4. (a) The Competent Authority shall consider a request for legal assistance from another state, if the following conditions have been met:
 - (1) the request was submitted on behalf of the authority designated in that state as the Competent Authority for matters of legal assistance (in this Law: Foreign Competent Authority);
 - (2) notification of such a designation was delivered to the Competent Authority in Israel on behalf of the Foreign Competent Authority.
- (b) If the request is on behalf of one of the bodies enumerated in

Schedule One, then the request shall be submitted by an agent authorized on its behalf.

- (c) The Competent Authority shall consider a request for legal assistance in connection with a criminal matter, if the request also specifies the following:
 - (1) the type of proceeding for which assistance is requested;
 - (2) the facts that constitute the basis for the suspicion that the offense, which is the subject of that request, was committed and the connection between those facts and the requested assistance.
- (d) If the request is in connection with the prevention of an offense - then the Competent Authority shall consider the request only if the connection between the requested assistance and the facts on which the request is based has been proven.

Refusal of request

- 5. (a) The Minister of Justice may deny a request, if one of the following exists:
 - (1) the act is liable to prejudice Israel's sovereignty, security, public order, public welfare or safety, or some other vital interest of the State;
 - (2) the request for legal assistance is for an offense that is political in nature or for some other offense that is connected to an offense of a political nature;
 - (3) the request for legal assistance is connected with a proceeding, the purpose of which is to cause harm to a person because of his political opinions or because of his origin or because he belongs to a certain race, nationality, religion, sex or social group;
 - (4) the request for legal assistance is for a military offense or for a fiscal offense;
 - (5) the request for legal assistance is on a criminal matter, and under Israel Law it is not possible to perform an act similar to the requested act;
 - (6) the requesting state refrains from performing similar acts on requests by the State of Israel or by Israeli citizens, or it does not extend to them facilities similar to the facilities extended under this Law;
 - (7) performance of the act involves an unreasonable burden on the State.
- (b) If the Minister of Justice denies a request for legal assistance or for the performance of an act under it, then he shall inform the requesting state of the reasons for the denial.

Postponing the time for implementation of a request for legal assistance or staying its execution

- 6. (a) (1) The Competent Authority may postpone the time for the implementation of an act of legal assistance, if its

implementation is liable to -

- (a) interfere with the conduct of a pending criminal proceeding;
 - (b) cause unreasonable harm to some other legal proceeding;
- (2) if the Competent Authority decided to postpone the time for the implementation of an act of legal assistance, as set out in paragraph (1), then notice thereof shall be delivered to the requesting state, stating the estimated time when it will be possible to perform the act, and the act shall be performed only if the requesting state gives notice that it is interested in its being performed at the stated time.
- (b) If the Competent Authority concluded that the evidentiary basis of the request for legal assistance on a criminal matter does not make it possible - under Israel Law - to perform an act similar to the requested act, then the Competent Authority may stay performance of the act until the evidentiary basis has been completed; if the Competent Authority decided to stay performance of the act, then notification thereof shall be delivered to the requesting state and the act shall not be performed until the evidentiary basis is completed.
 - (c) The Court may postpone the time for performing an act of legal assistance on a criminal matter or stay its performance, if the circumstances specified in subsections (a) or (b) hold true.

Implementation of request for legal assistance

7. If the Competent Authority approved another state's request for legal assistance, then it shall transmit the request for implementation as prescribed by this Law, and it shall transmit the results of the implementation to the requesting state; if it was not possible to implement the request, then the Competent Authority shall deliver a reasoned notification thereof to the requesting state.

Subject to provisions of Law

8. (a) Any act in Israel in accordance with a request for legal assistance by a foreign state shall be performed in the manner in which an act of that kind is performed in Israel, and the provisions of enactments that apply in Israel to an act of that kind shall apply to it, except if a different provision is made in this Law or under it.
- (b) Any act on a foreign state's request for legal assistance shall be performed in Israel only if the act is permissible under Israel Law.
- (c) The requested act shall be carried out in a manner that complies with the requesting state's request, as long as the act is permitted under Israel Law.
- (d) If the requested act is in connection with a criminal matter, then the provisions of this Law shall apply, as if the offense in respect of which the act is requested was committed in Israel.

Jurisdiction of Court and of Governmental authority

9. (a) The Court competent to perform an act under this Law is the Magistrates Court, even if the requested act is not within its jurisdiction, unless there is a different provision in this Law.
- (b) The authority to perform any act required under this Law in order to extend legal assistance to another state is vested in every governmental authority, if the act is of the category of acts which it is competent to perform; no act shall be performed by a governmental authority in order to extend legal assistance to another state, if it is of a category of acts which the authority is not competent to perform under Israel Law.

Specific use of evidence

10. Evidence or information obtained in Israel pursuant to a request of a foreign state for legal assistance in connection with a criminal matter shall be transmitted only after the Competent Authority receives assurances from the requesting state that the evidence or information will be used only in the criminal matter for which it was requested, and no other use will be made of them without the prior consent of the Competent Authority in Israel.

Confidentiality

11. (a) If it is requested to do so, the Competent Authority shall keep a foreign state's request for legal assistance on a criminal matter and its results confidential, subject to the provisions of Israel Law.
- (b) If it is not possible to carry out the request while maintaining confidentiality, then the Competent Authority shall so inform the requesting state and the request shall be carried out only with the approval of that state; for this purpose, "request for legal assistance" - includes its content or information about it, as well as the documents and information attached to it.
- (c) The Competent Authority may make the transmittal of evidence or of information in connection with a criminal matter conditional on the receipt of a sufficient undertaking from the requesting state, that it will apply to them the rules of confidentiality in effect in that state for evidence or information of that kind, including provisions on the protection of the privacy of any third party, whose name or affairs are involved in the transmitted evidence or information.

Provisions on legal secrecy

12. (a) In order to implement the provisions of this Law, the Competent Authority may order evidence or information in a criminal matter to be transmitted to another state, if an authority in Israel, equivalent to the authority in the requesting state that requests the information, would have been authorized to receive such information.
- (b) Subject to the provisions of this Law, the provisions of subsection (a) shall apply notwithstanding the provisions of any law concerning

the secrecy of information or concerning restrictions of the delivery of information.

Effect of regulations with respect to certain international agreements

13. If provisions on matters specified below have been prescribed in an international agreement, to which the State of Israel is a party, and if regulations were made for their implementation, then they shall have the effect of Law, notwithstanding the provisions of this or any other Law:
- (1) the service of documents, proving their contents, their verification and certification;
 - (2) the taking of testimony, the production of documents;
 - (3) the length of the period set in the closing passage of section 26(a)(1);
 - (4) the provision of legal aid, free of charge, to nationals or residents of other states;
 - (5) exemptions from Court fees, stamp duty and other payments in respect of acts performed by virtue of this Law or connected with the enforcement of foreign judgments;
 - (6) exemptions for nationals or residents of other states from providing surety for their ability to pay in actions, appeals and petitions for the enforcement of foreign judgments.

CHAPTER THREE: CATEGORIES OF ACTS OF LEGAL ASSISTANCE

Article One: Service of Documents

Service of a foreign legal document in Israel

14. (a) The Competent Authority may serve a foreign legal document in Israel; it may also - subject to conditions which it shall set for this matter - allow a requesting state to serve a legal document directly to the addressee.
- (b) A foreign legal document in connection with a criminal proceeding shall be served together with a notice that specifies all the following:
- (1) that service of the document does not create any obligation under the Laws of the State of Israel to comply with the contents of the document; however, the service may have legal implications in the state that requested the service;
 - (2) that if the served document is a summons to an investigation, to a trial or to the giving of testimony in another state, it is possible that the addressee's rights and immunities under Israel Law - as a person being interrogated, as a defendant or as a witness - will not protect him at all in the other state, or will not protect him to the same degree that they would under Israeli Law.

Article Two: Taking Evidence

Request for taking evidence in Israel

15. On request by another state, the Competent Authority may request that the Court order that the evidence to be taken; if the request concerns the production of an article and its transfer to another state, then the Competent Authority shall specify whether it waives return of the article to Israel.

Authorization to take evidence

16. (a) When a request to take evidence has been submitted, the Court may order that the evidence be taken before it or before a Registrar.
- (b) If the request to take evidence is in connection with a civil matter, then the Court may order - for reasons which it shall specify - that the evidence not be taken before it or before a Registrar, but before a person registered as an attorney under the Chamber of Advocates Law 5721-1961 (hereafter: Chamber of Advocates Law), who has engaged for at least five years - continuously or in the aggregate - in the legal profession, at least two years of that in Israel; the provisions of this Article shall apply, mutatis mutandis, to the taking of the evidence.

Right to representation

17. A person not registered as an attorney under the Chamber of Advocates Law may also appear before the Court and ask questions in a proceeding under this Article, provided that he proved to the Court's satisfaction that he is qualified to interrogate a witness on behalf of the party or to represent a party in the state that requested the evidence to be taken in accordance with the Law in that state.

Taking the evidence

18. (a) If a person was summoned by the Court for the taking of evidence, then he shall bear all the obligations of a person summoned to testify before a Court in Israel, and he shall have all the rights of such a witness.
- (b) If the taking of evidence is connected to a criminal matter, then the Court may enable the person in respect to whom the proceeding is being held, or his representative as well as a representative of the requesting state, to be present when the evidence is taken, to present arguments to the Court and to put questions to the witness.
- (c) The Court may order, on request by a party or by the representative of the requesting state, that the taking of the evidence not be conducted according to rules of procedure or rules of evidence that apply to proceedings of the same category.
- (d) The Court shall record in the protocol the questions asked at the time the evidence was taken and the answers of the person interrogated; in respect of a request to produce an article, the Court shall record any discussion that is connected to the production.

Order to transmit article or its substitute to another state

19. (a) A Court that hears a request to produce an article may order that a copy, photograph or other substitute of the article (in this Article: substitute of article) be transmitted to the requesting state (in this Article: order to transmit substitute of article); if the Court made such an order, then it shall certify by its signature and seal that the copy, photograph or other substitute is correct.
- (b) If the request asked for the transmittal of the article and not of its substitute, then the Court may order that it be transmitted in accordance with Israeli Law (in this Article: order to transmit article); such an order shall be made after the Court has heard the arguments of every person who claims a right in the article, if he is known.
- (c) If an article is produced by a Governmental agency that carries out investigations, then the person from whom the article was obtained shall also be summoned to the hearing under this section, as well as every person who claims a right in the article, if he is known.
- (d) A Court that has made an order under this section shall prescribe, by order, the purpose of the transmittal, stating particulars of the proceeding in respect of which the article was requested; if it made an order to transmit the article, then it shall also prescribe therein the conditions of the transmittal, including the article's protection and the time when it shall be returned to a person designated in the order.
- (e) If a substitute of the article was transmitted to the requesting state, then its return shall not be requested, unless the Court prescribed otherwise; if the article was transmitted to the requesting state, then the Court may order that it not be returned, all in accordance with Israel Law.
- (f) If the Court decided not to make an order for the article's transmittal, then it shall prescribe in its decision to whom the article is to be returned, all in accordance with Israel Law; the Court shall give notification concerning this to the Competent Authority.

Transmittal of evidence to the requesting state

20. (a) A Court that has taken the evidence under this Article shall transmit to the Competent Authority -
- (1) a copy of the protocol which it prepared, certified by it.
 - (2) a copy of the order which it made concerning an article or a substitute for an article;
 - (3) the article or its substitute, if it ordered that it be transmitted to the requesting state.
- (b) The Competent Authority shall inform the requesting state of the time for the return of the article, if it is to be returned, and every condition for its transmittal, as the Court prescribed; the Competent Authority may delay transmittal of the article until it receives an undertaking from the requesting state to comply with the said

condition.

Return of article and presumption of its integrity

21. (a) When the article has been returned, then the Competent Authority shall return it to the person from whom it was taken, or do with it as the Court prescribed.
- (b) If an article was transmitted to another state under this Article and returned to Israel, then it shall be presumed that it was returned in its condition before the transmittal; whoever claims otherwise shall bear the burden of proof.
- (c) If the article was damaged in consequence of its transmittal to the requesting state, then the Court may order the injured person to be compensated by the State Treasury.

**Article Three: Transfer of a Person to Another State
to Testify or to Assist in an Investigation**

A person's appearance in another state

22. If another state requested that a person in Israel appear in a legal proceeding in that State for testimony, identification or confrontation, or in order to participate in some other investigative act, then the Competent Authority may act to achieve compliance with the request, subject to the following conditions:
- (1) the appearance is requested in connection with a criminal matter;
 - (2) the person agreed to appear in the requesting state for the acts specified in its request;
 - (3) if the request for a person's appearance is connected to his military or defense occupation - that approval was given by the Minister of Defense or by a person authorized by him for that purpose;
 - (4) the requesting state gave sufficient undertakings on the matters specified in section 26.

Transferring a prisoner or a person subject to a restricting order to another state

23. (a) If another state requested that a person appear in connection with a criminal matter, and if the summoned person is a prisoner, then - if the conditions set out in section 22 have been met - the Competent Authority may request that the Court approve his appearance in the requesting state for a period and on conditions that it shall prescribe; if the summoned person is subject to a restricting order, then the Competent Authority may approve his appearance in the other state after it coordinated the matter with the authority in charge of the implementation of the restricting order.
- (b) The Court or the Competent Authority, as the case may be, shall in their decision set out the length of time the person summoned under this section shall be abroad, taking into account the time required for his transfer to the requesting state and for his return, and also for the performance of the acts for which that person was summoned,

- provided that the period shall not exceed six months.
- (c) The Court or the Competent Authority, as the case may be, may from time to time extend that person's stay for additional periods, on condition that the total of all the additional periods shall not exceed six months, and all this provided that if the person agreed thereto.
 - (d) The Court's decision under this section shall constitute legal authorization for removing the prisoner from his place of imprisonment in Israel and for keeping him in legal detention during the entire period that he is outside the place of his imprisonment in Israel; the Competent Authority's decision shall constitute authorization for the departure from Israel of a person subject to a restricting order, and for the extension of the order as set out in subsection (g).
 - (e) The period during which a prisoner is under detention outside the place of his imprisonment in Israel due to a request of another state shall - for all intents and purposes - be deemed a period during which the prisoner is under lawful detention in Israel, and the provisions of all Israeli enactments on legal detention shall apply to him.
 - (f) The period during which a person under license or a person on probation is abroad under this section shall, for all intents and purposes, be deemed a period during which he is under license or on probation in Israel, and the provisions of any Israeli law in connection with the violation of a license or of probation shall apply to him, even if the violation was abroad; if a person was unable to comply with a condition of the license or probation order because he was abroad, such non-compliance shall not constitute a violation of the license or probation order.
 - (g)
 - (1) The period during which a person who is obligated to perform service labor or military labor is abroad under the provisions of this section shall not be counted as part of the period for which he must perform that labor.
 - (2) The period during which a person subject to an order to perform service for the benefit of the community is abroad under the provisions of this section shall not be counted as part of the period during which the order is implemented and shall not be counted as part of the period during which he must conclude implementation of the order.
 - (3) The interruption of service labor, military labor or service for the benefit of the community in consequence of a person being abroad as set out in paragraphs (1) or (2) shall not constitute a violation of the restricting order; if the restricting order was violated for some other reason, then the provisions of Israel Law shall apply to the violation.
 - (4) For purposes of this subsection, "restricting order" - as set out in paragraphs (3) to (5) of the definition of restricting order in section 1.

The person's consent

24. (a) A person's consent to his transfer to another state under this Article shall be given in writing.
- (b) If the person is a minor, is legally incompetent or is mentally impaired, then the consent may be given by his guardian; if the person has no guardian, then the consent may be given by the Court.
- (c) Before the Court approves a prisoner's transfer to another state under this Article, the prisoner shall be brought before the Court and the Court shall explain to him his right not to agree to his transfer.
- (d) Before the Competent Authority approves the appearance in another state of a person subject to a restricting order, that person shall come before it and the authority shall explain to him his right not to agree to appear in the requesting state, as well as the legal significance of his appearance, as set out in section 23(f) and (g), as the case may be.

Release of prisoner

25. If a prisoner was transferred to another state under this Article and - before he was returned to Israel - it became obligatory under Israel Law that he be released, then the Competent Authority shall so inform the requesting state immediately, shall request his immediate release and shall see to it that the requesting state do all that is necessary in the matter, including payments as set out in section 26(a)(4).

Undertakings by requesting state

26. (a) The undertakings of the requesting state under section 22(4) shall be on the following subjects:
- (1) the person summoned to testify in a legal proceeding or in order to assist in an investigation (in this section: the person summoned) -
- (a) shall not be interrogated, shall not be placed on trial, shall not be arrested, shall not be imprisoned, shall not be punished and his freedom shall not be restricted in any manner whatsoever for any act or omission that occurred before he entered the requesting state's jurisdiction in consequence of the request under this Article;
- (b) shall be required to testify only in the legal proceeding for which he was summoned, and shall be required to assist only in the investigation for which he was summoned;
- unless he left the requesting state and returned to it of his own will, or if 30 days have passed since he received official notification from the requesting state that his presence was no longer necessary and he could have left the requesting state, but chose to remain in that state;
- (2) if the person summoned is a prisoner - that he will be kept in detention, under conditions as similar as possible to those

- under which he was in Israel, during the entire period during which the prisoner is within the borders of the requesting state, provided the Competent Authority did not give notice that the prisoner is to be released;
- (3) a person summoned under section 23 shall be returned immediately to Israel, in accordance with arrangements to be made by the Competent Authority, when his presence is no longer necessary;
 - (4) payment of travel and living expenses of the person summoned under section 22 or 23, including medical expenses and any other expense required in the Competent Authority's opinion during the period in which the person summoned as aforesaid is abroad;
 - (5) any other undertaking the Competent Authority deems necessary under the circumstances of the case.
- (b) If the requesting state did not pay the expenses set out in this section to the summoned person, then those expenses shall be paid by the State Treasury.

Transit of foreign prisoner through Israel and transfer of prisoner to Israel

27. (a) The Competent Authority may - after consultation with the Minister of the Interior - permit the transit by another state of a prisoner through Israel to a third state pursuant to a request for legal assistance.
- (b) If the Competent Authority approved the transit of a prisoner, then its approval shall be legal authorization for keeping him in detention in Israel during the period of the transit, and the Laws of the State of Israel shall apply to him for this purpose, including the provisions of section 50(b).
- (c) If a prisoner was transferred to Israel in accordance with a request of another state, in order to participate in the implementation of that state's request, then the provisions of this Article shall apply to him, *mutatis mutandis*.
- (d) The transit of a prisoner as set out in subsection (a) through the airspace of the State of Israel, without a stopover in Israel, does not require approval.

Article Four: Investigative Acts

Request by another state to carry out investigative acts

28. (a) Where the Competent Authority has decided to approve the request of another state that an investigative act be carried out, the request shall be transmitted for implementation to whoever is authorized to perform in Israel the type of act requested.
- (b) The Competent Authority may determine that the results of the act or anything else connected to it be transmitted directly to the requesting state by the person who performed the act; the authority may revoke its decision under this subsection at any time.

- (c) If it was not possible to perform the requested act, then notice thereof shall be given to the Competent Authority or to the requesting state, with particulars on the reasons that prevented its implementation.
- (d) If under Israeli Law a judicial order is necessary for the performance of an act of the type requested, then the act shall only be performed in accordance with such an order.

Request to conduct search and seizure in Israel

29. (a) Where another state has submitted a request to discover evidence or an article, or to seize and transfer them to it for the purposes of a criminal matter in that state, then the Competent Authority may - in order to discover the evidence or the article - apply to a Court for an order to produce the article, or for a warrant to search a certain place or to conduct a body search upon a person or a body search of a suspect, and also for an order to seize the evidence or the article and to transfer them as requested; there shall be attached to the application to the Court a copy of the request of the requesting state and all the material or information connected thereto.
- (b) The provisions of section 11(a) shall apply to an application under subsection (a), and the Court shall hear it *in camera*.

Hearing on transmittal of article

30. Where an article has been seized, the Competent Authority may submit an application to the Court that it permit its transmittal to the requesting state; the person from whom the article was taken, as well as every person who claims a right to it, if he is known, shall be summoned to the hearing of the application; the provisions of sections 19 to 21 shall apply to the provisions of this section.

Secret monitoring

31. (a) Where another state has requested that secret monitoring be carried out in connection with a criminal matter that is pending in that state, the Competent Authority may apply for an order on this matter from the District Court, in accordance with the provisions of the Secret Monitoring Law 5739-1979.
- (b) The Competent Authority shall apply for an order for secret monitoring only in connection with one of the following:
- (1) an offense which, under the laws of the requesting state, is punishable by more than three years imprisonment;
 - (2) an offense for which secret monitoring could have been permitted had it been committed in Israel;
 - (3) for the - forfeiture of property as set out in Article Six.

Article Five: Transmittal of Information

Another state's request for information

32. (a) Where another state has requested information in connection with a

criminal matter pending in that state, if a public authority in Israel has the information, and if the information is of the kind that may be transmitted to another public authority in Israel, then the Competent Authority may order that the information be transmitted for this purpose.

- (b) Transmittal of information, as set out in subsection (a), may also be at the initiative of the Competent Authority.

Article Six: Forfeiture of Property

Request by another state to enforce a foreign forfeiture order

33. (a) At the request of another state the Competent Authority may apply to the Court for the enforcement of a foreign forfeiture order of property located in Israel, provided that all the following are fulfilled:
- (1) the order was made with respect to an offense which - had it been tried in Israel, would constitute one of the offenses enumerated in Schedule Two (hereafter in this Article: the offense);
 - (2) the Competent Authority determined that the property, in respect of which the foreign forfeiture order was made, was used or is intended to be used as a means for the commission of an offense or to enable the commission of an offense, or it was directly or indirectly obtained as remuneration for the offense or as a result of the commission of the offense.
- (b) Where the Competent Authority has decided that - in respect of the property for which the foreign forfeiture order was made - the condition specified in subsection (a) is fulfilled, then it shall transmit the request to the District Attorney, so that he shall examine whether the evidence on the strength of which the foreign confiscation order was handed down would have sufficed for the issue of a forfeiture order under Israel Law; if so, then he shall submit an application to the District Court, within whose jurisdiction the property or part of it is located, to issue an order for the enforcement of the foreign forfeiture order.
- (c) If the District Attorney found that the evidence would not have sufficed under Israel Law for the issue of a forfeiture order, then he shall so inform the Competent Authority.

Order for enforcement of foreign forfeiture order

34. (a) If the Court concluded that the conditions specified in section 33(a) and (b) are met by the foreign forfeiture order, then it may order the enforcement of the foreign forfeiture order (hereafter: enforcement order), and when it has done so, the foreign forfeiture order shall be treated, for all intents and purposes, as if it had been issued in Israel.
- (b) The Court that hears the request for the enforcement of a foreign forfeiture order handed down after a person was convicted may rely, *mutatis mutandis*, on the presumption of ownership prescribed in

section 31(6) of the Dangerous Drugs Ordinance (New Version) 5733-1973 (hereafter: Dangerous Drugs Ordinance) in respect of the convicted person's property.

- (c) If the Court decided that the foreign forfeiture order should not be enforced, then its reasoned decision shall be brought to the attention of the Competent Authority.

Restrictions on the forfeiture of property

- 35. (a) The Court shall not issue an enforcement order unless it has given any person who claims a right to the property, if known, an opportunity to present his arguments.
- (b) The Court shall not issue an enforcement order if the person who claims a right to the property proved that it was used in the offense without his knowledge or without his consent, or that he acquired his right to the property for a consideration and in good faith and without the possibility of knowing that it had been used in or obtained in connection with an offense.
- (c) The Court shall not issue an enforcement order unless it is satisfied that the owner of the property and the members of his family living with him will have reasonable means of support and reasonable housing.
- (d) The Court shall not order the forfeiture of movables that are not subject to attachment under section 22 of the Execution Law 5727-1967.

Cancellation of forfeiture

- 36. (a) If a person claims a right to property forfeited under this Law (hereafter: applicant) and if he was not summoned to present his arguments concerning an enforcement order, then he may apply to the Court that made the order to cancel the order.
- (b) A request for the cancellation of an enforcement order shall be submitted within two years after the order was made, or by a later date to be set by the Court, if it concludes that it is just to do so.
- (c) If the Court canceled the enforcement order, then it shall order that the property be returned to the applicant or that its value be paid out of the State Treasury if the property cannot be returned or if the applicant agreed to accept its value; if the Court ordered the value of the property to be paid, then it shall determine the amount to be paid by order, in accordance with the property's free market value on the day on which the enforcement order was made or on the day on which the payment order is made, whichever is the higher; the payment order shall be made not later than six months after the day on which the Court decided to cancel the enforcement order.
- (d) If the Court canceled the enforcement order, then it may order that a fee be paid for use of the property during the period in which the property was taken from the applicant, as well as payment of compensation for damage or depreciation caused to the property in that period.

- (e) An order to return property or a payment order shall be implemented as soon as possible and not later than 60 days after they were made.

Forfeiture of other property

- 37. Where the Court has made a forfeiture order, and if the property was transferred to a purchaser in good faith or was smuggled away or its value was reduced by an act or omission of the person against whom the order was made, or if it was mingled with other property and cannot be separated without difficulty, then the Court may order other property of the same person to be forfeited, equal in value to the property the forfeiture of which was ordered in the enforcement order; the Court may make such an order at the request of the person against whom the order was made.

Appeal

- 38. An appeal by a person who claims a right in the property forfeited under this Law shall be in the manner in which a decision in a civil matter is appealed.

Request of other state for temporary relief

- 39. (a) If another state requested that temporary relief be provided in order to secure property located in Israel, in connection with which a legal proceeding is or will soon be in progress before a foreign judicial authority for an act which - had it been committed in Israel - would be one of the offenses enumerated in Schedule Two, then the Competent Authority may transmit the request to the District Attorney, if the conditions specified in section 33(a) and (b) have been met.
- (b) A District Attorney may apply to the District Court for a temporary order that surety be provided on behalf of the person in respect of whose property the order is to be made or on behalf of some other person who holds the property, attachment orders or instructions on other steps to make certain that implementation of the forfeiture will be possible, including instructions to the Administrator General or any other person about the temporary management of the property (in this Article: temporary order).
- (c) The Competent Authority shall transmit a request set out in subsection (a) only if the requesting state gave sufficient undertakings for the payment of compensation, as set out in section 40(g).

Temporary order

- 40. (a) Where a Court has issued a temporary order at the request of another state, it shall prescribe in the order the period of its effect, provided that the period shall not exceed six months.
- (b) If the hearing of the legal proceeding before the foreign judicial authority has not yet begun, or if it was not concluded by the date on which the temporary order lapses, then the Court that issued the

order may extend the effect of the temporary order for one additional period not exceeding six months from the day on which the extension is made, if the District Attorney so requested on the basis of the requesting state's request.

- (c) The District Attorney's request under subsection (b) shall be accompanied by notice from the foreign judicial authority, before whom the legal proceeding is conducted, stating the reasons that justify the extension order and the estimated date for the conclusion of the legal proceeding in the requesting state.
- (d) If the other state requests a temporary order before an indictment is filed with a foreign judicial authority or before some other application for forfeiture order is submitted to it, on the ground that there is reasonable basis to assume that the property in respect of which the order is requested is liable to disappear or that action may be taken with it that will prevent implementation of the forfeiture, then the Court may issue a temporary order, the effect of which shall not exceed three months; the Court is competent to extend the effect of the order for one additional period of three months, for special reasons that shall be recorded.
- (e) The Court may also issue a temporary order as set out in this section *ex parte*, if it believes that there is apprehension of immediate action with respect to the property, which would impede its forfeiture; the validity of a temporary order issued *ex parte* shall exceed ten days, and the application shall be heard as soon as possible in the presence of the parties during the period of the order's validity; the Court may - for reasons that shall be recorded - extend the validity of a temporary order that was issued *ex parte* for one additional period not exceeding ten days.
- (f) A decision by a Court under this section may be appealed before the Supreme Court, where the appeal shall be heard by a single judge; the appeal shall be submitted within 30 days after the appellant has been informed of the decision.
- (g) If the Court made a temporary order under this Law and the property was not forfeited, then the Court may order that a person injured by the said order be compensated by the State Treasury.

Forfeiture of property

41. The Court's decision on a forfeiture under this Law shall constitute authorization for the Administrator General to seize the forfeited property; the forfeited property or its equivalent shall be transferred to the Administrator General and deposited by him in the fund established under section 36H(a) of the Dangerous Drugs Ordinance.

Handling of the property

42. Notwithstanding the provisions of section 41, the Minister of Justice may - in consultation with the Minister of Finance - prescribe that the property forfeited under this Article, or part of it, or its equivalent be transferred to the state where the foreign forfeiture order was made.

Undertaking by the requesting state

43. Notwithstanding the provisions of section 42, the property shall only be transferred to the requesting state if that state provides an undertaking that should the forfeiture order in respect of the property transferred to it be canceled in Israel, the requesting state will bear all the expenses specified in section 36.

Investigative act

44. The provisions of Article Four shall apply to an investigative act required in order to obtain an enforcement order and to execute it.

**CHAPTER FOUR: REQUESTS FOR LEGAL ASSISTANCE
ON BEHALF OF THE STATE OF ISRAEL**

The authority competent to request legal assistance

45. (a) The authority competent to submit requests for legal assistance on behalf of the State of Israel is the Attorney General (hereafter - the Authority).
- (b) The Attorney General may delegate his power under this section to a public servant, to whom power was delegated under section 3(c).

Service of legal document in another state

46. (a) The Authority may request that a legal document be served on a person who is in another state.
- (b) If a legal document connected to a criminal matter was served on a person who is in another state, such service shall not impose any obligation under Israel Law on that person if he does not comply with the contents of the document, unless the person enters Israel and the document is again served on him.

Taking evidence on behalf of the State of Israel

47. The Authority may submit a request to another state that it take evidence, including the transmittal of an article for purposes of its presentation in Israel, if the Court certifies that the evidence is required for a legal proceeding in Israel; for purposes of this section and if the request is for a pending proceeding, then "Court" means the Court that hears the proceeding with which the request is connected.

Specific use of evidence

48. Where the State of Israel has submitted a request for legal assistance in connection with a criminal matter, any evidence or information received shall be used only in the criminal matter in connection with which it was received; use of the evidence or information for purposes of another criminal matter requires prior approval from the requested state.

Appearance for testimony in Israel

49. The Authority may request another state to make arrangements for a

person in that state to appear in Israel for the purposes of a legal proceeding that is being conducted in Israel, for testimony, identification or confrontation or in order to participate in some other investigative act.

Holding a foreign prisoner in custody in Israel

50. (a) If a foreign prisoner was delivered to a governmental agency in Israel pursuant to a request for legal assistance under this Law, and if the state from which he was transferred requests that the prisoner remain in custody, then during his stay in Israel the prisoner shall be held in custody for the period which that state requests in a place to be prescribed by the Commissioner of Prisons; if the state from which the prisoner was transferred gives notice that under its Laws he is to be released, then the prisoner shall be released or returned to that state as soon as possible and not later than 48 hours after the date on which he is to be released according to the notice, all as the Authority shall prescribe.
- (b) The request of the state from which the prisoner was transferred, that the prisoner remain in legal custody during the period of his stay in Israel, shall constitute authorization for holding him in custody as aforesaid.
- (c) The provisions of the Extradition Law 5714-1954 do not apply to the return of a prisoner, who was brought to Israel under this Article, to the state from which he was transferred.

Defenses and conditions

51. If a person was summoned to appear in a legal proceeding in Israel pursuant to section 49, then the provisions of section 26(a)(1) and (3) shall apply to him, mutatis mutandis, and the State shall bear the expenses as set out in section 26(a)(4).

Request on behalf of the State of Israel for investigative act

52. The Authority may submit a request for an investigative act to another state, provided that a state authority in Israel is authorized to carry out in Israel an act of the type requested.

Request for search and seizure in another state

53. If the Authority has reasonable grounds to assume that evidence or an article required for an investigative act in Israel is located abroad, then it may request that state to do whatever is necessary in order to discover the evidence or the article, to seize it and to transmit it to Israel, provided that a state authority in Israel is authorized to carry out in Israel an act of the type requested.

Request for information on behalf of the State of Israel

54. (a) The Authority may submit a request to another state for information connected to a criminal matter in Israel.
- (b) If the Authority submitted a request to another state for information connected to a criminal matter in Israel, then it may consent to

conditions for the use of the information which were prescribed by the requested state, and its consent shall obligate every state authority in Israel, that receives the information.

Requests on behalf of the State of Israel for the enforcement of forfeiture orders and for other relief to safeguard property

55. The Authority may request another state that it enforce an order for the forfeiture of property, which was made in Israel in respect of property located in that state; the Authority may also request that relief be granted in that state in order to safeguard property, in respect of which a legal proceeding or an investigative act in connection with one of the offenses enumerated in Schedule Two is being conducted in Israel; for this purpose, "order for the forfeiture of property" means an order for the forfeiture of property issued in either a criminal or a civil proceeding in connection with one of the offenses enumerated in Schedule Two.

CHAPTER FIVE: MISCELLANEOUS

Certificate by the Competent Authority

56. A certificate of the Competent Authority, in which it is stated that a state gave notice that a certain authority is a Competent Authority or a legal authority for purposes of legal assistance, shall be evidence that the notice was given.

Change in Schedules

57. The Minister of Justice may, with approval of the Knesset Constitution, Law and Justice Committee, amend the schedules to this law; amendments to Schedule One require the agreement of the Minister of Foreign Affairs.

Authorization of retired judge

58. (a) The Minister of Justice may, with the consent of the President of the Supreme Court, appoint a retired judge to hold a position on a Court of the rank in which he served before his retirement, to perform acts which a judge is required to perform under this Law, other than the matter of applications for legal assistance under section 31 and under Article Six of Chapter Three; when in this position he shall have the powers vested in a judge of that Court; the appointment shall be for a period not exceeding one year, and he may be reappointed for a like period.
- (b) A judge appointed as aforesaid shall not engage in any other occupation and shall not hold any public position, except according to Law or with the consent of the President of the Supreme Court.

Implementation and regulations

59. (a) The Minister of Justice is charged with the implementation of this Law and he may make regulations on any matter related to its implementation, including regulations that set fees.

- (b) The Minister of Justice may prescribe in regulations, in consultation with the Minister of Finance, the salary of retired judges appointed under section 58, as well as the compensation of a person whom the Court orders to collect evidence under section 16, unless the appointment was at the request of one of the parties to the proceeding.
- (c) The Minister in charge of a public servant, to whom powers were delegated as a Competent Authority under section 3(c), may make regulations on the procedures of that Authority; regulations under this subsection require the consent of the Minister of Justice.
- (d) Regulations under this Law require approval by the Knesset Constitution, Law and Justice Committee.

Repeal

60. The Legal Assistance to Foreign States Law (Consolidated Version) 5737-1977 is repealed.

Transitional provisions

61. (a) The provisions of this Law shall apply to requests for legal assistance submitted after it went into effect, even if the act, in respect of which the legal proceeding for which the assistance is requested, was committed before that date; the provisions of this Law shall also apply to requests submitted under the previous Law, but whose implementation has not yet begun.
- (b) Notwithstanding the provisions of section 60, the provisions of the previous Law shall apply to requests for legal assistance, which were submitted and whose implementation was begun before this Law went into effect.

Effect

62. This Law shall go into effect six months after its publication.

SCHEDULE ONE

(Section 2(c))

- A. Interpol - International Criminal Police Organization
- B. Europol - European Criminal Police Organization
- C. The European Community
- D. EFTA - European Free Trade Association
- E. The International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991
- F. The International Tribunal for Rwanda

SCHEDULE TWO

(Sections 33(a) and 55)

- A. Offenses under the Dangerous Drugs Ordinance (New Version) 5733-1973, for which the penalty is 20 years imprisonment or more.
- B. Offenses under Sections 3 and 4 of the Prohibition on Money Laundering Law, 5760-2000, that are committed with respect to property that is prohibited property as that is defined in Section 3 of the aforesaid Law.