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**Switzerland
and
Colombia**

Treaty on mutual legal assistance in criminal matters between the Swiss Confederation and the Republic of Colombia. Davos, 27 January 2011

Entry into force: *27 April 2014, in accordance with article 36*

Authentic texts: *English, German and Spanish*

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**Suisse
et
Colombie**

Traité d'entraide judiciaire en matière pénale entre la Confédération suisse et la République de Colombie. Davos, 27 janvier 2011

Entrée en vigueur : *27 avril 2014, conformément à l'article 36*

Textes authentiques : *anglais, allemand et espagnol*

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**TREATY ON
MUTUAL LEGAL ASSISTANCE
IN CRIMINAL MATTERS
BETWEEN THE
SWISS CONFEDERATION
AND THE
REPUBLIC OF COLOMBIA**

The Swiss Confederation

and

The Republic of Colombia

Hereinafter referred to as the Contracting States

CONSIDERING the ties of friendship and cooperation uniting them;

ACKNOWLEDGING that the fight against transnational crime is a shared responsibility of the international community;

AWARE that it is necessary to strengthen legal cooperation and mutual assistance mechanisms in order to avoid the increase of criminal activities;

WISHING to provide for the widest measure of mutual legal assistance for the investigation, the seizure, other provisional measures and confiscation of proceeds of crime and the instruments having served to commit the offence;

IN OBSERVANCE of the constitutional and legal regulations of their States as well as the principles of international law, in particular sovereignty, territorial integrity and non-intervention and respecting the internal legal order of each of the Parties;

HAVING REGARD to the principles laid down in the international conventions in the field of human rights and in an endeavour to cooperate in view of their advancement;

Have agreed the following:

CHAPTER I - GENERAL PROVISIONS

Article 1

Obligation to Provide Mutual Legal Assistance in Criminal Matters

The Contracting States undertake to provide each other, in accordance with the provisions of this Treaty, the widest measure of mutual legal assistance in criminal matters in any investigations or proceedings in respect of offences the punishment of which, at the time of the request for assistance, falls within the jurisdiction of the judicial authorities of the Requesting State.

Article 2

Scope of the Assistance

Assistance shall include the following measures taken to advance criminal proceedings in the Requesting State:

- a) taking testimony or other statements;
- b) transmitting objects, documents, records and evidence;
- c) handing over of objects and assets for the purpose of confiscation or return;
- d) exchanging information;
- e) searching of persons and of property;
- f) locating and identifying persons and property;
- g) tracing, seizing and confiscating proceeds of crime;
- h) serving documents;
- i) transferring detained persons with a view to interrogation or confrontation;
- j) inviting witnesses and experts to appear and provide testimony in the Requesting State;
- k) any other assistance consistent with the objects of this Treaty mutually acceptable to the Contracting States provided that it is not incompatible with the laws of the Requested State.

Article 3

Exclusion

This Treaty shall not apply to the following cases:

- a) location, arrest or detention of a person prosecuted or convicted of an offence with a view to extradition;
- b) execution of penal judgements, including the transfer of sentenced persons for the purpose of serving their sentence.

Article 4
Grounds for Refusing or Postponing Assistance

1. Mutual legal assistance in criminal matters may be refused if:
 - a) the request concerns an offence which the Requested State considers a political offence or an offence connected with a political offence;
 - b) the request concerns an offence under military law which is not an offence under ordinary criminal law;
 - c) the request concerns a fiscal offence; however, the Requested State may grant a request if the object of the investigation or the proceeding is a duty or tax fraud;
 - d) the Requested State considers that the execution of the request is likely to prejudice the sovereignty, security, public order or other essential interests of its country as determined by the competent authority;
 - e) the request concerns facts on the basis of which the prosecuted person has been finally acquitted or convicted in the Requested State for an essentially similar offence, provided the penalty imposed is currently being carried out or has already been carried out;
 - f) there are substantial grounds for believing that the request for assistance has been presented in order to prosecute or to punish a person on account of his race, religion, ethnic origin, sex or political opinions or that the granting of the request could result in aggravating the situation of this person for any of these reasons;
 - g) there are substantial grounds for believing that the criminal proceeding against the prosecuted person is not in conformity with the guarantees contained in international instruments for the protection of human rights, including the International Covenant on Civil and Political Rights of 16 December, 1966;
 - h) the request relates to an offence which carries the death penalty in the Requesting State unless the Requesting State gives such assurances as the Requested State considers sufficient that the death penalty will not be imposed or, if imposed, will not be carried out.
2. The Requested State may postpone mutual legal assistance if the execution of the request would interfere with a criminal proceeding under way in the Requested State.
3. Before denying or postponing the execution of the request for mutual legal assistance in accordance with this Article, the Requested State shall:
 - a) promptly inform the Requesting State of the reasons for considering the denial or postponement of assistance; and
 - b) consider whether assistance can be given on such terms and conditions as it deems necessary. If so, those terms and conditions shall be complied with in the Requesting State.
4. Reasons shall be given for any refusal to comply, in whole or in part, with a request for assistance.