

《刑事事宜相互法律協助 (捷克共和國) 令》  
(第 525 章，附屬法例 AF)

**Mutual Legal Assistance in Criminal Matters (Czech Republic) Order**  
(Cap. 525 sub. leg. AF)

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經核證文本  
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條文 Provision	頁數 Page number	最後更新日期 Last updated date
主體 Main	1—2	12.11.2015
附表 1 Schedule 1	S1-1—S1-34	13.2.2015
附表 2 Schedule 2	S2-1—S2-4	13.2.2015
附表 3 Schedule 3	S3-1—S3-4	13.2.2015

**尚未實施的條文 / 修訂** ——

尚未實施的條文及修訂的資料，可於「電子版香港法例」(<https://www.elegislation.gov.hk>) 閱覽。

**Provisions / Amendments not yet in operation** —

Please see Hong Kong e-Legislation (<https://www.elegislation.gov.hk>) for information of provisions and amendments not yet in operation.

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### 制定史

本為 2014 年第 37 號法律公告——2014 年第 2 號編輯修訂紀錄，  
2015 年第 3 號編輯修訂紀錄

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### Enactment History

Originally L.N. 37 of 2014 — E.R. 2 of 2014, E.R. 3 of 2015

## 《刑事事宜相互法律協助(捷克共和國)令》

## Mutual Legal Assistance in Criminal Matters (Czech Republic) Order

## (第 525 章, 附屬法例 AF)

## (Cap. 525 sub. leg. AF)

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## 《刑事事宜相互法律協助(捷克共和國)令》

## Mutual Legal Assistance in Criminal Matters (Czech Republic) Order

(第 525 章第 4 條)

(Cap. 525, section 4)

(略去制定語式條文——2014 年第 2 號編輯修訂紀錄)

(*Enacting provision omitted—E.R. 2 of 2014*)

[2015 年 2 月 13 日] 2015 年第 19 號法律公告

[13 February 2015] *L.N. 19 of 2015*

1. (已失時效而略去——2015 年第 3 號編輯修訂紀錄)
2. **本條例在香港與捷克共和國之間適用**
  - (1) 現就副本附錄於附表 1 的相互法律協助的安排，指示本條例在附表 2 指明的變通的規限下，在香港與捷克共和國之間適用。
  - (2) 第 (1) 款提述的變通撮錄於附表 3。

1. (*Omitted as spent—E.R. 3 of 2015*)
2. **Ordinance applies between Hong Kong and Czech Republic**
  - (1) In relation to the arrangements for mutual legal assistance a copy of which is annexed at Schedule 1, it is directed that the Ordinance, subject to the modifications specified in Schedule 2, applies as between Hong Kong and the Czech Republic.
  - (2) The modifications referred to in subsection (1) are summarized in Schedule 3.

## 附表 1

[ 第 2 條 ]

### 《中華人民共和國香港特別行政區與捷克共和國關於 刑事事宜相互法律協助的協定》<sup>#</sup>

中華人民共和國香港特別行政區(以下稱為“香港特別行政區”)經中華人民共和國中央人民政府正式授權簽訂本協定,與捷克共和國(以下稱為“締約雙方”);

為加強締約雙方在刑事事宜上的執法效能;

協議如下:

#### 第一條

##### 提供協助的範圍

(1) 締約雙方須按照本協定的條文,就刑事事宜提供相互協助,特別是在偵破及檢控(包括偵查)刑事罪行以及沒收犯罪得益方面的協助。

註: <sup>#</sup> 《中華人民共和國香港特別行政區與捷克共和國關於刑事事宜相互法律協助的協定》以中文、英文及捷克文簽訂,各文本均同等真確。特區政府保安局備有該協定的捷克文文本供參閱。

## Schedule 1

[s. 2]

### Agreement between the Hong Kong Special Administrative Region of the People's Republic of China and the Czech Republic on Mutual Legal Assistance in Criminal Matters<sup>#</sup>

The Hong Kong Special Administrative Region of the People's Republic of China (hereinafter “the Hong Kong Special Administrative Region”) having been duly authorised by the Central People's Government of the People's Republic of China to conclude this Agreement and the Czech Republic (hereinafter “the Contracting Parties”);

Desiring to improve the effectiveness of law enforcement of the Contracting Parties in criminal matters;

Have agreed as follows:

#### Article 1

##### SCOPE OF ASSISTANCE

(1) The Contracting Parties shall provide, in accordance with the provisions of this Agreement, mutual assistance in criminal matters, in

Note: <sup>#</sup> The Agreement between the Hong Kong Special Administrative Region of the People's Republic of China and the Czech Republic on Mutual Legal Assistance in Criminal Matters was done in the Chinese, English and Czech languages, each text being equally authentic. The Czech text of the Agreement is available for inspection at the Security Bureau of the Government of the HKSAR.

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- (2) 提供的協助，包括：
- (a) 辨明和追尋有關的人；
  - (b) 送達文件；
  - (c) 從有關的人處取得陳述和證據；
  - (d) 執行關於搜查和檢取的請求；
  - (e) 安排有關的人親自到場出席以提供協助；
  - (f) 安排暫時移交囚犯以提供協助；
  - (g) 提供信息資料、文件和紀錄(包括司法機構及任何其他官方紀錄)；
  - (h) 追查、限制和沒收犯罪活動得益和犯罪工具；
  - (i) 交付物品及借出證物；及
  - (j) 符合被請求方的法律的任何其他協助。
- (3) 關乎刑事事宜的法律程序，並不包括關乎涉及稅項的徵收、計算或收取的規例的法律程序。
- (4) 本協定僅為締約雙方提供相互協助而設。協定的條文並不給予任何私人取得、隱藏或排除任何證據或阻礙執行請求的權利。

particular assistance in the detection and prosecution of criminal offences, including their investigation, and in the confiscation of criminal proceeds.

- (2) Assistance shall include:
- (a) identifying and locating persons;
  - (b) serving documents;
  - (c) obtaining statements and evidence from persons;
  - (d) executing requests for search and seizure;
  - (e) facilitating the personal appearance of persons to provide assistance;
  - (f) effecting the temporary transfer of prisoners to provide assistance;
  - (g) providing information, documents and records (including judicial and any other official records);
  - (h) tracing, restraining and confiscating the proceeds and instrumentalities of criminal activities;
  - (i) delivery of articles and lending of exhibits; and
  - (j) any other assistance consistent with the laws of the Requested Party.

(3) Proceedings relating to criminal matters do not include proceedings related to the regulations involving the imposition, calculation or collection of taxes.

(4) This Agreement is intended solely for mutual assistance between the Contracting Parties. The provisions of this Agreement shall not give

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## 第二條

### 中心機關

- (1) 締約雙方須通過雙方的中心機關尋求及提供協助。
- (2) 香港特別行政區的中心機關為律政司司長或經其正式授權的官方人員。捷克共和國的中心機關為司法部或經司法部授權的國家機關。
- (3) 中心機關之間可就本協定的事宜直接通訊。
- (4) 締約任何一方均可更改其中心機關，但須將有關更改通知對方。

## 第三條

### 提出請求所使用的語文

在被請求方要求下，請求方須將請求及其所附有文件翻譯為被請求方的法定語文。

## 第四條

## Article 2

### CENTRAL AUTHORITIES

- (1) The Contracting Parties shall seek and provide assistance through their Central Authorities.
- (2) The Central Authority of the Hong Kong Special Administrative Region is the Secretary for Justice or his or her duly authorised officer. The Central Authority for the Czech Republic is the Ministry of Justice or a state authority authorised by the Ministry of Justice.
- (3) The Central Authorities may communicate directly with each other for the purposes of this Agreement.
- (4) Either Contracting Party may change its Central Authority in which case it shall notify the other of the change.

## Article 3

### LANGUAGE OF REQUESTS

A request and all documents submitted in support of a request shall be translated, if so required by the Requested Party, into an official language of the Requested Party.

## Article 4

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拒絕或暫緩提供協助

- (1) 如有以下情況，被請求方須拒絕提供協助：
- (a) 提供協助會就香港特別行政區而言損害中華人民共和國的主權、安全或公共秩序，或會損害捷克共和國的主權、安全或公共秩序；
  - (b) 協助請求關乎屬政治性質的罪行；
  - (c) 協助請求關乎只在軍法下才構成的罪行；
  - (d) 有充分理由相信協助請求將會引致某人因其種族、宗教、國籍、性別或政治見解而蒙受不利；
  - (e) 有充分理由相信協助請求將會引致某人受到酷刑或其他殘忍、不人道或有辱人格的待遇或處罰；
  - (f) 協助請求關乎對某人進行的檢控，而該人已因同一罪行在被請求方被定罪、裁定無罪或赦免，或假使該人是在被請求方的司法管轄區犯該罪行，由於時效消失，不能因此再被檢控；
  - (g) 被請求方認為應允請求將會嚴重損害其本身的基要利益；
  - (h) 請求方不能遵守被請求方提呈的任何有關保密或限制使用所提供的物料的條件；或
  - (i) 被指稱構成罪行的作為或不作為，如在被請求方的司法管轄區發生，並不構成罪行。
- (2) 就第(1)(g)段而言，被請求方在考慮其基要利益是否受損害時，也可考慮提供協助對於任何人的安全會否造成危害或會否對被請求方的資源造成過大的負擔。
- (3) 如果有關請求關乎在請求方屬可判死刑的罪行，但在被請求方並無判死刑的規定，或通常不會執行死刑，則除非請求方作出由被

REFUSAL OR POSTPONEMENT OF ASSISTANCE

- (1) The Requested Party shall refuse assistance if:
- (a) granting the assistance would impair the sovereignty, security or public order of, in the case of the Hong Kong Special Administrative Region, the People's Republic of China, or of the Czech Republic;
  - (b) the request for assistance relates to an offence of a political character;
  - (c) the request for assistance relates to an offence only under military law;
  - (d) there are substantial grounds for believing that the request for assistance will result in a person being prejudiced on account of his race, religion, nationality, sex or political opinions;
  - (e) there are substantial grounds for believing that the request for assistance will result in a person being subjected to torture or other cruel or inhuman or degrading treatment or punishment;
  - (f) the request for assistance relates to the prosecution of a person for an offence in respect of which the person has been convicted, acquitted or pardoned in the Requested Party or for which the person could no longer be prosecuted by reason of lapse of time if the offence had been committed within the jurisdiction of the Requested Party;
  - (g) it is of the opinion that the granting of the request would seriously impair its essential interests;
  - (h) the Requesting Party cannot comply with any conditions required by the Requested Party in relation to confidentiality or limitation as to the use of material provided; or



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請求方認為充分的保證，即有關的人將不會被判死刑，或即使被判死刑亦不會執行，否則被請求方可拒絕提供協助。

(4) 如執行請求會妨礙正在被請求方就刑事事宜而進行的(包括任何偵查在內的)任何法律程序，被請求方可暫緩提供協助。

(5) 在根據本條拒絕或暫緩提供協助前，被請求方須通過其中心機關：

- (a) 迅速將考慮拒絕或暫緩提供協助的理由知會請求方；及
- (b) 與請求方磋商，以決定可否在被請求方認為必需的條款和條件的規限下提供協助。

(6) 請求方如接納在第(5)(b)款所述條款及條件的規限下接受協助，則須遵守該等條款及條件。

(i) the acts or omissions alleged to constitute the offence would not, if they had taken place within the jurisdiction of the Requested Party, have constituted an offence.

(2) For the purpose of paragraph (1)(g) the Requested Party may include in its consideration of essential interests whether the provision of assistance could prejudice the safety of any person or impose an excessive burden on the resources of the Requested Party.

(3) The Requested Party may refuse assistance if the request relates to an offence which carries the death penalty in the Requesting Party but in respect of which the death penalty is either not provided for in the Requested Party or not normally carried out unless the Requesting Party gives such assurances as the Requested Party considers sufficient that the death penalty will not be imposed or, if imposed, not carried out.

(4) The Requested Party may postpone assistance if execution of the request would interfere with any proceedings (including any investigation) in a criminal matter in the Requested Party.

(5) Before denying or postponing assistance pursuant to this Article, the Requested Party, through its Central Authority:

- (a) shall promptly inform the Requesting Party of the reason for considering denial or postponement; and
- (b) shall consult with the Requesting Party to determine whether assistance may be given subject to such terms and conditions as the Requested Party deems necessary.

(6) If the Requesting Party accepts assistance subject to the terms and conditions referred to in paragraph (5)(b), it shall comply with those terms and conditions.

## 第五條

## Article 5

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請求

REQUESTS

- (1) 請求須以書面提出。以傳真方式發出請求後，須立刻將正本郵遞以作確認。
- (2) 協助請求須包括：
  - (a) 與請求所關乎的刑事事宜有關的機關的名稱；
  - (b) 對該項協助請求的目的及性質的描述；
  - (c) 對請求所關乎的每一項罪行的描述，並連同有關事實的撮要和相應法律條文的內容；
  - (d) 已查明並被指控或懷疑犯該罪行的人的身分；
  - (e) 述明是否已提起法律審理程序，如已提起的話，則須連同對此法律程序的描述；
  - (f) 有關保密的任何要求；
  - (g) 請求方希望得以遵循的任何特別程序的細節；及
  - (h) 有關需獲得協助的時限的細節，並連同理由。

- (1) Requests shall be made in writing. A request sent by fax shall be confirmed by mailing the original immediately.
- (2) Requests for assistance shall include:
  - (a) the name of the authority concerned with the criminal matter to which the request relates;
  - (b) a description of the purpose and the nature of the assistance requested;
  - (c) a description of every offence to which the request relates, with a summary of the facts and text of the relevant law;
  - (d) the identity of the person, if known, by whom the offence is alleged or suspected to have been committed;
  - (e) a statement whether proceedings have been instituted and, if they have, a description of them;
  - (f) any requirements for confidentiality;
  - (g) details of any particular procedure the Requesting Party wishes to be followed; and
  - (h) details of any period within which the assistance is required, with the reasons.

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Article 6

執行請求

EXECUTION OF REQUESTS

- (1) 被請求方的中心機關須通過其主管機關迅速安排執行請求。

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- (2) 請求須按照被請求方的法律予以執行，並須在被請求方的法律所不禁止的範圍內，在可行的情況下按照請求所述的指示執行。
- (3) 被請求方須迅速將任何可能導致嚴重延遲回應請求的情況知會請求方。
- (4) 被請求方須迅速將全部或部份不履行協助請求的決定及作出該決定的理由知會請求方。

- (1) The Central Authority of the Requested Party shall promptly arrange for the execution of the request through its competent authorities.
- (2) A request shall be executed in accordance with the law of the Requested Party and, to the extent not prohibited by the law of the Requested Party, in accordance with the directions stated in the request so far as practicable.
- (3) The Requested Party shall promptly inform the Requesting Party of any circumstances which are likely to cause a significant delay in responding to the request.
- (4) The Requested Party shall promptly inform the Requesting Party of a decision not to comply in whole or in part with a request for assistance and the reason for that decision.

### 第七條

### Article 7

#### 代表及開支

#### REPRESENTATION AND EXPENSES

- (1) 被請求方須作出一切必需安排，使請求方在因協助請求而引起的任何法律程序中獲得代表，及須在任何情況下代表請求方的利益。
- (2) 被請求方須承擔在其境內執行請求所產生的所有開支，但下述項目除外：
  - (a) 應請求方要求而聘請的律師的費用；
  - (b) 獲委任以管理財產的人的費用；
  - (c) 專家費用；
  - (d) 翻譯及大量複印文件的開支；或

- (1) The Requested Party shall make all necessary arrangements for the representation of the Requesting Party in any proceeding arising out of a request for assistance and shall otherwise represent the interests of the Requesting Party.
- (2) The Requested Party shall bear all the expenses incurred within its boundaries relating to the execution of the request except:
  - (a) fees of counsel retained at the request of the Requesting Party;
  - (b) fees of persons appointed to manage property;
  - (c) fees of experts;

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- (e) 應請求方的請求而需前往某處的人或根據第十五或十六條被移交的人的交通開支及津貼，連同任何護送人員的費用。
- (3) 在執行請求期間，如出現需支付非一般性開支，以履行有關請求的情況，締約雙方須進行磋商，以決定繼續執行請求的條款及條件。

- (d) expenses of translation and extensive reproduction of documents; or
- (e) travel expenses and allowances of persons who travel or are transferred under Article 15 or 16 at the request of the Requesting Party, together with the cost of any escorting officers.

(3) If during the execution of the request it becomes apparent that expenses of an extraordinary nature are required to fulfil the request, the Contracting Parties shall consult to determine the terms and conditions under which the execution of the request may continue.

## 第八條

## Article 8

### 使用資料的限制

### LIMITATIONS ON USE OF INFORMATION

- (1) 締約雙方須盡最大的努力，將請求、其內容以及應請求所提供的信息資料和物料保密，但按照請求的目的或經締約雙方協議而透露的則不在此限。
- (2) 被請求方在與請求方磋商後，可要求由被請求方所提供的信息資料或證據，只限在被請求方所指明的條款及條件的規限下方可透露或使用。
- (3) 被請求方提供的信息資料或證據，除用作有關請求內所述的用途外，請求方不得將其用於其他用途，除非：
- (a) 用於關乎同一刑事事宜的其他法律程序；
  - (b) 是為防止嚴重罪行發生，或為防止對公共秩序造成嚴重威脅；或
  - (c) 事前獲得被請求方同意。

- (1) The Contracting Parties shall use their best endeavours to keep confidential a request and its contents, and the information and material supplied in response to a request, except in accordance with the purpose of the request or as agreed between the Contracting Parties.
- (2) The Requested Party may, after consultation with the Requesting Party, require that information or evidence furnished by the Requested Party be disclosed or used only subject to such terms and conditions as it may specify.
- (3) Where information or evidence is furnished by the Requested Party, the Requesting Party shall not use it for purposes other than those stated in the request except:
- (a) for use in other proceedings relating to the same criminal matter;

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### 第九條

#### 取得證據、文件、物品或紀錄

- (1) 凡請求方向被請求方提出與刑事事宜有關的請求，而請求是為了獲取證據或交付以供提交作為證據的物品、或傳達紀錄或文件的，被請求方須根據其法律所訂方式執行請求。
- (2) 就根據本條提出的請求而言，請求方須明確擬向證人提出的問題或訊問的事項。
- (3) 凡某人根據協助請求而需在請求方的法律程序中作證，該法律程序的各方及其法律代表或請求方的代表，可在被請求方的法律的規限下出席，並向該作證的人發問。
- (4) 根據協助請求而需在被請求方作證的人，可在以下情況下拒絕作證：
  - (a) 假如在被請求方提起的法律程序中出現類似情況，被請求方的法律容許該人拒絕作證；或
  - (b) 假如在請求方進行該等法律程序，請求方的法律容許該人拒絕作證。
- (5) 如任何人聲稱有權根據請求方的法律拒絕作證，在決定有關問題時，被請求方須以請求方中心機關的證明書為憑據。

### Article 9

#### OBTAINING OF EVIDENCE, DOCUMENTS, ARTICLES OR RECORDS

- (1) The Requested Party shall execute in the manner provided for by its law any request relating to a criminal matter and addressed to it by the Requesting Party for the purpose of procuring evidence or transmitting articles to be produced in evidence, records or documents.
- (2) For the purposes of requests under this Article the Requesting Party shall specify the questions to be put to the witnesses or the subject matter about which they are to be examined.
- (3) Where, pursuant to a request for assistance, a person is to give evidence for the purpose of proceedings in the Requesting Party, the parties to the relevant proceedings in the Requesting Party, their legal representatives or representatives of the Requesting Party may, subject to the laws of the Requested Party, appear and question the person giving that evidence.
- (4) A person who is required to give evidence in the Requested Party pursuant to a request for assistance may decline to give evidence where either:
  - (a) the law of the Requested Party would permit that witness to decline to give evidence in similar circumstances in proceedings which originated in the Requested Party; or

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第十條

取得陳述

凡請求方請求取得某人的陳述，供該方的刑事事宜的偵查或法律程序使用，被請求方須盡力取得有關陳述。

第十一條

調查有關的人的所在或身分

如請求方提出請求，被請求方須盡力查明請求指明的任何人的所在或身分。

第十二條

送達文件

(1) 請求方交付送達的任何文件，被請求方須盡力予以送達。

(b) the law of the Requesting Party would permit him to decline to give evidence in such proceedings in the Requesting Party.

(5) If any person claims that there is a right to decline to give evidence under the law of the Requesting Party, the Requested Party shall with respect thereto rely on a certificate of the Central Authority of the Requesting Party.

Article 10

OBTAINING STATEMENTS OF PERSONS

Where a request is made to obtain the statement of a person for the purpose of an investigation or proceeding in relation to a criminal matter in the Requesting Party, the Requested Party shall endeavour to obtain such statement.

Article 11

LOCATION OR IDENTITY OF PERSONS

The Requested Party shall, if requested, endeavour to ascertain the location or identity of any person specified in the request.

Article 12

SERVICE OF DOCUMENTS

(1) The Requested Party shall endeavour to serve any document transmitted to it for the purpose of service.

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- (2) 如有關文件需要被送達人作出回應，或需要被送達人在請求方出席，請求方須在作出回應或進行出席前一段合理時間內，向被請求方提出送達該等文件的請求。
- (3) 如送達文件的請求與被送達的人在請求方的出席有關，則須標明，請求方的中心機關須盡可能在合理情況下，在請求內向被請求方提供就被送達人刑事事宜所作出的尚未執行的有關法庭命令。
- (4) 被請求方須在其法律的規限下，按請求方要求的形式，交回送達證明。
- (5) 如被送達人未有遵守根據本條送達給他的法律程序文件的規定，請求方或被請求方不得根據本身的法律而處罰該被送達人或向其施加強制措施。

- (2) The Requesting Party shall transmit a request for the service of a document pertaining to a response or appearance in the Requesting Party within a reasonable time before the scheduled response or appearance.
- (3) A request for the service of a document pertaining to an appearance in the Requesting Party shall include such notice as the Central Authority of the Requesting Party is reasonably able to provide to the Requested Party of outstanding judicial orders in criminal matters against the person to be served.
- (4) The Requested Party shall, subject to its law, return a proof of service in the manner required by the Requesting Party.
- (5) A person who fails to comply with any process served on him under this Article shall not thereby be liable to any penalty or coercive measure pursuant to the law of the Requesting Party or Requested Party.

### 第十三條

### Article 13

#### 可供公眾取閱的文件和官方文件

#### PUBLICLY AVAILABLE AND OFFICIAL DOCUMENTS

- (1) 被請求方須在其法律的規限下，提供可供公眾取閱的文件的副本。
- (2) 被請求方的政府部門或官方機關所管有但不供公眾取閱的文件、紀錄或信息資料，被請求方可按照其向本身的執法和司法機關提供該類文件、紀錄或信息資料的相同範圍和條件，提供副本。

- (1) Subject to its law the Requested Party shall provide copies of publicly available documents.
- (2) The Requested Party may provide copies of any document, record or information in the possession of a government department or official authority, but not publicly available, to the same extent and under the same conditions as such document, record or information would be available to its own law enforcement and judicial authorities.

### 第十四條

### Article 14

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### 核證和認證

交付請求方的文件、謄本、紀錄、陳述或其他物料，只有在請求方提出要求的情況下，才會予以核證或認證。雙方均不得要求由領事或外交人員核證或認證任何物件。

### CERTIFICATION AND AUTHENTICATION

Documents, transcripts, records, statements or other material which are to be transmitted to the Requesting Party shall only be certified or authenticated if the Requesting Party so requests. Neither Contracting Party shall require anything to be certified or authenticated by a consular or diplomatic officer.

### 第十五條

#### 移交被羈押的人

- (1) 請求方如請求把羈押在被請求方的人移交給請求方，以按本協定提供協助，而被請求方及該人均同意，且請求方又保證把該人繼續羈押及在事後送還給被請求方，則須把該人移交給請求方以提供有關的協助。
- (2) 根據本條被移交的人，如其羈押的理由已不再存在，被請求方須就此事告知請求方，而請求方須確保把該人釋放。

### Article 15

#### TRANSFER OF PERSONS IN CUSTODY

- (1) A person in custody in the Requested Party whose presence is requested in the Requesting Party for the purposes of providing assistance pursuant to this Agreement shall if the Requested Party consents be transferred from the Requested Party to the Requesting Party for that purpose, provided the person consents and the Requesting Party has guaranteed the maintenance in custody of the person and his subsequent return to the Requested Party.
- (2) Where the grounds for keeping in custody a person transferred pursuant to this Article no longer exist, the Requested Party shall so advise the Requesting Party which shall ensure the person's release from custody.

### 第十六條

#### 移交其他人

- (1) 請求方可請求被請求方協助邀請某人在請求方出席，以按本協定提供協助。

### Article 16

#### TRANSFER OF OTHER PERSONS

- (1) The Requesting Party may request the assistance of the Requested Party in inviting a person to appear in the Requesting Party to provide assistance pursuant to this Agreement.



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- (2) 被請求方接獲該等請求後，須邀請該人前往請求方，並將該人的回應知會請求方。
- (3) 請求方須示明有多少開支可獲支付。同意出席的人可向請求方要求預支應付該等開支的款項。

(2) Upon receipt of such a request the Requested Party shall invite the person to travel to the Requesting Party and inform the Requesting Party of the person's response.

(3) The Requesting Party shall indicate the extent to which the expenses will be paid. A person who agrees to appear may ask that the Requesting Party advance money to cover these expenses.

### 第十七條

#### 安全通行

### Article 17

#### SAFE CONDUCT

- (1) 同意根據第十五或十六條提供協助的人：
- (a) 除第十五條另有規定外，不得因其在離開被請求方之前所犯的任何刑事罪行而在請求方被檢控、拘留或被限制人身自由；
- (b) 凡是不在請求方便不得因某事而遭受的民事起訴，則該人不得因該事而遭受民事起訴。
- (2) 如有關的人非屬根據第十五條而被移交的被羈押的人，且本可自由離開，但在該人接獲通知毋須再逗留後十五天內仍未離開請求方，或在離開請求方後返回，則第(1)款不適用。
- (3) 根據第十五或十六條同意作證的人，不得因其所作證供而遭受檢控，但犯偽證罪則不在此限。
- (4) 根據第十五或十六條同意提供協助的人，除與該項請求有關的法律程序外，不得被要求在任何其他法律程序中作證。
- (5) 任何人如不同意根據第十五或十六條作證，請求方或被請求方的法院不得因此而處罰該人或向其施加強制措施。

- (1) A person who consents to provide assistance pursuant to Article 15 or 16:
- (a) shall not be prosecuted, detained, or restricted in his personal liberty in the Requesting Party for any criminal offence which preceded his departure from the Requested Party, except as provided in Article 15;
- (b) shall not be subject to civil suit to which the person could not be subject if he were not in the Requesting Party.
- (2) Paragraph (1) shall not apply if the person, not being a person in custody transferred under Article 15, and being free to leave, has not left the Requesting Party within a period of 15 days after being notified that his presence is no longer required, or having left the Requesting Party, has returned.
- (3) A person who consents to give evidence under Article 15 or 16 shall not be subject to prosecution based on his testimony, except for perjury.

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### 第十八條

#### 搜查及檢取

- (1) 請求方如請求搜查、檢取及交付與刑事事宜的法律程序或偵查有關的物料，被請求方在其本身法律容許的範圍內，須執行該請求。
- (2) 請求方如要求提供任何與搜查的結果、檢取財產的地點、檢取的情況，以及檢獲財產的保管有關的信息資料，被請求方須予提供。
- (3) 被請求方如把檢獲財產交付請求方，請求方須遵循被請求方就該等財產施加的任何條件。在被請求方的容許下，請求方可保留有關財產並按照其法律處置。

### 第十九條

#### 犯罪得益

### Article 18

#### SEARCH AND SEIZURE

- (1) The Requested Party shall, insofar as its law permits, carry out requests for search, seizure and delivery of any material to the Requesting Party which is relevant to a proceeding or investigation in relation to a criminal matter.
- (2) The Requested Party shall provide such information as may be required by the Requesting Party concerning the result of any search, the place of seizure, the circumstances of seizure, and the subsequent custody of the property seized.
- (3) The Requesting Party shall observe any conditions imposed by the Requested Party in relation to any seized property which is delivered to the Requesting Party. With the permission of the Requested Party, the Requesting Party may retain the property for disposal in accordance with its law.

### Article 19

#### PROCEEDS OF CRIME

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- (1) 如請求方提出請求，被請求方須盡力查明是否有任何因觸犯請求方法律而得來的犯罪得益處於其司法管轄區，並須把調查結果通知請求方。請求方在提出請求時，須把相信這些得益可能處於被請求方司法管轄區的理由通知被請求方。
- (2) 如根據第(1)款尋獲涉嫌犯罪得益，被請求方則須採取其法律容許的相應措施，禁防任何處理、轉讓或處置這些犯罪得益的活動，以待法院就這些得益作出最後裁定。
- (3) 若在沒收犯罪得益過程中請求協助，這種協助須按照被請求方的法律執行。協助的方法可包括就請求所關乎的得益強制執行請求方法院作出的命令、提起法律程序或在有關的法律程序中提供協助。
- (4) 根據本協定沒收的得益須由被請求方保留，除非締約雙方另有協議。

- (1) The Requested Party shall, upon request, endeavour to ascertain whether any proceeds of crime committed against the law of the Requesting Party are located within its jurisdiction and shall notify the Requesting Party of the result of its inquiries. In making the request, the Requesting Party shall notify the Requested Party of the basis of its belief that such proceeds may be located in its jurisdiction.
- (2) Where pursuant to paragraph (1) suspected proceeds of crime are found the Requested Party shall take such measures as are permitted by its law to prevent any dealing in, transfer or disposal of, those suspected proceeds of crime, pending a final determination in respect of those proceeds by a court.
- (3) Where a request is made for assistance in securing the confiscation of proceeds the request shall be executed according to the law of the Requested Party. This may include enforcing an order made by a court in the Requesting Party and initiating or assisting in proceedings in relation to the proceeds to which the request relates.
- (4) The proceeds confiscated pursuant to this Agreement shall be retained by the Requested Party unless otherwise agreed upon between the Contracting Parties.

## 第二十條

## Article 20

### 自動提供的資料

### SPONTANEOUS INFORMATION

- (1) 當締約一方的主管機關認為某些在其偵查框架下所得的資料可能有助締約另一方的主管機關展開或進行偵查或法律程序，或可能會致使對方根據本協定提出請求，則在不損害其本身的偵查或法律程序的情況下，可在對方未作出請求前先將上述資料轉交對方。

- (1) Without prejudice to their own investigations or proceedings, the competent authorities of a Contracting Party may, without prior request, forward to the competent authorities of the other Contracting Party information obtained within the framework of their own investigations, when they consider that the disclosure of such information might assist the

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- (2) 提供方可根據它本地的法律向接收方施加使用資料的條件。在這種情況下，提供方須預先通知接收方所提供資料的性質以及所施加的條件。
- (3) 如接收方同意在該等條件下傳送資料，便須受該等條件約束。

Receiving Party in initiating or carrying out investigations or proceedings, or might lead to a request by that Contracting Party under this Agreement.

(2) The Providing Party may, pursuant to its domestic law, impose conditions on the use of such information by the Receiving Party. In such a case, the Providing Party shall give prior notice to the Receiving Party of the nature of the information to be provided and of the conditions to be imposed.

(3) The Receiving Party shall be bound by those conditions if it agrees to transmission of the information under such conditions.

## 第二十一條

## Article 21

### 解決爭議

### SETTLEMENT OF DISPUTES

任何因本協定的解釋、運用或履行而產生的爭議，如締約雙方的中心機關無法自行達成協議，須通過外交途徑解決。

Any dispute arising out of the interpretation, application or implementation of this Agreement shall be resolved through diplomatic channels if the Central Authorities are themselves unable to reach agreement.

## 第二十二條

## Article 22

### 與其他協定兼容

### COMPATIBILITY WITH OTHER AGREEMENTS

本協定無意阻止締約任何一方透過其他國際條約、協定、安排或本地法律，向另一方尋求或提供協助。

This Agreement is not intended to prevent the Contracting Parties from seeking and granting assistance to each other through the provisions of other international treaties, agreements, arrangements or domestic laws.

## 第二十三條

## Article 23

生效及終止

- (1) 本協定將於締約雙方分別以書面形式通知對方已各自履行為使本協定生效的一應規定當日之後第三十天生效。
- (2) 締約任何一方可隨時通過給予締約另一方通知而終止本協定。在此情況下，本協定於締約另一方接獲該通知起計六個月後失效。

下列簽署人經正式授權後，在本協定上簽字為證。

本協定於二零一三年三月四日在香港簽訂，原文一式兩份，每份均用中文、英文及捷克文寫成，各文本均同等真確。如有釋義上的分歧，則以英文本為準。

\_\_\_\_\_

ENTRY INTO FORCE AND TERMINATION

- (1) This Agreement shall enter into force on the thirtieth day after the day on which the Contracting Parties have notified each other in writing that their respective requirements for the entry into force of this Agreement have been complied with.
- (2) Either Contracting Party may terminate this Agreement at any time by giving notice to the other. In that event the Agreement shall cease to have effect six months after the date of receipt of the notice.

In witness whereof the undersigned, being duly authorised thereto, have signed this Agreement.

Done at Hong Kong, this Fourth day of March, Two thousand and Thirteen, in two originals, in the Chinese, English and Czech languages, each text being equally authentic. In case of divergence of interpretation the English text shall prevail.

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## 附表 2

[第 2 條及附表 3]

### 對本條例的變通

1. 本條例第 5(1)(d) 條現予變通至如下所示 ——  
“(d) 有充分理由相信該項請求提出的目的是基於某人的種族、宗教、國籍、性別\* 或政治見解而對該人進行檢控、懲罰或以其他方式使該人蒙受不利；”。
2. 本條例第 5(1) 條現予變通，加入 ——  
“(da) 有充分理由相信該項請求將會引致某人受到酷刑或其他殘忍、不人道或有辱人格的待遇或處罰；\*”。
3. 本條例第 5(1)(e) 條現予變通至如下所示 ——  
“(e) 該項請求關乎因外地罪行而對某人進行的檢控，而——\*  
(i)\* 該人已就該外地罪行或由構成該外地罪行的同一作為或不作為所構成的另一外地罪行，被有關地方或香港\* 的管轄法院或其他當局定罪、裁定無罪或赦免→\*\*；\* 或  
(ii)\* 該人已就該外地罪行或由構成該外地罪行的同一作為或不作為所構成的另一外地罪行，\*已\*\* 接受該地方或香港的\* 法律所規定的懲罰；”。
4. 本條例第 5(1) 條現予變通，加入 ——

## Schedule 2

[s. 2 & Sch. 3]

### Modifications to the Ordinance

1. Section 5(1)(d) of the Ordinance is modified to read as follows—  
“(d) there are substantial grounds for believing that the request was made for the purpose of prosecuting, punishing or otherwise causing prejudice to a person on account of the person’s race, religion, nationality, sex\* or political opinions;”.
2. Section 5(1) of the Ordinance is modified by adding—  
“(da) there are substantial grounds for believing that the request will result in a person being subjected to torture or other cruel or inhuman or degrading treatment or punishment;\*”.
3. Section 5(1)(e) of the Ordinance is modified to read as follows—  
“(e) the request relates to the prosecution of a person for an external offence in a case where the person—\*  
(i)\* has been convicted, acquitted or pardoned by a competent court or other authority in the place;\*\*or Hong Kong in respect of that offence or of another external offence constituted by the same act or omission as that offence;\* or  
(ii)\* has undergone the punishment provided by the law of that place or Hong Kong\*;\*\*in respect of that offence or of another external offence constituted by the same act or omission as that offence;”.

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“(ea) 該項請求關乎就某作為或不作為而對某人進行的檢控，而假使該作為或不作為是在香港發生，便會因時效消失，而不再能夠在香港予以檢控；\*”。

5. 本條例第 17(3)(b) 條現予變通至如下所示——

“(b) 該人可自由離開香港，並接獲通知該人已無須為下述任何目的逗留，但該人沒有在接獲該通知後的 15 天內離開香港 \* 在有機會離開香港的情況下仍留在香港，但並非為下述目的而留在香港 \*\* ——

- (i) 該項請求所關乎的目的；或\*\*
- (ii) 為給予香港刑事事宜方面的協助的目的，而該刑事事宜屬律政司司長以書面證明適宜由該人就該事宜給予協助的。”。

\* 劃上底線的字句屬增訂部分。(劃上底線是為了使該項變通易於識別)。

\*\* 劃上橫線的字句屬刪除部分。(劃上橫線是為了使該項變通易於識別)。

4. Section 5(1) of the Ordinance is modified by adding—

“(ea) the request relates to the prosecution of a person in respect of an act or omission that, if it had occurred in Hong Kong, could no longer be prosecuted in Hong Kong by reason of lapse of time.\*”.

5. Section 17(3)(b) of the Ordinance is modified to read as follows—

“(b) the person, being free to leave Hong Kong, has not left Hong Kong within a period of 15 days after being notified that the person’s presence is no longer required for any of the following purposes\* has had an opportunity of leaving Hong Kong and has remained in Hong Kong otherwise than for\*\*—

- (i) the purpose to which the request relates; or\*\*
- (ii) the purpose of giving assistance in relation to a criminal matter in Hong Kong certified in writing by the Secretary for Justice to be a criminal matter in relation to which it is desirable that the person give assistance.”.

\* The text underlined is added. (The underlining is for ease of identifying the modification).

\*\* The text crossed out is deleted. (The crossing out is for ease of identifying the modification).

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附表 3

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### 附表 3

[ 第 2 條 ]

#### 對本條例的變通的撮錄

1. 附表 2 第 1、2、3 及 4 條指明對本條例第 5(1) 條的變通，該等變通令律政司司長如認為有以下情況，則由香港以外某地方提出的要求根據本條例提供協助的請求，亦須予拒絕——
  - (a) 有充分理由相信，該項請求的目的，是基於某人的性別，而對該人進行檢控、懲罰或以其他方式使該人蒙受不利；
  - (b) 有充分理由相信該項請求將會引致某人受到酷刑或其他殘忍、不人道或有辱人格的待遇或處罰；
  - (c) 該項請求關乎因外地罪行而檢控某人，而該人已就該罪行或由構成該罪行的同一作為或不作為所構成的另一外地罪行，被香港的管轄法院或其他當局定罪、裁定無罪或赦免，或已接受香港法律所規定的懲罰；
  - (d) 該項請求關乎就某作為或不作為而檢控某人，而假使該作為或不作為是在香港發生，便會因時效消失，而不再能夠在香港予以檢控。

### Schedule 3

[s. 2]

#### Summary of Modifications to the Ordinance

1. Sections 1, 2, 3 and 4 of Schedule 2 specify modifications to section 5(1) of the Ordinance so that a request by a place outside Hong Kong for assistance under the Ordinance must also be refused if, in the opinion of the Secretary for Justice—
  - (a) there are substantial grounds for believing that the request was made for the purpose of prosecuting, punishing or otherwise causing prejudice to a person on account of the person's sex;
  - (b) there are substantial grounds for believing that the request will result in a person being subjected to torture or other cruel or inhuman or degrading treatment or punishment;
  - (c) the request relates to the prosecution of a person for an external offence in a case where the person has been convicted, acquitted or pardoned by a competent court or other authority in Hong Kong, or has undergone the punishment provided by the law of Hong Kong, in respect of that offence or of another external offence constituted by the same act or omission as that offence;
  - (d) the request relates to the prosecution of a person in respect of an act or omission that, if it had occurred in Hong Kong, could no longer be prosecuted in Hong Kong by reason of lapse of time.



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2. 附表 2 第 5 條指明對本條例第 17(3)(b) 條的變通，以更準確地說明在甚麼情況下，依據律政司司長提出的請求而身處香港以就刑事事宜給予協助的人，不再根據本條例第 17(1) 條享有豁免權。

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2. Section 5 of Schedule 2 specifies modifications to section 17(3)(b) of the Ordinance to more precisely delineate the circumstances under which a person who is in Hong Kong to give assistance in relation to a criminal matter, pursuant to a request made by the Secretary for Justice, ceases to have immunities under section 17(1) of the Ordinance.