

AGREEMENT

BETWEEN

THE KINGDOM OF MOROCCO

AND

THE REPUBLIC OF SIERRA LEONE

**ON MUTUAL JUDICIAL ASSISTANCE IN
CRIMINAL MATTERS**



GOVERNMENT OF SIERRA LEONE

The Kingdom of Morocco;

And

the Republic of Sierra Leone;

Hereinafter referred to as the "Parties";

RECOGNIZING the existing friendly relations and cooperation between the two Parties;

DESIRING to strengthen the legal foundation of providing mutual judicial assistance in criminal matters;

ACTING in accordance with their law and also respecting generally recognized principles of international law, above all the principles of sovereign equality and noninterference into internal affairs;

HAVE AGREED AS FOLLOWS:

ARTICLE 1

OBLIGATION TO GRANT JUDICIAL ASSISTANCE

1. The Parties shall, in accordance with this Agreement and their national laws, provide to each other mutual judicial assistance in criminal matters (further - judicial assistance).
2. Judicial assistance is provided in accordance with this Agreement if the offence, in connection with which the request was issued, is criminally punishable according to the law of both Parties. The Requested Party may upon its own discretion grant judicial assistance also in case when the offence, in connection with which the request was received, is not criminally punishable under its legislation.
3. The purpose of this Agreement is the exclusive granting of judicial assistance to be requested only by the competent authorities in each Party.
4. This Agreement shall not be applicable for the execution of arrest warrants, and transgressing military laws, which do not constitute an offence against the public right, and for the execution of condemnation decisions.

ARTICLE 2 EXCEPTIONS

Assistance might be denied in the following two cases:

1. If the assistance request is related to political offences, or offences linked to political ones; and subject to the present agreement, shall not be considered political offences, any terrorist offence, or an attempt to assassinate the head of state of either contracting Party or his family members, as well as any participation to such offences.
2. If the execution of the assistance request may jeopardize the public order or sovereignty or safety of the requested Party.

ARTICLE 3 THE SCOPE OF JUDICIAL ASSISTANCE

Judicial assistance shall include:

- 1) Service of procedural documents;
- 2) Taking evidence;
- 3) Location and identification of persons and objects;
- 4) Invitation of witnesses, victims and experts for their voluntary appearance before the Competent authority of the Requesting Party;
- 5) Temporary transfer of persons in custody to participate in criminal court proceedings in the territory of the Requesting Party as witnesses, victims or for the purpose of other proceedings;
- 6) Temporary measures in relation to the protection of the property;
- 7) Executing requests for search and seizure;
- 8) Transfer of documents, things and other evidence;
- 9) Granting permission to the representatives of the competent authorities of the Requesting Party to be present at the execution of the request;
- 10) Granting judicial assistance in cases related to banking secrets and taxes as far as the domestic law of the requested Party allows;
- 11) Granting any other types of judicial assistance consistent with the objectives of this Agreement, and according to the law of the Requested Party.

ARTICLE 4 PROCEDURE

Regardless of using the diplomatic channel, and in respect of the provisions of article 2 of the present agreement, judicial assistance requests and the documents of their execution shall be transmitted by the central authorities of both Parties.

For the Kingdom of Morocco, the Central authority shall be The Ministry of Justice (- Directorate of Penal Affairs, Amnesty, and Crime Monitoring).

For the Republic of Sierra Leone, the Central Authority shall be the Attorney-General and Minister of Justice.

The Parties shall immediately notify each other through diplomatic channels about the changes in their Central Authorities by exchanging verbal notes.

ARTICLE 5

FORM AND CONTENT OF THE REQUEST

1. The request shall include the following:

- a) The name of the competent authority requesting judicial assistance;
- b) The purpose of the request and description of the requested judicial assistance;
- c) A description of the offence in connection with which the investigation, inquest or proceedings are conducted, its juridical qualification, the text of the relevant law in accordance with which the offence is criminally punishable, and if necessary the amount of the damage caused as a result of this offence;
- d) A description of any particular procedures that the Requesting Party wishes to be followed in the execution of the request;
- e) Information on the identity of the persons who are subjects of the investigation or the proceedings;
- f) Any time limit within which compliance with the request is desired by the Requesting Party;
- g) Full names, family names (middle names), date and place of birth and addresses and also if possible telephone numbers of the persons who are to be notified and their connection to the investigation, inquest or proceedings in progress as well as any other useful information;
- h) Indication of the location and description of the place, if possible, where inspection and search are required, and the objects to be seized;
- i) Questions to be put forward in order to receive evidence in the Requested Party;
- j) In case of applying for the presence of representatives of the competent authorities of the Requesting Party, their full names, family names, (middle names), positions as well as grounds for their presence;
- k) The need, if any, for the confidentiality of the fact that the request was received, of its contents and/or description of any action undertaken in connection with the request;
- l) Any other information that might be useful to the Requested Party in order to execute the request.

2. If the Requested Party considers that the information contained in the request is not sufficient to enable the request to be dealt with, that Party may request additional information.

ARTICLE 6 **LANGUAGE**

1. Requests for judicial assistance and supporting documents shall be made in the language of the requesting party and shall be accompanied by a translation into the language of the requested party, or in the French language.
2. The translation attached to the assistance request shall be certified by a qualified person in accordance with the laws of the requesting Party.

ARTICLE 7 **REFUSAL OR POSTPONEMENT OF REQUESTS FOR GRANTING JUDICIAL ASSISTANCE**

1. The Requested Party may postpone or refuse to execute the request in its territory if it considers that such execution would interfere with or damage the ongoing investigation or proceedings in a criminal case.
2. Before making a decision to postpone or refuse the execution of the request the Requested Party shall consider whether judicial assistance may be granted subject to such conditions as it deems necessary. If the Requesting Party accepts judicial assistance subject to these conditions, it is obliged to comply with them.
3. If the Requested Party takes the decision to refuse or to postpone granting judicial assistance it informs the Requesting Party about that through its Central Authority and shall give reasons for that decision.
4. Any refusal of assistance shall be justified.

ARTICLE 8 **EXEMPTION FROM LEGALIZATION AND CERTIFICATION OF THE DOCUMENTS**

Documents transmitted pursuant to this Agreement and attested to by the seal and signed by the competent authority of Central Authorities of the transmitting Party are received without legalization procedure or any other form of certification.

ARTICLE 9
**CONFIDENTIALITY AND THE LIMITATIONS OF USE OF
INFORMATION**

1. Upon request of the Requesting Party the Requested Party shall keep confidential the request for judicial assistance, its contents supporting documents and any action taken pursuant to the request as well as the fact for granting such assistance.
If the request cannot be executed without breaching confidentiality, the Requested Party shall so inform the Requesting Party, which shall then determine, whether the request should nevertheless be executed.
2. The Requesting Party shall not use the information or evidence obtained under this Agreement without the permission of the Requested party for other purposes than those indicated in the request for judicial assistance.
3. In separate cases when the Requesting Party needs to disclose and use fully or in parts the information or evidence for other purposes than those stated in the request it asks for the corresponding consent of the Requested Party, which may refuse fully or partially such permission.

ARTICLE 10
EXECUTION OF REQUESTS FOR JUDICIAL ASSISTANCE

1. Requests shall be executed in accordance with the laws of the Requested party and the provisions of this Agreement.
At the request of the Requesting Party, the Requested Party shall grant judicial assistance in form and in accordance with the special procedure indicated in the request, insofar it is not contradictory to the laws of the Requested Party.
2. Upon the request of the Requesting Party, the Parties to the relevant proceedings in the Requesting party their legal representatives and representatives of the requesting Party may, subject to the laws and procedures of the Requested Party, be present at the proceedings.
3. The Central Authority of the Requested Party transmits the information and the evidence received as a result of the request to the Central Authority of the Requesting Party in a reasonable time through the diplomatic channel.
4. If it is impossible to execute the request in full or partially, the Central Authority of the Requested Party immediately informs the Central Authority of the Requesting Party about that and informs it of the causes forbidding the execution of the request through the diplomatic channel.

ARTICLE 11
DELIVERY OF PROCEDURAL DOCUMENTS

1. In accordance with the request for judicial assistance the Requested Party shall immediately serve or organize the service of the procedural documents.

2. The execution of the request is proved by the document of serving with the indication of the date, the signature of the addressee or the statement of the competent authority of the Requested Party, in which the fact, the date and the manner of service are confirmed. The Requesting Party is immediately informed about the service of the documents.

ARTICLE 12

DELIVERY OF OBJECTS

1. The requested state may postpone the delivery of objects and files and documents' originals if they are necessary for the completion of an ongoing penal procedure; the documents in question shall be delivered as soon as the procedure ends.
2. The requesting state shall send the objects and originals of the delivered files and documents, for the purpose of executing the judicial assistance request, as soon as possible to the requested state, unless this latter expressly waives.

ARTICLE 13

TAKING EVIDENCE FROM THE REQUESTED PARTY

1. The Requested Party in compliance with its law takes in its territory testimony of the witnesses and victims, conclusions of experts, documents, things, and other evidence indicated in the request and transmits it to the Requesting Party.
2. The representatives of competent authorities of the Requesting party that are present at the execution of the request are allowed to formulate questions that may be put to the corresponding person through the representative of the competent authority of the Requested Party.
3. The Requesting Party on demand of the Requested Party returns promptly thereafter the originals of the documents and the things delivered to it in accordance with Paragraph 1 of this Article.

ARTICLE 14

PERSONAL APPEARANCE OF WITNESSES, VICTIMS AND EXPERTS IN THE TERRITORY OF THE REQUESTING PARTY

1. If the Requesting Party submits a request for personal appearance to produce evidence, carry out an expert examination or for other procedural actions in its territory the Requested Party informs that person who is in its territory about the invitation of the Requesting Party to appear before its competent authorities.
2. The person to appear shall be indicated by the Requesting Party about the conditions and requirements related to the cost and expenses associated with his appearance, and also the list of guaranties to which this person is entitled under Article 15 hereinafter of this Agreement.

3. Subpoena shall not contain a threat to use compulsion or penalty in case of a failure of the person to appear in the territory of the Requesting Party.
4. The summoned person takes the decision to appear voluntarily. The Central Authority of the Requested Party shall promptly inform the Central Authority of the Requesting Party of the person's response.

ARTICLE 15

SAFE CONDUCT

1. A person present before the competent authority in the Requesting party notwithstanding its citizenship shall not be detained or subjected to criminal prosecution, or any other restriction of personal liberty in the territory of this Party for any acts or on the basis of convictions which preceded that person's entry into the territory of the Requesting Party.
2. The summoned person shall lose his/her right to inviolability provided for in Paragraph 1 of this Article if a person, being free to leave the territory of the Requesting Party, has not left it within a period of 30 days after being notified in writing that the person's attendance is no longer required by the corresponding competent authority or having left that territory, has voluntarily returned.
3. The summoned person shall not be forced to present evidence in any other case than that indicated in the request.

ARTICLE 16

TEMPORARY TRANSFERRING PERSONS IN CUSTODY

1. A person in custody notwithstanding its citizenship with the consent of the Requested Party may be temporarily transferred to the Requesting Party to give evidence as a witness or a victim or to assist in other proceedings indicated in the request provided that the person is returned to the Requested Party within the time limit imposed by it.
The initial term for which the person may be transmitted shall not be more than 90 days. Upon the motivated request of the Requesting Party, the term of stay of the transferred person may be extended by the Requested Party, with the concern of the transferred person.
The order and the conditions of transfer and return of the person shall be coordinated by the Central Authorities of the Parties.
2. The transfer of the person is refused:
 - a) If the person in custody does not give consent in writing to this;
 - b) If the participation of this person in the proceedings in the territory of the Requested Party is necessary.

3. The Requesting Party shall hold the transmitted person in custody as soon as the decision of the competent authority of the Requested Party to hold that person in custody enters into force.
In case of the release of the person in custody upon the decision of the Requested Party the Requesting Party shall use in relation to that person the provisions of Articles 14, 15 and 18 of this Agreement.
4. If the person, who is in custody or serving an imprisonment sentence, does not agree before the Requesting Party, he/she shall not be liable to any measure of compulsion or penalty for disagreement.

ARTICLE 17

PROTECTION OF THE PERSON

The requesting Party provides when needed the protection of the person appearing upon the request or transferred to its territory in accordance with Articles 14 and 16 of this Agreement.

ARTICLE 18

EXPENSES

1. The Requested Party shall bear the ordinary costs of executing the requests for judicial assistance in its territory, except that the Requesting Party shall bear:
 - a) The expenses associated with the conveying persons to and from its territory in accordance with Articles 14 and 16 of this Agreement and their presence in that territory, and other payments due to that persons;
 - b) The expenses and fees of experts;
 - c) The expenses associated with the travel and presence of the representatives of the competent authorities of the Requesting Party at the execution of the request in accordance with Paragraph 2 Article 10 of this Agreement;
 - d) The expenses associated with the transition of transmitted objects from the territory of the Requested Party to the territory of the Requesting Party and back.
2. If the execution of the request demands substantial or emergency expenses, the Central Authorities of the Parties undertake consultations in order to determine the conditions of the execution of the request and also the way of paying those expenses.

ARTICLE 19

CONSULTATIONS AND RESOLUTIONS OF DISPUTES

1. The Central Authorities at the request of either of them shall consult, concerning the interpretation and application of this Agreement, either generally or partly.

2. Disputed issues resulting from the interpretation and/or application of this Agreement shall be resolved through diplomatic negotiations in conjunction with the Central Authorities of both Parties.

ARTICLE 20
TIME SCOPE OF APPLICATION

The present Agreement shall apply to requests made after its entry into force, even if the relevant acts or omissions took place prior to that date.



GOVERNMENT OF SIERRA LEONE

ARTICLE 21
FINAL PROVISIONS

1. The present Agreement is subject to ratification.
2. The present Agreement shall enter into force from the date of receiving the last notification by either of the Contracting Parties through the diplomatic channels, concerning the execution of the necessary measures for the ratification, according to the domestic laws of either of the Contracting Parties.
3. Either of the Contracting Parties may denounce the present Agreement by giving notice in writing to the other Contracting Party through the diplomatic channel.
4. The amendments and/or modifications shall be drawn up by protocols, which shall enter into force in the order prescribed for the entry into force of this Agreement.

IN WITNESS WHEREOF the undersigned being duly authorized thereto, have signed this Agreement.

Done in Dakhla, on 28th of April 2023, in two originals, in Arabic and English languages, all texts being equally authentic.

For
The Kingdom of Morocco

Nasser BOURITA
Minister of Foreign Affairs, African
Cooperation and Moroccan Expatriates

For
The Republic of Sierra Leone

David J. FRANCIS
Minister of Foreign Affairs and
International Cooperation