



**(Billing Code: 4410-14)**

**DEPARTMENT OF JUSTICE**

**Office of the Attorney General**

**28 CFR Part 0**

**Docket No. CRM 116; AG Order No. 3847-2017**

**Delegation of Authority [Concerning Mutual Legal Assistance](#)**

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** The Attorney General has delegated to the Assistant Attorney General for the Criminal Division, with certain restrictions, the authority to perform the functions of the “Central Authority” or “Competent Authority” under treaties and executive agreements between the United States and other countries on mutual assistance in criminal matters that designate the Attorney General or the Department of Justice as such authority. The Assistant Attorney General for the Criminal Division is authorized to re-delegate this authority to the Deputy Assistant Attorneys General and to the Director and Deputy Directors of the Office of International Affairs (OIA). This final rule will expand the scope of persons to whom this authority may be re-delegated to include OIA’s Associate Directors.

**DATES:** Effective [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER]

**FOR FURTHER INFORMATION CONTACT:** Vaughn Ary, Director, Office of International Affairs, Criminal Division, U.S. Department of Justice, Washington, DC 20005; Telephone (202) 616-1503.

**SUPPLEMENTARY INFORMATION:** The Office of International Affairs (OIA) serves as the United States Central Authority with respect to all requests for information and evidence received from and made to foreign authorities under Mutual Legal Assistance Treaties and

multilateral conventions regarding assistance in criminal matters. OIA's inventory of pending mutual legal assistance (MLA) requests has grown substantially in recent years. OIA received over 6,000 new requests in FY16, the most since OIA's inception in 1979. With only three senior leaders (the Director and two Deputy Directors) authorized to sign outgoing MLA requests, it can be difficult for OIA to process these MLA requests expeditiously. To address this issue, the Department of Justice is modifying its delegation of authority in 28 CFR 0.64-1 to add the Associate Directors who supervise OIA's regional teams and designated units as persons who may sign MLA requests. Associate Directors represent the most experienced attorneys within the organization and are responsible for providing legal and policy guidance to the Assistant Attorney General and Deputy Assistant Attorney General, approving the arrest of international fugitives, providing oversight of extradition litigation in U.S. and foreign courts, and participating in the negotiation of bilateral and multilateral law enforcement treaties. Authorizing these senior supervisory attorneys to sign outgoing MLA requests is commensurate with their existing duties and provides OIA with the capability to more efficiently process these requests, avoid unnecessary delays, and effectively satisfy MLA requests.

#### **Administrative Procedure Act--5 U.S.C. 553**

This rule is a rule of agency organization and relates to a matter relating to agency management and is therefore exempt from the requirements of prior notice and comment and a 30-day delay in the effective date. *See* 5 U.S.C. 553(a)(2), 553(b)(3)(A).

#### **Regulatory Flexibility Act**

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities because it pertains to personnel and administrative matters affecting the Department. Further, a Regulatory

Flexibility Analysis is not required to be prepared for this final rule because the Department was not required to publish a general notice of proposed rulemaking for this matter. 5 U.S.C. 604(a).

### **Executive Order 12866--Regulatory Planning and Review**

This action has been drafted and reviewed in accordance with Executive Order 12866, Regulatory Planning and Review, section 1(b), Principles of Regulation. This rule is limited to agency organization, management, and personnel as described in section 3(d)(3) of Executive Order 12866 and, therefore, is not a “regulation” or “rule” as defined by the order. Accordingly, this action has not been reviewed by the Office of Management and Budget.

### **Executive Order 13132--Federalism**

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

### **Executive Order 12988--Civil Justice Reform**

This rule was drafted in accordance with the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

### **Unfunded Mandates Reform Act of 1995**

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

## **Congressional Review Act**

This action pertains to agency management, personnel, and organizations and does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a “rule” as that term is used by the Congressional Review Act, 5 U.S.C. 804(3)(B). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

## **List of Subjects in 28 CFR Part 0**

Authority delegations (Government agencies), Counterterrorism, Crime, Government employees, Law enforcement, National security information, Organization and functions (Government agencies), Privacy, Reporting and recordkeeping requirements, Terrorism, Whistleblowing.

Accordingly, by virtue of the authority vested in me as Attorney General, including 5 U.S.C. 301 and 28 U.S.C. 509 and 510, title 28 of the Code of Federal Regulations is amended as follows:

## **PART 0 --ORGANIZATION OF THE DEPARTMENT OF JUSTICE**

1. The authority citation for part 0 continues to read as follows:

**Authority:** 5 U.S.C. 301; 28 U.S.C. 509, 510, 515-519.

2. Revise the last sentence of § 0.64-1 to read as follow:

**§0.64-1 Central or Competent Authority under treaties and executive agreements on mutual assistance in criminal matters.**

\* \* \* The Assistant Attorney General, Criminal Division, is authorized to re-delegate this authority to the Deputy Assistant Attorneys General, Criminal Division, and to the Director, Deputy Directors, and Associate Directors of the Office of International Affairs, Criminal Division.

Dated: February 8, 2017.

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Dana J. Boente  
Acting Attorney General

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