

# The Poland–Indonesia Treaty on Mutual Legal Assistance in Criminal Matters

Forging Legal Ties across Continents

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## ABSTRACT

This article provides an overview of the key provisions of the Poland-Indonesia Treaty on Mutual Legal Assistance in Criminal Matters. The Treaty was signed on 19 September 2025 and opens a new chapter in the relationship between both countries with regard to combating crime. It also includes modern forms of assistance, such as the possibility of conducting hearings by videoconference. Robust provisions on data protection and confidentiality are among the safeguards for the individual.



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## Article

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# I. Introduction

On 19 September 2025, two countries with remarkably similar flags – the Republic of Poland and the Republic of Indonesia – marked a new chapter in their long-standing bilateral relations by signing the *Treaty on Mutual Legal Assistance in Criminal Matters* in Poland's capital Warsaw. The signing took place during the official visit of *Supratman Andi Agtas*, Minister of Law of Indonesia, at the invitation of *Waldemar Żurek*, Minister of Justice of Poland. The event held particular symbolic significance, as it coincided with the *70th anniversary of diplomatic relations* between the two nations.<sup>1</sup> The Treaty's signing was accompanied by a Joint Statement affirming the shared vision of both governments to strengthen cooperation in criminal justice, enhance institutional capacity, and promote mutual respect for sovereignty and the rule of law.

The relationship between the two countries has been characterised by a spirit of mutual respect and constructive engagement ever since diplomatic ties were first established on 19 September 1955. Both countries have evolved into increasingly significant regional actors, Poland within the European Union (EU) and Indonesia within the Association of Southeast Asian Nations (ASEAN).<sup>2</sup>

The idea of concluding a bilateral agreement was first conceived during bilateral consultations in 2019, at the initiative of the Ministry of Justice of the Republic of Poland. Negotiations were conducted through diplomatic channels and directly, and lasted two years. The negotiations were concluded during a meeting in Warsaw, Poland, on 12–13 June 2024.

The signed Treaty aims at facilitating cooperation between Poland and Indonesia in criminal matters through formalised procedures for mutual legal assistance (MLA). Both justice ministers agree that strengthening judicial cooperation is essential for addressing contemporary challenges, such as corruption, organised crime, and money laundering. The ministers have also expressed their intention to initiate consultations on a bilateral extradition treaty.

## II. Objectives and Scope of the Treaty

The Poland-Indonesia MLA Treaty<sup>3</sup> is designed to enhance cooperation between the judicial authorities of both countries in investigating, prosecuting, and preventing criminal offences. It provides a comprehensive legal framework for requesting and granting mutual legal assistance, while ensuring that the fundamental principles of sovereignty, equality, human rights, and due process are respected.

Under Article 1, the Parties commit to assisting one another in criminal cases falling within the jurisdiction of the requesting country. The assistance extends to the collection and exchange of evidence, locating suspects or witnesses, serving judicial documents, executing searches and seizures, taking testimony, and freezing or confiscating the proceeds of crime. It is important to note that the Treaty does not cover extradition, which is expected to be regulated by a separate instrument. The transfer of sentenced persons, the transfer of criminal proceedings, and the execution of penal judgements are also excluded from its scope.

Each Party designates a Central Authority responsible for communication and coordination: for Poland, this is the *Minister of Justice*; for Indonesia, this is the *Minister of Law*. This direct channel is intended to eliminate bureaucratic delays and ensure transparency and efficiency when processing requests.

### III. Procedural Framework

The Treaty sets out clear procedural standards for the transmission and execution of MLA requests. Requests must be made in writing and translated into English before being transmitted through the respective Central Authorities. In urgent cases, electronic communication is permitted, provided authenticity can be verified.

The Treaty specifies which content must be included in an MLA request, such as the identity of the requesting authority, details of the case, the legal basis, and information on the evidence sought. The principle of proportionality is emphasised (Art. 10): both Parties must assess whether the request is necessary and proportionate for the purposes of the proceedings. In particular, the competent authority issuing a request and the central authority of the requesting Party are required to assess whether the issuance of the request is necessary and proportionate for the purposes of the proceedings, on a case-by-case basis. Even if this assessment results in a decision to proceed, the central authority of the requested Party remains entitled to raise concerns about the necessity or proportionality of the request. In such circumstances, the Treaty provides for a consultation procedure (Art. 10(2)), whereby the central authorities may consult on the execution of the request. This could potentially lead to the request being withdrawn, or executed subject to specified conditions. Although this procedure is voluntary, it is difficult to envisage a request being refused without prior consultations having taken place, given the framework of good international cooperation. In any event, if the request is ultimately refused, the requesting Party must be informed of the reasons for the refusal (Art. 12(3)).

Requests may be refused on either mandatory (Art. 12) or optional (Art. 13) grounds. Mandatory refusal applies in the following cases:

- The execution would prejudice national sovereignty, security, public order or national interest (Art. 12 (1)(a));
- The offence is political (Art. 12 (1)(b)) or military (Art. 12 (1)(c)) in nature;
- There are concerns about discrimination (Art. 12 (1)(d))<sup>4</sup> or double jeopardy (Art. 12 (1)(e)).
- Optional refusal may occur in the following instances:
  - The offence is not recognised under the requested Party's domestic law (Art. 13 (1)(a))<sup>5</sup>;
  - The offence has been committed by a person who, under the national law of the Requested Party, is not subject to criminal liability because of their age (Art. 13 (1)(b))
  - The offence involves the death penalty without assurances against its application (Art. 13 (1)(c)).
  - The assistance sought could impose an excessive burden on the resources of the Requested Party and the Requesting Party refused to cover them (Art. 13 (1)(d)).

In the latter case of, the Parties may agree on special rules of covering costs other than the general rules of costs sharing provided in Art. 25 (1) and (2) of the Treaty.

It also to be noted that the Treaty stressed in Art. 13(2), that the legal assistance in criminal matters may not be refused solely on the grounds of the secrecy of a bank or another financial institution.

The agreement places great emphasis on the protection of personal data. To safeguard personal rights, the Treaty incorporates detailed provisions on data protection and confidentiality in connection with the

execution of a request (Art. 7). Shared information can only be used for the purposes specified in the request, and both Parties must protect data against unauthorised disclosure or misuse. This aligns the Treaty with modern international privacy standards, thereby reinforcing its compatibility with both EU law and Indonesian data protection principles. The data protection mechanism of the Treaty takes into account the provisions of Directive (EU) 2016/680.<sup>6</sup>

The data protection safeguards imposed by Art. 7 include the following:

- Obligation for the Parties to ensure that personal data transmitted pursuant to the Treaty are used solely for the purposes for which they were provided (Art. 7. (1));
- Data transfer exclusively by the authorities competent to do so (Art. 7 (2)(a));
- Data storage only for the period necessary for the aforementioned purposes, as determined in accordance with domestic regulations governing the data retention period, combined with the obligation to destroy the data no longer needed without delay (Art 7 (2)(f).

Art. 7(2)(b) requests the receiving Party, at the request of the transmitting Party, to provide information on how the transmitted data have been used, thereby enabling mutual oversight by the Parties of such processing. Article 7 also safeguards the rights of data subjects by guaranteeing their right to be informed about the transferred data and their right of access to personal data relating to them. Data subjects also have the right to request the rectification or erasure of such data and to have access to an effective legal remedy (Art.7 (4)).

## IV. Forms of Assistance and Costs

The Treaty encompasses a wide range of cooperation mechanisms (Art. 9(1)(a-j)), including:

- The locating and identifying of persons, property, or assets;
- The serving of judicial documents;
- The taking of witness statements and expert evidence, including through videoconference hearings;
- The execution of searches and seizures;
- The freezing, confiscation, or forfeiting of proceeds and instrumentalities of crime;
- The temporary transfer of persons in custody for testimony or cooperation in investigations, and initiation of criminal proceedings upon request.

The list of cooperation measures is not exhaustive. The Treaty also provides for any other form of legal assistance, as permitted by the national law of the requested Party.

Notably, the Treaty facilitates videoconference hearings (Art. 17), reflecting the modernisation of cross-border legal cooperation and the use of digital tools in criminal proceedings. The introduction of the possibility of executing requests for legal assistance through videoconference hearings, together with the detailed regulation of this procedure, aims to reduce costs, facilitate judicial cooperation between geographically distant states, and encourage judicial authorities to make broader use of this form of cooperation. Procedural safeguards ensure that such hearings respect national laws and the rights of defendants and witnesses. This is guaranteed by the fact, that a videoconference hearing shall be conducted directly by the judicial authority of the requesting Party in the presence of the judicial authority of the requested Party (Art.

17 (4)). Where requested by either Party or the person to be heard, an interpreter shall assist in the hearing (Art. 17 (3)). Upon the requesting Party's request, the requested Party shall draw up and transmit the minutes from a videoconference hearing (Art. 17(6)).

Provisions on the temporary transfer of persons in custody (Art. 19) and the return of seized items (Art. 23) demonstrate the Treaty's comprehensive scope, which covers not only evidence gathering but also post-investigation procedures. The Treaty also allows for cooperation in cases involving tax, customs, and financial crimes, thereby aligning with global efforts against money laundering and illicit financial flows.

Under Art. 25 of the Treaty, the general rule is that the Requested Party bear the costs of executing an MLA request within its territory. However, certain expenses – such as interpreter fees, expert testimony, travel costs for witnesses, and the transfer of detained persons – are to be borne by the Requesting Party. This cost-sharing ensures fairness and encourages cooperation even in resource-intensive cases.

## V. Implementation and Outlook

The Treaty enters into force 30 days after both countries have completed their domestic ratification procedures and remains in force indefinitely. As far as Poland is concerned, the ratification process is well advanced.<sup>7</sup> Following the Parliament's consent (or approval by referendum approval), the President of the Republic of Poland will formally ratify the Treaty and sign the instrument of ratification.<sup>8</sup>

Once into force, the Treaty may be terminated with six months' notice, but termination does not affect ongoing proceedings. This treaty design provides both stability and predictability, which are essential features in an agreement of international criminal cooperation.

As the treaty was signed in September 2025, and still needs to be ratified, a comprehensive evaluation of its impact will require time. Nevertheless, its provisions already represent a significant step towards enhanced international cooperation. In this context, it should be born in mind that cooperation to date has been conducted in the absence of a bilateral agreement and relies solely on the international principle of reciprocity. This has proved insufficient. The execution of requests submitted by the judicial authorities of Poland (Polish courts and public prosecutors) by the Indonesian authorities has often been time-consuming. Indonesia requires that requests and all accompanying documents be translated into the Indonesian language, which significantly increased the costs of proceedings. Moreover, due to the limited number of qualified translators, the preparation of requests was frequently delayed, and the quality of the translations was questioned in some cases by the Indonesian side. The new Polish-Indonesian MLA Treaty now clearly defines the requirements applicable to requests for legal assistance, including their form, content, and accompanying documents (Art. 11). This is intended to reduce the number of requests rejected for purely formal reasons with the result of non-execution.

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1. Cf. News, "Signing of the Agreement between the Republic of Poland and the Republic of Indonesia on Mutual Legal Assistance in Criminal Matters", 19 September 2025, Website of the Republic of Poland, <<https://www.gov.pl/web/indonesia-en/signing-of-the-agreement-between-the-republic-of-poland-and-the-republic-of-indonesia-on-mutual-legal-assistance-in-criminal-matters>> accessed 16 March 2026.↵
  2. Regarding how mutual legal assistance in criminal matters can developed within and between the ASEAN and the EU, see A. Aguinaldo, *East Meets West -- Development of Mutual Legal Assistance in Criminal Matters between and within the Association of Southeast Asian Nations and the European Union*, Nomos 2021.↵
  3. Cf. <<https://orka.sejm.gov.pl/Druki10ka.nsf/0/8BED1997654C7C5DC1258D85005EFBBA/%24File/2161.pdf>> accessed 16 March 2026.↵
  4. The Treaty mentions race, sex, age, disability, religion, national, ethnic or social origin, wealth, birth or other status or on account of their political or other views as grounds for discrimination↵
  5. Double criminality requirement.↵
  6. Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/

JHA, OJ L 119, 4.5.2016, 89. The Directive was implemented into Polish law by the Act of 14 December 2018 on the protection of personal data processed in connection with the prevention and combating of crime (consolidated text: Journal of Laws 2023, 1206).↔

7. On 13 January 2026, the Polish Prime Minister presented a draft law on the ratification of the Treaty to the Polish Parliament's lower house (*Sejm*). On 20 February 2026, the committees recommended that the bill be passed without amendments. On 13 March 2026, the *Sejm* voted unanimously in favour of the bill ratifying the agreement, which was then referred to the Senate (upper house of the Polish Parliament). The legislative process is available on the Parliament's website: <<https://www.sejm.gov.pl/Sejm10.nsf/PrzebiegProc.xsp?id=79A47F5CA4013B1FC1258D85005F9A39&SessionID=412C58AE88B52D475094FCC40CCE48FB0CFAC9A0>> accessed 16 March 2026. The ratification from the part of Indonesia is still pending at the time of writing this article.↔
8. This is a constitutional prerogative of the President (Art. 133 of the Constitution of the Republic of Poland).↔

## \* Author statement

The author was former inaugural Head of the Extradition Division, Department of International Cooperation and Human Rights, Polish Ministry of Justice. In this function, he had the privilege of participating in the third round of the MLA treaty negotiations between Poland and Indonesia, which were combined with consultations on extradition. This article exclusively expresses the views of the author and cannot be attributed to the institution(s) that employs or employed him.

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