

MUTUAL LEGAL ASSISTANCE SYSTEM

Letters rogatory from foreign jurisdictions are received via diplomatic channels, by the Ministry of Foreign Affairs, which directly submits them to the President of the Superior Court of Justice (STJ), for the granting of the *exequatur*, i.e. the authorization which allows for the enforcement in Brazil of a foreign judicial proceeding. The judicial acts carried out by means of central authorities are also sent to the STJ for the *exequatur*.

It is of the competence of the federal judges to proceed and judge, at first instance, the execution of the letters rogatory, after the STJ grants the *exequatur*, (article 109, subsection X of the 1988 Federal Constitution). When the letter rogatory is executed, it shall be returned to the President of the STJ within 10 (ten) days to be forwarded, within the same time limit, to the original judicial authority by the Ministry of Justice or the Ministry of External Relations.

The requests for international mutual legal assistance whose matters do not require advisory opinion on the part of the Superior Court of Justice (superficial judgment on the lawfulness of an act, however without examining further the grounds of the action), even if under the denomination of letter rogatory, shall be forwarded or returned to the Ministry of Justice for the arrangements deemed necessary for the execution through direct assistance.

It is up to the Department of Assets Recovery and International Legal Cooperation (DRCI), of the Ministry of Justice, among other tasks, to coordinate the execution of the international legal cooperation and instruct, opine and coordinate the execution of both active and passive international legal cooperation.

Thus, the passive requests for mutual legal assistance in criminal matters which fall under the competence of the Brazilian Federal Justice and which do not require advisory opinion from the Superior Court of Justice are forwarded by the DRCI to the Center for International Legal Cooperation (CCJI) of the Attorney General's Office so that it distributes the requests to the Federal Public Prosecution Offices designated to judicially promote the acts needed for cooperation.

Depending on its nature, the request shall alternatively or concomitantly be transmitted by the DRCI to the Federal Police Department for execution, owing to the likely need to take measures related to the police work. Finally, the requests for assistance for acts which, under the Brazilian legislation, do not need intervention of the Judiciary, may be transmitted directly by the Central Authority to the competent administrative authority for execution.

Brazil has not adopted a rigid form which must be followed by the competent foreign authorities which submit a request for mutual legal assistance; however, internationally recognized standards for this type of request must be observed.