Description and general explanation of the system of mutual judicial assistance

In the area of mutual judicial assistance, Costa Rica has different ways of receiving and processing requests, one at domestic level, and the others for international requests, based on agreements on various subjects that permit reciprocal judicial assistance:

1.- In national legislation, used whenever there is no international agreement in force for such assistance, we have Articles 705 ff. of the Code of Civil Procedure, which, in the chapter on “Effectiveness of foreign decisions and judgments,” establishes a mechanism for providing international judicial assistance.

We also have Law N° 7786 of April 30, 1998 (Law on Narcotics, Psychotropic Substances, Illicit Drugs, and Related activities), amended by Law N° 8204 of December 26, 2001, on the subject of drugs, in which Article 8° briefly and concisely establishes the powers to provide and obtain judicial and police cooperation in these matters. In addition, Article 65 of the Code of Criminal Procedure grants the Ministerio Público the authority to form joint investigative teams with foreign or international institutions.

2.- As for the judicial assistance system provided for under international agreements, it is important to point out that to date, Costa Rica has signed a wide range of treaties on different matters that include mechanisms for providing effective cooperation.

However, despite these diverse provisions, we will refer to the so-called Central American Treaty of Mutual Legal Assistance in Criminal Matters,

1 “…Article 8°—To facilitate investigations and police or judicial proceedings referring to the crimes described in this Law, the national authorities may provide cooperation to and receive cooperation from foreign authorities for the following purposes:
   a) Taking the deposition of persons or hearing testimony;
   b) Issuing a certified copy of judicial or police documents;
   c) Performing inspections and attachment of property, and ensuring its safekeeping;
   d) Examining objects and places;
   e) Facilitating duly certified pieces of evidence and information;
   f) Delivering authenticated copies of the documents and records of the case, including bank, financial, and business documents;
   g) Identifying or detecting, for evidentiary purposes, the proceeds, assets, instruments, or other elements;
   h) Forwarding all the sworn statements in the case of a controlled delivery;
   i) Carrying out any other acts included in the Vienna Convention and in any other international instrument approved by Costa Rica...’’.
because it is the instrument signed by all the countries in this area that is most commonly and frequently used, and since it is not confined to any specific matter, its scope is greater than any other to date (Law N° 7696 of October 3, 1997).

The system defined by that Treaty establishes, in principle, the intervention of a central authority with sufficient administrative capacity to process the request for assistance, which is then referred to the competent judicial official, for processing in accordance with the laws in force in the legal system of the requested country.

In the case of Costa Rica, this work is currently performed by the Procuraduría General de la República, in accordance with Article 2 of that international instrument, and it is the Fiscalía General de la República that receives requests within the country for the Judiciary.