

(Annex 6)

If a state that has not concluded a treaty on reciprocal judicial aid in criminal cases requests Japan the service of documents concerning a criminal trial

If a state that has not concluded a bilateral treaty on reciprocal judicial aid in criminal cases requests Japan to serve documents concerning a criminal trial, the state can request the service of each document pursuant to the Japanese law called the “Law Relating to the Reciprocal Judicial Aid to be Given at the Request of Foreign Courts” (hereinafter, the “Reciprocal Aid Law”). The request shall be made through the diplomatic channel (Art. 1-2, para. 1, item 1 of the Reciprocal Aid Law).

1. Documents to be submitted to the Ministry of Foreign Affairs of Japan

- (1) Embassy’s note verbal to the Ministry of Foreign Affairs of Japan
- (2) Foreign court’s letter of request to a court in Japan
- (3) Japanese translation of the letter of request from Foreign Courts to a court in Japan (Art. 1-2, para. 1, item 4 of the Reciprocal Aid Law)
- (4) Documents to be served
- (5) Japanese translation of the documents to be served (Art. 1-2, para. 1, item 4 thereof)

2. Items to be entered in the documents

- (1) Embassy’s note verbal to the Ministry of Foreign Affairs of Japan
 - (A) The State to which the Court making the request belongs shall guarantee the payment of the expenses incurred in the execution of the letter of request.(Art. 1-2, para. 1, item 5 of the Reciprocal Aid Law)
 - (B) The State to which the Court making the request belongs shall assume that it could render judicial aid in the same or similar matters if so requested by the Japanese Courts. (Art. 1-2, para. 1, item 6 thereof)
- (2) Foreign court’s letter of request to a court in Japan
 - (A) Name of the person on whom the papers are to be served (Art. 1-2, para. 1, item 2 of the Reciprocal Aid Law)
 - (B) His/her nationality (Art. 1-2, para. 1, item 2 thereof)
 - (C) His/her domicile or residence (Art. 1-2, para. 1, item 2 thereof)

3. Point that requires attention

- There are cases where although the documents to be serviced are specified in the letter of request, they are not attached to the letter of request. Make sure there is no discrepancy between the documents to be served listed in the letter of request and the actually attached documents.

[Reference]

LAW RELATING TO THE RECIPROCAL JUDICIAL AID TO BE GIVEN AT THE REQUEST OF FOREIGN COURTS

Article 1.-(2)

The said judicial aid shall be rendered under the following conditions:

1. The request shall be made through the diplomatic channel.
2. The request for the service of papers shall be made in writing stating the name, nationality, and domicile or residence of the person on whom the papers are to be served.
3. The request to take evidence shall be made in writing stating the names of the parties to the litigation, the manner in which the evidence is to be taken, the name, nationality, and domicile or residence of the person to be examined, and the matters to be investigated. In regard to criminal matters, the request shall be accompanied by a statement of the essential facts of the case.
4. In case the letter of request and documents annexed thereto are not written in the Japanese language, translation thereof into Japanese shall be appended to the original.
5. The State to which the Court making the request belongs shall guarantee the payment of the expenses incurred in the execution of the letter of request.
6. The State to which the Court making the request belongs shall assure that it could render judicial aid in the same or similar matters if so requested by the Japanese Courts.

In case where treaties or other documents of similar nature provides otherwise than as mentioned in the preceding paragraph, such provisions shall prevail.