



DEPARTMENT OF JUSTICE

28 CFR Part 0

[Directive No. 81C]

Delegation of Authority

AGENCY: Office of the Assistant Attorney General, Criminal Division, 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 has re-delegated this authority to the Deputy Assistant Attorneys General, and to the Director and Deputy Directors, of the Office of International Affairs (OIA). The Assistant Attorney General for the Criminal Division further re-delegates the authority to make requests under treaties and executive agreements on mutual assistance in criminal matters to the Associate Directors of OIA. This final rule will amend the Appendix to Subpart K of Part 0 to expand the list of persons who may exercise the authority to make mutual assistance requests in criminal matters to include OIA’s Associate Directors.

DATES: This rule is 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) 514-0000.

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 1,400 new MLA requests from U.S. prosecutors for foreign evidence in FY17, the most since OIA's inception in 1979. With only three senior leaders (the Director and two Deputy Directors) authorized to make these requests, it can be difficult for OIA to review and process all requests expeditiously. To address this issue, the Assistant Attorney General for the Criminal Division is modifying Directive 81A of the Appendix to Subpart K of Part 0 to extend the re-delegation of authority to Associate Directors who supervise OIA's regional teams and designated units as persons who may make MLA requests. Associate Directors are among the most experienced attorneys within the organization and are responsible for providing legal and policy guidance to the Assistant Attorney General and Deputy Assistant Attorneys General. Authorizing these senior supervisory attorneys to make MLA requests to foreign central authorities is commensurate with their existing duties and provides OIA with the capability to process these requests more efficiently, avoid unnecessary delays, and more effectively satisfy the demand for international evidence from U.S. law enforcement.

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

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. *See* 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 12612, 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 1955

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.

For the reasons stated in the preamble, Title 28, Part 0, of the Code of Federal Regulations is amended as set forth below:

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. The Appendix to Subpart K of Part 0 is amended by removing Directive No. 81A and adding Directive No. 81C in alphanumeric order, to read as follows:

Appendix to Subpart K of Part 0—Criminal Division

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[Directive No. 81C]

Re-delegation of Authority to Deputy Assistant Attorneys General, Criminal Division, and Director and Deputy Directors of the Office of International Affairs To Act Under Treaties and Executive Agreements on Mutual Assistance in Criminal Matters; and Re-delegation of Authority To Make Requests Under Treaties and Executive Agreements on Mutual Assistance in Criminal Matters to the Associate Directors of the Office of International Affairs

By virtue of the authority vested in me by § 0.64-1 of Title 28 of the Code of Federal Regulations, the Authority delegated to me by that section to exercise all of the power and authority vested in the Attorney General under treaties and executive agreements on mutual assistance in criminal matters is hereby re-delegated to each of the Deputy Assistant Attorneys General, Criminal Division, and to the Director and Deputy Directors of the Office of International Affairs, Criminal Division. In addition, I hereby re-delegate the authority to make requests under treaties and executive agreements on mutual assistance in criminal matters to the Associate Directors of the Office of International Affairs, Criminal Division.

Dated: May 10, 2018.

John P. Cronan
Acting Assistant Attorney General

[FR Doc. 2018-10703 Filed: 5/18/2018 8:45 am; Publication Date: 5/21/2018]