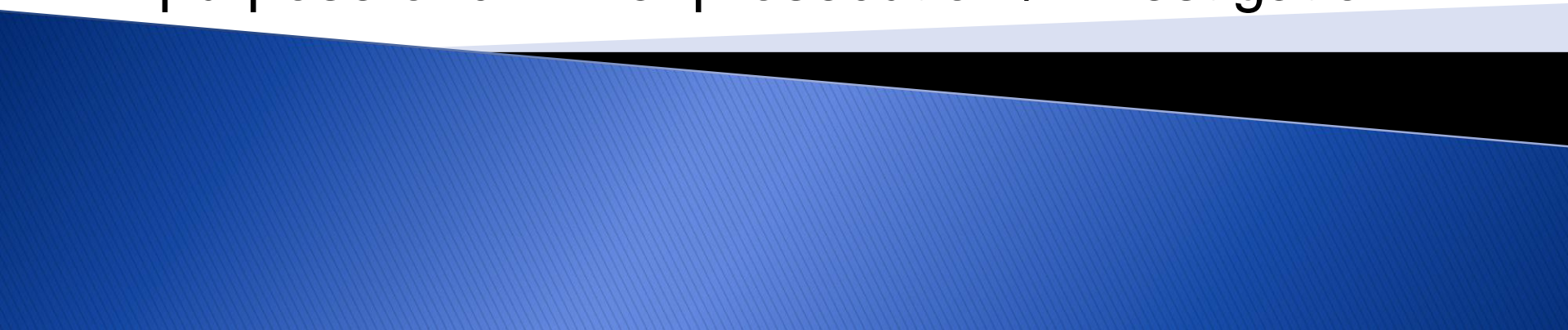


# **International Co-Operation LEGAL ASSISTANCE**

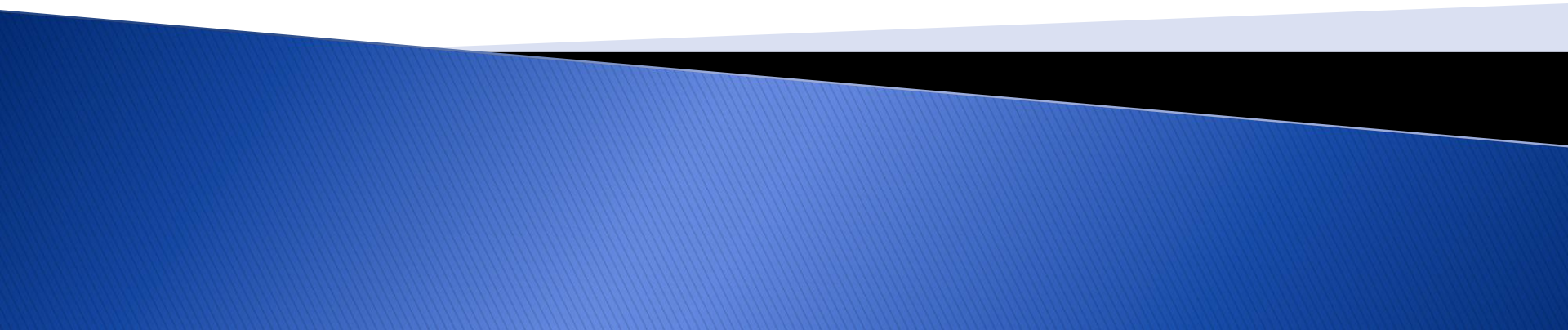
## **What is Legal Assistance:**

- Providing or obtaining assistance / support in
  - measures in investigation or prosecution procedures
  - obtaining (exchange) information
  - based on legal agreements / contracts / conventions
  - between states
  - purpose of criminal prosecution / investigation
- 

## **Requirements:**

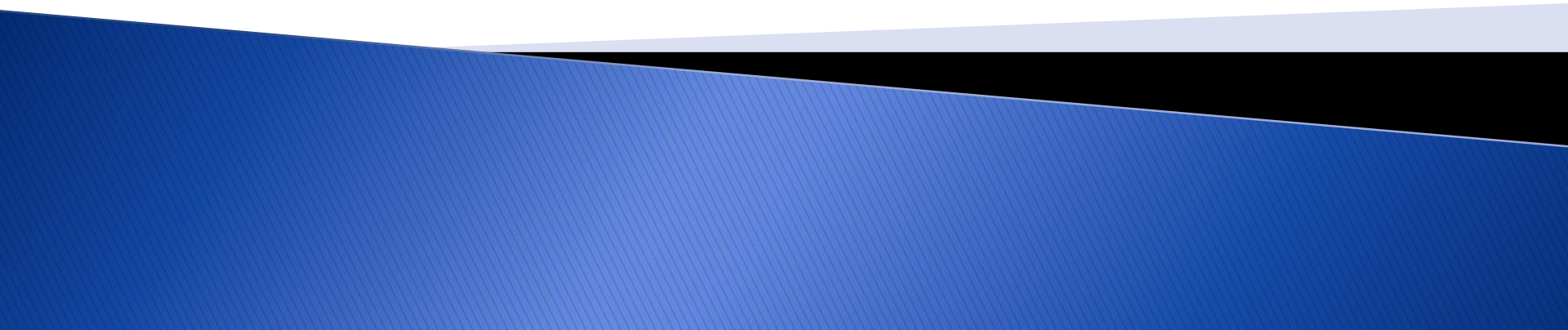
- Agreement between states (bilateral or multilateral) that regulates the mutual assistance in criminal matters (legal base), additionally permit by national law

## **Purpose:**

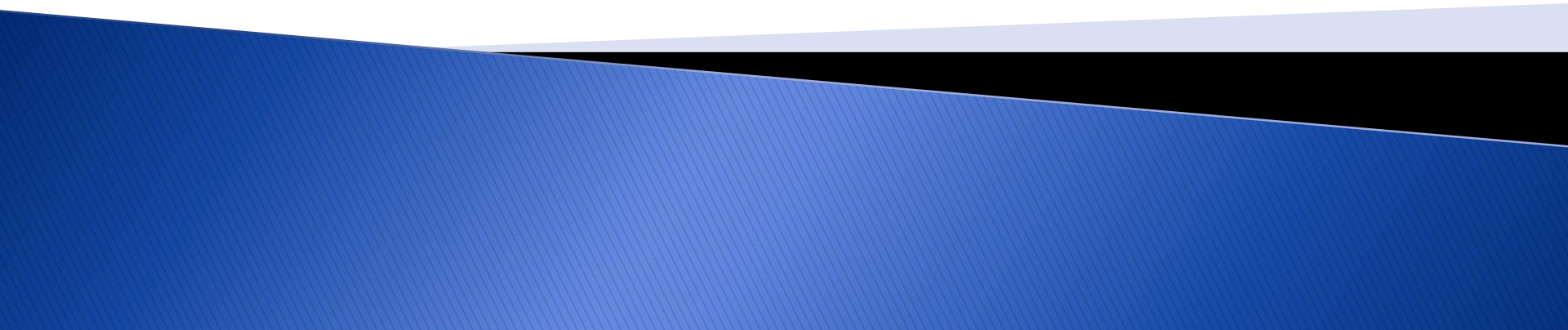
- mutual assistance in investigations or court proceedings
  - enhance the exchange of information
  - to combat criminal activities
  - and / or confiscation / seizure of proceedings
- 

## **Legal Definition of Mutual Legal Assistance:**

“Mutual Legal Assistance is the provision of assistance on a formal legal basis, usually in the gathering and transmission of evidence, by an authority of one country to an authority in another, in response to a request for assistance. "Mutual" simply denotes the fact that assistance is usually given in the expectation that it would be reciprocated in like circumstances, although reciprocity is not always a precondition to the provision of assistance”

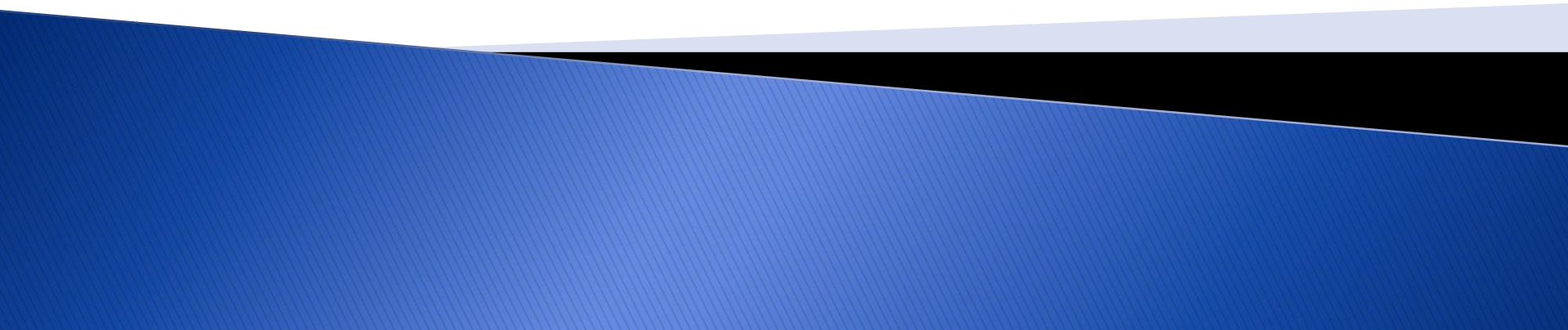


# **Mutual Legal Assistance**

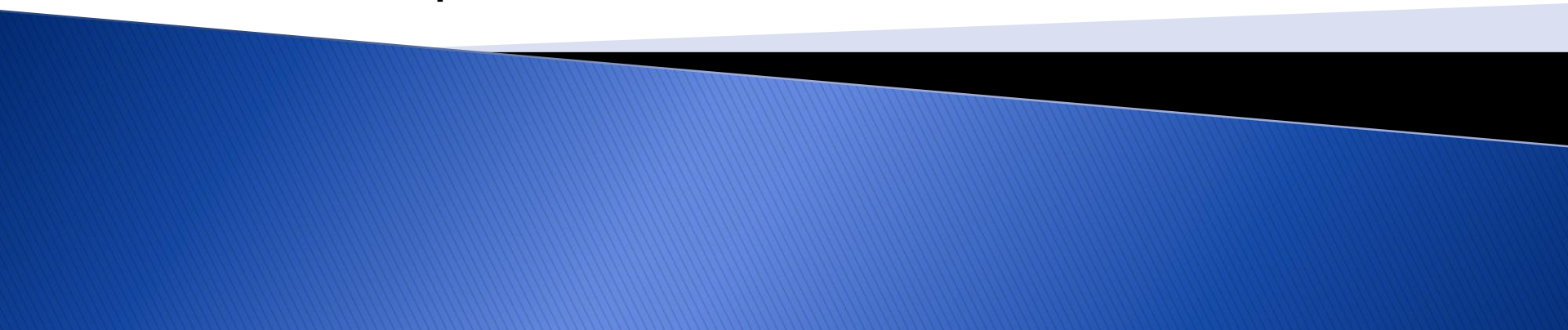
- provision of assistance on a formal legal basis
  - in the gathering and transmission of evidence
  - by authorities of countries
  - in response to a request for assistance.
  - by usually promised reciprocity
- 



# **What is basically possible?**

- Taking evidence or statements from persons
  - Assisting in the availability of detained persons or others to give evidence or assist in investigations
  - Effecting service of judicial documents
  - Executing searches and seizures
  - Examining objects and sites
  - Providing information and evidentiary items
  - Providing relevant documents and records
- 

# **What is basically not possible, or has to be / is usually regulated additionally?**

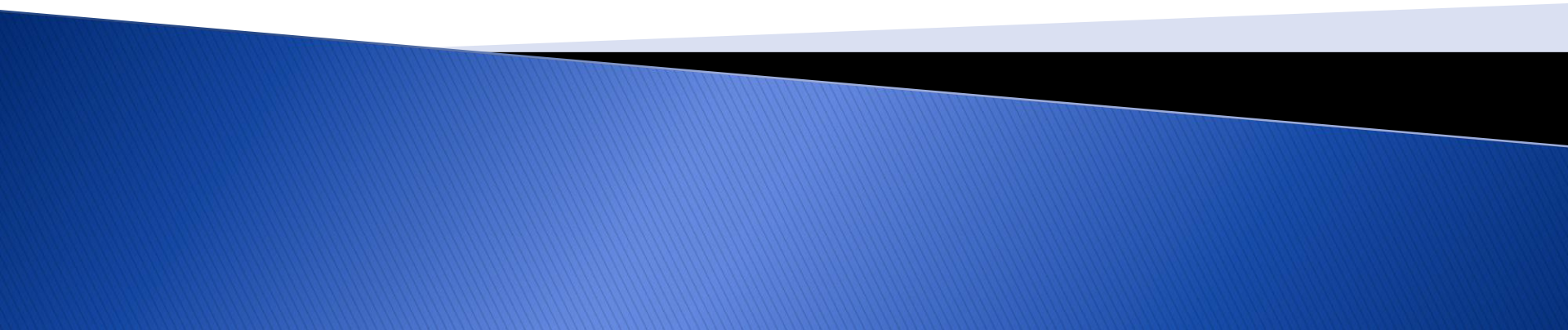
- arrest or temporary detention of person with a view to extradition
  - enforcement of criminal judgments imposed in the requesting State except as permitted by law in the requested State
  - transfer of persons in custody to serve sentences
  - transfer of proceeds in criminal matters
- 

## **Formal requirements:**

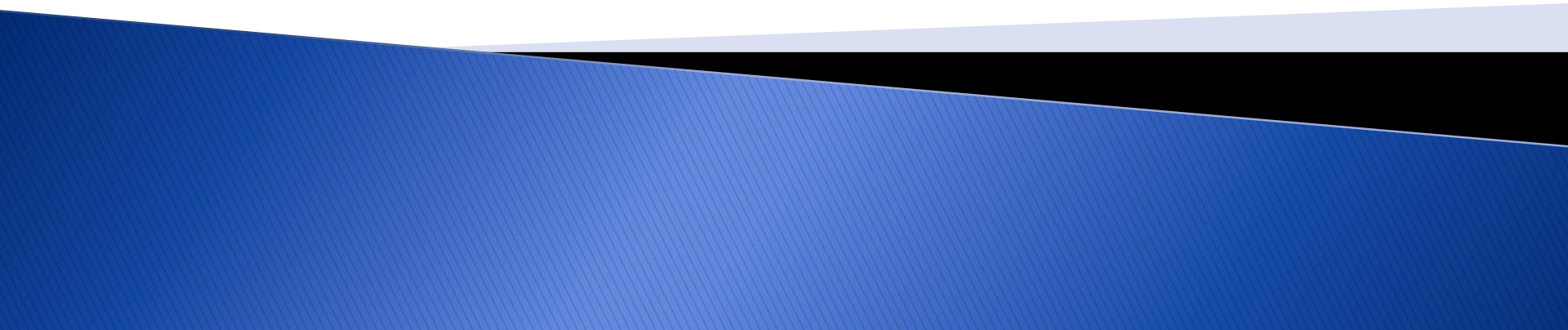
- request / or spontaneousley
- usually in written form / template
- transfered by mail / email / fax / ....
- under the national regulations (channel / administration / agencies / Ministry /....)
- judicial order / warrant / searches /... - if necessary in the requesting state



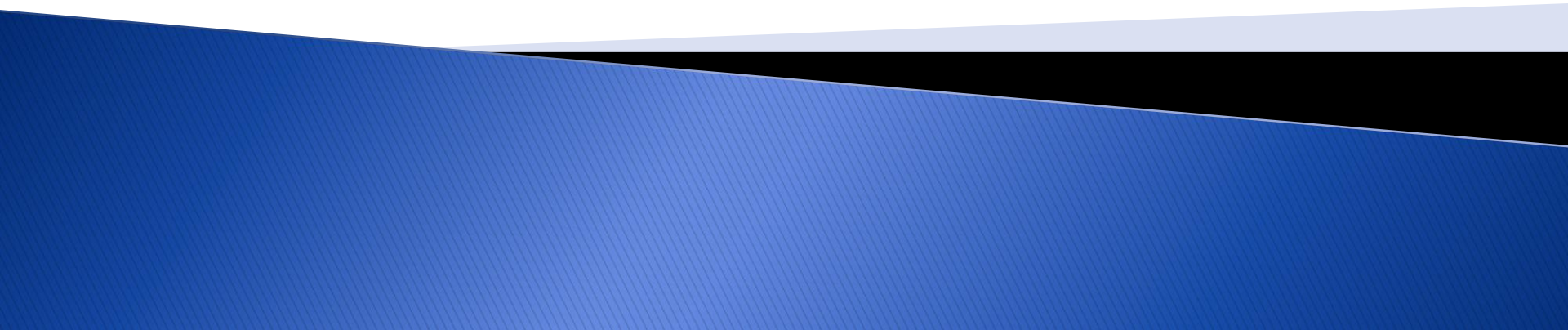
## **Formal requirements:**

- translation into language of requested state
  - detailed description of the criminal activities
  - detailed description of the measures / information requested for
  - with judicial order / warrant / searches
- 

## **Formal requirements:**

- if needed, request for participation in measures in requested state
  - designation of competent investigator or / and prosecutor
  - listing of contact details
  - if needed, concept of time / perspective / wish of day of the execution
- 

## **What happens after request was send abroad:**

- request will be approved (worst case rejected) by the competent authority – message back
  - execution will be allocated to the competent (in best case) law enforcement agencies
  - preparation and pre-investigation in case of request for criminal procedures
  - determination of time of execution (in case of participation of requesting investigator – contact)
- 

## **In the requested state (if necessary):**

depends on national legislation / law !

- involvement of a judge / court for approval of criminal measures such as warrant order, search order, ....

# The Day(s) (of execution):

- execution of requested measures
- collection of data
- seizure of proceeds if requested and approved (allowed under the agreement)
- seizure of evidence
- arrests and statements, .....
- report of execution is usually written



# The Day(s) (of execution):

In case of participation within the execution, be aware of:

- basically you will have no „rights“
- to give orders
- to do searches
- to ask questions
- you are just an observer / adviser

**BUT !!!**

# The Day(s) (of execution):

Investigators / colleagues abroad will usually be more than thankful for support

as

- it is not their own case
- they obviously do not have the necessary information background
- they don't want to do more than needed in case of a lack of information

## **The Day(s) After:**

- termination of the request procedure is prepared
- report, evidence, information, .... will be prepared for transmission
- If needed judge is involved
- time of complaint – if possible – against measures (has to be awaited before transmission is allowed)

# **Following the transfer / exchange of information:**

## **Transmission and transmission report usually includes:**

- description of executed measures / procedures storyboard
- list of evidence
- witness statements if requested for
- description of the allowed use of information

Any Questions???

I've been afraid of that!!!!!!!



Thank you kindly for your  
attention!