



Observatoire ARGA

**Misuse of Mutual Legal Assistance and Cross-Border Notices:
A Structural Risk Assessment for Procedural Safeguards and Trust
in International Cooperation in Latin America**

Author:

Sergey Khrabrykh — President of ARGA, PhD
Ekaterina Khomutinnikova

Organization: Observatoire ARGA – Sanctions and Compliance Unit

Mailing address: 21 rue de l'Aviation, 64600 Anglet, France

Contacts: info@argaobservatory.org, +33 7 58 49 62 27

Website: www.argaobservatory.org

Paris, 16 February 2026

Table of Contents

Executive Summary
Mutual Legal Assistance (MLA) as a Trust Infrastructure
Vulnerabilities of Cross-Border Cooperation Mechanisms
Typology of Misuse of MLA and International Notices
Procedural Disproportions and the “Export of Weak Standards”
Secondary Effects: Banking, Investment and Reputational Trace
Safeguards for Requesting and Requested States
Procedural Safeguard Checklist Model
Role of the OAS in Strengthening Trust in International Cooperation
Conclusion
Appendix A Terminology
Appendix B MLA Request Assessment Checklist

EXECUTIVE SUMMARY

Mutual Legal Assistance (MLA), extradition requests, and cross-border notices are essential tools in combating transnational crime. Their effectiveness depends directly on mutual trust between states and on the observance of procedural safeguards.

Across Latin America, structural risks are emerging related to the potential misuse of MLA mechanisms and international notices in the context of politico-economic conflicts and corporate disputes. In the absence of sufficient safeguards, requested states may unintentionally legitimize processes based on weak evidence, selective enforcement, or disproportionate procedural measures.

Such misuse may lead to:

- arrests and restrictions without adequate verification;
- asset freezes;
- banking de-risking;
- long-term reputational damage;
- erosion of trust in international cooperation mechanisms.

This report provides:

- a typology of misuse of MLA and international notices;
- analysis of procedural vulnerabilities;
- a “Procedural Safeguard Checklist” for assessing incoming requests;
- recommendations for the Organization of American States (OAS) on regional proportionality and quality-control standards.

MUTUAL LEGAL ASSISTANCE (MLA) AS A TRUST INFRASTRUCTURE

2.1 Purpose of MLA

MLA mechanisms are designed to facilitate:

- exchange of evidence;
- execution of investigative requests;
- location and arrest of individuals;
- freezing of assets.

2.2 Principle of mutual trust

The MLA system operates on the assumption that participating states adhere to basic standards of justice and procedural fairness.

2.3 Risk of asymmetry

When evidentiary standards and judicial oversight differ significantly between jurisdictions, the principle of mutual trust becomes vulnerable.

VULNERABILITIES OF CROSS-BORDER COOPERATION MECHANISMS

3.1 Limited substantive review

Requested states often assess formal criteria but not the depth and quality of evidence.

3.2 Urgency and pressure

Requests may be framed as urgent, limiting time for thorough review.

3.3 Information asymmetry

The requesting state possesses the full case context, while the requested state receives only partial information.

TYOLOGY OF MISUSE OF MLA AND INTERNATIONAL NOTICES

4.1 Pattern 1: Corporate conflict → international request

Shareholder or beneficial ownership disputes may transform into criminal cases followed by MLA requests.

4.2 Pattern 2: Use of notices as pressure tools

International notices may be used to restrict mobility or business activity.

4.3 Pattern 3: Asset freezing without sufficient judicial filtering

Temporary measures may effectively become long-term restrictions.

4.4 Pattern 4: Export of procedural disproportions

Weak procedural standards in one jurisdiction may be exported through international cooperation.

PROCEDURAL DISPROPORTIONS AND THE “EXPORT OF WEAK STANDARDS”

5.1 Lack of independent oversight

Where effective judicial oversight is absent in the requesting jurisdiction, misuse risks increase.

5.2 Disproportionate measures

Arrest or asset freezing may occur before sufficient evidence is evaluated.

5.3 Duration of procedures

Delays in review and removal of restrictions amplify economic and reputational damage.

SECONDARY EFFECTS: BANKING, INVESTMENT AND REPUTATIONAL TRACE

6.1 Banking response

International requests or notices may be interpreted as high-risk signals by financial institutions.

6.2 Investment climate

Investors incorporate the risk of sudden cross-border restrictions into decision-making.

6.3 Reputational trace

Even after refusal of extradition or case dismissal, negative information may persist in compliance systems.

SAFEGUARDS FOR REQUESTING AND REQUESTED STATES

7.1 For requested states

- verification of independent judicial oversight in the requesting jurisdiction;
- assessment of proportionality of requested measures;
- possibility to request additional supporting information;
- expedited review of restrictive measures.

7.2 For requesting states

- transparency of evidentiary basis;
- clear indication of procedural stage;
- avoidance of excessive media pressure;
- obligation to inform of case status changes or termination.

PROCEDURAL SAFEGUARD CHECKLIST MODEL

- stage of proceedings and existence of judicial decision;
- quality and verifiability of evidence;
- independence of issuing court;
- proportionality of requested measures;
- availability of less restrictive alternatives;
- validity period of request;
- review mechanisms;
- obligation to notify of status changes.

Where multiple risk indicators are present, enhanced review or refusal is recommended.

ROLE OF THE OAS IN STRENGTHENING TRUST IN INTERNATIONAL COOPERATION

9.1 Development of regional guidance

The OAS may initiate regional proportionality and safeguard standards for MLA.

9.2 Expert platforms

Establishment of a permanent working group on quality and proportionality of cross-border requests.

9.3 Monitoring practices

Aggregated analysis of misuse typologies without interference in individual cases.

CONCLUSION

Mutual legal assistance remains a critical tool for combating transnational crime. Its sustainability depends on maintaining a balance between effectiveness and procedural safeguards.

Misuse or perceived misuse undermines trust in international cooperation and may trigger defensive compliance by financial institutions, negatively affecting the regional investment climate.

The safeguards and checklist proposed in this report aim to strengthen trust and improve the quality of international cooperation across Latin America. ARGA Observatory presents this report as a contribution to professional dialogue on enhancing procedural resilience of MLA and cross-border notices.

APPENDIX A. TERMINOLOGY

MLA — Mutual Legal Assistance

Extradition request — request for surrender of a person

Safeguards — procedural guarantees

De-risking — termination of financial services

Proportionality — alignment of measures with stated objectives

APPENDIX B. MLA REQUEST ASSESSMENT CHECKLIST

- formal criteria
- judicial oversight
- proportionality
- duration
- possibility of appeal
- economic impact
- reputational risk
- obligation to inform on status changes