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The Letter Rogatory As An International Procedural Instrument

For civil and commercial matters, several countries have chosen to sign multilateral treaties that expedite the times and procedures for the processing of letters rogatory. The Inter-American Convention on Letters Rogatory was adopted on January 30, 1975 in the Republic of Panama.

A letter rogatory is a judicial instrument that facilitates the communication of court proceedings between two jurisdictional authorities in different countries. It is issued when a judicial authority of one country requests legal assistance in another country to carry out procedural acts, such as service of complaints, orders, subpoenas, among others. Such legal assistance is understood as necessary for the due course of the judicial process in the country where the letter rogatory originates, given that, by reason of its territory, the requesting judicial authority cannot exercise its authority in the country where the procedural act requested in the letter rogatory is to be carried out.

For civil and commercial matters, several countries have chosen to sign multilateral treaties that expedite the times and procedures for the processing of letters rogatory. The [Inter-American Convention on Letters Rogatory](#) was adopted on January 30, 1975 in the Republic of Panama, and its [Additional Protocol](#) on 8 May 1979 in the Republic of Uruguay, in order to equalize the processing and requirements of letters rogatory among [Signatory States](#), thus simplifying these proceedings. The Republic of Panama signed this Convention, which was approved by [Law No. 12 of October 23, 1975](#) and likewise, its Protocol by [Law No. 10 of 18 June 1991](#).

The Inter-American Convention on Letters Rogatory and its Additional Protocol facilitates the processing of letters rogatory, among other reasons, because of the following:

- Establishes a channel of communication given that



the Signatory States are obliged to designate the central authorities responsible for receiving and transmitting letters rogatory in their country.

- Eliminates the requirement of legalization of the letter rogatory, in case the letter rogatory is processed through diplomatic or consular channels or through the corresponding central authority.
- Lists the required documentation that must be attached to the letter rogatory, and likewise, creates forms that must be used for the processing and completion of the letter rogatory.
- Allows the appointment of a proxy who may intervene directly in the process; however, it is not a requirement to follow up on the status of the letter rogatory.

In complying with those procedural acts allowed by the Convention, the State receiving the letter rogatory, in accordance with its national law, sends the letter rogatory to the competent court after an examination of its origin. In the Republic of Panama, in accordance with [Article 100, paragraph 3 of the Judicial Code](#), is the Fourth Chamber of the Supreme Court of Justice, that bears the responsibility to evaluate the viability of the request contained in the letter rogatory, verify whether the letter rogatory meets the requirements and whether the request does not contravene the Panamanian law. If the request is de-

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clared viable, the Fourth Chamber shall assign the official or tribunal that will carry out the procedural act requested in the letter rogatory. In that sense, it is important to note that Panama will carry out the requested procedural act in accordance with Panamanian procedural rules, and the status of the case of the main proceeding will not be relevant for the Fourth Chamber to determine the viability and execute what is requested in the letter rogatory.

In general, it is a process that does not involve complexity since it is an international judicial assistance. In ALCOGAL we assist our clients in monitoring and understanding the procedure, as well as throughout the process related to letters rogatory in the Republic of Panama.

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According to Article 1 of the Inter-American Convention on Letters Rogatory, the terms “exhortos” and “cartas rogatorias” are used as synonyms in the Spanish text for the purposes of the convention. In the English text, both the terms “exhortos” and “cartas rogatorias” are covered by the term “letters rogatory.”



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