

V. Miscellaneous Requests

The Department of External Affairs cannot assist foreign tribunals in compelling a witness found in Canada to attend a hearing or to submit to an investigation outside of Canada.

It must also be pointed out that a distinction must be drawn between executive assistance and judicial assistance. In Canada, no court order is needed to obtain access to public records such as motor vehicle registration, birth and death and real property registration records. The courts are not involved and the investigator can simply apply to the municipal, provincial or federal authority concerned for the information required, subject to section 54 of the Canadian Human Rights Act (Statutes of Canada 1976-77, Chapter 33). This is usually available on payment of the requisite fee. In the same way, Canadian and foreign law enforcement agencies exchange a wide variety of information under various liaison agreements, without involving the courts.

To summarize, the courts of Canada can lend their assistance to a foreign court in criminal, as well as in civil and commercial proceedings. Only rarely would a court refuse to cooperate. One exception might involve those cases which are political in nature. Canadian courts have also declined to entertain applications for orders to enforce foreign penal, fiscal, confiscatory, or other public laws or judgments of a foreign state.

In all cases, the Department of External Affairs' primary consideration will be the furtherance of the administration of justice through effective co-operation with the judicial authorities of other states, subject to the condition of reciprocity and the limitations imposed by Canadian law and international treaties.