



Project: Development of Reliable and Functioning Policing Systems and Enhancing of Combating Main Criminal Activities and Police Co-operation

Strasbourg, 28 October 2005

Report on the

Workshop on Assessment of Training Needs
in the Field of International Co-operation in Criminal
Matters

Belgrade, Serbia and Montenegro (7 September 2005)

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The views expressed in this report do not necessarily reflect official opinions of the European Commission or of the Council of Europe.

1 INTRODUCTION

This workshop was organised by the Council of Europe within the framework of its joint project with the European Commission on "*Development of Reliable and Functioning Policing Systems and Enhancing of Combating Main Criminal Activities and Police Co-operation*" (CARPO) under Output 1.5¹.

This activity aimed at reviewing concrete training needs, existing training manuals, curriculum and other relevant materials for general training on international co-operation in criminal matters aspects. It took place in Belgrade, at the Council of Europe's office, on 7 September 2005

Eight national experts participated to the workshop: Mr. Ljubomir Jovanovic (Ministry for Human and Minority Rights), Mr. Aleksandar Djordjevic (Ministry of Justice, Belgrade), Mr. Miodrag Majic (judge, I Municipal Court, Belgrade), Ms Ana Milosevic (judge, I Municipal Court, Belgrade), Mr. Aleksandar Vujicic (District Court, Belgrade), Ms Jasmina Sahinovic (Interpol office, Belgrade), Ms Gajic Zorana (Interpol office, Belgrade) and Ms Jasmina Vasic (Republic Prosecutors' Office, Belgrade). The Council of Europe made two experts available, namely Mr Andrej Kmecl (Supreme Court, Slovenia) and Mr Simon Regis (Home Office, Judicial Co-operation Unit, UK) and was represented by Ms Silvija Panovic-Djuric. Ms Jelena Jolic (ABA/CEELI) also attended the workshop.

The present report endeavours to highlight the main conclusions identified in the course of the workshop to address training needs and issues of concern and outlines the future activities in this field which will be organised within the framework of the CARPO project until September 2006.

2 ADDRESSING TRAINING NEEDS IN THE FIELD OF INTERNATIONAL CO - OPERATION IN CRIMINAL MATTERS

The following findings, conclusions and recommendations are based on information provided by the participants during the workshop.

2.1 State of play

2.1.1 RELEVANT TRAINING

Training is provided by the Judicial Training Centre. However, at the time this Centre is undergoing a thorough reorganisation and is yet unable to offer any comprehensive programmes. No training in the area of mutual assistance in criminal matters is available. Most of the actual programmes are organised on the basis of foreign/international donations. The law faculties do formally cover the area, but the actual coverage is extremely brief if performed at all.

2.1.2 REFERENCE MATERIALS AND GUIDELINES

Written materials which could serve as references and/or study materials on international co-operation in criminal matters issues are limited to a collection of bilateral and international agreements in force. Participants pointed out that the limited access and availability of this collection and of other appropriate literature was a general problem of the judiciary.

¹ The specific objective of Output 1.5 is to strengthen capacities for co-operation in criminal matters among countries of South-eastern Europe, in particular by supporting Member States' efforts to ratify and implement the 2nd additional protocol to the European Convention on mutual assistance in criminal matters (CETS 182) through a) the development of strategies for its ratification and implementation and b) the development and testing of training materials in the field of co-operation in criminal matters. For further information, see: <http://www.coe.int/cards-police>

Brief written guidelines were prepared within the Interpol Office and the Ministry for Human and Minority Rights. According to the participants, these guidelines do cover some of the issues of the respective agencies, but are of internal nature and not generally available.

It was suggested that the development of the content of these guidelines could be achieved through the compilation of a 'Frequently Asked Questions (FAQ)' style document which could deal with the most common problems in dealing with aspects regarding international co-operation in criminal matters, in view of a wider distribution to relevant institutions. Further suggestions in this area centred on how the FAQ would be collected – would they just be a compilation of the guidelines issued internally, or whether each district court had to be consulted and specifically asked what issues it faced. Clearly the latter option although more comprehensive is particularly resource intensive, in terms of time and money and therefore needs to be deliberated in depth. Therefore if the FAQ approach is to be adopted, a thorough analysis should be the basis. As this would ultimately be a 'living document', additions, amendments and deletions could take place at intervals decided by the issuing authority.

The question regarding which institution should undertake the work of compiling and maintaining the FAQ was also discussed. The obvious choice appeared to be the Ministry for Human and Minority Rights, but this process should also involve consultations with the State entities and other agencies (e.g. Interpol) to ensure that the FAQ are as comprehensive as possible. Hence, it would be advisable to set up a working group within the Ministry for Human and Minority Rights, composed of a limited number of selected experts who would be responsible for this task within a set period.

As far as foreign literature is concerned, its availability is limited and the language barrier seems to be relatively high. The Co-operation Manual developed within the Council of Europe PACO programme includes a chapter on judicial co-operation, however given the fact that it is in English only, its use is limited.

2.1.3 CURRENT ACTIVITIES

The only current activity which was mentioned is performed by the ABA-CEELI office in Belgrade (American Bar Association – Central and Eastern Europe Legal Initiative), which is currently preparing a manual which would cover basic needs. Their approach in developing the Manual is based on the philosophy that this manual should cover basic needs, and according to their representative, it is rather modest in its purpose. The manual is due to be finalised before the end of December 2005.

2.1.4 ASSESSMENT

Discussion focused on the current situation in the field of mutual assistance in criminal matters, problems encountered and possible solutions as well as related training needs. Currently, 29 municipal courts throughout Serbia are dealing with legal aid, and a limited number of district courts deal also with extradition issues.

Main problems raised included:

- the lack of specialization / division of tasks among judges dealing with the legal aid. This could constitute a problem for future training (trained judges might not be dealing with such issues in the future)
- the lack of funds for acquiring materials in this field (e.g. compilations of binding treaties), translators etc
- staff was not trained and no training materials were provided until now

Also, the lack of communication and exchange of experiences were considered to be some of the main problems.

The general level of knowledge regarding mutual assistance in criminal matters was estimated as partly satisfactory by the judiciary themselves and as largely unsatisfactory by other agencies dealing with mutual legal assistance requests.

There was a general agreement that such situation largely stems from the facts that the law indeed prescribes specialisation for mutual assistance cases on the level of courts, but at the same time there is no such specialisation or preparation for these tasks on the level of individual judges. No special priority or importance is given to mutual assistance cases. All the participants described themselves as “self-taught” and expressed a sincere interest for participation in any kind of training.

After its reorganisation is completed, the Judicial Training Centre will be governed by a board, which will also be responsible for yearly programmes. The participants considered the Centre to be capable of offering administrative and organisational support for any training events within the framework of this project.

2.2 Conclusions and recommendations

Discussions revealed that there are a number of clear needs in Serbia for initial and continuous training directly geared to the fact that the European conventions related to international co-operation in criminal matters have recently entered into force and that there is a limited experience in their implementation. Relevant authorities at the level of the Republic of Serbia (Ministry of Justice, Supreme Court, Republican Prosecutor) and Union level (Ministry for Human Rights and Minorities) should be aware of the increasing importance of the legal aid issues, particularly as it requires measures to be taken regarding the internal organization and allocation of work.

A number of practitioners (primarily police investigators, prosecutors and judges) should be provided basic and specialist training in this field.

Direct communication between judicial authorities often involves adequate fluency in at least one foreign language in addition to the mother tongue, otherwise this possibility remains theoretical. In addition, inability to express oneself in another foreign language can constitute a major obstacle to speedy mutual assistance. Serbian authorities should consider promoting and extending in the course of careers of relevant professionals trainings in foreign languages.

Discussions also revealed that there is a general problem with the lack of reference materials and guidelines which would cover the practical aspects of mutual assistance in criminal matters and would also provide a commentary of the existing legal provisions. In this respect, possible ways to address this gap include:

- The Serbian authorities should seek to establish and maintain a ‘corporate memory’ of their experiences through initiatives such as the FAQ’s and internal guidance to which will assist new actors in this field and prevent a continual ‘reinvention of the wheel’ for those beginning to work on these issues. If these guidelines/ compilation would be regularly updated, it could certainly provide instant answers to most frequently asked questions, facilitate day to day execution of mutual assistance and reduce the number of clarifications/questions which may often burden the daily activity of those tasked with dealing with the legal aid issues within judiciary and police.
- In addition, the knowledge of the legal, judicial and institutional systems of other European states should be promoted. As mentioned earlier, the Co-operation Manual developed

within the PACO programme contains useful information on judicial co-operation aspects in Albania, Bulgaria, Bosnia and Herzegovina, Croatia, Hungary, Moldova, Romania, Serbia and Montenegro, Slovenia and “the former Yugoslav Republic of Macedonia”.

- The specific chapter of Serbia and Montenegro of the Co-operation manual should be updated, with the assistance of experts from the Serbian and Montenegrin authorities, in order to serve as a useful tool of information for foreign authorities.
- At the same time, S&M authorities would also benefit from it, as it contains information on the law and procedures of other countries relating to international co-operation in criminal matters. Following the general update of the Manual (to be carried out before February 2006), through the CARPO project, additional copies of the updated version of the manual could be distributed to relevant institutions and practitioners. Also, the possibility of translation and consequently much wider distribution of the Co-operation Manual in Serbia and Montenegro could be considered, in consultation with relevant authorities.

Finally, it was a common opinion that the most urgent and useful activity would be a development of a training activity, practically oriented and permanently available – perhaps through the Judicial Training Centre – which would enable the transfer of existing knowledge to relevant actors. This training could be developed by a group of experts involving Council of Europe trainers and experts from the appropriate departments of the Ministry of Human Rights and Minorities and the Ministry of Justice as well as from judiciary, in the framework of the CARPO project. In time, it could be on permanent offer from the Centre.

- As far as its content is concerned, it should cover the general principles of mutual legal assistance and include practical sessions (concrete cases, common mistakes, and questions). Given the lack of written materials, it would probably be necessary to ask some of the lecturers to provide at least short articles based on their lectures.
- Suggested lecturers/facilitators would involve experienced judges, experts from the ministries, from the Interpol Office who regularly handle mutual legal assistance requests as well as selected Council of Europe experts.
- Two types of trainings could be envisaged:
 - a) A training for a limited number of selected professionals who deal with mutual assistance in criminal matters on a regular basis. Such specialisation presents advantages in terms of efficiency and restricting training to a select circle of officials. It would also potentially pave the way for a future ‘train the trainers’ approach and the development of a pool of specialised national experts in international cooperation in criminal matters.
 - b) A broader training for judges from 29 courts with “extended competence” and specialised personnel from the relevant 2 ministries and the Interpol Office. The total number would be in the range of 100 people. This would also bring an additional benefit of personal acquaintance with the audience, facilitating further working relations and enabling informal exchange of experience.

Based on information given during the workshop, there is probably no institution at this time which would be capable and willing of taking the initiative for elaboration of such training activities. The Council of Europe, could organise a first activity - an initial meeting of experts - during which the programme of the activities would be formulated and then forwarded to the Judicial Training Centre with a request for its execution. Naturally, the Judicial Training Centre seems to be the most appropriate institution which should take ownership of these trainings, with support from the Council of Europe through the CARPO project. Such trainings should however include law enforcement relevant officials in close association.

The programme of the training seminars or at least parts of it could also be included in the initial judicial training. Continuous performance of this training could help develop an informal training network of practitioners equipped with knowledge and reference materials throughout the country.

3 FUTURE ACTIVITIES IN THE FIELD OF INTERNATIONAL COOPERATION IN CRIMINAL MATTERS

ACTIVITY 1.5.1 DEVELOP STRATEGIES FOR THE RATIFICATION AND ACTUAL IMPLEMENTATION OF THE 2ND ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS (CETS 182)

		Location, Dates
1.5.1.4	Legislative expert support in the drafting of legislation on mutual assistance in criminal matters (activity which could be organised jointly with relevant authorities from Montenegro)	December 2005 – February 2006 Belgrade (1-2 days)

ACTIVITY 1.5.2 DEVELOP, TEST AND MAKE AVAILABLE TRAINING MATERIALS FOR FURTHER TRAINING

		Dates
1.5.2.2	Co-operation Manual: Update of the chapter of Serbia and Montenegro	November 2005 – February 2006
1.5.2.3	In-country workshop to develop the tailored trainings (1 day)	Belgrade, February 2006
1.5.2.4	In-country training event (2) by local trainers with expert support (2-3 days each training)	March - May 2006
1.5.2.5	Production of training materials in local languages and distribution to relevant institutions	July - August 2006

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