



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

Strasbourg, 2 November 2005

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

**Zagreb, Croatia, 26 September 2005**

## Contents

1	INTRODUCTION .....	3
2	ADDRESSING TRAINING NEEDS IN THE FIELD OF INTERNATIONAL CO - OPERATION IN CRIMINAL MATTERS .....	3
2.1	State of play .....	3
2.2	Conclusions and recommendations .....	4
3	FUTURE ACTIVITIES IN THE FIELD OF INTERNATIONAL CO-OPERATION IN CRIMINAL MATTERS.....	6
4	APPENDIX - COMPLETED SELF- ASSESSMENT OF TRAINING CURRICULA, MATERIALS AND TRAINING NEEDS IN THE AREA OF INTERNATIONAL CO-OPERATION IN CRIMINAL MATTERS .....	7

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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 1.5<sup>1</sup>.

The 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 Zagreb, at the Ministry of Justice, on 26 September 2005

National experts participating in the workshop were, apart from a county court judge all from the Ministry of Justice: the assistant-minister competent for mutual assistance in criminal matters (mutual legal assistance),<sup>2</sup> the head of the mutual legal assistance department, an adviser in the same department, the head of the department of mutual legal assistance in criminal matters and the head of the department for international co-operation<sup>3</sup>. The Council of Europe made one expert available, namely Mr Gert Vermeulen (Belgium) who drafted the major part of this report, and was represented by Mrs Livia Stoica-Becht (CARPO Deputy Project Manager) and Ms Tamara Karaica (CARPO local project officer).

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 in the workshop.

### 2.1 State of play

The matrix on institutional capacities, filled out in a previous stage of the CARPO project (focusing on implementation of the 2<sup>nd</sup> Additional Protocol to the European Convention on mutual assistance in criminal matters) already showed that:

- the availability of technically and linguistically (including foreign languages) qualified staff as well as of both specialised and basic technical/legal and foreign language training is insufficient, and
- the availability and quality of off-line (paper and electronic) relevant legal documentation and of circulars, practical guidelines, best practice manuals or model forms is low.

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<sup>1</sup> 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>

<sup>2</sup> Used as a generic term, covering the various forms of judicial co-operation in criminal matters, ranging from extradition to mutual assistance in criminal matters *sensu stricto* or transfer of sentenced persons.

<sup>3</sup> Ljiljana Vodopija Cengic, Assistant Minister, Ministry of Justice; Melanija Grgic, Head of Department for International Legal Assistance (civil and criminal), Ministry of Justice; Dinko Kovacevic, Head of Department for International Legal Assistance (criminal), Ministry of Justice; Sanja Stimac, Head of the Department for International Legal Cooperation, Ministry of Justice; Marin Mrcela, County Court judge.

The workshop therefore focused on the way ahead rather than sticking to the above findings, which were known to all participants. Nonetheless, the following elements were raised during the meeting in addition to the above information:

- even though there is no access to information provided within the European Judicial Network (EJN) (*inter alia* the European judicial atlas), initial contacts have been established with the EJN, culminating in the participation of the assistant minister in a recent EJN meeting;
- there is no knowledge on mutual legal assistance and related issues available within the judicial academy, which, however, does have the capacity to fully take care of organisational aspects of training sessions that may be envisaged;
- until date, the judicial academy nor the police academy have established a training module on mutual legal assistance and related issues; actually no training on international cooperation in criminal matters has been organised yet;
- the Ministry appears to take an interest in further exploring the possibility of introducing knowledge system software for creating mutual legal assistance requests, similar to the Dutch KRIS system (*Kennissysteem Rechtshulp In Strafzaken*);
- at academic/university level there is no specific expertise on mutual legal assistance (the primary focus is on aspects of substantive international criminal law and jurisdiction thereover of international criminal tribunals/the ICC), nor courses/teaching on the matter or significant production of scientific literature;
- direct, horizontal communication in mutual legal assistance matters is the preferred option for the future, so that sufficient language/legal/practical training of judicial and law enforcement authorities at all geographical/functional levels is required;
- as far as foreign literature is concerned, the Co-operation Manual developed within the Council of Europe PACO programme includes a country - specific chapter on judicial co-operation which is no longer up to date, following recent legislative changes and the adoption of the Act on Mutual Legal Assistance in Criminal Matters in December 2004.

## 2.2 Conclusions and recommendations

In conclusion, there are a number of clearly identified and prioritised needs in Croatia in this field, directly geared to the fact that there seems to be limited experience in the implementation of certain European conventions related to international co-operation in criminal matters and few trainings, if any, have taken place.

Council of Europe expert assistance was requested to review the recent mutual legal assistance law in detail and identify where further fine-tuning/amendment of it would be required or opportune in order for the law to reflect the true spirit of recent European legal instruments it envisages to implement, as well as to incorporate the latest EU developments or novelties (including e.g. the *acquis* of the mutual legal assistance Protocol of 16 October 2001). Such assistance could be provided through a written expertise and a roundtable involving selected international and national experts. During the roundtable, the issue of declarations and reservations to treaties in the area of international judicial co-operation in criminal matters could also be addressed, as requested by a representative of the Ministry of Justice.

National experts agreed that the most useful activity would be the development of a joint training seminar on international co-operation in criminal matters and related reference training materials,

practically oriented and which would enable the transfer of existing knowledge to relevant actors. The following elements were addressed when discussing and conceptualising the content of the training:

- basic/short/ex cathedra training for relevant judicial personnel for communal level authorities versus advanced/in-depth/interactive training for county court level authorities having a certain experience on the matter;
- joint training by international/CoE experts and local experts;
- not only about the new mutual legal assistance law, but also about mutual legal assistance-relevant provisions in the Code of Criminal Procedure, about international treaty law (including direct applicability and self-executing character of certain provisions) and about bilateral treaties;
- focus on practical knowledge building, preferably by instructing participants how to use model forms and by offering them practical guidelines, manuals and practical checklists;
- preliminary development of such materials and compilation of training materials;
- at least in advanced training sessions: limited attention for legal theory and strong focus on interactive workshops/participants discussions/case-studies;
- preferably joint training of prosecutors, investigating judges and police;
- only partial joint training of the above authorities and judges, the latter's interest essentially being limited to international judicial cooperation aspects related to the execution of sentences (as opposed to investigation-related).

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 Croatia of the Co-operation manual should be updated, with the assistance of experts from Croatian authorities, in order to serve as a useful tool of information for foreign authorities;
- at the same time, national 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 Croatian could be considered, in consultation with relevant authorities.

Further, albeit most likely beyond the scope of possible Council of Europe assistance, it is suggested:

- to promote mutual legal assistance-related legal doctrine;
- to consider the establishment of cooperation agreements between Croatian academia and universities with academic experts/universities abroad (EU), including provision of staff and student mobility (grants);
- direct communication between relevant 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. Croatian authorities should consider promoting and extending trainings in foreign languages in the course of careers of relevant professionals.

### 3 FUTURE ACTIVITIES IN THE FIELD OF INTERNATIONAL CO-OPERATION 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 (ETS 182)**

		<b>Proposed Dates</b>
1.5.1.4	Legislative expert support for the review of the legislation on mutual assistance in criminal matters	December 2005 - January 2006
1.5.1.4 bis	Roundtable to discuss the conclusions of the review	January 2006

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

		<b>Dates</b>
1.5.2.2	Co-operation Manual: Update of the Croatian chapter	November 2005 - February 2006
1.5.2.3	Development of training materials by national and international experts	January - March 2006
1.5.2.4	In-country training events (1-2) with local and international trainers	April - June 2006
1.5.2.5	Finalisation of training materials in Croatian and distribution to relevant institutions	July - August 2006

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**4 APPENDIX - COMPLETED SELF- ASSESSMENT OF TRAINING CURRICULA, MATERIALS AND TRAINING NEEDS IN THE AREA OF INTERNATIONAL CO-OPERATION IN CRIMINAL MATTERS**

	Availability (yes/no)	Specify previous answer is yes)	Priority			Comments
			No	Low	Medium	
Curricula for law schools						
Curricula for training vocational and professional institutions				x		
In-house training on drafting and executing mutual legal assistance requests					x	
Domestic/internal manual for relevant law enforcement, prosecutorial and judicial authorities (with information on requirements, details of procedures for execution of requests)						x
Model checklists for preparing mutual legal assistance requests						x
Model checklists for preparing specific types of requests: a) search and seizure b) production of documents c) taking witness statement and evidence d) temporary transfer of sentenced persons for evidence e) pre-judgment seizure/freezing or post-judgment confiscation f) special investigative techniques						x
Academic publications					x	
Guide for foreign authorities						
Exchanges or Study visits to mutual legal assistance partners				x		
						x