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

Strasbourg, November 2005

**Report on the**

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

**Pristina, Kosovo (Serbia and Montenegro)  
29 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 1.5<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 Pristina, on 29 September 2005

All six participants in the workshop were from the Department of Justice (DOJ) of UNMIK: Ana Myriam Roccatello (Head of the Legal Policy Division), Steven Dietrich (Deputy Head, Legal Policy Division), Anitha Rajaram (International Legal Officer), Sunil Pal (International Legal Officer), Shkelzen Maliqi (Senior Legal Officer), and Adriana Ceta (Senior Legal Officer). The Council of Europe made one expert available, namely Simon Regis (Head, UK Central Authority, Home Office) and was represented by Livia Stoica-Becht (CARPO Deputy Project Manager) and Fitim Vertopi (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 Department of Justice has around 20 members of staff who deal with mutual legal assistance, extradition, policy and legislation - the majority of these staff now being Kosovan. The office has just been restructured to allow all staff to gain experience in all four areas. Training of legal officers within the central authority is perceived to be good and there is a high level of knowledge transfer between more experienced and junior staff (as senior staff work directly with junior legal officers on judicial co-operation cases).

DoJ staff have access to a manual of guidance and an electronic database (which allows for tracking the open cases and searches to be made for previous examples of case guidance that may have more general application). The manual is for internal use only.

One of the main issues raised as regards DoJ personnel is a skills gap in legal and policy drafting. Senior staff at the DoJ felt that they could not devote sufficient time to train junior staff in these areas.

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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>

Moreover, some senior staff themselves believed that they would also benefit from receiving further training in these areas.

## 2.2 Existing activities

The DoJ has organised two seminars for judges and prosecutors, which were poorly attended on both occasions. There is a need to repeat the sessions, but measures should be adopted to ensure compulsory attendance of certain key staff.

It is believed that the total number of judges and prosecutors who would need judicial co-operation training (this is across the 5 District Courts only) are about 80 people, including the Presidents of the relevant courts. Therefore, if properly attended, 2-3 training seminars would need to be organised to cover the relevant personnel.

It was made clear that those who did attend the seminars were extremely interested in the topic, even if it only meant that they had an identifiable contact point who they believed would solve their problem. This itself presents some problems as it is felt that some judges do not exercise sufficient judicial independence in their decision making. The perception is that they are prone to relying too heavily on the knowledge and expertise of DoJ personnel in matters of judicial co-operation and were sometimes recalcitrant in sourcing answers to simple problems, preferring to refer the matter to the DoJ for advice and guidance.

It should be noted that the Kosovo Judicial Institute (KJI) is responsible for judicial training of both judges and prosecutors within the region. However, at times they have organised seminars on mutual legal assistance and extradition without inviting or referring to the DoJ who are handling the cases and remain the policy holders for this type of assistance. However, in the long-term, the KJI is the institution that will have become responsible for the initial, in addition to continuous, training of judges and prosecutors. A better engagement between the DoJ and the KJI is undoubtedly necessary.

## 2.3 Recommendations

The skills gap in relation to legal and policy drafting within the DoJ can be addressed through the organisation of short workshops dealing with those areas based on practical exercises, to introduce and develop the skills. Selected experts from Council of Europe Member States could easily assist and a seminar could be arranged to deal with this specific issue.

It is clear that the DoJ's involvement in organising seminars in the field of international co-operation in criminal matters is an excellent initiative, but it is being hampered by poor attendance. That is a matter that needs to be addressed internally and which to some extent requires liaison with the KJI.

Serious consideration should be given to adapting the DoJ manual of guidance for use by both prosecutors and judges. The manual could be used as a basis for the training seminars and if sent out in advance may allow some delegates to raise issues that have not been covered in the document. The training seminar could also seek to address the over reliance upon the DoJ for advice in judicial co-operation cases, which should have the effect of strengthening judicial independence in decision making.

In addition, the knowledge of the legal, judicial and institutional systems of other European States should be promoted. A Co-operation Manual developed within the Council of Europe 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”.

- a specific chapter for Kosovo could be added which could serve as a useful tool of information for foreign authorities;
- at the same time, local experts 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.

## 2.4 Other issues for consideration

The DoJ expressed a desire to improve and update their Library, and noted that there was a lack of academic publications dealing with international law generally and more specifically for the region. Realistically, it would be more sensible to source publications dealing with international law from a general perspective. The KJI did publish a book entitled “International Criminal Law of Kosovo – Main Methods of International Judicial Co-operation” but the DoJ considers this text unreliable and they remain opposed to advocate its use by Courts and relevant prosecutors for use as a source text.

The idea of having internet based guidance for both domestic and international stakeholders was briefly explored. There are inevitably resource and updating issues associated with this type of publication, but these are issues for the future - a wish list.

The DoJ were very interested in personnel exchanges with regional Central authorities, in particular, Albania, Croatia and “the former Yugoslav Republic of Macedonia”. They indicated that they were willing to host representatives from these and other regional Ministries, even if this exchanges could not be immediately reciprocated.

## 2.5 Conclusion

There are a number of immediate training issues that have been identified and will need to be addressed in the short-term which should lead to an improvement in the knowledge base for both DoJ personnel and the judges and prosecutors dealing with judicial co-operation matters in Kosovo. One of the key matters is also better engagement between the DoJ and KJI which should be addressed as high priority for the future.

### 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)

1.5.1.4	Workshop on policy and legislation drafting on selected aspects of international co-operation in criminal matters (2 sessions)	<p><b>Proposed Dates</b> December 2005 – February 2006</p>
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**ACTIVITY 1.5.2** DEVELOP, TEST AND MAKE AVAILABLE TRAINING MATERIALS FOR FURTHER TRAINING

1.5.2.2	Co-operation Manual: development of a specific chapter	<p><b>Dates</b> November 2005 – February 2006</p>
1.5.2.3	Development of training materials by national and international experts	<p>January - April 2006</p>
1.5.2.4	Local training event (with local and international trainers)	<p>May 2006</p>
1.5.2.5	Finalisation of training materials and distribution to relevant institutions	<p>July - August 2006</p>