



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

Strasbourg, October 2005

Report on the

**Workshop on Strategies for the Ratification and
Implementation of the 2nd Additional Protocol to the
European Convention on Mutual Assistance in Criminal
Matters (CETS 182)
and Assessment of Training Needs**

Sarajevo, Bosnia and Herzegovina (10 August 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

1.1 Purpose of the workshop

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.

The workshop was held in Sarajevo, at the Council of Europe's office, on 10 August 2005.

This activity constituted a follow-up to the regional seminar on "Strategies for the ratification and implementation of the 2nd additional protocol to the European convention on mutual assistance in criminal matters" (Belgrade, Serbia and Montenegro, 24-25 February 2005), to which Bosnia and Herzegovina (hereinafter BiH) was underrepresented.

Hence, the objective of this workshop was twofold:

- a) on one hand, it aimed at providing national experts from BiH who are dealing with mutual legal assistance issues on a regular basis the opportunity to discuss concrete implementation aspects and envisage possible solutions to address obstacles and difficulties in the implementation of the European convention on mutual assistance in criminal matters and its additional protocols in Bosnia and Herzegovina;
- b) on the other hand, it aimed at discussing concrete training needs in this field which would be addressed in the framework of the CARPO project.

Six national experts participated to the workshop from the Ministry of Justice of Bosnia and Herzegovina (3), NBC Interpol (2) and the State Court of Bosnia and Herzegovina (1)². The Council of Europe made three experts available, namely Ms Ana Bucar (Ministry of Justice, Slovenia), Mr Andrej Kmecl (Supreme Court, Slovenia) and Mr Simon Regis (Home Office, Judicial Co-operation Unit, UK). The workshop was moderated by Ms Livia Stoica-Becht, CARPO deputy project manager.

1.2 Programme

09h30	Welcome and introduction to the seminar Ms Livia STOICA BECHT, Deputy Project Manager, Council of Europe
10h00	Session I - Implementation aspects of the European Convention on Mutual Assistance in Criminal Matters and its second additional protocol Mutual assistance in criminal matters: implementation of the European Convention on Mutual Assistance in Criminal Matters in Bosnia and Herzegovina, Mr Nikola SLADOJE (Ministry of Justice) Conclusions of the review of gaps and opportunities in legislation and institutional

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>

² Nikola Sladoje, Assistant Minister, Ministry of Justice of BiH; Jovan Šarac, Advisor, Ministry of Justice of BiH; Nataša Vuković, Adviser to the Minister, Ministry of Justice of BiH; Brane Pečanac, Director, Interpol; Verica Trbić, Interpol; Hilmo Vučetić, Judge, Court of BiH.

- capacities for an effective implementation of the 2nd additional protocol to the European Convention on Mutual Assistance in Criminal Matters
Ms Ana BUCAR, Counsellor to the Minister (Slovenia)
Mr Simon REGIS, Head, Central Authority, Judicial Co-operation Unit (UK),
Coffee break
Questions and discussion with national experts on the review
Discussion in view of the elaboration of country-specific measures for the strengthening of capacities for co-operation in criminal matters, with a focus on the European Convention on Mutual Assistance in Criminal Matters and its additional protocols
- 12h30 *Lunch break*
- 14h00 **Session II - Regional strategy on Tools against Organised and Economic Crime and national implementation plan: focus on capacities for co-operation in criminal matters**
Coffee break
- 15h00 **Session III: Assessment of training needs and implementation of activities in the framework of the CARPO project in the field of international co-operation in criminal matters**
Brief presentation of the work plan of activities 2005-2006 in Bosnia and Herzegovina and at regional level
Presentation of existing training manuals, curricula and programs in the field of international co-operation in criminal matters and the training needs
Representative of the Ministry of Justice
Brainstorming on specific training needs and development of training materials, guidelines, or other relevant materials
Mr Andrej KMECL, District Court Judge (Slovenia)
- 17h30 Final conclusions and end of the workshop

Participants had a very interactive discussion on the basis of the conclusions of the "Review of gaps and opportunities in legislation and institutional capacities for an effective implementation of CETS 030 and its second additional protocol (CETS 182)". This review was carried out prior to the workshop by 2 experts, on the basis of the replies to a questionnaire previously completed by the relevant officials. Participants addressed openly specific issues related to the implementation by Bosnia and Herzegovina of the convention and its additional protocol, as well as the current situation in their country regarding trainings, training curricula and manuals on international judicial co-operation aspects.

The present report endeavours to highlight the main conclusions identified in the course of the workshop, provide an analysis of the current capacities for the implementation of the convention and its additional protocol, as well as training related matters. In conclusion, it outlines the future activities in this field which will be organised within the framework of the CARPO project until September 2006 to address identified needs and issues of concern.

2 REVIEW OF GAPS AND OPPORTUNITIES IN LEGISLATION AND INSTITUTIONAL CAPACITIES FOR AN EFFECTIVE IMPLEMENTATION OF THE SECOND ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS (CETS 182)³

2.1 Introduction and background

1. The 1959 European Convention on Mutual Assistance in Criminal Matters (CETS 030) has recently entered into force in Bosnia and Herzegovina (24/07/2005). At this stage, Bosnia and Herzegovina had made no reservations or declarations to the convention, which as a rule, are normally deposited at signature or ratification.

2. The statutory basis for the procedure for co-operation between competent bodies of the two entities of Bosnia and Herzegovina (Federation of Bosnia and Herzegovina, Republika Srpska) and the Brčko District in criminal matters is regulated in the Law on Legal Assistance and Official Co-operation in Criminal Matters between Federation of Bosnia and Herzegovina, Republika Srpska and the District of Brčko. Mutual legal assistance in criminal matters with competent bodies of foreign countries is regulated in the Chapter XXX of the Criminal Procedure Code of Bosnia and Herzegovina⁴.

3. The Criminal Procedure Code of Bosnia and Herzegovina explicitly states that mutual legal assistance is rendered pursuant to the provisions of this Code unless otherwise provided by the legislation of Bosnia and Herzegovina or an international agreement (principle of subsidiary use of national legislation). Mutual legal assistance can therefore be rendered also on the basis of reciprocity, without an international treaty.

4. The provisions on mutual legal assistance in criminal matters in the Criminal Procedure Code are relatively slim. Authorities granting legal assistance in BiH are the Court of Bosnia and Herzegovina and the Chief Prosecutor of Bosnia and Herzegovina. When the competent Ministry of Bosnia and Herzegovina receives a request of a foreign authority for legal assistance, it is obliged to communicate such request to the Chief Prosecutor, if the legal assistance in question falls under the jurisdiction of the Court of Bosnia and Herzegovina. Direct communication among BiH and foreign authorities is not regulated in the national legislation. The Chief Prosecutor and the Court of Bosnia and Herzegovina decide as to the permissibility of and manner to carry out actions requested by the foreign authority in accordance with their competencies and under the legislation of Bosnia and Herzegovina. Prosecution is mandatory if there is reasonable suspicion that a specific person committed criminal offence that is prosecuted *ex officio*.

5. BiH operates a system of implementing international obligations by way of drafting domestic provisions that become law. However it is clear from the questionnaire responses that BiH will only grant assistance in cases where dual criminality has been satisfied (it is not made clear whether this is narrow interpretation – exact corresponding offence – or the wider interpretation – looking at the alleged conduct). BiH officials confirmed however, that no case was refused on dual criminality grounds over the past 3 years and that in practice dual criminality does not pose a problem. It is not known whether BiH has inserted into its bilateral agreements the dual criminality requirement for assistance to be granted.

6. BiH will normally provide assistance in fiscal matters although they have yet to sign the Additional protocol to the European Convention on Mutual Assistance in Criminal Matters (CETS

³ This review was prepared by Ms Ana Bucar (Slovenia) and Mr Simon Regis (UK) on the basis of information provided by the relevant officials from Bosnia and Herzegovina.

⁴ Official Gazette of Bosnia and Herzegovina, Nos. 3/03, 32/03, 36/03 and 63/04.

099). It appears however that assistance will not be provided for political offence requests where this regulated by a convention or agreement. What is not clear is what would occur in the absence of an agreement with the requesting state? Furthermore, this position will have to be reviewed (if the BiH authorities have not already done so) in the light of the Council of Europe Convention on the Prevention of Terrorism (CETS 196), when they seek to ratify this convention and other applicable UN Conventions in this area.

7. In relation to specialty, the BiH authorities expect that the rule is observed by requesting states. However, what is not clear is whether this is made an express requirement when they are providing evidence to a requesting authority.

8. The BiH authorities confirmed that their bilateral treaty provisions are more flexible than those contained within multilateral conventions and that in the absence of language specifications within a treaty, communications should be in one of the official languages of BiH. No response was given in relation to the secondment of liaison officers or magistrates to or from BiH, although given previous answers about the presence of international agencies in BiH this may not be deemed necessary in the circumstances.

9. Special investigative measures

Special investigative measures that are regulated in the Criminal Procedure Code of Bosnia and Herzegovina are: surveillance and technical recording of telecommunications; access to the computer systems and computerized data processing; surveillance and technical recording of premises; covert following and technical recording of individuals and objects; use of undercover investigators and informants; simulated purchase of certain objects and simulated bribery and supervised transport and delivery of objects of criminal offence.

These measures may be ordered against a person against whom there are grounds for suspicion that (s)he has committed or has along with other persons taken part in committing or is participating in the commission of the following offences: criminal offences against the integrity of Bosnia and Herzegovina; criminal offences against humanity and values protected under international law; criminal offences of terrorism; criminal offences for which, pursuant to the law, a prison sentence of minimum of three years or more may be pronounced. Surveillance and technical recording of telecommunications may also be ordered against persons against whom there are grounds for suspicion that (s)he will deliver to the perpetrator or will receive from the perpetrator of the above mentioned offences information in relation to the offences, or grounds for suspicion that the perpetrator uses a telecommunication device belonging to those persons.

Special investigative measures are ordered by the preliminary proceedings judge in an order upon the properly reasoned motion of the Prosecutor and they are carried out by the police. The motion of the Prosecutor has to contain:

- a) the data on the person against which the measure is to be applied,
- b) the grounds for suspicion, the reasons for its undertaking and other important circumstances necessitating the application of the measures,
- c) the reference to the type of required measure and the method of its implementation and
- d) the extent and duration of the measure.

The order has to contain the same data as those in the Prosecutor's motion as well as ascertainment of the duration of the ordered measure. The duration of measures is also regulated in the Criminal Procedure Code.

Exceptionally, if a written order cannot be received in due time and if delay poses a risk, the execution of a special investigative measure may commence on the basis of a verbal order pronounced by the preliminary proceeding judge. The written order of the Court must be obtained within 24 hours following the issue of the verbal order.

Upon the completion of the application of special investigative measures, all information, data and objects obtained through the application of the measures as well as a report must be submitted by police authorities to the Prosecutor, who is bound to provide the preliminary proceedings judge with a written report on the measures undertaken. On the basis of the submitted report the preliminary proceedings judge evaluates the compliance with his order.

2.2 Specific articles of the 2nd additional protocol (CETS 182)

2.2.1 ART. 1 - SCOPE

10. Bosnian authorities confirmed that they have in their national law a system of administrative proceedings and mutual legal assistance seems to be possible in this context. The Criminal Code of Bosnia and Herzegovina regulates criminal liability of legal persons for offences committed on the territory of BiH as well as for offences committed outside its territory⁵. The law regulates the basis for liability of legal persons, limits of their liability, liability for an attempt and complicity and determines sanctions. Mutual legal assistance therefore can be provided in respect of foreign proceedings against legal persons.

2.2.2 ART. 2 - PRESENCE OF OFFICIALS OF THE REQUESTING PARTY

11. The rules relating to foreign officials operating on the territory of BiH are regulated with agreements between BiH and international armed forces operating on the territory of BiH. The provisions of these agreements are not given in the answers to questionnaire. BiH officials explained that the legislation allowed the presence of foreign officials, however they cannot carry out requested investigative acts themselves. Hence, according to the explanation received, they do not cover also the scope mentioned by Art. 2 of CETS 182.

2.2.3 ART. 3 AND 13 - TEMPORARY TRANSFER OF DETAINED PERSONS

12. Temporary transfer of detained persons is possible on the basis of an agreement and with the consent of the detained person. From the answers to questionnaire, it seems that there are no obstacles for temporary transfer of nationals and there seem to be also no obstacles with regard to status of the person transferred.

2.2.4 ART. 4 - CHANNELS OF COMMUNICATION

13. Direct communication among BiH and foreign authorities is not regulated in the national legislation. Considering that in practice, transmission of requests must take place via the BiH Ministry of Justice, with the exception of Croatia with which they have an agreement to allow direct transmission of requests between the competent authorities, the BiH authorities may wish to review this procedure in line with the provisions contained in Article 4 of CETS 182.

2.2.5 ART. 8 - PROCEDURE

14. From the answers to the questionnaire, it is not possible to conclude whether foreign request for mutual legal assistance can be executed in a specified procedure or under specified formalities, even if unknown to BiH national system.

⁵ Liability of legal persons for criminal offences is provided for in the Chapter XIV of the Criminal Code of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, Nos. 37/03, 54/04 and 61/04).

The provisions for mutual legal assistance in the Criminal Procedure Code of BiH state that international assistance in criminal matters is to be rendered under the provisions of this Code, unless otherwise prescribed by the legislation of BiH or an international agreement. The other provision of this Code which is related to Art. 8 is the one that determines that the Chief Prosecutor and the Court of BiH decide as to the permissibility of and manner to carry out actions requested by the foreign authority in accordance with their competencies and under the legislation of BiH.

Although according to the explanation provided by the BiH officials, in practice, foreign requests could be executed according to the formalities or procedures indicated by the requesting authority, BiH authorities should further consider whether the current situation is fully enabling an effective implementation of Art.8 of CETS 182.

2.2.6 ART. 9 & 10 - HEARING BY VIDEO CONFERENCE AND TELEPHONE CONFERENCE

15. The provisions of national legislation on hearing suspects and witnesses do not seem to regulate hearing via video or telephone conference, as the only provisions relating to the use of modern technical equipment are the ones that provide for recording of testimony on audio-visual equipment. This matter should be addressed further by BiH authorities when considering implementation of CETS 182.

2.2.7 ART. 11 - SPONTANEOUS INFORMATION

16. There seem to be no answer regarding the possibility of spontaneous exchange of information under national law.

2.2.8 ART. 16 - SERVICE BY POST

17. Though the replies to the questionnaire indicated that it is possible to effect service by post to persons on the territory of BiH from abroad and vice versa, the explanation provided by BiH officials was that service by post is meant for service within the territory of BiH. This matter should be addressed further by BiH authorities when considering implementation of CETS 182.

18. Furthermore, considering their recent ratification of CETS 030, urgent request can be sent via Interpol (no reservation was made to the contrary), although they do state that the role of Interpol will be strengthened in the Criminal Procedure Code to give them a wider role in mutual legal assistance over and above the limited role of a channel of transmission in urgent cases. However, it should be noted that procedural documents can be sent directly by post in accordance with Article 16 of CETS 182.

2.2.9 ART. 17 - CROSS-BORDER OBSERVATIONS

19. Covert surveillance is an investigative measure under the national legislation of Bosnia and Herzegovina and therefore can be provided on the basis of mutual legal assistance requests.

20. The BiH authorities were not clear as to whether cross-border observations were explicitly covered in domestic legislation as there are specific conditions for their borders. There is a 10 mile zone around the border area which is fluid and there is a level of cross border activity. From the answers to the questionnaire, it seems that questions related to the use of service weapons, civil and criminal liability of foreign officials and competencies of foreign officials operating on the territory of BiH are determined by agreements between BiH and international armed forces operating on the territory of BiH and in the absence of an agreement, by domestic law. It is to be considered whether this legal basis extends also to the possibility of foreign officials to conduct cross-border observations.

2.2.10 ART. 18 & 19 - CONTROLLED DELIVERY AND COVERT INVESTIGATIONS

21. From the answers to the questionnaire, it is not clear whether provisions in national legislation regulating controlled delivery exist, and in practice very few such cases occurred. It was indicated that the provisions of the bilateral agreement with Croatia seem to give possibility for this form of co-operation, although the text of these provisions was not provided.

22. The special investigative measure of deployment of undercover investigators is regulated in the BiH legislation, and although no special internal regulations or guidelines with a view to regulate management and conduct of undercover agents seem to exist, this measure is obviously possible under mutual legal assistance request from a foreign country. In addition, it is necessary to take into consideration the bilateral agreements between BiH and international armed forces operating on the territory of BiH and possible provisions regulating covert investigations in these agreements.

23. The BiH authorities stated that the provisions of both these articles would be covered by Article 116 of the Criminal Procedure Code and were also contained in other police co-operation agreements. Furthermore article 117 of the Criminal Procedure Code sets out conditions for special investigative techniques which inherently take into account human rights considerations as enshrined in the European Convention on Human Rights.

2.2.11 ART. 20 - JOINT INVESTIGATION TEAMS

24. From the replies to the questionnaire, it is not clear whether provisions in national legislation regulating joint investigation teams exist. National experts referred to the provisions of the bilateral agreement with Croatia that seems to give possibility for this form of co-operation. The BiH authorities confirmed that the provisions of this article are one of the main reasons for seeking ratification of the Protocol.

25. For the implementation of CETS 182, it would probably be useful to determine the competent authorities in BiH that may conclude agreements on joint investigation teams (if not already regulated in national legislation) and consider how the provisions on civil and criminal liability of foreign officials, the use of service weapons and competencies of foreign officials operating on the territory of BiH (that are determined by agreements between BiH and international armed forces operating on the territory of BiH and in the absence of an agreement, by domestic law) impact setting up such teams.

2.2.12 ARTICLES 21 & 22 – CRIMINAL & CIVIL LIABILITY REGARDING OFFICIALS

26. The question of foreign officials operating on the territory of BiH is deemed to be a complex one, due to the fact that there are 'international armed forces' on its territory. In these situations, the use of service weapons, civil and criminal liability and competencies are determined by agreements between BiH and the relevant authority or in the absence of an agreement, these issues are governed by domestic law. There are also relevant provisions in the NATO and Dayton Accords which govern international armed forces. In terms of implementation for CETS 182, this will affect Articles 17-20, although Articles 21-22 have provisions on criminal and civil liability, which BiH will have to implement upon ratification of CETS 182. Whether they decide to overhaul and standardise their 'overseas officials' agreements in line with CETS 182 to provide consistency is a question that the BiH authorities may need to address in the near future.

2.2.13 ARTICLES 23 & 24 - PROTECTION OF WITNESSES & PROVISIONAL MEASURES

27. No responses were given in relation to the protection of witnesses or provisional measures articles in CETS 182. However, the BiH authorities confirmed that witness protection and provisional measures could be applied.

2.3 Responses to the Questionnaire not directly related to provisions of CETS 182

28. It does not appear to be entirely clear to what extent, if any, the BiH authorities have established and/or maintained contact with Europol, Eurojust, the European Judicial Network, OLAF or other bodies. In relation to UNMIK and specifically in the context of negotiating agreements, it is understood that this is perceived to be a complex and difficult area because of the status of UNMIK. It is assumed however, that there is some level of contact between UNMIK and the BiH authorities in this field.

29. The BiH authorities state that in relation to their institutional capacities, one of the main problems is of technical capacity – both in terms of equipment and physical space. They are content with the quality of those working within the relevant areas, but they do admit that the situation may and does vary from one institution to another.

30. There are monitoring mechanisms for cases – both in terms of speed and quality - and urgent cases are distinguished and prioritised as appropriate. However records are kept by hand as opposed to electronically and this is due to the lack of technological facilities and not to unqualified staff.

2.4 Summary and Conclusion

31. To prepare for ratification of CETS 182, there are a number of important issues that will need to be addressed by the relevant BiH authorities. Firstly, there is the issue of dual criminality and the current absence of any declaration or reservation to CETS 030 regarding the limiting of the provision of assistance to cases where this has been established. Secondly, the issue of liabilities (criminal and civil) will have to be addressed in the implementing legislation and this can be dealt with specifically in relation to CETS 182 or more flexibly by applying it to all cases whether or not an agreement, treaty or convention is in place. Finally, issues of direct transmission and spontaneous information exchange will need to be considered in detail when preparing for ratification of CETS 182.

32. As with other participating delegations in the CARPO project, issues of institutional capacity specifically in relation to technological and physical aspects will need to be addressed in the future.

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

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

3.1 State of play

3.1.1 TRAINING

Formal judicial training is performed by the recently established Centres for Training of judges and prosecutors, which operate under the authority of the High Judicial and Prosecutorial Council. The law stipulates at least four days of training per year for every judge in office and programmes for newly appointed judges are foreseen as well. The programmes are designed individually for every year and are mostly based on the recommendations of the Centres itself. Most of the training activities are performed in co-operation with international organisations. Participants were not familiar with the current programmes of the Centre in detail, but were of the opinion that mutual legal assistance was not covered by any of them, or at least not to any appreciable extent.

The law faculties do cover the area, but extremely briefly. This is to be expected and understood, as in the context of general legal education the topic is not usually covered extensively.

3.1.2 REFERENCE MATERIALS

Written materials which could serve as references and/or study materials on international cooperation in criminal matters do exist, but their quality is low as they are mostly outdated and generally not available to the majority of relevant professionals.

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 was considered to be very interesting and potentially useful, however given the fact that it is in English, its use is limited.

3.1.3 CURRENT ACTIVITIES

Currently, the Ministry of Justice tries to address one of the issues described above, namely the lack of reference materials. The Ministry of Justice has developed a project, which is to be implemented until March 2006 and co-funded by USAID, and which aims at elaborating an International legal assistance manual. According to the information provided, its content includes guidelines on mutual legal assistance requests, relevant international and European conventions and agreements, and possible comments on these texts. The drafting of this Manual would involve experts from the Ministry of Justice directly involved in mutual legal assistance and also some foreign experts. The main target audience is the judiciary. The date of publishing and methods of distribution were unknown at the time of the workshop. One seminar will be organised to present the Manual in the course of 2006.

3.1.4 ASSESSMENT

The general level of knowledge regarding mutual legal assistance among the judiciary was assessed as insufficient by all participants. According to the representatives of the Ministry of Justice, the main problem would not concern the knowledge regarding specific legal provisions, but rather on general principles of mutual legal assistance. This assessment was illustrated by the fact that one in five or six requests for mutual legal assistance has to be returned to the requesting court for

correction of some kind. Also the number of requests for general or even basic information, which the Ministry of Justice receives from the courts, is considered to be high.

3.2 Conclusions and recommendations

The discussions revealed that there is a clear need in Bosnia and Herzegovina for initial and further training directly geared to the fact that the European convention on mutual assistance in criminal matters has recently entered into force and that relevant officials (police, judicial and administrative authorities) should be provided basic and specialist training. While basic training would enable officials to acquire the necessary minimum skills to practice mutual assistance, specialist training should be provided to relevant officials which are mostly involved in these issues.

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. BiH 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. In this respect, possible ways to address this gap include:

- The elaboration of a compilation of practical information and “frequently asked questions” which would address the specific questions mostly raised by practitioners regarding mutual legal assistance requests. If this 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 the Department of International Co-operation of the Ministry of Justice of Bosnia and Herzegovina. Suggested responsible institution: Ministry of Justice.
- The initiative of the experts of the Ministry of Justice to develop a Manual has to be welcomed. It could be used as a starting point/introduction to mutual legal assistance as opposed to comprehensive guidelines on the subject. Furthermore its elaboration, publication and distribution to relevant institutions and practitioners should be supported by all means available. Possibilities for further financial and expert support in this respect could be provided through the CARPO project.
- 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”.
 - a) The specific chapter of Bosnia and Herzegovina of the Co-operation manual should be updated, with the assistance of experts from the BiH authorities, in order to serve as a useful tool of information for foreign authorities.
 - b) At the same time, BiH 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 BiH could be considered, in consultation with relevant authorities.

Finally, judicial training or the lack thereof should certainly be considered as one of the bottlenecks on the way to efficient mutual assistance in criminal matters. The necessary infrastructure seems to be in place, there are knowledgeable experts available and some basic activities are already under way. Priority should be given to a short, practically oriented and permanently available training activity – offered through the Centres for Training of Judges and Prosecutors- which would enable the transfer of existing knowledge to the judiciary. This training could be developed by a group of experts involving Council of Europe trainers and experts from the appropriate department of the Ministry of Justice in the framework of the CARPO project.

- As far as its content is concerned, it was considered of use that this training covers general principles of mutual legal assistance and includes practical sessions (concrete cases, common mistakes and questions).
- Suggested lecturers/facilitators would involve experts from the Ministry of Justice and Interpol Office who regularly handle mutual legal assistance requests as well as selected Council of Europe experts.
- The audience should include a limited number of selected professionals who deal with mutual legal assistance 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 co-operation in criminal matters.

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

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

ACTIVITY 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		
1.5.1.4	Legislative expert support in the drafting of legislation on mutual assistance (1-2 days)	Location, Dates December 2005 – February 2006 Sarajevo, exact dates to be determined

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

1.5.2		
1.5.2.2	Co-operation Manual: Update of the chapter of Bosnia and Herzegovina	Dates November 2005 – February 2006
1.5.2.3	In-country workshop to develop a tailored training (1 day)	Sarajevo, February 2006
1.5.2.4	In-country training event by local trainers with expert support (2-3 days)	March - May 2006
1.5.2.5	Production of training materials in local languages and distribution to relevant institutions	July - August 2006