



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

**Strasbourg, 8 November 2005**

**Report on the**

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

**Skopje, “the former Yugoslav Republic of Macedonia”**  
**30 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.

## 2 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 at the Council of Europe's office in Skopje ("the former Yugoslav Republic of Macedonia") on 30 September 2005.

National experts<sup>2</sup> participating in the workshop were from the Ministry of Justice, Department for International Legal Cooperation (3) and the Ministry of Interior, Department for International Police Cooperation, the Interpol NCB (1), the Supreme Court, (1), the Skopje Court of First Instance (1) and the Prosecutorial Unit for Combating Organised Crime and Corruption (2). The Council of Europe made two experts available, namely Andrej Kmecl (Slovenia) and Gert Vermeulen (Belgium) who prepared the major part of this report, and was represented by Darko Angelov, 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.

## 3 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.

### 3.1 State of play

#### 3.1.1 REFERENCE MATERIALS

Except for one book listing all Conventions to which "the former Yugoslav Republic of Macedonia" is a Party and specifying i.e. their status of ratification, publication details and data of entry into force,<sup>3</sup> the overall availability and quality of study and reference materials on international co-operation in criminal matters appears to be 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> Dragan Tumanovski (Judge at the Supreme Court), Vladimir Dzilvidziev (Judge at the Skopje Court of First Instance No. 2), Jovan Ilievski (Head of the Prosecutorial Department for Combating Organized Crime and Corruption; & Deputy Prosecutor for Skopje), Gordana Geskovska (Member of the Prosecutorial Department for Combating Organized Crime and Corruption; & Deputy Prosecutor for Skopje), Zdravka Skalova (Head of Sector for International Legal Cooperation, Ministry of Justice), Lidija Kojceva (Sector for International Legal Cooperation, Ministry of Justice), Biljana Tunteva - Cadikovska, (Senior Officer, Department for International Police Cooperation, Ministry of the Interior) and two additional representatives of the Ministry of Justice.

<sup>3</sup> Dragan Tumanovski, *International Agreements of the Republic of Macedonia*, Skopje, 2003, 2 August 5 - Stip, 289 p.

- full text translations into Macedonian of various international convention texts are, except where published in the Official Gazette, usually lacking;
- translations of texts that have been officially published or are available otherwise after all, were assessed by participants as being of poor to bad quality<sup>4</sup>;
- a proper compilation or source book in the area of international cooperation in criminal matters, containing the full text of the main relevant legal instruments (in Macedonian), their full status of signature and ratification, the declarations and reservations made by parties to them etc, is lacking;
- explanatory comments to the various legal instruments and legal doctrine on the matter are also lacking ;
- there are no circulars, practical guidelines, best practice manuals or model forms;
- a specific English jargon list for mutual legal assistance and related matters is not available;
- 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;
- the overall (high-speed) internet connectivity of judicial authorities is low, which obviously adds to the urgency in making reliable source and reference materials available in off-line format, preferably on paper;
- there is no access to European Judicial Network information.

### 3.1.2 TRAINING COURSES

Training for judges and prosecutors is performed by the Judicial Training Centre, which is still closely connected to the Judges' Association. Although this is a relatively unusual arrangement, it proved to be functional in providing support to some training and limited publishing activities. It was indicated that any further activities should take place within this established framework as well.

A one-off training only on international co-operation in criminal matters was organised and two more repetitions are planned in order to cover the jurisdictions of all three courts of appeals.

In addition, there is a 2-year continued (English) language training for prosecutors, which, however, does not resolve the more general language barrier that will hinder future direct communication in mutual legal assistance.

At academic/university level there is no expertise on international cooperation in criminal matters, nor courses/teaching on the matter or (real) production of scientific literature.

### 3.1.3 ASSESSMENT

The general level of knowledge regarding international co-operation in criminal matters was assessed as insufficient by participants. A series of gaps and needs were identified during the workshop, such as:

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<sup>4</sup> Except e.g. in the area of trafficking in human beings (THB), where - with OSCE support and assistance - proper translations were produced of essential instruments such as the UN Transnational Organized Crime Convention of November 2000 and the Smuggling and Trafficking Protocols thereto, which were also successfully compiled in a THB-related text book.

- raising general awareness on the implementation of selected international conventions ratified by "the former Yugoslav Republic of Macedonia";
- an expert practitioner workshop on the 2<sup>nd</sup> Additional Protocol to the European Convention on mutual assistance in criminal matters (ETS 182) and the possible implementation of direct communication in mutual legal assistance context in particular;
- developing practical information and training relating to co-operation in joint investigation teams (JITs), <sup>5</sup>cross-border surveillance, controlled deliveries and witness protection<sup>6</sup> and organising joint trainings for magistrates of the Prosecutorial Unit for Combating Organised Crime and Corruption and police officials;
- financial support for the purchase of video-conferencing equipment for mutual legal assistance-use in all districts.

It was also pointed out that legislation is required regarding co-operation in criminal matters with the International Criminal Tribunal for the Former Yugoslavia (ICTY).

Expert assistance was requested in developing internal criminal records legislation as well as a practical manual on the matter, reflecting European standards and good practice on the matter. Gert Vermeulen referred in this context to the *Council of Europe's Committee of Ministers' Recommendation R (84)10 on the criminal record and rehabilitation of convicted persons*, which is the main relevant standard-setting Council of Europe instrument on the matter. He also pointed out that it would be unwise to reshape the Macedonian criminal record system without adequately taking into account any future EU requirements on the matter<sup>7</sup>.

In the margin of discussions, attention was raised on problems related to criminal records information, essentially being the misuse of such information, which according to participants must be urgently transferred from the Ministry of the Interior to a central database at either the Ministry of Justice or the Supreme Court. Also, the courts would need to be provided with adequate software and connected to the central database.

### 3.2 Conclusions and recommendations

The discussions revealed that there is a clear need in "the former Yugoslav Republic of Macedonia" for initial and further training directly geared to the fact that there seems to be a limited practical experience on the implementation of the European conventions on international co-operation in criminal matters, few trainings have taken place so far and that relevant officials (police, judicial and administrative authorities) should be provided basic and specialist training.

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<sup>5</sup> G. Vermeulen mentioned a book that he is preparing with a Dutch colleague on practical JIT functioning, based on JIT-related action-research conducted during the Dutch EU Presidency 2004 and the 2005 Luxemburg Presidency, which will normally be published early 2006 with Asser/Cambridge Press.

<sup>6</sup> As for witness protection, G. Vermeulen will, through the intermediary of the CARPO Secretariat, provide a book that his Institute elaborated for the European Commission, in which three new draft EU framework decisions are proposed, respectively on anonymous witnesses, on collaborators with justice and on protection of witnesses, and which will probably form the very basis for EU Commission legal initiative on the matter in the course of 2006.

<sup>7</sup> Through the intermediary of the Carpo Secretariat, Gert Vermeulen will provide a book that his Institute did for the European Commission, as well as the latest EU information on the future dual EU system of centralising criminal records information about EU nationals in the member state of their nationality and creating a new EU central index system for criminal records information available in the criminal record databases of the EU member states on third country nationals.

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. Macedonian 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 development of a paper version/ book of reliable source and reference materials on international cooperation in criminal matters, comprising:
  - official convention texts, including their status of signature and ratification and declarations/reservations to them;
  - high-quality translations of relevant national legislation;
  - translations of the official explanatory reports to them;
  - official (ministerial) guidelines;
  - possibly: a compilation of "frequently asked questions" received by the Ministry of Justice (with answers);
  - model forms/templates for mutual legal assistance and other requests;
  - possibly: at least a short dictionary of the mutual legal assistance specific jargon.

Mr Dragan Tumanovski expressed his willingness to assemble a group of experts in order to prepare the above-mentioned manual. This work, including the publication of the Manual, would be co-ordinated by the Judges' Association, with financial support from the budget of 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".
  - the specific chapter of "the former Yugoslav Republic of Macedonia" of the Co-operation manual should be updated, with the assistance of experts from relevant 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.

Finally, training of the lack thereof should certainly be considered as one of the bottlenecks on the way to efficient co-operation 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:

- the development of a short, practically oriented and permanently available training activity which could be offered through current training institutions and would enable the transfer of existing knowledge to the judiciary on selected aspects of international co-operation in criminal matters;
- the organisation of an in-depth practitioners' workshop on the 2<sup>nd</sup> Additional Protocol to the European Convention on mutual assistance in criminal matters (ETS 182), with specific focus on: implementation of direct communication, joint investigation teams, cross-border

surveillance, cross-border infiltration, controlled deliveries, witness protection, preferably jointly for (investigating) judges, prosecutors and police officials;

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 Macedonian academia and universities with academic experts/universities abroad (EU), including provision of staff and student mobility (grants);
- to deepen bilateral contacts with the EJN and Eurojust.

#### 4 FUTURE ACTIVITIES IN THE FIELD OF INTERNATIONAL CO-OPERATION IN CRIMINAL MATTERS

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

	Dates
1.5.2.2 Co-operation Manual: Update of the country specific chapter	November 2005 – February 2006
1.5.2.3 Development of training materials by national experts	December 2005 - March 2006
Development of <ul style="list-style-type: none"> <li>- a short, practically oriented and permanently available training activity on selected aspects of international co-operation in criminal matters</li> <li>- a concept for an in-depth practitioners' workshop on the 2<sup>nd</sup> Additional Protocol to the European Convention on mutual assistance in criminal matters (ETS 182)</li> </ul>	December 2005 – March 2006
1.5.2.4 In-country training events (1-2) with local and international trainers: <ul style="list-style-type: none"> <li>- training on selected aspects of international co-operation in criminal matters,</li> <li>- organisation of an in-depth practitioners' workshop on the 2<sup>nd</sup> Additional Protocol to the European Convention on mutual assistance in criminal matters (ETS 182).</li> </ul>	April – June 2006
1.5.2.5 Finalisation of training materials and distribution to relevant institutions	July - August 2006