**Lesson 1.4 Mutual Legal Assistance Procedures and Practice (online version)**

|  |  |  |
| --- | --- | --- |
| Lesson 1.4 Mutual Legal Assistance Procedures and Practice (online version) | | Duration: 60 minutes |
| **Resources Required:**   * PC/Laptop loaded with software versions compatible with the prepared materials * Internet access * Access to the online conferencing software/platform * Projector and display screen * Student notepaper and pens | | |
| **Session Aim:**  Session is aimed towards a discussion of the concept of Mutual Legal Assistance (MLA) practice and procedure and extradition; present challenges of the MLA process and how different legal systems can affect the efficiency of the MLA process.  MLA procedure should be complemented also with private entities cooperation procedures since some of the formal aspects of it are coming from the Convention and national laws, e.g. direct ISP cooperation. | | |
| **Objectives:**   * to better understand Mutual Legal Assistance practice and procedures * to learn about challenges of the MLA process and what and how affects the efficiency of it * to learn about cooperation instruments, standards and channels of communication * to understand what different legal requirements are * to learn about existing assessments of MLA and to raise awareness about recommendations how to improve the process * to improve knowledge about existing supporting tools | | |
| **Trainer Guidance**  During the session following topics should be considered:   * International cooperation instruments, standards, and channels of communication, including bilateral, multilateral, and international treaties, with special look towards Budapest Convention * Channels of communication should include direct transmission and transmission between central authorities, diplomatic and Interpol channel, and expedited communications * Mutual Legal Assistance legal requirements and considerations, including form of the request, content, additional information, and application of domestic law * Considerations should include both requesting and requested side issues * Council of Europe assessment of MLA and other provisions, recommendations, and existing support tools * Support tools should be exercised with live Internet connection | | |
| **Lesson Content** | | |
| **Slide Numbers** | **Content** | |
| 1 to 3 | The opening slides are the introduction to the session and include the Agenda and the session objectives together with some refresher subtopics from Introductory training. | |
| 4 - 7 | These slides are explaining mutual legal assistance treaty (MLAT) as an agreement between two or more countries for the purpose of gathering and exchanging information in an effort to enforce public or criminal laws. Basic level for mutual legal assistance is represented by treaties. There is number of different ones starting with bilateral (between two countries), multilateral (between three or more countries) or international (between significant number of countries, possibly inter-continental).  Such treaties have reasons for its empowerment mainly in that general International law principles are not forceable and that countries signing them need more solid ground for criminal cooperation. Advantages and disadvantages are clearly presented in the slide.  International conventions are treaties or agreements between countries. "International convention" is often used interchangeably with terms like "international treaty," "international agreement," "compact," or "contract between states."  Conventions may be of a general or specific nature and between two or multiple states. Conventions between two states are called bilateral treaties; conventions between a small number of states (but more than two) are called plurilateral treaties; conventions between a large number of states are called multilateral treaties. | |
| 8 to 12 | These slides are giving the examples of some of the International treaties like Budapest Convention, Commonwealth Harare Scheme etc.  The criminal law must keep abreast of these technological developments which offer highly sophisticated opportunities for misusing facilities of the cyber-space and causing damage to legitimate interests. Given the cross-border nature of information networks, a concerted international effort is needed to deal with such misuse. Only a binding international instrument can ensure the necessary efficiency in the fight against these new phenomena.  In the framework of such an instrument, in addition to measures of international co-operation, questions of substantive and procedural law, as well as matters that are closely connected with the use of information technology, should be addressed.  These slides are presenting also the scope of the work of the Protocol Drafting Group of the T-CY Committee of the Council of Europe on Second Additional Protocol on Budapest Convention. | |
| 13 to 16 | These slides are presenting channels of communications on the example of 1959 Council of Europe Convention on Mutual Legal Assistance in Criminal Matters and additional protocols, together with Budapest Convention and other relevant sources. | |
| 17 to 24 | These slides cover the legal requirements for mutual legal assistance in criminal matters.  Article 27 of Budapest Convention (Procedures pertaining to mutual assistance requests in the absence of applicable international agreements), paragraphs 2-10, provide a number of rules for providing mutual assistance in the absence of an MLAT or arrangement on the basis of uniform or reciprocal legislation, including establishment of central authorities, imposing of conditions, grounds for and procedures in cases of postponement or refusal, confidentiality of requests, and direct communications. | |
| 26 to 30 | These slides cover the considerations which are presented in the form of questions. Answers depend on country local and international legal framework regarding mutual legal assistance and specific case considerations. They also depend on organization and setup of the competent authorities on the requesting side, both directly involved in the case and on the level of international cooperation.  As a rule of thumb, more specialized and experienced authorities using legal framework adapted to the needs of expedited mutual legal assistance will gain better and faster results. | |
| 31 to 35 | These slides are covering Council of Europe assessment of MLA and other provisions, including recommendations and existing supporting tools.  The Cybercrime Convention Committee (T-CY), at its 8th Plenary Session (5-6 December 2012), therefore, decided to assess in 2013 the efficiency of some of the international cooperation provisions of Chapter III of the Budapest Convention on Cybercrime.  Slides have detailed explanatory notes. | |
| 36 to 47 | These slides are presenting the recommendations of the assessment report.  Recommendations are divided in four groups:   * Recommendations falling primarily under the responsibility of domestic authorities * Recommendations falling primarily under the responsibility of the T-CY * Recommendations falling primarily under the responsibility of Council of Europe capacity building projects * Recommendations that may need to be addressed through an Additional Protocol to the Budapest Convention on Cybercrime   Supporting tools links are presented with active hyperlinks which can be followed by the trainer and delegates if technical requirements are set. | |
| 48 to 50 | The final slides allow the trainer to review the learning objectives with the audience so that they may be sure that they have been achieved. It is also an opportunity for the delegates to raise any issues that may be outstanding or where they have not fully understood the subjects presented.  In addition, the trainer may use the session to check the knowledge learned by asking questions of the participants. This is important as there is no formal assessment for the course. | |
| **Practical Exercises**  No practical exercises are envisaged in this lesson. | | |
| **Assessment/Knowledge Check**  No knowledge check or assessment has been requested for this session. | | |