



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

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## **TEMPLATE TRAINING PROGRAMME ON INTERNATIONAL COOPERATION IN CRIMINAL MATTERS**

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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.

## ***I. Background information***

Within the framework of the CARPO project, a series of workshops to assess training needs in the field of international co-operation in criminal matters were organised in August and September 2005 in all project areas<sup>1</sup>. The conclusions of the reports on these workshops indicated that with few exceptions, training in the field of international cooperation in criminal matters was fragmentary and sporadic at best and non-existent in most of the cases.

At the same time, relevant institution representatives stressed the need to devise adequate training programmes and ensure their implementation, targeting the professionals working in this field. Expertise and technical resources needed for the preparation of such training programmes seemed to be readily available in the project areas and great interest for training was expressed by the participants. One of the main issues raised was the interdisciplinary nature of the matter, which should bring together the experts and the audiences from the police, state administration and the judiciary. Therefore, a good deal of co-ordination would be needed, mostly outside of established bodies or mechanisms. A number of participants thought that a programme or training guidelines could facilitate the co-ordination process. .

The proposed template is aimed at guiding national experts in the preparation of training programmes on international co-operation in criminal matters. The template offered along these lines is by no means meant to be a complete or final solution. To the contrary – it will need to be reviewed by national experts in view of adapting it to the current situation, actual needs, possibilities and preferences.

## ***II. Scope and Purpose***

The template should be useful in a number of different countries, possibly not only those covered by the current project. Therefore, a number of variables have to be taken into account. Some of the countries have already executed training sessions covering parts of the subject, so unnecessary repetition should be avoided as far as possible. Obviously, different internal legislations and different sets of international instruments will have to be covered. Besides that, the availability of literature in native languages and the ability to use literature in foreign languages varies very widely among the countries, as do the profiles and numbers of possible lecturers.

Also the target audience of this type of training has different needs and expectations. This audience consists primarily of three professional groups: the police, the state officials and the judicial functionaries in a broad sense of the word, including also prosecutors. Their needs vary from demand for hands-on experience necessary for everyday work to discussion of relatively theoretical aspects of problems that only occur occasionally (if at all). The common denominator seem to be information on practical aspects of co-operation and co-ordination as well as availability and access to various sources of information. Therefore, the trainings should concentrate upon these topics as much as possible.

As the countries involved in the CARPO project are not members of the EU and because of the practical orientation of the trainings, it seems rational not to include the EU instruments covering international legal assistance in these trainings. An additional reason for this decision is an assumption – based on recent experience – that upon accession, all the relevant aspects of EU law are to be covered in specialised courses, and until then, specific training courses are being organised upon request from national authorities by TAIEX

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<sup>1</sup> The project areas are : Albania, Bosnia and Herzegovina, Croatia, Kosovo, Montenegro, Serbia, and « the former Yugoslav Republic of Macedonia ». Project area specific reports are available at : [www.coe.int/economiccrime](http://www.coe.int/economiccrime)

(Technical Assistance and Information Exchange Instrument of the Institution Building unit, European Commission).

Therefore, the purpose of the seminars based upon the template should be the overview and discussion of the following topics: legal sources of international cooperation in criminal matters, modalities (extradition, transfer of criminal procedure, execution of verdicts by the foreign courts, relocation of convicted persons, requests for certain procedural measures), practical questions related to individual modalities, especially communication with other institutions involved in the procedure and foreign authorities, and the Second additional protocol to the Council of Europe Convention on mutual assistance in criminal matters.

### **III. Concept**

The original concept of the template calls for individual programmes for each target audience, each of them in two levels, adapted to the knowledge of the participants. However, this would mean six programmes, which would be almost identical in the vast majority of topics and methodologies. In addition to that, such individual programmes would be difficult to adapt to the specific needs of individual countries.

Therefore, a modular system is proposed. The idea of this system is that if all the proposed modules were executed with all the proposed contents and in full proposed duration, this should provide all but the most demanding users with a solid basic knowledge of the subject.

On the other hand, if the demands are lesser, this system allows the organisers to mix and match the modules to meet their specific needs and also to tailor them regarding the duration and contents. This way, the core of the training – and also its performers and materials – can remain identical every time, while the details can easily be adapted to the specific audience and its previous knowledge. The result should be greatly simplified organisation, especially in regard of co-ordination among the lecturers and their institutions.

Wherever possible, the descriptions of the modules will be complemented with recommendations for their duration and contents in regard of the specific audiences.

### **IV. Modalities of Execution**

As noted above, we tried to keep the possibilities of application of this template as flexible as possible. However, some recommendations, based mainly on the specifics of the subject could still be useful and are offered below. The main point of these recommendations is that execution of all the proposed modules in their full recommended duration at the same time is possible, but hardly rational. Instead, we propose splitting the matter between two separate courses, basic and advanced.

#### **Basic course**

The basic course is of particular importance where no or little training has been offered so far, as well as a possible element of basic judicial training. As such, it does not necessarily need to be based on any particular ‘needs assessment’ as its basic assumption is that the audience has a poor or no previous knowledge on the subject. The foreseen duration is one day and target audiences are practically all the state employees and functionaries who deal with matters connected with international cooperation in criminal matters.

A very important feature of the basic course should be its sustainability. In practice this could be achieved by the permanent collection of applications and a repeated execution every time the number of applications would reach a predetermined minimum number of participants. Alternatively, the basic course could be offered periodically, perhaps as a part of regular basic training, and be made available to a wider interested public. An important side-effect of such arrangements would be regular meeting of the faculty, at least in principle ameliorating the communication problems outlined above.

### **Advanced course**

The advanced course should in principle be based on a 'needs assessment' and accessible only to those parts of the target audience, which have already participated in any kind of basic training or gained basic knowledge through practice.

It could last 1,5 – 2 days and the execution of *each* of the specific modules should be followed by a specific workshop. Of course, the final composition of the course and its duration would largely depend on the outcome of the needs assessment and specific needs of the different audiences.

### **Assessment of training**

In order to be able to continuously improve the quality of training, any course (basic or advanced) should be followed by an assessment of the programme and the performance of the trainers, to be carried out by the relevant organs responsible for organising such training. Where local evaluation mechanisms are in place, there is no obstacle to use them. However, where no such mechanisms are in use, it is highly recommended to devise appropriate means (basic questionnaires, interviews, etc) in order to monitor the impact of the courses and adapt them accordingly.

## ***V. Modules***

Modules are arranged in the two proposed training sessions below. There is no obstacle though to combine them in any other way, adapting the programme, its contents and duration to specific local needs.

*A = State Officials*

*J = Judicial Functionaries*

*J\* = Prosecutors*

*P = Police*

*Where no specific audience recommendation is given, the module is meant for all the audiences.*

*Duration is given in lessons lasting 45 – 60 minutes.*

## **BASIC TRAINING**

### **1. – Introduction**

Basic terms of international cooperation in criminal matters – Modalities – Differences and similarities – Methods of work – Basics of the Legal Sources

*Possible Lecturers: Judges, Academics*

*Duration: 1*

*Materials: Prepared by the lecturers, excerpts from textbooks if available*

### **2. – Legal Sources**

Domestic legal sources – International instruments by the UN, Council of Europe – Bilateral Agreements – Where to find them – How to read them – Typical contents – Relations Between National and International

*Possible Lecturers: Judges, Academics*

*Duration: 1*

*Materials: Texts of the relevant legal sources, outline prepared by the lecturer*

### **3. – Extradition**

Legal basis – Form and Content of Documents – Major Conditions and Obstacles – Principle of Speciality – Procedure in the Applicant and Applied State – Path of Communication

*Possible Lecturers: Judges, State Officials*

*Duration: J/A-1, P-1*

*Materials: Prepared by the lecturers, Texts of the relevant legal sources*

### **4. – Enforcement of Foreign Sentences and Transfer of Sentenced Persons**

Legal basis – Form and Content of Documents – Major Conditions and Obstacles – Path of Communication

*Possible Lecturers: Judges, State Officials*

*Duration: J/A-1, P-1*

*Materials: Prepared by the lecturers, Texts of the relevant legal sources*

### **5. – Mutual Legal Assistance, Transfer of Criminal Proceedings**

Legal basis – Form and Content of Documents – Major Conditions and Obstacles – Path of Communication

*Possible Lecturers: Judges, State Officials*

*Duration: J/A-1, P-1*

*Materials: Prepared by the lecturers, Texts of the relevant legal sources*

### **6. – Frequently Asked Questions / Frequent Mistakes in Decision-making**

Most of the institutions dealing with MLA keep records of the requests for information by courts or other institutions; a cross-section of the most frequently encountered problems and common solutions could be prepared on the basis of these records. Similarly, most of the courts of the last instance keep records of their decisions and a cross section of the most frequent reasons for overturning or annulment of the court decisions regarding MLA could be prepared.

*Possible Lecturers: Judges, State Officials*

*Duration: J/A-1+1, P-0*

*Materials: Prepared by the lecturers, Texts from the databases*

## **ADVANCED TRAINING**

### **1. – Introduction**

Basic terms of international cooperation in criminal matters – Modalities – Differences and similarities – Methods of work – Basics of the Legal Sources

*Possible Lecturers: Judges, Academics*

*Duration: 1*

*Materials: Prepared by the lecturers, excerpts from textbooks if available*

### **2. – Legal Sources**

Domestic legal sources – International instruments by the UN, Council of Europe – Bilateral Agreements – Where to find them – How to read them – Typical contents – Relations Between National and International

*Possible Lecturers: Judges, Academics*

*Duration: 1*

*Materials: Texts of the relevant legal sources, outline prepared by the lecturer*

### **3. – Extradition**

Legal basis – Form and Content of Documents – Major Conditions and Obstacles – Principle of Speciality – Procedure in the Applicant and Applied State – Path of Communication – Jurisprudence (national/ ECHR caselaw) + workshop

*Possible Lecturers: Judges, State Officials*

*Duration: J/A-2, P-1*

*Materials: Prepared by the lecturers, Texts of the relevant legal sources*

### **4. –Enforcement of Foreign Sentences and Transfer of Sentenced Persons**

Legal basis – Form and Content of Documents – Major Conditions and Obstacles – Path of Communication + workshop

*Possible Lecturers: Judges, State Officials*

*Duration: J/A-2, P-1*

*Materials: Prepared by the lecturers, Texts of the relevant legal sources*

### **5. –Transfer of Criminal Proceedings**

Legal basis – Form and Content of Documents – Major Conditions and Obstacles – Path of Communication + workshop

*Possible Lecturers: Judges, State Officials*

*Duration: J\*/A-2, P-2*

*Materials: Prepared by the lecturers, Texts of the relevant legal sources*

### **6. – Mutual Legal Assistance**

Legal basis – Form and Content of Documents – Major Conditions and Obstacles – Path of Communication - Specifics with regard to Terrorist Offences - Specifics with regard to Organised Crime - Specifics with regard to Cybercrime - + workshop

*Possible Lecturers: Judges, State Officials*

*Duration: J/A-2, P-1*

*Materials: Prepared by the lecturers, Texts of the relevant legal sources*

### **7. - Money-laundering**

Legal basis – Form and Content of Documents – Major Conditions and Obstacles – Path of Communication + workshop

*Possible Lecturers: Prosecutors, State Officials*

*Duration: J/A-2, P-1*

*Materials: Prepared by the lecturers, Texts of the relevant legal sources*

## **8. – Second Additional Protocol to the Council of Europe Convention on Mutual assistance in Criminal Matters**

Joint Investigation Teams – Hot Pursuit - Videoconference - Cross border investigations – Best practices + workshop

*Possible Moderators: State Officials*

*Duration: J\*, P-1*

*Materials: Prepared by the lecturers, Texts of the relevant legal source*

## **9. – Frequently Asked Questions / Frequent Mistakes in Decision-making**

Most of the institutions dealing with MLA keep records of the requests for information by courts or other institutions; a cross-section of the most frequently encountered problems and common solutions could be prepared on the basis of these records. Similarly, most of the courts of the last instance keep records of their decisions and a cross section of the most frequent reasons for overturning or annulment of the court decisions regarding MLA could be prepared.

*Possible Lecturers: Judges, State Officials*

*Duration: 2*

*Materials: Prepared by the lecturers, Texts from the databases*

## **WORKSHOPS**

Work in small groups on a selection of core problems of imaginary or actual cases. Afterwards, a comparison of the outcomes and reasons. Possible alternative: joint workshop with one or more colleagues from a neighbouring country, complemented with short presentations of mutual perception of problems regarding international cooperation in criminal matters

*Possible Moderators: Judges, State Officials*

*Duration: 3-4*

*Materials: Prepared by the lecturers, Texts of the relevant legal sources*

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