Lesson 2.3.2 – Mutual Legal Assistance Requests: practicalities

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| Lesson 2.3.2 - Mutual Legal Assistance Requests: practicalities | | Duration: 90 minutes |
| **Resources Required:**   * PC/Laptop loaded with software versions compatible with the prepared materials * Projector and display screen. * Whiteboard. * Whiteboard pens (at least 2 each of blue, black, red and green). * 2 Flipcharts with adequate paper. * Student notepaper and pens. * If possible, local examples of mutual legal assistance requests (for visualization and/or discussion on good or bad practices) | | |
| **Session Aim:**  The overall purpose of this lesson is to bring basic knowledge of mutual legal assistance principles on a practical level to delegates who may not be familiar with the use of MLA requests. It also aims at sharing practical tips and good practices applicable no matter what country the delegate come from or where they would intend to send an MLA request.  This lesson will explore all steps from the preparation to the drafting of a request, as well as the way a foreign request should be approached in order to allow for its execution.  This lesson should give participants the necessary, basic tools and reflexes before the drafting exercise during which they will be asked to draft a mutual legal assistance in a cybercrime case. | | |
| **Objectives:**  By the end of the lesson, the delegates will be able to:   * Learn or remind themselves of the basic principles of mutual legal assistance applied to cybercrime * Identify good practices in preparing and drafting of a request * Have a constructive view on foreign requests they may receive for execution | | |
| **Trainer Guidance**  This session aims at preparing delegates to the drafting exercise. It may also be used, if needed, as a general course for all delegates. This session will not present legal rules of MLA, which depend on each country, but it will focus on the practical aspects or tips which can help delegates with the drafting with a view of a better execution of MLA requests. Although cybercrime and mutual legal assistance are often related, judges or prosecutors specialized in cybercrime may not always be familiar with MLA rules, and vice versa. This session aims at providing delegates with a practical view of MLA in cybercrime cases, which can be completed by the study of theoretical rules applicable to the specified country (outside of this course). | | |
| **Lesson Content** | | |
| **Slide Numbers** | **Content** | |
| 1 to 3  Mandatory | The first slides set out the agenda and objectives of the session. The objectives for this session are explained to the delegates, these are the things that the delegate should be able to do or understand at the end of the session. These objectives may be used to test the knowledge obtained and to allow the delegates to evaluate the training. | |
| Slides 4 to 7  Mandatory | These slides remind delegates of the general principles of mutual legal assistance, and try to put in perspective general principles and challenges brought about by technology. | |
| Slide 8  Not mandatory | This chart tries to summarize the main differences and challenges between a “traditional crime” and a crime committed in the digital world. | |
| Slide 9  Mandatory | This slide sums up the challenge between sovereignty (principle) and efficiency/speed (very much needed in cybercrime) | |
| Slide 10  Not mandatory | This slide details the challenge set up in slide 9. | |
| Slide 11  Mandatory | Time for questions and exchange with delegates. | |
| Slides 12 to 20  Mandatory  (except slide 19) | These slides deal with the useful steps to go through in order to better prepare a mutual legal assistance request, including the use of articles 29 and 35 of the Budapest convention (24/7 network for expedited preservation requests). | |
| Slides 21 to 52  Mandatory (except slides 23, 24, 26 to 40, 44, 45, 47, 48) | Theses slides explore the different steps to go through during the drafting phase of a request. They include regional examples (non-mandatory slides 23 to 24 regarding the European Investigation Order in the European Union, as well as a model of a model MLA form by the council of Europe (non-mandatory slides 26 to 39), in order for the delegates to visualize an example of request (no universal, mandatory model). This part could be possibly completed with other examples of regional or local initiatives.  The following slides go through the different parts of a request to be drafted, i.e. the legal basis, useful contact information, summary of facts, specific demands (slides 41 to 44). It brings tips in all these sections.  Then, slides 44 and 46 focus on requests sent to the US.  Slides 46 to 49 explore other tips for better drafting. | |
| Slides 53 to 61  Mandatory  (except slides 57, 58) | These slides aim at giving tips on how to consider in practice a foreign request, notwithstanding the applicable legal national rules.  Slides 59 to 61 (blank) should be used to detail some of the specific, national rules regarding the execution of foreign requests. | |
| Slides 62 to 64 | These slides provide for a summary of the objectives which should have been reached at the end of the lesson, and for a time for discussion with and questions from delegates. | |
| **Practical Exercises**  No practical exercises are prepared for this session | | |
| **Assessment/Knowledge Check**  The trainer should check knowledge and understanding by asking relevant questions during each of the session aspects, for instance by raising local examples. | | |