



Council of Europe

Training Seminar for Rapporteurs

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Judicial co-operation under CETS 198

- Articles 17, 18, 19, 23, 25, 28
- International co-operation under the 1990 Convention was an area of criticism
- EU and domestic developments had been substantial
- Need for one unified text in the area

Articles 17 - 19

- Derives from Articles 1-3 of EU MLA protocol of 2001
- Mirrors the domestic provisions at Art 7
- Mandatory provisions, subject to declarations as to how it shall apply in Art 53
- Extends to NBFIs (unlike EU provisions)

Article 23 - obligation to confiscate

- Text identical to 1990 Convention
- Except Art 23.5
- Art 23.5 deals with co-operation in *in rem* forfeiture cases

Article 25 - Asset sharing

- Entirely new provision
- Derives from Article 14 of UNTOC
- Recommendation of PC-S-ML
- EU Instruments now deal also
- Consider what proportion is appropriate

Article 28 - Grounds for refusal

- Follows formula of 1990 Convention, but:
 - Fiscal and political offence exception cannot be invoked for FT offences
 - Co-operation cannot be refused on ground of self laundering
 - Dual criminality is to be satisfied if underlying conduct is criminalised in both jurisdictions