

Czech Republic

Questions 1, 2 and 3.

The practical experience we have could be briefly summed up in the following way.

Judicial co-operation usually works well in the systems where both the central authority and the authority executing the request for legal assistance in criminal matter (or at least the executing authority) are the judicial authorities, i.e. courts or public prosecutors. In these systems, the request for legal assistance in criminal matter is executed or its execution is supervised by lawyers, having practical experience with criminal proceedings (or possibly with judicial co-operation in criminal matters), which helps them understand better the requirements of the requesting authorities resulting from criminal procedure regulation of the requesting state and the urgency of the legal assistance and consider the possibility of meeting the requirements. The problems occur where the central authority is not the judicial one (and has weak competences with regard to the executing authority) and the request is dealt with in criminal proceedings, or where the request for legal assistance is executed by the police without the supervision of the public prosecutor.

Direct contacts between judicial authorities in the framework of judicial co-operation in criminal matters can improve the situation, but they are not a panacea. The precondition for an effective system of direct contacts is that the judicial authorities, who do not have everyday experience with judicial assistance in criminal matters, are given permanent assistance and guidance to be able to receive, anytime they need, the information, how to write the request for legal assistance, where the request is to be sent and further practical information.

Legal assistance is rendered on grounds of a bilateral or multilateral international agreement. The assistance can be, e.g. on grounds of the Convention on assistance in criminal matters rejected where the requested party assumes that fulfilment of the letter of request would prejudice its sovereignty, security, public order or other fundamental interests of the state. The European Convention on legal assistance in criminal matters permits fulfilment of any letter of request for the purposes of a proof or disposition of an item that are to be used as proofs, letters of request of the records or documents.

The following main problems can be mentioned:

- lengthy execution of the requests for legal assistance,
- differences in national legal regulations of particular states,
- different legal instruments and structure of the organs active in criminal proceedings (law enforcement authorities) in particular states,
- difficulties connected with the occasional absence of some central bodies involved in rendering and requesting legal assistance.