

## UNITED KINGDOM

### QUESTIONNAIRE ON WAYS TO IMPROVE INTERNATIONAL CO-OPERATION IN THE CRIMINAL FIELD

*1. Please give examples of criminal cases, without personal data, where public prosecutors in your country have experienced significant difficulties when working with public prosecutors or other judicial bodies in other European countries. In your opinion, what are the reasons of these difficulties (e.g. types of cases which raise special difficulties linked to domestic laws or foreign legislation or procedures, lack of knowledge of the steps to be taken, lack of direct contacts, insufficient knowledge of languages or legal instruments, or problems linked to translation, undue delay, gaps or inappropriate provisions of the relevant European Conventions and bilateral agreements or other texts, etc...).*

In a drugs trafficking conspiracy dealt with by CPS Organised Crime Division (OCD) involving cocaine being smuggled in to the United Kingdom from Spain, difficulties were encountered in obtaining evidence from the Spanish authorities. The letter of request from the Crown Prosecutor conducting the prosecution produced no response for 14 months; indeed it was not even acknowledged until after the completion of the prosecution.

In another operation involving drug trafficking in the English Channel, letters of request were submitted to the competent authorities in Cherbourg, Fecamp and Dieppe. Letters were executed very efficiently in Fecamp and Dieppe. The Letter of Request to Cherbourg was rejected. It was not possible, even with the assistance of the UK Liaison Magistrate in Paris, to determine whether there were any problems with the letter or whether any further information might assist.

These cases illustrate

- the need on occasion for increased awareness of where different types of request might be best addressed.
- the type of difficulty which may sometimes be encountered (notwithstanding the best efforts of a Liaison Magistrate to identify and/or maintain direct liaison with a foreign judicial authority).

In addition to its role as the main prosecuting authority in England and Wales, CPS through its Special Crime Division (SCD) conducts extradition proceedings before the English courts on behalf of foreign judicial authorities and states. One such case involving a European Arrest Warrant for a convicted person failed due to the fact that the prosecutors in the requesting state had not stated in terms that the requested person was unlawfully at large. At the time this was a requirement of UK domestic legislation but not a requirement of the Framework Decision on the European Arrest Warrant. The UK provided guidance to foreign prosecutors as to the correct formula of words required to satisfy English domestic law. This was not followed. The case went to appeal and the court concluded that in the absence of a statement by the requesting state that the relevant was not only at large, but unlawfully at large, the case should fail.

In view of the difficulties of our foreign counterparts in meeting this requirement, the Extradition Act has recently been amended so as to reflect the terms of the framework Decision.

*2. Please give examples of criminal cases, without personal data, where public prosecutors in your country were satisfied with the co-operation with public prosecutors or other judicial bodies in other European countries. In your opinion, what are the reasons for this successful co-operation (e.g. types of cases which can be dealt with without difficulty, national or foreign good*

*practices, practical measures contained in the provisions of the relevant European Conventions and bilateral agreements or other texts, etc...).*

Following the terrorist bombings in London in July 2005, CPS Counter-Terrorism Division (CTD) submitted a European Arrest Warrant to Italy in respect of one of the suspects who had fled there. Excellent co-operation was received from the Italian authorities. Surrender proceedings were completed within approximately a month of the suspect's arrest in Rome. The suspect is currently on trial at the Old Bailey. The work of the UK Liaison Magistrate in Rome both in relation to the specific case and more generally in building relationships with the Italian authorities, was a key factor in determining the speed and effectiveness of the co-operation received.

In a fraud case prosecuted by CPS OCD, excellent co-operation was provided by the French authorities. Co-ordination was facilitated by a senior French officer based in London, who made arrangements for a controlled delivery of stolen goods to an address in Paris. Using information provided by the British authorities, the French police were able to locate the suspect. He was arrested in an internet café as he conducted further fraudulent activities and important evidence was seized. The French authorities acted upon a UK European Arrest Warrant (EAW) and returned the suspect to the UK for prosecution.

In an OCD case involving the importation of Turkish heroin to the UK via Germany, the German authorities have been exceptionally cooperative in their handling of a suspect arrested in Germany after the conviction of those standing trial in the UK. The German authorities contacted us to discuss problems with the EAW and facilitated meetings to discuss the how the case might move forward to a mutually satisfactory outcome. They accepted an urgent letter of request in English and responding to it almost immediately, allowing British officers to travel to Germany to meet and discuss the evidence with their counterparts.

In several operations involving the trafficking of drugs or human beings into the UK, the Dutch authorities have provided assistance in providing surveillance teams to gather evidence on the movements of key suspects in and around Channel ports and/or airports. The willingness of the Dutch authorities to respond quickly to requests, usually transmitted in English via the SOCA liaison officers in The Hague has provided important evidence in several prosecutions.

Direct transmission of Letters of Request has significantly improved the efficiency and effectiveness of Mutual Legal Assistance.

*3. Please give details of any suggestions made by public prosecutors and other judicial bodies in your country concerning the steps which could be taken to improve co-operation between prosecutors in Council of Europe member states, including proposals for an improvement of the relevant European treaties.*

In our experience deployment of liaison magistrates (and other similar enforcement liaison officers) to facilitate liaison between relevant prosecutors and judicial authorities significantly improves judicial co-operation. We suggest that the creation of further such posts in key countries/regions would further enhance the fight against cross-border crime.

In spite of the advances brought about by the 2000 Mutual Legal Assistance Convention, there is still more work to be done in improving the form in which evidence is provided from foreign states. This is best tackled by the continuation of training initiatives both at domestic and international level, to ensure that all prosecutors are familiar with the law and practice of relating to judicial co-operation both in their own jurisdictions and abroad. It is particularly important that awareness of the help available from bodies such as Eurojust and the European Judicial Network is raised and maintained.

In recent years CPS has been involved in 2 programmes in point.

Between 2002 and 2004, it ran a series of seminars for prosecutors throughout England and Wales dealing with

- making extradition and mutual legal assistance requests;
- resolving issues of concurrent jurisdiction;
- joint investigation teams;
- raising awareness the role of Liaison Magistrates, Eurojust and the EJM in facilitating judicial co-operation.

These seminars were also attended by prosecutors from Scotland and Northern Ireland and police officers from a wide range of domestic forces.

In 2004 and 2005, CPS ran a series of seminars for judges and prosecutors in France and Italy, regarding changes to UK extradition law brought about by the Extradition Act 2003. Lectures were given by prosecutors, policy-makers, members of the Bar, the judiciary and police officers. These events were organized in association with the British Embassies in Paris and Rome respectively. The event in Italy was delivered in association with the Consiglio Superiore della Magistratura. Both afforded considerable opportunity to establish and strengthen networks for direct contact and enhanced the role of the Liaison Magistrates in relations between the countries concerned.

CTD representatives recently attended a seminar on co-operation in counter terrorism cases in Istanbul. It was also attended by representatives from Turkey, France and the Netherlands. There was discussion on the domestic legislation and systems of the participant countries. Consideration was given to methods of improving co-operation. In our view the exercise was very useful in promoting mutual understanding and reinforcing networks to support co-operation in terrorist cases.

#### *4. Any other comments.*