

Working Group 'Programmes'

Subgroup Penal European Criminal Justice

Training Guidelines

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Introductory Chapter

In this document, the main fields relevant for judicial training in the area of European criminal justice will be assessed.

To do so, all potential topics have been accumulated and listed under the following six chapters (each of them hereinafter referred to as ‘Chapter’):

- A) General principles of EU law from the European criminal justice angle
- B) Judicial cooperation in criminal matters
- C) European criminal procedure
- D) European criminal law
- E) Police cooperation
- F) Human rights

Each Chapter consists of several sub-chapters (each of them hereinafter referred to as ‘Sub-Chapter’) which should, taken as a whole, present the complete area of relevance for judicial training in European criminal justice.

Within each Sub-Chapter, different topics will be identified (each of them hereinafter referred to as ‘Topic’) and assessed according to the following five main categories (each of them hereinafter referred to as ‘Main Category’):

1. Introduction

For each topic, the main features of the applicable European legal instrument will be briefly presented as well as its relevance for the judiciary and the recommended content of the training programme will be outlined.

2. Instruments and case law

Under this point there will be a list of the relevant legal instruments as well as landmark decisions of the ECJ/CFI and national courts. The key points of the decisions will be explained very briefly.

3. Trainers

For each Topic or Sub-Chapter, the guidelines will draw up a recommended profile for trainers. Trainers can be categorised into six main groups as outlined below. Recommendations of certain categories of trainers do not exclude other categories but serve as a reference to those that are especially important.

A) International experts

Examples of international trainers are representatives of the European Court of Human Rights, the Council of Europe, the OSCE, etc.(This list is not exhaustive).

B) *EU experts*

Examples of European experts are representatives of the EU organs such as the European Court of Justice, the Court of First Instance, the Council, Commission, and European Parliament. Further trainers might be representatives of the appropriate EU-agencies such as Eurojust, the European Judicial Network, Europol, Frontex. European experts should, in particular, be deployed for specialised seminars, workshops, and study visits.

C) *National practitioners*

National experts can be defined as practitioners with a special knowledge of EU criminal justice, its implementation in their home member state, and experience of cross-border cooperation in this regard. Trainers might be representatives of the national ministries of justice and the interior, judges and prosecutors, administrators, representatives of the law enforcement and border guards, and defence lawyers. With this professional background and experience, national experts should in particular be deployed for specialised seminars and workshops.

D) *Scholars*

Academic experts would be university professors and associate professors, researchers, PhD candidates and assistant professors. Scholars would be representative of both national universities as well as 'EU universities' such as the College of Bruges, the European University Institute of Florence, etc. Academic experts should, in particular, be deployed for basic courses and distance learning courses.

E) *Experts from training institutions*

Experts from the national training institutions can be defined as judges, prosecutors, magistrates and trainers working in the national judicial schools who are therefore very familiar with the special requirements in terms of contents, organisation, and pedagogy of judicial training. Experts of training institutions should in particular be deployed for basic seminars and distance learning courses.

F) *Experts from NGOs*

Experts from NGO can be defined as lawyers, researchers, PhD candidates employed national and European NGO's. Examples of EU-NGOs active in the field of European criminal justice are: Statewatch, Fair Trials Abroad, etc. Depending on the topic, experts from NGOs should, in particular be deployed for specialised seminars.

4. Trainees

The potential trainees for each sub-topic are defined and assigned respectively. Trainees can be divided into the following categories:

A) *Senior judges*

This group covers judges that have long-standing experience in the field and are extremely familiar with practical problems and solutions in daily juridical work.

B) *Junior judges*

This group covers young judges just starting their career within the jurisdiction as well as persons that have commenced magistrate's training at a national training institution with the aim of becoming judges or public prosecutors. Having just completed

university, members of this group usually have a very state-of-the art theoretical legal knowledge but very little practical experience. Examples of the latter group are the French ‘auditeurs de justice’.

C) *Senior prosecutors*

This group covers judges with long-standing experience in the field who are extremely familiar with practical problems and solutions in daily juridical work.

D) *Junior prosecutors*

This group covers young judges just starting their career within the jurisdiction as well as persons that have commenced magistrate's training at a national training institution with the aim of becoming judges or public prosecutors. Having just completed university, members of this group usually have a very state-of-the art theoretical legal knowledge but very little practical experience. Examples of the latter group are the French ‘auditeurs de justice’.

E) *Future/trainee judges and prosecutors*

The following persons might fall within the group of future/trainee judges and prosecutors:

- Students at the end of their studies that have very good chances and proven interest in becoming a judge or prosecutor
- Post-graduate students in the relevant fields
- Trainees such as, for instance, the French *auditeurs de justice* or the German *Referendare* that have very good chances and proven interest in becoming a judge or prosecutor.

5. Methodology

A recommendation for the training method is given for each Topic or Sub-Chapter. Training methods can be divided as follows:

A) Training methods

A1) *Training courses*

Training courses are defined as courses that run over several weeks (10-12) where training would take place regularly once a week. Training courses can be combined with *complementary e-learning courses*.

A2) *Basic seminars*

Basic seminars are defined as training events in which the overall structure of the respective field of law is presented. Their optimal length should range between 3-5 days. The objective of these is to introduce participants to the topic and allow them to gain comprehensive understanding of the field. Basic seminars can be combined with *complementary e-learning courses*. In addition, a basic seminar can be *combined with a study visit* to, for instance, a European institution or agency, other judicial schools, etc.

A3) *Specialised seminars*

Specialised seminars can be defined as training events in which a certain topic is presented in depth. The optimal length of such a seminar would be between 2-3 days. The objective of these should be to offer intensive training on a very specific topic. An in-depth training can include practical training methods such as case studies and workshops,

the main training however would consist of presentations of the respective topics. Specialised seminars can be combined with *complementary e-learning courses*.

A4) Workshops

Workshops are defined as events in which the focus is on practical training. The ideal length of a workshop would be 1-2 days. Training methods used in a workshop should range from case studies to moot courts and other role games.

A5) Study visits

Study visits will offer participants the opportunity to obtain a realistic insight into the daily work of European institutions and agencies as well as their national counterparts such as courts, police cooperation centres etc. This experience will lead to a better understanding of the work of these institutions, the role they can play to support practitioners, obstacles that may emerge and can, in this way, further the (mutual) trust in and consequently usage of these institutions. EU institutions and agencies of special significance for the purposes of these guidelines are:

- European Court of Human Rights (ECHR)
- European Court of Justice (ECJ)
- Eurojust
- European Judicial Network (EJN)
- Europol
- International Criminal Court (ICC)

A6) Distance learning courses

Within the framework of so-called e-learning, there are additional possibilities for distance learning courses. These courses can last for between 2 and 4 weeks. Courses can cover the area of basic courses as defined above, as well as provide in-depth courses although the main focus should be on basic courses that offer a very comprehensive overview of European criminal justice. Methods used in these courses can be: explanatory papers to be read, multiple-choice tests, case studies etc. *Furthermore, self-paced or self-directed distance learning could be offered, meaning training sessions that the trainee completes individually, at their own speed and in their own time, such as interactive, internet-based or CD-ROM training.* The distance e-learning programme can be completed by a final session which trainees attend.

B) Complementary e-learning

Basic seminars, specialised seminars and workshops can be backed up and complemented by e-learning programmes.

B1) Within the framework of *basic seminars*, these programmes could consist of introductory papers that the trainee reads beforehand and is then tested by multiple-choice questions.

B2) For *specialised seminars*, the e-learning tool can be used to permit participants to start the course at the same level of knowledge by offering them initial introductory training at home. Again, training can consist of explanatory papers on the topic and multiple-choice questions.

B3) In the framework of *workshops*, the e-learning tool can provide a method to prepare participants in-depth, so that during the workshop, time can be exclusively devoted to the problems of solving actual cases.

C) Priority

In the field of European criminal justice, development is still vast and many new fields are only just becoming relevant at EU level. It is extremely difficult to assess which areas of law will become relevant in which time-frame in addition to existing legislation. Nevertheless, these guidelines will also attempt to classify the level of priority that should be given to the topics listed. However, it should be noted that these levels can quickly become out of date and should only apply for the years 2008-2009. Three different priorities are assigned to each sub-topic:

- C1) *Top priority*
- C2) *Priority*
- C3) *Recommended*

Again, it is essential to emphasise that these assignment of a sub-topic to a category might change considerably depending on the developments of EU criminal justice legislation.

D) Format

Depending on the objective of the course, different training formats may be necessary. Potential formats are:

- D1) *Local*
- D2) *Regional*
- D3) *National*
- D4) *Trans-national*
- D5) *EU-wide*

A training event that is either a basic seminars or a specialised seminars focussing on the national implementation of a European law should preferably be held at *district, regional, or national* level, depending both on whether a nation-wide approach is required as well as on mere practical reasons such as the size of a country and number of trainees.

Especially with regard to criminal justice in the EU, cross-border cooperation is becoming more and more important. Especially workshops, but also basic and specialised seminars that are held at *trans-national level*, can provide immense added value. They further understanding of the problems within and between different EU legal systems, enhance mutual trust and provide a network of contacts.

Chapter A

General EU Law From The European Criminal Justice Angle

I. The European judicial system

1. Introduction

The European Court of Justice plays an important role in the application and interpretation of the Treaties. The limited role of the Court of Justice in relation to European Criminal Law has been gradually abandoned, and although the Court still has a more limited role than in relation to the First Pillar, it is an important player in the development of European criminal law. When speaking of the 'European judicial system' one must bear in mind that the national courts are also part of this system, acting as decentralised European courts applying implementing national instruments.

Training contents

Training in the European judicial system aims at familiarising trainees with the work of the European Court of Justice, understanding the limited role of the ECJ within the area of criminal justice as opposed to under the 'First Pillar' (Community law);

- The basic structure of the judicial system (ECJ, CFI and CST + further potential judicial bodies)
- Remedies and actions in relation to First Pillar matters
- Remedies and actions available in relation to criminal justice (i.e. the Court's powers under Title VI of the EU Treaty, Article 35 TEU)
- The preliminary references proceedings under Title VI.
- The urgent preliminary ruling proceeding (Article 23a ECJ Statute; Article 104 b Rules of Procedure of the Court)
- Changes arising from the Lisbon Treaty

2. Instruments and case law

a. Basic documents

1. Consolidated versions of the Treaty on the European Union and the Treaty Establishing the European Community (consolidated text), (OJ C 321E; 29.12. 2006)
2. Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union
3. Statute of the Court of Justice, consolidated version, March 2008
4. Rules of procedure of the Court of Justice (1 March 2009)

b. Documents relating to the system of preliminary references

1. Council Decision of 20 December 2007 amending the Protocol on the Statute of the Court of Justice (OJ L 24/42; 29.1.2008)
2. Amendments to the Rules of Procedure of the Court of Justice (OJ L24/39; 29.1.2008)

3. Information note by the Court of Justice on references by national courts for preliminary rulings OJ 2005/C 143/01, 11 June 2005
4. Supplement following the implementation of the urgent preliminary ruling procedure applicable to references concerning the area of freedom, security and justice,
5. Jurisdiction of the Court of Justice to give preliminary rulings on police and judicial cooperation in criminal matters, March 2008 (Table of countries that have accepted the Court's jurisdiction under Article 35 TEU)

c. Case-law

1. The need of judicial control and protection by the European Court of Justice
 - Case 294/83 *Parti Ecologiste 'Les Verts' v. European Parliament* [1986] ECR 1339
 - Case C-50/00 P, *Unión de Pequeños Agricultores*, ECJ, ECR 2002, I-6677
 - Case 25/52 *Plaumann* [1963] ECR I
 - Case C-355/04 P *Segi and Others v Council* [2007] ECR I-0000
 - C-402/05 *Kadi v. Council and Commission*, judgment from 3 September 2008

2. On preliminary references

On the admissibility and jurisdiction under Article 35 EC

- Cases C-303/05 *Advocaten Voor de Wereld* [2007] ECR I-3633.
- Case C-103/05 *Pupino* [2005] ECR I-5285

On the admissibility and jurisdiction of preliminary references in general

- Case 244/80 *Foglia v. Novello* [1981] ECR 3045
- Case C-302/04 *Ynos* [2006] ECR I-371
- Joined cases C-297/88 and C-197/89 *Dzodzi* [1990] ECR I-3763

Definition of Court or tribunal and last instance

- Case C-54/96 *Dorsch Consult* [1997] ECR I-4961
- Case C-99/00 *Lyckeskog* [2002] ECR I-4839
- Case C-210/06 *Cartesio*, judgment of 16 December 2008

The obligation to refer matters to the ECJ

- Joined cases 28-30/62 *Da Costa* [1963] ECR 31
- Case 283/81 *C.I.L.F.I.T.* [1982] ECR 3415
- Case 314/85 *Foto-Frost* [1987] ECR 4199
- Case C-495/03 *Intermodal Transports* [2005] ECR I-8151
- Case C-461/03 *Gaston Schul Douane expéditeur* [2005] ECR I-10513

On the urgent preliminary rulings procedure

- Order C-66/08
- C-296/08 PPU *Esteban Goicoecha*, judgment of 12 August 2008
- C-388/08 PPU *Leymann*, judgment of 1 December 2008

3. Trainers

The trainers' profiles recommended for this topic are those of international experts, preferably from the European Court of Justice, scholars and national practitioners with experience of preliminary references.

4. Trainees

This topic can be especially recommended to junior judges and future/trainee judges. Senior judges might however also benefit from the training, especially in view of the developments that have taken place in relation the urgent preliminary ruling procedure and the changes that the Lisbon Treaty will bring in the future.

5. Methodology

A) Training method

Training can be carried out in the form of a basic seminar but it might not be necessary to dedicate a whole seminar to the topic. It could successfully be allocated to part (half a day, or a day) of another training course. One could imagine organising workshops on e.g. how to formulate preliminary questions, and to undertake a study visit to the European Court of Justice in Luxembourg.

B) Complementary e-learning

The basic seminar can be accompanied by complementary e-learning tools.

C) Priority

It is of fundamental importance that judges are familiar with the European judicial system and especially the preliminary rulings procedure, and this training should therefore be a top priority.

D) Format

Training can be carried out in a local, regional or national setting or on an trans-national or EU-wide basis.

II. The effect of European Union law on national systems

1. Introduction

European law primarily is effective in national systems through the national legislator implementing the European Instruments which later are applied by national administrations and courts. The Court of Justice has however developed doctrines to increase further the effectiveness of Community law, such as the principles of supremacy, direct effect obliging judges to directly apply Community law instruments even if these have been incorrectly implemented or not implemented at all by the national legislator. The Court has also developed the doctrine of indirect effect (i.e. that national law must be interpreted, as far as possible, in the light of European law) and the doctrine of State liability, making the member states liable for damages for breaches against Community law rules.

When it comes to criminal law, Articles 34.2 b-c of the EU Treaty, however, expressly state that *Framework Decisions* and *decisions do not have direct effect*. Out of concern for the

sensitive issues dealt with and the wish to retain sovereignty, member states have, by excluding the direct effect of such legal acts, sought to prevent the Court of Justice from extending the doctrine of direct effect and primacy to Third Pillar measures. In 2005, the Court of Justice delivered a seminal judgment, C-105/03 *Pupino*, in which it held that, even though the Treaty excludes that Third Pillar Framework Decisions can have direct effect, these are *not prevented from having indirect effect*.

Training contents

- Basic Community law doctrines of supremacy, direct effect, indirect effect and State liability
- The present difference between the effect of Community law measures and ‘Third Pillar’ measures
- Difference between direct effect and indirect effect (*Pupino*)
- State liability doctrine
- Changes introduced by the EU Reform Treaty (Lisbon Treaty) and the result for the effect of criminal justice instruments - State liability and direct effect also in criminal matters in the future?

2. Instruments and case law

a. Basic Instruments

Consolidated versions of the Treaty on European Union and of the Treaty establishing the European Community (consolidated text), (OJ C 321E; 29.12. 2006), especially excluding direct effect for criminal instruments)

b. Case law

Supremacy

1. Case 106/77 *Simmenthal* [1978] ECR 629
2. Case 6/64 *Costa v. ENEL* [1964] ECR 585

Direct effect

1. Case C-201/02 *Wells* [2004] ECR I-723
2. Case C-91/92 *Faccini Dori v. Recreb s.r.l.* [1994] ECR I-3325
3. Case 41/74 *Van Duyn v. Home Office* [1974] ECR 1337
4. Case 26/62 *Van Gend en Loos* [1963] ECR 1

Indirect effect

1. Case 105/03 *Pupino* [2005] ECR I-5285
2. Case C-397/01 *Pfeiffer* [2004] ECR I-8835
3. Case C-106/89 *Marleasing* [1990] ECR I-4135
4. Case 80/86 *Kolpinghuis Nijmegen* [1987] ECR 3969

State liability

1. Case C-224/01 *Köbler* ECR I-10239
2. Joined cases C-46/93 and C-48/93 *Brasserie du Pêcheur and Factortame* [1996] ECR I-1029
3. Joined cases C-6/90 and C-9/90 *Francovich* [1991] ECR I-5357

3. Trainers

Trainers could be scholars and/or experts from training institutions.

4. Trainees

Training on this issue is fundamental to everyone who applies Community and Union law in his/her work. It should encompass all groups of ‘judicial staff’, i.e. senior judges and senior prosecutors if need be, as well as junior judges and prosecutors, and future/trainee judges and prosecutors. Training of senior staff is particularly necessary in view of the changes brought about by the Lisbon Treaty and the potential direct effect of legal instruments.

5. Methodology

A) Training method

Training can be carried out in the form of training courses, basic seminars and distance learning courses but it might not be necessary to dedicate a whole seminar to the topic. It can successfully be allocated as part (half a day, or a day) of another training course. One could also imagine (especially once the Lisbon Treaty enters into force and criminal matters are subject to the general legislative regime) organising a workshop in which judges/prosecutors can become better acquainted with the doctrines of direct effect and State liability).

B) Complementary e-learning

Preparatory e-learning would be a good complement.

C) Priority

It is important that judges are acquainted with the fundamental doctrines of EU law and this training should therefore be a top priority.

D) Format

Preferably in the national setting in order for judges to be able to understand the effect of Union law and the different doctrines in the practical setting of their own legal system.

Chapter B

Judicial Cooperation in Criminal Matters in the EU

Introduction: From mutual legal assistance to mutual recognition

Traditionally, judicial cooperation in criminal matters has been based on a variety of international legal instruments, which have been characterised by the "request" principle: one sovereign state makes a request to another sovereign state, which then decides whether or not to comply with it. This traditional system, however, has often proved both slow and complex. The idea of introducing a system of mutual recognition of decisions and enforcements of judgments in criminal matters, following the system already used in civil matters, has been discussed in the European Union since 1998. At the Tampere European Council in October 1999 it was decided that the principle of mutual recognition should become the cornerstone of judicial cooperation in both civil and criminal matters within the European Union. In its programme of measures to implement the principle of mutual recognition of decisions in criminal matters, the Commission notes that the principle is founded on notions of equivalence and trust. The programme refers to decisions under criminal law (all rules laying down sanctions or measures to rehabilitate offenders) which are final (i.e. decisions by courts and certain administrative tribunals, the outcome of mediation procedures and agreements between suspects and prosecution services). Some forms of mutual recognition have already been embodied in the instruments of judicial cooperation adopted, before the Maastricht Treaty, in various forums, and subsequently in the European Union framework. Other aspects of mutual recognition have not been addressed in an international context, in particular those concerning pre-trial orders or the taking into account, in producing a court decision, of any foreign criminal judgments, especially in order to assess a person's criminal record and whether he/she is a persistent offender.

The first step in applying the principle of mutual recognition for decisions in criminal matters was made with a Framework Decision on the recognition of orders the freezing of properties and assets. Shortly afterwards, a historical breakthrough was achieved with agreement on the so-called 'European Arrest Warrant' in 2001. **The latest big step made in the field of mutual recognition was the adoption of the Framework Decision regulating the so-called 'European Evidence Warrant' in December 2008.** The main areas in which member states are currently focusing their efforts to gradually achieve mutual recognition of criminal decisions in the European Union include the following:

- taking into account final criminal judgments already delivered by the Courts in another member state
- enforcement of pre-trial orders
- sentencing
- post-sentencing follow-up decisions
- peer evaluation
- See: Programme of measures to implement the principle of mutual recognition of decisions in criminal matters (OJ C 12/10, 15.01.2001)

1. The EU's competence in relation to police and judicial cooperation in criminal matters

1. Introduction

The European Union only has the powers expressly conferred on it and hence does not have any universal competence to legislate on all criminal and police matters. Its competence is limited to the enumerated areas and aims mentioned in Articles 29-34 TEU. Its competence in this relation will however be altered five years after the entry into force of the Treaty of Lisbon (possibly 2014). The legal instruments, the legislative process (such as the power of initiative for member states and not just for the Commission) for legislative measures also differ slightly from the law-making procedure under the First Pillar. Criminal measures can also to a certain extent be enacted under the First Pillar. In such cases, the instrument, potentially, have the same effects as a First Pillar instrument (i.e. direct effect), which is why it is important for judges to know under which legal basis a certain criminal instrument has been adopted.

Training content

- Basic understanding of the EU's competence in relation to criminal and police matters
- Knowledge of the various legal instruments and their differences
- Basic understanding of the legislative procedures relating to police and judicial cooperation in criminal matters

2. Instruments and case law

- a. Treaty of the European Union, Articles 29-34.
- b. Documents on the correct legal basis for adopting criminal instruments

Criminal competence under the first pillar:

Case C-176/03 Commission v. Council [2005] ECR I-07879

Case C- 440/05 Commission v. Council [2007] ECR I-0000

Case C-301/06 Ireland v. Parliament and Council (data retention)

3. Trainers

Trainers for this topic should be scholars or national practitioners (for example from the Ministry of Justice) or experts from training institutions.

4. Trainees

This topic can be especially recommended for junior judges and future/trainee judges.

5. Methodology

A) Training method

The training can be carried out in the form of a basic seminar but it might not be necessary to dedicate a whole seminar to the topic. It can successfully be allocated as part (one lecture) of another training course.

B) Complementary e-learning

The basic seminar can be accompanied by preparatory e-learning tools.

C) Priority

It is recommended that judges and prosecutors have a rudimentary knowledge of this matter.

D) Format

The training can be carried out in a local, regional or national setting.

II. The effect of Third Pillar instruments in national systems

(see also above I.II)

1. Introduction

Apparently the European system of penal law as a closed body of criminal legislation is still a utopia. The efforts of the European Union to approximate national legislation in several fields certainly indicates a certain degree of development towards a European system of penal law. The use of criminal sanctions in a number of First Pillar areas such as the environment or consumer protection arising from recent decisions by the European Court of Justice leads us to the question: how far has the Court in Luxemburg gone in attributing competence in criminal law to the European Union and how far will the Court and the EU go in the future. Experience with the implementation of European criminal law instruments is another field that should be covered. Experience shows that there are different consequences in each member state, because traditions of legislation, interpretation and theoretical development of criminal law are very different. It is very important in this context that criminal law be approximated as well as the efforts of the EU in this field, as exemplified by the *Corpus Juris*.

Training content

Training on European criminal law should also include a methodological introduction (general questions of European criminal law). As pointed out above, the implementation of European instruments relating to criminal law is very different in each member state and this situation needs to be clarified (For example: is the offence punishable in every member state? And is the degree of punishment the same?).

Training should include:

- Community competence for criminal law: positions and comments
- Overview of the methodological background and member state criminal law
- Practices and experience of national implementation of EU Directives and the Framework Decisions on criminal law
- European experience of the interpretation of EU legislation
- Case studies

2. Instruments and case law

a. Basic documents

- [Consolidated versions of the Treaty on European Union and of the Treaty establishing the European Community \(consolidated text\), \(OJ C 321E; 29.12.2006\)](#)
- [Consolidated versions of the Treaty on European Union and the Treaty on the functioning of the European Union \(The Lisbon Treaty\)](#)
- The Implementation of the *Corpus Juris* in the Member States, Delmas-Marty/Vervaele (edic.), 4 volumes, Intersentia, ISBN 90-5095-097-3.

b. Case law

1. Case C-440/05, ship-source pollution, annulment Framework Decision 2005/667/JHA, Judgment of 23 October 2007
2. Cases C-303/05 Advocaten Voor de Wereld [2007] ECR I-3633
3. Case C-103/05 Pupino [2005] ECR I-5285

3. Trainers

Trainers recommended are EU experts, national practitioners, and scholars.

4. Trainees

Training in this field should be addressed to practitioners who have a good understanding of their criminal system and who can exercise their jurisdiction in cases referred to it. Thus training is especially recommended for senior judges and prosecutors.

5. Methodology*A) Training method:*

Training should take the form of specialised seminars and workshops.

B) Complementary e-learning:

Complementary e-learning should be designated as a permanent method to update trainees, as the instruments are numerous and changes to the regulation framework are frequent.

C) Priority: Training should have priority.

D) Format:

Training should take place on a national, trans-national and EU-wide level

III. Multi-annual programmes**Tampere, The Hague, Stockholm programmes**

To draw up policy guidelines and practical objectives for the area of justice and home affairs, with a timetable for their attainment, the European Council established multi-annual programmes of action. The first of these was approved at Tampere in 1999. The European Council approved a programme of action for creating an 'area of freedom, security and justice', covering civil and criminal justice, visas, asylum and immigration, and police and customs cooperation. The 'Tampere programme' was a five-year agenda that came to an end in 2004.

The successor to the Tampere Programme was adopted in November 2004 in The Hague under the Dutch Presidency. The Hague Programme is a five-year programme for closer co-operation in justice and home affairs at EU level from 2005 to 2010. It aims to make Europe an area of freedom, security and justice. Immigration and asylum topped the Hague agenda alongside the prevention of terrorism. EU leaders agreed to use qualified majority decision-making and co-decision in the fields of asylum, immigration and border control issues. Legal

immigration remains subject to unanimity. In the fields of justice and security, the Hague Programme highlights the following key measures:

- police information to be available to all EU countries (threats to the security of another EU state must be communicated immediately);
- address the factors that contribute to fundamentalism and to the involvement of individuals in terrorist activities;
- make greater use of Europol, the EU's police office, and Eurojust, EU's judicial cooperation body;
- ensure greater civil and criminal justice cooperation across borders and the full application of the principle of mutual recognition.

With the Hague Programme coming to an end in 2009, the Portuguese Presidency of the Council set up high level advisory groups – Future Groups – to provide ideas and solutions for the future of EU criminal justice. On the basis of their reports, the European Commission launched a public consultation in September 2008 on defining priorities for the new Stockholm Programme, to be adopted in the second semester of 2009, which will reflect the existing and future problems in the spheres of justice and internal affairs for the years 2010-2014.

However, the adoption of the Stockholm Programme in 2009 will be complicated in the field of criminal justice and police cooperation due to the pending ratification of the Treaty of Lisbon, which has an immediate effect on the legal basis of any future legislation in this area.

Justice Forum

In order to discuss EU justice policies and practice, the Commission set up a multi-disciplinary and collaborative Justice Forum. The Justice Forum aims at providing a permanent mechanism for consulting stakeholders, receiving feedback and reviewing EU justice policies and practice transparently and objectively. The Justice Forum was officially launched on Friday 30 May 2008. The forum convenes practitioners and civil stakeholders, giving them the opportunity to discuss the implementation, evaluation, and consequences of Justice and Home Affairs instruments of the EU together with EU authorities. The forum meets four times per year in Brussels. Subgroups were built to discuss specific issues in a more in-depth manner. The focus of further meetings of the Forum in 2008 was on mutual recognition (July), e-justice (September), and victims (December).

http://ec.europa.eu/justice_home/news/information_dossiers/justice_forum/index_en.htm

Training content

The multi-annual programmes provide for the key topics that the EU will address in the area of justice and home affairs in the respective periods. The programmes serve as guidelines for evolving and forthcoming measures to be expected in this field and therefore, potential topics for training can already be assessed.

Furthermore, the development and content of the programmes serve as important *background knowledge* to better understand the developing area of freedom, security and justice.

2. Instruments and case law

a) The Stockholm Programme

High-Level Advisory Group on the Future of European Justice Policy - Proposed Solutions for the Future EU Justice Programme (11549/08, 7 July 2008)

b) The Hague Programme: Strengthening Freedom, Security and Justice in the European Union (OJ C53/01, 3.3.2005)

1. Communication from the Commission to the Council and the European Parliament: Report on Implementation of the Hague Programme for 2007 (2.7.2008; COM(2008) 373 final)
2. Communication from the Commission to the Council and the European Parliament: Report on the implementation of The Hague programme for 2006 (COM(2007) 373 final; 3.7.2007)
3. Council and Commission Action Plan implementing the Hague Programme on strengthening freedom, security and justice in the European Union (OJ C 198; 12/8/2005)

c) Tampere European Council 15 and 16 October 1999 – Presidency Conclusions

Communication from the Commission to the Council and the European Parliament – Area of Freedom, Security and Justice: Assessment of the Tampere programme and future orientations, (COM(2004) 4002 final; 2.6.2004)

IV. Surrender of persons

IV.1. Extradition

1. Introduction

Extradition in Europe has been primarily shaped by the Council of Europe's Convention on Extradition of 1957 which served as the 'mother convention' for most other European laws on extradition. This European Convention for Extradition provides for extradition between parties of persons wanted for criminal proceedings or for the enforcing of a sentence. The Convention does not apply to political or military offences and any party may refuse to extradite its own citizens to a foreign country. With regard to fiscal offences, extradition may only be granted if the parties have so decided in respect of any such offence or category of offence. The first additional Protocol to the Convention of 1975 excludes war crimes and crimes against humanity from the category of non-extraditable political offences. It also specifies certain cases in which extradition may be refused on the ground that the person charged with the offence has already been tried. The second additional Protocol is designed to facilitate the application of the Convention, in particular to include fiscal offences among the category of extraditable offences. The Protocol also contains additional provisions on judgments in absentia and amnesty.

The EU's Convention on extradition of 1996 supplements the provisions of the 1957 Convention by removing a number of obstacles to extradition between the EU member states (the threshold for extraditable offences has been lowered, extradition may not be refused on grounds that the dual criminality requirement is not met in cases of conspiracy or criminal association with regard to certain offences, no offence may be regarded as a political offence, extradition for fiscal offences is provided, own nationals should be extraditable).

Finally, in 2004, the European Arrest Warrant, valid throughout the European Union, has replaced extradition procedures between EU-Member states (*see below*). Nevertheless, the Council of Europe's as well as the EU's Convention on extradition still play an important role as two important background documents to better understand the EAW and the legislative basis for extradition between non-EU member states.

Training content

Training on extradition should cover the following issues:

1. Definition and historical evolution
2. Extradition limits
 - 2.1. Related to the person
 - 2.1.1. Nationality
 - 2.1.2. Refugees
 - 2.1.3. The non-discrimination rule
 - 2.1.4. Immunities
 - 2.1.5. Humanitarian concerns
 - 2.2. Related to the crime
 - 2.2.1. The double criminality rule
 - 2.2.2. The seriousness of the crime
 - 2.2.3. The nature of the crime
 - 2.2.4. The applied penalty
 - 2.2.4.1. The death penalty
 - 2.2.4.2. Life imprisonment
 - 2.2.4.3. Other cases
 - 2.2.5. The principles of *res judicata* and *ne bis in idem*
 - 2.2.6. Conflicts on jurisdiction
 - 2.3. The reciprocity rule
3. Extradition effects
 - 3.1. Relating to the requested State
 - 3.2. Relating to the requesting State
 - 3.2.1. The speciality rule
 - 3.2.1.1. Definition
 - 3.2.1.2. Exceptions
4. International law
 - 4.1. The European experience – The Council of Europe
 - 4.2. The EU Approach
 - 4.2.1. The Schengen Agreements
 - 4.2.1.1. The SIS
 - 4.2.2. The former EU Conventions on Extradition
 - 4.2.3. The Council of Tampere
 - 4.3. Main bilateral treaties
5. The extradition procedure
 - 5.1. Our country as the requesting State
 - 5.2. Our country as the requested State
 - 5.3. Other actors of the Extradition Procedure
 - 5.3.1. SIS national office
 - 5.3.2. INTERPOL

2. Instruments and case law

Council of Europe

1. Second Additional Protocol to the European Convention on Extradition (Strasbourg, 17.III.1978)
2. Additional Protocol to the European Convention on Extradition (Strasbourg, 15.X.1975)
3. European Convention on Extradition (Paris, 13.XII.1957)

EU

1. Agreement on extradition between the European Union and the United States of America of 25 June 2003 (OJ L 181, 19.7.2003, p. 27–33)
2. Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190/1, 18.07.2002)

3.Trainers

Trainers for the broad subject of extradition should be international experts, EU experts and national practitioners.

4.Trainees

The subject can be recommended for young/trainee judges and prosecutors as well for future/trainee judges and prosecutors.

5. Methodology

A) Training method

The training method used for the general subject of extradition should be basic seminars, possibly combined with workshops.

The subject, together with training on the EAW, is also recommended for training courses and distance learning.

B) Complementary e-learning

Training on this legal instrument can be completed by e-learning.

C) Priority

Training on the topic should have priority.

D) Format

The training format recommended includes national and EU-wide training.

IV.2 European Arrest Warrant (EAW)

1. Introduction

The European Arrest Warrant (EAW) has been designed to replace the current extradition system by requiring each national judicial authority (the executing judicial authority) to recognise, ipso facto, and with a minimum of formalities, requests for the surrender of a person made by the judicial authority of another member state (the issuing judicial authority).

As of 1 July 2004, the Framework Decision has therefore replaced the existing texts, such as:

- The 1957 European Extradition Convention and the 1978 European Convention on the suppression of terrorism as regards extradition
- the agreement of 26 May 1989 between 12 member states on simplifying the transmission of extradition requests
- the 1995 Convention on the simplified extradition procedure
- the 1996 Convention on extradition.

The European Arrest Warrant only applies within the territory of the EU. Relations with third countries are still governed by extradition rules.

The Framework Decision defines the "European Arrest Warrant" as any judicial decision issued by a member state with a view to the arrest or surrender by another member state of a requested person, for the purposes of: conducting a criminal prosecution; executing a custodial sentence; executing a detention order. The warrant applies where a final sentence of imprisonment or a detention order has been imposed for a period of at least four months; for offences punishable by imprisonment or a detention order for a maximum period of at least one year. In June 2008, the Council published a handbook on the practicalities of executing an EAW. Furthermore, several evaluation reports on the practical application of the EAW in the Member States are available.

Training content

Training on the EAW should cover:

1. The main principles of the Council's Framework Decision of June 13th, 2002
2. Scope and fields of application
3. Grounds for refusal
4. The request for guaranties
5. The speciality rule
6. The request for the surrender procedure (issuing an EAW)
7. The execution procedure (executing a foreign EAW)
 1. Case studies
 2. National and ECJ case law (evaluation reports)
 3. Handbook

2. Instruments and case law

a. Basic instrument

- Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, OJ L 190/1, 18.07.2002
- Statements made by certain Member States on the adoption of the Framework Decision

b. Case law

1. C-83/08 Leymann and Pustovarov (Art 27 para 2 EAW FD; scope of the speciality rule)
2. C-296/08 Goicoechea (Art. 31 and 32 EAW FD; relationship between EAW and 1996 Extradition Convention)
3. C-123/08 Wolzenburg (Art. 4 No. 6 of the EAW FD)
4. C-66/08 Szymon Kozlowski (Art. 4 No. 6 of the EAW FD; definition of 'staying' and 'resident')
5. C-303/05 Wereld/Ministerraad, Judgment of the Court of 3 May 2007

6. Czech Constitutional Court, Judgement EAW, 03.05.2006 (<http://www.eurowarrant.net>)
7. Cypriot Constitutional Court, Judgement EAW, 07.11.2005 (Council doc 14281/05)
8. P 1/05 (judgment), Polish Constitutional Court, EAW, 27.04.2005
9. German Federal Constitutional Court, Judgement EAW, BverfG, 2 BvR 2236/04, 18.07.2005
10. Tribunale di Bolzano, Sezione per il riesame, Ordinanza 28 luglio 2005 Nr. 44/05 Reg. Riesami

c) Other

1. Final version of the European handbook on how to issue a European Arrest Warrant (8216/2/08; 24 June 2008)

3. Trainers

Trainers recommended for the EAW are EU exerts and national practitioners.

4. Trainees

The issue of the EAW is especially recommended for senior judges and prosecutors.

5. Methodology

A) Training method

Being the first instrument of mutual recognition in the EU to come into force, the EAW is not only a new phenomenon in the judicial landscape but will also form the pattern for potential further instruments to come, such as, e.g., the European Evidence Warrant. The EAW should be part of basic seminars on European criminal justice and especially on extradition.

Particular attention, however, should be paid to specialised seminars or workshops on the EAW.

B) Complementary e-learning

Training on this legal instrument can be completed by e-learning.

C) Priority

Training on the EAW should be given top priority.

D) Format

The training format recommended includes national, trans-national and EU-wide training.

V. Mutual Legal Assistance

The following Sub-Chapter on mutual legal assistance will deal with the legal instruments that have been set up within the framework of the Council of Europe and continuously completed or even repealed by EU instruments.

To understand the background of many of the EU instruments as well as to complete knowledge of the regulations applicable to mutual legal assistance within the EU, it is important to raise the awareness and legal knowledge of both the Council of Europe and EU instruments.

The first and major instrument for mutual legal assistance in criminal matters at European level was created in 1959 and since then amended twice by two additional protocols. Under this Convention, parties agree to afford each other the widest measure of mutual assistance with a view to gathering evidence, hearing witnesses, experts and prosecuted persons, etc. The Convention sets out rules for the enforcement of letters rogatory by the authorities of a party ('Requested Party') which aim to procure evidence (hearing of witnesses, experts and prosecuted persons, service of writs and records of judicial verdicts) or to communicate the evidence (records or documents) in criminal proceedings undertaken by the judicial authorities of another party ('Requesting Party'). The Convention also specifies the requirements that requests for mutual legal assistance and letters rogatory have to meet (transmitting authorities, languages, grounds for refusal).

The first additional protocol to the Convention completes the convention by withdrawing the possibility to refuse assistance solely on the grounds that the request concerns an offence which the requested party considers a fiscal offence. It extends international cooperation to the service of documents concerning the enforcement of a sentence and similar measures. Thirdly, it adds provisions relating to the exchange of information on judicial records

The second additional protocol of 2001 modernises the provisions of the Convention by extending the range of circumstances under which mutual legal assistance may be requested, facilitating assistance and making it quicker and more flexible. Thus, it parallels the Convention of 29 May 2000 in MLA in Criminal Matters between the member states of the EU and in other provisions follows the Schengen Convention of 14 June 1990

In drawing up the Convention, the Council relied on the Council of Europe's Convention on MLA in Criminal Matters of 1959. The primary aim of the Convention was to develop and modernise the existing provision of mutual assistance by extending the range of circumstances in which assistance may be requested, by facilitating assistance to make it quicker and more effective, and by developing new measures to facilitate and further cross-border investigations. It also introduces new techniques applicable for mutual assistance (video and telephone conferences). It adopts rules on data protection.

The 2001 protocol to the Convention is an integral part of the Convention of 29 May 2000. It provides for supplementary measures such as requests for information on banking transactions to combat crime in general and organised crime in particular.

Due to the complete new quality of cooperation between the member states of the EU on the basis of the principle of mutual recognition, *mutual legal assistance* and *mutual recognition* are *separately presented* in these guidelines.

Training content:

Training on the Council of Europe Convention and its Protocols on mutual legal assistance should include the following fields:

- Rules for the enforcement of letters rogatory
- Service of writs and recording of judicial verdicts
- Appearance of witnesses, experts and prosecuted persons
- Judicial records
- Procedure
- Laying of information in connection with proceedings
- Exchange of information from judicial records

Training on the EU Convention and its Protocol should include the following fields:

- Relationship to other Conventions on mutual assistance and the Schengen Acquis
- Transmission of requests for mutual assistance
- Requests for certain specific forms of mutual assistance (temporary transfer of persons held in custody for purpose of investigation, video and telephone conferences)
- Interception of telecommunications
- Control deliveries
- Infiltration and undercover operations

Training on the 2001 Protocol will explain the special regulations for banking transactions

2. Instruments and case law

a. Council of Europe

1. Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (Strasbourg, 8.XI.2001)
2. Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (Strasbourg, 17.III.1978)
3. European Convention on Mutual Assistance in Criminal Matter (Strasbourg, 20.IV.1959)

b. EU

1. Convention on Mutual Assistance in Criminal Matters between the Member states of the European Union, OJ C 197/3, 12.07.2000
 - a. Explanatory Report on the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member states of the European Union, OJ C 379/7, 29.12.2000
 - b. Protocol to the Convention on Mutual Assistance in Criminal Matters between the Member states of the European Union, OJ C 326/2, 21.11.2001
 - c. Explanatory report on the Protocol to the Convention on Mutual Assistance in Criminal Matters between the Member states of the European Union, OJ C 257/1, 24.10.2002
 - d. Agreement on mutual legal assistance between the European Union and the United States of America, OJ L 181/34, 19.7.2003

3. Trainers

Trainers recommended for the Conventions and their Protocols should be international experts, EU experts, and national practitioners.

4. Trainees

Training on the Conventions can be especially recommended to junior judges and prosecutors, and future/trainee judges and prosecutors.

5. Methodology

A) Training method

The Conventions are the main overall instruments for mutual legal assistance in the EU. Hence, general knowledge of the instruments should be provided. The methods recommended for this area are training courses, basic seminars and distance learning courses.

The individual sub-topics of the Conventions as well as training on the Protocol can be dealt with in specialised seminars and workshops (*see below*).

B) Complementary e-learning

Training on this legal instrument can be completed by e-learning.

C) Priority

Given the functions outlined above, training on the Convention and its Protocol should have top priority.

D) Format

The training format recommended for the Convention includes local, regional, and national training.

V.1. Mutual legal assistance related to evidence gathering

1. Introduction

Obtaining evidence was traditionally done by using various international and EU instruments. The basic framework was provided by the Council of Europe Convention on Mutual Assistance of 1959 and its additional Protocols, and within the EU, supplemented by the Schengen Convention and the EU Convention on Mutual Assistance in Criminal Matters and its Protocol. The drawbacks of the system resulting from these arrangements have been until now a consistently slow and inefficient procedure, a variety of different rules, legal barriers arising from grounds of refusal (see above). In its programme of measures to implement the principle of mutual recognition of decisions in criminal matters, the Commission outlined the following aim: to ensure that evidence is admissible, to prevent its disappearance and to facilitate the enforcement of search and seizure orders so that evidence can be quickly secured in a criminal case. The programme looked to find feasible ways to ensure that the reservations and declarations provided for in Article 5 of the 1959 Convention, supplemented by Articles 51 and 52 of the CISA, and that the grounds for refusal of mutual aid provided for in Article 2 of the 1959 Convention, supplemented by Article 50 CISA are not invoked between EU member states. Furthermore, steps should be taken to draw up an instrument on the recognition of the freezing of evidence. This was implemented by the Framework Decision on the execution of orders freezing property and evidence of 2003. **While under the Framework Decision, the transfer of evidence occurs under mutual assistance procedures, in 2006, the European Commission presented** a proposal to create a European Evidence Warrant which

would apply the principle of mutual recognition to obtaining certain types of evidence for use in criminal proceedings. The proposal focuses on obtaining objects, documents and data that are gained under national procedural law measures such as production orders and search & seizure orders. It also covers information already contained in police or judicial records, such as records of criminal conviction. The proposal does not address initiating the taking of evidence (in whatever manner) from suspects, defendants, witnesses or victims. These issues are addressed in the Commission's Green Paper on procedural safeguards for suspects and defendants in criminal proceedings in the European Union and will need to be the subject of a further proposal.

The Council Framework Decision 2008/978/JHA of 18 December 2008 on the European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters was adopted in December 2008. The EEW is a judicial decision to obtain objects, documents and data for use in criminal proceedings issued by a competent authority in one Member State will be directly recognised and enforced by a competent authority in another Member State. EU-Member States are now required to implement the warrant into national laws by January 2011.

Training content

1. Sources

- 1.1.1. The CE 59 Convention and its Protocols.
- 1.1.2. The added rules of the Schengen Agreements.
- 1.1.3. The EU 2000 Convention
- 1.1.4. Other treaties
- 1.1.5. The national law in international cooperation in criminal matters
- 1.1.6. The procedure in the European Union:
 - The Council's Framework Decision 2003/577/JHA of July 22nd.
 - The Council's Framework Decision 2008/978/JHA of 18 December 2008 on the European evidence warrant

2. Grounds for refusal
3. The formalities of the international demand
4. The possible ways to send a request
5. Services and notices
6. The procedure
7. The legality of evidence obtained abroad
8. Outlook: national implementation concepts of the EEW

2. Instruments and case law

a. Council of Europe

1. Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (Strasbourg, 8.XI.2001)
2. Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (Strasbourg, 17.III.1978)
3. European Convention on Mutual Assistance in Criminal Matter (Strasbourg, 20.IV.1959)

b. EU

4. Council Framework Decision 2008/978/JHA of 18 December 2008 on the European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters (OJ L 350/72; 30.12.2008)
5. Agreement of 19.12.2003 between the EU and Iceland and Norway for the application of the 2000 Convention and its Protocol
6. Council Framework Decision of 22 July 2003 on the execution in the European Union of orders freezing property or evidence (OJ L 196/45; 2.8.2003)
7. Joint Action 98/427/JHA 29.6.98 on good practices on MLA request
8. Green Paper on procedural safeguards for suspects and defendants in criminal proceedings throughout the European Union (COM(2003) 75 final)

3. Trainers

Trainer should be international experts, EU experts, and national practitioners.

4. Trainees

Training on the EEW is recommended for **senior** judges and prosecutors.

5. Methodology

A) Training method

Training on the international legal instruments to obtain evidence should preferably take the shape of specialised seminars and workshops.

B) Complementary e-learning

Complementary e-learning can be used.

C) Priority

Training on the subject should have priority.

D) Format

Training should be offered on a national, trans-national and EU-wide level.

V.2. Mutual legal assistance related to the trace, seizure and confiscation of the assets of crime

1. Introduction

As financial gain remains the main objective of criminal organisations, arrest and conviction alone, without the confiscation of illicit proceeds, are not enough to combat organised crime. At EU level the necessity to set up appropriate mechanisms to improve the identification, freezing, seizure and confiscation of the assets of criminals has been addressed in several legislative instruments. In 2001, Council Framework Decision 2001/500/JHA of 26 June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime was set up to restrict the scope for reservations relating to certain Articles of the CoE Convention on laundering and confiscation of the proceeds from crime. In 2006, the Framework Decision on the recognition of orders freezing property or evidence of 2003 was supplemented by Framework Decision on the application of

the principle of mutual recognition to confiscation orders. In 2007, under the Council Decision concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime, Member States were asked to set up or designate a national Asset Recovery Office, and their cooperation and exchange of information regulated. Furthermore, a Criminal Assets Seizure Centre has been created within Europol with a view to helping the member states during the criminal assets identification phase to locate financial interests outside national boundaries.

Training content:

Legal assistance on the trace and seizure of illegal profits

1. Sources

1.1. The CoE 1990 Convention

1.2. The national law on international cooperation in criminal matters

1.3. The procedure in the European Union:

1.3.1. The Council's Framework Decision 2001/500/JHA

1.3.2. The Council's Framework Decision 2003/577/JHA

1.3.3. The Council's Framework Decision 2006/783/JHA

1.3.4. The Council's Decision 2007/845/JHA

2. Grounds for refusal

3. The formalities of an international demand

4. The possible ways to send a request

5. Services and notices

6. The procedure

2. Instruments and case-law

a. Council of Europe

Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (Strasbourg, 8.XI.1990)

b. EU

1. Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member states in the field of tracing and identification of proceeds from, or other property related to, crime (OJ L 332/103; 18.12.2007)
2. Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders (OJ L 328/59, 24.11.2006)
3. Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence 2.8.2003 (OJ L 196/45, 2.8.2003)
4. Council Framework Decision 2001/500/JHA of 26 June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime (OJ L 182/1, 5.7.2001)

3. Trainers

Potential trainers would be EU experts and national practitioners.

4. Trainees

Training is recommended to senior judges and prosecutors

5. Methodology

A) Training method:

The recommended training method would be specialised seminars and workshops

B) Complementary e-learning: recommended

C) Priority:

Training on these instruments should have priority

D) Format:

Training should take place on a national, trans-national and EU-wide level.

VI. Ne bis in idem, transfer of criminal proceedings and conflicts of jurisdiction

1. Introduction

To facilitate the application of the respective provisions of the European Convention on mutual assistance in criminal matters of 1959, at EU level, it was decided to supplement them by more precise rules concerning the transfer of proceedings in criminal matters. Thus, in 1990, an agreement was set up between the member states of the European Communities on the transfer of proceedings in criminal matters.

The principle of ne bis in idem is particular to criminal law; recognized at both national and international levels, initiating proceedings or reopening a judgment against the same person a second time is barred for the same offence or by courts of the same state. The principle of 'ne bis in idem' is acknowledged in all member states of the EU. However, the international texts establishing this only guarantee this protection within national borders. The principle of ne bis in idem has therefore been included in several international conventions, the most important one being Article 54 of the 1995 Convention on implementing the Schengen Agreement. Article 54 has been the object of several judgments of the European Court of Justice. The principle is further established in Article 50 of the Charter of Fundamental rights. At EU level, in 2005, the Commission launched a Green Paper to start a process of reflection on conflicts of jurisdiction between the courts of the member states in criminal matters in the light of the ne bis in idem principle. To solve conflicts of jurisdiction between national courts, the Commission outlined the possibilities for the creation of a mechanism for allocating cases to an appropriate jurisdiction. In February 2009, the Czech Republic, the Republic of Poland, the Republic of Slovenia, the Slovak Republic and of the Kingdom of Sweden have introduced an initiative for a Council Framework Decision 2009/.../JHA on prevention and settlement of conflicts of jurisdiction in criminal proceedings was adopted. The Framework Decision aims to prevent parallel proceedings where two or more States have jurisdiction for conducting criminal proceedings for the same facts through means of an early exchange of information. In the cases, where the conflict of jurisdiction has already arisen, the proposal puts forward guidelines for settlement of the respective conflict.

Training content

Ne bis in idem and conflicts of jurisdiction

Training should focus on the case law and jurisdiction of the European Court of Justice with regard to the principle of ne bis in idem. Attention should be paid to the development of the proposal for a Framework Decision on prevention and settlement of conflicts of jurisdiction.

Transfer of criminal proceedings

1. International competence of national Courts
2. International delegation of competence
 - 2.1. Conditions
 - 2.2. Procedure
 - 2.3. Effects
3. Conflicts on international jurisdiction.

2. Instruments and case law*a. Council of Europe*

European Convention on the transfer of proceedings in criminal matters (Strasbourg, 15.V.1972)

b. EU

1. Council Initiative of the Czech Republic, the Republic of Poland, the Republic of Slovenia, the Slovak Republic and of the Kingdom of Sweden for a Council Framework Decision 2009/.../JHA on prevention and settlement of conflicts of jurisdiction in criminal proceedings (OJ C 39/2; 18.2.2009)
2. Green Paper on conflicts of jurisdiction and the principle of ne bis in idem in criminal proceedings (COM(2005) 696)
3. Art. 54 Schengen Convention
4. Art. 50 Charta of fundamental rights
5. Initiative of the Hellenic Republic with a view to adopting a Council Framework Decision concerning the application of the 'ne bis in idem' principle (OJ C 100/24; 26.4.2003)
6. Convention between the Member states of the European Communities on Double Jeopardy of 25 May 1987
7. Agreement of 6 November 1990 between the member states of the European Communities on the transfer of proceedings in criminal matters

c. Case law

1. C-491/07, Turansky, Judgement of 22 December 2008
2. Case C-297/07, Bourquain, Judgment of 11 December 2008
3. Case C-367/05, Norma Kraaijenbrink, Judgment of 18 July 2007
4. Case C-288/05, Jürgen Kretzinger, Judgment of 18 July 2007
5. Case C-150/05, Rechtbank 's-Hertogenbosch Judgment of 28 September 2006
6. Case C-467/04, Gasparini, Judgment of 28 September 2006
7. Case C-436/04, van Esbroeck, Judgment of 9 March 2006
8. Case C-469/03, Mario Miraglia, Judgment of 10 March 2005
9. Cases C-187/01 and C-385/01, Gözütok and Brüggge, Judgment of 11 February 2003

3. Trainers

Trainers should be EU experts and scholars.

4. Trainees

Training on the conflicts of jurisdiction is recommended for **senior** judges and prosecutors.

5. Methodology

A) Training method

Training methods recommended are training courses, basic seminars and distance learning courses.

B) Complementary e-learning

Training on this legal instrument can be completed by e-learning.

C) Priority

Training is recommended

D) Format

The training format recommended **national and EU-wide** training.

VII. Enforcement of foreign criminal sentences

1. Introduction

Mutual legal assistance with regard to executing sanctions that have been issued by another state has been an important issue of Council of Europe legislation since the 1970s.

In the EU, the development of the principle of mutual recognition in criminal matters opened the way to many initiatives and instruments regarding several aspects of this issue. **By today, mutual recognition instruments have been discussed and introduced for all phases of a trial:**

Instruments with regard to sanctions already into force are a Framework Decision on the application of the principle of mutual recognition to confiscation orders of 2006 and to financial penalties of 2005.

In the pre-trial phase, the introduction of a ‘European Supervision Order’ has been proposed in 2006. The proposal has been discussed and re-drafted several times since then and political agreement has been achieved in November 2008. The order lays down rules according to which one Member State recognises a decision on supervision measures issued in another Member State as an alternative to provisional detention. Compared to the similar FD applicable to probation measures (FD 2008/947/JHA), this FD creates a regime where the issuing authority remains to a larger extent in control of the measure. However, surrender of the person concerned to the issuing State in case of breach of those measures will require the issuing of an EAW and the executing authority will be able to use all grounds for non recognition provided for in the FD on the EAW to refuse the surrender

The most recent development for the trial phase is the adoption of the Framework Decision on taking account of convictions in the Member States of the European Union in the course of new criminal proceedings of August 2008. This Framework decision determines the conditions under which, in the course of criminal proceedings in a Member State against a

person, previous convictions handed down against the same person for different facts in other Member States, are taken into account. Member States are asked to implement the Framework Decision by August 2010.

Two major novelties for the post-trial phase have been achieved by the adoption of two Framework Decisions:

The Framework Decision on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions lays down rules according to which a Member State, other than the Member State in which the person concerned has been sentenced, recognises judgments and, where applicable, probation decisions and supervises probation measures. Member States are asked to implement the Framework Decision by November 2011.

The other main field in this area is the transfer of sentenced persons. In 1983, the Council of Europe Convention on the transfer of sentenced persons provided for the transfer of sentenced persons while the first EU instrument, the 1991 Convention on the enforcement of foreign criminal sentences of 1991, only provided for the transfer of the enforcement of custodial and pecuniary penalties. The latest EU instrument that has been adopted in November 2008 on this topic is a Framework Decision on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union. One of the major novelties of this Framework Decision is the possibility to impose the transfer without the agreement of the person concerned.

Training content

Training on the legislative instruments with regard to sanctions should currently distinguish between the instruments in force and those being adopted but not yet implemented.

Training on mutual recognition of confiscation orders and financial penalties would focus on the scope, content, pros and cons of the Framework Decisions, problems with their implementation, national differences and case law.

Training on the adopted mutual recognition instruments from the pre-trial to post-trial phase would, at this point of time, focus more on discussions and debates on their added value, expected obstacles and problems arising within the individual national legal systems, improvements to be expected, impact on fundamental rights and the rights of the defence.

As - depending on the case - the instruments to enforce foreign sentences may also involve the application of the European Arrest Warrant and the Framework Decision 2009/299/JHA (judgements in absentia), training on these instruments should be included..

1. Admissibility
2. International request formalities
3. Procedure
4. The special case of transfer of sentenced persons
 - 4.1. Concept
 - 4.2. Conditions
 - 4.3. Sources
 - 4.3.1. 1983 COE Convention
 - 4.3.2. The Additional Protocol
 - 4.3.3. The Agreement between UE member States
 - 4.3.4. The Schengen Agreements
 - 4.3.5. The national Law

- 4.4. Transfer to foreign countries
 - 4.4.1. Conditions
 - 4.4.2. Procedure
 - 4.4.4. Effects
- 4.5. Transfer to own country
 - 4.5.1. Conditions
 - 4.5.2. Procedure
 - 4.5.3. Effects

2. Instruments and case law

a. General Council of Europe

1. Convention on the execution of Foreign Criminal Sentences of 28.5.1970
2. Convention on the international validity of criminal judgments (The Hague, 28.V.1970)

b. General EU

Convention between the Member states of the European Communities on the enforcement of foreign criminal sentences of 13.11.1991

c. Transfer of prisoners

1. Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union (OJ L 327/27; 5.12.2008)
2. EU Agreement on the application of the convention of transfer of sentenced persons of 25.05.1987
3. Additional Protocol of 18.12.1997 to the European Convention on transfer of sentenced persons Council of Europe's Convention on the transfer of sentenced persons of 21.3.1983

d. Others

1. Council Framework Decision 2008/675/JHA of 24 July 2008 on taking account of convictions in the Member States of the European Union in the course of new criminal proceedings (OJ L 2220/32; 15.08.2008)
2. Framework Decision 2008/947/JHA on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions (OJ L 337/102; 16.12.2008)
3. Initiative of the Federal Republic of Germany and of the French Republic with a view to adopting a Council Framework Decision (2007/.../JHA) of ... on the recognition and supervision of suspended sentences, alternative sanctions and conditional sentences (OJ C147/01; 30.06.2007)

4. Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders (OJ L 328/59, 24.11.2006)
5. Proposal for a Council Framework Decision on the European supervision order in pre-trial procedures between Member states of the European Union (29.8.2006; COM(2006) 468 final)
6. Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties (OJ L 76/16; 22.3.2005)
7. Green paper on the approximation, mutual recognition and enforcement of criminal sanctions in the European Union (presented by the Commission), (30.04.2004, COM (2004) 334 final)

Draft Framework Decision on confiscation of crime-related proceeds, instrumentalities and property, Council of the European Union, Brussels, 23 January 2003, 5299/03

3.Trainers

Trainers recommended are international experts, EU experts, national practitioners, scholars and experts of NGOs.

4.Trainees

Concerning the several legislative instruments on mutual recognition and enforcement of criminal sanctions in the EU that are currently being discussed, trainees should have a high level of experience in the fields to be able to contribute to the debate. Thus, training on this topic is mainly recommended for senior judges and prosecutors.

5.Methodology

A) Training method

Training should take the shape of specialised seminars and workshops.

B) Complementary e-learning

With regard to the proposed instruments, complementary e-learning is not recommended.

C) Priority

Training on the existing Framework Decisions should have priority, training on the proposals is recommended.

D) Format

Training on the existing Framework Decisions can take place at a national, trans-national and EU-wide level.

Training (discussions and debate) on the proposals should take place EU-wide.

VIII. Exchanging criminal records

1. Introduction

The current system of storage and exchange of criminal records of offences committed by their nationals is under critical scrutiny in a number of member states. In June 2006, Germany, France, Spain, Belgium, the Czech Republic and Luxembourg presented their common project on networking of national criminal registers providing for a secure electronic connection of their systems of national criminal records. At EU level, in 2005, the Council adopted a Decision on the exchange of information extracted from criminal records. The proposal of 2005 defines and extends the obligation of the convicting member states to transmit notice of convictions to the member state of nationality of the sentenced person; it also lays down the framework for a computerised conviction information exchange system. There is also a manual for procedure available which is intended to be a factual document to assist practitioners in making requests for information extracted from the criminal record of another Member State.

Additionally, in February 2009, the Council has adopted a Framework Decision on the organisation and content of the exchange of information extracted from the criminal record between Member States which aims at improving the exchange of information on criminal convictions handed down against nationals of the Members States. The Framework Decision lays the ground rules for the mandatory transmission of information on convictions to the country of the person's nationality as well as for the storage of such information by that country and for the retransmission, upon request, to other Member States. Furthermore, the legal basis for a European Criminal records Information System (ECRIS) has been established. This information system will allow automated exchange of data between central criminal records and creates an obligation for Member States to use correlation tables (offences and sanctions) to transmit information on convictions. The information system will not allow direct access to the criminal records but will speed up the transmission of requests and replies.

Training content

- Joint network
- Shortcomings of exchanging criminal records under the European Convention on Mutual Assistance in criminal Matters
- Scope, content, limitation of The Council Decision on the Exchange of Information Extracted from Criminal Records. Information on the manual of procedure.
- Scope, content, limitation of the Proposal for a Framework Decision on the Organisation and Content of the Exchange of Information Extracted from Criminal Record
- Functioning of the ECRIS
- Data protection issues

2. Instruments and case law

1. [Council Decision 2009/316/JHA of 6 April 2009 on the establishment of the European Criminal Records Information System \(ECRIS\) in application of Article 11 of Framework Decision 2009/315/JHA \(OJ L 93, 7 April 2009, p. 33\)](#)

2. Council Framework Decision 2009/315/JHA of 26 February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States (OJ L 93/23; 07.04.2009)
3. Council Decision on the exchange of information extracted from criminal records – Manual of Procedure (5459/09; 16.01.2009)
1. Proposal for a Council Decision on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2008/XX/JHA (Brussels, 27.5.2008; COM(2008) 332 final)
2. Council Decision on the exchange of information extracted from criminal records – Manual of Procedure (15 January 2007; 6397/5/06 REV 5)
3. Council Decision 2005/876/JHA of 21 November 2005 on the exchange of information extracted from the criminal record (OJ L 322/33, 9.12.2005)

3. Trainers

Trainers recommended for the exchange of criminal records are EU experts and national practitioners.

4. Trainees

Given the in-depth knowledge and practical experience needed for this specialised topic, trainees should primarily be senior judges.

5. Methodology

A) Training method

Given the very in-depth knowledge that is needed for this topic, the recommended training method should be a specialised seminar and/or workshop.

B) Complementary e-learning

E-learning can complete training on this legal instrument.

C) Priority

With regard to the increasing cross-border cooperation in this regard, training on exchanging criminal records should be a priority.

D) Format

The training format recommended includes national and EU-wide training.

IX. Institution and agencies

IX.1 European Judicial Network (EJN)

1. Introduction

On the basis of the 1997 Action Plan to combat organised crime the Council adopted a Joint Action on the creation of a European Judicial Network. Inaugurated on 25 September 1998 by the Austrian Minister of Justice, the EJN was the first practical structured mechanism of judicial co-operation in the EU to become truly operational.

The EJN gained particular significance in the context of the proclamation of the principle of direct contacts between competent judicial authorities. The EJN is composed of contact points of the member states, as well as of the European Commission.

National contact points are designated by each member state among central authorities in charge of international judicial cooperation, judicial authorities and other competent authorities with specific responsibilities in the field of international judicial cooperation, both in general and for certain forms of serious crime, such as organised crime, corruption, drug trafficking or terrorism.

Contact points have the task of facilitating judicial cooperation between member states, particularly in order to combat different forms of serious crime.

Other functions are: to provide the legal and practical information necessary for local authorities to prepare an effective request for judicial cooperation, as well as coordinating functions in cases where a series of requests from local judicial authorities in a member state needs coordinated action in another member state.

In December 2008, the Joint Action was replaced by Council Decision 2008/976/JHA which is more detailed than the Joint Action but mainly confirms the current functioning of the EJN. It also clarifies the relationship with Eurojust.

Training content

Training on the EJN should cover the following topics:

- How the EJN can better facilitate judicial cooperation between member states;
- How the EJN can provide legal and practical information necessary for the local authorities to prepare an effective request for judicial cooperation;
- Coordinating functions in cases where a series of requests from local judicial authorities in a member state needs coordinated action in another member state;
- Use of the EJN 'Compendium', a tool that allows all the local judicial authorities to execute a complete letter of request;
- Information tools about videoconferencing and secure telecommunication networks.

2. Instruments and case law

- a. [Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network \(OJ L 348, 24 December 2008, p. 130\)](#)
- b. [Joint Action on the Creation of a European Judicial Network \(OJ L 191/4, 07.07.1998\)](#)

3. Trainers

Trainers for this topic should be EU experts, national practitioners and experts of training institutions.

4. Trainees

This topic can be especially recommended for junior judges and prosecutors as well as future/trainee judges and prosecutors.

5. Methodology

A) Training method

The ideal training method is a combination of basic seminars and workshops. The basic seminar will explain the role and competences of the EJM while during the working groups participants might have practical exercises on the use of the EJM compendium.

B) Complementary e-learning

Training can be completed by e-learning.

C) Priority

With regard to the role and powers of the EJM, training and working groups on the subject for judges and prosecutors should be a priority.

D) Format

The training format recommended includes local, regional and national training as well as study visits.

IX.2 Liaison Magistrates

1. Introduction

In the light of the differences between member states' legal and judicial systems, in 1996 the Council adopted an act to increase the speed and effectiveness of judicial cooperation and at the same time facilitate better mutual understanding between systems.

The Joint Action established a framework for the posting or the exchange of magistrates or officials with special expertise in judicial cooperation procedures, referred to as 'liaison magistrates', between member states, on the basis of bilateral or multilateral arrangements.

The tasks of liaison magistrates normally include activities designed to encourage and accelerate all forms of judicial cooperation in criminal and, where appropriate, civil matters, in particular by establishing direct links with the relevant departments and judicial authorities in the host state. Under arrangements agreed between the home member state and the host member state, liaison magistrates' tasks may also include any activity connected with handling the exchange of information and statistics designed to promote mutual understanding of the legal systems and legal data bases of the states concerned and to further relations between the legal professions in each of those states.

Training content

Training contents should cover:

- Role and powers of the liaison magistrates
- How to best increase the speed and effectiveness of judicial cooperation in criminal matters via liaison magistrates
- Problems of translation and interpretation of legal terms
- Accelerating all forms of judicial cooperation in criminal matters establishing direct links with judicial authorities in the host state: problems and limits

2. Instruments and case law

96/277/JHA: Joint Action of 22 April 1996 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, concerning a framework for the exchange of liaison magistrates to improve judicial cooperation between the Member states of the European Union (OJ L 105/1, 27.04.1996)

3. Trainers

Trainers for this topic should be EU experts, and national practitioners (liaison magistrates).

4. Trainees

This topic can be especially recommended for junior judges and prosecutors, future/trainee judges and prosecutors as well as junior liaison officers.

5. Methodology

A) Training method

The ideal training method would be a combination of basic seminars and workshops. The basic seminar would explain the role and competences of liaison magistrates while during the working groups participants could carry out practical exercises led by liaison magistrates.

B) Complementary e-learning

Training can be completed by e-learning.

C) Priority

With regard to the role and powers of the liaison magistrates, training and working groups on the subject should be a priority.

D) Format

The training format recommended includes national, trans-national and EU-wide training.

IX.3 OLAF

(see in addition: Chapter D - Protection of the financial interests of the Communities)

1. Introduction

OLAF was set up in 1999 with a view to expanding the scope and enhancing the effectiveness of action to combat fraud and other illegal activities detrimental to the Community's interests.

OLAF carries out external administrative investigations as part of the fight against fraud, corruption and any other illegal activity, which adversely affects the Community's financial interests. OLAF also carries out internal administrative investigations. Furthermore OLAF helps in strengthening cooperation with the member states in the field of fraud prevention and develops strategies for the fight against fraud (preparing legislative and regulatory initiatives in the areas of activity of the office, including initiatives relating to instruments covered by Title VI of the TEU).

In the field of European criminal justice, OLAF maintains direct contacts with the police and judicial authorities.

Training content

- Developing and implementing effective investigative techniques: how to improve cooperation between judicial authorities and OLAF
- What are the barriers to effective cooperation between judicial authorities and how can they be overcome? Role and powers of OLAF
- Improving exchange of information and cooperation in the EU: the internal and external investigations conducted by OLAF and links with national authorities
- OLAF examples of networking and good practice in member states

2. Instruments and case law

- a. Practical Agreement on arrangements of cooperation between Eurojust and OLAF (24.09.2008)
- b. Regulation (CE) 1073/1999 of 25 May 1999 concerning investigations conducted by the European Anti-fraud Office (OJ L 136, 31.05.1999)
- c. Regulation (Euratom) 1074/1999 of 25 May 1999 concerning investigations conducted by the European Anti-fraud Office (OJ L 136, 31.05.1999)
- d. Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-fraud Office (OLAF) (OJ L 136, 31.05.1999)
- e. Commission Decision of 28 April 1999 establishing the European Anti-fraud Office (OLAF) (OJ L 136, 31.05.1999)

For further legislation on the protection of the financial interests of the Communities, combating fraud and corruption, see Chapter D ‘European criminal law’

3. Trainers

Trainers recommended for this topic should be EU experts, and national practitioners.

4. Trainees

This topic can be especially recommended for junior judges and prosecutors, and future/trainee judges and prosecutors.

5. Methodology

A) Training method

The ideal training method is a combination of basic seminars and workshops.

A combined training on OLAF, protecting the financial interest of the European Union, counterfeiting of the Euro and corruption could also be a topic for training courses and distance learning courses.

Main topics of the seminar might be:

- a. The system of protecting the financial interests of the EU;

- b. Prevention and enforcement within the EU: improving exchange of information and cooperation in corruption and fraud investigations
- c. Prevention of corruption in the framework of international organisations – best practices in the Commission

The working groups should focus on concrete OLAF fraud and corruption cases and on concrete experiences made by prosecutors in member states.

B) Complementary e-learning

Training can be completed by e-learning.

C) Priority

With regard to the role and powers of OLAF, training and working groups on the subject should be a priority.

D) Format

The training format recommended includes local, regional and national training.

IX.4 Eurojust

1. Introduction

Eurojust is a body of the European Union competent to act in investigations and prosecutions relating to serious crime concerning at least two member states. Its role is to promote coordination between competent authorities in the member states but also to facilitate the implementation of international mutual legal assistance and of extradition requests. Eurojust also has a key role to play in the fight against terrorism.

Each member state must appoint a national member of Eurojust: a prosecutor, judge or police officer (the latter must have competencies equivalent to the judge or the prosecutor). The national member are subject to the national law of the member state which appointed them. Furthermore, each member state determines the length of the term of office as well as the nature of the judicial powers conferred on its national representative.

Regarding investigations and prosecutions (concerning at least two member states) in relation to serious crime, Eurojust has competence for promoting coordination between the competent authorities of the various member states and facilitating the implementation of international mutual legal assistance and of extradition requests.

Eurojust may fulfil its tasks through one or more of the national members or as a College. Eurojust may ask the authorities of the member states concerned, inter alia, to undertake an investigation or prosecution or/and to set up a joint investigation team.

In December 2008, a new Council Decision to strengthen Eurojust has been adopted which shall harmonise and increase the powers of Eurojust's national members, strengthen Eurojust's College and promote cooperation with the European Judicial Network (EJN). The Council Decision includes new powers for Eurojust's national members, the reinforcement of their status, on-call coordination, and increased exchange of information with their national authorities. Eurojust's College will be able to decide on conflicts of jurisdiction and conflicts in the area of application. Finally, Eurojust's relations with partners such as Europol, third states and liaison magistrates are strengthened. A major change with regard to the exchange of

data with Eurojust will be the establishment of a Eurojust National Coordination System (ENCS)

Training content

Training should cover:

- New tasks of Eurojust
- Harmonised competences of its National Members
- New Competences of the College
- The Eurojust National Coordination System (ENCS)
- Jurisdiction of Eurojust
- Cooperation between Eurojust and national authorities: how to work together?
- Strengthening cooperation between Eurojust and national authorities;
- Judicial control of Eurojust's activities
- Using Eurojust to help fight organised crime
- Using Eurojust in cross border cases;
- Developing Eurojust's coordination powers
- Relationships between Eurojust and other EU Institutions (Europol, EJN, OLAF, etc.)
- Concrete case studies (support of Eurojust, double criminality issues, compliance with time limits)
- Future role of Eurojust

2. Instruments and case law

- a. Council Decision on the strengthening of Eurojust and amending Council Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime (5347/09, 20.01.2009)
- b. Practical Agreement on arrangements of cooperation between Eurojust and OLAF (24.09.2008)
- c. Council Decision 2003/659/JHA of 18 June 2003 amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime (OJ 2003 L 245/44; 29.9.2003)
- d. Council Decision of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime, OJ L 063/1, 06.03.2002

3. Trainers

Trainers for this topic should be EU experts, and national practitioners.

4. Trainees

Due to the reforms within Eurojust, this topic can currently be recommended for all, senior and junior judges and prosecutors, and future/trainee judges and prosecutors.

5. Methodology

A) Training method

The ideal training method is a combination of basic seminars and workshops as well as study visits.

The workshop discussion should focus on concrete case studies, preferably using former cases that have been dealt with by Eurojust, double criminality issues, compliance with time limits, etc.

B) Complementary e-learning

Training can be completed by e-learning.

C) Priority

With regard to the role and powers of Eurojust, training and working groups on the subject should be a priority.

D) Format

The training format recommended includes local, regional and national training.

IX.5 European Police Office (Europol)

1. Introduction

The objective of Europol is to improve police cooperation between the EU-member states to combat terrorism, unlawful drug trafficking and other serious forms of international organised crime. Europol takes action when one or two EU-member states are affected by serious international crime.

Europol has legal personality and its objective is to improve the effectiveness of, and cooperation between, the competent authorities in the member states in preventing and combating serious international crime.

Europol does not have executive powers. It cannot detain individuals nor can it conduct home searches. Its task is to facilitate the exchange of information, analyse it and coordinate operations involving several member states.

As part of police cooperation between the member states, Europol facilitates the exchange of information between them, it collates and analyses information and intelligence, it aids investigations, it maintains a computerised system of information collected, it helps to train members of the competent authorities and it facilitates technical assistance between member states.

After several years of discussion, in April 2009, Europol's new legal basis has been adopted and Europol will become an EU agency from 2010 onwards. The Europol Convention has been replaced by a Council Decision. Although differences to the Convention are fairly limited, it is hoped that further reforms for Europol will be less cumbersome and more quickly achieved. Additionally, the European Parliament will be involved. Differences include an extension of the competence of Europol (abolition of the requirement of the existence of a criminal organisation involved in the case concerned). Furthermore, Europol will be funded by the EU and not by Member States as in the Europol Convention.

Training content

- Role and tasks of Europol
- Cooperation between Europol and national authorities: how to work together?

- Strengthening cooperation between Europol and national authorities
- Judicial control of Europol's activities
- Using Europol to help fight organised crime
- Using Europol in cross border cases
- Relationships between Europol and other EU Institutions (Eurojust, EJM, OLAF, etc.)
- Participation of Europol in Joint Investigation Teams
- Europol information systems
- Concrete case studies
- The future of Europol: role and powers

2. Instruments and case law

Council Decision establishing the European Police Office (Europol) (8706/08; 24 June 2008)

Europol Convention – consolidated version, working document:

(http://www.europol.europa.eu/legal/Europol_Convention_Consolidated_version.pdf)

- a. The Convention based on Article K.3 of the Treaty on European Union, on the establishment of a European Police Office (Europol Convention) (Official Journal C 316, 27/11/1995 P. 0002 – 0032)
- b. The Council Decision of 3 December 1998 supplementing the definition of the form of crime 'traffic in human beings' of the Convention on the establishment of a European Police Office (Europol Convention) (Official Journal C 26, 30/01/1999 P. 0021)
- c. The Protocol drawn up on the basis of Article 43(1) of the Convention on the establishment of a European Police Office (Europol Convention) amending that Convention – (the 'Money Laundering Protocol') (Official Journal C 358, 13/12/2000 P. 0002 – 0007)
- d. The Protocol amending the Convention on the establishment of a European Police Office (Europol Convention) and the Protocol on the privileges and immunities of Europol, the members of its organs, the deputy directors and the employees of Europol – (the 'JIT Protocol') (Official Journal C 312, 16/12/2002 P. 0002 – 0007)
- e. The Protocol drawn up on the basis of Article 43(1) of the Convention on the Establishment of a European Police Office (Europol Convention), amending that Convention – (the 'Danish Protocol') (Official Journal C 002, 06/01/2004 P. 0003 – 0012)

3. Trainers

Trainers for this topic should be EU experts, and national practitioners.

4. Trainees

This topic can be especially recommended for junior judges and prosecutors, and future/trainee judges and prosecutors.

5. Methodology

A) Training method

Training methods are basic seminars as well as study visits.

The seminar should give a comprehensive overview of the role and tasks as well as the reforms that are envisaged for Europol. Role and powers of police officers, judges and prosecutors should be analysed in this context.

B) Complementary e-learning

Training can be completed by e-learning.

C) Priority

Given the role and powers of Europol, training and working groups on the subject should be a priority.

D) Format

The training format recommended includes local, regional and national training.

IX.6 European Public Prosecutor

1. Introduction

According to Article 69 E of the Lisbon Treaty “in order to combat crimes affecting the financial interests of the Union, the Council, by means of regulations adopted in accordance with a special legislative procedure, may establish a European Public Prosecutor's Office from Eurojust. The Council shall act unanimously after obtaining the consent of the European Parliament”.

The European Public Prosecutor's Office shall be responsible for investigating, prosecuting and bringing to judgment, where appropriate in liaison with Europol, the perpetrators of, and accomplices in, offences against the Union's financial interests. It shall exercise the functions of prosecutor in the competent courts of the member states.

Training content

Training at this point in time would focus on policy debates on the pros and cons of such an Office:

- General institutional questions related to the establishment of the EPP
- The scope of competence of the EPP
- Cooperation between the EPP and national authorities: how to deal with mixed cases?
- Diversity of national rules on evidence – is the mutual admissibility of evidence feasible?
- Cooperation with other competent EU organs
- The EPP in the context of the reform of the European institutions

2. Instruments and case law

- a. Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007 (OJ C 306/01; 17.12.2007)
- b. Follow-up Report on the Green Paper on the criminal-law protection of the financial interests of the Community and the establishment of a European Prosecutor (COM(2003) 128 final)

c. Green Paper on criminal-law protection of the financial interests of the Community and the establishment of a European Prosecutor (COM (2001) 715 final; 11.12.2001)

3. Trainers

Trainers for this topic should be EU experts, national practitioners and scholars.

4. Trainees

Policy debates on this topic can be especially recommended for senior judges and prosecutors.

5. Methodology

A) Training method

Specialised seminars in the form of policy debates.

B) Complementary e-learning

At this point in time, e-learning is not recommended.

C) Priority

Considering that the office so far is only under discussion, information on the state of play only is recommended.

D) Format

The training format recommended includes national and EU-wide training.

Chapter C

European Criminal Procedure

I. Procedural rights

1. Introduction

With a view to facilitating application of the principle of mutual recognition, in 2003 the Commission issued a Green Paper in which it examined whether it was appropriate and necessary to introduce in EU member states common minimum standards for procedural safeguards for persons suspected or accused of, and prosecuted or sentenced for, criminal offences. In its Green Paper, the Commission came to the conclusion that, at this stage, priority should be given to the following fundamental rights: the right to legal assistance and representation; the right to an interpreter or translator; the right of vulnerable groups to proper protection; the right of nationals of other member states and of third countries to consular assistance; and the right to information about rights. In 2004, the Hague Programme reaffirmed the mutual recognition principle and called for measures to secure and strengthen it, including the establishment of minimum safeguards for persons facing criminal investigation. The Commission's proposal for a Framework Decision on certain procedural rights in criminal proceedings throughout the EU of 2004 is to be understood in this context. The European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), with which all EU member states comply, serves as the starting point for the regulations contained in the Framework Decision. The Framework Decision was to adopt certain fundamental judicial rights from the ECHR. Furthermore, it was to accord rights not provided for in the ECHR, for example to persons in respect of whom a European arrest warrant has been issued. Since a Framework Decision must be agreed to by all EU member states, the contents and scope of the minimum standards was to be reflected in the national legal systems, thereby enhancing compliance with these standards by criminal prosecution authorities and courts. Furthermore, the Court of Justice of the European Communities (ECJ) was to be authorised during ongoing criminal proceedings to examine whether member states are complying with the requirements of the Framework Decision. Thus far such an examination could be undertaken only by the national courts or, after the exhaustion of all domestic remedies, by the European Court of Human Rights.

However, a number of problems have been encountered in discussing the document. In May 2006, after 18 months of discussion, the Commission's proposal was replaced by a proposal drawn up by the Austrian Presidency. This proposal was again replaced by a draft text drawn up by the German Presidency. The text currently under discussion is more limited than the Commission's original proposal as certain member states could not accept the text as this would have meant very major changes to their criminal legislation. Nevertheless, no agreement has been reached to date. However, on 1 July 2009, the Swedish Presidency is expected to put forward an action plan to address procedural rights using a step by step approach.

One first new attempt in the direction to enhance the procedural rights in the EU was made in March 2009 with the adoption of Council Framework Decision 2009/2099/JHA. This Framework Decision modifies the existing ones on mutual recognition (EAW, financial penalties, confiscation orders, custodial sentences, supervision of probation measures) with regard to the ground for non-recognition related to cases where the decision to be executed was rendered in the absence of the person concerned at the trial. It aims at harmonising and bringing more details to these grounds for non recognition as well as to the exceptions.

Training content

The new Framework Decisions for judgements in absentia will require in-depth training for judges.

Further training on procedural rights in the EU, at the moment, can only encompass the regulations set up under the European Convention of Human Rights and the jurisdiction of the European Court of Human Rights (*see Chapter F 'Human Rights'*). Nevertheless, the ongoing debate on potential EU legislation as well as information about the pros and cons of such a legislation should be included in the training on procedural rights under the ECHR.

2. Instruments and case law

a. Council of Europe

- European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 (ETS No. 5)

b. ECHR Case law: Right to a fair, speedy and impartial trial (Article 6 ECHR)

- *Cases Scordino, Riccardi Pizzati, Music, Giuseppe Mostacciuolo, Coccharella, Apicell, Ernesto Zullo and Giuseppa and Orestina Procaccini v. Italy, 29 March 2006*
- *Case Pisano v. Italy, 24 October 2002*
- *Case Incal v. Turkey, 9 June 1998*
- *Case Sekina v. Austria, 25 August 1993*
- *Case Hausschildt v. Denmark, 24 May 1989*
- *Case Brozicek v. Italy, 19 December 1989*
- *Case Salabiaku, 7 October 1988*
- *Case Ekbatani v. Sweden, 26 May 1988*
- *Cases Lutz, Englert, Nölkenbockhoff v. Germany, 25 August 1987*
- *Case Colozza and Rubinat v. Italy, 12 February 1985*
- *Case Campbell and Fell v. UK, 28 June 1984*
- *Case Goddi v. Italy, 9 April 1984*
- *Case Piersack v. Belgium, 1 October 1982*
- *Case Eckle v. Germany, 15 July 1982*
- *Case Engel and others v. the Netherlands, 8 June 1976*
- *Case Ringelsen v. Austria, 16 July 1971*

c. EU

1. Council Framework Decision 2009/299/JHA of 26 February 2009 amending Framework Decisions 2002/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA and 2008/947/JHA, thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial (OJ L 81, 27.03.2009)

2. Proposal for a Council Framework Decision on certain procedural rights in criminal proceedings throughout the European Council, Brussels, 19 May 2006, 9600/06
3. Proposal for a Council Framework Decision on certain procedural rights in criminal proceedings throughout the European Union, Brussels, (28.04.2004, COM (2004) 328 final)
4. Commission Green Paper Procedural safeguards for suspects and defendants in criminal proceedings throughout the European Union (COM(2003) 75 final)

d. Case law ne bis in idem

1. C-467/04 (opinion) ne bis in idem - Gasparini and others
2. C-436/04 (judgment) ne bis in idem - van Esbroeck
3. C-469/03 (judgment) ne bis in idem - Miraglia
4. C-385/01 (judgment) ne bis in idem – Gözütok and Brügge

3. Trainers

Trainers should be international experts, EU experts and national practitioners.

4. Trainees

Training on procedural rights provided under the Council of Europe legislation and the ECHR jurisdiction is primarily recommended for junior judges and prosecutors and future/trainee judges and prosecutors.

Training in the form on the Framework Decision for in absentia judgements is recommended for senior judges and prosecutors.

5. Methodology

A) Training method

Training on procedural rights should take the shape of specialised seminars.

B) Complementary e-learning

Recommended for training on the Council of Europe's legislation and the ECHR's jurisdiction.

C) Priority

Training on the Council of Europe legislation and the ECHR's jurisdiction is recommended.

D) Format

Training can take part at national and EU-wide level.

Discussion and debate about possible EU legislation should take place EU-wide.

II. Victims / Restorative justice

1. Introduction

At the level of the Council of Europe, the rights of victims were dealt with for the first time in 1983 in under the Convention on the Compensation of Victims of Violent Crimes. Victims

rights are also mentioned in the Convention on Action against Trafficking in Human Beings of 2005 as well as in the Council of Europe Convention on the Prevention of Terrorism of 2005. Two recommendations deal with the right of victims, the most recent ones adopted in 2008 (R(85)11 and R(2006)08). The need to protect the victim's rights was also especially addressed in a Resolution on victims of crimes of October 2006. In 2008, guidelines on mediation in penal matters were set up.

At the level of the European Union, procedural penal rights of victims are addressed by the Framework Decision on the standing of victims in criminal procedures of 2001. Compensation by civil law is addressed in a Directive of 2004. The Directive, however, only refers to the laws of the member states. Further rights of victims in criminal proceedings and victim support would be offered by the Proposal for a Council Framework Decision on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA.

The special needs of children have been addressed by Council Framework Decision on combating the sexual exploitation of children and child pornography which is currently revised.

Restorative justice

The broader area of restorative justice, at EU level, so far, is only regulated by Article 10 of the Framework Decision on the standing of victims in criminal proceedings that refers to mediation. Nevertheless, training on restorative justice measures must be kept in mind for the future.

Training content

Training should include the regulations made by the Council of Europe regulation and especially undertaken within the EU Framework Decision on the standing of victims in criminal proceedings. Attention should also be paid to the regulations in Article 10 of this provision.

2. Instruments and case law

a. Council of Europe

1. Recommendation No. R (2006)16 of the Committee of Ministers to member states on quality improvement programmes for organ donation (8.11.2006)
2. Council of Europe Convention on the Prevention of Terrorism (Warsaw, 16.V.2005)
3. Council of Europe Convention on Action against Trafficking in Human Beings (Warsaw, 16.V.2005)
4. Recommendation No. R (85) 11 of the Committee of Ministers to member states on the position of the victim in the framework of criminal law and procedure (28 June 1985)
5. European Convention on the Compensation of Victims of Violent Crimes (Strasbourg, 24.XI.1983)

b. EU

1. C-404/07, Katz/Sós, Judgment of 22 November 2008
2. T-412/07, Ammayappan Ayyanarsamy, Order of 1 April 2008

3. Proposal for a Council Framework Decision on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA (Com(2009) 136 final, 25.03.2009)
4. Proposal for a Council Framework Decision on combating the sexual abuse, sexual exploitation of children and child pornography, repealing Framework Decision 2004/68/JHA (COM(2009)135 final; 25.3.2009)
5. Council Framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual exploitation of children and child pornography (OJ L 13, 20.1.2004)
6. Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims (OJ L 261/15, 6.8.2004)
7. Council Framework Decision of 15 March 2001 on the standing of victims in criminal procedures (OJ L 82/1, 22.03.2001)
8. Report from the Commission on the basis of Article 18 of the Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings, (16.02.2004, COM(2004)54 final/2)

3. Trainers

Trainers should be national practitioners, NGO and training institutions experts.

4. Trainees

Training can be recommended for junior judges and prosecutors.

5. Methodology

A) Training method

Training on the rights of victims should be performed in the form of specialised seminars.

B) Complementary e-learning:

Training can be completed by e-learning.

C) Priority

Training is recommended.

D) Format

Training should take part at local and regional level.

III. Data protection

1. Introduction

With regard to police and judicial cooperation in criminal matters, existing international and European legislative instruments for data protection are either extremely broad, non-binding, or expressly exclude their application for police and judicial cooperation in criminal matters such as the EU's main legislative First Pillar instrument Directive 95/46.

In fact, within the scope of the Third Pillar, data protection rights have only been established within the respective frameworks of its agencies and instruments, e.g. regulations can be found within the Europol Convention, the Eurojust Decision, the Schengen Convention, etc.

At the same time, enhancing the exchange of data to combat organised crime and terrorism, however, has become one of the priorities within the EU and several legislative instruments to facilitate this exchange have been launched. Hence, after nearly five years of discussion, in December 2008, a general Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters was adopted. The Although the Framework Decision confirms the applicability of general data protection principles (legality, proportionality, accuracy, right to access, erasure and rectification, judicial remedies, etc) to the sector of police and judicial cooperation in criminal matters, it is still limited to the processing of data in cross-border cases and thus, not applicable for data processed only nationally. The FD also does not affect the more specific regimes provided for Eurojust, Europol, the Schengen Information System or the Customs Information System.

Training content

Training on data protection in the field of police and judicial cooperation should cover:

- Introduction to data protection: principles
- Existing international instruments: UN, ODCE
- European structure for data protection and existing instruments:
 - Directive 95/46
 - Article 8 Charter of fundamental rights
 - Framework Decision for PJCCM
 - Data protection requirements for Europol
 - Data protection requirements for Eurojust
 - Data protection requirements for Frontex
 - Data protection requirements for SIS
 - Control: European and national independent supervisory authorities
 - Judicial control
 - Lisbon Treaty

2. Instruments and case law

a. Council of Europe

1. [Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data regarding supervisory authorities and transborder data flows \(Strasbourg, 8.XI.2001\)](#)
2. [Recommendation No. R \(87\) 15 of the Committee of Ministers to Member states regulating the use of personal data in the police sector \(17.09.1987\)](#)
3. [Convention for the Protection of Individuals with regard to automatic processing of personal data \(Strasbourg, 28.I.1981\)](#)
4. [Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocol No. 11 \(Rome, 4.XI.1950\)](#)

b. Organisation for Economic Co-operation and Development (OECD)

1. Recommendation of the Council concerning Guidelines governing the Protection of Privacy and Transborder Flows of Personal Data (23.09.1980 - C(80)58/Final) Declaration on Transborder Data Flows (11.04.1985)
2. Guidelines for Cryptography Policy (27.03.1997)

c. United Nations

- Guidelines for the Regulation of Computerized Personal Data Files (adopted by General Assembly resolution 45/95 of 14.12.1990)

d. EU

1. Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters (OJ L 350, 30 December 2008, p. 60)
2. Proposal for a Council Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters (6.11.2007; 14119/1/07 REV 1)
3. Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending
4. Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)
5. Charter of Fundamental Rights of the European Union (Art.8)
6. Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data
7. Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281 , 23/11/1995)

e. Case Law

1. Cases C-317/04 and C-318/04, *Passenger Name Records*, Judgment of 30 May 2006
2. Case C-101/01, *Bodil Lindqvist*, Judgment of 6 November 2003
3. Cases C-465/00, C-138/01 and C-139/01, *Österreichischer Rechnungshof*, Judgment of 20 May 2003

3. Trainers

Trainers should be EU experts, experts of NGOs and scholars.

4. Trainees

Training is recommended for junior judges and prosecutors, senior judges and prosecutors.

5. Methodology*A) Training method*

Training can take the shape of specialised seminars.

B) Complementary e-learning:

Additional e-learning can be recommended.

C) Priority:

Until the entry into force of the Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters, training can be recommended.

Once it has come into force, training on the Framework Decision should have priority.

D) Format:

Training should take place at local, regional, and national level.

Chapter D

European Criminal Law

I. Organised crime

1. Introduction

Since 1997, several action plans against organised crime have been adopted at European Union level. Within the Amsterdam Treaty on the European Union, which came into force in May 1999, a legal framework has been provided for accelerating efforts to strengthen law enforcement, judicial cooperation and to fight against trans-border organised crime. With regard to legislation against organised crime, much progress has been made at sectoral level, based on the Framework Decisions adopted in a variety of areas such as trafficking in human beings, cyber crime, confiscation of proceeds of organised crime etc. The objective of these Framework Decisions is to establish common definitions and to approximate national legislation, in particular through defining proportionate and dissuasive penal sanctions. Work along those lines is continuing with a view to covering all relevant sectors that allow organised crime to flourish. In the field of judicial cooperation, continued efforts have been undertaken to strengthen mutual recognition and mutual legal assistance provisions, with a view to ensuring equivalent criminal law protection to all citizens in the EU, to facilitate judicial cooperation in general and fill the legal loopholes between national jurisdictions which are being exploited by organised crime. Enhanced confiscation powers and witness protection provisions offer examples of additional policy initiatives that have been taken.

At its meeting on 24 October 2008, the Council formally adopted the Framework Decision on the fight against organised crime. The Framework Decision aims at harmonising the substantive criminal law of the Member States by defining offences relating to the participation of a criminal organisation. The FD also takes up the common scheme of laying down “minimum maximum penalties” for individuals, defining criminal liability and penalties for legal persons as well as the jurisdiction and coordination of proceedings.

Training content

Training should focus on the forthcoming implementation of the Framework Decision on organized crime.

2. Instruments and case law

a. UN

- United Nations Convention against Trans-national Organized Crime of 2000

b. EU

1. Council Framework Decision of 24 October 2008 on the fight against organised crime (OJ L 300/42 ; 11.11.2008)

2. Joint Action to make it a criminal offence to participate in a criminal organisation in the Member states of the European Union (OJ L 351, 29.12.1998)

3. Trainers

Trainers on the regulations under the new Framework Decision should be EU experts, national experts and scholars.

4. Trainees

Training is recommended for senior judges and prosecutors.

5. Methodology

A) Training method

Training can take the shape of specialised seminars.

B) Complementary e-learning:

Additional e-learning can be recommended.

C) Priority:

Training should have priority.

Furthermore, as outlined above, organised crime has been addressed by several legislative instruments at a sectoral level. Given the manifold differences between these sectors, training on combating organised crime should also be set-up sector-wise. Thus, within this guideline, training options on each of these sectors have been **individually assessed below**.

II. Money laundering

1. Introduction

Money laundering has been given strategic priority at European Union level. In 2000, a decision was adopted by the EU Council of Ministers concerning arrangements for cooperation between financial intelligence units of the member states. The Europol Convention was extended to money laundering in general, not just drugs related. In 2001, a Framework Decision on money laundering, dealing with the identification, tracing, freezing and confiscation of criminal assets and the proceeds of crime was also adopted. The EU member states have signed the Protocol to the Convention on mutual assistance in criminal matters between the member states. A second anti-money laundering Directive was agreed, widening the definition of criminal activity giving rise to money laundering to include all serious crimes, including offences related to terrorism. In 2005, the third money-laundering Directive was adopted. The third Directive incorporates into EU law revisions made to the Financial Action Task Force on Money Laundering's (FATF) recommendations in June 2003. It also extends the provisions to any financial transaction which might be linked to terrorist activities. Further provisions of the third Directive include identity checks on customers opening accounts, checks applying to any transaction over €15,000, stricter checks on 'politically exposed persons', and penalties for failure to report suspicious transactions to national financial intelligence units.

Training content

Training should include:

- Background and development of the three money laundering Directives
- Scope, content of the third anti-money laundering Directive
- National implementation of the Directives
- Exchange of best practices and experiences
- Case studies

2. Instruments and case law

a. Council of Europe

- Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (Strasbourg, ETS 141, 8.XI.1990)

b. EU

1. Directive 2005/60/EC of the European Parliament and the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (OJ L 309/15, 25.11.2005) (3rd money laundering Directive)
2. Council Framework Decision of 22 July 2003 on the execution in the European Union of orders freezing property or evidence (OJ L 196/45; 2.8.2003)
3. Directive 2001/97/EC of 4 December 2001 amending Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering (OJ L 344/76, 28.12.2001)
4. Council Framework Decision of 26 June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime (OJ L 182/1, 05.07.2001) (2nd money laundering Directive)
5. Council Decision of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member states in respect of exchanging information (OJ L 271/4, 24.10.2000)
6. Council Decision concerning arrangements for cooperation between financial intelligence units of the Member states in respect of exchanging information (OJ L 271/4, 24.10.2000)
7. Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering (OJ L 166, 28.06.1991)

3. Trainers

Trainers recommended are EU experts, national practitioners, and scholars.

4. Trainees

Training in this matter should be addressed to practitioners who have a good understanding of their criminal system and who can exercise their jurisdiction in cases referred to it. Thus, training is especially recommended for senior judges and prosecutors.

5. Methodology

A) Training method:

Training should take the form of specialised seminars and workshops.

A combined training on OLAF, protecting the financial interest of the European Union, counterfeiting of the Euro, corruption and money laundering could also form a topic for training courses and distance learning courses.

B) Complementary e-learning:

Complementary e-learning should be designated as a permanent method to update as the instruments are numerous and the change of regulation framework are frequent.

C) Priority: Training should have priority.

D) Format:

Training should take place at national, trans-national and EU-wide level.

III. Counterfeiting of the Euro

1. Introduction

The 1929 International Convention for the Suppression of Counterfeiting Currency is the basic instrument of protection by penal sanctions against counterfeiting at international level.

At the level of the European Union, Framework Decision 2000/383/JHA supplements the 1929 Convention by requiring member states to introduce effective, proportional and dissuasive penalties, including terms of imprisonment which can give rise to extradition, for any fraudulent making or altering of currency; the fraudulent circulation of counterfeit currency; the import, export, transport, receiving, or obtaining of counterfeit currency with a view to circulating the same; the fraudulent making, receiving, obtaining or possession of articles, computer programs, holograms or other instruments or means for the counterfeiting or altering of currency. Framework Decision 2001/888/JHA supplements Framework Decision 2000/383/JHA with regard to the recognition of previous convictions.

Furthermore, Europol and Eurojust have mandates for combating euro counterfeiting. In particular, OLAF has responsibilities in three areas: legislation (Regulation 1338/2001) and Framework Decision on the protection of euro banknotes and coins with criminal sanctions; training and technical assistance, co-ordination of member states actions for the technical protection of euro coins against counterfeiting, including the European Technical & Scientific Centre (ETSC).

Training content

Training should include:

- Development of legislation
- Scope, content of the Framework Decision
- Differences in implementation and national legislation
- Best practices
- Possibilities of support by Europol, Eurojust, OLAF

2. Instruments and case law

a. International instrument

International Convention of 20 April 1929 for the Suppression of Counterfeiting Currency and its Protocol (No 2623, p. 372. League of Nations Treaty Series 1931. Signed in Geneva on 20 April 1929)

b. EU

1. Council Regulation 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting (OJ L 181/6, 04.07.2001)
2. Council Framework Decision of 28 May 2001 on combating fraud and counterfeiting of non-cash means of payment (OJ L 149/1, 02.06.2001)
3. Council Decision of 6 December 2001 on the protection of the euro against counterfeiting (OJ L 329/1, 14.12.2001)
4. Council Framework Decision of 6 December 2001 amending Framework Decision 2000/383/JHA on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro (OJ L 329, 14.12.2001)
5. Council Framework Decision of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro (2000/383/JHA) (OJ L 140, 14.6.2000)

3. Trainers

Trainers recommended are EU experts, national practitioners, and scholars. Combined training on OLAF, protecting the financial interests of the European Union, counterfeiting of the Euro, corruption and money laundering could also form a topic for training courses and distance learning courses.

4. Trainees

Training is especially recommended for senior judges and prosecutors as training in this matter is addressed to practitioners that have a good understanding of the criminal system and thus are able to exercise their jurisdiction in cases referred to it. Furthermore, specialisation in criminal matters is more and more frequent.

5. Methodology

A) Training method:

Training should take the form of specialised seminars and workshops.

B) Complementary e-learning:

Complementary e-learning should be designated as a permanent method to update the trainees as instruments are numerous and changes in the legislation are frequent.

C) Priority: Training should have priority

D) Format: Training should take place at national, trans-national and EU-wide level.

IV. Protection of the financial interests of the Communities

1. Introduction

European Union policies are financed by the Community budget. Fraud affecting the Community's financial interests is a major risk. Those interests need, therefore, to be effectively protected. In order to combat fraud and other illegal activities affecting those interests, the member states signed the Convention of 26 July 1995 on the protection of the European Communities' financial interests and its three additional protocols which provide for measures aimed in particular at aligning national criminal laws. As these so-called PFI instruments ('Protection of Financial Interests') have not been ratified by all the member states, in 2002 the Commission presented a proposal for a Directive on the criminal-law protection of the Communities' financial interests. No agreement has yet been reached, however, the Commission is planning to further examine possible approaches opened up by the reform of the EU/EC Treaty.

To further combat fraud, corruption and any other illegal activity adversely affecting the Community's financial interests, the Community Institutions established the European Anti-Fraud Office (*see separate Chapter B 'OLAF'*).

Training content

2. Instruments and case law

- a. Proposal for a Directive on the criminal-law protection of the Communities' financial interests (COM (2001) 272 final, 23.05.2001)
- b. Money laundering: Second Protocol to the Convention on the protection of the European Communities' financial interests (OJ C 221, 19.07.1997)
- c. Corruption: Convention on the fight against corruption involving officials of the European communities or officials of Member states of the European Union (OJ C 195, 25.06.1997)
- d. Corruption: Protocol to the Convention on the protection of the European Communities' financial interests (OJ C 313, 23.10.1996)
- e. Fraud: Council regulation 2988/95 on the protection of the European Communities' financial interests (OJ L 312, 23.12.1995)
- f. Fraud: Convention on the protection of the European Communities' financial interests (OJ C 316, 27.11.1995)

3. Trainers

Trainers recommended are EU experts and national practitioners.

4. Trainees

Training is especially recommended for senior judges and prosecutors as training in this matter is addressed to practitioners that have a good understanding of the criminal system and thus are able to exercise their jurisdiction in cases referred to it. Furthermore, specialisation in criminal matters is more and more frequent.

5. Methodology

A) Training method:

The training method recommended is specialised seminars and workshops.

Combined training on OLAF, protecting the financial interest of the European Union, counterfeiting of the Euro, corruption and money laundering could also form a topic for training courses and distance learning courses.

B) Complementary e-learning:

Complementary e-learning should be designated as a permanent method to update the trainees as instruments are numerous and changes in the legislation are frequent.

C) Priority: Training should have priority.

D) Format: Training should take place at national, trans-national and EU-wide level.

V. Corruption

1. Introduction

The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of 1997 was the first global legal instrument to fight foreign bribery. Two other important international conventions with a wider scope are the Council of Europe Criminal Law Convention of 1999 on Corruption and the United Nations Convention against Corruption of 2003. While the OECD Convention addresses only the bribery of foreign public officials in international business transactions (not passive bribery), the Council of Europe Convention covers a broad range of offences, including the active and passive bribery of domestic and foreign public officials, bribery in the private sector and trading in influence. The United Nations Convention against Corruption is the most comprehensive international anti-corruption convention to date as it covers the broadest range of corruption offences, including the active and passive bribery of domestic and foreign public officials, obstruction of justice, illicit enrichment, and embezzlement.

At EU level, the Convention on the protection of the European Communities' financial interests and several additional Protocols as well as OLAF have been set up.

The fight against corruption in the private sector has been tackled by Council Framework Decision on combating corruption in the private sector. Finally, the mandates of Europol and Eurojust cover fraud and corruption.

Training content

- Substantive legislation covering active and passive bribery in the public and the private sector
- Compliance and enforcement possibilities.
- Overview of existing anti-corruption legislation at European and international level
- Experiences and best practice when detecting and reporting corruption,
- Obstacles to the bringing of prosecutions in respect of transnational corruption
- Prevention measures
- Cooperation: initiative for an EU network

2. Instruments and case law

a. UN

- United Nations Convention against Corruption (adopted by the United Nations General Assembly on 31 October 2003 (Resolution 58/4)).

b. OECD

- OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (November 1997)

c. Council of Europe

1. Additional Protocol to the Criminal Law Convention on Corruption 2003 (Strasbourg, 15.V.2003)
2. Criminal Law Convention on Corruption Strasbourg, (ETS 173, Strasbourg, 27.I.1999)

d. EU

1. Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector (OJ L 192/54, 31.7.2003)
2. Corruption: Convention on the fight against corruption involving officials of the European communities or officials of Member states of the European Union (OJ C 195, 25.06.1997)
3. Corruption: Protocol to the Convention on the protection of the European Communities' financial interests (OJ C 313, 23.10.1996)
4. Fraud: Council regulation 2988/95 on the protection of the European Communities' financial interests (OJ L 312, 23.12.1995)
5. Fraud: Convention on the protection of the European Communities' financial interests (OJ C 316, 27.11.1995)

e. Case law

- German *Bundesgerichtshof*, judgement of 29.08.2008, 2 StR 587/07

3. Trainers

Trainers recommended are international experts, EU experts and national practitioners.

4. Trainees

Training is especially recommended for senior judges and prosecutors as training in this matter is addressed to practitioners that have a good understanding of the criminal system and thus are able to exercise their jurisdiction in cases referred. Furthermore, specialisation in criminal matters is more and more frequent.

5. Methodology

A) Training method:

The training method recommended should be specialised seminars and workshops. Combined training on OLAF, protecting the financial interests of the European Union, counterfeiting of the Euro, corruption and money laundering could also form a topic for training courses and distance learning courses.

B) Complementary e-learning:

Complementary e-learning should be designated as a permanent method to update trainees as instruments are numerous and changes in the legislation are frequent.

C) Priority: Training should have priority.

D) Format: Training should take place at national, trans-national and EU-wide level.

VI. Illicit drug trafficking

1. Introduction

In its 1988 Convention, the UN aimed at promoting co-operation among the Parties so that they may address more effectively the various aspects of illicit traffic in narcotic drugs and psychotropic substances having an international dimension. Contracting parties are asked to establish criminal offences with regard to certain activities concerning drugs when committed internationally. In carrying out their obligations under the Convention, the Parties shall take necessary measures, including legislative and administrative measures, in conformity with the fundamental provisions of their respective domestic legislative systems.

The EU's approach to address drug trafficking comprises an EU Drug Strategy 2005-2012, an EU Drugs Action Plan 2009-2012, special Europol drug trafficking reports etc. Special actors to address drug trafficking within the EU include, for instance, the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) and more specific in the field of criminal law the Maritime Analysis and Operations Centre – Narcotics (MAOC-N). Furthermore, several agreements with third states and partners are into force or envisaged. Several legislative instruments of the EU address drug trafficking and the manufacturing of drugs. Framework Decision 2004/757/JHA lays down minimum provisions on criminal acts and the penalties applicable to drug trafficking.

Training content

Training should include:

- Scope and content of the Framework Decision
- Differences in implementation and national legislation
- Best practices
- Possibilities of support by Europol and Eurojust

2. Instruments and case law

a. UN

- UNGASS Drugs Assessments
- United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 20 December 1988

b. EU

1. EU Drugs Strategy 2005-2012 (15074/04; 22.11.2004)
2. EU Drugs Action Plan for 2009-2012 (2008/C 326/09)

Addressing drug trafficking

1. Council Framework Decision 2004/757/JAI of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking. (OJ L 335 of 11.11.04)
2. Council Recommendation of 25 April 2002 on improving investigation methods in the fight against organised crime linked to organised drug trafficking: simultaneous investigations into drug trafficking by criminal organisations and their finances/assets (OJ C 114 of 15.05.2002)
3. Council Resolution of 29 November 1996 on the drawing up of police/customs agreements in the fight against drugs (OJ C 375 of 12.12.1996)

Fight against the manufacture of drugs:

1. Council Decision 2005/387/JHA of 10 May 2005 on the information exchange, risk-assessment and control of new psychoactive substances (OJ L 127/32; 20.05.2005)
2. Council Regulation (EC) No 111/2005 of 22 December 2004 laying down rules for the monitoring of trade between the Community and third countries in drug precursors (OJ L 22 of 26.01.05)
3. Council Decision 2008/206/JHA of 3 March 2008 on defining 1-benzylpiperazine (BZP) as a new psychoactive substance which is to be made subject to control measures and criminal provisions (OJ L 63/45; 7.3.2008)
4. Regulation (EC) No 273/2004 of the European Parliament and of the Council of 11 February 2004 on drug precursors

3. Trainers

Trainers recommended are EU experts, national practitioners, and experts of NGOs.

4. Trainees

Training is especially recommended for senior judges and prosecutors.

5. Methodology

A) Training method: Training should take the form of specialised seminars and workshops.

B) Complementary e-learning: recommended

C) Priority: Training is recommend.

D) Format: Training should take place at national, trans-national and EU-wide level.

VII. Environmental crime

1. Introduction

In 1998, the Council of Europe opened for signature the European Convention on the protection of the environment through criminal law. This was significant because it represented the first international convention to criminalise acts causing or likely to cause environmental damage.

At European Union level, in 2000 Denmark took the main elements of this Convention and made a proposal for a Framework Decision on combating serious environmental crime based on Articles 29, 31(e) and 34(2)(b) TEU ('Third Pillar'). In 2001, the Commission adopted a proposal for a Directive on the protection of the environment through criminal law based on Art. 175 EC ('First Pillar') In 2003, the Council adopted Framework Decision 2003/80/JHA on the protection of the environment through criminal law. On 13 September 2005, the European Court of Justice annulled this, stating that it encroached on Community competences as it should have been adopted under Article 175 of the EC Treaty. In 2007, the Commission adopted a new proposal for a Directive on the protection of the environment through criminal law which aims to replace the annulled Framework Decision 2003/80/JHA. Directive 2008/99/EC has been adopted in December 2008. It obliges Member States to provide for effective, proportionate and dissuasive criminal penalties in their national legislation in case of serious infringements of EC law on the protection of the environment.

Training content

Training should include:

- Scope and content of the Framework Decision
- Differences in implementation and national legislation

2. Instruments and case law

a. Council of Europe

- Convention on the Protection of the Environment through Criminal Law (Strasbourg, 4.XI.1998)

b. EU

1. Directive 2008/99/EC of 19 November 2008 on the protection of the environment through criminal law (OJ L 328/28, 6 December 2008)
2. Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005 on ship-source pollution and on the introduction of penalties for infringements (OJ L 255/11; 30.9.2005)
3. Annulled: Council Framework Decision of 27 January 2003 on the protection of the environment through criminal law (OJ L 29, 05.02.2003)
4. Annulled: Council Framework Decision 2005/667/JHA of 12 July 2005 to strengthen the criminal-law framework for the enforcement of the law against ship-source pollution (OJ L 255/164; 30.9.2005)

c. Case law

1. Case C-440/05, *ship-source pollution*, annulment Framework Decision 2005/667/JHA, Judgment of 23 October 2007
2. C-176/03, *protection of the environment*, annulment Framework Decision 2003/80/JHA, Judgment of 13 September 2005

3. Trainers

Training should focus on the scope and content of the Directive. Trainers recommended are EU experts, national practitioner.

4. Trainees

Training on the Framework Decision at this point in time is recommended for senior judges and prosecutors.

5. Methodology

A) Training method:

Training should take the form of specialised seminars and workshops.

B) Complementary e-learning

As the Directive is not yet into force, complementary e-learning is not necessary.

C) Priority:

Until the Directive enters into force, training is recommended. Once it has come into force, training should have top priority.

D) Format: Training should take place at national, trans-national and EU-wide level.

VIII. Trafficking in human beings and sexual exploitation

1. Introduction

Trafficking in human beings is a major problem in Europe today (trafficking in human beings is to be distinguished from smuggling of migrants. While the aim of smuggling of migrants is unlawful cross-border transport in order to obtain, directly or indirectly, a financial or other material benefit, the purpose of trafficking in human beings is exploitation. Furthermore, trafficking in human beings does not necessarily involve a trans-national element, it can exist at national level). Annually, thousands of people fall victim to trafficking for sexual exploitation or other purposes, whether in their own countries or abroad. Most identified victims of trafficking are women but men also are sometimes victims of trafficking in human beings. Furthermore, many of the victims are young, sometimes children.

A strategy for combating trafficking in human beings must adopt a multidisciplinary approach incorporating prevention, protection of human rights of victims and prosecution of traffickers, while at the same time seeking to harmonise relevant national laws.

At the legislative level, the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Trans-national Organised Crime ('Palermo Protocol') laid the foundations for international action on trafficking.

In the European context, legislative measures have first been taken at EU level, starting with the 2002 Framework Decision on combating trafficking in human beings and Directive 2004/81/EC residence permits issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities. Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings would also be relevant in the field of trafficking in human beings. In 2005, the Council of Europe Convention on trafficking in human beings was adopted, taking the Palermo Protocol as a starting point and taking into account other international legal instruments relevant to combating trafficking in human beings.

At EU level, the Framework Decision on combating trafficking in human beings aims to approximate the laws and regulations of member states in the field of police and judicial cooperation in criminal matters relating to the fight against trafficking in human beings. It also aims to introduce at European level common framework provisions to address certain issues such as criminalisation, penalties and other sanctions, aggravating circumstances, jurisdiction and extradition. Currently a proposal for a new Framework Decision on preventing an combating trafficking in human beings, and protecting victims - which would repeal the 2002 Framework Decision - is under discussion. The proposal would build upon the Council of Europe Convention on Action against Trafficking in Human Beings and would adopt the same holistic approach including prevention, prosecution, protection of victims, and monitoring.

The Framework Decision on combating the sexual exploitation of children and child pornography is to harmonise the legislative and regulatory provisions of the member states concerning police and judicial cooperation in criminal matters with a view to combating trafficking in human beings, the sexual exploitation of children and child pornography. It introduces common European provisions to address certain issues such as the creation of offences, penalties, aggravating circumstances, jurisdiction and extradition.

Furthermore, the fight against trafficking in human beings and the sexual exploitation of children has an impact on a number of European institutions. Europol has the competence to prevent and combat trade in human beings including forms of sexual exploitation and assault of minors or trade in abandoned children. Eurojust has the competence for combating trafficking in human beings in the context of investigations and prosecutions concerning two or more member states.

Training content

- National and international THB context and concepts
- Scope and content of legislation, especially the Framework Decisions
- National implementation of the Framework Decisions
- Bilateral, regional and international cooperation including Europol and Eurojust's measures against THB
- Links between THB and other criminal networks

2. Instruments and case law

a. UN

UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Trans-national Organized Crime

b. Council of Europe

Council of Europe Convention on Action against Trafficking in Human Beings (Warsaw, 16.V.2005)

c. EU

1. Proposal for a Proposal for a Council Framework Decision on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA (COM(2009) 136 final, 25 March 2009)

2. Proposal for a Council Framework Decision on combating the sexual abuse, sexual exploitation of children and child pornography, repealing Framework Decision 2004/68/JHA (COM(2009)135 final; 25.3.2009)
3. Council Framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual exploitation of children and child pornography (OJ L 13, 20.1.2004)
4. Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities (OJ L 261; 06.08.2004)
5. Council Framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual exploitation of children and child pornography (OJ L 13 of 20.01.2004, p. 13)
6. Council Framework Decision of 22 December 2003 on combating the sexual exploitation of children and child pornography (OJ L 13, 20.01.2004)
7. Council Framework Decision of 19 July 2002 on combating trafficking in human beings (OJ L 203/1, 01.08.2002)

3. Trainers

Trainers recommended are EU experts, experts of NGOs and national practitioners.

4. Trainees

Training is especially recommended for senior judges and prosecutors.

5. Methodology

A) Training method:

Training should take the form of specialised seminars and workshops.

B) Complementary e-learning:

Complementary e-learning is recommended.

C) Priority: Training should have priority.

D) Format: Training should take place at national, trans-national and EU-wide level.

IX. Racism and xenophobia

1. Introduction

Within the framework of the Council of Europe, racism and xenophobia have not been particularly tackled within any legal instrument. However, over the last few years, discussions have started within the Council of Europe to specifically address the fight against racism and xenophobia on the world-wide web. In 2001, the Council of Europe adopted its Convention on Cybercrime which aims, amongst other things, at banning the distribution of child pornography via the internet. The Convention, however, does not address the issue of racism, xenophobia, hate speech and racial discrimination on the internet. Therefore, in 2003, the issue was addressed in an additional Protocol to the Convention, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.

In December 2008, the Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law was adopted. The objective of this Framework Decision, namely ensuring that racist and xenophobic offences are sanctioned in all Member States by at least a minimum level of effective, proportionate and dissuasive criminal penalties. Within the scope of the Framework Decision, racism and xenophobia shall mean belief in race, colour, descent, religion or belief, national or ethnic origin as a factor determining aversion to individuals. The Framework Decision applies to all offences committed within the territory of the European Union, by an national of a member state or for the benefit of a legal person established in a member state. Certain forms of conduct committed for a racist or xenophobic purpose will be punishable as criminal offences such as public incitement to violence or hatred, public insults or threats, public condoning of genocide or crimes against humanity as defined in the Statute of the International Criminal Court, public dissemination or distribution of tracts, pictures or other material containing expressions of racism and xenophobia, directing of a racist or xenophobic group. Instigating, aiding, abetting or attempting to commit the above offences will also be punishable. With regard to the above racist offences, member states must ensure that they are punishable by effective, proportionate and dissuasive penalties. In all cases, racist or xenophobic motivation will be considered as an aggravating circumstance in determining the penalty to be applied to the offence.

Furthermore, on 1 March 2007, the European Union Agency for Fundamental Rights (FRA) came into being, following the extension of the mandate of the European Monitoring Centre on Racism and Xenophobia (EUMC) (*see separate Chapter F 'Human Rights'*).

Training content

Training should focus on the content of the new Framework Decision, offer discussions and debates on its added value, expected obstacles and problems arising within the individual national legal systems, improvements to be expected, impact on fundamental rights and the rights of the defence.

Training should also cover the role of the European Agency for Fundamental Rights and the support it can offer to the practitioners (*see separate Chapter F 'Human Rights'*)

2. Instruments and case law

- a. Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law (OJ L 328; 06.12.2008)
- b. Joint Action of 15 July 1996 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, concerning action to combat racism and xenophobia (96/443/JHA) (OJ L 185, 24.7.1996) will be repealed by the FD

3. Trainers

Recommended experts are: EU experts, national practitioners, scholars.

4. Trainees

Trainees should be well familiar with practical implications in this field. Thus, training is recommended to senior judges and prosecutors.

5. Methodology

A) Training method

Training should take the shape of a specialised seminar focusing on discussions and debate.

B) Complementary e-learning

Complementary e-learning is not recommended at this point.

C) Priority

In its Communication 'Non-Discrimination and Equal Opportunities For All – a Framework Strategy' (COM(2005) 224 final) of June 2005, the Commission recommended to raise awareness on this issue by, amongst other things, providing training for legal practitioners. Hence, training should be a priority.

D) Format

Training should take place at EU-wide level.

X. Terrorism

1. Introduction

It is often said that the attacks of 11 September 2001 as well as the following terrorist attacks of Madrid and London in 2004 and 2005 have served as a catalyst for counter-terrorism legislation. Since then, the fight against terrorism has become a declared EU objective and consequently numerous legislative instruments have been adopted in the last year, of which two are of particular importance for the area of criminal justice: the Framework Decision of 13 June 2002 on combating terrorism and the Council Decision of 20 September 2005 on the exchange of information and cooperation concerning terrorist offences. The Framework Decision on combating terrorism introduced, for the first time, common EU-wide minimum rules to define terrorist offences and lays down the penalties that member states must incorporate in their national legislation. On 18 April 2008, the Council reached a common approach on the amendment of the Framework Decision by the Commission on 6 November 2008. The amendment up-dates the Framework Decision making public provocation to commit a terrorist offence, recruitment and training for terrorism punishable behaviour, also when committed via the Internet.

The Council Decision on the exchange of information and cooperation concerning terrorist offences aims at improving the exchange of information between the member states as well as Europol and Eurojust.

The latest development in the fight against terrorism is the insertion of the offences of 'public provocation to commit a terrorist offence', 'training for terrorism' and 'recruitment for terrorism' to the Council Framework Decision on combating terrorism.

Furthermore, since the establishing of the so-called 'EU terrorist blacklists, the European Court of Justice has delivered several judgments in which it annuls a Council Decision ordering the freezing of funds.

Training content

Training should include:

- International counter-terrorism legislation
- EU criminal justice counter-terrorism instruments, especially amendments to the FD on combating terrorism
- Interplay EU – domestic legislation
- Case law ECJ
- Role of Europol and Eurojust
- Role of the private sector

2. Instruments and case law*a. Council of Europe*

1. Council of Europe Convention on the Prevention of Terrorism (Warsaw, 16.V.2005)
2. Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (Warsaw, 16.V.2005)
3. Protocol amending the European Convention on the Suppression of Terrorism (Strasbourg, 15.V.2003)
4. European Convention on the Suppression of Terrorism (Strasbourg, 27.I.1977)

b. EU

1. Council Framework Decision 2008/919/JHA of 28 November 2008 amending Framework Decision 2002/475/JHA on combating terrorism (OJ L 330, 9 December 2008, p. 21)
2. Council Decision 2005/671/JHA of 20 September 2005 on the exchange of information and cooperation concerning terrorist offences (OJ L 253/22; 29.9.2005)
3. Council Decision 2005/211/JHA of 24 February 2005 concerning the introduction of some new functions for the Schengen Information System, including in the fight against terrorism Official Journal L 068 , 15/03/2005 P. 0044 – 0048
4. Council Decision of 28 November 2002 establishing a mechanism for evaluating the legal systems and their implementation at national level in the fight against terrorism 24.12.2002 EN Official Journal of the European Communities L 349/1
5. Council Framework Decision of 13 June 2002 on combating terrorism, OJ L 164/3, 22.6.2002

c. Case law

1. T-287/08, People's Mojahedin Organization of Iran (PMOI), Judgment of 4 December 2008
2. C-402/05 P and C-415/05 P., Kadi and Al Barakaat, Judgment of
3. C-354/04 P and C-355/04 P, Gestoras Pro Amnistía, Juan Mari Olano Olano, Julen Zelarain Errasti v Council of the European Union, Kingdom of Spain, United Kingdom of Great Britain and Northern Ireland, Judgment of 27 February 2007
4. Case C-266/05 P, Jose Maria Sison v Council of the European Union, Judgment of 1 February 2007
5. Case C-229/05, PKK and KNK, Judgment of 18 January 2007
6. Case C-415/05 P, Appeal brought on 23 November 2005 by Ahmed Yusuf and Al Barakaat International Foundation against the judgment of the Court of First Instance (Second Chamber (Extended Composition)) of 21 September 2005 in Case T-306/01 Ahmed Yusuf and Al Barakaat International Foundation v the Council of the European Union and Commission of the European Communities

3. Trainers

Trainers recommended are EU experts, national practitioners and scholars.

4. Trainees

Training is especially recommended for senior judges and prosecutors as training in this matter is addressed to practitioners who have a good understanding of the criminal system and thus are able to exercise their jurisdiction in cases referred to it.

5. Methodology

A) Training method:

Training should take the form of specialised seminars and workshops.

B) Complementary e-learning:

Complementary e-learning should be designated as a permanent method to update the trainees as instruments are numerous and changes in the legislation are frequent.

C) Priority:

Considering the current discussion to amend the Framework Decision on combating terrorism, training should have top priority.

D) Format: Training should take place at national, trans-national and EU-wide level.

XI. Cybercrime

1. Introduction

In 2001, the Council of Europe adopted its Convention on Cybercrime which aims, amongst other things, at banning the distribution of child pornography via the world wide web.

The European Union has already taken action to fight cybercrime but more needs to be done through collective action, in partnership with the private sector. The aim is to set the scene for further progress of both e-commerce in Europe and for the Information Society on a global scale. The European Commission has presented a legislative package to approximate specific areas of substantive criminal law in the area of high-tech crime. In 2005, the Council Framework Decision of 24 February 2005 on attacks against information systems entered into force. The Framework Decision aims at improving judicial and other law enforcement cooperation through the approximation of laws in the EU Member States in the area of attacks against information systems. In essence, the Framework Decision obliges Member States to punish certain computer-related offences with “effective, proportional and dissuasive criminal penalties”. Punishable offences are illegal access to information systems, illegal system interference, illegal data interference. In 2008, the Commission published its first evaluation report.

Training content

Training should focus on the new Framework Decision on attacks against information systems.

2. Instruments and case law

a. Council of Europe

1. Council of Europe – Global Project on Cybercrime – Summary February 2009
2. Additional Protocol to the Convention on cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (Strasbourg, 28.I.2003)
3. Convention on Cybercrime (Budapest, 23.XI.2001)

b. EU

- Report from the Commission to the Council based on Article 12 of the Council Framework Decision of 24 February 2005 on attacks against information systems (14.7.2008; COM(2008) 448 final)
- Council Framework Decision 2005/222/JHA of 24 February 2005 on attacks against information systems (OJ L 69/67;16.3.2005)

3. Trainers

Trainers should be international experts, EU experts and national practitioners.

4. Trainees

As long as the EU Directive is not in force, training should be mainly provided for junior judges and prosecutors and future/trainee judges and prosecutors. Policy debates on the Directive should address senior judges and prosecutors.

5. Methodology

A) Training method

Training should take the shape of a specialised seminar focusing on discussions and debate.

B) Complementary e-learning

Complementary e-learning is not recommended at this point.

C) Priority

As long as the EU Framework Decision is not in force, training is only recommended.

D) Format

As long as the EU Framework Decision is not in force, training at national level is sufficient.

XII. Intellectual property rights, counterfeiting and piracy

1. Introduction

The protection of intellectual property is governed by various international conventions to which the EU has signed up, such as the Charter of Fundamental Rights, which states that intellectual property shall be protected, the Berne, Brussels and Paris Conventions, the World Intellectual Property Organisation (WIPO) Copyright Treaty, the WIPO Performances and Phonograms Treaty, and the World Trade Organisation (WTO) with the agreement on trade-related aspects of intellectual property rights (TRIPS).

In order to bring itself into line with these international commitments, the EU adopted the Directive on the Enforcement of Intellectual Property Rights (also labelled the 'IPR Enforcement Directive'), in March 2004. This Directive sought to consolidate the fragmented body of EU legislation on intellectual property - i.e. disparate measures on copyrights, trade marks, authors' rights, designs, counterfeiting and piracy, computer programmes, etc - to create more clarity and predictability for European businesses. It also gave national authorities increased powers to pursue infringers and obtain compensation for rights-holders.

However, as the counterfeiting and piracy phenomenon grows, the Commission saw the need for additional measures. In July 2005, the Commission presented a double proposal for a Directive and a Council Framework Decision aimed at introducing criminal sanctions for IPR infringements. The proposal was redrafted in April 2006, to take into account a judgment by the ECJ of 13 September 2005 (C-176/03), which holds that the EU has powers to harmonise member state criminal law, if required for the effective implementation of Community law. If adopted, the Directive would be the first ever to harmonise member state criminal law. In April 2007, the Directive was adopted in the Parliament plenary session. In April 2008, examination by member states in Council took place. If agreed by the Council, it will enter into force immediately following its publication in the Official Journal. Member states would then have 18 months to transpose the Directive.

Training content

As long as the EU Directive is not yet in force, training would focus on the international instruments and their implementation and give an outlook on the forthcoming EU instruments.

2. Instruments and case law

a. Basic instruments

1. Proposal for a European Parliament and Council Directive on criminal measures aimed at ensuring the enforcement of intellectual property rights (12.7.2005, COM(2005)276 final)
2. Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights (OJ L 157; 30.04 2004)

b. Case law

C-176/03, Commission of the European Communities v Council of the European Union

3. Trainers

Trainers should be international experts, EU experts and national practitioners.

4. Trainees

As long as the EU Directive is not in force, training in the form of policy debates is recommended to senior judges and prosecutors.

5. Methodology

A) Training method

Training should take the shape of a specialised seminar focusing on discussions and debate.

B) Complementary e-learning

Complementary e-learning is not recommended at this point.

C) Priority

As long as the EU Directive is not in force, training in the form of policy debates is recommended to senior judges and prosecutors.

D) Format

As long as the EU Framework Decision is not in force, policy debates should take place on a national and EU-wide level.

XIII. Employment of Illegal Migrants

I. Introduction

In May 2007, a proposal for a Directive providing sanctions against employers of illegally staying third-country nationals has been published. The Directive would prohibit the employment of illegally staying third-country nationals in order to fight illegal immigration. To this end, it lays down minimum common standards on sanctions and measures to be applied in the Member States against employers who infringe this prohibition. Political agreement of the Council is expected in the first half of 2009.

2. Instruments and case law

- Proposal for a Directive of the European Parliament and the Council providing for sanctions against employers of illegally staying third-country nationals (COM(2007) 249 final;16.5.2007)

3. Trainers

Trainers should be EU experts.

4. Trainees

Training is recommended to senior judges and prosecutors.

5. Methodology

A) Training method

Training should take the shape of a specialised seminar focusing on discussions and debate.

B) Complementary e-learning

Complementary e-learning is not recommended at this point.

C) Priority

As long as the EU Directive is not in force, training in the form of policy debates is recommended to senior judges and prosecutors.

D) Format

As long as the EU Framework Decision is not in force, policy debates should take place on a national and EU-wide level.

Chapter E

Police cooperation

I. Interpol

1. Introduction

Interpol is the world's largest international police organisation, with 186 member countries. Created in 1923, it facilitates cross-border police cooperation, and supports and assists all organisations, authorities and services whose mission is to prevent or combat international crime. Interpol aims to facilitate international police cooperation even where diplomatic relations do not exist between particular countries. Action is taken within the limits of existing laws in different countries and in the spirit of the Universal Declaration of Human Rights.

Training content

Training on Interpol would include information on the role and tasks of the organisation and aim to raise awareness of the support it can offer to the national practitioner.

2. Instruments and case law

ICPO-INTERPOL Constitution and General Regulations

3. Trainers

Trainers should be international experts (Interpol staff) and experts from the training institutions.

4. Trainees

Information on the support that Interpol can offer is of interest for junior judges and prosecutors and future/trainee judges and prosecutors.

5. Methodology

A) Training method

Training could be included in training courses and basic seminars and, in particular, study visits could be offered.

B) Complementary e-learning:

Complementary e-learning on Interpol can be included in basic seminars.

C) Priority

Informing on the role and tasks of the organisation is recommended.

D) Format

Training can take place at local and regional level.

II. Europol: see above

III. CEPOL

1. Introduction

CEPOL is an EU Agency, established in 2005 and located in Bramshill, UK. CEPOL's mission is to bring together senior police officers from police forces in Europe - essentially to support the development of a network - and encourage cross-border cooperation in the fight against crime, public security and law and order by organising training activities and research findings.

Training content

Training on CEPOL would basically involve information about the role and tasks of the college and aim to raise awareness of the support it can offer to the national practitioner.

2. Instruments and case law

Council Decision of 22 December 2000 establishing a European Police College (CEPOL) (OJ L 336 , 30/12/2000)

3. Trainers

Trainers could be EU experts and experts from the training institutions.

4. Trainees

Information on the institution is of interest for junior judges and prosecutors, and future/trainee judges and prosecutors.

5. Methodology

A) Training method

Training could be included in training courses and basic seminars.

B) Complementary e-learning:

Given CEPOL's role as a training institution, complementary e-learning is not recommended.

C) Priority

Information on the college is recommended.

D) Format

Training should preferably take place at local and regional level.

IV. Information exchange**1. Introduction**

In the combat against organised crime and terrorism, it is commonly understood that exchanging information is one of the most important tools. Since the terrorist attacks in New York in 2001 as well as in Madrid and London, several legislative initiatives and instruments have been launched at EU level to facilitate the exchange of information between EU law enforcement authorities.

By setting up the so-called principle of availability, direct online access to available information and to index data for information that is not accessible online should have become possible between all law enforcement authorities in the EU in relation to certain types of data (profiles, fingerprints, ballistics, vehicle registration information, telephone numbers and other communications data, with the exclusion of content data and traffic data unless the latter data are controlled by a designated authority, minimum data for the identification of persons contained in civil registers).

At this point in time, finding an unanimous agreement on this very ambitious idea is not in sight. Nevertheless, several smaller steps have been taken to enhance the exchange of information in the EU. In 2005, the exchange of information on terrorist offences with Europol and Eurojust was enforced by a Council Decision. The so-called Swedish Initiative that came into force in 2006 simplifies the exchange of information between law enforcement authorities by introducing time limits for responses and limiting grounds for refusal. The biggest step was taken by the so-called ‘Treaty of Prüm’, an initiative between several member states of the EU, that introduces mutual access to each other’s DNA, fingerprint and vehicle registration information systems. The Council Decision which transfers the ‘Third Pillar’ regulations of the Treaty of Prüm into the framework of the EU has been adopted in August 2008. Member States must implement general aspects such as the automated sharing of DNA files by August 2009, provisions on on-line access by August 2011.

Training content

Training on the exchange of information should include:

- An introduction to the principle of availability
- The regulations set up under the Swedish Initiative
- The regulations set up under the Treaty of Prüm

2. Instruments and case law

- a. Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ L 210; 06.08.2008)
- b. Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ L 210; 06.08.2008)

- c. Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member states of the European Union (OJ L 386/89; 29.12.2006)
- d. Convention on the stepping up of cross-border cooperation, particularly in combating terrorism, cross-border crime and illegal migration ('Treaty of Prüm') (7 July 2005 (28.07), 10900/05)
- e. Council Decision 2005/671/JHA of 20 September 2005 on the exchange of information and cooperation concerning terrorist offences (OJ L 253/22; 29.9.2005)
- f. Proposal for a Council Framework Decision on the exchange of information under the principle of availability (12.10.2005 COM(2005) 490 final)

3. Trainers

Trainers should be EU experts and national practitioners.

4. Trainees

Training should be especially provided for senior judges and prosecutors.

5. Methodology

A) Training method

Training should take the shape of specialised seminars and workshops.

B) Complementary e-learning

Complementary e-learning is recommended.

C) Priority

Given the fact that the provisions of the Treaty of Prüm will be applicable throughout the EU in due course, training on the issue should be given top priority.

D) Format

Training should take place at national, trans-national and EU-wide level.

V. Joint Investigation Teams (JITs)

1. Introduction

A new and important tool for police cooperation within the EU is the possibility to set-up joint investigation teams under Article 13 of the 2000 MLA Convention (respectively the Framework Decision of 13 June 2002 on JITs). Training on the legal basis laid down to set up these teams under the Convention/ Framework Decision are therefore highly relevant, not only to law enforcement authorities, but also to the judiciary, and especially prosecutors.

The existing solutions for joint police cooperation under the Council of Europe second additional protocol to the Convention of mutual assistance and the CISA were seen as too cumbersome and did not offer solutions for complex, cross-border investigations involving several states. JITs under Article 13 of the EU Convention on mutual assistance of 2000 can be established for a limited period and a specific purpose between two or more member states.

Special regulations are foreseen with regard to the organisation and composition of the team (e.g. team leader, involvement of Europol and Eurojust), operating rules, seconded members, needs of the team, and information exchange.

Training content

1. Differences between JITs under Article 13 of the 2000 MLA Convention and JITs under other legal instruments
 - 1.1 Schengen Convention: hot pursuit and cross-border observation
 - 1.2. 1997 Naples II Convention (Art. 20)
 - 1.3. 2000 UN Convention on trans-national organised crime (Art. 19)
 - 1.4. 2001 CoE 2nd additional protocol
2. Legal issues for JITs under 2000 MLA Convention
 - 2.1. Information exchange
3. Usage of information obtained while part of a JIT
4. Liability of members and seconded members
5. Differences in national legislation implementing JITs (see Europol-Eurojust guide)
6. Setting-up a JIT agreement
7. Role of Eurojust and Europol
8. Role of JIT national experts
9. Experience and best practice

2. Instruments and case law

- a) Council Recommendation of 8 May 2003 on a model agreement for setting up a joint investigation team (JIT) (OJ C 121/1; 23.5.2003)
- b) Council Framework Decision of 13 June 2002 on joint investigation teams (OJ L 162/1; 20.6.2002)

3. Trainers

Trainers should be EU experts and national practitioners.

4. Trainees

Training on JITs is recommended for senior judges and prosecutors.

5. Methodology

A) Training method

Training on JITs should take the shape of specialised seminars and workshops.

B) Complementary e-learning

Complementary e-learning, especially by means of case studies, is recommended.

C) Priority

Article 13 of the 2000 MLA Convention for the first time offers an in-depth legal basis for joint police investigations within the EU. Training on this issues should have top priority.

D) Format

Training should take place at national, trans-national, and EU-wide level.

VI. The Schengen Acquis and the Schengen Information System(s)

1. Introduction

To counterbalance the abolition of the internal borders introduced within the Schengen area, so-called "compensatory" measures were established. This involved improving cooperation and coordination between the police and the judicial authorities in order to safeguard internal security and in particular to tackle organised crime effectively. With regard to judicial cooperation in criminal matters, the main measure included the strengthening of judicial cooperation through a faster extradition system and faster distribution of information on the enforcement of criminal judgments.

In the area of police cooperation, cross-border rights of surveillance and hot pursuit for police forces in the Schengen states was introduced.

At the heart of the Schengen mechanism, an information system was set up: the Schengen Information System (SIS). SIS is a sophisticated database used by the authorities of the Schengen member countries to exchange data on certain categories of people and goods.

Since the coming-into-force of the EU Convention on mutual legal assistance of 29 May 2000, and its Protocol, mutual legal assistance between the member states of the EU is mainly based on these legal instruments as well as on the Convention implementing the Schengen Agreement (CISA).

Regarding border control at the moment, various new measures are proposed under the so-called 'European Integrated Border Management'. New initiatives include the introduction of an entry/exit system, the facilitation of border crossing for bona fide travellers, the development of a European Border Patrols Network, the creation of a European Border Surveillance System (EUROSUR), the use of passenger name records for law enforcement purposes.

Furthermore, access of the law enforcement to the Visa Information system is envisaged.

Training content

Training on the Schengen Convention and its protocols should include the following fields:

1. Schengen Acquis: General background, associated countries, opt-ins and opt-outs
2. Schengen Convention (CISA):
3. Judicial cooperation:
 - Mutual assistance in criminal matters under the CISA
 - Application of the 'ne bis in idem' principle and respective case law of the ECJ
 - Extradition
 - Transfer of the execution of criminal judgments
4. Police cooperation under Schengen
5. Schengen Information Systems: SIS I, SISone4all, SIS II
6. Certain specific forms of mutual assistance :
 - 6.1. Cross border surveillance
 - 6.2. Cross border pursuit
 - 6.3. Data exchange

2. Instruments and case law

- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Preparing the next steps in border management in the European Union of 13.2.2008 (COM(2008) 69 final)
- Commission Recommendation of 6 November 2006 establishing a common “Practical Handbook of Border Guards (Schengen Handbook)” to be used by Member States’ competent authorities when carrying out the border control of persons (C(2006) 5186 final) as amended by Commission Recommendation of 25 June 2008 (C(2008) 2976 final)
- Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code of the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 105, 13.4.2006, p.1) as amended by regulation (EC) No 296/2008 of the European Parliament as regards the implementing powers conferred on the Commission (OJ L 97, 9.4.2008, p.60)
- The Schengen Acquis as referred to in Article 1(2) of Council Decision 1999/435/EC of 20 May 1999 (OJ L 239/1, 22.9.2000)
- Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders (OJ L 239, 22.9.2000, p. 19–62)

Schengen Information System (SIS)

- Council Decision 2005/211/JHA of 24 February 2005 concerning the introduction of some new functions for the Schengen Information System, including in the fight against terrorism (OJ L 68, 15.3.2005)

Schengen Information System II (SIS II):

1. Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) (OJ L 205, 7.8.2007)
2. Commission Decision of 16 March 2007 laying down the network requirements for the Schengen Information System II (3rd pillar) (OJ L 79, 20.3.2007)
3. Council Decision 2005/211/JHA of 24 February 2005 concerning the introduction of some new functions for the Schengen Information System, including in the fight against terrorism (OJ L 068; 15/03/2005)

Visa Information System

1. Regulation (EC) No 81/2009 of the European Parliament and of the Council of 14 January 2009 amending Regulation (EC) No 562/2006 as regards the use of the Visa Information System (VIS) under the Schengen Borders Code (OJ L 35, 4.2.2009, p.56)
2. Council Decision 2008/633/JHA of 23 June 2008 concerning access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences) (OJ L 218, 13.8.2008, p. 129)
3. Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p.60)

Passenger Name Records

- Proposal for a Council Framework Decision of 6 November 2007 on the use of Passenger Name Record (PNR) for law enforcement purposes (COM(2007) 654 final)

3. Trainers

Trainers for this topic should be EU experts and national practitioners.

4. Trainees

This topic can be especially recommended for junior judges and prosecutors, and future/trainee judges and prosecutors

5. Methodology

A) Training method

The Schengen Convention and its protocols serves as important background information for a better understanding of the EU Convention on mutual legal assistance and further EU measures in the field of police and judicial cooperation in criminal matters as well as it still constitutes an important in the framework of cross-border judicial cooperation with other Council of Europe member states. Thus general knowledge of the instrument should be provided. Hence, the method recommended for this area are basic seminars and distance learning courses.

B) Complementary e-learning

Training on this legal instrument can be completed by e-learning.

C) Priority

Given its function outlined above, training on judicial cooperation under the Schengen Convention and its case law should have priority. Training on police cooperation and the Schengen Information Systems is recommended.

D) Format

The recommended training format includes local, regional and national training.

VII. Joint cooperation centres

1. Introduction

In 1997 France and Germany founded the first common centre as a pioneer in order to facilitate and enhance cooperation between police and customs officials along the common border between the two countries. Since then this example of practical cross-border cooperation was duplicated along many borders between Member States. The tasks of the common centres vary. The legal basis was negotiated individually for every centre.

Within the Council of the EU, discussions were initiated by a number of Member States with the aim to consolidate the numerous legal frameworks into one common legislative framework, in particularly with a view to setting up new centres in the future.

2. Instruments and case law

- European Best Practice Guidelines for Police and Customs Cooperation Centres Brussels, (13815/08; 03.10.2008)

3. Trainers

Trainers should be EU experts.

4. Trainees

Training is recommended to senior judges and prosecutors.

5. Methodology

A) Training method

Training should take the shape of a specialised seminar focusing on discussions and debate.

B) Complementary e-learning

Complementary e-learning is not recommended at this point.

C) Priority

Training should take form of policy debates and is recommended to senior judges and prosecutors.

D) Format

Policy debates should take place on a national and EU-wide level.

Chapter F

Human Rights

I. European Convention on Human Rights

1. Introduction

The European Convention on Human Rights is an outstanding document in a number of respects. World-wide it is the most successful document of international human rights protection. It is an innovative instrument as it provided for the first time in the history of international law the possibility for a citizen to sue its own country before a court that had unconditional jurisdiction. Today it is an instrument that has a large influence through the jurisprudence of the European Court of Human Rights on the respect of fundamental rights by the member states of the Council of Europe.

The Convention was elaborated in the framework of the Council of Europe and entered into force in 1953. 14 additional protocols have been elaborated amending the Convention. Today countries can only accede to the Council of Europe if they recognise the Convention, the obligatory jurisdiction of the Strasbourg Court and the right to individual petition. The Convention and its additional protocols as construed by the European Court of Human Rights – as any other fundamental rights document – has an impact on all fields of law. Legal practitioners of all kinds cannot practice law without at least basic knowledge of the provisions of the ECHR and the case law of the Court.

The right of individual petition is now recognized in all member states of the Council of Europe. Petitioning the Court of Human Rights is subject to a number of admissibility criteria, most prominently the duty to exhaust all internal judicial remedies. Since 1998 the European Court of Human Rights works as a permanent court based in Strasbourg.

The relation between the European Convention and national law is a question of national law itself and the rules of general public international law and varies between the different member states.

2. Instruments and case-law

In the following the articles of the European Convention on Human Rights most relevant in the area of criminal law will be given and a number of leading cases for every article, bearing in mind that the jurisprudence of the ECtHR is abundant and every week there are new judgments delivered.

- *European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 (ETS No. 5)*
- Right to life (article 2)
Case Matrometteo v. Italy, 24 October 2002

Case McCann and other v. UK, 27 September 1995
Case Akman v. Turkey, 26 June 2001

- Prohibition of torture and inhuman and degrading treatment (article 3)
 - Case Tomasi v. France, 27 August 1992*
 - Case Aksoy v. Turkey, 18 December 1996*
 - Case Selmouni v. France, 28 July 1999*
 - Case Ireland v. UK, 18 January 1978*
 - Case Kalashnikov v. Russia, 15 July 2002*
 - Case Soering v. UK, 7 July 1989*
 - Case Mouisel v. France, 14 November 2002*
 - Case Ramirez Sanchez v. France, 4 July 2006*
 - Case Herczegfalvy v. Austria, 24 September 1992*
- *Case Mamatkulov and Askarov v. Turkey, 4 February 2005*
- Prohibition of slavery and forced labour (article 4)
 - Case De Wilde, Ooms and Versyp v. Belgium, 18 June 1971*
- Right to liberty and security (article 5)
 - Case Guzzardi v. Italy, 6 November 1980*
 - Case Bouamar v. Belgium, 29 February 1988*
 - Case Kurt v. Turkey, 25 May 1998*
 - Case Schiesser v. Switzerland, 4 December 1979*
 - Case Huber v. Switzerland, 23 October 1990*
 - Case Skoogström v. Sweden, 2 October 1984*
 - Case Brogan and others v. UK, 29 November 1988*
 - Case Lawless v. Ireland, 1 July 1961*
 - Case Brannigan and McBride v. UK, 28 May 1993*
 - Case Neumeister v. Austria, 27 June 1968*
 - Case Letellier v. France, 26 June 1991*
 - Case Toth v. Austria, 12 December 1991*
 - Case De Wilde, Ooms and Versyp v. Belgium, 18 June 1971*
 - Case Lamy v. Belgium, 30 March 1989*
 - Case Weeks v. UK, 2 March 1987*
- Right to a fair, speedy and impartial trial (article 6)
 - Case Colozza and Rubinat v. Italy, 12 February 1985*
 - Case Piersack v. Belgium, 1 October 1982*
 - Case Hausschildt v. Denmark, 24 May 1989*
 - Case Incal v. Turkey, 9 June 1998*
 - Case Campbell and Fell v. UK, 28 June 1984*
 - Case Pisano v. Italy, 24 October 2002*
 - Case Engel and others v. the Netherlands, 8 June 1976*
 - Case Ekbatani v. Sweden, 26 May 1988*
 - Cases Scordino, Riccardi Pizzati, Music, Giuseppe Mostacciuolo, Coccharella, Apicell, Ernesto Zullo and Giuseppa and Orestina Procaccini v. Italy, 29 March 2006*
 - Case Ringeisen v. Austria, 16 July 1971*
 - Case Eckle v. Germany, 15 July 1982*
 - Cases Lutz, Englert, Nölkenbockhoff v. Germany, 25 August 1987*
 - Case Sekina v. Austria, 25 August 1993*

Case Brozicek v. Italy, 19 December 1989

Case Goddi v. Italy, 9 April 1984

Case Salabiaku, 7 October 1988

- Prevention of punishment without legal provisions (article 7)
 - Case Streletz, Kessler & Krenz v. Germany, 22 March 2001*
 - Case S.W., 22 November 1995*
 - Case Cantoni, 15 November 1996*

- Respect for private and family life (article 8)
 - Case Funke v. France, 25 February 1993*
 - Case Niemietz v. Germany, 16 December 1992*
 - Case Société Colas Est and others v. France, 16 April 2002*
 - Case Silver and others v. UK, 25 March 1983*
 - Case Campbell v. UK, 25 March 1992*
 - Case Klass and others v. Germany, 6 September 1978*
 - Case Malone v. UK, 2 August 1984*
 - Cases Kruslin and Huvig v. France, 24 April 1990*

- Freedom of thought, conscience and religion (article 9)
 - Case Kalaç v. Turkey, 1 July 1997*

- Freedom of expression (article 10)
 - Case Handyside v. UK, 7 December 1976*
 - Case Lingens v. Austria, 8 July 1986*
 - Case Lehideux and Isorni v. France, 23 September 1998*
 - Case Goodwin v. UK, 27 March 1996*
 - Case Jersild v. Denmark, 23 September 1994*
 - Case Müller and others v. Switzerland, 24 May 1988*

- Freedom of assembly and association (article 11)
 - Case Ezélin v. France, 26 April 1991*

- Right to marry (article 12)

- Prohibition of discrimination (article 14)

(First) Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, 20 March 1952 (ETS No. 9)

- *Protection of property (article 1)*
- *Case Hirst v. UK (no. 2), 6 October 2005*

Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms other than those already included in the Convention and in the first Protocol thereto, 16 September 1963 (ETS No. 046)

- *Prohibition of imprisonment for debts (article 1)*
- *Freedom of movement within the territory of a contracting party (article 2)*
 - Case Raimondo v. Italy, 22 February 1994*

- *Prohibition of expulsion of a country's own nationals (article 3 para.)*
- *Freedom of entry for a country's nationals (article 3 para. 2)*
- *Prohibition of collective expulsion of foreigners (article 4)*

Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty, 28 April 1983 (ETS No.: 114)

- *Abolition of the death penalty other than in times of war (articles 1 and 2)*

Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms, 22 November 1984 (ETS No.: 117)

- *Procedural guarantees in cases of expulsion of a foreigner (article 1)*
- *Right to a judicial review for first instance judicial decisions in criminal cases (article 2)*
Case Hubner, 31 August 1999
- *Right to damages in case of erroneous judicial decisions in criminal cases (article 3)*
- *Ne bis in idem (article 4)*
Case Gradinger v. Austria, 23 October 1995
- *Equality between man and women concerning marriage, during marriage and in the moment of its dissolution (article 5)*

Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 2000 (ETS No.: 177)

- *Prohibition of discrimination of any kind (article 1)*

Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances (ETS No.: 187)

3. Trainers

Trainers could be international experts, national experts, and scholars.

4. Trainees

Awareness and basic knowledge of the importance of the ECHR and the jurisprudence of the ECtHR are essential for every lawyer. Senior judges and prosecutors should have specialised knowledge of the case law of the ECtHR relevant for their area.

5. Methodology

A) Training method

Basic seminars are recommended for all trainees; as an alternative distance learning courses, such as those developed under the Council of Europe's HELP programme (<http://moodle.stoas.nl/help>)

Specialised seminars focussing on more specific questions of individual rights and studying in more detail the jurisprudence and study visits to the ECtHR for senior judges and senior prosecutors are appropriate.

B) E-learning:

Basic seminars: B1

Deepening: B2-3

An e-learning platform already exists under: <http://moodle.stoas.nl/help>

C) Priority:

Basic seminars should have top priority. Specialised seminars and workshops should have priority. Study visits are recommended.

D) Format:

Basic seminars could take place at local, regional and national level, specialised seminars at trans-national and EU-wide level.

II. The relationship between the ECHR and EU law

1. Introduction

Formally the EU is not a contracting party to the ECHR and could not become one as the treaties (up until the revision brought about by the Nice Treaty in effect since 2003) did not provide competence to becoming party to such an agreement. The European Court of Justice has recognized the ECHR however as a source of inspiration when identifying the fundamental rights that European citizens enjoy under the general principles of Community law.

On the other hand, the ECtHR had to give a judicial response to the question as to what kind of fundamental rights standards apply when EU member states transfer part of their competences to the EU and if this could lead to a situation in which the transfer of competences results in a loss of fundamental rights protection just because the EU is not party to the ECHR.

This situation may change in the future. It depends on the entry into force of the Lisbon Treaty, giving the EU the conferred power to accede the ECHR and on the entry into force of the 14th additional protocol to the ECHR, allowing the EU to accede the ECHR (as seen from the perspective of the ECHR). While the Lisbon Treaty may have fair chances to enter into force, the fate of the 14th additional protocol is more unclear. The Russian Federation has for quite some time blocked its entry into force without that there appears to be an easy solution to solve the deadlock.

2. Case law

The recognition of the ECHR in the EU treaties and the jurisprudence of the ECJ and the possible accession of the EU to the ECHR and the future relationship between the court in Strasbourg and in Luxembourg

Case law of the ECtHR on the obligations of EU member states under the ECHR:

- Case of Matthews v. United Kingdom, application no. 24833/94, judgment of 18 February 1999
- Case of Bosphorus AS v. Ireland, application no. 45036/98, judgment of 30 June 2005

3. Trainers

Recommended trainers are international experts and scholars.

4. Trainees

Training is recommended for senior judges.

5. Methodology

A) Training method:

Training should be offered in specialised seminars.

B) Complementary e-learning:

Complementary e-learning is not recommended.

C) Priority:

Training is recommended.

D) Format:

Training should take place at local, regional and national level.

III. European Union documents

1. Introduction

The recognition of fundamental rights as part of Community law was first developed in the jurisprudence of the Court of Justice of the European Communities (ECJ). While the ECJ found that these were part of the general principles of EC law, no codifying instrument was created until 2000. The treaties included a reference to the European Convention on Human Rights and the national constitutional provisions instead.

Today, the Charter of Fundamental Rights read together with the European Convention and the jurisprudence of the European Court of Human Rights can be considered as the EU fundamental rights acquis.

The Charter today is not legally binding. The institutions have only solemnly declared themselves prepared to respect the rights included in it. The European Court of Justice has so far excluded that rights from the Charter could be enforced against the Union's institution or the member states when applying EU law.

The Lisbon Treaty will change this. With its entry into force, the Charter will have equal status with the treaties themselves. The new article 6 § 1 of the Treaty on European Union affirms that this will not lead to an extension of the competences of the EU. The protocol on the application of the Charter of Fundamental Rights to Poland and the UK reaffirms this,

stressing that the Charter cannot be used to declare national legislation invalid under European law by the ECJ and specifically ensures that the ‘social rights’ included in Title IV of the Charter cannot be enforced in courts of the two countries unless provided so for by national law. The explanations relating to the text of the Charter, as adopted by the Convention drafting this, are represent one of the guidelines for interpreting the Charter itself, as provided for by article 6 of the Treaty on European Union.

2. Instruments and case-law

a. Basic instruments

1. Charter of Fundamental Rights of the European Union (OJ C 303/01; 14.12.2007)
2. Protocol (No. 7) on the application of the Charter of Fundamental Rights to Poland and the United Kingdom;
3. Explanations relating to the complete text of the Charter as adopted by the Convention elaborating a Charter of Fundamental Rights on 11 October 2000
4. European Union – Consolidated Versions of the Treaty of the European Union and the Treaty establishing the European Community (OJ 2006/ C 321 E/1; 29.12.06) (Articles 6 and 7, 11 and 49 TEU and Articles 13 and 177 TEC)

b. Case law

- Case 29/69 Erich Stauder v. Stadt Ulm – Sozialamt
- Case 11/70 Internationale Handelsgesellschaft
- Case 4/73 Nold
- Case 44/79 Hauer
- Case 98/79 Pecastaing
- Case C-265/95 Commission v. France
- Case C-36/02 Omega
- Case C-112/00 Schmidberger

3. Trainers

Trainers should be EU experts and scholars.

4. Trainees

Training should in particular be provided for junior and senior judges .

5. Methodology

A) Training method:

Training should preferably take the shape of basic seminars, specialised seminars, and distance e-learning.

B) Complementary e-learning:

Complementary e-learning can be recommended.

C) Priority:

Training should have priority

D) Format:

Training should preferably take place at regional, national, trans-national and EU-wide level.

IV. European Union Agency for Fundamental Rights (FRA)

1. Introduction

The European Union Agency for Fundamental Rights is a Vienna-based agency of the European Union inaugurated on March 1, 2007. It was established by Council Regulation (EC) No 168/2007 of 15 February 2007 as the successor to the European Monitoring Centre on Racism and Xenophobia (EUMC). The objective of the Agency is to provide the relevant institutions and authorities of the Community and its member states when implementing Community law with assistance and expertise relating to fundamental rights to support them when they take measures or formulate courses of action within their respective spheres of competence to fully respect fundamental rights. The tasks of the Agency include information and data collection, research and analysis, advice to EU institutions and member states, co-operation with civil society and awareness-raising.

Training content

- Role and tasks of FRA
- Co-operation between FRA and national authorities: how to work together?
- Using FRA
- Relationships between FRA and other EU Institutions

2. Instruments and case law

[Council Regulation \(EC\) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights \(OJ L 53/1; 22.2.2007\)](#)

3. Trainers

Trainers recommended for this topic should be EU experts, and national practitioners.

4. Trainees

This topic can be especially recommended for junior judges and prosecutors, and future/trainee judges and prosecutors.

5. Methodology

A) Training method

Training methods are basic seminars as well as study visits.

The seminar should give a comprehensive overview of the role and tasks of the Agency.

B) Complementary e-learning

Training can be completed by e-learning.

C) Priority

Training is recommended.

D) Format

The training format recommended includes local, regional, and national training.

Chapter G

Tabular Overview

(The next update for this Chapter is hoped to be based on the outcome of the planned workshop 'A joint frame for European criminal justice training in the EU – A workshop to set up common guidelines' under the subgroup 'Penal 'Activities for trainers 2009' programme presumably taking place in December 2009)

Topic	3. Trainers	4. Trainees	5. Methodology
	A) International experts B) EU experts C) National practitioners D) Scholars E) Experts training institutions F) Experts NGOs	A) Senior judge B) Junior judge C) Senior prosecutor D) Junior prosecutor E) Futures/trainee judges and prosecutors	<u>Training method:</u> A1) Training courses A2) Basic seminar A3) Specialised seminar A4) Workshop A5) Study visit A6) Distance learning course <u>E-learning</u> B1) basic seminars B2) specialised seminars B3) workshops <u>Priority</u> C1)Top priority C2)Priority C3)Recommendable <u>Format</u> D1) Local D2) Regional D3) National D4) Trans-national D5) EU-wide

Topic	3. Trainers	4. Trainees	5. A) methodology
Chapter A: General principles of EU law from the European criminal justice angle			
AI. European judicial system	A C D	B D E	A1 A2 B1 C1

			D1-3
AII. The effect of EU law on national systems	D E	A-E	A1 A2 A6 B1 C1 D1-3
Chapter B: Judicial cooperation in criminal matters			
BI. The EU's competence in relation to PJCCM	C D E	B D E	A1 B1 C3 D1-3
BII. The effect of Third Pillar instruments in national systems	B C D	A C	A3 A4 B2-3 C2 D3-5
BIII. Multi-annual programmes	-	-	-
BIV. Surrender of persons	A B C	B D E	A1 A2 A6 B1 C2 D3 D5
BIV.2 EAW	B C	A C	A3 A4 B2-3 C1 D3-5
BV. MLA	A B C	B D E	A1 A2 A6 B1 C1 D1-3
BV.1.	A	A	A3

MLA related to evidence gathering	B C		A4 B2-3 C2 D3-5
BV.2. MLA related to trace, seizure and confiscation of the assets of crime	B C	A C	A3 A4 B2-3 C2 D3-5
BVI. Ne bis in idem, transfer or criminal proceedings, and conflicts of jurisdiction	B C	A	A1 A2 A6 B1 C3 D3-5
BVII. Enforcement of foreign criminal sentences	A B C D F	A C	A3 A4 B: no C2 D3-5
BVIII. Exchanging criminal records	B C	A	A3 A4 B2-3 C2 D4-5
BIX.1. EJN	B C E	B D E	A2 B1 C2 D1-3
BIX.2 Liaison magistrates	B C	B D E	A2 B1 C2 D3-5
BIX.3 OLAF	B C	B D E	A2 A5 B1 C2

			D1-3
BIX.4 Eurojust	B C	A B D E	A2 A5 B1 C2 D1-3
BIX.5 Europol	B C	B D E	A2 A5 B1 C2 D1-3
BIX.6 European Public Prosecutor	B C D	A C	A3 B: no C3 D3 D5
Charter C: European criminal procedure			
CI. Procedural rights	A B C	B D F	A3 B2 C3 D3 D5
CII. Victims / Restorative justice	C E F	B D	A3 B2 C3 D1-2
CIII. Data protection	B D F	A-D	A3 B2 C2 D1-3
Chapter D: European criminal law			
DI. Organised crime See also sectoral approach	B C D	A C	A3 B2 C2 D3-5
DII. Money laundering	B C D	A C	A3 A4

			Together with Ggfs A1 u Also A1 and A6 B2 C2 D3-5
DIII. Counterfeiting of the Euro	B C D	A C	A3 A4 Combined training B2 C2 D3-5
DIV. Protection of the financial interests of the Communities	B C	A C	A3 A4 Combined B2 C2 D3-5
DV. Corruption	A B C	A C	A3 A4 Combined B2 C2 D3-5
DVI. Illicit drug trafficking	B C F	A C	A3 A4 B2 C3 D3-5
DVII. Environmental crime	B C	A C	A3 A4 B2 C3 D3-5
DIII. Trafficking in human beings and sexual exploitation	B C F	A C	A3 A4 B2 C2

			D3-5
DIX. Racism and xenophobia	B C D	A C	A3 B: no C2 D5
DX. Terrorism	B C D	A C	A3 A4 B2 C1 D3-5
DXI. Cybercrime	A B C	A C	A3 B: no C3 D3
DXII. Intellectual property rights, counterfeiting and piracy	A B C	A C	A3 B: no C3 D3
DXII Employment of illegal migrants	B	A C	A3 B- C3 D3;5
Charter E: Police cooperation			
EI Interpol	A E	B D E	A1 A2 A5 B1 C3 D1 D2
EII. Europol: see above			
EIII. CEPOL	B E	B D E	A1 A2 B: no C3 D1 D2
EIV. Information exchange	B C	A C	A3 A4

			B2-3 C1 D3-5
EV. Joint investigation teams	B C	A C	A3 A4 B2-3 C1 D3-5
EVI. Schengen	B C	B D E	A1 A2 B1 C2-3 D1-3
EVII. Joint cooperation centres	B	A C	A3 B- C3 D3,5
Chapter F: Human rights			
FI. European Convention on human rights	A B C D	A1, A2, A5 for: B D E A3 for: A C	A1 A2 A5 A3 A4 B C2 D1-5
FII. The relationship between the ECHR and EU law	A D	A	A3 B: no C3 D1-3
FIII. European Union documents	B D	A B C D	A2 A3 A6 B1-2 C2 D2-5
FIV. European Union Agency for Fundamental Rights	B C	B D E	A2 A5

			B1 C3 D1-3
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Chapter H

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 The second volume represents terrorist legislation, strategies to combat terrorism, the counter- terrorist entity, systems to prevent terrorism and the results of national studies on terrorism, in the opinion of the inhabitants of the village.
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 The first part of the book contains the fundamental issues relating to regulation, and international and humanitarian aspects. Forms of human trafficking-forced prostitution, forced labor, child trafficking, organ trafficking the modalities for its elimination in Poland and other countries, issues related to protection of victims are also discussed. The second part includes all acts of international law (UN and European Union) and the main national trade regulations.
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- 10) *Jan Białocerkiewicz*, Status prawny cudzoziemca w świetle standardów międzynarodowych (The legal status of foreigners in the aspect of international standards) Volum 1, Wydawnictwo Uniwersytetu Mikołaja Kopernika, 1999
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Although titled *Collection of courts reports* the book contains also commentaries of the authors regarding:

- a. Decisions of the Romanian courts of law (between 2004 and 2008) and European Court of Human Rights on extradition (1957 European Convention on extradition);
- b. Decisions of the Romanian courts of law on national legislation and 1959 European Convention on mutual assistance in criminal matters;
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First part is a monography on relevant national provisions, 1957 Council of Europe Convention on extradition and various bilateral Treaties signed by Romania in the area of extradition; second part is a monography on extradition within European Union and European Arrest Warrant and the third part is a collection of international and European acts on judicial cooperation in criminal matters with short comments.

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