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# **EUROMED JUSTICE**

## **Training of Trainers Documents**

*Methodology  
ToT on Mutual Legal Assistance  
in criminal matters*

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***Methodology of a TOT on Mutual Legal Assistance (MLA) in criminal matters***

**Introduction:**

**The judicial and legal world is evolving at such a fast pace that it puts a responsibility on the related parties to adapt to these developments and increase their professional level, reaching a high level of professionalism within the relevant organizations.**

The work on this methodology came as a result of the mutual cooperation between the short-term experts of the project and the representatives of the Southern Partner Countries (SPC) (Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, , Palestine, and Tunisia), namely the members of the EuroMed Expert Group in Criminal Matters (CrimEx) and judicial training institutes who have participated in the EuroMed Justice IV project.

According to the general training methodologies, and the several meetings that have been held by the CrimEx (2017 – 2018) regarding the legal aspects related to cross-border serious crimes in the Middle East and North Africa, also in light of the CrimEx docs, Handbook on International Cooperation and the EuroMed Manual on Digital Evidence which encompass all the legal references for all the participating states, adding the importance and the modernity of this kind of cooperation on the international and regional level, a specialized training methodology is needed for this kind of topic. Indeed, this methodology will be the first step and the cornerstone to build the capacities of self-support in the future for developing the capacities of the justice sector personnel, whether they are judges, public prosecutors or administrative staff working for the ministry of justice, or any other related members.

This methodology is considered part of a model that contains a training needs analysis, a training manual, training curricula for this kind of topics related to mutual legal assistance for all participating States in the project, as the concentration will be

on the justice sector categories (judges, public prosecutors, advisors working for related ministries, ministry of justice or ministry of foreign affairs, or others).

**This integrated model depends on:**

- 1– Training needs analysis, which will be the outcome of the questionnaire results, which was already distributed to the participating countries.
- 2– Studying and analyzing documents<sup>1</sup> that were prepared throughout the EuroMed Justice IV project, and came as a result of all the CrimEx meetings that were held for the almost past two years with the participating countries.
- 3– Following up the outcomes of the trainings, to make its effects clear on the ground, also taking advantage of the outcomes and the participation of European countries and EU agencies (Eurojust, EJM, EJTN) and the Council of Europe HELP Program of what they present in the trainings from jurisdictions or decisions of the joint cooperation, and develop a database that could be useful for the continuity of the training process.
- 4– Studying and analyzing the different general training methods and its stages, to choose one training method and its stages, which will distinguish this type of legal subjects and to choose the best method.
- 5– The documents and curricula that were prepared by the CrimEx experts in the EuroMed:

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<sup>1</sup> The CrimEx docs developed from 2017 until 2018 are: - EuroMed Justice Fiches – Mr. Giel Franssen Senior Prosecutor The Netherlands  
- Legal and Gap Analyse on MLA and Confiscation – David Mayor Fernandez, Senior Prosecutor Spain  
- Legal and Gap Analyses on Extradition and Transfer of Sentenced Persons, Conflicts of Jurisdiction and Transfer of Proceedings - Professor Mohamed Elewa Badar - edited by EuroMed Justice Key Expert Mr. Virgil Ivan-Cucu  
- Legal and Gaps Analyses on Special Investigation Techniques, Cybercrime and AML-FT - Mr. Dan Suter - edited by EuroMed Justice Key Expert Mr. Virgil Ivan-Cucu  
- Legal and Gaps Analyse on Counter-Terrorism Professor Mohamed Elewa Badar - edited by EuroMed Justice Key Expert Mr. Virgil Ivan-Cucu  
- EuroMed Handbook on Judicial Cooperation - Mr Dan Suter and Professor Mohamed Elewa Badar with the assistance of Dr. Polona Polona Florijancik, edited by EuroMed Justice Key Expert Mr. Virgil Ivan-Cucu  
- EuroMed Justice and Police Digital Evidence Manual – Mr. Dan Suter, Mrs. Lina Cepeda, Mr Marc Varri, EuroMed Justice Key Expert Mr. Virgil Ivan-Cucu

- 1) Needs assessment and the questionnaire results report.
- 2) The mutual legal assistance in criminal matters training program.
- 3) ToT Manual

This methodology aims for preparing trainers to have the ability to accomplish the goals of the program; which will be presented on different forms that suits all target groups, and the most needed topics for each country, also which takes into consideration if the need for a training is on the national, regional or international level.

**The general goals:**

This methodology aims for:

- 1– Preparing a team of trainers able to transfer their different experiences for others, and build the capacities and develop the skills within this type of legal subjects of the members of the participating countries
- 2– Adopting a new and specialized stage for the methodology that serves its interests and needs.
- 3– Creating a culture of the mutual legal assistance (MLA) in criminal matters, between all the justice sector personnel, judges, public prosecutors, and others.
- 4– Creating new and modern helpful means to accomplish the goal.
- 5– Identifying alternatives and solutions through international conventions and agreements for any problem or weaknesses in the national legislations, through the followingup stage for this methodology

- 6– Judicial institutes shall adopt the methodology, curricula and training manual, as well as all the CrimEx documents that have been worked out.
- 7– Adopting a policy that widens the training of judges and prosecutors circle, in other different topics than the legal issues, any other topics of the procedures or terms related to mutual assistance in criminal matters.

**The following main points were taken into consideration in developing the methodology:**

- 1– The role of the EuroMed justice IV project in contributing and facilitating in the creation and support of developing the work within the cross–regional mutual legal assistance between the Mediterranean jurisdictions.
- 2– The urgent need for this kind of trainings according to the results of the needs assessment questionnaire which was distributed to the participating countries. Which is considered a part of this methodology.
- 3– Certain differences between the needs of each country, which requires special trainings for each country.
- 4– Investing in specialized trainers with good knowledge and experiences in this kind of topics, to offer their experiences and invest in them in their countries.
- 5– The differences between the target groups, and the differences in the level of their knowledge in international laws and conventions related to mutual legal assistance.
- 6– The importance of benefiting from the CrimEx members and the participants in activities that was implemented recently, given the information they gained within this aspect, and the positive effects of investing in them as trainers in these kind of activities, in a way that empowers the program’s goals.

7– A legal platform specialized in laws and adjudications that are related to (MLA) legal assistance in criminal matters within its different types. That aims for providing the data for the partner countries.

- 1) Collecting a number of adjudications related to the topic issued by national and European or international courts, and adjudications related to the procedure.
- 2) Adding the related laws and regulations or conventions (national, European and international) to this legal platform, in which it is easy to search for the content.
- 3) Special programming mechanisms that link the legal text with the issued adjudications.
- 4) Enabling the participating countries to use this platform and having access to it, as it could be used for reading, also to add new adjudications.
- 5) Programming the platform in different languages such as Arabic, English and French, to reach the maximum number of users from the justice sector personnel from the participating countries.

8– The importance of merging the training programs within the frame of the CrimEx documents with the laws and regulations in each country.

9– The importance of using the new technology as part of the training material, or finding an electronic platform in Arabic, French and English languages, to have the possibility of having the access on decisions that are issued on international level.

10– The importance of creating the EuroMed cross–regional culture of legal assistance within each participating country, in all related justice sector aspects.

### **Justifications of the methodology:**

1– Weakness in the cooperation between the Mediterranean (Middle East, North Africa) countries upon each other, with the neighboring countries and Europe, regionally and internationally within the mutual legal assistance in criminal matters.( MLA )

2– Lack of using the database, and not having the capacity of applying the right procedure when it comes to asking for legal help in the right and best legal way.

3– The obstacles of applying this type of assistance, as there is an importance of defining these obstacles to know the solutions, and the available legal means.

4– Not discovering the European MS and EU agencies experience and practices within this aspect, as there is an importance of taking advantage of the followed work mechanisms and its benefits.

### **EuroMed Justice Methodology**

Accomplishing a 100% of the training goals is not always expected, but it is enough to accomplish the positive parts of it, and here we aim for creating a new legal culture and ideology, also introducing the targeted new practices to implement the national and international laws and conventions.

Our main aim within this methodology is to reach the good training methods to support national, bilateral and international cooperation in all aspects and cases that ask for legal assistance and exchange of information between the countries. Based on the importance, and the effect of this assistance and cooperation on

creating fairer legal database, and a safer national, regional and international climate.

So a simple methodology was chosen, as we think it is enough for building unique training programs only if it was understood correctly and in depth enough.

The general training methodology depends on five phases, which are:

*Analyzing, designing, developing, implementing, evaluating*

These phases are very important, and for the aim of starting preparing the TOT within this field, we must follow the general TOT methodology, with the importance of taking into consideration the specificity of this kind of training, where the mutual legal assistance and cooperation is considered a very important part, as the hereunder methodology could be the best way for implementing the TOT, and it is implemented on three phases instead of the five mentioned above, as follows:

*Planning– Implementation – Follow-up*

### **First: Planning**

The increasing workload in courts, public prosecution offices, and other legal departments working in mutual legal assistance, several legislative amendments, and the different judicial procedures between the countries according to their legislations, play an important role in the lifetime learning, and it reflects the importance of the technical, professional, and legal development for all members of judicial parties working in this regard within the differences of the legal systems.

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From here, the judicial training institutions in all Mediterranean states, have the responsibility of planning in a precise and organized way the trainings on judicial

cooperation in criminal matters, s that fits the needs of (existing and future) judges, prosecutors, and other legal staff working in this field in different ministries and judicial authorities.

Therefore there must be:

- Orientation of the training program according to the needs.
- Designing a specialized training program for this need.
- Adopting a strategic policy that includes planning quality for this need.

This phase is executed before presenting the training program, and within this phase we define the main elements that contributes in preparing a good training program, and the most needed and objective one. The target groups differ in these trainings depending on the needs, as the target group could be judges or public prosecutors or staff working for the justice sector and related governmental departments. Though the knowledge level must be similar, in every target group, as the weak level differs from the average and from the advanced, while all legal references for these trainings are the same, as its importance comes from the mutual assistance and the legal relations between countries.

### 1. *Needs Assessment*

The training needs assessment (TNA) was analyzed<sup>2</sup> by different ways, such as: direct questions (questionnaires), personal interviews or visiting the work place, as these questioners will contribute in choosing:

- The target group of the training.
- The subjects and the problems that must be discussed.

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<sup>2</sup> See TNA authored by EuroMed Justice Expert Dragomir Yordanov

- how much knowledge do the target groups have regarding the training material, as this contributes in designing a successful training program, that suits this knowledge

When it comes to the TOT within the MLA program, there is a possibility to benefit from the EuroMed questionnaires that were distributed to the participants to the project , and also building the capacities of designing other questionnaires according to the trainer’s vision.

. The training programs should be defined accordingly with the training needs revealed for each country by the TNA. And these results showed the urgent need for preparing trainers in this MLA field t.

The needs assessment requires knowing the following:

<b>The target group</b>	<b>The knowledge</b>	<b>The skills they have</b>
1. judges 2. public prosecutors 3. Legal Staff and legal clerks working for judicial authorities, ministries, or other competent authorities. A TOT should be given for all target groups, for the aim of developing future training capabilities that are suitable for	1. The legal basis for judicial cooperation in criminal matters 2. The fundamental concepts for the judicial cooperation in criminal matters. 3. The legal sources. 4. The principles of reciprocity. 5. Forms of mutual legal assistance.	

giving trainings for all target groups.	<p>6. Roles and authorities dealing with legal assistance requests.</p> <p>7. Differences between legal assistance and the international police cooperation (INTERPOL) and others.</p>	
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Also it requires analyzing and setting some practical and legal problems, which the target groups suffer from, especially the problems that appear in the procedural and practical aspects in the administrative work or in the courts and the general prosecutions.

## *2. Design*

Designing the training program is done according to the target group and the training subject, with taking into consideration the importance of considering all references and documents that were done by experts through CRIMEX as an important part of the training program materials. Adding, adopting the training manual; which was prepared through this project, for designing the training program.

With the necessity of integrating the modern training methods like the e-learning, and empowering the programs with the legislations and decisions that contribute in expanding the prospects and ideologies of the trainees. The trainer must come up with modern training methods that suit the training subject, and that makes understanding the data and reaching the goal easy.

The Designing stage is done by choosing and taking into consideration several things:

- The importance of interaction in the training between judges and prosecutors as people who have the professional experience, the ability and the knowledge.
- The importance of creating a positive and agreeable atmosphere.
- The importance of activating the ability of self-learning by the participants, and that is done in the third stage of the training methodology which is following up, which allows the participants to be trained by an e-program and/or benefit from its data.
- Using a wide set of methods, interactive techniques and experimental activities (debates, participating groups, stimulation, solving the problems activities or case studies etc...).
- Strengthening team work.

Also the success of the designing stage requires having feedback, strengthening the motivation of the trainees by inner incentives (such as increasing job satisfaction or increasing the knowledge to be invested later, etc..)

### *3. Develop*

Taking into consideration the importance of developing the training manual with effective activities, that contributes in raising awareness and the ideology of the trainee, for the aim of increasing the level of effective participation that came as a result from the training.

- Preparing the related international laws and conventions.
- Preparing and develop new foreign court decisions European or Arab-courts for studying and analyzing them within workshops and case studies.
- Benefit from the following up phase in the future in developing a database and information to be in the hands of the participants and the participating

countries/ a platform or an e-learning program to exchange related adjudications or exchange the legal or practical problems, as at the end it will become a good material for trainings and workshops. Adding that it will contribute in making the problems clearer and defining these problems by trying to find solutions.

## **Second: Implementation**

Successful implementation depends on a successful trainer and choosing the effective training methods, same as the importance of the training program which was designed, so the program will be implemented in most effective way.

However, the real question is how can we insure the standards of choosing trainers who have the best methodologies, as these standards insure the best quality possible in trainings within the frame of national judicial training institutes, and that these trainings will be implemented in the best and right way?

Most probably, those solutions for this issue are related to the concerned judicial culture, therefore to the national perspective of recruiting and choosing procedures. Within a study on “the best practices in training of judges and public prosecutions (LOT1) <sup>3</sup>, in a project funded by the EU, the EJTN’s lab experts came up with a definition of the best practices within the judicial training in Europe, by using the concept of “the good or promising practices:

The definition of a “good or promising practice” in the field of judicial training includes:

1. Its capacity to be effectively transferred to other jurisdictions;

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<sup>3</sup> EJTN handbook on judicial training methodology in Europe, 2016 , p.10

2. The extent to which it innovates or refreshes (even inspires) existing, established training practices to enhance the learning experience of judges and prosecutors;
  3. The capacity of the practice to adapt to the differing cultural, social, economic and religious circumstances in which different judicial systems operate across the EU; this goes along with understanding another country's approaches and solutions not as a threat to one's own system, but as a true "added value";
  4. The existence of clear evidence that it meets an articulated training need
- 1- .

### *1. The trainer*

As this training subject is new and connected to international conventions, there must be a concentration at the beginning on choosing the ideal trainer for the training program, then the best evaluation system to ascertain the ability of the program to accomplish its goals. So it is important to depend on trainers from different countries, with high efficiency in this subject, as usually the trainer has an effect and contributes in widening the perception of participants, especially when it comes to exchanging experiences and judgments or the different court adjudications which form judicial precedents. It is worthy to mention the importance of using the members of the CrimEx, by looking at the experiences they gained through the CrimEx session as they developed the CrimEx documents and the training foundations in this program, and later they could be invested as trainers in their own countries and at the regional level depending on the needs.

We assume here, that the person chosen to be trained as a trainer has the general training skills, and that he is already a trainer. What matters to us after that, is choosing the most efficient in the topic of mutual legal assistance in criminal matters, as the questionnaire results reflected the high need for building a specialized training team in this subject.

So we are looking for building the foundations of the training from both sides, the general training foundations, and the specialized training foundations on the MLA. Where there is an importance of a deep knowledge in the national, bilateral, regional, international conventions, and enabling the trainer on specialized training skills in the subject.

a– The role of the judicial trainer:

The role of the judicial trainer differs from other trainers. due to the different professional nature of trainees, and when we say a judicial trainer, we don't only mean the judge who sits on the judgment platform, but we also mean the prosecutors of whom have the knowledge, skill, culture and professional background that makes them qualified, also the specialized study (graduate studies for example) or writing related reports and publications could be an advantage that gives the person the priority.

Therefore, choosing the trainer for this type of trainings must be evaluated and make sure of his professional background.

b– The trainer's efficiency:

Choosing the trainers is considered a top priority and an important issue, as their training capabilities must be taken into consideration and evaluated, and not just their professional background or seniority, whether he is (a judge or public prosecutor). And by applying this evaluation system in the selection process, the percentage of mistakes in choosing an inefficient trainer will decrease.

Therefore some things must be seen in a trainer such as:

- 1– a previous experience in the training material which will be presented, and preferably choosing external or foreigner trainers to transfer their experiences and knowledge in a positive way, especially at the first stages of the training.
- 2– Be able to connect the national laws with the related international agreements and conventions.
- 3– The ability to develop training programs that suits the target group, due to the differences between each side work.
- 4– Have the experience and a high professional ability in this topic, from the practical and academic side

It is necessary to point the importance of easing the judicial work load on the trainer, as the training process needs independence high professionalism, good and right adjudications, and able to build capacities..

### C. The trainer's characteristics:

The standards of efficiency and the quality of adjudications, adding the trainer's skills in transferring his experiences and skills to other trainers, will not make us forget that he must have the basic values of the judiciary. Whether the trainer is a judge, academic or an expert, their moral and professional values should be high, and the

transparency should go with the commitment in confidentiality, independence and professionalism. Adding to the methodological skills also the social and psychological capabilities in dealing with adults.

## *2. The training methods*

Choosing suitable training methods contributes in improving the level of knowledge, there will be different methods resulting from the workshops, brain storming, discussion, case studies, using the LCD for the presentations, diagrams, the camera, photographing and other methods, also using training materials such as the European courts adjudications, international decisions and electronic methods, which enables the trainee to stay informed of the laws and regulations related to this topic in most of Arab and European countries, also it makes it easier for them to look at the international conventions, and judicial precedents.

Due to the modernity of the legal knowledge related to mutual assistance MLA, presenting the practical cases, application forms and its exchanging methods, adding discussing the obstacles in the implementation process and the practical level, also forming working groups for this aim, will form an effective method in deepening the concept and having a successful training.

## *3. Evaluation*

Due to the fact that training is investing into human resources, and this investment must be measured, by activating the evaluation system which is considered the direct way for this measurement, as through evaluation we can give a feedback for the training, as a number of questions appear for this goal:

- 1- Did the training accomplish its goals?
- 2- Were the training methods suitable?

3- Were the training materials suitable?

4- Were the training content and the organizational aspects good?

Also the importance of evaluating the trainees comes from:

1- Pre questionnaires: distributed to the trainees by the trainer before the training to measure how much they know about the subject. And this could be done electronically or in a class meeting that gathers the trainer with the trainees in an unofficial way.

2- Post questionnaire: distributed after finishing the training session to measure the effect of the training process on the trainees.

Where the evaluation results give a glimpse on the training needs in the future.

### **Third: Follow- up**

Most of traditional training methodologies end with the evaluation, but we think that evaluation is part of the implementation process of the training program, at the same time it forms the first step of the following up stage, to measure if the training succeeded for the target group, not only info wise but also if they are applying what they were trained on in their work, therefore following up the trainees through using electronic mechanisms or something else to collect judicial applications issued by courts or prosecutors, which in the future will lead to exchanging experiences, and the others will benefit from the judicial applications and international conventions.

This could be done by:-

- 1– Forming working groups to support the participants and contributing in enriching the electronic program with judgments that contributes in finding solutions for problems that might appear.
- 2– Creating a new learning environment for this kind of legal topics, rich in rules and laws, and the material and laws that are mentioned in the CrimEx Handbook suitable for developing an electronic database nucleus.
- 3– Conducting online seminars or trainings or using the e–learning in empowering these trainings as it costs less.
- 4– Creating a legal platform that contributes in the sustainability of following up, self–development, exchanging experiences and judgements and everything that could be useful.
- 5– Adopting the Mutual Legal Assistance– MLA in the initial and continuous training programs by all judicial institutes and justice and judicial training centers.