

The Judicial Cooperation Network of Central Asia and Southern Caucasus

Plenary Meeting 2021

Summary and Recommendations

Brief Summary

On February 25-26, the Plenary Meeting of the Judicial Cooperation Network of Central Asia and Southern Caucasus (CASC Network), which is an annual cooperation platform to facilitate continuous and sustainable dialogue between Network members and strategic partners outside the region, was held online.

The main objectives of the current Plenary Meeting are: (a) to further enhance inter-regional cooperation in international cooperation in criminal matters; (b) to discuss further steps of cooperation within the CASC Network and a Work Plan for 2021; (c) to exchange best practices and opinions on specific issues related to combating transnational organized crime including trafficking in persons, illicit drug trafficking and asset recovery issues; (d) to review possibilities for increasing the effectiveness of judicial cooperation through digitalization of the processes.

Due to travel restrictions, the Plenary Meeting was conducted via on-line means of communication, specifically through Zoom to permit the simultaneous translation of the event. The working language of the meeting was English with simultaneous translation into Russian language. Arabic translation was provided during the second day of the event to ensure active participation of the representatives from countries of the Gulf Region.

The Plenary Meeting brought together more than 60 participants, not only from Central Asia and South Caucasus and but also including experts from Germany, Latvia, Oman, Philippines, Qatar, Turkey and USA, who are responsible for international legal cooperation issues. Representatives of other networks such as EJN, IBER-RED, SEAJust and WACAP were invited to actively take part in the framework of the event. CARICC participated as well. For the first time, key partners from the Gulf region (namely Oman and Qatar) attended the Network's activity.

The first day of the meeting was devoted essentially to internal business of CASC Network and sharing experience with other networks. Particularly, Session III focused on sharing best practices related to further improvement of international judicial cooperation through digitalization of the processes. In addition, a presentation on judicial cooperation in the USA was delivered on the first day.

The second day of the event related to particular issues on cooperation in specific areas of (combating) transnational organized crime focused on the exchange of best practices and ideas. Session IV of the event provided a forum for practitioners to discuss respective issues on judicial cooperation related to the investigation related crimes to transnational trafficking in persons and smuggling of migrants. Discussions on further improvement of cooperation and best practices

related to asset recovery issues were facilitated within Session V. Issues related to more effective and efficient cooperation in combating illicit drug trafficking issues were covered within Session VI.

In the framework of the open debate and conclusions the CASC Network Secretariat gathered and summarized related recommendations for more effective and efficient international cooperation in criminal matters for better addressing global threats in the current challenging circumstances.

Conclusions and recommendations

Based on presentations and proposals of the participants the following recommendations were gathered and summarized to ensure more effective and efficient international cooperation in criminal matters:

Mutual legal assistance in general

- Direct communication between central authorities and mutual legal assistance requests digitally transmitted can accelerate and simplify the mutual legal assistance. To move forward from paper-based MLA requests to digital MLA requests, secure channels of communications or secure platforms for central authorities are required.

- UNODC is requested to provide technical assistance for establishing secure channels of communication for Central Authorities members of CASC Network. The experience shared by some of the speakers provided models to be explored: bilateral secure channels protected by a VPN ion, like the one established between Uzbekistan and the Russian Federation; multilateral platforms, like the new Iber@ developed by IberRed; or the multilateral secure channel developed by the European Judicial Network. A possible cooperation with ARIN-WCA aimed to the establishment of a secure platform could be explored as an option.

- Conducting informal consultations with other central authorities prior to sending MLA requests is strongly encouraged, particularly when the requested and the requesting countries have different competent authorities for international cooperation in criminal matters and when the roles of prosecutors and law enforcement officers can differ. The regional judicial cooperation networks can provide useful assistance for it, especially in urgent cases.

- CARICC can play an important role in facilitating the cooperation between the competent authorities of the member-states in investigating cross-border crime associated with illicit drug trafficking. This Centre can assist in organizing and executing joint international operations and investigations, including controlled deliveries. Collaboration between CARICC and CASC Network should be further explored.

- Internal coordination and international cooperation are key to combating cross-border crime.

Asset recovery

- It was noticed that there are important differences between countries. Some of them can recognize foreign confiscation orders, some of them cannot and are based on the system of transfer of proceedings; some countries require a conviction in a criminal proceeding, some of them can

confiscate without a conviction; some of them can share the confiscated asset, some of them require a bilateral agreement. Considering all these differences, informal consultations prior to sending a judicial cooperation request for confiscation are necessary. The CASC Network will continue to provide assistance in direct communication and analytical support to ensure effective collaboration.

Trafficking in persons

- When a case of trafficking in persons is detected in the origin, transit, or destination country, it is recommended to encourage the exchange of information with the authorities in other countries that can be competent to investigate and prosecute others who could have been involved in the offence. Usually, an official communication through police channels or judicial cooperation is required to start an investigation. The provisions of the United Nations Convention Against Transnational Organized Crime on spontaneous transmission of information (article 18 numbers 4 and 5)¹ and on police cooperation (article 27)² can provide legal basis for it.
- Setting up informal contacts between investigators and prosecutors of countries under the same TiP route is encouraged. Considering that South-East Asian countries became destination countries for trafficking in persons, joint activities between CASC Network and SEAJust Network should be organized. Multilateral or bilateral activities between CASC members and Gulf Region countries are also interesting.
- Special attention should be paid to the needs of women victims of trafficking in persons for sexual exploitation. The protection of these victims is also essential for the effectiveness of the investigation as they are source of evidence and information. Specific techniques to approach the victims should be used by the investigators.

¹ Article 18 UNTOC, nums. 4 and 5:

4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party pursuant to this Convention.

5. The transmission of information pursuant to paragraph 4 of this article shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information. The competent authorities receiving the information shall comply with a request that said information remain confidential, even temporarily, or with restrictions on its use. However, this shall not prevent the receiving State Party from disclosing in its proceedings information that is exculpatory to an accused person. In such a case, the receiving State Party shall notify the transmitting State Party prior to the disclosure and, if so requested, consult with the transmitting State Party. If, in an exceptional case, advance notice is not possible, the receiving State Party shall inform the transmitting State Party of the disclosure without delay.

² “.....Each State Party shall, in particular, adopt effective measures:

(a) To enhance and, where necessary, to establish channels of communication between their competent authorities, agencies and services in order to facilitate the secure and rapid exchange of information concerning all aspects of the offences covered by this Convention, including, if the States Parties concerned deem it appropriate, links with other criminal activities;

(b) To cooperate with other States Parties in conducting inquiries with respect to offences covered by this Convention....”