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The Sahel and Indian Ocean Commission Judicial Platforms

Platform of Penal Judicial Cooperation of the Sahel Countries

(PCJP-Sahel)

- **Member States:** Burkina Faso, Mali, Mauritania and Niger.
- **Observers:** Chad and Senegal.
- **Purpose:** to strengthen, facilitate and accelerate the penal judicial cooperation between Sahel countries.
- **Donor countries :** France (for the Platform's resources) and Canada, Germany, Japan, USA (for CT activities in Sahel countries).

Created in 2010, along the lines of the Regional Judicial Platform of the Indian Ocean Commission countries (IOC), **the “Sahel Platform” answers to a tremendous need for penal regional judicial cooperation**, particularly in facilitating exchanges between national central authorities of Sahel countries in charge of judicial cooperation against transnational crime, especially related to terrorism.

The United Nations Office against Drugs and Crime (UNODC), as part of its mandate, launched the idea to create such a Platform to the Ministers of Justice of the Sahelian countries. Although all of them agreed with the idea, only four Sahelian States became members and appointed their national and substitutes focal points.

For now, only **Burkina Faso, Mali, Mauritania and Niger**, are members of the Platform, but the membership still stays open to all Sahelian countries reaching the same goal of consolidating security in the Sahel region through judicial cooperation. Senegal and Chad have the statute of observers.

The primary objective of the Sahel Platform is the judicial cooperation among the member states in accordance with their domestic legal framework.

To achieve the Platform's objective, the initiative attempts to:

- a. Facilitate extradition procedures and legal assistance in criminal matters between the States Parties in accordance with their domestic laws and international obligations ;
- b. Improve the ability of national judicial authorities to execute counter-terrorism legislation, in accordance with the existing legal framework in accordance with the rule of law, including especially human rights ;

- c. Encourage regional judicial cooperation ;
- d. Foster regional judicial cooperation among Burkina Faso, Mali, Mauritania, and Niger, with a view to bringing Senegal and Chad into the program ;
- e. Share member state experiences and best practices on extradition and mutual legal assistance in criminal matters with other member states ;
- f. Identify capacity building needs and transmit them to UNODC to provide technical assistance in accordance with its mandate; to sensitize all criminal chain actors on the role, interest and performance of the platform ;
- g. Promote Sahelian self-investment.

Organization

Several missions were given to the focal points, such as facilitating the transmission and execution of mutual assistance and extradition requests in the respect of national law and international obligations of the member states; exchanging and sharing their experiences; identifying the needs and send them to UNODC services within its mission of technical assistance; providing a full accounting of the cooperation requests processed and analyzing the practical difficulties that may occur during the writing, transmission and execution of these requests.

The Sahel Judicial Platform functions through:

- **Focal points:** one main focal point and one substitute per member country who are officials in charge of coordinating judicial cooperation requests ;
- a **Secretariat** (administrative body, rotating among Member Countries, supported by UNODC) ;
- a **Technical Committee** (executive body, composed of the focal points and substitutes) ; and
- a **Ministers Council** (deliberative body, composed of Ministers of Justice).

The meetings are periodic (annual) and rotating, and aim at opening a framework for the discussion regarding the practical and legal issues encountered, sharing best practices, identifying technical assistance needs and at suggesting recommendations for the Ministers Council.

Achievements

Since the Platform's inception, the success of the project has been mirrored by multiple requests for legal assistance. Several Mutual legal assistance requests have effectively transited through the Platform which has been key in facilitating communication

between national central authorities competent for international cooperation in criminal matters and executing judicial authorities of Sahel countries for effective and speedy redaction, transmission and execution of these requests.

Number of MLA/Extradition requests channelled through the Platform :

2011: 1 request

2012: 2 requests

2013: 8 requests

2014: 11 requests

Example : An apt example is in 2011, where the Platform facilitated channels of communication between Mali and Niger for mutual legal assistance in dealing with one of the most referenced terrorism cases, which involved the abduction and deaths of two French citizens found in Mali. It took all of ten days from the MLA request being sent until the approval was received. Such a task may have taken a month or longer to process outside of the platform. Therefore, communication has significantly improved among the national authorities of the members states charged with international cooperation regarding criminal affairs; including the judicial authorities heading the execution of requests.

Through the platform, a number of bespoke legal tools have been created to facilitate and foster international cooperation in criminal matters.

1. Practical guide on carrying out effective extradition and mutual legal assistance requests in criminal matters for countries of the Sahel Regional Judicial Platform (Burkina Faso, Mali, Mauritania, Niger).

- This guide outlines the information required by the members of the Platform to carry out an extradition and mutual legal assistance request. It dictates to the requesting state which information is required such as competent authority, procedure to submit the request, information and documents legally required, accepted legal basis, and language in which the requests must be submitted.

2. Lutte contre le terrorisme dans la région du Sahel: cadre juridique, techniques d'enquête et coopération policière (available in French only).

- This training module fosters the strengthening of investigation and cooperation capacity of Judicial Police Officers from Burkina Faso, Mali, Mauritania and Niger.

3. Counter-terrorism Legislation Database.

- This database provides comprehensive and accurate legal information on the steps taken by the international community and individual countries in the fight against international terrorism. The data is available in full-text, providing up-to-date information on counter-terrorism conventions, resolutions, and national criminal laws worldwide. Such information can assist countries with international cooperation cases.

4. Counter-Terrorism Learning Platform.

- This interactive tool is designed to aid criminal justice officers by enhancing their knowledge, with regards to judicial cooperation for example. The content is available in six languages; English, Arabic, Chinese, Spanish, French, and Russian. The learning platform is composed of three sections; online courses, an online virtual community of practitioners, and judicial resources. The learning platform, therefore, provides not only education courses, but also facilitates the user to establish contacts with counterparts around the world and also have access to international, regional, and supplementary legal resources.

Communication between national central competent authorities in charge of international cooperation in criminal matters of Sahel countries has been improved (as well as between judicial authorities in charge of execution). Focal points know each other and consult with other focal points on any issue arising on international cooperation in criminal matters.

Measures were taken to institutionalize the Platform (national and regional regulations, Chart, etc.).

The Platform itself is viewed as a good practice the UNSG and Security Council. Moreover, it is in contact with other international judicial bodies such as :

- the European Judicial Network (EJN) and EUROJUST ;
- the Justice Platform of the I.O.C. (Indian Ocean Commission) ;
- the Quadripartite mechanism (Belgium, France, Morocco, and Spain) for sharing information and international cooperation in the fight against terrorism.

Consequently, the Platform is held as a model and example for similar future judicial ventures between West African central authorities and prosecutors. The impact of the Platform reaches beyond the member states which can be seen by the interest shown by nations such as Senegal, Chad, Morocco, and other countries. It was also presented in other regions (i.e. the League of Arab States).

Indian Ocean Commission Justice Platform

Background

The Indian Ocean Commission (IOC, *Commission de l'Océan Indien*) is a regional organization with five members States: **Comoros, France (for the Island La Réunion), Madagascar, Mauritius and the Seychelles.**

In 2007, the IOC established a “Security” Platform with the objective of enhancing cooperation between Member States’ law enforcement agencies.

As follow-up to the recommendations adopted at a 2008 UNODC-IOC Training on international cooperation in criminal matters against terrorism, **UNODC and IOC in 2008 also jointly created a “Justice” Platform.**

The “Justice” Platform is composed of five “Justice” Focal Points, judges or prosecutors in charge of extradition and mutual legal assistance cases, one per IOC Member State, designated in 2008 by the respective Ministers of Justice or Attorney-General.

The objectives of the Justice Platform are :

- (1) to strengthen regional cooperation in criminal matters between IOC Member States;
- (2) to strengthen Justice-Police cooperation within IOC;
- (3) to promote respect of international commitments of IOC Member States, particularly in the area of international cooperation in criminal matters.

Once per year the Focal Points meet for two or three days to network, exchange information, plan future activities and receive training on a substantive topic. UNODC/TPB has been material in organizing the Annual Meetings and participated in them, acting as secretary to the meetings of the “Justice” Platform and providing capacity building activities.

Its annual meeting coincides with that of the Justice Platform and is held in part jointly, so as to foster cooperation between law enforcement and justice officials.

Assessment of the Justice Platform usefulness

Through the platform, a number of bespoke legal tools have been created to facilitate and foster international cooperation in criminal matters, such as :

- (i) Compendium of Bilateral, Regional and International Agreements on Extradition and Mutual Legal Assistance / Recueil d'accords bilatéraux régionaux et internationaux en matière d'entraide judiciaire et d'extradition (French only) ;
- (ii) Practical guide for formulating effective requests for extradition and mutual legal assistance to the five States members of IOC / Fiches pratiques pour faire une requête efficace d'extradition et d'entraide judiciaire aux Etats de la

commission de l'Océan Indien.

At the January 2013 Annual Meeting, the Justice Section Focal Points presented a *bilan* of their international cooperation in criminal matters, extradition and MLA, with the other IOC countries, discussing success and difficulties encountered. These presentations gave rise to a lively, frank and constructive discussion of the existing obstacles to cooperation.

There appear to be **a number of successful MLA requests every year**, which profit from the existence of the informal contacts between the Platform Focal Points, who typically are staff of their country's Central authority.

With regard to extradition, **there appear to be no successful requests where there is not a bilateral treaty**.

The following main obstacles emerged:

- with the exception of a bilateral treaty between France and Madagascar, there are no extradition or mutual legal assistance treaties between IOC countries. France is negotiating treaties with Mauritius and Comoros;
- prohibition of extradition of nationals in the laws of Comoros, France and Madagascar. Because of reciprocity requirements, this leads to non-extradition of nationals also by Mauritius and Seychelles;
- regarding Mauritius and Seychelles, impossibility of extradition in the absence of an extradition treaty (except with other Commonwealth countries);
- Comoros maintains the death penalty and forced labour.

The discussion between the Focal Points was useful to clearly identify these obstacles, but overcoming them requires change in legislation and decisions at the political level. The Justice Platform therefore calls on those in charge to search for solutions (including giving consideration to a regional extradition and MLA treaty).

In their conclusions of the Annual Meeting, the two Platforms identified four main challenges to security in the IOC region and therefore priorities for their action:

- (1) **drug trafficking**
- (2) **trafficking in human beings**
- (3) **fraud in documents**
- (4) **illegal migration.**

Examples of Prosecutors' networks

I- The West African Network of Central Authorities and Prosecutors (WACAP)

Background

WACAP was created in 2012 pursuant to resolutions 5/8 and 6/1 of the Conference of the Parties (COP) to the Organized Crime Convention. These resolutions mandated the United Nations Office on Drugs and Crime (UNODC) to foster international and regional cooperation by facilitating the development of regional networks and, where appropriate, by facilitating cooperation among all such networks. WACAP is linked to the Bamako Declaration on Impunity, Justice, and Human Rights in West Africa (2011).

Objectives

The purpose of WACAP is to strengthen the capacity of central authorities and prosecutors to combat all forms of organized crime and impunity, and to facilitate regional and international cooperation. WACAP comprises the 15 ECOWAS countries and Mauritania.

WACAP consists of two phases :

-1st phase : assist West African central authorities in developing contacts with their counterparts in other countries to exchange information about their respective legal systems and procedures, to develop a common language, and to share good practices;

-2nd phase : develop and strengthen the capacity of prosecutors specialized in organized crime to lead successful prosecutions and to cooperate at the regional and international levels.

WACAP's activities :

- Creating a safe forum for the exchange of informal and formal information between central authorities, prosecutors and judges;
- Providing the necessary tools to central authorities, including legal and practical information;
- Developing a better understanding among participants of the application of relevant international, regional and bilateral legal instruments;
- Facilitating contacts between the West African Network and other regional networks.

WACAP's benefits :

- Enabling face-to-face interactions that build trust between officials and a better understanding of each State's legal and procedural requirements.
- Facilitating understanding of the crimes being dealt with at the national level in their broader regional and international context to examine possible links to other crimes. Such approach is key to dismantling criminal networks.
- Promoting South-South cooperation : the more advanced countries of the region can share know-how and experience.

II- The Network of Prosecutors against Organized Crime (REFCO)

Background and objectives

REFCO is an initiative of the United Nations Office on Drugs and Crime (UNODC), launched in March 2011, to :

- promote joint transnational investigations of organized crime;
- strengthen the Central American and Caribbean Public Prosecution Offices;
- foster regional cooperation between them in this area.

REFCO comprises 10 Prosecutor's Offices specialized in organized crime from Belize, Costa Rica, Colombia, the Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Nicaragua and Panama.

REFCO's activities : plenary meetings/national and regional trainings

At the national level

- providing support and technical assistance to each Prosecutor's Office, according to the identified needs and priorities.

At the regional level

- promoting communication and trust between public prosecutors;
- providing a platform where they can share the difficulties encountered in investigations, the research methodology of the various phenomena associated with organized crime, or court rulings at the jurisprudential level.

REFCO's results

- Strengthening national structures and coordination to prosecute organised crime;
- Operational coordination between two or more countries in high profile cases of transnational crime;
- Identification of good practices/sharing of experience through training with over 1200 prosecutors participating;
- Endorsement by the Council of Attorney Generals of Central America, which provides support for its outcomes.