Title:
Improving the efficiency of the court system and the public prosecutor’s office

Sub-programme: Justice and Home Affairs

Location: entire area of the Republic of Poland

Objectives:

**Overall objective:** Improvement of the functional/operational efficiency of the system of justice with particular emphasis on:
- the organisational capacities of the system of Justice at the level of courts, prosecution, enforcement;
- the strengthening of the position of public prosecutors in the fight against organised crime;
- making judiciary more familiar with EU Law including Third Pillar Acquis

The hereinafter described proposals may be implemented through twinning arrangements with EU Member States.

**Specific objectives:**

I. **Strengthening the organisational capacities of the system of Justice**
1. Adapting the organisational capacity of Justice to the requirements connected with the adoption of the acquis;
2. Improving the access to justice and acceleration of court proceedings including the following measures
   a) Introducing a new level of courts (Borough Courts);
   b) Improving the enforcement of judgements by a better collection of adjudicated court dues and fines;
3. Improving the effectiveness of the international legal co-operation

II. **Strengthening the efficiency of the public prosecutor in fighting against organised crime**
1. Developing up to date techniques of access to information
2. Training of prosecutors

III. **Enhancing the professional skills of the judiciary in practising and applying EU Law and third pillar acquis in particular by means of:**
1. Training of judges and prosecutors;
2. Making available access to EU data-bases

*Reference to AP and NPAA priorities*

These objectives are in accordance with:
a) *Accession Partnership* priorities:
• short-term priority “Reinforcement of institutional and administrative capacity: in particular improvement in the areas of ... justice and home affairs ministries and services”,

• medium-term priorities: “Reinforcement of institutional and administrative capacity: improved operation of the judicial system, training for the Judiciary in Community law and its application, reinforcement of justice and home affairs institutions (ensuring sufficient and properly trained personnel in particular ... ministries and courts); “Justice and Home Affairs: including ... fight against organised crime”.

b) Polish NPAA priorities include reinforcement of JHA institutions and the fight against organised crime. The document puts special emphasis on the JHA ministries to deal with the problems of organised crime which can be only achieved through an overall strengthening structures and support the public prosecution service.

Description:

Improving the efficiency of the system of justice requires adoption of a number of measures in several key sectors. The first crucial point is to develop and strengthen professional skills of the judiciary, public prosecutors and staff of justice administration. There is also a need to adapt the existing institutional framework of common courts of law. On the operational side, it is foreseen to support the courts and public prosecutor’s offices by modern technical equipment, especially in the field of the executive proceedings, international legal co-operation and combating organised crime.

The project, part or whole could be implemented in the form of twinning, and will therefore undertake the following actions:

1. Strengthening the organisational structures and staffing of the Ministry of Justice and related services

An efficient administration of justice is an essential precondition for proper functioning of the entire justice system. Only well prepared staff, working under optimal organisational structures and supported by modern technologies can meet the obligations deriving from the acquis communautaire.

The experience and know-how of EU Member States can be very valuable in this respect. Close cooperation will therefore be developed between the Ministry of Justice and related services with their counterparts in the Member States (MS). Particular emphasis shall be put on:

• legislation - with the aim of bringing it in line with acquis communautaire: Phare funding will be provided for study visits of MS experts in Poland and of Polish experts in the Member States

• information technologies – with the aim to examine (and re-examine) the need and ways of introducing computer technologies in the justice system. Phare funding will be provided under this project for MS experts and an experts group will be composed of Polish and foreign specialists to prepare detailed analysis and expertise in this field as well as to supervise the implementation of the computerisation programme.
management of human resources and training – with the aim to improve the system of recruitment and training of judges and public prosecutors. To date training has been prepared and conducted by the Ministry of Justice (centralised training) and by courts/public prosecutor's offices themselves (local training). Plans however exist to create a specialised unit with its own personnel, proper facilities and financial means, which would be responsible solely for the task of training of officials and employees of the administration of justice. Possible changes in the present model of training for judges and public prosecutors should be preceded by detailed analysis which will identify demand for training (possible target groups and required fields of expertise), prepare a comparative survey of the solutions adopted in particular EU Member States and present various possible options for implementing of training programmes (with clear indications of required resources: funding, material and human). This project will therefore provide Phare funding for MS expertise in this respect.

penitentiary administration - with the aim to reach the European standards in the field: Phare funding will be provided for missions of MS experts, study visits for Polish staff of penitentiary administration to Member States, training for Polish staff of penitentiary administration.

To secure a proper coordination of activities carried out within this project in co-operation with partner(s) from Member State(s) - which concerns both the activities mentioned above and some activities indicated below under next points - the project will provide Phare funding for one MS liaison officer in the Polish Ministry of Justice on the basis of long-term secondment.

2. Set up and providing facilities for a new level of common courts of law in Poland: borough courts

At present there is in Poland a three-tier system of common courts of law. The courts are overloaded causing disruptions in getting access to justice and delays in examining cases. Even petty cases have to wait in a long „queue” before they are finally determined.

It is assumed that creating a new (lowest) level of common courts - borough courts (wydzialy grodzkie) - will improve the situation. New courts will have cognisance only over less complex criminal and civil cases. It allows to speed up the examining of such cases. On the other hand, courts of higher level, released from dealing with petty claims and offences, will have more time for examining of more serious and important cases.

Borough courts - wydzialy grodzkie - (up to 400, 1-2 judges in every court) could begin to operate as early as the 1 January 1999 (even though related legislation has not yet been adopted - its drafting is still in progress). At the beginning they would have relatively limited scope of cognisance (civil cases), although this would be extended to include criminal cases at a later date. It is assumed that borough courts will adjudicate under new simplified procedural rules, which are currently being developed.

After the relevant amendments to laws are adopted, i.e. particularly to the Act on the common court system and to procedural laws (Code of Civil Procedure, Code of Criminal Procedure), the following actions will be required in order for the borough courts to operate efficiently:

- provision of suitable office and court room space (to be financed by Poland)
- provision of standard office equipment (to be financed by Poland)
• provision of computer equipment (one set for each court) and software for the secretariat and keeping registers (to be financed by Phare). Before the computer equipment is in place the expertise will be needed to determine exactly the demand concerned, especially the requirements for hardware and software. Phare funding will be provided for MS expertise in this respect, as part of project component 1 described above.

• employment of judges and administrative staff (to be financed by Poland)

• training of judges in computer use (to be financed by Poland)

3. Improving the efficiency of judicial bodies responsible for the collection of court dues

One of the major problems of the judicial system is the poor efficiency of executive proceedings and in particular the collection of adjudicated court dues (court fees, fines). It is assumed that the situation could be significantly improved if the executive sections in the courts are provided with modern equipment destined for keeping the registers as well as appropriate training.

The implementation of this task will consist of:

• provision of all 318 criminal departments of the regional courts (responsible for collecting adjudicated court dues) with modern computer equipment (one set for each unit) and software to keep registers (to be funded by Phare). MS expertise will be funded by Phare under this project to determine exactly the demand concerned, especially the requirements for hardware and software.

• provision of necessary training of staff (to be financed by Poland).

It is important to stress that the above is part of broader reform aimed at improving the efficiency of executive proceedings. Within the framework of this reform, a new law on court enforcement officers and execution of judicial decisions has been adopted, which introduced far-reaching changes in the existing state of law. The Codification Commission on Civil Law is proceeding with work on amending the Code of Civil Procedure regarding the execution of judicial decisions.

4. Improving of the efficiency of courts and public prosecutor’s offices in international legal co-operation

The key problems faced by courts and public prosecutor's offices in international legal co-operation, are the lack of officials and personnel properly trained for the activities in this area, as well as the shortage of technical equipment. Better staff training and provision of suitable equipment will facilitate and speed the process of cases and enable more efficient international legal co-operation. Implementation of this task will include:

• further training of judges and public prosecutors on international legal co-operation including language training (to be financed by Phare). To date, training on international legal co-operation has been organised occasionally, whereas language training has not been organised at all. The legal training will involve persons dealing with international legal co-operation in courts and public prosecutor's offices at the provincial (voivodship) level and in the Ministry of Justice (approx. 120 persons in total). This should cover the practical aspects of applying conventions, bilateral agreements, in the form of workshops with practitioners (of central government
agencies, courts, public prosecutor's offices) of the Member States. Before the training programme (three 2.5 days seminars per year) is implemented the seminar with participation of 4-5 experts from Member States and several Polish practitioners dealing with international co-operation should be held in Poland in order to determine precisely topics of the training sessions and other relevant details. We find it necessary to implement the training with the participation of experts of several Member States.

- The same group of judges and public prosecutors will take part in language training locally, using existing professional language schools and agencies (to 50 % cofunded by Poland)
- preparing and publishing training materials for practical activities in international legal co-operation (to be funded by Phare and co-financed by Poland)
- provision of computer equipment (and software) (to be funded by Phare) for international legal cooperation in provincial (voivodship) courts and public prosecutor's offices as well as the relevant unit of the Ministry of Justice (90 units together). MS expertise will be funded by Phare to determine exactly the demand concerned, especially the requirements for hardware and software (containing, among other components, information on regulations used in legal co-operation with particular foreign countries, template documents and forms, etc.) which will make processing cases significantly easier and faster. It is assumed that the guidelines for such a software will be prepared in co-operation with the experts from Member States having experience in this field (to be funded by Phare).
- appropriate training of staff in the use of computers and aforementioned software (to be financed by Poland).

5. Increase of the effectiveness of public prosecutor's offices responsible for combating organised crime

The co-operation of the administration of justice in the field of combating organised crime is an essential prerequisite for prosecuting such crimes as money laundering, illegal trafficking in drugs, stolen cars or objects of cultural value. Proper co-operation in this respect requires properly trained staff, especially public prosecutors, having access to relevant information.

a) Access to information (equipment)

Operations related to combating organised crime are co-ordinated in the administration of justice sector, by the Bureau for Organised Crime at the National Public Prosecutor Office in Warsaw. The Bureau supervises investigations into organised crime conducted by departments, set up especially for this purpose in 11 provincial (voievodship) public prosecutor's offices.

The above mentioned units of public prosecutor's offices (main office and 11 "PZ" departments) will be equipped with a suitable computer network and software. The role of this system will include:

- collecting, analysing and exchanging information electronically about events, based on findings by both the prosecutor's offices and external authorities;
- gathering, analysing and completing data on interleaved, complicated investigations.
Creating the system should include setting up a computer network in each of "PZ" departments, to be connected to a similar network to be set up in the Bureau for Organised Crime at the National Public Prosecutor’s Office which will serve as a central unit for the network. Communication and specialised software will also be required. This network will be funded by Phare following an IT analysis carried out with MS expertise.

b) Training

To improve knowledge and experience of staff dealing with organised crime (especially public prosecutors, but also judges) a number of seminars should be held in Poland concerning different aspects of organised crime with participation of foreign experts, as well as to organise study visits for this staff in similar institutions of Member States being in charge of combating organised crime. This training will be funded by Phare and cofunded by Poland.

6. Training of judges and public prosecutors in EU law

The staff of the administration of justice (judges and public prosecutors) have to be prepared properly to apply European law. Therefore in the period before Poland joins the European Union, they should acquire a solid knowledge of European law developed through large-scale training programmes.

The Ministry of Justice has conducted several training programs for judges and prosecutors on European law since 1995 and activities in this field will continue at least till accession to EU. From the year 1998 training efforts also include court trainees - future judges by introducing a new topic, i.e. European law, to the programme of the apprenticeship training.

In the framework of the above described training project the following activities will be carried on:

- continuation of the training programmes already in progress:
  - training of approximately 3,500 persons in fundamental issues regarding European institutions and European law, with detailed accounts of specific branches of EU law. This training programme has been run successfully since the summer 1997. It includes basic training organised locally in the court districts entrusted with training tasks (23 centres in Poland) and specialised training (on specific branches or issues of EU law) organised centrally. The lecturers in the basic programme, who run 2.5 days seminars, are Polish academics or officials dealing with EU law. The lecturers in the specialised programme should be experts from Member States. We propose to design and run the specialised training programme in close co-operation (twinning) with EU Member State(s) and this will be funded by Phare, whereas Poland will continue to cofinance the basic training.
  - Training programme for about 3,500 judges on acquis communautaire in the four principal branches of court law (civil, labour, commercial and criminal law) and the methodology of processing the cases which involve EU law. This programme was developed under previous bilateral cooperation and will be funded partly by Phare.
  - training of court trainees: In September 1998 a new programme of traineeship is to be introduced for court trainees. It is assumed that the new programme will include
the issues of European law in the third year of training. This will be funded by Poland.

7. Providing access to electronic legal and bibliographic databases

At present, the courts do not apply European law, hence they are not provided with access to its sources. After accession to EU, such access will become a prerequisite for proper discharge of the judicial functions by the courts. Therefore it is a must to provide the Supreme, appellate and provincial (voivodship) judicial authorities with access to electronic legal (CELEX) and bibliographic (SCAD) databases regarding European law (to be funded by Phare). Simultaneously the above mentioned courts could be also provided with access to electronic databases on Polish law (LEX) (to be funded by Poland).

The implementation of the task will include provision of provincial (voivodship) courts, appellate courts and the Supreme Court, with computer equipment and software with legal and bibliographic databases: European - CELEX, SCAD and Polish - LEX (to be funded by Phare and the Polish side). MS expertise will be needed to determine exactly the demand concerned, especially the requirements for hardware and software. Training of judges and administrative staff in the use of these databases will be financed by the Polish side.

**Institutional framework**

1. Preparing the legal framework for the establishment of the borough courts (wydziałygrodzkie): the Ministry of Justice (draft), and the Parliament;
2. Preparing the suitable infrastructure for the borough courts (wydziałygrodzkie): Ministry of Justice;
3. Preparing the scope of works and the specification of the equipment needed: Ministry of Justice and National Public Prosecutor’s Office
4. Monitoring: Ministry of Justice National Public Prosecutor’s Office
5. Reporting (for the purposes of monitoring): the courts and public prosecutor’s offices concerned
**Budget (in MECUs):**

<table>
<thead>
<tr>
<th>Institution</th>
<th>Investment</th>
<th>Institution Building</th>
<th>Total PHARE</th>
<th>Poland</th>
<th>IFI</th>
<th>TOTAL</th>
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<tbody>
<tr>
<td>1. Ministry of Justice and related services</td>
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<td>2. Borough courts</td>
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<td>3. Collection of the court dues</td>
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<td>4. International legal cooperation</td>
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<td>5. Public prosecutor’s offices responsible for combating organised crime</td>
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<td>7. Electronic EU database</td>
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<td><strong>3.00</strong></td>
<td><strong>3.0</strong></td>
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<td><strong>6.0</strong></td>
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Note: the exact scope of funding by Phare and by the Polish Government is specified in the text above under description.

**Implementation arrangements**

The CFCU is responsible for handling tendering, contracting and payments of contracts on behalf of the Ministry of Justice which itself shall be responsible for preparing projects and managing their technical implementation.

It assumed that the project will be implemented as a twinning project.

**Implementation schedule**

Start of tendering: September 1998
Start of project activity: as early as possible, assumed January 1999
Completion: September 2001

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1 The sum of 230 000 ECU contains resources for joint French-Polish programme of training for judges in European law in amount of ca. 130 000 ECU per year that have been already secured from the Foundation France-Pologne and the Polish Ministry of Justice under the agreement of 14 February 1997 the period of 3 years (20 units per year x 2 days x ca. 60 participants).
Equal opportunity

Women are the majority in the judiciary and will benefit to a wider extent from this project, including training.

Environment: n.a.

Rates of return: n.a.

Investment criteria: n.a.

Conditionality:

- Preparation of the legal framework for borough courts before the start of the project
- Establishment of training plan for EU law and international legal cooperation at the start of the project
- IT plan for the justice sector before the equipment is procured
- Coordination with the Ministry of the Interior, including the police
- Review of actions under this project, as appropriate, by the MS experts working group
- Preparation of an institution building plan for the Ministry of Justice and the court system within six months after the start of the project
- Provide financial resources indicated under this project as Polish contribution