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PC-OC (2015)07

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

COMMITTEE OF EXPERTS
ON THE OPERATION OF EUROPEAN CONVENTIONS
ON CO-OPERATION IN CRIMINAL MATTERS
PC-OC

68th meeting
 Strasbourg, 27 – 29 May 2015
 AGORA, Room G 02

Draft Annotated Agenda

1.	Opening of the meeting and adoption of the agenda Document: PC-OC (2015)OJ1
2.	Points for information The PC-OC is invited to take note of the information provided on the issues of relevance to its work.
a.	Activities of the CDPC and CODEXTER <u>Background documents:</u> List of decisions of the 67th meeting of the CDPC [CDPC(2014)28] List of decisions of the Bureau of the CDPC [CDPC-BU (2015)02]
b.	Working Group on the follow up to the White Paper on Transnational Organised Crime <u>Background document</u> White Paper on Transnational Organised Crime (on the PC-OC home page)
c.	Working Group on prison overcrowding
d.	Activities of the T-CY <u>Background document</u> T-CY assessment report: The mutual legal assistance provisions of the Convention on Cybercrime
e.	Co-operation with the HELP Programme
f.	Recent signatures and ratifications

g.	Other
3.	<p>Discussion on the possible contribution by the PC-OC to the action of the Council of Europe to combat terrorism</p> <p>During its last meeting, the PC-OC Mod discussed, in the presence of Mr Ivan Koedjikov, Head of the Action against Crime Department and Anti-terrorism Co-ordinator, the possible contribution of the PC-OC to the action of the Council of Europe to combat terrorism and in particular as regards international co-operation in areas relevant to Foreign Terrorist Fighters. In this respect the PC-OC Mod took note of the activities of the Global Counterterrorism Forum (GCTF) and in particular the Rabat Memorandum on Good Practices for Effective Counterterrorism Practice in the Criminal Justice Sector, The Hague-Marrakesh Memorandum on Good practices for a More Effective Response to the FTF Phenomenon and Recommendation for Using and Promoting Intelligence Information in Rule of Law Based, Criminal-Justice Sector-Led Investigations and Prosecutions. The PC-OC Mod agreed that it would be necessary to discuss this issue further in the plenary and decided to:</p> <p>-ask a scientific expert to prepare a discussion paper, for consideration by the plenary, on possible action to be undertaken in the field of international co-operation within the remit of the PC-OC, taking into account the recommendations by the GCTF.</p> <p><u>The PC-OC is invited to</u> consider proposals for a possible contribution on the basis of a discussion paper presented by Prof. Ana Salinas (consultant).</p> <p><u>Document:</u> Discussion paper : PC-OC (2015) 08</p> <p><u>Background documents :</u></p> <p>Documents by the Global Counterterrorism Forum (GCTF)</p> <ol style="list-style-type: none"> 1.The Rabat Memorandum on Good Practices for Effective Counterterrorism Practice in the Criminal Justice Sector, 2.The Hague-Marrakesh Memorandum on Good practices for a More Effective Response to the FTF Phenomenon 3. Recommendation for Using and Promoting Intelligence Information in Rule of Law Based, Criminal-Justice Sector-Led Investigations and Prosecutions
4.	<p>Comments on the preliminary draft action plan to the White Paper on Transnational Organised Crime</p> <p><u>The PC-OC is invited to</u> take note of the progress made in the drafting of a preliminary action plan to the White Paper on Transnational Organised Crime</p> <p><u>Background document</u></p> <p>White Paper on Transnational Organised Crime (on the PC-OC homepage)</p>
5.	Presentation and content of the PC-OC website
a.	<p>Country information</p> <p><u>The PC-OC is invited to</u> take note of the “Inventory of country specific information available on the PC-OC websites” and to make proposals for further improvement or development.</p> <p><u>Document:</u> PC-OC (2012) 09 rev.9 Bil</p>
b.	<p>Information on conventions within the remit of the PC-OC</p> <p>At its last meeting, the PC-OC Mod noted with satisfaction the new presentation of the PC-OC website</p>

	<p>including all the conventions within its remit. It issued some further recommendations for improvement of the website, including in particular the development of a note for practitioners containing all provisions related to international co-operation in Council of Europe conventions which are not within the remit of the PC-OC, and decided to:</p> <ul style="list-style-type: none"> - instruct the Secretariat to take these recommendations into account, as far as possible. <p><u>The PC-OC is invited to consider:</u></p> <ul style="list-style-type: none"> - the presentation of the PC-OC website as regards all conventions within the remit of the PC-OC and make proposals for further improvement; - the draft notes prepared by the Secretariat on provisions on extradition and MLA contained in Council of Europe Conventions and to agree with their publication on the website as useful tools for practitioners. <p>Documents: PC-OC (2015)03 and PC-OC(2015)04</p>
c.	<p>Update of the index and summaries of relevant case law of the ECtHR</p> <p>In its last meeting, the PC-OC considered the proposal by the PC-OC Mod to also include case law referring to international co-operation as regards search, seizure and confiscation and decided to instruct the PC-OC Mod to add these cases to the index and summaries.</p> <p>The PC-OC Mod decided to ask Ms Malgorzata Skoczelas (Poland) to update the index and summaries with cases on search, seizure and confiscation of crime.</p> <p><u>The PC-OC is invited to</u> take note of the information provided on the research conducted in view of this update and to make proposals for further development.</p> <p><u>Document:</u> PC-OC(2011)21rev.8 (on the PC-OC homepage)</p>
6.	<p>European Convention on Extradition</p>
a.	<p>Follow up to the special session on extradition held during the 66th plenary meeting of the PC-OC</p> <p>During its 18th meeting the PC-OC Mod discussed the outcome of the special session, which was held during the 66th plenary meeting in May, referring to the reports of the workshops [Doc PC-OC (2014)07] and agreed that diverging approaches to the double criminality principle caused obstacles to extradition requests and that it was important to continue discussions in order to find appropriate solutions and avoid impunity. It was decided to ask Mr Erik Verbert to prepare a reflection paper based on the outcome of the workshops and the replies to the questionnaire on the reference moment to be applied when considering double criminality as regards extradition requests for consideration at the next plenary meeting.</p> <p><u>The PC-OC is invited to discuss</u> the possible follow up to the special session based on the reflection paper by Mr Erik Verbert (Belgium)</p> <p><u>Document:</u> Reflection paper by Mr Erik Verbert [PC-OC(2015)10] <u>Background document:</u> reports of the workshops of the special session on extradition [Doc PC-OC (2014)07]</p>
b.	<p>Prison standards to consider in extradition matters with non- European states</p> <p>The PC-OC Mod also discussed a question raised by Ms Kristina Speicher (Germany) as regards applicable prison standards to be considered in extradition requests with non-European states [Doc PC-OC Mod (2014) 06]. The PC-OC Mod agreed that this issue would deserve further discussion and decided to address this question at the plenary.</p> <p><u>The PC-OC is invited to discuss</u> the question raised by Ms Kristina Speicher.</p> <p><u>Document:</u> PC-OC Mod (2014)06</p>
c.	<p>Other</p>
7.	<p>Mutual Assistance in Criminal Matters</p>

a.	<p>Draft model request form on MLA and practical guidelines for practitioners</p> <p>During its 66th meeting, the PC-OC had agreed that it would be useful to adopt a standard model request form and practical guidelines on MLA for the implementation of Council of Europe instruments in this field. It was therefore decided to ask the PC-OC Mod to develop such a standard model request form and practical guidelines on the basis of the work undertaken within the Project VC 2248 (Doc DG-HL(2010)6) and taking into account existing model request forms and guidelines. During its last meeting, the PC-OC considered the draft model request form prepared by the PC-OC Mod and made a number of comments. The PC-OC Mod considered the comments made during the meeting and further proposals received on the model request form, took note that the T-CY would inform the PC-OC of its views on the elements concerning the Cybercrime Convention and agreed on a number of amendments to the draft model request. The PC-OC Mod also discussed the development of the guidelines accompanying the model request form and agreed to adopt a practical approach for its contents. It was decided to:</p> <ul style="list-style-type: none"> -present the draft model form to the plenary for approval; -ask its rapporteur on MLA, Mr Eugenio Selvaggi (Italy), in co-operation with the Chair and in consultation with Ms Astrid Offner (Switzerland) and the Secretariat, to prepare draft guidelines for presentation at the next plenary. <p><u>The PC-OC is invited to consider and approve the draft model request form as proposed by the PC-OC Mod and to consider the draft guidelines proposed.</u></p> <p><u>Documents:</u> Draft model request form on MLA [PC-OC Mod (2014)10 rev2] Draft guidelines to the model request on MLA [PC-OC (2015)09]</p>
b.	<p>Draft questionnaire on the use and efficiency of CoE instruments as regards international co-operation in the field of seizure and confiscation of proceeds of crime</p> <p>In conclusion to the special session held, during its 67th meeting, on international co-operation as regards the seizure and confiscation of proceeds of crime, including the management of confiscated goods and asset sharing, the PC-OC had decided to instruct the PC-OC Mod to develop a questionnaire to address, inter alia, the questions raised by Mr Bohacik (Slovak Republic) and Mr Zimin (Russian Federation) so as to assess the use made and obstacles encountered by the experts when using the different Council of Europe instruments for the purpose of international co-operation as regards the seizure and confiscation of proceeds of crime, including the management of confiscated goods and asset sharing.</p> <p><u>The PC-OC is invited to consider and approve the draft questionnaire as proposed by the PC-OC Mod, taking into account the amendments proposed.</u></p> <p><u>Documents:</u> PC-OC Mod (2015)03 rev (proposal by the PC-OC Mod) PC-OC Mod (2015)03 rev 2 (proposal by the PC-OC Mod including amendments proposed by the Netherlands)</p> <p><u>Background documents</u></p> <p>Discussion paper by Mr Vladimir Zimin [PC-OC Mod (2014)08] Discussion paper by Mr Branislav Bohacik [PC-OC (2015)01]</p>
c.	<p>Discussion on MLA in criminal, civil and administrative matters related to criminal offenses, the liability of legal entities, non-conviction based confiscation and proposals for follow-up</p> <p>Since the author of the discussion paper, Mr Zimin, will not be able to assist in the plenary meeting he kindly requests the PC-OC to postpone discussion of this issue.</p> <p><u>The PC-OC is invited to postpone discussion of Mr Zimin's discussion paper until its next meeting.</u></p> <p><u>Document:</u> PC-OC Mod (2014)08</p>
d.	<p>Proposals for follow up to the special session on international co-operation as regards the seizure and confiscation of proceeds of crime, including the management of confiscated goods</p>

	<p>and asset sharing</p> <p>At its last meeting, the PC-OC had instructed the PC-OC Mod to make proposals for a follow-up to the special session on the basis of the outcome of the workshops and the discussions held.</p> <p>The PC-OC Mod discussed the possible follow-up to the special session, and decided to inform the plenary of its view that the answers to the aforementioned questionnaire would provide a good basis for further decisions.</p> <p><u>The PC-OC is invited to</u> discuss possible follow-up to the special session taking into account the views of the PC-OC Mod.</p> <p><u>Document:</u> PC-OC (2015)01</p>
e.	<p>Compatibility between the MLA convention and the Cybercrime convention with regard to the question of international co-operation in matters related to electronic evidence</p> <p>During its last meeting , the PC-OC Mod considered the replies received to this question raised by the CDPC Bureau [Doc PC-OC Mod (2015) 02 rev] and concluded that there was clearly no incompatibility between the Convention on Mutual Assistance in Criminal Matters (ETS No.30) and the Cybercrime Convention(ETS No.185). In addition, countries mentioned no particular problems related to the interaction between these conventions at national level. The PC-OC Mod decided to inform the PC-OC plenary of this conclusion.</p> <p><u>The PC-OC is invited to</u> reply to the question raised by the CDPC Bureau, taking into account the replies received and the conclusion reached by the PC-OC Mod.</p> <p><u>Document:</u> PC-OC Mod(2015)02 rev2 Bil. <u>Background document:</u> List of decisions of the Bureau of the CDPC [CDPC-BU (2014)4]</p>
f.	<p>Other</p>
8.	<p>Convention on the transfer of Sentenced Persons and its Additional Protocol</p>
a.	<p>Draft protocol to amend the Additional Protocol to the Convention and draft revised explanatory report</p> <p>At its 67th meeting, the PC-OC had decided to instruct the PC-OC Mod to prepare a draft protocol to amend the Additional Protocol to the Convention on the Transfer of Sentenced Persons (ETS No. 167) for consideration at its next plenary meeting.</p> <p>The PC-OC Mod considered, at its last meeting, the preliminary draft amending protocol prepared by the Secretariat in consultation with Ms Barbara Goeth-Flemmich (Austria), and proposed some amendments, taking into account the discussions during the plenary and the replies received to the questionnaire [PC-OC (2013)10 Rev 2] and decided to:</p> <ul style="list-style-type: none"> - submit the draft amending protocol to the plenary for consideration; - instruct the Secretariat to consult the Treaty Office as regards the transitory provisions; - ask the Secretariat, in consultation with Ms Goeth-Flemmich, to prepare a draft Explanatory report for consideration by the plenary. <p>Please note that the preliminary draft amending protocol contains both the amendments proposed by the PC-OC Mod and those by the Treaty Office.</p> <p><u>The PC-OC is invited to</u> consider the preliminary draft protocol to amend the Additional Protocol to the Convention and the draft revised explanatory report. The PC-OC is furthermore invited to consider the proposal by the Netherlands.</p> <p><u>Documents:</u> PC-OC Mod (2015)01rev (Draft Protocol) PC-OC (2015)02 (Draft revised explanatory report)</p>

	<p>PC-OC (2015)05 (Proposal by the Netherlands)</p> <p><u>Background documents</u> PC-OC(2013)15Bil (special session on the transfer of sentenced persons) PC-OC (2013)10 ADD rev2 (Summary of replies received to the questionnaire on the implementation of the Convention on the Transfer of Sentenced Persons and its Additional Protocol)</p>
b.	<p>E-transfer proposal</p> <p>The PC-OC discussed, during its 67th meeting the proposal by Israel to consider the development of an electronic tool to facilitate transfer procedures [e-transfer, contained in Doc PC-OC Mod (2014)04], agreed that it was an interesting proposal and decided to instruct the PC-OC Mod to further consider this proposal, inviting Israel to attend this meeting.</p> <p>The PC-OC Mod discussed the proposal presented by Mr Aviad Elya (Israel), agreed that it was very interesting and decided to:</p> <ul style="list-style-type: none"> - ask Ms Barbara Goeth-Flemmich (Austria) and Mr Anthony Vella (Malta) to further develop the proposal in co-operation with Mr Elya; -invite the plenary to consider the proposal at its upcoming meeting. <p><u>The PC-OC is invited to consider the e-transfer proposal and to decide on the follow up to be given.</u></p> <p><u>Document:</u> PC-OC Mod (2014)04</p>
c.	<p>Other</p>
9.	<p>Review of Council of Europe Conventions within the remit of the PC-OC. Discussion on the operation of the European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders (ETS No. 51) and of the European Convention on International Validity of Criminal Judgments (ETS No. 70)</p> <p>Further to the review of Council of Europe Conventions conducted by the Committee of Ministers, the latter decided on 10 April 2013 to “instruct steering and ad hoc committees to carry out, (...) an examination of some or all of the conventions for which they have been given responsibility (...)” The Chair of the CDPC addressed on 25 March 2014 a letter to the Chair of the PC-OC, inviting the Committee to provide concise and written feedback to the CDPC on the implementation/assessment with regard to the conventions for which it is responsible by the end of 2015.</p> <p>Referring to the PC-OC’s terms of reference, the PC-OC is responsible for the following conventions : ETS No. 24 (Extradition, and Additional Protocols ETS Nos 86, 98, 209 and 212), ETS No. 30 (Mutual assistance in criminal matters and Additional Protocols ETS Nos 99 and 182), ETS No. 51 (Supervision of Conditionally sentenced or Conditionally released Offenders), ETS No.70 (International validity of criminal judgments), ETS No.73 (Transfer of criminal proceedings), ETS No.112 (Transfer of sentenced persons and its Protocol ETS No. 167) as well as ETS No. 141 (Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime).</p> <p>At its previous meeting, the PC-OC adopted a reply to the CDPC including its assessment on ETS No. 24 (Extradition, and Additional Protocols ETS Nos 86, 98, 209 and 212), ETS No. 30 (Mutual assistance in criminal matters and Additional Protocols ETS Nos 99 and 182), ETS No.73 (Transfer of criminal proceedings) and ETS No. 112 (the Convention on the Transfer of Sentenced Persons and its Additional Protocol, ETS No. 167).</p> <p>The PC-OC Mod discussed ways to assess the treaties that it has not yet addressed, namely the Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders (ETS No. 051), the Convention on International Validity of Criminal Judgments (ETS No. 070) and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141) as well as the need to expand its comments as was done in the report CDPC (2014)14 rev and decided to:</p> <ul style="list-style-type: none"> -invite the plenary to discuss, at its next meeting, the operation of the Convention on the Supervision of

	<p>Conditionally Sentenced or Conditionally Released Offenders and of the Convention on International Validity of Criminal Judgments;</p> <p>-ask the Secretariat to prepare, for the Conventions that have already been addressed, a note expanding the comments provided, in co-operation with the rapporteurs of the different conventions and the Chair.</p> <p>The Secretariat, in consultation with the Chair and the Rapporteurs on extradition, MLA and transfer, prepared a more elaborate review on the conventions within the remit of the PC-OC, which will be completed after the PC-OC will have finalised its assessment of all the conventions within its remit.</p> <p><u>The PC-OC is invited to:</u></p> <ul style="list-style-type: none"> - assess the operation of the Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders and of the Convention on International Validity of Criminal Judgments; - consider the draft review of conventions within the remit of the PC-OC. <p><u>Documents</u> Letter to the PC-OC Reply to the CDPC PC-OC (2015)06 Draft review of conventions within the remit of the PC-OC</p> <p><u>Background document</u> Summary of Answers to the Questionnaire on the Interrelationship of the Convention on the Transfer of Sentenced Persons (ETS 112) and the Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders (ETS 51), in particular the possible more extensive use of ETS 51 [PC-OC (2003)07]</p>
10	<p>Election of a member of the PC-OC Mod</p> <p><u>The PC-OC is invited to</u> elect a new member of the PC-OC Mod in replacement of Mr Per Hedvall (Sweden)</p>
11.	<p>Appointment of a representative of the PC-OC in the T-CY</p> <p>The <u>PC-OC is furthermore invited to</u> elect a member to represent the PC-OC in the meetings of the T-CY. The next plenary meeting of the T-CY will take place on 15 and 16 June 2015.</p>
12.	<p>Any other business</p>