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PC-OC Mod (2013) 05

English only

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

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

**Compilation of observations and/or content
to be included in the draft revised templates for country information**

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Introduction

During its 64th meeting, the PC-OC took note of the proposals by the PC-OC Mod to improve the country information available to practitioners and considered the updated inventory of country information available as contained in PC-OC (2012)09 rev 2, the draft revised templates as contained in PC-OC (2013)04, the content of PC-OC INF 4, 5, 7 and 9 and the overview of country information shown in the replies to questionnaires contained in PC-OC(2013)05 and decided to:

- invite members to send further observations and/or content to be included in the templates to the Secretariat by 1 September at the latest;
- instruct the PC-OC Mod to finalise the proposals for updated templates and to prepare guidelines to assist in filling them in.

The Secretariat received proposals for amendment by the Czech Republic, Finland, Norway, Switzerland and the United States of America. For easy reference, the proposals in the text made by the Czech Republic and by Switzerland have been merged into the same table.

Czech Republic
Modifications in red + comments
Switzerland
Modifications in green

State Party¹ – national procedures for extradition

States Parties are requested to fill in this table with the necessary information and return it to the Secretariat of the PC-OC. The information contained in this table should be updated on a yearly basis.

The competent Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for extradition:	
Channels of presentation request for extradition (directly to the Central Authority, through diplomatic channels, through liaison magistrates etc.):	
Language requirements:	
Time limits:	
Documentation required:	
Types of procedure (eg. normal, simplified, summary etc., including a short description of the principal	

¹ Please indicate your **State**.

difference between the types):		
Principal steps in the procedure(s):		
Statutes of limitation for special offences:		
Double criminality requirement:		
Provisions concerning extradition of nationals:		
Provisional arrest (time limits for provisional arrest and custody pending extradition):	Maximum police detention pending examination of request for provisional arrest / decision on provisional custody	
	Time limit for presentation of formal extradition request if the person is in provisional custody	
	Maximum provisional custody after formal extradition request is received, pending extradition decision	

	Maximum extradition custody if extradition decision made but surrender pending	
Or Pre-trial arrest and detention in view of extradition (competencies, conditions and length of pre-trial detention in view of extradition and of extraditional detention)	<div>Pre-trial arrest and detention in view of extradition (competencies, conditions and length awaiting the submission of the extradition request)</div> <div>Delay to submit the formal request for extradition</div> <div>Arrest and detention if the formal request has been submitted but the decision is pending</div> <div>Arrest and detention if extradition has been decided but the surrender is pending</div>	
Procedures for urgent cases:		
Possibility and requirements for simplified extradition:		
Means of communication:		
Procedures and legislation (reference to the domestic law that		

regulates extradition procedures):	
Other particularly relevant information (such as other legislation, national guides on procedure):	
[Useful links to] national websites and relevant PC-OC documents:	

State Party ² – national procedures for mutual legal assistance in criminal matters
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States Parties are requested to fill in this table with the necessary information and return it to the Secretariat of the PC-OC. The information contained in this table should be updated on a yearly basis.

The competent Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for rendering mutual legal assistance:	
Relevant bodies and their competencies:	
Channels of presentation request for mutual legal assistance (directly to the Central Authority, through diplomatic channels, through liaison magistrates etc.):	
Language requirements:	
Time limits:	
Documentation required:	

² Please indicate your **State**.

List of possible actions sought: [Forms / Examples of MLA:]	
Double criminality requirement, if applicable:	
Statutes of limitation for special offences if applicable:	
Limitation of use of evidence obtained:	
Means of communication:	
Procedures and legislation (reference to the domestic law that regulates mutual legal assistance):	
Other particularly relevant information (such as national guides on procedure, links to national web	

sites...):	
[Useful links to national websites and relevant PC-OC documents:	

State Party ³ – national procedures for transfer of sentenced persons
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States Parties are requested to fill in this table with the necessary information and return it to the Secretariat of the PC-OC. The information contained in this table should be updated on a yearly basis.

The competent Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for transfer of sentenced persons:	
Channels of presentation request for transfer (directly to the Central Authority, through diplomatic channels, through liaison magistrates etc.):	
Language requirements:	
Time limits:	
Documentation required:	
Continued enforcement or transformation of the sentence:	

³ Please indicate your **State**.

Conditional release:	
Transfer of mentally disordered persons:	
Transfer of "residents":	
Means of communication:	
Procedures and legislation (reference to the domestic law that regulates transfer of sentenced persons):	
Other particularly relevant information (such as national guides on procedure,):	

Information about the Convention in the official language(s) of the State:	
Information about the Additional Protocol in the official language(s) of the State, if applicable:	
Useful links to national websites and relevant PC-OC documents:	

Finland

Regarding the template for country information I think it should be kept as simple as possible. The questions regarding competent authority, language regime, documents required and means of communication are the most important ones. Provisional arrest also gives additional information.

However, I think descriptions regarding national extradition procedure should be kept as short as possible.

Furthermore, it seems that these questions regarding are scattered (types of procedure, principal steps, procedure for urgent cases, procedure and legislation) over the template. Would it not be better to collect them one after another?

I would also be careful with questions regarding legislation (procedure and legislation), since people do not edit they texts but rather include copies of legislation. At least there should be a limit for the text.

Finally, question on statutes of limitation for special offences can be left out.

Norway

Extradition

There seems to be several boxes covering different aspects of the extradition procedure. In our point of view it could be wise gather all aspects regarding the procedure in one box (like under "Provisional arrest")

Ex:

PROCEDURES

- types of procedure (normal, simplified, summary etc.)
- Principle steps in the procedure(s)
- Procedure for urgent cases
- Simplified procedure
- Legislation

MLA

According to the Second Additional Protocol there is an opportunity to forward requests for MLA directly between the judicial authorities. In order to enhance the possibility of direct transmission of requests, one could consider including information on where to find the address / fax to the local competent judicial authority.

United States of America

Extradition

In the provisional-arrest section, you might include a sub-category on “provisions for detention/bail,” asking the members to spell out the law on whether a fugitive might be released pending extradition. I see that there is a relevant section in the template, but it doesn’t go specifically to the possibility of bail vs. detention.

Prisoner transfer

(1) As a general matter, I think that some of the items may need an additional word or two to make it clear what information is being sought. For example, the third box seeks “time limits.” What type of time limits are you seeking?

(2) The fifth box seeks information as to how the receiving country will administer the transferred sentence. As written, it refers to one type of sentence administration as “transformation” of the sentence. Since Articles 9 and 11 of the Convention refer to this as conversion, I would recommend deleting the word “transformation” and substituting “conversion” so that it is consistent with the Convention.

(3) I would recommend adding a box that asks if the country is able to administer a sentence when the prisoner is on probation or parole. It could be phrased as, “ability to administer a transferred sentence of probation or parole.” In the past, some countries have indicated that they cannot administer such sentences because they do not result in a deprivation of liberty; in their view, only incarceration in a prison constitutes the requisite deprivation of liberty.

(4) The sixth box asks for information on “conditional release.” Since that is a very broad topic, it might be helpful to expand the description. One possibility would be: “conditional forms of release, including parole and probation, and applicable eligibility requirements.” For this information to be meaningful to a country, they need to understand how much of a sentence needs to be served before a prisoner would be eligible for conditional release.

(5) I would recommend adding a new box that seeks information on the types of prison credits for which the transferred prisoner would be eligible. Such credits would include, but not be limited to, good conduct time and work credits. This information is useful because it gives the sentencing country some additional measure to assess how long the transferred person might spend in custody.

(6) The eighth box seeks information on “the transfer of ‘residents.’” The Convention specifies that transfer is limited to nationals of a country. As a result, I suspect that what the form is asking is whether a “resident” can be considered a “national,” and, if so, under what circumstances. If my assumption is correct, I would suggest rewording this box to read, “Under your law can a “resident” be a “national” and, if so, under what circumstances.”

(7) Box 9 requests, “means of communication”. I would suggest rephrasing this language to “preferred means and method of communication.” I am assuming that this box is not only seeking the preferred means of communication, such as email or mail, but also whether communications can be made directly to the central authority or must be routed through diplomatic channels.

(8) Box 10 requests, “procedures and legislation”. I would suggest expanding it to read, “procedures, legislation and guidelines.”

(9) Box 11 reads, “other particularly relevant information (such as national guides on procedure). I would suggest shortening the description to read, “other relevant information.”