

Strasbourg, 06/11/2013  
 [PC-OC/DOCS2013/PC-OC(2013)11E Draft Annotated Agenda...]  
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PC-OC (2013) 11

**EUROPEAN COMMITTEE ON CRIME PROBLEMS**  
**(CDPC)**

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

**65th meeting**  
**Strasbourg, 26 – 28 November 2013**  
**AGORA, Room G 03**

**Draft Annotated Agenda**

<b>1.</b>	<b>Opening of the meeting and adoption of the agenda</b>  <u>Document</u> PC-OC(2013)OJ2
<b>2.</b>	<b>Points for information</b>  The PC-OC is invited to take note of the information provided on the issues of relevance to its work and in particular the activities of the CDPC.
<b>a.</b>	<b>Recent signatures and ratifications</b>
<b>b.</b>	<b>Activities of the Ad Hoc Drafting Group on Transnational Organised Crime (PC-GR-COT)</b>  Background documents Terms of reference of the PC-GR-COT Summary report of the first meeting [PC-GR-COT Summary]
<b>c.</b>	<b>Other</b>  <u>Background documents</u> List of decisions of the 64th meeting of the CDPC [CDPC (2013)10] List of decisions of the meeting of the Bureau of the CDPC [CDPC-BU (2013)4]
<b>3.</b>	<b>Presentation and content of the PC-OC website</b>
<b>a.</b>	<b>Proposals to improve country information:</b> - revised templates  At its 64th meeting the PC-OC took note of the proposals by the PC-OC Mod to improve the

	<p>country information available to practitioners and decided to:</p> <ul style="list-style-type: none"> <li>- invite members to send further observations and/or content to be included in the templates to the Secretariat by 1 September at the latest;</li> <li>- instruct the PC-OC Mod to finalise the proposals for updated templates and to prepare guidelines to assist in filling them in.</li> </ul> <p>The PC-OC Mod finalised the templates on the basis of the comments received on the draft revised templates for country information contained in PC-OC Mod (2013)05 and discussed the need for guidelines to assist in filling them in. The PC-OC Mod decided to:</p> <ul style="list-style-type: none"> <li>- submit the revised templates as contained in doc PC-OC Mod (2013)10 to the plenary for approval;</li> <li>- inform the plenary that, in the view of the PC-OC Mod, additional guidelines would not be needed.</li> </ul> <p><u>The PC-OC is invited to</u> consider and approve the revised templates as proposed by the PC-OC Mod.</p> <p><u>Document</u> PC-OC Mod (2013)10</p> <p><u>Background documents</u> Updated Inventory of country specific information available on the PC-OC websites (PC-OC (2012)09 rev 3) Comments received on the draft revised templates for country information [PC-OC Mod (2013)05]</p>
	<p><b>b. Case-law of the European Court of Human Rights</b></p> <p><u>The PC-OC is invited to</u> take note of the recent update of the index and summaries of the case-law of the ECtHR as published on the PC-OC website.</p> <p><u>Background document</u> Index and summaries of the case-law of the ECtHR [PC-OC (2011)21rev7]</p>
	<p><b>4. European Convention on Extradition</b></p>
	<p><b>a. Presentation by the PC-OC Rapporteur on extradition on recent developments and forum discussions</b></p> <p>During its 61st meeting, the PC-OC adopted Practical measures to facilitate the application of conventions on international cooperation in criminal matters in which the PC-OC agreed "to appoint Rapporteurs and assisting members for the most important conventions and other issues of particular importance related to cooperation in criminal matters to animate the discussions on the forum, to inform the plenary on discussions held and on other developments of importance and to make proposals for follow-up".</p> <p>Mr Erik Verbert (Belgium), rapporteur as regards extradition will inform the plenary accordingly and will make proposals for follow-up.</p> <p><u>The PC-OC is invited to</u> take note of the information provided and to decide on follow-up.</p> <p><u>Background document</u> Practical measures to facilitate the application of conventions on international cooperation in criminal matters [PC-OC (2011) 04Rev3]</p>
	<p><b>b. The divergence in interpretation of Article 3 of the Second Additional Protocol to the European Convention on Extradition</b></p>

During its 64th meeting the PC-OC considered the replies to the questionnaire concerning judgments *in absentia* and the possibility of retrial and, noting the divergence in the interpretation of Article 3 of the Second Additional Protocol by the Parties, decided to:

- instruct the PC-OC Mod to study the possibility of finding a practical solution to problems this divergence might create, for example by proposing guidelines on the interpretation of the notion of “minimum rights of defence”, “retrial” and “sufficient guarantees”.

The PC-OC Mod decided to inform the plenary of the outcome of its discussions as reflected in the list of decisions of its 16th meeting

The PC-OC is invited to consider the opinion of the PC-OC Mod as regards the appropriateness of reaching a common interpretation of Article 3 of the Second Additional Protocol to the European Convention on Extradition

#### Documents

Summary and compilation of replies to the questionnaire concerning judgments *in absentia* and the possibility of retrial [PC-OC(2013)01rev3]

List of decisions of the 16th enlarged meeting of the PC-OC Mod [PC-OC Mod (2013)11]

### **c. Interaction between extradition and asylum proceedings**

The PC-OC discussed, at its 64<sup>th</sup> meeting, the interaction between extradition and asylum proceedings on the basis of a discussion paper prepared by Mr Erik Verbert (Belgium) and a presentation by Mr Olivier Beer (UNHCR) and decided to:

- take stock of the most important practical problems encountered in this field by inviting experts to send a paper to the Secretariat by 15 September at the latest;
- instruct the PC-OC Mod to reflect on the information gathered and make proposals for possible follow-up.

The PC-OC Mod considered the practical problems encountered by member states as regards the interaction between extradition and asylum procedures (Doc PC-OC Mod (2013)06rev), and had a long discussion on various aspects of this issue.

The PC-OC is invited to consider the proposals of the PC-OC Mod as reflected in the list of decisions of its 16th meeting and take a decision as regards follow-up.

#### Documents

Practical problems encountered by member states as regards the interaction between extradition and asylum procedures [Doc PC-OC Mod (2013)06rev]

List of decisions of the 16th enlarged meeting of the PC-OC Mod [PC-OC Mod (2013)11]

### **d. Reference moment to be applied when considering double criminality**

The PC-OC, at its 64th meeting, also considered some outstanding issues related to the application of the European Convention on Extradition, including the question raised on:

- the reference moment to be applied when considering double criminality in respect of extradition;

The PC-OC decided to:

- instruct the PC-OC Mod to examine these issues and make proposals for follow-up.

During its last meeting, the PC-OC Mod discussed the reference moment to be applied when considering double criminality as regards extradition requests and decided to invite PC-OC experts to reply to a short questionnaire.

	<p><u>The PC-OC is invited to</u> consider the replies received to the above questionnaire and to decide on follow-up.</p> <p><u>Document</u> Compilation of replies to the questionnaire on the reference moment to be applied when considering double criminality as regards extradition requests [PC-OC (2013) 12]</p>
<b>e.</b>	<p><b>Interpretation of Article 14, Paragraph 1b of the Convention</b></p> <p>The PC-OC, at its 64th meeting, also considered some outstanding issues related to the application of the European Convention on Extradition, including the question raised on:</p> <ul style="list-style-type: none"> <li>- the interpretation of Article 14, paragraph 1b of the European Convention on Extradition;</li> </ul> <p>The <u>PC-OC decided to</u>:</p> <ul style="list-style-type: none"> <li>- instruct the PC-OC Mod to examine these issues and make proposals for follow-up.</li> </ul> <p>The PC-OC Mod held a discussion on the interpretation of Article 14, Paragraph 1b of the European Convention on Extradition and decided to:</p> <ul style="list-style-type: none"> <li>- inform the plenary that this issue had been discussed while preparing the Fourth Additional Protocol to the European Convention on Extradition and that its explanatory report (paragraphs 36-39) can be used as an additional source of inspiration for the interpretation of this provision in particular as regards the notions of “opportunity to leave” and “final discharge”.</li> </ul> <p><u>The PC-OC is invited to</u> consider the findings of the PC-OC Mod as regards the interpretation of this provision as well as the need for follow-up.</p>
<b>f.</b>	<p><b>Presentation of the INTERPOL e-extradition initiative</b></p> <p><u>The PC-OC is invited to</u> take note of the information provided by Mr Joël Sollier, Director of the Office of Legal Affairs, INTERPOL, as regards the e-extradition initiative.</p> <p><u>Document</u> INTERPOL Introductory document to the e-extradition initiative</p>
<b>g.</b>	<p><b>Other issues</b></p>
<b>5.</b>	<p><b>Mutual Assistance in Criminal Matters</b></p>
<b>a.</b>	<p><b>Presentation by the PC-OC Rapporteur on MLA on recent developments and forum discussions</b></p> <p>During its 61st meeting, the PC-OC adopted Practical measures to facilitate the application of conventions on international cooperation in criminal matters in which the PC-OC agreed "to appoint Rapporteurs and assisting members for the most important conventions and other issues of particular importance related to cooperation in criminal matters to animate the discussions on the forum, to inform the plenary on discussions held and on other developments of importance and to make proposals for follow-up".</p> <p>Mr Eugenio Selvaggi (Italy), rapporteur as regards mutual legal assistance will inform the plenary accordingly and will make proposals for follow-up.</p> <p><u>The PC-OC is invited to</u> take note of the information provided and to decide on follow-up.</p> <p><u>Background document</u> Practical measures to facilitate the application of conventions on international cooperation in criminal matters [PC-OC (2011) 04Rev3]</p>

## **b. Liability of legal entities**

As a follow-up to the special session on MLA held during its 64th meeting, the PC-OC decided to:

- continue, at a future meeting, the discussions on mutual legal assistance in relation to the liability of legal entities, on ways to deal with the increase of MLA requests and on the seizure and confiscation of proceeds of crime, including the management of confiscated goods and asset sharing;
- instruct the PC-OC Mod to further reflect on these issues and make proposals for follow-up.

The PC-OC Mod had a discussion on the proposals by Mr Vladimir Zimin (Russian Federation), contained in doc PC-OC Mod (2013)09, and, considering Mr Zimin's absence from the meeting, decided to:

- invite Mr Zimin to further comment on his proposal at the plenary meeting;
- ask Mr Eugenio Selvaggi (Italy) to prepare a discussion paper on this issue in time for the next plenary meeting.

The PC-OC is invited to discuss issues raised concerning the liability of legal entities in the context of MLA and to decide on follow up.

### Documents

MLA and liability of legal entities, proposals by Mr Vladimir Zimin (Russian Federation), [PC-OC Mod (2013)09]

Discussion paper on MLA and the liability of legal entities by Mr Eugenio Selvaggi (Italy) [PC-OC (2013)13]

## **c. Seizure and confiscation of proceeds of crime, including the management of confiscated goods and asset sharing**

The PC-OC Mod held a discussion on the seizure and confiscation of proceeds of crime, including the management of confiscated goods and asset sharing in a transnational context, acknowledged the importance and complexity of the issue and decided to:

- propose to the plenary to devote a special session to this issue during its second meeting in 2014.

The PC-OC is invited to consider this proposal.

## **d. Ways to deal with the increase of MLA requests**

The PC-OC Mod furthermore discussed the increase of MLA requests and possible ways to address this issue and decided to:

- propose to the plenary to consider the development of guidelines for practitioners of requesting states on good practices of self-restraint in order to avoid the submission of requests when this is possible.

The PC-OC is invited to consider this proposal and to decide on follow up.

## **e. Follow up to the project VC 2248 on effective tools to facilitate MLA: practical guidelines and model request forms**

During the special session devoted to MLA, the PC-OC also discussed the possible development of model request forms for MLA as a follow-up to the project VC 2248 on effective tools to facilitate mutual legal assistance (Doc DG-HL (2010)06). It was decided to:

- resume its work on the development of practical guidelines and model request forms for MLA, as a follow-up to the project mentioned above;

	<ul style="list-style-type: none"> <li>- instruct the PC-OC Mod to examine the possible follow-up to the project and make a proposal to the plenary.</li> </ul> <p>The PC-OC Mod discussed the possible follow-up to the above mentioned project and decided to inform the plenary that:</p> <ul style="list-style-type: none"> <li>- it regretted that the PC-OC had not been directly informed of the project undertaken by the European Union and the Polish authorities;</li> <li>- the majority underlined the usefulness of appropriate model request forms and guidelines to facilitate MLA;</li> <li>- it would recommend taking stock of existing model forms and guidelines before proposing any new model forms;</li> <li>- it invited the plenary to consider the possibility of developing a user-friendly tool on the PC-OC website to assist practitioners in finding appropriate contacts in all parties for the purpose of MLA requests, including for direct transmissions on the basis of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters.</li> </ul> <p><u>The PC-OC is invited to</u> consider the proposals by the PC-OC Mod and to decide on possible follow up.</p> <p><u>Background documents</u>  Project VC 2248 on effective tools to facilitate mutual legal assistance (Doc DG-HL (2010)06)  Activities undertaken within the PL project of the Eastern Partnership Judiciary Panel- facilitation of the mutual legal assistance in criminal matters through common model request forms [doc PC-OC Mod (2013)08]  Draft manual on mutual legal assistance developed under the Project on Criminal Assets Recovery in Serbia [PC-OC Mod (2013)04]</p>
<b>f.</b>	<b>Other issues</b>
<b>6.</b>	<b>Special session on the Convention on the Transfer of Sentenced persons and its Additional Protocol</b>  <b>Programme</b>
<b>7.</b>	<b>Elections</b>
<b>a.</b>	<b>Chair and Vice-Chair of the PC-OC</b>  <p>According to the PC-OC's terms of reference, the Chair and the vice-Chair are elected for a term of one year. The terms of the Chair and of the vice-Chair are renewable once.</p> <p>Referring to Article 12d of the "Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods", the election of the Chair and vice-Chair shall require a two-thirds majority at the first ballot and a simple majority at the second ballot. In steering committees, the election shall be held by secret ballot, in other committees by a show of hands, unless a member of the committee requests a secret ballot. Considering that the present Chair, Ms Selma de Groot (Netherlands), will not be available for a second mandate and that the vice-Chair, Mr Per Hedvall (Sweden) will reach the term of his first mandate at the end of 2013, <u>the PC-OC is invited to</u> elect a new Chair and elect or re-elect a vice-Chair among its members for a term of one year, starting in 2014</p> <p><u>Background documents</u>  Terms of Reference of the PC-OC  Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods</p>
<b>b.</b>	<b>Member of the PC-OC Mod</b>  <p>As a consequence of the departure of PC-OC Mod member Mr Miroslav Kubiček (Czech</p>

	Republic), <u>the PC-OC is invited to elect a new member of the PC-OC Mod.</u>
<b>8.</b>	<b>Any other business</b>
<b>9.</b>	<b>Dates of meetings in 2014</b>