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PC-OC (2016)04

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

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

71st meeting
Strasbourg, 15 –17November 2016
AGORA, Room G 03

Draft Annotated Agenda

1.	<p>Opening of the meeting and adoption of the agenda</p> <p>In the absence of the Chair, Ms Astrid Offner (Switzerland), the meeting will be chaired by the vice-Chair, Ms Joana Gomes Ferreira (Portugal).</p> <p>Document: PC-OC (2016)OJ2</p>
2.	<p>Points for information</p> <p><u>The PC-OC is invited to take note of the information provided on the issues of relevance to its work.</u></p>
a.	<p>Activities of the CDPC and CODEXTER</p> <p><u>Background documents:</u> List of decisions of the 70th meeting of the CDPC [CDPC(2016)08] List of decisions of the Bureau of the CDPC [CDPC-BU (2016)07]</p>
b.	<p>Activities of the T-CY</p> <p>Ms Gabriela Bláhová (Czech Republic) participates in the plenary meetings of the T-CY on behalf of the PC-OC. Since the next meeting of the T-CY is scheduled on 14 and 15 November 2016, the T-CY will not be represented in the 71st meeting of the PC-OC.</p>
c.	<p>Co-operation with the Pompidou Group</p> <p>Ms Gabriela Bláhová (Czech Republic) participated on behalf of the PC-OC in a meeting organised on 20-21 October 2016 in Vienna in view of the preparation of a handbook on controlled delivery. The next meeting is foreseen on 25 November in Bucharest.</p>

d.	Co-operation with the COP 198
e.	Recent signatures and ratifications
f.	Bilateral treaties Experts are invited to inform the PC-OC on the negotiation and conclusion of bilateral treaties of relevance to the Committee's work..
g.	Information by Mr Jason Carter (USA) Mr Jason Carter will inform the PC-OC of the enhanced US central authority, as well as of a recent domestic decision that will impact MLA requests to the US.
h.	Other
3.	Presentation and content of the PC-OC website The Secretariat will show the new website to the PC-OC. Experts are invited to make proposals for further improvement of the website and to take note of the latest updates of country information. <u>Document</u> : PC-OC(2012)09 Rev.15 Bil
a.	Update of the index and summaries of relevant case law of the ECtHR The PC-OC is invited to take note of the latest update of the index and summaries of the case law of the ECtHR by the PC-OC Mod. Experts are furthermore invited to mention any other relevant case to be included. <u>Document</u> : PC-OC(2011)21rev.9 (on the PC-OC homepage)
4.	Implementation of the Action Plan on Transnational Organised Crime Experts are invited to take note of the elements of the Action Plan within the remit of the PC-OC. <u>Document</u> : PC-OC(2016)05 <u>Background documents</u> : Action Plan on Transnational organised crime (on the PC-OC homepage) Terms of reference 2016-2017 of the PC-OC
a.	Examination of the draft overview of reservations to Council of Europe treaties within the remit of the PC-OC and proposals for follow up During its 22 nd meeting, the PC-OC Mod examined the catalogue of reservations to Council of Europe treaties within the remit of the PC-OC and of relevance to the fight against transnational organised crime as well as the overview of these reservations prepared by the Secretariat. The PC-OC Mod agreed that for the purpose of the fight against TOC not all treaties falling within the remit of the PC-OC were relevant. It was felt however that the Convention on the Transfer of Sentenced Persons and the Additional Protocol thereto were important in this regard. Experts considered that it was sometimes difficult to distinguish reservations from declarations since the difference depended on the interpretation by the Parties of the content of declarations. As regards the reservations made to the Convention on the Laundering, Search, Seizure and Confiscation of the Proceeds of Crime (ETS No. 141, 1990), the PC-OC Mod agreed with the Secretariat proposal that the reservations made to this Convention should be analysed together with those made to the more recent Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (ETS No.198, 2005). The PC-OC Mod decided to: -instruct the Secretariat to complete the catalogue and the overview with the reservations made to the Convention on the Transfer of Sentenced Parsons and the Additional Protocol thereto; -instruct the Secretariat to liaise with the Secretariat of the Conference of Parties to this treaty (COP 198) in order to explore possibilities for co-operation between the PC-OC and COP 198 so as to issue joint conclusions in this particular field;

	<p>-propose that the plenary invite Parties to the Conventions listed in the catalogue to check whether the catalogue accurately reflects the reservations made by them.</p> <p><u>The PC-OC is invited to</u> consider the documents mentioned below and make proposals for follow up taking into account the findings of the PC-OC Mod.</p> <p><u>Documents:</u> Catalogue of reservations PC-OC Mod(2016)05 rev.2 Overview of reservations PC-OC Mod (2016)05 rev. Add</p>
b.	<p>Examination of the draft overview of existing judicial networks and proposals to promote their interconnection</p> <p>The PC-OC Mod considered during its last meeting the document presenting an overview of judicial networks prepared by the Secretariat [Doc PC-OC Mod (2016)06] and mentioned several networks to be added.</p> <p>It also discussed proposals for follow-up and the possibility of organising a meeting between the Secretariats and/or members of these networks to discuss options for closer co-operation. The possibility to appoint an expert to make a reflexion paper on this issue was also mentioned.</p> <p>The PC-OC Mod <u>decided to</u> instruct the Secretariat to update the overview in line of the discussions held and to present it to the plenary for further discussion.</p> <p><u>The PC-OC is invited to</u> consider the documents mentioned below and make proposals for follow up taking into account the findings of the PC-OC Mod.</p> <p><u>Document</u> Overview of judicial networks Doc PC-OC Mod (2016)06rev</p>
c.	<p>Discussion on the possibility to create a network of contact persons within the PC-OC concerning the fight against TOC</p> <p>The PC-OC Mod considered the above question and was of the opinion that the list of single points of contact could constitute a basis for such a network.</p> <p>It <u>decided to</u> inform the plenary of its proposal to invite experts to consider the persons mentioned in the list of single points of contact and to add, where necessary, a different contact point for issues related to TOC.</p> <p>The PC-OC is invited to consider the proposal made by the PC-OC Mod.</p>
5.	<p>European Convention on Mutual Assistance in Criminal Matters</p>
a.	<p>Special Session on 16 November 2pm-5.30pm (in the context of the Action Plan on combating TOC)</p> <p><i>New opportunities for mutual assistance in criminal matters offered by the Second Additional Protocol to the Convention on Mutual Assistance in Criminal Matters</i></p> <p><u>Documents:</u> Programme Discussion paper on Exchange of information (Workshop 1, Agora room 6) Discussion paper on Gathering of evidence (Workshop 2, Agora room 3)</p> <p>The programme of this special session was adopted by the PC-OC Mod during its last meeting.</p> <p><u>The PC-OC is invited to</u> consider the proposal for follow-up to this special session by the PC-OC Mod: that the plenary ask the PC-OC Mod to develop a questionnaire on the application of the Second Additional Protocol taking into account the issues raised in the workshops.</p>
b.	<p>Other</p>

6.	Convention on the Transfer of Sentenced Persons
a.	<p>Discussion on possible amendments to the Convention (ETS n° 112) in a Second Additional Protocol</p> <p>During its previous meeting, the PC-OC considered the proposals by the PC-OC Mod to amend Article 17 of the Convention, agreed on some amendments (as contained in Doc PC-OC (2016)03rev) and decided to discuss this proposal further at its next meeting, together with the other possible amendments proposed by the PC-OC Mod.</p> <p>During its 22nd meeting, the PC-OC Mod further discussed proposals on possible amendments to the Convention on the Transfer of Sentenced persons and in particular:</p> <p><i>- the possibility of introducing time limits for the revocation of consent by the sentenced person:</i></p> <p>The majority of PC-OC Mod members agreed on a proposal to amend Articles 4 and 7 of the Convention by introducing conditions to revocation of consent while at the same time giving an incentive to States to finalise the proceedings within a reasonable delay.</p> <p>The PC-OC Mod <u>decided to</u> bring the proposal, contained in Doc PC-OC Mod(2016)10, to the attention of the plenary for further discussion.</p> <p><i>- the widening of the scope of the Convention to persons who returned voluntarily to their country of origin before having served their sentence:</i></p> <p>The PC-OC Mod agreed that the draft Protocol amending the Additional Protocol to the Convention on the Transfer of Sentenced Persons provided an acceptable solution to this problem.</p> <p><i>- the non-payment of fines or compensation of victims:</i></p> <p>The PC-OC Mod confirmed its opinion that this issue could not be addressed by a binding instrument but could be addressed by updating Recommendation R (92)18 by the Committee of Ministers which also addresses the issue of fines.</p> <p>It was <u>decided to</u> inform the plenary of its proposal to finalise its work on the Draft Second Additional Protocol to the Convention before considering the development of a new recommendation which could update the existing ones and address issues that were not suitable to be regulated by a binding instrument.</p> <p><i>- the provision of information on the execution of the sentence by the administering state:</i></p> <p>The majority of PC-OC Mod members saw no compelling reasons to amend Article 15 of the Convention which contains an obligation for the administering State to provide information to the sentencing state. If an amendment is to be envisaged, further discussions would be necessary in the plenary.</p> <p>The PC-OC Mod <u>decided to</u> inform the plenary of its findings.</p> <p><u>The PC-OC is invited to</u> further discuss possible amendments to the Convention in a Second Additional Protocol, taking into account the findings and proposals made by the PC-OC Mod.</p> <p><u>Documents:</u> Proposals to amend Article 17 of the Convention: Doc PC-OC Mod (2016)03rev Proposals by the PC-OC Mod to amend Articles 4 and 7 of the Convention: Doc PC-OC Mod(2016)10</p>
b.	<p>Preparation of a questionnaire concerning the possible establishment of an E-transfer tool</p> <p><u>The PC-OC is invited to</u> consider the draft questionnaire, as proposed by the PC-OC Mod, in view of its adoption.</p> <p><u>Document:</u> Draft questionnaire PC-OC Mod (2016)07revBil <u>Background document:</u> PC-OC Mod (2014)04</p>

c.	Other
7.	European Convention on Extradition
a.	<p>Refusal to extradite, application of alternatives to detention Questions raised by Ms Tetiana Shorstka (Ukraine)</p> <p>The PC-OC is invited to discuss the issues raised by the Ukrainian expert.</p> <p>Document: PC-OC Mod (2016)12</p>
b.	Other
8.	<p>Election of the Chair and Vice-Chair of the PC-OC</p> <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.</p> <p>Considering that the present Chair, Ms Astrid Offner (Switzerland), will retire and will therefore not be available for a second term and that the vice Chair, Ms Joana Gomes Ferreira (Portugal), will reach the term of her first term at the end of 2016, the PC-OC is invited to elect a Chair and to elect or re-elect a vice-Chair among its members for a term of one year, starting in 2017.</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>
9.	<p>Dates of meetings in 2017</p> <p>The following dates are proposed for the meetings in 2017: PC-OC plenary: 22-24 May and 21-23 November PC-OC Mod: 28 February-2 March and 26-28 September</p>
10.	Any other business