

SECRETARIAT GENERAL

DIRECTORATE GENERAL
HUMAN RIGHTS AND RULE OF LAW

*INFORMATION SOCIETY AND ACTION AGAINST CRIME
DIRECTORATE*

C198-COP

Please quote: DGI/JR/dw

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Mr Jesper Hjortenberg
Chairman of the European Committee
on Crime Problems (CDPC)
Directorate General
Human Rights and Rule of Law
Council of Europe

Strasbourg, 10 April 2014

Dear Mr Hjortenberg,

Thank you for letter of 27 March advising me of the decision of the Committee of Ministers in April 2013, instructing steering and ad hoc committees to carry out an examination of some or all of the conventions for which they are responsible, in co-operation with the relevant convention based bodies.

I would like to provide some initial observations. As you know, the Council of Europe has been a leading standard setter in this area for over 30 years. CETS 198 was preceded by the landmark 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS 141 – the Strasbourg Convention) which is ratified by all Council of Europe member States (plus Australia), and also by Recommendation R(80)10, adopted by the Committee of Ministers in June 1980.

CETS 198 was opened for signature in 2008. The pace of ratifications has been slow but is steadily improving. So far we have 24 ratifications and 13 signatures not followed by ratification (including the European Union). We know work is in progress at this time in several States to complete the ratification process. In time we expect all Council of Europe member States and the European Union to ratify CETS 198. Some non-Member States have shown interest in joining it as well.

We have already decided to use the so-called “fast track” procedure, provided for in Article 54(6) of the Convention to update the categories of predicate offence contained in the appendix. This will bring this aspect of the Convention fully into line with the 2012 revised Financial Action Task Force (FATF) standards. We also are committed to keeping all its other provisions under review, in order to recommend opening negotiations of a protocol to this treaty at an appropriate time, given that CETS 198 was prepared over 10 years ago.

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However, as we consider that there is much in this treaty which can help achieve better results by prosecutors and law enforcement in this area, we are reluctant to consider a major revision of it until there is a bigger "critical mass" of ratifying States. Accordingly we are not inclined to delay further ratifications unnecessarily by recommending the commencement of a general amendment process at this time. None-the-less, we have agreed to keep this issue under review at each meeting of the Conference of the Parties.

I can advise you that your letter will be on the agenda of our next meeting (25 - 27 June). At the conclusion of that meeting we should have adopted an additional 3 reports, bringing the total of adopted reports under the Convention's monitoring process to 7. Additionally we may have by then more information from other sources on implementation issues. We therefore should be in a position to provide a preliminary assessment of implementation once we have taken stock of the overall results. I expect we may be able to provide this in the autumn, if this is acceptable.

For the record, the Strasbourg Convention (ETS 141) is not evaluated by the Conference of the Parties, as ETS 141 has no monitoring mechanism attached to it. The standards in the Strasbourg Convention are now largely incorporated in the FATF's global standards, which are evaluated by FATF and MONEYVAL. While ETS 141 is not strictly within my remit, as one of the drafters of CETS 198 (which builds on ETS 141) I can advise that practitioners in this area have always envisaged that ETS 141 would remain in force. It should operate alongside CETS 198 (particularly for international cooperation purposes) for those States which are not in a position to fully implement all of the more modern treaty provisions in CETS 198.

I will write to you further when we have discussed these issues at the next COP.

Yours sincerely,



Eya Rossidou-Papakyriacou

President of the Conference of the Parties