

## **Draft Model Provisions for Council of Europe criminal law conventions**

### **Proposals of the Russian Federation**

1. Indent 2 of draft article 13 appears inapplicable in practice, since the Draft does not contain detailed provisions on extradition and mutual legal assistance in criminal matters, such as investigation, arrest, confiscation, severance and restitution of assets, acquired by criminal means.

In this regard the Russian Federation proposes to substitute the current text of indent 2 of draft article 13 with a provision to the effect that in case no international instruments in the fields of extradition and/or mutual legal assistance is concluded between the appropriate parties to the CoE criminal law convention, the relevant provisions of the UN Convention on transnational organized crime and/or the UN Convention against corruption (depending on which of the Conventions the requesting and the requested side are parties) shall be applicable *mutatis mutandis*. If both states are not parties to these Conventions, the UN Convention against corruption shall be applied (as it contains more advanced provisions on confiscation).

2. Indent 5 of draft article 20 that regulates the participation of NGOs in the Committee of State Parties, does not appear to reflect the relevant Council of Europe practice, according to which NGOs take part in the work of the specialized bodies of the CoE on special invitation and on rare occasions (for instance, in the format of the annual “exchange of opinions”). Granting observer status to NGOs will hardly contribute to the efficiency of the work of the Committee of State Parties.

3. As regards to article 21 it seems more expedient to include the main elements of monitoring mechanisms under the conventions into conventions themselves instead of leaving this issue at the discretion of the committee of State Parties.

4. The Russian Side proposes to exclude the reference to article 20.d of the Charter of the Council of Europe in indent 3 of draft article 23. This reference would imply that amendments to criminal law conventions could be adopted by a majority vote, which is not in

line with the existing Council of Europe treaty practice, according to which amendments to international treaties are adopted in the same way as treaties themselves, i.e. by consensus.

Furthermore, it is recommended to strengthen the role of the CDPC, which could provide its opinion for the Committee of Ministers along with the opinion of the committee of state-parties.