

<http://www.coe.int/tcj>



Strasbourg, 06/05/2013  
[PC-OC\Docs 2013\PC-OC (2013)6]

**PC-OC (2013) 06**

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

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

**Provisional Draft Terms of Reference**

**2014-2015**

## Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters (PC-OC)

*Set up by the Committee of Ministers under Article 17 of the Statute of the Council of Europe and in accordance with Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods*

### Provisional Draft Terms of Reference valid from: 1 January 2014 until 31 December 2015

Main tasks	
Under the supervision of the European Committee on Crime Problems (CDPC), the Committee is instructed to:	
(i)	monitor and evaluate the operation of the conventions on international co-operation in criminal matters <sup>1</sup> with a view to facilitating their practical implementation;
(ii)	discuss practical difficulties encountered by states Parties concerning the European conventions on international co-operation in criminal matters and express non-binding opinions concerning the implementation of the provisions of these Conventions;
(iii)	consider various steps and initiatives to improve the efficiency of international co-operation in criminal matters, including in particular to improve practical co-operation as well as developing normative texts in accordance with the given instructions by the CDPC; <sup>2</sup>
(iv)	follow developments in other international frameworks (e.g. United Nations, European Union) in the fields covered by these conventions and, where appropriate, propose measures likely to ensure their conformity with such developments;
(v)	follow the application of the European Convention on Human Rights with regard to international co-operation in criminal matters;
(vi)	carry out other specific mandates given by the CDPC;
(vii)	take due account of gender perspective in the performance of the above tasks.
Pillar / Sector / Programme	
<b>Pillar:</b>	Rule of Law
<b>Sector:</b>	Common standards and policies
<b>Programme:</b>	Development and implementation of common standards and policies
Expected results	
<b>Expected results for 2014 and 2015:</b>	
(i)	Model request forms and practical guidelines are developed to facilitate and improve mutual legal assistance in criminal matters;
(ii)	The standard text providing information on the Convention on the Transfer of Sentenced Persons (appendix to Recommendation No R (84)11) is completed with a text on the Additional protocol and the model request form appended to Recommendation No R (92)18 is updated;
(iii)	The Convention on the Transfer of Sentenced Persons and its Additional Protocol are assessed with a view to their possible modernisation and improvement by the drafting of new standards and/or practical guidelines;
(iv)	Concrete solutions are proposed to solve problematic issues affecting the implementation of Council of Europe Conventions on international cooperation in criminal matters. These issues include the

<sup>1</sup> These Conventions include in particular: ETS No. 24 (Extradition, and Additional Protocols ETS Nos 86, 98 and 209), 30 (Mutual assistance in criminal matters and Additional Protocols ETS Nos 99 and 182), 51 (Supervision of Conditionally sentenced or Conditionally released Offenders), 70 (International validity of criminal judgments), 73 (Transfer of criminal proceedings), 112 (Transfer of sentenced persons and its Protocol ETS No. 167).

<sup>2</sup> On the basis of the elements presented, notably, in the following documents: Proposals of the PC-OC concerning normative and practical measures to improve the operation of relevant conventions (PC-OC (2008) 05 and 06), approved by the CDPC at its 56th plenary session (CDPC (2007) 23).

- relationship between extradition and asylum proceedings, the application of the “aut dedere aut iudicare” principle, the use of “diplomatic guarantees” in international co-operation and mutual legal assistance for the purpose of criminal, civil or administrative proceedings against legal entities;
- (v) concrete problems experienced by Parties to the conventions<sup>3</sup> are identified at an early stage by discussion during meetings and on an on-line forum, practical solutions are proposed and ways are found to facilitate bilateral consultation;
- (vi) where a need has been identified, practical procedural guidelines and bilateral consultation channels are developed to assist practitioners (government officials, judges and prosecutors)<sup>4</sup> in the implementation of the conventions on international co-operation in criminal matters<sup>4</sup>;
- (vii) a user-friendly website will allow practitioners to find legal and practical information (including, for example legal standards, case-law, practical guidelines, model forms, thematic background papers and non-binding opinions of the PC-OC) needed to implement the main conventions on international co-operation in criminal matters. Practitioners will furthermore have the possibility to ask questions to the PC-OC.

### Composition

#### Members:

Governments of member states are invited to designate one or more representatives of the highest possible rank in the relevant field of international criminal law, in particular officials in charge of international co-operation in criminal matters.

The Council of Europe will bear the travel and subsistence expenses of one representative from each member state (two in the case of the state whose representative has been elected Chair).

Each member of the committee shall have one vote. Where a government designates more than one member, only one of them is entitled to take part in the voting.

#### Participants:

The following may send representatives without the right to vote and at the charge of their corresponding administrative budgets:

- Parliamentary Assembly of the Council of Europe;
- Congress of Local and Regional Authorities of the Council of Europe;
- European Court of Human Rights;
- Commissioner for Human Rights;
- Conference of INGOs of the Council of Europe;
- Steering Committee for Human Rights (CDDH);
- Consultative Council of European Prosecutors (CCPE);
- European Commission for the Efficiency of Justice (CEPEJ);
- other Council of Europe intergovernmental committees as appropriate.

The following may send representatives without the right to vote and without defrayal of expenses:

- European Union;
- Observer States to the Council of Europe: Canada, Holy See, Japan, Mexico, United States of America;
- United Nations Office for Drugs and Crime (UNODC);
- International Criminal Police Organisation (INTERPOL);
- United Nations Interregional Crime and Justice Research Institute (UNICRI);
- Office of the United Nations High Commissioner for Human Rights (OHCHR);
- International Criminal Court (ICC).

<sup>3</sup> Conventions as quoted in footnote 1.

<sup>4</sup> Conventions as quoted in footnote 1.

**Observers:**

The following may send representatives without the right to vote and without defrayal of expenses:

- Israel;
- Korea;
- other States Parties to the Council of Europe Conventions on co-operation in Criminal Matters (on an ad hoc basis, upon invitation by the PC-OC).

**Working methods****Plenary meetings:**

48 members, 2 meetings in 2014, 3 days

48 members, 2 meetings in 2015, 3 days

**Working Group meetings:**

9 members (Bureau members and 7 members elected by the PC-OC) , 2 meetings in 2014, 3 days

9 members (Bureau members and 7 members elected by the PC-OC), 2 meetings in 2015, 3 days

All member states may send representatives to the working group meeting without defrayal of expenses.

**Bureau:**

The Bureau is composed by the Chair and its Vice-Chair. 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.

The Committee will also appoint a Gender Equality Rapporteur from amongst its members.

The rules of procedure of the Committee are governed by Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods.