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 [PC-OC/DOCS2014/PC-OC(2014)09 E Draft Annotated Agenda...]
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PC-OC (2014)09

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

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

67th meeting
 Strasbourg, 18 – 20 November 2014
 AGORA, Room G 02

Draft Annotated Agenda

1.	Opening of the meeting
2.	Points for information The PC-OC is invited to take note of the information provided on the issues of relevance to its work.
a.	Co-operation with the HELP Programme
b.	Update of the index and summaries of relevant case law of the ECtHR The PC-OC is invited to take note of the update and to consider the proposal by the PC-OC Mod to also include case-law referring to international co-operation as regards search, seizure and confiscation. Document: PC-OC(2011)21rev.8
c.	Working Group on prison overcrowding
d.	Recent signatures and ratifications
e.	Other The PC-OC is invited in particular to take note of the activities of the CDPC. <u>Background documents</u> List of decisions of the 66th meeting of the CDPC [CDPC(2014)13 rev] List of decisions of the meeting of the Bureau of the CDPC [CDPC-BU (2014)04]
3.	Adoption of the draft agenda

	Document: PC-OC(2014)OJ2
4.	Presentation and content of the PC-OC website The PC-OC is invited to take note of the “Inventory of country specific information available on the PC-OC websites” Document: PC-OC (2012) 09 rev.7 Bil
a.	Proposals to ensure the availability of country information and useful tools for practitioners in languages other than English and French At its 66 th meeting, the PC-OC discussed the above issue and had asked the PC-OC Mod to make proposals. The PC-OC Mod discussed, during its 18 th meeting, possibilities to translate country information and useful tools for practitioners into other European languages and agreed that this does not seem to be a priority need for the practitioners who would usually address their questions to the central authorities. The PC-OC is invited to discuss this issue taking into account the viewpoint of the PC-OC Mod
b.	Dissemination of information on the PC-OC to practitioners During its 18 th meeting, the PC-OC Mod recalled that the experts of the PC-OC should endeavour to give visibility to its work, and in particular by translating the PC-OC information leaflet in their national language and disseminating it, for example by posting it on their national website. It was decided to invite the PC-OC to address this issue again at its next plenary meeting. The PC-OC is invited to have an exchange of views and practices on the dissemination of information on the PC-OC to practitioners, taking into account the “Practical measures to facilitate the application of conventions on international cooperation in criminal matters adopted by the PC-OC during the 61st plenary meeting”. Background document: PC-OC (2011) 04 Rev 3
c.	Proposals to ensure visibility of information on conventions within the remit of the PC-OC (other than ETS No. 24, 30 and 112) At its 66 th meeting, the PC-OC discussed the above issue and had asked the PC-OC Mod to make proposals. The PC-OC Mod considered the present structure of the PC-OC website and agreed that the website should have headings in the left-hand banner for each of the conventions mentioned in its terms of reference. The PC-OC Mod decided to propose to the plenary that the PC-OC website be developed by adding headings for the European Convention on the Supervision of Conditionally sentenced or Conditionally Released Offenders (ETS No. 51), the European Convention on the International Validity of Criminal Judgments (ETS No. 70), the European Convention on the Transfer of Criminal Proceedings (ETS No. 73) as well as the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141). The PC-OC is invited to consider the proposal by the PC-OC Mod.
d.	Use of the forum The PC-OC is invited to discuss ways to encourage the use of the forum to raise questions of interest.
5.	European Convention on Extradition
a.	Proposals for follow up to the special session on extradition held during the 66th plenary meeting of the PC-OC During its 18 th meeting the PC-OC Mod discussed the outcome of the special session, which

	<p>was held during the 66th plenary meeting in May, referring to the reports of the workshops [Doc PC-OC (2014)07] and agreed that diverging approaches to the double criminality principle caused obstacles to extradition requests and that it was important to continue discussions in order to find appropriate solutions and avoid impunity. It was decided to ask Mr Erik Verbert to prepare a reflection paper based on the outcome of the workshops and the replies to the questionnaire on the reference moment to be applied when considering double criminality as regards extradition requests for consideration at the next plenary meeting.</p> <p><u>The PC-OC is invited to discuss the possible follow up to the special session based on the reflection paper by Mr Erik Verbert (Belgium)</u></p> <p>Document: Reflection paper by Mr Erik Verbert [PC-OC(2014) 11] Background document: reports of the workshops of the special session on extradition [Doc PC-OC (2014)07]</p>
b.	<p>Prison standards to consider in extradition matters with non- European states</p> <p>The PC-OC Mod also discussed a question raised by Ms Kristina Speicher (Germany) as regards applicable prison standards to be considered in extradition requests with non-European states [Doc PC-OC Mod (2014) 06]. The PC-OC Mod agreed that this issue would deserve further discussion and decided to address this question at the plenary during its upcoming meeting.</p> <p><u>The PC-OC is invited to discuss the question raised by Ms Kristina Speicher (Germany)</u></p> <p>Document: PC-OC Mod (2014)06</p>
c.	Other
6.	Mutual Assistance in Criminal Matters
a.	<p>Preparation of a draft model request form on MLA and practical guidelines for practitioners</p> <p>During its last meeting, the PC-OC had agreed that it would be useful to adopt a standard model request form and practical guidelines on MLA for the implementation of Council of Europe instruments in this field. It was therefore decided to ask the PC-OC Mod to develop such a standard model request form and practical guidelines on the basis of the work undertaken within the Project VC 2248 (Doc DG-HL(2010)6) and taking into account existing model request forms and guidelines.</p> <p>During its 18th meeting, the PC-OC Mod considered the draft model request form and guidelines including the comments and proposals made in the shared office space, agreed on a number of amendments to the draft model request form and decided to:</p> <ul style="list-style-type: none"> - invite members of the PC-OC Mod to finalise the form on the shared office space by 1 November; - present the draft model request form to the plenary for approval; - postpone discussion on the guidelines until the draft model request form has been approved. <p><u>The PC-OC is invited to consider and approve the draft model request form as proposed by the PC-OC Mod and to instruct the PC-OC Mod to finalise the guidelines for consideration by the plenary at its next meeting.</u></p> <p>Document: Draft model request form on MLA [PC-OC Mod (2014)10]</p>
b.	<p>Discussion on MLA in criminal, civil and administrative matters related to criminal offenses, the liability of legal entities, non-conviction based confiscation and proposals for follow-up</p> <p>The PC-OC Mod considered the discussion paper [Doc PC-OC Mod (2014)08] prepared by Mr. Vladimir Zimin (Russian Federation), agreed that the issues raised were important and decided to:</p>

	<p>- discuss this issue further and invite the plenary to consider the preparation by the PC-OC Mod of a questionnaire to collect information on national practices as regards MLA requests related to the liability of legal entities for criminal offenses as well as to requests for object-based, value-based and, in particular, non-conviction based confiscation.</p> <p>The PC-OC is invited to discuss the questions raised by Mr Zimin in his paper and to consider the proposal made by the PC-OC Mod</p> <p>Document: PC-OC Mod (2014)08</p>
c.	<p>Opinion of the T-CY on recommendation 2.2 of PACE Recommendation 2041 (2014) on “improving user protection and security in cyberspace” (possible update of ETS No 30)</p> <p>At the request of the CDPC Bureau the PC-OC Mod considered the Opinion of the T-CY on the specific recommendation 2.2 (possible update of the European Convention on Mutual Legal Assistance in Criminal Matters (ETS No. 30) contained in Recommendation 2041 (2014) of the Parliamentary Assembly of the Council of Europe on “improving user protection and security in cyberspace”. The PC-OC Mod discussed the Opinion, recalled its terms of reference as regards international co-operation in criminal matters and stressed the importance for the PC-OC to participate in the assessment carried out by the T-CY on the effectiveness of the international co-operation provisions of the Convention on cybercrime and the discussions on a possible update of these provisions. The majority was of the opinion that it would be premature to draw conclusions as to the possible update of any Council of Europe instrument before this assessment is finalised. The PC-OC Mod decided to inform the plenary of its position with a view to further discussions.</p> <p>The PC-OC is invited to provide the CDPC with written comments on the Opinion of the T-CY on the specific recommendation 2.2 referred to above, taking into account the views of the PC-OC Mod.</p> <p>Document: Opinion of the T-CY on Recommendation 2041 (2014) of the PACE on “Improving user protection and security in cyberspace” [T-CY(2014)8] Background documents: PACE Recommendation 2041 (2014) on “improving user protection and security in cyberspace” and report List of decisions of the Bureau of the CDPC [CDPC-BU (2014)4]</p>
d.	<p>Compatibility between the MLA convention and the Cybercrime convention with regard to the question of international co-operation in matters related to electronic evidence</p> <p>During its last meeting, the Bureau of the CDPC has decided to request that the PC-OC consider, in its forthcoming work and meetings, the question of compatibility between the MLA convention and the Cybercrime convention with regard to the exchange of requests for international co-operation in matters related to electronic evidence and report back to the CDPC on the outcome of this exercise.</p> <p>The PC-OC is invited to consider the question raised by the Bureau of the CDPC and decide on the follow up to be given</p> <p>Background document: List of decisions of the Bureau of the CDPC [CDPC-BU (2014)4]</p>
e.	<p>Other</p>
7.	<p>Special session on the seizure and confiscation of proceeds of crime, including the management of confiscated goods and asset sharing. 19 November</p> <p>This special session is considered by the CDPC as a follow-up to the White Paper on Transnational Organised Crime</p> <p>The objective of the special session is to assess the effectiveness of international co-operation as regards the seizure and confiscation of proceeds of crime, including the management of</p>

confiscated goods and asset sharing. The main focus will lie with the functioning of Council of Europe Conventions of relevance in this regard, identifying obstacles and proposing solutions.

See programme

Background Documents:

The White Paper on Transnational Organised Crime (see in particular pages 46 to 51 and 55)
The Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141) and in particular Articles 2,7, 13 to 18 and 22.

The Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (ETS No. 198) and in particular Articles 3,5,15, 23 to 28 and 32

The European Convention on Mutual Assistance in Criminal Matters (ETS No. 030) and its Additional Protocols (ETS No. 099 and ETS No. 182)

The European Convention on the International Validity of Criminal Judgments (ETS No. 70) and in particular Articles 37 and 45 to 48.

8. Convention on the transfer of Sentenced Persons and its Additional Protocol

a. Proposals for updating/improving the Convention on the Transfer of Sentenced Persons and its Additional Protocol, including, where possible, by non-binding measures

During its last meeting, the PC-OC decided to invite the CDPC to give a mandate to the PC-OC to prepare a draft binding instrument, or binding instruments, which could address the issues mentioned hereafter.

As regards the Convention:

- time-limits as regards: procedures; the revocation of consent; the actual transfer;
- widening the scope of the Convention to persons who returned voluntarily to their country of origin before having served their sentence;
- translation requirements;
- organisation and cost of the actual transfer;
- non-payment of fines or compensation to victims;
- the provision of information on the execution of the sentence by the administering state.

As regards the Additional Protocol thereto:

- deletion of the consequential link between the expulsion or deportation order and the sentence imposed in Article 3, paragraph 1 of the Additional Protocol;
- introduction of time-limits as regards the application of the rule of speciality in the Additional Protocol.

The PC-OC furthermore decided to:

- have further discussions as regards the possibilities of transferring mentally ill persons who have committed a crime and whose detention is imposed by means other than by a sentence imposed by judicial authorities.

In reply to this request, the CDPC had decided to “give the mandate to the PC-OC to continue its work on the updating/improving of the Convention on the Transfer of Sentenced Persons and its additional protocol and carefully consider which issues should be dealt with in (a) new binding instrument(s) or otherwise be dealt with in other ways which could be more effective than the “normative” one, i.e. operational/practical level.”

During its last meeting, the PC-OC Mod, considering the instruction by the CDPC, had decided to instruct the Secretariat to prepare a note on existing and proposed non-binding solutions to address the problems related to the implementation of the Convention on the transfer of sentenced persons and its Additional Protocol.

The PC-OC Mod also discussed an interesting proposal by Israel to consider the development of an electronic tool to facilitate transfer procedures (E-Transfer proposal) and invited the

	<p>plenary to discuss it.</p> <p><u>The PC-OC is invited to</u> reconsider its proposals, as well as the alternatives available, in line with the instruction received by the CDPC and to decide on the follow-up to be given.</p> <p><u>Documents:</u> Overview of possible binding and non-binding measures to improve the transfer of sentenced persons. Note by the Secretariat [PC-OC (2014)10]. E-Transfer proposal by Israel [PC-OC Mod (2014)04]</p> <p><u>Background documents</u> List of decisions of the 17th meeting of the PC-OC Mod [PC-OC Mod (2014)03] List of decisions of the 18th meeting of the PC-OC Mod [PC-OC Mod (2014)09] List of decisions of the 66th meeting of the CDPC [CDPC(2014)13 rev] Replies received to the questionnaire regarding implementation of the Convention on the Transfer of Sentenced Persons and its Additional Protocol [PC-OC(2013)10 Bil.rev] Summary of the replies received to the above questionnaire [PC-OC(2013)10 ADD.rev] Presentations made at the special session on transfer of sentenced persons [PC-OC(2013)15]</p>
b.	Other
9.	<p>Review of Council of Europe Conventions within the remit of the PC-OC</p> <p>Further to the review of Council of Europe Conventions conducted by the Committee of Ministers, the latter decided on 10 April 2013 to “instruct steering and ad hoc committees to carry out, (...) an examination of some or all of the conventions for which they have been given responsibility (...)” The Chair of the CDPC addressed on 25 March 2014 a letter to the Chair of the PC-OC, inviting the Committee to provide concise and written feedback to the CDPC on the implementation/assessment with regard to the conventions for which it is responsible by the end of 2015.</p> <p>Referring to the PC-OC’s terms of reference, the PC-OC is responsible for the following conventions : ETS No. 24 (Extradition, and Additional Protocols ETS Nos 86, 98, 209 and 212), ETS No. 30 (Mutual assistance in criminal matters and Additional Protocols ETS Nos 99 and 182), ETS No. 51 (Supervision of Conditionally sentenced or Conditionally released Offenders), ETS No.70 (International validity of criminal judgments), ETS No.73 (Transfer of criminal proceedings), ETS No.112 (Transfer of sentenced persons and its Protocol ETS No. 167) as well as ETS No. 141 (Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime).</p> <p><u>The PC-OC is invited to</u> consider and approve the draft reply to the CDPC proposed by the PC-OC Mod.</p> <p><u>Documents</u> Letter dated 25 March 2014 by the Chair of the CDPC. Preliminary reply by the PC-OC sent in June 2014 Draft reply to the CDPC [Doc PC-OC (2014)08]</p>
10	<p>Model provision on international cooperation in future Council of Europe Conventions in criminal matters</p> <p>At the request of the CDPC, the Chair of the PC-OC participated, on 9 September, in a working group created to develop model provisions for future Council of Europe conventions in criminal matters [Doc CDPC (2014) 07]. Further to this meeting, the PC-OC Mod had been invited to comment on the provisions dealing with international co-operation in criminal matters as reflected in Doc PC-OC Mod (2014)05. The majority of the members in the PC-OC Mod were of the opinion that for model provisions in a future convention on a specific criminal behaviour, the provision on international co-operation should remain short and general and that the proposed wording would be acceptable. The PC-OC Mod decided to inform the PC-OC of this position with a view to further discussions in the plenary.</p>

	<p>The PC-OC is invited to give its opinion on the model provision, taking into account the position of the PC-OC Mod.</p> <p><u>Document:</u> Model provision on international cooperation [PC-OC Mod (2014)05]</p> <p><u>Background documents:</u> Outline of the model provisions project [CDPC (2014)07] List of decisions of the Bureau of the CDPC [CDPC-BU (2014)4]</p>
11.	Elections
a.	<p>Election of the Chair and vice-Chair</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. Considering that the present Chair, Ms Joana Gomes Ferreira (Portugal), will reach the term of her first mandate at the end of 2014 and that the vice-Chair, Mr Per Hedvall (Sweden), will reach the term of his second and last mandate, the PC-OC is invited to elect or re-elect a Chair and to elect a new vice-Chair among its members for a term of one year, starting in 2015.</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.	<p>Election of a gender equality rapporteur</p> <p>In line with its terms of reference, the PC-OC had elected during its 62nd meeting Ms Antonella Sampo-Couma (Monaco) as its gender equality rapporteur.</p> <p>The PC-OC is invited to elect or re-elect a Gender Equality rapporteur among its members</p>
12.	<p>Any other business</p> <p>The Secretariat will propose dates for the meetings of the PC-OC and the PC-OC Mod in 2015.</p>