

EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

Information document

FIRST PRELIMINARY WORK PLAN OF THE ACTION PLAN ON TRANSNATIONAL ORGANISED CRIME (TOC) ACTIVITIES TO BE IMPLEMENTED IN 2016

Document prepared by the CDPC Secretariat
Directorate General I – Human Rights and Rule of Law

I. Introduction

This document aims at providing some information about the activities to be implemented in 2016 in the framework of the Action Plan on Transnational Organised Crime (TOC) as adopted by the Committee of Ministers at its 1249th meeting on 2 March 2016.

II. Priorities

The Action Plan is made up of 5 major key areas (components) each of which is divided into three major actions: a) direct actions, b) standardisation and c) capacity building. All these major actions have different activities to be implemented for the whole period of the Action Plan (4 years). Given that some of the activities included in every action are inter-related, it is necessary to see them in a transversal way and not individualised.

Only those actions planned for 2016 are mentioned hereafter

COMPONENT 1: ENHANCING INTERNATIONAL CO-OPERATION THROUGH NETWORKS

A) DIRECT ACTIONS:

A1) Improve and maintain the website on MLA and International Co-operation and link it to TOC

Given the involvement of the PC-OC in the drafting of the Action Plan, this action was taken on board by the PC-OC as one of its major priorities for 2016. This means that this activity has already begun to be implemented under the PC-OC. The new site will be available at the end of the third quarter (Q3) of 2016.

A2) Discuss the setting up and use of secure communications for international co-operation

A3) Build-up the connection of judicial networks

B7) Establish a practitioners' forum on TOC on a regular basis for disseminating / sharing best practice examples

Given their common goal, these actions will be implemented together.

- In relation with A2, contacts will be established with INTERPOL to find out which secure communications already operate within international police co-operation and the status of play of the e-extradition initiative. Contacts with the European Judicial Training Network will also be established to discuss main concerns of secure communications in international judicial co-operation.
- In relation with A3, a first activity planned for 2016 will consist on drafting a **reflection paper** aimed at: identifying the different existing judicial networks already in place in the European, Euroasian and Euro-Atlantic spheres, analysing their terms of reference, identifying whether TOC is an important element and making possible proposals/recommendations to link the judicial networks and/or strengthen the existing co-operation agreements. This report will be drafted during **2016**.

- In relation with this first component, the PC-OC will open the debate in **November 2016**. The idea would be that the PC-OC Mod draft a questionnaire with targeted questions related to the Second Additional Protocol to the Convention on Mutual Assistance in Criminal Matters (CETS No. 182) which is essential for TOC. This questionnaire could be approved in May 2017 and its answers could be ready in 18 months.
- Concerning B7: discussions will be held within the PC-OC (2016-2017) to find out the best structure, to examine the added value of creating a PC-OC network of contact persons responsible of TOC.

B) IMPROVING LEGAL AND PRACTICAL STANDARDISATION

A4) Establish a mechanism to address judicial co-operation problems

B1) Review provisions on international co-operation in CoE conventions and relevant reservations/declarations to them/these conventions

The drafting of a document identifying all reservations/declarations to conventions in respect of international co-operation is a first priority (catalogue).

- PC-OC will prepare an overview of existing reservations to CoE treaties within its remit and make a proposal to the CDPC about possible follow-up. This report will begin in **2016 and finish in 2017**

B3) Development/Elaboration and support of model request forms

Following the earlier involvement of the PC-OC in the drafting of the White Paper on TOC, a model request form and practical guidelines for practitioners in the field of MLA and the transfer of proceedings were agreed upon and developed by the PC-OC.

A user-friendly version on MLA has been developed. Although it is currently not online, it will be published soon on the new PC-OC website. Important for the added value will be the development of a print-friendly version (**2016**).

B4) Assessment of the need for improving legal standardisation

Given that these actions are inter-related their implementation can be jointly developed. Discussions will be developed with INTERPOL in 2016 (activity linked with component 2- Improving legal and practical standardisation) in relation with Special Investigative Techniques (SIT). Further actions (a meeting and the drafting of a reflection paper will be developed in a near future (2017).

B5) Develop factsheets with country information

Experience shows the usefulness of the fact sheets (known as country information on national procedures for the implementation of CoE conventions) containing relevant information for requesting judicial co-operation.

Following its involvement in the drafting of the White Paper on TOC, the PC-OC has already developed (and featured on its website) updated country information on national procedures as regards:

- the European Convention on Extradition (CETS No. 24)
- the European Convention on Mutual Assistance in Criminal Matters (CETS No. 30)
- the Convention on the Transfer of Sentenced Persons (CETS No. 112)

The drafting of the template for country information related to the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (CETS No.141) is currently taking place and final adoption by the PC-OC should take place this year (2016).

B8) Continue the development of the repository on benchmark Court of Human Rights judgments on international judicial co-operation and TOC

The PC-OC has prepared a document on the “Case law by the European Court of Human Rights of relevance for the application of the European Conventions on International Co-operation in Criminal Matters”, which contains a full collection of cases, classified by topics, and a brief summary of each of them.

- The translation of this document into different languages (German, Russian, and Spanish) may be requested to member States on a voluntary basis.
- An update of the document, involving the PC-OC identifying cases of particular relevance to TOC is being envisaged.
- A user-friendly version of this document is necessary (regular update “online” to be foreseen)

COMPONENT 2: SPECIAL INVESTIGATIVE TECHNIQUES

B) IMPROVING LEGAL AND PRACTICAL STANDARDISATION

B1) Assessment on the functioning of the Second Additional Protocol on MLA

B3) Compile a comprehensive study on the legal framework of selected SITs at domestic level and their practical implementation

B4) Assessment of the need for improving legal standardisation

The PC-OC will prepare a half-day special session on the application of the Second Additional Protocol for the next plenary meeting (in November 2016). A questionnaire including questions on B1, B3 and B4 will be drafted. This questionnaire could be adopted by the Plenary in 2017 as the first replies could be expected in 2017.

Following contacts established with INTERPOL to find out which secure communications already operate within international police co-operation and the status of play of the e-extradition initiative, discussion should focus on further work which could be envisaged in relation with SIT.

COMPONENT 5: RECOVERY OF ASSETS

B) IMPROVING LEGAL AND PRACTICAL STANDARDISATION

B5) Strengthen international co-operation on non-traditional forms of confiscations

Following its involvement in the drafting of the White Paper on TOC, the PC-OC organised a Special Session in 2014¹. With the help of MONEYVAL, a questionnaire was drafted and 30 answers were received. The results of this questionnaire show that there was room for

¹ “International co-operation as regards the seizure and confiscation of proceeds of crime, including the management of confiscated goods and asset sharing”, 14 November 2014. Available at: http://www.coe.int/t/dghl/standardsetting/pc-oc/PCOC_documents/Documents%202014/Draft%20programme%20special%20session%2067th%20PC-OC.pdf

improvement on some topics (non-conviction, case confiscation, sharing of assets, confiscation in relation with property of assets, lengthy MLA).

The PC-OC will develop templates for country information concerning the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (CETS No. 141) and publish the questionnaire.

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