AD HOC DRAFTING GROUP ON TRANSNATIONAL ORGANISED CRIME  
(PC-GR-COT)  
1st MEETING  
24 -26 June 2013  
Council of Europe,  
Paris Office – Room 1  

SUMMARY MEETING REPORT  

Document prepared by the Directorate General  
Human Rights and Rule of Law  

BRIEF FOREWORD  
The PC-GR-COT:  
- elected Ms Lorena Bachmaier Winter as its Chair;  
- adopted the agenda;  
- took note of the information provided by the Secretariat on reasons to deal with the issue of transnational organised crime;  
- considered the Council of Europe’s main work and legal instruments to be taken into consideration in view of a future policy document in the field of transnational organised crime;  
- considered the information presented by the scientific expert to the PC-GR-COT on the current trends in Europe in the field of transnational organised crime;  
- held a discussion regarding the current main issues in the field of organised crime in a transversal perspective;  
- considered and defined the scope and structure of the drafting of a White Paper report;  
- identified and agreed upon the main areas of transnational organised crime to be developed in the White Paper report;  
- considered the presentation of a preliminary draft White Paper report at its next meeting.
1. The Ad hoc Drafting Group on Transnational Organised Crime (PC-GR-COT) held its first meeting in Paris on 24-26 June 2013. The list of participants is appended to this report (Appendix II).

I & II. Opening of the meeting and adoption of the agenda

2. The agenda was adopted as it appears in Appendix I.

III. Election of the Chair

3. The PC-GR-COT elected Ms Lorena Bachmaier Winter as its Chair for the duration of the mandate of the ad hoc drafting group.

IV. Information by the Secretariat

4. Mr Carlo Chiaromonte, Head of the Criminal Law Division, provided the Group with some information concerning the setting-up of the PC-GR-TOC: it was felt that at pan-European level (47 States) developing an integrated strategic approach to combating transnational serious organised crime and identifying common responses to major threats to the rule of law and security of citizens was considered a valuable exercise. Discussing this matter in a transversal and interdisciplinary way was important to achieve more coordinate results.

5. He also presented the terms of reference of the PC-GR-COT as adopted by the Committee of Ministers on 21 November 2012, focussing in particular on the main tasks that the Group was entrusted to achieve and notably the preparation of a White Paper for consideration by the Committee of Ministers, after validation by the CDPC, on selected trends and developments in transnational organised crime in the Council of Europe (CoE) member states which may be considered as priority areas. He introduced other members of the Criminal Law Division: Mr Oscar Alarcón, the Secretary of the PC-GR-COT, and Laurent Braulio, responsible for police co-operation programmes.

V. Preliminary consideration on Transnational Organised Crime


7. The PC-GR-COT took note of the presentation provided by the scientific expert, Mr Michael Levy, on the current trends and developments in Europe in the field of Transnational Organised Crime (TOC) and held a discussion on the main items of his report.

8. The PC-GR-COT:
   a) took note of the main work already carried out by the CoE in the field of TOC and the existing legal instruments that should be taken into consideration when drafting the White Paper;
   b) agreed that there is no need for new conventions but that it would be necessary to proceed for a co-ordinated and comprehensive assessment of the existing tools by identifying gaps in the field of TOC with a view to overcoming them;
   c) considered the purpose of the White Paper report which should not provide a definition of TOC as this is not included in its mandate.

VI. Round Table

9. The representatives of the PC-GR-COT presented in a tour de table the main topics that in their opinion should to be dealt with by the Ad hoc Drafting Group and which they had already submitted in written to the Secretariat beforehand.

10. The representatives of the different monitoring bodies of the CoE presented the main activities carried out in their monitoring work focusing on the transnational perspective of organised crime. Their input to the Group’s work was very much appreciate and considered essential in the identification of possible areas to be covered in the white paper. They also welcome the added value of meeting together and work in such multidisciplinary manner.
The Ad hoc Drafting Group considered some good examples of judicial co-operation in criminal matters such as the European Judicial Network (EJN) as well as the Ibero-American Network for International Legal Cooperation (IberRed), which is a co-operation tool, for both civil and criminal matters, at the disposal of judicial operators from 22 Ibero-American countries (including Spain, Portugal and Andorra) and the Supreme Court of Puerto Rico.

In the light of the discussions, the PC-GR-COT identified a certain number of subjects to be retained in its work:

1. Proactive investigation: at national and international level and the possibility of establishing specialized bodies dealing with TOC;
2. Joint Investigation Teams (JITs): the idea of expanding this model throughout CoE member states was raised;
3. Proceeds of crime: asset recovery, sharing of assets and management. Identification of gaps, establishing good practises and drafting guidelines on confiscation.
4. Witness and collaborators of justice protection. Although there are various CoE legal instruments, witnesses are threatened and often refrain from co-operating. There is a need to find out why the current legal instruments are not properly implemented. Need to improve the protection programmes between different countries. The CoE recommendation of 2005\(^1\) could be revised, if necessary.
5. Collecting evidence in transnational investigations. Consideration should be given to whether the European Investigation Order could be further expanded at a pan-European level;
6. The issue of having centralised units in every country was also discussed by the Ad hoc Drafting Group. There was not a common approach on this specific matter depending notably on the institutional structure of any single State.
7. The level of protection of judges and investigators was also considered;
8. The importance of building networks, personal contacts also with private sector;
9. Electronic evidence in investigation at international level and in international co-operation: in particular their adequate and efficient use,, their regulation;
10. Synergies between administrative entities and law enforcement units;
11. Lack of tools for sharing information about and prosecution of corporate criminal liability, what sanctions are available and how dissuasive they are;
12. Incentives in the performance indicators of judges and prosecutors and investigators dealing with cases of TOC;
13. Enhance of mutual legal assistance and international co-operation;
14. The use of special investigative techniques (SIT). The conference on that subject that took place in November 2011 in Strasbourg\(^2\) was mentioned and a possible update of the Recommendation Rec(2005)10 of the Committee of Ministers to member states on “special investigation techniques” in relation to serious crimes including acts of terrorism was also considered.

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\(^1\) Recommendation Rec(2005)9 of the Committee of Ministers to member states on the protection of witnesses and collaborators of justice (adopted by the Committee of Ministers on 20 April 2005 at the 924\(^{th}\) meeting of the Ministers’ Deputies).

\(^2\) International Conference on “The use of special investigation techniques to combat terrorism and other forms of serious crime” (Strasbourg, 14 - 15 May 2013), organised by the Council of Europe in close co-operation with United Nations, the League of Arab States and the OSCE.
VII. **Drafting of a White Paper on Transnational Organised Crime**

14 On the basis of the above-mentioned issues, the PC-GR-COT identified and agreed upon the different areas to be further developed in the White Paper:

I. **Enhancing mutual legal assistance international co-operation in criminal matters**
   i. Setting-up a judicial network of contacts (models of EJN and IberRed);
   ii. the promotion of JITs;
   iii. taking into account the challenges and difficulties of prosecuting legal persons
   iv. more proactive investigative approach (best sharing of information in a less formal way).

II. **Assets/Confiscation:**

1. Freezing;
2. Confiscation
3. Sharing assets
4. Management
5. International co-operation
6. Training (Good practises and guidelines).

This issue is still a concern as it has not been handled adequately. The EU model could be enhanced or further developed at a pan-European level. The White Paper should try to explain how to do this and also propose the setting-up of a central database banking account register.

III. **Shortcomings in witness protection programmes:**

In spite of the existence of exchange programmes, platforms and the CoE recommendation of 2005, it is important to evaluate whether these tools are properly implemented.

IV. **Improvement of special investigative measures:**

Particular attention should be given to electronic investigations and devices, which produce electronic evidence in the cybercrime field.

V. **Synergies between the administrative authorities and criminal law units:**

This is a key issue with regard to an efficient (preventive) coordinated action against TOC. Administrative authorities play an important role in identifying organised criminal groups who infiltrate the state and private legal activities in particular to launder their money.

VI. **Other issues:**

The Group also identified some, other issues that could be tackled as well:
- the strengthening of the mutual trust in the fight against TOC;
- the necessity of having adequate funding to combat TOC;
- the continuation of capacity-building activities;
- the signature/ratification of treaties dealing with TOC and the review of the reservations to these treaties by member states;
- the consolidation of the monitoring activities related to TOC and the need to strengthen the synergies between the different existing bodies (the PC-GR-TOC is a good practise in this respect);
- the compilation of a handbook on TOC legislation contained in international texts.

VII. **Conclusions**

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3 Recommendation Rec(2005)9 of the Committee of Ministers to member states on the protection of witnesses and collaborators of justice (adopted by the Committee of Ministers on 20 April 2005 at the 924th meeting of the Ministers’ Deputies).
The PC-GR-COT agreed upon the necessity to include some introductory remarks on the following topics: the usefulness (or not) of this exercise, the excellent work carried out by the different monitoring bodies, the need for a more co-ordinated approach on TOC issues among CoE member states as well as further provisions on a proactive approach.

The members of the Ad hoc Drafting Group decided that the White Paper report should also contain some concrete examples of poor co-operation in the fight against TOC, which would illustrate the raison d’être of the White Paper.

VIII. Other business

The PC-GR-COT:

- agreed to contact the CDPC representatives with a view to keeping them informed of the results of the first meeting;
- took note of the work plan and methodology to be followed for the presentation of the White Paper;
- decided to present a preliminary draft White Paper at its next meeting as a basis for discussion.

The next meeting of the PC-GR-COT was scheduled for 28-30 October 2013.
AD HOC DRAFTING GROUP ON TRANSNATIONAL ORGANISED CRIME
(PC-GR-COT)

Paris, 24 June 2013, 10 a.m. - 26 June 2013, 1 p.m.

Council of Europe Office, 55 av. Kléber / Room 1

DRAFT AGENDA

1. OPENING OF THE MEETING

The meeting will be opened at 10 a.m. by Mr Carlo Chiaromonte, Head of the Criminal Law Division, Action against Crime Department, Directorate General of Human Rights and Rule of Law.

2. ADOPTION OF THE AGENDA

The Ad hoc drafting Group on Transnational Organised Crime (PC-GR-COT) is invited to adopt the agenda for its first meeting and decide on the order of business.

3. ELECTION OF THE CHAIRPERSON

The members of the PC-GR-COT are invited to elect its Chairperson.

4. INFORMATION BY THE SECRETARIAT

4.1 Terms of reference of the European Committee on Crime Problems (CDPC)

4.2 Terms of reference of the PC-GR-COT

4.3 Last meeting of the CDPC, 28-31 May 2013

The members of the PC-GR-COT are invited to take note of the information provided by the Secretariat on the main reasons for setting up this group and its expected results.
### 5. PRELIMINARY CONSIDERATION ON TRANSNATIONAL ORGANISED CRIME

#### 5.1 Presentation of the members, participants and observers of the PC-GR-COT

*Each member of the group, both participant and observer, present at the meeting is invited to briefly introduce her/himself as well as her/his field of activity related to transnational organised crime.*

#### 5.2 Presentation by the scientific expert on the current trends and main concerns in Europe in the field of transnational organised crime

*The scientific expert is invited to present his working document, which is the basis for opening the debate on the subject of transnational organised crime.*

#### 5.3 Discussion

### 6. ROUND TABLE

#### 6.1 Presentation of the topics of discussion/subjects to be dealt with by the PC-GR-COT submitted to the Secretariat:

- *Each member of the PC-GR-COT is invited to make a presentation on their written proposals submitted to the Secretariat beforehand;*

- *Each member is also invited to expand on these proposals during the round table by notably providing examples of national practices related to transnational organised crime, i.e. in a transnational perspective.*

#### 6.2 Presentation of the work implemented by every participant/observer in the field of transnational organised crime:

- *Each participant and observer of the PC-GR-COT is invited to make a general presentation on his/her monitoring body/institution to the members of the Ad hoc drafting Group;*

- *Each participant and observer is also invited to provide information on the cross-cutting issues under the transnational perspective of organised crime.*

#### 6.3 Discussion

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**Reference Documents**

- PC-GR-COT (2013)3
- PC-GR-COT (2013)2

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7. **DRAFTING OF A WHITE PAPER ON TRANSNATIONAL ORGANISED CRIME**

7.1 Main items to be included in the draft White Paper

The members of the group are invited to identify the skeleton of the White Paper on selected trends and developments in transnational organised crime in Council of Europe member states, in particular by focusing on identifying possible gaps in criminal law co-operation and providing recommendations for possible action by the Council of Europe in this regard.

7.2 Discussion

8. **OTHER BUSINESS**

8.1 Forthcoming meeting of the PC-GR-COT (28-31 October 2013)

8.2 Other
APPENDIX II

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

MEMBERS OF PC-GR-COT / MEMBRES DU PC-GR-COT

AZERBAIJAN / AZERBAİDJAN

Mr Ravan Vagif JABIYEV

BOSNIA AND HERZEGOVINA / BOSNIE-HERZÉGOVINE

Mr Edin JAHIĆ
Chief of the Section for Fighting Organized Crime and Corruption, Ministry of Security of Bosnia and Herzegovina / Chef de la Section de Lutte contre la Criminalité Organisée et la Corruption, Ministère de la Sécurité de Bosnie-Herzégovine

Ministry of Security of Bosnia and Herzegovina / Ministère de la Sécurité de Bosnie-Herzégovine

Trg Bosne i Hercegovine 1, Sarajevo 71 000
Bosnia and Herzegovina / Bosnie-Herzégovine

CROATIA / CROATIE apologized / excusé

Mr Tihomir KRALJ
Assistant Director of the Customs Administration / Directeur adjoint de l’administration des douanes

Member of the European Committee on Crime Problems (CDPC) / Membre du Comité européen pour les problèmes criminels

CZECH REPUBLIC / REPUBLIQUE TCHÈQUE

Ms Julie BUZALKOVA
Desk officer at the Security Policy Department, Ministry of the Interior of the Czech Republic / Agent du Département de la Politique de Sécurité, Ministère de l’Intérieur de la République tchèque

Nad Štolou 3, 170 34 Praha 7, Czech Republic / République tchèque

DENMARK / DANEMARK

Mr Poul GADE
Chief Prosecutor, East Jutland Police, Aarhus / Procureur general, East Jutland Police, Aarhus


GERMANY / ALLEMAGNE

Mr Christian SCHIERHOLT
Chief Senior Public Prosecutor / Procureur General en Chef
Prosecutor General's Office Celle / Bureau du Procureur Général

Central Unit Organised Crime and Corruption / Unité Criminalité organisée et Corruption

Contact Point of European Judicial Network / Point de contact du réseau européen judiciaire
GREECE / GRÈCE
Mr Ioannis ANDROULAKIS
University lecturer / Maître de conférences
Special/unofficial Advisor / Conseiller spécial/non-officiel
Attorney-at-Law / Avocat
Faculty of Law, University of Athens / Faculté de Droit, Université d’Athènes
35 P. Kalliga Str., 11473 Athens, Greece / Athènes, Grèce

ITALY / ITALIE
Mr Filippo SPIEZIA
Deputy Antimafia National Prosecutor at Italian Antimafia Directorate-Rome /
Substitut du Procureur National contre la Mafia au sein de la Direction Générale contre la Mafia
EJN Contact Point and National Correspondent of Eurojust / Point de contact RJE et Correspondant national Eurojust
Member of Group of Expert on THB / Membre du Groupe d’Experts THB-GRETA
Italian Ministry of Justice, Arenula street, Rome / Ministère de la Justice Italien, Rome
Italian Antimafia Directorate, Roma, Giulia Street, n. 6, Italy / Direction Générale Italienne contre la Mafia, Rome, Italie

RUSSIAN FEDERATION / FEDERATION DE RUSSIE
Mr Dmitry SHALYAGIN
Chair of Human Rights & International Law, Moscow University of the Ministry of Interior of the Russian Federation / Président du Département Droits de l’Homme et Droit international, Université de Moscou du Ministère de l’Intérieur de la Russie
12, Academika Volgina St., Moscow, 117997, Russia / Moscou, Russie

SERBIA / SERBIE apologized /excusé
Mr Jovan ĆOSIČ
Head of the Department for normative affaires / Chef du département des activités normatives
Ministry of Justice and State Administration of the Republic of Serbia / Ministère de la Justice et Administration de l’Etat de la République serbe
22 – 26 Neamanjina str., 11000 Belgrade, Serbia / Serbie

SPAIN / ESPAGNE President of the PC-GR-COT/ Présidente du PC-GR-COT
Prof. Dr. Lorena BACHMAIER WINTER
Complutense University, Madrid / Université de Complutense, Madrid
Law Faculty, Procedural Law Department / Faculté de Droit, Département de droit procédural
Avda. de Séneca, 2, Ciudad Universitaria,
E-28040 Madrid Spain/Espagne

TURKEY/ TURQUIE
Mr Omer ERSOY
Superintendent, International Relations Branch of Anti-Smuggling and Organized Crime Department of Turkish National Police / Commissaire, Service des relations internationales, Département de Lutte contre le Trafic et le Crime Organisé de la Police nationale turque
Other participants / Autres participants

European Committee on Crime Problems (CDPC) / Comité Européen pour les Problèmes Criminels (CDPC)

Mr Lorenzo SALAZAR, President / Président
Direttore dell’Ufficio I - Affari Legislativi ed Internazionali
Direzione Generale della Giustizia Penale
Dipartimento per gli Affari di Giustizia
Ministero della Giustizia
Via Arenula 70 - 00186 Roma

Committee of Experts on the Evaluation of Anti-Money Laundering and the Financing of Terrorism (MONEYVAL) / Comité d’experts sur l’évaluation des mesures de lutte contre le blanchiment des capitaux et le financement du terrorisme (MONEYVAL)

Mrs Elzbieta FRANKOW-JASKIEWICZ
Law enforcement expert / Expert juridique
Ministry of Finance / Ministère des Finances
ul. Świętokrzyska 12, 00-916, Warsaw, Poland / Varsovie, Pologne

Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters (PC-OC) / Comité d’experts sur le fonctionnement des conventions européennes sur la coopération dans le domaine pénal (PC-OC)

Ms Selma DE GROOT
Legal adviser, International Legal Cooperation in Criminal Matters Division, Ministry of Justice and Security, the Netherlands / Conseiller juridique, Coopération juridique internationale sur les problèmes criminels, Ministère de la Justice et de la Sécurité, Pays Bas
Turfmarkt 147, Postbus 20301, NL - 2500 The Hague / La Haye

Mr Erik VERBERT
Deputy Legal Adviser, Central Authority, DG Legislation, Ministry Federal Public Service Justice / Conseiller juridique adjoint, Autorité centrale, DG Législation, Ministère du service public federal Justice
(Mail) 115 Boulevard de Waterloo (Visit) 4 place de Louvain, B - 1000 Brussels / Bruxelles

Committee of Experts on Terrorism (CODEXTER) / Comité d’Experts sur le Terrorisme (CODEXTER)

Mr Antonios PAPAMATTHAIIOU apologized / excusé
Public Prosecutor, Thessaloniki First Instance Court / Procureur général, Tribunal de Première instance de Thessaloniki
Ministry of Justice, Transparency and Human Rights / Ministère de la Justice, Transparence et Droits de l’Homme

Convention Committee on Cybercrime (T-CY) / Comité de la Convention Cybercriminalité (T-CY)

Mr Markko KUNNAPU
T-CY Chair / Président du T-CY
Adviser, Criminal Police Department, Ministry of Justice, Estonia / Conseiller, Département de police criminelle, Ministère de la Justice, Estonie
Co-operation Group to Combat Drug Abuse and Illicit Trafficking in Drugs (Pompidou Group) / Groupe de coopération sur la lutte contre l'abus et le trafic de drogues (Groupe Pompidou)

Mr Rene KARSTENS
Federal judicial police / Police judiciaire fédérale
Nussbaumstrasse 29, 3003 Bern

Group of Experts on Action against Trafficking in Human Beings (GRETA) / Groupe d’experts sur la lutte contre la traite des êtres humains

Mr Nicolas Le COZ
Minister of the Interior, Directorate General National Gendarmerie, Judicial Police Branch, Judicial Police Bureau, Organised Crime and Specialised Delinquency Section / Ministère de l’Intérieur, Direction générale de la gendarmerie nationale, Sous-DIRECTION de la Police Judiciaire, Bureau de la police judiciaire, Section “Criminalité organisée et délinquance spécialisée”
CS 60003, 4 rue Claude Bernard, 92136 Issy-Les-Moulineaux cedex

Group of States against Corruption (GRECO) / Groupe d’Etats contre la corruption (GRECO)

Ms Elena KONCEVICIUTE
International Relations Officer / Agent des Relations Internationales
International Cooperation Division / Division de la Coopération Internationale
Special Investigation Service / Service d’Investigation Spéciale
A. Jakšto 6, 01105 Vilnius

OBSERVERS WITH THE COUNCIL OF EUROPE / OBSERVATEURS AUPRÈS DU CONSEIL DE L’EUROPE

MEXICO / MEXIQUE

Mme. Erica CERVANTES ALBARRAN
Attaché for Legal Affairs / Attaché Legal
Office for Europe of the Attorney General of Mexico / Bureau du Procureur Général de Mexique
Embassy of Mexico
Carrera de San Jerónimo 46, 5º piso
28014, Madrid
SPAIN

EUROPEAN UNION / UNION EUROPÉENNE

Ms Adrianna MIĘKINA
European Commission / Commission européenne
DG Home Affairs / DG Affaires intérieures
Unit A2 - Fight against organised crime / Unité A2 – Lutte contre le crime organisé
Office: rue Luxembourg 46, 3/139

I.C.P.O. INTERPOL / INTERPOL O.I.P.C

Mr Jassim AL-SULAITI
Criminal Intelligence Officer / Officier de renseignement Criminel
Economic and Financial Crimes Sub-Directorate / Sous-DIRECTION de Criminalité économique et financière
INTERPOL General Secretariat
200 Quai Charles de Gaulle
69006 Lyon, France
SCIENTIFIC EXPERT / EXPERT SCIENTIFIQUE
Mr Michael Levi, PhD, DSc(Econ), AcSS, FLSW
Professor of Criminology / Professeur de criminologie
Cardiff University / Université de Cardiff
Glamorgan Building, King Edward VII Avenue, Cardiff CF10 3WT

CONSULTANT / CONSULTANT
Dr Lincoln TSANG
Partner at Arnold & Porter LLP
Tower 42
25 Old Broad Street
EC2N 1HQ LONDON
United Kingdom

SECRETARIAT GENERAL OF THE COUNCIL OF EUROPE /
SECRETARIAT GENERAL DU CONSEIL DE L’EUROPE
DIRECTORATE GENERAL HUMAN RIGHTS AND RULE OF LAW /
DIRECTION GENERALE DROITS DE L’HOMME ET ETAT DE DROIT

Mr Carlo CHIAROMONTE
Head of Criminal Law Division / Chef de Division du Droit Pénal
Council of Europe, Agora, Strasbourg, France

Mr Oscar ALARCÓN JIMÉNEZ
Co-Secretary of the CDPC/ Co-Sécrétaire du CDPC, Secretary of PC-GR-COT / Sécrétaire au PC-GR-COT
Council of Europe, Agora, Strasbourg, France

Mr Laurent BRAULIO
Programme Police leader / Leader Programme Police
Council of Europe, Agora, Strasbourg, France

Ms Irina TALIANU
Administrator to Moneyval / Administrateur de Moneyval
Council of Europe, Agora, Strasbourg, France

Interpreters / Interprètes
Ms Eline AITKEN
Ms Shan BENSON
Ms Léa OUEDRAOGO