

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

PC-OC(2021)11

English Only

Strasbourg, 08/11/2021

EUROPEAN COMMITTEE ON CRIME PROBLEMS

(CDPC)

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

(PC-OC)

**APPLICATION OF THE EUROPEAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL
MATTERS AND ADDITIONAL PROTOCOLS THERETO FOR THE PURPOSE OF CO-OPERATION
WITH THE EPPO**

**ELEMENTS TO BE ADAPTED IDENTIFIED BY THE PC-OC MOD DURING THEIR 31ST MEETING IN
CONSULTATION WITH THE EUROPEAN COMMISSION**

Provisional assessment

Document prepared by the Secretariat

European Convention on Mutual Assistance in Criminal Matters

Strasbourg, 20.IV.1959

Preamble¹

The governments signatory hereto, being members of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve greater unity among its members;

Believing that the adoption of common rules in the field of mutual assistance in criminal matters will contribute to the attainment of this aim;

Considering that such mutual assistance is related to the question of extradition, which has already formed the subject of a Convention signed on 13th December 1957,

Have agreed as follows:

Chapter I –General provisions

Article 1

1 The Contracting Parties undertake to afford each other, in accordance with the provisions of this Convention, the widest measure of mutual assistance in proceedings in respect of offences the punishment of which, at the time of the request for assistance, falls within the jurisdiction of the judicial authorities of the requesting Party.²

2 This Convention does not apply to arrests, the enforcement of verdicts or offences under military law which are not offences under ordinary criminal law.

Article 2

Assistance may be refused:

a if the request concerns an offence which the requested Party considers a political offence, an offence connected with a political offence, or a fiscal offence³;

b if the requested Party⁴ considers that execution of the request is likely to prejudice the sovereignty, security, *ordre public* or other essential interests of its country.

¹ Preamble – scope should be broader than “members of the CoE”;
“Contracting Parties” instead of “Governments”

The second sentence is not needed, the third should reflect the new reality
Whatever the form of the instrument it should reflect the cooperation with the EPPO

² “Jurisdiction » doesn’t work for the EPPO , should be “competence”, “Party” should be “authority”. Art 1.1 could read: : “ The Contracting Parties undertake to afford each other, in accordance with the provisions of this Convention, the widestmeasure of mutual assistance in proceedings in respect of offences the punishment of which, at the time of the request for assistance, falls within the jurisdiction (or “mandate/competence”) of the judicial authorities of the States Parties or of the Member States participating in the EPPO”.

³ If applicable to the EPPO, this notion would also have to cover the EPPO as a “requested authority”

Chapter II –Letters rogatory

Article 3⁵

1 The requested Party shall execute in the manner provided for by its law any letters rogatory relating to a criminal matter and addressed to it by the judicial authorities⁶ of the requesting Party for the purpose of procuring evidence or transmitting articles to be produced in evidence, records or documents.

2 If the requesting Party desires witnesses or experts to give evidence on oath, it shall expressly so request, and the requested Party shall comply with the request if the law of its country does not prohibit it.⁷

3 The requested Party may transmit certified copies or certified photostat copies of records or documents requested, unless the requesting Party expressly requests the transmission of originals, in which case the requested Party shall make every effort to comply with the request⁸.

Article 4

On the express request of the requesting Party the requested Party shall state the date and place of execution of the letters rogatory. Officials and interested persons may be present if the requested Party consents.

Article 5

1 Any Contracting Party may, by a declaration addressed to the Secretary General of the Council of Europe, when signing this Convention or depositing its instrument of ratification or accession, reserve the right to make the execution of letters rogatory for search or seizure⁹ of property dependent on one or more of the following conditions:

⁴ Requested“Party” may generate confusion, “authority” is better but it is difficult to imagine the EPPO assessing this. In reality EPPO will mostly be the requesting authority. The word “country” would need to be interpreted as referring to the country of the European Delegated Prosecutor handling the case. This could be explained in the explanatory report. Confusion on these issues may be resolved if we introduce a chapter containing definitions :Party : states, EU), Authority :(EPPO...)

⁵ For application to the EPPO, all references to “Party” should be replaced by “authority”.

⁶ The term “judicial authority” seems problematic and should be explained in the beginning of the instrument. The text should make it clear that the EPPO is independent from member States. A self-standing treaty would be easier to draft and avoid problems with early application.

⁷ As above, “Party” should be replaced by “authority”. When the EPPO is a requested authority “law of its country” should be understood as referring to EU law and the law of the country of the requested European Delegated Prosecutor. For some, this para is not applicable to EPPO, not in line with EPPO statutes. Reference is made to the EPPO regulation (Council Regulation (EU) 2017/1939).

⁸ The language of this provision “certified copies etc” is outdated. The purpose of MLA is to obtain evidence and should cover documents in any form. A self -standing Treaty could state: Art 2, 3 will apply as follows. A definition section could again be helpful. The EPPO can also be requested authority (not Party). See EPPO regulation art 104 paras 4 to 6.

⁹ Maybe a more general term than “search or seizure” would be indicated. Would it be possible to make reservations as to cooperation with the EPPO? To be discussed.

a that the offence motivating the letters rogatory is punishable under both the law of the requesting Party and the law of the requested Party¹⁰;

b that the offence motivating the letters rogatory is an extraditable offence in the requested country¹¹;

c that execution of the letters rogatory is consistent with the law of the requested Party¹².

2 Where a Contracting Party makes a declaration in accordance with paragraph 1 of this article, any other Party may apply reciprocity.

Article 6

1 The requested Party may delay the handing over of any property, records or documents requested, if it requires the said property, records or documents in connection with pending criminal proceedings.¹³

2 Any property, as well as original records or documents, handed over in execution of letters rogatory shall be returned by the requesting Party to the requested Party as soon as possible unless the latter Party waives the return thereof¹⁴.

Chapter III –Service of writs and records of judicial verdicts – Appearance of witnesses, experts and prosecuted persons ¹⁵

Article 7

1 The requested Party shall effect service of writs and records of judicial verdicts which are transmitted to it for this purpose by the requesting Party.

¹⁰ This is one of the cases where the fact that both the EU and the Member States would be Parties to the same instrument creates some confusion (the “law of the EU” would not be clear and sufficient for the purposes of this provision). For a clear application to the EPPO, and in order to remain applicable to the other Parties as well, this provision should be understood as meaning “under both the law of the country of the requesting authority and the law of the country of the requested authority”

¹¹ Is the link with extradition relevant here? “Requested country” should read “country of the requested authority”

¹² “law of the country of the requested authority”

¹³ « requested authority ». When the EPPO is requested authority, an interpretive doubt may arise here: does this refer to criminal proceedings pending in the Member State of the European Delegated Prosecutor handling the case or in any another Member State participating in the EPPO? Perhaps the second option would be more in line with the nature of the EPPO as a single office

¹⁴ “by the requesting authority to the country of the requested authority asap unless the latter country/authority”

¹⁵ The EPPO will only be requesting authority under this chapter. One solution to ensure this would be compatible also with the EPPO would be:

a. To replace “requesting Party” in this art. with “requesting authority” – this would not change the substance of the provisions (although we are aware this would not suit the usual structure and language of the Council of Europe’s instruments);

b. To keep using “requested Party” – this may make it clear that it does not apply to the EPPO, which is instead (requesting) “authority” under this instrument but not a Party nor a country.

Especially for some provisions of this Chapter, it becomes evident that a text that tries to encompass both traditional MLA and MLA with the EPPO may be stretched or not so conducive to legal certainty. It would therefore be much better to have a self-standing text concerning cooperation with the EPPO, be it a new Convention altogether or at least an additional Protocol providing for some self-standing provisions applicable to the EPPO and dispelling any interpretative doubt on the EPPO’s cooperation with other authorities

Service may be effected by simple transmission of the writ or record to the person to be served. If the requesting Party expressly so requests, service shall be effected by the requested Party in the manner provided for the service of analogous documents under its own law or in a special manner consistent with such law.

2 Proof of service shall be given by means of a receipt dated and signed by the person served or by means of a declaration made by the requested Party that service has been effected and stating the form and date of such service. One or other of these documents shall be sent immediately to the requesting Party. The requested Party shall, if the requesting Party so requests, state whether service has been effected in accordance with the law of the requested Party. If service cannot be effected, the reasons shall be communicated immediately by the requested Party to the requesting Party.

3 Any Contracting Party may, by a declaration addressed to the Secretary General of the Council of Europe, when signing this Convention or depositing its instrument of ratification or accession, request that service of a summons on an accused person who is in its territory be transmitted to its authorities by a certain time before the date set for appearance. This time shall be specified in the aforesaid declaration and shall not exceed 50 days.

This time shall be taken into account when the date of appearance is being fixed and when the summons is being transmitted.

Article 8

A witness or expert who has failed to answer a summons to appear, service of which has been requested, shall not, even if the summons contains a notice of penalty, be subjected to any punishment or measure of restraint, unless subsequently he voluntarily enters the territory of the requesting Party¹⁶ and is there again duly summoned.

Article 9

The allowances, including subsistence, to be paid and the travelling expenses to be refunded to a witness or expert by the requesting Party¹⁷ shall be calculated as from his place of residence and shall be at rates at least equal to those provided for in the scales and rules in force in the country where the hearing is intended to take place.

Article 10

¹⁶ As the EPPO can be "requesting authority", this provision would need to be adapted to the EPPO but it should be first decided whether it should apply to experts/witnessing entering:

The territory of the EU (in this case, "requesting Party" would still be ok);

The territory of the Member State of the competent European Delegated Prosecutor (in this case, this should be the equivalent of the "territory of the country of the requesting authority").

The second option may be preferable, not least because not all EU Member States are parties to the EPPO.

NB. The notion of "territory of the country of the requesting authority" may still be sub-optimal, precisely because the EPPO is an EU body and it would not be entirely correct to speak of "territory of the country of the EPPO". It would only work if it were interpreted as referring to the territory of the country of the competent European Delegated Prosecutor; in other words, to make sense in the EPPO context, the notion of requesting authority in this case would have to be understood as referring not to the EPPO as such but to the competent European Delegated Prosecutor handling the investigations. This is another example of the risks for legal certainty connected with a Protocol that simply tries to make the Convention/Protocols compatible with the EPPO.

¹⁷ « requesting authority »

1 If the requesting Party considers the personal appearance of a witness or expert before its judicial authorities¹⁸ especially necessary, it shall so mention in its request for service of the summons and the requested Party shall invite the witness or expert to appear.

The requested Party shall inform the requesting Party of the reply of the witness or expert.

2 In the case provided for under paragraph 1 of this article the request or the summons shall indicate the approximate allowances payable and the travelling and subsistence expenses refundable.

3 If a specific request is made, the requested Party may grant the witness or expert an advance. The amount of the advance shall be endorsed on the summons and shall be refunded by the requesting Party.

Article 11

1 A person in custody whose personal appearance as a witness or for purposes of confrontation is applied for by the requesting Party¹⁹ shall be temporarily transferred to the territory where the hearing is intended to take place, provided that he shall be sent back within the period stipulated by the requested Party and subject to the provisions of Article 12 in so far as these are applicable.

Transfer may be refused:

- a if the person in custody does not consent;
- b if his presence is necessary at criminal proceedings pending in the territory of the requested Party;
- c if transfer is liable to prolong his detention, or
- d if there are other overriding grounds for not transferring him to the territory of the requesting Party²⁰.

2 Subject to the provisions of Article 2, in a case coming within the immediately preceding paragraph, transit of the person in custody through the territory of a third State, Party to this Convention, shall be granted on application, accompanied by all necessary documents, addressed by the Ministry of Justice of the requesting Party to the Ministry of Justice of the Party through whose territory transit is requested.²¹

A Contracting Party may refuse to grant transit to its own nationals.

¹⁸ Idem « Requesting authority » throughout article 10. The words in §1 « before its judicial authority » could be deleted to make the text compatible with the EPPO. The deletion of these words would arguably not change the substance of the provision.

¹⁹ « requesting authority » instead of Party

²⁰ « Territory of the country of the requesting authority ». See comment in footnote 16.

²¹ This is another case where the limits of trying to adapt the Convention to the EPPO may come to light. Whatever form the new legal text will take (Protocol, new Treaty, etc.), the EPPO's requests should not be channeled through the Ministries of Justice, due to the EPPO's independence from the Member States. An option could be to rephrase saying "addressed by the Ministry of Justice of the requesting Party or, where appropriate, the requesting authority itself" – this may not be acceptable to the other Parties though and would not be very clear.

3 The transferred person shall remain in custody in the territory of the requesting Party²² and, where applicable, in the territory of the Party through which transit is requested, unless the Party from whom transfer is requested applies for his release.

Article 12

1 A witness or expert, whatever his nationality, appearing on a summons before the judicial authorities of the requesting Party²³ shall not be prosecuted or detained or subjected to any other restriction of his personal liberty in the territory of that Party in respect of acts or convictions anterior to his departure from the territory of the requested Party.

2 A person, whatever his nationality, summoned before the judicial authorities of the requesting Party²⁴ to answer for acts forming the subject of proceedings against him, shall not be prosecuted or detained or subjected to any other restriction of his personal liberty for acts or convictions anterior to his departure from the territory of the requested Party and not specified in the summons.

3 The immunity provided for in this article shall cease when the witness or expert or prosecuted person, having had for a period of fifteen consecutive days from the date when his presence is no longer required by the judicial authorities an opportunity of leaving, has nevertheless remained in the territory, or having left it, has returned.

Chapter IV –Judicial records²⁵

Article 13

1 A requested Party shall communicate extracts from and information relating to judicial records, requested from it by the judicial authorities of a Contracting Party²⁶ and needed in a criminal matter, to the same extent that these may be made available to its own judicial authorities in like case.

2 In any case other than that provided for in paragraph 1 of this article the request shall be complied with in accordance with the conditions provided for by the law, regulations or practice of the requested Party.

Chapter V –Procedure

Article 14

1 Requests for mutual assistance shall indicate as follows:

- a the authority making the request,
- b the object of and the reason for the request,
- c where possible, the identity and the nationality of the person concerned, and

²² « Territory of the country of the requesting authority ». See comment in footnote 16.

²³ « Country of the requesting authority » instead of “requesting Party” and [...]in the “territory of that country”

²⁴ “country of the requesting authority” (=country of the competent European Delegated Prosecutor)

²⁵ EPPO will only be requesting authority for the purposes of this Chapter; as above, we could therefore keep “requested Party” to refer to the other authorities of the requested countries

²⁶ « requesting authority »

d where necessary, the name and address of the person to be served.

2 Letters rogatory referred to in Articles 3, 4 and 5 shall, in addition, state the offence and contain a summary of the facts.

Article 15²⁷

1 Letters rogatory referred to in Articles 3, 4 and 5 as well as the applications referred to in Article 11 shall be addressed by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party and shall be returned through the same channels²⁸.

2 In case of urgency, letters rogatory may be addressed directly by the judicial authorities of the requesting Party to the judicial authorities of the requested Party. They shall be returned together with the relevant documents through the channels stipulated in paragraph 1 of this article.²⁹

3 Requests provided for in paragraph 1 of Article 13 may be addressed directly by the judicial³⁰ authorities concerned to the appropriate authorities of the requested Party, and the replies may be returned directly by those authorities. Requests provided for in paragraph 2 of Article 13 shall be addressed by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party.³¹

4 Requests for mutual assistance, other than those provided for in paragraphs 1 and 3 of this article and, in particular, requests for investigation preliminary to prosecution, may be communicated directly between the judicial³² authorities.

5 In cases where direct transmission is permitted under this Convention, it may take place through the International Criminal Police Organisation (Interpol).

6 A Contracting Party may, when signing this Convention or depositing its instrument of ratification or accession, by a declaration addressed to the Secretary General of the Council of Europe, give notice that some or all requests for assistance shall be sent to it through channels other than those provided for in this article³³, or require that, in a case provided for in paragraph 2 of this article, a copy of the letters rogatory shall be transmitted at the same time to its Ministry of Justice³⁴.

7 The provisions of this article are without prejudice to those of bilateral agreements or arrangements in force between Contracting Parties which provide for the direct transmission of requests for assistance between their respective authorities.

²⁷ It would need to be clarified that the MLA requests shall be sent to and from the EPPO. If needed, the Central Office of the EPPO in Luxembourg can act as a central authority. This is another case where it may be difficult to find a wording that encompasses both State Parties' authorities and the EPPO; hence, a self-standing Protocol/Treaty would be preferable to clarify this issue as well.

²⁸ It is important to ensure EPPO's independence. In the new text, it could perhaps be specified that Article 15(1) does not apply to the EPPO.

²⁹ Direct cooperation between judicial authorities should be the principle applying to the EPPO. We could take the text of the second additional protocol which is more modern.

³⁰ The word « judicial » could be deleted to avoid any doubt on the fact that this refers to the EPPO. Perhaps "competent" could be added instead.

³¹ Here it would be necessary to clarify that, if the EPPO is a requesting authority, it shall not pass through a Ministry of Justice, but again it is not easy to find a suitable wording – see above, general comment on Art. 15

³² As above: the word « judicial » could be deleted "competent" could be added instead.

³³ Diplomatic channels do not work for the EPPO.

³⁴ No need for requests to and from the EPPO to be sent also to and from the Ministries of Justice of the Member State of the European Delegated Prosecutors.

Article 16

1 Subject to paragraph 2 of this article, translations of requests and annexed documents shall not be required.

2 Each Contracting Party may, when signing or depositing its instrument of ratification or accession, by means of a declaration addressed to the Secretary General of the Council of Europe, reserve the right to stipulate that requests and annexed documents shall be addressed to it accompanied by a translation into its own language or into either of the official languages of the Council of Europe or into one of the latter languages, specified by it. The other Contracting Parties may apply reciprocity.

3 This article is without prejudice to the provisions concerning the translation of requests or annexed documents contained in the agreements or arrangements in force or to be made between two or more Contracting Parties.

Article 17

Evidence or documents transmitted pursuant to this Convention shall not require any form of authentication.

Article 18

Where the authority which receives a request for mutual assistance has no jurisdiction³⁵ to comply therewith, it shall, *ex officio*, transmit the request to the competent authority of ³⁶its country and shall so inform the requesting Party³⁷ through the direct channels, if the request has been addressed through such channels.

Article 19

Reasons shall be given for any refusal of mutual assistance.

Article 20

Subject to the provisions of Article 10, paragraph 3, execution of requests for mutual assistance shall not entail refunding of expenses except those incurred by the attendance of experts in the territory of the requested Party ³⁸or the transfer of a person in custody carried out under Article 11.

³⁵ « no jurisdiction or competence »

³⁶ “of” would not work for the EPPO; a solution would be to use “in”, which would fit the situation where the EPPO is not competent and then transmits the request to the competent authority in/of the same Member State where the European Delegated Prosecutor handling the case operates.

³⁷ “requesting authority”

³⁸ As long as this were applicable to the EPPO, it should mean “territory of the country of the requested authority”.

Chapter VI –Laying of information in connection with proceedings³⁹

Article 21

1 Information laid by one Contracting Party with a view to proceedings in the courts of another Party shall be transmitted between the Ministries of Justice concerned unless a Contracting Party avails itself of the option provided for in paragraph 6 of Article 15.⁴⁰

2 The requested Party shall notify the requesting Party of any action taken on such information and shall forward a copy of the record of any verdict pronounced.⁴¹

3 The provisions of Article 16 shall apply to information laid under paragraph 1 of this article.

Chapter VII –Exchange of information from judicial records⁴²

Article 22

Each Contracting Party shall inform any other Party of all criminal convictions and subsequent measures in respect of nationals of the latter Party, entered in the judicial records. Ministries of Justice shall communicate such information to one another at least once a year. Where the person concerned is considered a national of two or more other Contracting Parties, the information shall be given to each of these Parties, unless the person is a national of the Party in the territory of which he was convicted.

Chapter VIII –Final provisions⁴³

Article 23

1 Any Contracting Party may, when signing this Convention or when depositing its instrument of ratification or accession, make a reservation in respect of any provision or provisions of the Convention.

2 Any Contracting Party which has made a reservation shall withdraw it as soon as circumstances permit. Such withdrawal shall be made by notification to the Secretary General of the Council of Europe.

3 A Contracting Party which has made a reservation in respect of a provision of the Convention may not claim application of the said provision by another Party save in so far as it has itself accepted the provision.

³⁹ the EPPO may need to rely on this provision. This is another case where a self-standing text would gain a lot in terms of clarity, as finding a wording that fits the EPPO here may not be easy.

⁴⁰ Perhaps a second sentence may be added here, e.g. something like “When information concerns crimes in respect of which the EPPO could exercise its competence, it shall be transmitted to and from the EPPO”. But again, it may not sound good to include a specific provision on the EPPO in the context of this Convention

⁴¹ If this provision is extended to the EPPO, the word “Party” would better mean “authority”

⁴² This chapter is not applicable to the EPPO. Information on convictions and post convictions are issues that go beyond EPPO’s powers and competence and fall within those of national courts/authorities

⁴³ Final provisions will depend on the type of instrument. The issue of possible reservations for EPPO should be further discussed

Article 24⁴⁴

A Contracting Party may, when signing the Convention or depositing its instrument of ratification or accession, by a declaration addressed to the Secretary General of the Council of Europe, define what authorities it will, for the purpose of the Convention, deem judicial authorities.

Any State⁴⁵ shall at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by means of a declaration addressed to the Secretary General of the Council of Europe, define what authorities it will, for the purpose of the Convention, deem judicial authorities. It subsequently may, at any time and in the same manner, change the terms of its declaration.

Article 25

1 This Convention shall apply to the metropolitan territories of the Contracting Parties.

2 In respect of France, it shall also apply to Algeria and to the overseas Departments, and, in respect of Italy, it shall also apply to the territory of Somaliland under Italian administration.

3 The Federal Republic of Germany may extend the application of this Convention to the Land of Berlin by notice addressed to the Secretary General of the Council of Europe.

4 In respect of the Kingdom of the Netherlands, the Convention shall apply to its European territory. The Netherlands may extend the application of this Convention to the Netherlands Antilles, Surinam and Netherlands New Guinea by notice addressed to the Secretary General of the Council of Europe.

5 By direct arrangement between two or more Contracting Parties and subject to the conditions laid down in the arrangement, the application of this Convention may be extended to any territory, other than the territories mentioned in paragraphs 1, 2, 3 and 4 of this article, of one of these Parties, for the international relations of which any such Party is responsible.

Article 26⁴⁶

1 Subject to the provisions of Article 15, paragraph 7, and Article 16, paragraph 3, this Convention shall, in respect of those countries to which it applies, supersede the provisions of any treaties, conventions or bilateral agreements governing mutual assistance in criminal matters between any two Contracting Parties.

2 This Convention shall not affect obligations incurred under the terms of any other bilateral or multilateral international convention which contains or may contain clauses governing specific aspects of mutual assistance in a given field.

3 The Contracting Parties may conclude between themselves bilateral or multilateral agreements on mutual assistance in criminal matters only in order to supplement the provisions of this Convention or to facilitate the application of the principles contained therein.

⁴⁴ to be replaced by amended version based on Art 6 ETS 182?

⁴⁵ and the European Union

⁴⁶ Should a disconnection clause be added ? If we go for self-standing treaty (but also protocol) it will only make sense if it applies also to the EU non member states. To be further discussed. If the EU becomes party to the Convention and its Protocol, it should remain clear that, within the EU, cooperation among Member State authorities (as well as cooperation among European Delegated Prosecutors and cooperation between the EPPO and EU Member States non-participating in the EPPO) should be regulated by EU instruments.

4 Where, as between two or more Contracting Parties, mutual assistance in criminal matters is practised on the basis of uniform legislation or of a special system providing for the reciprocal application in their respective territories of measures of mutual assistance, these Parties shall, notwithstanding the provisions of this Convention, be free to regulate their mutual relations in this field exclusively in accordance with such legislation or system. Contracting Parties which, in accordance with this paragraph, exclude as between themselves the application of this Convention shall notify the Secretary General of the Council of Europe accordingly.

Article 27⁴⁷

1 This Convention shall be open to signature by the members of the Council of Europe⁴⁸. It shall be ratified. The instruments of ratification shall be deposited with the Secretary General of the Council.

2 The Convention shall come into force 90 days after the date of deposit of the third instrument of ratification.

3 As regards any signatory ratifying subsequently the Convention shall come into force 90 days after the date of the deposit of its instrument of ratification.

Article 28

1 The Committee of Ministers of the Council of Europe may invite any State not a member of the Council to accede to this Convention, provided that the resolution containing such invitation obtains the unanimous agreement of the members of the Council who have ratified the Convention.

2 Accession shall be by deposit with the Secretary General of the Council of an instrument of accession which shall take effect 90 days after the date of its deposit.

Article 29

Any Contracting Party may denounce this Convention in so far as it is concerned by giving notice to the Secretary General of the Council of Europe. Denunciation shall take effect six months after the date when the Secretary General of the Council received such notification.

Article 30⁴⁹

The Secretary General of the Council of Europe shall notify the members of the Council and the government of any State which has acceded to this Convention⁵⁰ of:

- a the names of the signatories and the deposit of any instrument of ratification or accession;
- b the date of entry into force of this Convention;
- c any notification received in accordance with the provisions of Article 5 – paragraph 1, Article 7 – paragraph 3, Article 15 – paragraph 6, Article 16 – paragraph 2, Article 24, Article 25 – paragraphs 3 and 4, Article 26 – paragraph 4;
- d any reservation made in accordance with Article 23, paragraph 1;

⁴⁷ To be amended

⁴⁸ « and to the European Union »

⁴⁹ To be amended

⁵⁰ « Contracting Parties »

e the withdrawal of any reservation in accordance with Article 23, paragraph 2;

f any notification of denunciation received in accordance with the provisions of Article 29 and the date on which such denunciation will take effect.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at Strasbourg, this 20th day of April 1959, in English and French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to the signatory and acceding governments.

Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters

Strasbourg, 17.III.1978

The member States of the Council of Europe, signatory to this Protocol,

Desirous of facilitating the application of the European Convention on Mutual Assistance in Criminal Matters opened for signature in Strasbourg on 20th April 1959 (hereinafter referred to as "the Convention") in the field of fiscal offences;

Considering it also desirable to supplement the Convention in certain other respects,

Have agreed as follows:

Chapter I

Article 1

The Contracting Parties shall not exercise the right provided for in Article 2.a of the Convention to refuse assistance solely on the ground that the request concerns an offence which the requested Party⁵¹ considers a fiscal offence.

Article 2

1 In the case where a Contracting Party has made the execution of letters rogatory for search or seizure of property dependent on the condition that the offence motivating the letters rogatory is punishable under both the law of the requesting Party and the law of the requested Party⁵², this condition shall be fulfilled, as regards fiscal offences, if the offence is punishable under the law of the requesting Party⁵³ and corresponds to an offence of the same nature under the law of the requested Party⁵⁴.

2 The request may not be refused on the ground that the law of the requested Party⁵⁵ does not impose the same kind of tax or duty or does not contain a tax, duty, customs and exchange regulation of the same kind as the law of the requesting Party⁵⁶.

Chapter II⁵⁷

Article 3

The Convention shall also apply to:

⁵¹ « requested authority »

⁵² If this were to be applicable to the EPPO, a different wording should be used, e.g. law of the Party of the requesting/requested authorities (which for the EPPO would mean the law of the Member States of the competent European Delegated Prosecutor)

⁵³ Idem, as above

⁵⁴ idem

⁵⁵ Idem

⁵⁶ Idem

⁵⁷ Not applicable to the EPPO, concerns post-conviction matters

a the service of documents concerning the enforcement of a sentence, the recovery of a fine or the payment of costs of proceedings;

b measures relating to the suspension of pronouncement of a sentence or of its enforcement, to conditional release, to deferment of the commencement of the enforcement of a sentence or to the interruption of such enforcement.

Chapter III⁵⁸

Article 4

Article 22 of the Convention shall be supplemented by the following text, the original Article 22 of the Convention becoming paragraph 1 and the below-mentioned provisions becoming paragraph 2:

"2 Furthermore, any Contracting Party which has supplied the above-mentioned information shall communicate to the Party concerned, on the latter's request in individual cases, a copy of the convictions and measures in question as well as any other information relevant thereto in order to enable it to consider whether they necessitate any measures at national level. This communication shall take place between the Ministries of Justice concerned."

Chapter IV

Article 5⁵⁹

1 This Protocol shall be open to signature by the member States of the Council of Europe ⁶⁰which have signed the Convention. It shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

2 The Protocol shall enter into force 90 days after the date of the deposit of the third instrument of ratification, acceptance or approval.

3 In respect of a signatory State ⁶¹ratifying, accepting or approving subsequently, the Protocol shall enter into force 90 days after the date of the deposit of its instrument of ratification, acceptance or approval.

4 A member State of the Council of Europe may not ratify, accept or approve this Protocol without having, simultaneously or previously, ratified the Convention.

Article 6

1 Any State which has acceded ⁶¹to the Convention may accede to this Protocol after the Protocol has entered into force.

⁵⁸ Not applicable to the EPPO, see above under Art 22 of the Convention.

⁵⁹ To be amended

⁶⁰ and the European Union

⁶¹ or the European Union

2 Such accession shall be effected by depositing with the Secretary General of the Council of Europe an instrument of accession which shall take effect 90 days after the date of its deposit.

Article 7

1 Any State⁶² may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Protocol shall apply.

2 Any State⁶³ may, when depositing its instrument of ratification, acceptance, approval or accession or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend this Protocol to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.

3 Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn by means of a notification addressed to the Secretary General of the Council of Europe. Such withdrawal shall take effect six months after the date of receipt by the Secretary General of the Council of Europe of the notification.

Article 8⁶⁴

1 Reservations made by a Contracting Party to a provision of the Convention shall be applicable also to this Protocol, unless that Party otherwise declares at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession. The same shall apply to the declarations made by virtue of Article 24 of the Convention.

2 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it reserves the right:

a not to accept Chapter I, or to accept it only in respect of certain offences or certain categories of the offences referred to in Article I, or not to comply with letters rogatory for search or seizure of property in respect of fiscal offences;

b not to accept Chapter II;

c not to accept Chapter III.

3 Any Contracting Party may withdraw a declaration it has made in accordance with the foregoing paragraph by means of a declaration addressed to the Secretary General of the Council of Europe which shall become effective as from the date of its receipt.

4 A Contracting Party which has applied to this Protocol a reservation made in respect of a provision of the Convention or which has made a reservation in respect of a provision of this Protocol may not claim the application of that provision by another Contracting Party; it may, however, if its reservation is partial or conditional claim the application of that provision in so far as it has itself accepted it.

5 No other reservation may be made to the provisions of this Protocol.

Article 9

⁶² and the European Union

⁶³ and the European Union

⁶⁴ To be amended.

The provisions of this Protocol are without prejudice to more extensive regulations in bilateral or multilateral agreements concluded between Contracting Parties in application of Article 26, paragraph 3, of the Convention.

Article 10

The European Committee on Crime Problems of the Council of Europe shall be kept informed regarding the application of this Protocol and shall do whatever is needful to facilitate a friendly settlement of any difficulty which may arise out of its execution.

Article 11

1 Any Contracting Party may, in so far as it is concerned, denounce this Protocol by means of a notification addressed to the Secretary General of the Council of Europe.

2 Such denunciation shall take effect six months after the date of receipt by the Secretary General of such notification.

3 Denunciation of the Convention entails automatically denunciation of this Protocol.

Article 12⁶⁵

The Secretary General of the Council of Europe shall notify the member States of the Council and any State which has acceded to the Convention of:

- a any signature of this Protocol;
- b any deposit of an instrument of ratification, acceptance, approval or accession;
- c any date of entry into force of this Protocol in accordance with Articles 5 and 6;
- d any declaration received in pursuance of the provisions of paragraphs 2 and 3 of Article 7;
- e any declaration received in pursuance of the provisions of paragraph 1 of Article 8;
- f any reservation made in pursuance of the provisions of paragraph 2 of Article 8;
- g the withdrawal of any reservation carried out in pursuance of the provisions of paragraph 3 of Article 8;
- h any notification received in pursuance of the provisions of Article 11 and the date on which denunciation takes effect.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Strasbourg, this 17th day of March 1978, in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each of the signatory and acceding States.

⁶⁵ to be amended

Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters

Strasbourg, 8.XI.2001

The member States of the Council of Europe, signatory to this Protocol,

Having regard to their undertakings under the Statute of the Council of Europe;

Desirous of further contributing to safeguard human rights, uphold the rule of law and support the democratic fabric of society;

Considering it desirable to that effect to strengthen their individual and collective ability to respond to crime;

Decided to improve on and supplement in certain aspects the European Convention on Mutual Assistance in Criminal Matters done at Strasbourg on 20 April 1959 (hereinafter referred to as "the Convention"), as well as the [Additional Protocol thereto](#), done at Strasbourg on 17 March 1978;

Taking into consideration the Convention for the Protection of Human Rights and Fundamental Freedoms, done at Rome on 4 November 1950, as well as the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, done at Strasbourg on 28 January 1981,

Have agreed as follows:

Chapter I

Article 1 – Scope

Article 1 of the Convention shall be replaced by the following provisions:

"1 The Parties undertake promptly to afford each other, in accordance with the provisions of this Convention, the widest measure of mutual assistance in proceedings in respect of offences the punishment of which, at the time of the request for assistance, falls within the jurisdiction⁶⁶ of the judicial authorities of the requesting Party.

2 This Convention does not apply to arrests, the enforcement of verdicts or offences under military law which are not offences under ordinary criminal law.

³⁶⁷ Mutual assistance may also be afforded in proceedings brought by the administrative authorities in respect of acts which are punishable under the national law of the requesting or the requested Party by virtue of being infringements of the rules of law, where the decision may give rise to proceedings before a court having jurisdiction in particular in criminal matters.

⁶⁶ For the EPPO would need to be "competence"

⁶⁷ Probably no need to apply this to the EPPO

4 Mutual assistance shall not be refused solely on the grounds that it relates to acts for which a legal person may be held liable in the requesting Party⁶⁸."

Article 2 – Presence of officials of the requesting Party

Article 4 of the Convention shall be supplemented by the following text, the original Article 4 of the Convention becoming paragraph 1 and the provisions below becoming paragraph 2:

"2 Requests for the presence of such officials or interested persons should not be refused where that presence is likely to render the execution of the request for assistance more responsive to the needs of the requesting Party ⁶⁹and, therefore, likely to avoid the need for supplementary requests for assistance."

Article 3 –Temporary transfer of detained persons to the territory of the requesting Party

Article 11 of the Convention shall be replaced by the following provisions:

"1 A person in custody whose personal appearance for evidentiary purposes other than for standing trial is applied for by the requesting Party ⁷⁰shall be temporarily transferred to its territory⁷¹, provided that he or she shall be sent back within the period stipulated by the requested Party⁷² and subject to the provisions of Article 12 of this Convention, in so far as these are applicable.

Transfer may be refused if:

- a the person in custody does not consent;
- b his or her presence is necessary at criminal proceedings pending in the territory of the requested Party;
- c transfer is liable to prolong his or her detention, or
- d there are other overriding grounds for not transferring him or her to the territory of the requesting Party⁷³.

2 Subject to the provisions of Article 2 of this Convention, in a case coming within paragraph 1, transit of the person in custody through the territory of a third Party, shall be granted on application, accompanied by all necessary documents, addressed by the Ministry of Justice of the requesting Party⁷⁴ to the Ministry of Justice of the Party through whose territory transit is requested. A Party may refuse to grant transit to its own nationals.

⁶⁸ For the EPPO should be "country of the requesting authority"

⁶⁹ "requesting authority"

⁷⁰ "requesting authority"

⁷¹ "Territory of the country of such requesting authority" (=territory of the country of the competent European Delegated Prosecutor)

⁷² This could remain as it is, because the EPPO would not be able to act as a requested authority – so the reference to requested "Party" could be interpreted as excluding the EPPO

⁷³ Territory of the country of the requesting authority" (=territory of the country of the competent European Delegated Prosecutor)

⁷⁴ For the EPPO this would not work and would need to be the Central Office in Luxembourg

3 The transferred person shall remain in custody in the territory of the requesting Party⁷⁵ and, where applicable, in the territory of the Party through which transit is requested, unless the Party from whom transfer is requested applies for his or her release."

Article 4 – Channels of communication

Article 15 of the Convention shall be replaced by the following provisions:

"1 Requests for mutual assistance, as well as spontaneous information, shall be addressed in writing by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party and shall be returned through the same channels⁷⁶. However, they may be forwarded directly by the judicial authorities of the requesting Party to the judicial authorities of the requested Party and returned through the same channels.⁷⁷

2 Applications as referred to in Article 11 of this Convention and Article 13 of the Second Additional Protocol to this Convention⁷⁸ shall in all cases be addressed by the Ministry of Justice⁷⁹ of the requesting Party to the Ministry of Justice of the requested Party⁸⁰ and shall be returned through the same channels.

3 Requests for mutual assistance concerning proceedings as mentioned in paragraph 3 of Article 1 of this Convention may also be forwarded directly by the administrative or judicial authorities of the requesting Party to the administrative or judicial authorities of the requested Party, as the case may be, and returned through the same channels.⁸¹

4 Requests for mutual assistance made under Articles 18 and 19 of the Second Additional Protocol to this Convention may also be forwarded directly by the competent authorities of the requesting Party to the competent authorities of the requested Party.⁸²

5 Requests provided for in paragraph 1 of Article 13 of this Convention may be addressed directly by the judicial authorities concerned to the appropriate authorities of the requested Party⁸³, and the replies may be returned directly by those authorities. Requests provided for in paragraph 2 of Article 13 of this Convention shall be addressed by the Ministry of Justice⁸⁴ of the requesting Party to the Ministry of Justice of the requested Party⁸⁵.

6 Requests for copies of convictions and measures as referred to in Article 4 of the Additional Protocol to the Convention may be made directly to the competent authorities. Any ~~Contracting State~~

⁷⁵ "Territory of the country of the requesting authority" (=territory of the country of the competent European Delegated Prosecutor)

⁷⁶ As for art 15 of the Convention, this would not be acceptable for the EPPO.

⁷⁷ This should be the rule for the EPPO, so perhaps it may be specified that, when it comes to the EPPO, the first sentence of Article 15(1), as revised by the 2nd Protocol, does not apply.

⁷⁸ This provision would not apply to the EPPO (to be further discussed)

⁷⁹ This would not work for the EPPO, which shall not rely on the Ministries of Justice

⁸⁰ This may be, on the understanding that the EPPO could only act as a "requesting Party(/authority)" for the purposes of Article 11

⁸¹ Not needed for the EPPO if Art. 1(3) of the Convention, as amended by the 2nd Protocol, is not applicable to the EPPO

⁸² Ok for the EPPO, on the understanding that the EPPO could only act as a "requesting Party(/authority)" for the purposes of Articles 18 and 19

⁸³ Ok for the EPPO, on the understanding that the EPPO could only act as a "requesting Party(/authority)" for the purposes of Article 13(1)

⁸⁴ This would not work for the EPPO

⁸⁵ Ok for the EPPO, on the understanding that the EPPO could only act as a "requesting Party(/authority)" for the purposes of Article 13(2)

Party may, at any time, by a declaration addressed to the Secretary General of the Council of Europe, define what authorities it will, for the purpose of this paragraph, deem competent authorities.

7 In urgent cases, where direct transmission is permitted under this Convention, it may take place through the International Criminal Police Organisation (Interpol).

8 Any Party may, at any time, by a declaration addressed to the Secretary General of the Council of Europe, reserve the right to make the execution of requests, or specified requests, for mutual assistance dependent on one or more of the following conditions:

a that a copy of the request be forwarded to the central authority designated in that declaration;

b that requests, except urgent requests, be forwarded to the central authority designated in that declaration;

c that, in case of direct transmission for reasons of urgency, a copy shall be transmitted at the same time to its Ministry of Justice⁸⁶;

d that some or all requests for assistance shall be sent to it through channels other than those provided for in this article.⁸⁷

9 Requests for mutual assistance and any other communications under this Convention or its Protocols may be forwarded through any electronic or other means of telecommunication provided that the requesting Party⁸⁸ is prepared, upon request, to produce at any time a written record of it and the original. However, any Contracting State, may by a declaration addressed at any time to the Secretary General of the Council of Europe, establish the conditions under which it shall be willing to accept and execute requests received by electronic or other means of telecommunication.

10 The provisions of this article are without prejudice to those of bilateral agreements or arrangements in force between Parties which provide for the direct transmission of requests for assistance between their respective authorities."

Article 5 – Costs

Article 20 of the Convention shall be replaced by the following provisions:

"1 Parties shall not claim from each other the refund of any costs resulting from the application of this Convention or its Protocols, except:

a costs incurred by the attendance of experts in the territory of the requested Party⁸⁹;

b costs incurred by the transfer of a person in custody carried out under Articles 13 or 14 of the Second Additional Protocol to this Convention⁹⁰, or Article 11 of this Convention;

c costs of a substantial or extraordinary nature.

⁸⁶ This would only work on the understanding that no EU MS would make such a reservation with regard to the EPPO

⁸⁷ If this is meant to cover diplomatic channels, it would not be applicable to the EPPO

⁸⁸ "requesting authority"

⁸⁹ "Country of the requested authority"

⁹⁰ These would probably not apply to the EPPO

²⁹¹ However, the cost of establishing a video or telephone link, costs related to the servicing of a video or telephone link in the requested Party, the remuneration of interpreters provided by it and allowances to witnesses and their travelling expenses in the requested Party shall be refunded by the requesting Party to the requested Party, unless the Parties agree otherwise.

3 Parties shall consult with each other with a view to making arrangements for the payment of costs claimable under paragraph 1.c above.

4 The provisions of this article shall apply without prejudice to the provisions of Article 10, paragraph 3, of this Convention."

Article 6 – Judicial authorities

Article 24 of the Convention shall be replaced by the following provisions:

"Any State shall at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by means of a declaration addressed to the Secretary General of the Council of Europe, define what authorities it will, for the purpose of the Convention, deem judicial authorities. It subsequently may, at any time and in the same manner, change the terms of its declaration."

Chapter II

Article 7 – Postponed execution of requests

1 The requested Party may postpone action on a request if such action would prejudice investigations, prosecutions or related proceedings by its authorities⁹².

2 Before refusing or postponing assistance, the requested Party shall, where appropriate after having consulted with the requesting Party, consider whether the request may be granted partially or subject to such conditions as it deems necessary⁹³.

3 If the request is postponed, reasons shall be given for the postponement. The requested Party shall also inform the requesting Party of any reasons that render impossible the execution of the request or are likely to delay it significantly⁹⁴.

Article 8 – Procedure

Notwithstanding the provisions of Article 3 of the Convention, where requests specify formalities or procedures which are necessary under the law of the requesting Party⁹⁵, even if unfamiliar to the requested Party, the latter shall comply with such requests to the extent that the action sought is not contrary to fundamental principles of its law, unless otherwise provided for in this Protocol.

⁹¹ This provision would require further reflection in the EPPO context.

⁹² It seems complex to adapt the wording of Article 7(1) to the EPPO. When the EPPO is the requested authority, this rule would mean that "the EPPO may postpone action on a request if such action would prejudice investigations, prosecutions or related proceedings by the EPPO or by national authorities".

⁹³ Requested/requesting "Party" to be replaced by "authority"

⁹⁴ Requested/requesting "Party" to be replaced by "authority"

⁹⁵ "Law of the country of the requesting authority"

Article 9 – Hearing by video conference⁹⁶

1 If a person is in one Party's territory and has to be heard as a witness or expert by the judicial authorities of another Party, the latter may, where it is not desirable or possible for the person to be heard to appear in its territory in person, request that the hearing take place by video conference, as provided for in paragraphs 2 to 7.

2 The requested Party⁹⁷ shall agree to the hearing by video conference provided that the use of the video conference is not contrary to fundamental principles of its law and on condition that it has the technical means to carry out the hearing. If the requested Party has no access to the technical means for video conferencing, such means may be made available to it by the requesting Party ⁹⁸by mutual agreement.

3 Requests for a hearing by video conference shall contain, in addition to the information referred to in Article 14 of the Convention, the reason why it is not desirable or possible for the witness or expert to attend in person, the name of the judicial authority and of the persons who will be conducting the hearing.

4 The judicial authority of the requested Party shall summon the person concerned to appear in accordance with the forms laid down by its law.

5 With reference to hearing by video conference, the following rules shall apply:

a a judicial authority of the requested Party shall be present during the hearing, where necessary assisted by an interpreter, and shall also be responsible for ensuring both the identification of the person to be heard and respect for the fundamental principles of the law of the requested Party. If the judicial authority of the requested Party is of the view that during the hearing the fundamental principles of the law of the requested Party are being infringed, it shall immediately take the necessary measures to ensure that the hearing continues in accordance with the said principles;

b measures for the protection of the person to be heard shall be agreed, where necessary, between the competent authorities of the requesting and the requested Parties⁹⁹;

c the hearing shall be conducted directly by, or under the direction of, the judicial authority of the requesting Party in accordance with its own laws¹⁰⁰;

d at the request of the requesting Party ¹⁰¹or the person to be heard, the requested Party shall ensure that the person to be heard is assisted by an interpreter, if necessary;

e the person to be heard may claim the right not to testify which would accrue to him or her under the law of either the requested or the requesting Party¹⁰².

⁹⁶ We will have to further reflect on it, but it seems likely that the EPPO could only act as a requesting authority for the purposes of this article

⁹⁷ Here and below in the article, "requested Party" would work under the assumption that the EPPO is only requesting authority.

⁹⁸ "requesting authority"

⁹⁹ Only "competent authorities" would cover the EPPO as well

¹⁰⁰ This would need some clarification for the EPPO

¹⁰¹ "requesting authority"

¹⁰² "law of the requesting Party" for the EPPO would have to be understood as "law applicable to the activities of the EPPO"

6 Without prejudice to any measures agreed for the protection of persons, the judicial authority of the requested Party shall on the conclusion of the hearing draw up minutes indicating the date and place of the hearing, the identity of the person heard, the identities and functions of all other persons in the requested Party participating in the hearing, any oaths taken and the technical conditions under which the hearing took place. The document shall be forwarded by the competent authority of the requested Party to the competent authority of the requesting Party¹⁰³.

7 Each Party ¹⁰⁴shall take the necessary measures to ensure that, where witnesses or experts are being heard within its territory, in accordance with this article, and refuse to testify when under an obligation to testify or do not testify according to the truth, its national law applies in the same way as if the hearing took place in a national procedure.

8 Parties may at their discretion also apply the provisions of this article, where appropriate and with the agreement of their competent judicial authorities¹⁰⁵, to hearings by video conference involving the accused person or the suspect. In this case, the decision to hold the video conference, and the manner in which the video conference shall be carried out, shall be subject to agreement between the Parties¹⁰⁶ concerned, in accordance with their national law¹⁰⁷ and relevant international instruments. Hearings involving the accused person or the suspect shall only be carried out with his or her consent.

9 Any Contracting State¹⁰⁸ may, at any time, by means of a declaration addressed to the Secretary General of the Council of Europe, declare that it will not avail itself of the possibility provided in paragraph 8 above of also applying the provisions of this article to hearings by video conference involving the accused person or the suspect.

Article 10 – Hearing by telephone conference¹⁰⁹

1 If a person is in one Party's territory and has to be heard as a witness or expert by judicial authorities of another Party¹¹⁰, the latter may, where its national law¹¹¹ so provides, request the assistance of the former Party to enable the hearing to take place by telephone conference, as provided for in paragraphs 2 to 6.

2 A hearing may be conducted by telephone conference only if the witness or expert agrees that the hearing take place by that method.

3 The requested Party shall agree to the hearing by telephone conference where this is not contrary to fundamental principles of its law.

4 A request for a hearing by telephone conference shall contain, in addition to the information referred to in Article 14 of the Convention, the name of the judicial authority and of the persons who will

¹⁰³ “requesting authority”

¹⁰⁴ “authority”

¹⁰⁵ For the EPPO further reflection would be needed on what would be the competent judicial authorities in such cases

¹⁰⁶ “Party” would not work for the EPPO

¹⁰⁷ For the EPPO, this would probably need to be “applicable” law (EU law/the law of the Member State of the European Delegated Prosecutor handling the case)

¹⁰⁸ « Party »

¹⁰⁹ For the purpose of this provision, the EPPO would only act as requesting authority, hence references to “requested Party” may be ok

¹¹⁰ Could be ok for the EPPO

¹¹¹ For the EPPO, this would probably need to be “applicable” law (EU law/the law of the Member State of the European Delegated Prosecutor handling the case)

be conducting the hearing and an indication that the witness or expert is willing to take part in a hearing by telephone conference.

5 The practical arrangements regarding the hearing shall be agreed between the Parties¹¹² concerned. When agreeing such arrangements, the requested Party shall undertake to:

- a notify the witness or expert concerned of the time and the venue of the hearing;
- b ensure the identification of the witness or expert;
- c verify that the witness or expert agrees to the hearing by telephone conference.

6 The requested Party may make its agreement subject, fully or in part, to the relevant provisions of Article 9, paragraphs 5 and 7.

Article 11 – Spontaneous information

1 Without prejudice to their own investigations or proceedings, the competent authorities of a Party may, without prior request, forward to the competent authorities of another Party information obtained within the framework of their own investigations, when they consider that the disclosure of such information might assist the receiving Party¹¹³ in initiating or carrying out investigations or proceedings, or might lead to a request by that Party¹¹⁴ under the Convention or its Protocols.

2 The providing Party¹¹⁵ may, pursuant to its national ¹¹⁶law, impose conditions on the use of such information by the receiving Party¹¹⁷.

3 The receiving Party¹¹⁸ shall be bound by those conditions.

4 However, any Contracting State¹¹⁹ may, at any time, by means of a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to be bound by the conditions imposed by the providing Party¹²⁰ under paragraph 2 above, unless it receives prior notice of the nature of the information to be provided and agrees to its transmission.

Article 12 – Restitution¹²¹

1 At the request of the requesting Party and without prejudice to the rights of bona fide third parties, the requested Party may place articles obtained by criminal means at the disposal of the requesting Party with a view to their return to their rightful owners.

2 In applying Articles 3 and 6 of the Convention, the requested Party may waive the return of articles either before or after handing them over to the requesting Party if the restitution of such articles to the rightful owner may be facilitated thereby. The rights of bona fide third parties shall not be affected.

¹¹² “authorities”

¹¹³ “receiving authority »

¹¹⁴ « authority »

¹¹⁵ « providing authority »

¹¹⁶ For the EPPO, this would probably need to be “applicable” law (EU law/the law of the Member State of the European Delegated Prosecutor handling the case)

¹¹⁷ « receiving authority »

¹¹⁸ « receiving authority »

¹¹⁹ “Party”

¹²⁰ « providing authority »

¹²¹ Application to the EPPO to be discussed

3 In the event of a waiver before handing over the articles to the requesting Party, the requested Party shall exercise no security right or other right of recourse under tax or customs legislation in respect of these articles.

4 A waiver as referred to in paragraph 2 shall be without prejudice to the right of the requested Party to collect taxes or duties from the rightful owner.

Article 13 – Temporary transfer of detained persons to the requested Party¹²²

1 Where there is agreement between the competent authorities of the Parties concerned, a Party which has requested an investigation for which the presence of a person held in custody on its own territory is required may temporarily transfer that person to the territory of the Party in which the investigation is to take place.

2 The agreement shall cover the arrangements for the temporary transfer of the person and the date by which the person must be returned to the territory of the requesting Party.

3 Where consent to the transfer is required from the person concerned, a statement of consent or a copy thereof shall be provided promptly to the requested Party.

4 The transferred person shall remain in custody in the territory of the requested Party and, where applicable, in the territory of the Party through which transit is requested, unless the Party from which the person was transferred applies for his or her release.

5 The period of custody in the territory of the requested Party shall be deducted from the period of detention which the person concerned is or will be obliged to undergo in the territory of the requesting Party.

6 The provisions of Article 11, paragraph 2, and Article 12 of the Convention shall apply *mutatis mutandis*.

7 Any Contracting State may at any time, by means of a declaration addressed to the Secretary General of the Council of Europe, declare that before an agreement is reached under paragraph 1 of this article, the consent referred to in paragraph 3 of this article will be required, or will be required under certain conditions indicated in the declaration.

Article 14 – Personal appearance of transferred sentenced persons ¹²³

The provisions of Articles 11 and 12 of the Convention shall apply *mutatis mutandis* also to persons who are in custody in the requested Party, pursuant to having been transferred in order to serve a sentence passed in the requesting Party, where their personal appearance for purposes of review of the judgement is applied for by the requesting Party.

¹²² Application to the EPPO to be further discussed due to the specificity of the EPPO and the context in which it operates. Article 13 would refer to a situation where Party A asks for assistance from Party B, but in order for Party B to execute the measure requested, the person in custody in Party A shall be transferred to Party B. The EPPO could be a requesting authority for the purposes of this provision, but the person would be in custody in one of the 22 EU Member States. The EPPO would therefore need to act in close cooperation with the national authority of the Member State where the person is in custody. The EPPO could also be the requested authority, which would then need the transfer of the person who is in custody in the requesting Party to provide the needed assistance. Again, the EPPO would need to rely on the support of the national authorities of the country of the competent European Delegated Prosecutor.

¹²³ Application to the EPPO to be further discussed.

Article 15 – Language of procedural documents and judicial decisions to be served

1 The provisions of this article shall apply to any request for service under Article 7 of the Convention or Article 3 of the Additional Protocol thereto.

2 Procedural documents and judicial decisions shall in all cases be transmitted in the language, or the languages, in which they were issued.

3 Notwithstanding the provisions of Article 16 of the Convention, if the authority that issued the papers knows or has reasons to believe that the addressee understands only some other language, the papers, or at least the most important passages thereof, shall be accompanied by a translation into that other language.

4 Notwithstanding the provisions of Article 16 of the Convention, procedural documents and judicial decisions shall, for the benefit of the authorities of the requested Party¹²⁴, be accompanied by a short summary of their contents translated into the language, or one of the languages, of that Party¹²⁵.

Article 16 – Service by post

1 The competent judicial authorities of any Party may directly address, by post, procedural documents and judicial decisions, to persons who are in the territory of any other Party.

2 Procedural documents and judicial decisions shall be accompanied by a report stating that the addressee may obtain information from the authority identified in the report, regarding his or her rights and obligations concerning the service of the papers. The provisions of paragraph 3 of Article 15 above shall apply to that report.

3 The provisions of Articles 8, 9 and 12 of the Convention shall apply *mutatis mutandis* to service by post.

4 The provisions of paragraphs 1, 2 and 3 of Article 15 above shall also apply to service by post.

Article 17 – Cross-border observations¹²⁶

1 Police officers of one of the Parties who, within the framework of a criminal investigation, are keeping under observation in their country a person who is presumed to have taken part in a criminal offence to which extradition may apply, or a person who it is strongly believed will lead to the identification or location of the above-mentioned person, shall be authorised to continue their observation in the territory of another Party where the latter has authorised cross-border observation in response to a request for assistance which has previously been submitted. Conditions may be attached to the authorisation.

On request, the observation will be entrusted to officers of the Party in whose territory it is carried out.

The request for assistance referred to in the first sub-paragraph must be sent to an authority designated by each Party and having jurisdiction to grant or to forward the requested authorisation.

¹²⁴ “requested authorities”

¹²⁵ “those authorities”

¹²⁶ In principle, there would be no adaptations needed as this provision concerns mostly law enforcement authorities, so would not apply to the EPPO (which is instead a prosecuting authority). However, further reflection is needed to take into account those cases where prosecutors may be involved in such activities.

2 Where, for particularly urgent reasons, prior authorisation of the other Party cannot be requested, the officers conducting the observation within the framework of a criminal investigation shall be authorised to continue beyond the border the observation of a person presumed to have committed offences listed in paragraph 6, provided that the following conditions are met:

a the authorities of the Party designated under paragraph 4, in whose territory the observation is to be continued, must be notified immediately, during the observation, that the border has been crossed;

b a request for assistance submitted in accordance with paragraph 1 and outlining the grounds for crossing the border without prior authorisation shall be submitted without delay.

Observation shall cease as soon as the Party in whose territory it is taking place so requests, following the notification referred to in a. or the request referred to in b. or where authorisation has not been obtained within five hours of the border being crossed.

3 The observation referred to in paragraphs 1 and 2 shall be carried out only under the following general conditions:

a The officers conducting the observation must comply with the provisions of this article and with the law of the Party in whose territory they are operating; they must obey the instructions of the local responsible authorities.

b Except in the situations provided for in paragraph 2, the officers shall, during the observation, carry a document certifying that authorisation has been granted.

c The officers conducting the observation must be able at all times to provide proof that they are acting in an official capacity.

d The officers conducting the observation may carry their service weapons during the observation, save where specifically otherwise decided by the requested Party; their use shall be prohibited save in cases of legitimate self-defence.

e Entry into private homes and places not accessible to the public shall be prohibited.

f The officers conducting the observation may neither stop and question, nor arrest, the person under observation.

g All operations shall be the subject of a report to the authorities of the Party in whose territory they took place; the officers conducting the observation may be required to appear in person.

h The authorities of the Party from which the observing officers have come shall, when requested by the authorities of the Party in whose territory the observation took place, assist the enquiry subsequent to the operation in which they took part, including legal proceedings.

4 Parties shall at the time of signature or when depositing their instrument of ratification, acceptance, approval or accession, by means of a declaration addressed to the Secretary General of the Council of Europe, indicate both the officers and authorities that they designate for the purposes of paragraphs 1 and 2 of this article. They subsequently may, at any time and in the same manner, change the terms of their declaration.

5 The Parties may, at bilateral level, extend the scope of this article and adopt additional measures in implementation thereof.

6 The observation referred to in paragraph 2 may take place only for one of the following criminal offences:

- assassination;
- murder;
- rape;
- arson;
- counterfeiting;
- armed robbery and receiving of stolen goods;
- extortion;
- kidnapping and hostage taking;
- traffic in human beings;
- illicit traffic in narcotic drugs and psychotropic substances;
- breach of the laws on arms and explosives;
- use of explosives;
- illicit carriage of toxic and dangerous waste;
- smuggling of aliens;
- sexual abuse of children.

Article 18 – Controlled delivery¹²⁷

1 Each Party undertakes to ensure that, at the request of another Party¹²⁸, controlled deliveries may be permitted on its territory in the framework of criminal investigations into extraditable offences¹²⁹.

2 The decision to carry out controlled deliveries shall be taken in each individual case by the competent authorities of the requested Party, with due regard to the national law of that Party.

3 Controlled deliveries shall take place in accordance with the procedures of the requested Party. Competence to act, direct and control operations shall lie with the competent authorities of that Party.

4 Parties shall at the time of signature or when depositing their instrument of ratification, acceptance, approval or accession, by means of a declaration addressed to the Secretary General of the Council of Europe, indicate the authorities that are competent for the purposes of this article. They subsequently may, at any time and in the same manner, change the terms of their declaration.

Article 19 – Covert investigations

1 The requesting and the requested Parties¹³⁰ may agree to assist one another in the conduct of investigations into crime by officers acting under covert or false identity (covert investigations).

2 The decision on the request is taken in each individual case by the competent authorities of the requested Party with due regard to its national¹³¹ law and procedures. The duration of the covert investigation, the detailed conditions, and the legal status of the officers concerned during covert

¹²⁷ Adaptation to the EPPO will be needed as this is a measure that is expressly provided for by the EPPO Regulation – the EPPO would only act as “requesting authority” for the purposes of this provision, so references to the “requested Party” could remain.

¹²⁸ “authority”

¹²⁹ To be discussed how to adapt this to the EPPO

¹³⁰ “authorities”

¹³¹ For the EPPO, this would have to be the “applicable law”

investigations shall be agreed between the Parties¹³² with due regard to their national¹³³ law and procedures.

3 Covert investigations shall take place in accordance with the national law and procedures of the Party on the territory of which the covert investigation takes place. The Parties¹³⁴ involved shall cooperate to ensure that the covert investigation is prepared and supervised and to make arrangements for the security of the officers acting under covert or false identity.

4 Parties shall at the time of signature or when depositing their instrument of ratification, acceptance, approval or accession, by means of a declaration addressed to the Secretary General of the Council of Europe, indicate the authorities that are competent for the purposes of paragraph 2 of this article. They subsequently may, at any time and in the same manner, change the terms of their declaration.

Article 20 – Joint investigation teams¹³⁵

1 By mutual agreement, the competent authorities of two or more Parties may set up a joint investigation team for a specific purpose and a limited period, which may be extended by mutual consent, to carry out criminal investigations in one or more of the Parties setting up the team. The composition of the team shall be set out in the agreement.

A joint investigation team may, in particular, be set up where:

a a Party's investigations into criminal offences require difficult and demanding investigations having links with other Parties;

b a number of Parties are conducting investigations into criminal offences in which the circumstances of the case necessitate co-ordinated, concerted action in the Parties involved.

A request for the setting up of a joint investigation team may be made by any of the Parties concerned. The team shall be set up in one of the Parties in which the investigations are expected to be carried out.

2 In addition to the information referred to in the relevant provisions of Article 14 of the Convention, requests for the setting up of a joint investigation team shall include proposals for the composition of the team.

3 A joint investigation team shall operate in the territory of the Parties setting up the team under the following general conditions:

a the leader of the team shall be a representative of the competent authority participating in criminal investigations from the Party in which the team operates. The leader of the team shall act within the limits of his or her competence under national law;

b the team shall carry out its operations in accordance with the law of the Party in which it operates. The members and seconded members of the team shall carry out their tasks under the leadership of the

¹³² "authorities"

¹³³ For the EPPO, this would have to be the "applicable law"

¹³⁴ "authorities"

¹³⁵ The EPPO shall be able to set up and participate in JITs. However, some adaptations will be needed because, when it comes to the EPPO, the EPPO will be acting on the territory of one or more Member States of the EU, so the way in which this Article can apply to the EPPO should be further discussed.

person referred to in sub-paragraph a, taking into account the conditions set by their own authorities in the agreement on setting up the team;

c the Party in which the team operates shall make the necessary organisational arrangements for it to do so.

4 In this article, members of the joint investigation team from the Party in which the team operates are referred to as "members", while members from Parties other than the Party in which the team operates are referred to as "seconded members".

5 Seconded members of the joint investigation team shall be entitled to be present when investigative measures are taken in the Party of operation. However, the leader of the team may, for particular reasons, in accordance with the law of the Party where the team operates, decide otherwise.

6 Seconded members of the joint investigation team may, in accordance with the law of the Party where the team operates, be entrusted by the leader of the team with the task of taking certain investigative measures where this has been approved by the competent authorities of the Party of operation and the seconding Party.

7 Where the joint investigation team needs investigative measures to be taken in one of the Parties setting up the team, members seconded to the team by that Party may request their own competent authorities to take those measures. Those measures shall be considered in that Party under the conditions which would apply if they were requested in a national investigation.

8 Where the joint investigation team needs assistance from a Party other than those which have set up the team, or from a third State, the request for assistance may be made by the competent authorities of the State ¹³⁶of operation to the competent authorities of the other State concerned in accordance with the relevant instruments or arrangements.

9 A seconded member of the joint investigation team may, in accordance with his or her national law and within the limits of his or her competence, provide the team with information available in the Party which has seconded him or her for the purpose of the criminal investigations conducted by the team.

10 Information lawfully obtained by a member or seconded member while part of a joint investigation team which is not otherwise available to the competent authorities of the Parties concerned may be used for the following purposes:

a for the purposes for which the team has been set up;

b subject to the prior consent of the Party where the information became available, for detecting, investigating and prosecuting other criminal offences. Such consent may be withheld only in cases where such use would endanger criminal investigations in the Party concerned or in respect of which that Party could refuse mutual assistance;

c for preventing an immediate and serious threat to public security, and without prejudice to sub-paragraph b. if subsequently a criminal investigation is opened;

d for other purposes to the extent that this is agreed between Parties setting up the team.

¹³⁶ This would not work for the EPPO

11 This article shall be without prejudice to any other existing provisions or arrangements on the setting up or operation of joint investigation teams.

12 To the extent that the laws of the Parties concerned or the provisions of any legal instrument applicable between them permit, arrangements may be agreed for persons other than representatives of the competent authorities of the Parties setting up the joint investigation team to take part in the activities of the team. The rights conferred upon the members or seconded members of the team by virtue of this article shall not apply to these persons unless the agreement expressly states otherwise.

Article 21 – Criminal liability regarding officials

During the operations referred to in Articles 17, 18, 19 or 20, unless otherwise agreed upon by the Parties concerned, officials from a Party other than the Party of operation shall be regarded as officials of the Party of operation with respect to offences committed against them or by them.

Article 22 – Civil liability regarding officials

1 Where, in accordance with Articles 17, 18, 19 or 20, officials of a Party are operating in another Party, the first Party shall be liable for any damage caused by them during their operations, in accordance with the law of the Party in whose territory they are operating.

2 The Party in whose territory the damage referred to in paragraph 1 was caused shall make good such damage under the conditions applicable to damage caused by its own officials.

3 The Party whose officials have caused damage to any person in the territory of another Party shall reimburse the latter in full any sums it has paid to the victims or persons entitled on their behalf.

4 Without prejudice to the exercise of its rights vis-à-vis third parties and with the exception of paragraph 3, each Party shall refrain in the case provided for in paragraph 1 from requesting reimbursement of damages it has sustained from another Party.

5 The provisions of this article shall apply subject to the proviso that the Parties did not agree otherwise.

Article 23 – Protection of witnesses

Where a Party requests assistance under the Convention or one of its Protocols in respect of a witness at risk of intimidation or in need of protection, the competent authorities of the requesting and requested Parties shall endeavour to agree on measures for the protection of the person concerned, in accordance with their national law.

Article 24 – Provisional measures

1 At the request of the requesting Party¹³⁷, the requested Party, in accordance with its national law, may take provisional measures for the purpose of preserving evidence, maintaining an existing situation or protecting endangered legal interests.

2 The requested Party¹³⁸ may grant the request partially or subject to conditions, in particular time limitation.

¹³⁷ Requesting/requested « authority » instead of Party in this provision

¹³⁸ « authority »

Article 25 – Confidentiality

The requesting Party¹³⁹ may require that the requested Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting Party.

Article 26 – Data protection¹⁴⁰

1 Personal data transferred from one Party to another as a result of the execution of a request made under the Convention or any of its Protocols, may be used by the Party to which such data have been transferred, only:

- a for the purpose of proceedings to which the Convention or any of its Protocols apply;
- b for other judicial and administrative proceedings directly related to the proceedings mentioned under (a);
- c for preventing an immediate and serious threat to public security.

2 Such data may however be used for any other purpose if prior consent to that effect is given by either the Party from which the data had been transferred, or the data subject.

3 Any Party may refuse to transfer personal data obtained as a result of the execution of a request made under the Convention or any of its Protocols where

- such data is protected under its national legislation, and
- the Party to which the data should be transferred is not bound by the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, done at Strasbourg on 28 January 1981, unless the latter Party undertakes to afford such protection to the data as is required by the former Party.

4 Any Party that transfers personal data obtained as a result of the execution of a request made under the Convention or any of its Protocols may require the Party to which the data have been transferred to give information on the use made with such data.

5 Any Party may, by a declaration addressed to the Secretary General of the Council of Europe, require that, within the framework of procedures for which it could have refused or limited the transmission or the use of personal data in accordance with the provisions of the Convention or one of its Protocols, personal data transmitted to another Party not be used by the latter for the purposes of paragraph 1 unless with its previous consent.

Article 27 – Administrative authorities¹⁴¹

Parties may at any time, by means of a declaration addressed to the Secretary General of the Council of Europe, define what authorities they will deem administrative authorities for the purposes of Article 1, paragraph 3, of the Convention.

¹³⁹ “Party” to be replaced by « authority » throughout this provision

¹⁴⁰ This article is no longer valid and might create problems EU/Non EU states. We may need input from Data Protection experts.

¹⁴¹ This provision is probably not applicable to the EPPO.

Article 28 – Relations with other treaties

The provisions of this Protocol are without prejudice to more extensive regulations in bilateral or multilateral agreements concluded between Parties in application of Article 26, paragraph 3, of the Convention.

Article 29 – Friendly settlement

The European Committee on Crime Problems shall be kept informed regarding the interpretation and application of the Convention and its Protocols, and shall do whatever is necessary to facilitate a friendly settlement of any difficulty which may arise out of their application.

Chapter III

Article 30 – Signature, accession and entry into force¹⁴²

1 This Protocol shall be open for signature by the member States of the Council of Europe which are a Party to or have signed the Convention. It shall be subject to ratification, acceptance or approval. A signatory may not ratify, accept or approve this Protocol unless it has previously or simultaneously ratified, accepted or approved the Convention. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

2 This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the deposit of the third instrument of ratification, acceptance or approval.

3 In respect of any signatory State which subsequently deposits its instrument of ratification, acceptance or approval, the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit.

Article 31 – Accession¹⁴³

1 Any non-member State, which has acceded to the Convention, may accede to this Protocol after it has entered into force.

2 Such accession shall be effected by depositing with the Secretary General of the Council of Europe an instrument of accession.

3 In respect of any acceding State, the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of accession.

Article 32 – Territorial application¹⁴⁴

1 Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Protocol shall apply.

2 Any State may, at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the

¹⁴² To be amended for accession by EU

¹⁴³ In a new instrument accession by non member States should be also regulated

¹⁴⁴ To be adapted to accession by EU

expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

3 Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date or receipt of such notification by the Secretary General.

Article 33 – Reservations¹⁴⁵

1 Reservations made by a Party to any provision of the Convention or its Protocol shall be applicable also to this Protocol, unless that Party otherwise declares at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession. The same shall apply to any declaration made in respect or by virtue of any provision of the Convention or its Protocol.

2 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it avails itself of the right not to accept wholly or in part any one or more of Articles 16, 17, 18, 19 and 20. No other reservation may be made.

3 Any State may wholly or partially withdraw a reservation it has made in accordance with the foregoing paragraphs, by means of a declaration addressed to the Secretary General of the Council of Europe, which shall become effective as from the date of its receipt.

4 Any Party which has made a reservation in respect of any of the articles of this Protocol mentioned in paragraph 2 above, may not claim the application of that article by another Party. It may, however, if its reservation is partial or conditional, claim the application of that provision in so far as it has itself accepted it.

Article 34 – Denunciation

1 Any Party may, in so far as it is concerned, denounce this Protocol by means of a notification addressed to the Secretary General of the Council of Europe.

2 Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Secretary General.

3 Denunciation of the Convention entails automatically denunciation of this Protocol.

Article 35 – Notifications

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe and any State¹⁴⁶ which has acceded to this Protocol of:

- a any signature;
- b the deposit of any instrument of ratification, acceptance, approval or accession;
- c any date of entry into force of this Protocol in accordance with Articles 30 and 31;
- d any other act, declaration, notification or communication relating to this Protocol.

¹⁴⁵ To be adapted to accession by EU

¹⁴⁶ « Party »

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Strasbourg, this 8th day of November 2001, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to the non-member States which have acceded to the Convention.