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EUROPEAN COMMITTEE ON CRIME PROBLEMS

(CDPC)

COMMITTEE OF EXPERTS

ON THE OPERATION OF EUROPEAN CONVENTIONS

ON CO-OPERATION IN CRIMINAL MATTERS

(PC-OC)

Summary of replies to the

Questionnaire on the application of the Second Additional Protocol to the European
Convention on Mutual Assistance in Criminal Matters (ETS No. 182)

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Questionnaire

If your country is not a Party to ETS No. 182

1. If your country is not a Party to ETS No. 182, is its ratification being considered?
Please explain.

Is ratification of ETS 182 being considered?	
Andorra	Andorra doesn't consider ratifying for the moment
Austria	The President of the Republic of Austria signed the ratification document on 24 April 2017.
Greece	The ratification of the Second Protocol to the MLA Convention 1959 could be considered by our country, since it includes provisions as hearing by video conference/telephone conference that would enhance cooperation with Member-States of the CoE and taking into account that MLA Convention 2000 is not yet ratified by our country.
Monaco	Since its accession to the CoE in 2005, Monaco made important efforts to accede to an important number of international conventions. These efforts continue and a study of this instrument aimed at facilitating judicial cooperation in criminal matters is taking place.

2. Could you please share your experiences regarding the application of the issues covered by Articles 16 to 20 of ETS N° 182 on the basis of other bilateral or multilateral instruments or treaties?

Experience on issues covered by Articles 16 to 20 of ETS N° 182 on basis of other treaties	
Andorra	N/A
Austria	<p>Service by post (Art 16) has become usual practice. No major problems reported.</p> <p>Cross-border observations (Article 17), Controlled delivery (Article 18) and covert investigations (Article 19) are applied on a regular basis. No problems are reported. The determination of the locally competent authority for the permission of a controlled delivery may be difficult under national law as very often the frontier-crossing point is not known in advance.</p> <p>Joint investigation teams (Article 20): Over the last years Austria has been a Party to 18 joint investigation teams. By accession to the ETS No. 182 we expect difficulties encountered in the past when trying to establish a treaty basis for the setting up of a joint investigation team in relation to Non-Member States of the EU to be resolved.</p>
Greece	<p>As to Art. 16 of the Second Protocol: Service by post, as provided under art. 16, is commonly applied under Schengen Agreement 52 par. 1 between our country and other Member-States of Schengen Area without any particular problems.</p> <p>As to Art. 20 of the Second Protocol: Even though Greece has not ratified yet the Second Protocol of MLA 1959 Convention as well as MLA 2000 including provisions for Joint Investigation Teams, the formation of JITs and relevant procedure is provided under our national law (as regards Eurojust/JITs). Still, no JIT has been set up till now, to share the relevant experience."</p>
Monaco	N/A

If your country is a Party to ETS No. 182

3. What has been your experience, as a requesting and requested state, with mutual assistance in proceedings brought by administrative authorities in the scope defined by Article 1 paragraph 3 of ETS No.182?

Article 1 – Scope

“3. 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.”

State	Experience	Comments
Croatia	Yes	Incoming and outgoing requests brought by administrative authorities are forwarded by the Ministry of Justice. Most of requests issued by the administrative authorities of the requesting state are treated as misdemeanour proceedings in Croatia and misdemeanour law is part of the criminal law in the broader sense in Croatia. We accept them as requests in the framework of misdemeanour proceeding and forward them to the Misdemeanour courts for its execution. The greatest number of requests is related to traffic violation.
Czech Rep	No	Such requests are dealt with on basis of bilateral agreements or EU MLA Convention
Denmark	No	
Finland	No	
France	No	
Germany	Yes	As requested State only, to requests from Switzerland, not always based on ETS 182.
Ireland		No answer
Latvia	No	
Moldova	No	National legislation allows to issue MLA requests only in criminal matters
Romania	No	
Portugal	Yes	Very limited, once with Switzerland
Slovak Rep	Yes	Only in a passive form. Referring to the stated Article of the ETS No.182 the Slovak Republic does carry out requests of foreign authorities relating to public offenses. The legal order of the Slovak Republic does not recognize any violations of legal provisions which are conducted in proceedings by public authorities of the first degree, whose decision may lead to a proceeding before a court dealing with criminal matters. Therefore this Article is not implemented in an active form.
Slovenia	Yes	By administrative authorities: see Declaration by Slovenia in this regard
Sweden	No	Requests that would qualify are made under ETS 30
Switzerland	Yes	In practice administrative authorities rarely ask MLA
Turkey	No	This protocol entered into force in November 2016. For this reason,

		there has not been any experience about this issue yet.
Ukraine	Yes	<p>For instance, such assistance is provided by the GPO of Ukraine at requests of Switzerland, where violations of the Traffic Rules (speeding) are a criminal offence. Although, according to the legislation of Ukraine, such actions constitute an administrative offence.</p> <p>The MoJ of Ukraine has such experience in relations with Portugal where the MLA requests concerning driving a motor vehicle in a state of alcohol intoxication, for which in Ukraine administrative responsibility is envisaged, has been forwarded to and executed by the competent Ukrainian courts.</p> <p>However, in accordance with Article 15 of the Convention Ukraine reserves the right to perform the request of administrative authorities of the Parties referred to in paragraph 3 of Article 1 and paragraph 3 of Article 15 of the Convention, as amended in the Protocol, where they are addressed to the General prosecutor's Office of Ukraine.</p>

4. Did your country experience any benefit from the new channels and methods of communication mentioned under Article 4 of ETS No.182? Please explain the extent and nature of the benefit.

"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 channels. 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.

2. Applications as referred to in Article 11 of this Convention and Article 13 of the Second Additional Protocol to this Convention shall in all cases 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 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.

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.

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 Party, 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 Justice of the requesting Party to the Ministry of Justice of the requested Party.

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 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 Justice;

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

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 Party 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."

State	Benefit	Comments
Croatia	No	Republic of Croatia has made a declaration concerning Article 4, paragraph 8, of the Second Additional Protocol, in a way that all the requests and other communications referred to in paragraphs 1 to 6 of Article 4 should be forwarded to the Ministry of Justice. In urgent cases it is possible to use INTERPOL channels. Also, in case of urgency the Ministry will accept requests received by electronic means of communication and forward it to the competent judicial authority, but originals should be submitted subsequently in shortest term.
Czech Rep	Yes	There are practical problems to identify competent judicial authority for direct transmission
Denmark	Yes	Direct communication is a benefit, enhanced by technological advancement
Finland	No	We have not seen a noticeable change to old practices
France	Yes	Unfortunately some Parties do not apply the possibilities foreseen by this provision
Germany	Yes	All parties in Germany welcome the new channels of communication, in particular by phone or electronic means. But there is uncertainty about data protection requirement. Confirmation of receipt required. We made reservation to 4.8b
Ireland	No	In accordance with Article 15, paragraph 8, of the Convention (as substituted by Article 4 of the Second Additional Protocol), the Government of Ireland declares that all incoming requests shall be sent to the Minister for Justice and Equality as the Central Authority
Latvia	Yes	Definitely it is great advantage, because more rapid and efficient exchange of information and documents is possible.
Moldova	Yes	MLA requests get faster to the competent authority
Portugal	Yes	Surely with Switzerland . For other non EU countries "Atlas" would be useful
Romania	Yes	Direct impact on the effectiveness of the criminal proceedings by improving the efficiency and speed of the process (investigation/trial). In terms of the means of communication – fax, and especially email - the extent of the benefit varies from one case to another depending on the declaration or reservations made by the requested state, and on the logistics (equipment and infrastructure) of which the receiving authority (central authority

		and/or judicial authority) was allocated with.
Slovak Rep	No	This Article of ETS No.182 is practiced only rarely by the Slovak judicial authorities. The direct legal contact is implemented on the basis of other international bilateral and multilateral treaties. Its practice is mostly obstructed by the reservations of states impeding the direct legal contact as well as insufficient information on defining the competent judicial authority of the State.
Slovenia	Yes	A lot of benefits for criminal and administrative proceedings: fast and efficient
Sweden	Yes	No experience from Prosecution; possibility is welcomed for CA, judicial and administrative authorities
Switzerland	Yes	Very useful, more efficient, in particular in urgent cases
Turkey	No	As it has not been applied yet, it has not experienced any benefit. In addition, the following declarations were made for sub-paragraphs (b) and (c) of Paragraph 8 of Article 4: Except urgent requests, requests shall be forwarded to the central authority designated in that declaration. In case of direct transmission of requests to the judicial authorities for reasons of urgency, a copy shall be transmitted at the same time to the Central Authority.
Ukraine	Yes	On average, the term of execution of requests was reduced due to the use of new channels and methods of communication. Ukraine accepts requests received by electronic or facsimile communications. At the same time, the execution materials are sent upon receipt of the original of the request.

5. Do you have any experience with requests for assistance including formalities or procedures that are unfamiliar in your jurisdiction, or in that of the requested country (Article 8, ETS No.182)? If so, please explain whether the requests were successful or not.

“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 Party, 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.”

State	Experience	Comments
Croatia	Yes	In the kind of cases [information on bank account; surveillance and interception of telephone and IT communications, molecular genetic analysis; see details in the reply] it is important that it is the order/decision issued by the competent judicial authority of the requesting state, with all relevant facts explaining the necessity of imposing this kind of intrusive measure. So it should be a decision issued by the competent judicial authority according to the national law of the requesting state. One of the formalities that is often requested by our judicial authority, acting as requesting authority, is to conduct an examination of a person (defendant, witness) under formalities prescribed by Croatian Criminal Procedure Code (service of the instruction on rights before examination, recording the examination etc.), according to Article 8, ETS No.182. Most of the differences are being resolved; in minor cases requests couldn't be fully executed. For example, as requested state Croatia couldn't fulfil the request to examine the witness in a way to take an oath on the Bible because it would be against our Constitution.
Czech Rep	No	
Denmark	Yes	Very limited n° of cases: no requests were denied
Finland	No	
France	Yes	Particular procedures requested are implemented as long as they do not run counter national rules on “ordre public”
Germany	Yes	Requests received are complied with to the extent possible but there are cases of refusal. Experience with outgoing requests also included few refusals.
Ireland	Yes	It has been the experience of the Central Authority for MLA that certain formalities must be observed in the execution of requests from some requesting States for the purpose of ensuring compliance with evidential requirements of their law in respect of documentary evidence i.e. the provision of certified copies of documents and witness statements. Furthermore, some requesting States appear to be unfamiliar with our procedural requirements, in particular, the relevant assurances for each specific request in accordance with our legislation.[See reply for details.] Once

		clarification is provided in relation to our procedural requirements, a request is processed successfully in most cases.
Latvia	Yes	The Prosecution Office is respecting the requirements of the requesting country and is taking all efforts within the possible limits for fulfilment of the requests, even if some procedures are not usual in our jurisdiction. The fulfilment of the requests is successful, nevertheless it prolongs the time necessary for fulfilment of the requests.
Moldova	No	
Portugal	Yes	Specific formalities requested did not meet any obstacles for execution
Romania	Yes	As a requesting state: Having formalities or procedures included in the request depends on whether within our system serving of procedural documents or obtaining specific evidence is subject to formalities or procedures. As a requested state :We have been asked to have the suspect or accused person heard by a judge although the case within the requesting country was within the investigation stage. We have followed the procedure requested by the requesting state although in our system, within the investigation stage, suspect or accused person is always to be heard by the prosecutor (except when subject to the measure of arrest).
Slovak Rep	Yes	While carrying out a request for legal assistance of a foreign judicial authority the Slovak authorities follow the Slovak legal order. The provisions of legal order of a foreign country may be applied directly on the basis of an international treaty if the state does request for it and it is not in conflict with the basic principles of the legal order of the Slovak Republic and the protection of interests of the Slovak Republic. The stated provision is practiced also in the requests of the Slovak authorities. If our request is not accepted by the requested authority, the Slovak judicial authority examines whether the manner of executing the acts is in accordance to the Slovak legal order and in a case contrary we request for its repetition or justification of the procedure from the foreign judicial authority.
Slovenia	Yes	All incoming requests were executed. One outgoing request could not be executed.
Sweden	No	Not in cases concerning this Protocol but such requests are common under EU Convention on MLA
Switzerland	Yes	Incoming requests can usually be executed
Turkey	No	There is not any experience about this issue.
Ukraine	Yes	Ukraine has experience and it is rather successful. At the request of the requesting party, procedural actions shall be conducted in accordance with the requirements of the legislation of the requesting state. For instance the MoJ of Ukraine on a regular basis receives MLA requests of the Czech Republic according to which the Czech courts ask the Ukrainian party to note that applicable legislation of the Czech Republic requires judicial documents to be served on the person concerned by way of passing the documents into the person's own hands. [...] In such cases the

		MoJ of Ukraine draws the attention of the Ukrainian courts to the aspects of the Czech law, and consequently the Ukrainian courts during execution of such MLA requests adhere to the requirements.
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6. What has been your experience in conducting hearings of suspects, accused persons, witnesses and experts by video or telephone conferences (Articles 9 and 10 of ETS No.182) as a requesting state? and in organising them as a requested state?

“Article 9 – Hearing by video conference

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.”*

“Article 10 – Hearing by telephone conference

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 Party, the latter may, where its national law 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. “*

State	Experience	Comments
Croatia	Video	Croatia made declaration that it will not apply the provisions of Article 9§9 to hearings by video conference involving the accused person or the suspect. Hearings of witnesses by video conference are often used and in most of cases successfully conducted. However, problems regarding incompatibility of the equipment and under-capacity sometimes occur.
Czech Rep	Video	Only problems encountered were of a technical or linguistic nature.
Denmark	Limited	Reservation on video conference for suspects or accused: no such requests issued. Few requests received were executed, sometimes with technical difficulties
Finland	Limited	Few requests issued and received to hear witnesses and defendants, all successfully
France	Video	Central authority involved to address legal issues. Hardly any requests for phone conference
Germany	Video	Practitioners report positive experiences. Although witnesses and experts participate on voluntary basis only, it is often used. Some technical difficulties may arise. Incoming requests need to be made timely and specify if interrogation by prosecutor or judge is required. No experience with phone conference.
Ireland	Video	Video link hearings are arranged in respect of criminal court trials and only in circumstances where it is not desirable or practical for the witness to give evidence in person. In conducting a video link hearing there are certain procedural requirements [See reply for details] On occasion, the Courts encounter technical difficulties in conducting such hearings. A further difficulty is that it is not always

		evident from requesting States that the testimony is being provided for a trial.
Latvia	Video	We have experience regarding interrogation by means of the video conference and it is positive. Special attention shall be paid to the difference of time in both countries, especially if conference is taking place between different continents. We have no experience with the telephone conference.
Moldova	None	
Portugal	Video	Frequently used, mainly in requests to Switzerland Some connexion problems
Romania	Video	As a requested state, hearings of suspects, accused persons, witnesses and experts by video link were smoothly conducted irrespectively whether it was requested during the prosecution or trial stage. As a requesting state, we could rate the overall experience as a positive one. However, during the trial stage, we have found difficult to cope with the specific requirements of the requesting state such as given a minimum 8 or 12 weeks of notice prior to the date of the video conferencing hearing. Other practical issues have been related to the information requested by the requested authority to identify and contact the witness. In terms of using video link for the hearing of suspects or accused persons, we have met cases of refusal based on the fact that the requested states declared that it does not accept requests for hearing by videoconference involving the accused person or the suspect.
Slovak Rep	Video	The Slovak Republic does carry out hearings of persons via a video conference on the basis of a request of a state. No significant problems occurred. No experience with telephone conferences which are not recognised in national law.
Slovenia	Video	Frequently and successfully used, incoming and outgoing requests, including for hearing of suspects and accused.
Sweden	None	No experience in cases concerning this protocol and few in cases under the EU convention, and in older cases under the 1959 convention. We faced technical problems.
Switzerland	Video	Efficient tool for requesting country; heavy to execute for requested country, requiring excellent technical and legal coordination. Superposition of two legal systems may lead to problems. There is legal uncertainty about compatibility of this tool with Swiss law. No practice of phone conferences.
Turkey	Video	The video conference is a method applied within the framework of not only ETS No. 182 but also [...] in our national legislation. As requested country, the requests are executed without any problem because our courts have sufficient technical capacity. As requesting country, it has not encountered any serious problem so far.
Ukraine	Video	According to the GPO of Ukraine at the request of foreign partners, the competent authorities of Ukraine repeatedly interviewed suspects, the accused, witnesses and experts via video conferences. The MoJ of Ukraine has experience on processing of incoming and outgoing MLA requests on interrogation of persons by means of videoconference. All the incoming and outgoing MLA

		requests concerned the interrogation of persons as a witness (none of them concerned the accused persons or experts).[See reply for details on the procedure]
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7. Did you frequently receive or send spontaneous information on the basis of Article 11, ETS No.182? Please explain your experience in this.

“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 Party in initiating or carrying out investigations or proceedings, or might lead to a request by that Party under the Convention or its Protocols.*
2. *The providing Party may, pursuant to its national law, impose conditions on the use of such information by the receiving Party.*
3. *The receiving Party shall be bound by those conditions.*
4. *However, any Contracting State 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 Party under paragraph 2 above, unless it receives prior notice of the nature of the information to be provided and agrees to its transmission.”*

State	Frequency	Comments
Croatia	low	This possibility is sometimes used and information collected this way can be basis for criminal prosecution in "receiving" state .
Czech Rep	low	Usually police authorities exchange spontaneous information. Judicial authorities registered minimum cases
Denmark	none	
Finland	none	
France	low	Very little
Germany	low	First and foremost spontaneous information is provided by police. Where German prosecutors received spontaneous information preliminary investigations were initiated. Where it was sent out, we received a notice that such investigations were initiated in the receiving State party.
Ireland	none	There are no experiences to share.
Latvia	high	The Prosecution Office often receives the spontaneous information according to Article 11 of ETS 182. On average 5-10 cases per month. Sending to other countries is rare. 3-5 cases per year.
Moldova	none	We didn't receive or send such information.
Portugal		Central authorities have no information but judicial authorities know situations of spontaneous information, in particular with regard to the investigation of economic crime
Romania	low	Receiving or sending spontaneous information on the basis of Article 11, ETS No.182 is not frequently met. When used, it was made in the context either of already existing criminal proceedings or as basis to initiate request for cooperation. However, at the police level, especially within criminal cases having a trans-border dimension the process of spontaneous information is taking place

		more frequently.
Slovak Rep	low	Art 11 is practiced only rarely by the judicial authorities, in passive as well as in active form. The Slovak Republic has no negative experience with the procedure regarding this Article.
Slovenia	high	Slovenian prosecutor offices have very good experiences with receiving and sending spontaneous information, mostly with neighbouring countries. In their opinion this instrument enables exchange of valuable information in both ongoing criminal proceedings and investigative proceedings.
Sweden	none	This kind of information is usually channeled on police levels.
Switzerland	high	Swiss authorities regularly send spontaneous information but not all cases are based on the Protocol. The possibility offered to Parties to make a reservation on the basis of Article 11.4 is counterproductive. Certain parties complicate its application even more by issuing a reservation to 11.2. Switzerland rarely receives spontaneous information.
Turkey		No experience on the basis of Article 11. Although it is not applied frequently, spontaneous information is shared via Interpol.
Ukraine	low	Such practice is rarely applied. Upon receipt of such communications from a foreign party, the competent authorities of Ukraine shall enter the relevant data into the Unified State Register of Pre-trial Investigations and conduct a pre-trial investigation of criminal proceedings within the territory of Ukraine.

8. What is your experience with regard to the application of Article 12, ETS No.182?

"Article 12 – Restitution

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.*
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."*

State	Experience	Comments
Croatia	no	No significant experience/remarks in this field.
Czech Rep	no	
Denmark	N/A	
Finland	no	
France	little	This type of restitution seems to be rarely requested
Germany	little	In isolated cases. Facts and circumstances in requests sometimes amount to embezzlement in German law and do not exclude bona fide purchase by third parties. Also safekeeping and return of valuable works of art is very costly.
Ireland	little	The Central Authority has little experience in processing Article 12 applications. However, legal advice has been sought and is awaited on how best to proceed with a recent request from a Member State.
Latvia	yes	The assets may be returned if its legal possessor is identified and the assets are at the disposal of a person directing the proceedings
Moldova	no	
Portugal	no	
Romania	no	
Slovak Rep	little	The Slovak Republic has minimum experience with the application of this Article. In the past in this manner there were seized and returned motor vehicles on the basis of a request of Slovak authorities. The return of things is also executed on the basis of other international treaties.
Slovenia	yes	Usually the return of articles to the rightful owners is conducted through police cooperation during pre-trial procedure. Slovenian courts already executed foreign requests for restitution of articles.
Sweden	no	
Switzerland	no	This provision has never been applied. National MLA law allows for restitution.

Turkey	yes	Related with the requests for seizure, in order to protect the rights of bona fide third parties, it is requested from the requesting state to guarantee that possible damages shall be compensated. If it is guaranteed, the seizure is applied.
Ukraine	yes	In recent years, there have been cases of the return of objects from crime at the request of the requesting states for the purpose of returning them to their lawful owners.

9. How do you apply the provisions of Article 15, ETS No.182 regarding language of procedural documents and judicial decisions to be served? Do you make a distinction between direct transmission and transmission via central authorities? Please explain your experience in this.

“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 Party, be accompanied by a short summary of their contents translated into the language, or one of the languages, of that Party.”*

State	Comments
Croatia	When it is possible we apply this provision in a way that if it is known to the competent judicial authority that the person to whom judicial decision or procedural documents are to be served understands Croatian, the translation is not attached. The request itself should be translated into the language of the requested state. In a letter of the central authority (the Ministry of Justice) to the central authority of the requested state, a short summary of the content of those documents is attached, mostly in English. There were successful examples of this kind of service with some states. The service by post of judicial decision or procedural documents to a person is possible according to the Article 16, ETS No.182, and to apply accordingly provision regarding the language of the judicial decision or procedural documents, under the condition of reciprocity.
Czech Rep	Art 15.3 is respected for outgoing MLA's for delivery of documents. In case of incoming requests for delivery, MLA request is sent back indicating why the person concerned rejected to take over the document.
Denmark	The provisions are applied as written. There is no distinction between direct transmission and transmission between central authorities.
Finland	Article 15 has remained a dead letter; service of documents is still routed through the MOJ, both in and out, with the usual translation requirements.
France	When foreign documents to be served have no translation

	attached, the central authority applies art 15. 3. The central authority has no knowledge of practices in case of direct transmission.
Germany	In the context of requests submitted, translations into the language of the requested state will be included with these requests, as well as with the corresponding documents. Application of Art.15.3 is common practice. Where incoming requests are concerned, the vast majority of them will include as attachments translations into German of the request and of the documents to be served.
Ireland	The translation of procedural documents and judicial decisions into a relevant language is only required in circumstances of personal service transmitted via the Central Authority. The Central Authority has no involvement in direct transmissions. Translations are not required for postal service.
Latvia	The competent authority serves the documents to a person in language which that specific person understands. The documents are sent both through central authorities and directly as well. Sometimes the sent documents are returned. Mostly because storage deadline in a specific post office has expired. Then documents are sent again through the diplomatic channels.
Moldova	The documents and judicial decisions requested through MLA request are sent in the language, or the languages, in which they were issued. The documents and judicial decisions are transmitted through the same channels by which the MLA request had been received.
Portugal	Authorities are encouraged to leave in Portuguese the documents to be served to nationals living in another Party. We identified no problems when the outgoing request is well explained.
Romania	When using Article 15, it is not the channel of communication that makes the distinction, but the language the addressee speaks/knows. If the addressee is a Romanian national, procedural documents and judicial decisions are transmitted in the Romanian language. As for the parties and subjects in the criminal proceedings who do not speak or understand the Romanian language procedural documents and judicial decisions are transmitted in the language they know. Consequently, when submitted via central or judicial authority of the requested state, and the documents addressed to the addressee have been issued in Romanian or translated into another language than the official language of the requested state, for the benefit the requested authorities the documents in case will accompanied by a short summary of their contents translated into the appropriate language (depending on the declaration made by the respective state).
Slovak Rep	The Slovak Republic does make a distinction between a direct transmission of a document to its addressee and a transmission on the basis of a request for legal assistance. The procedural effects of the transmission in both cases are the same. The direct transmission is practiced when it is enabled by an international treaty. If the addressee does not understand the Slovak language, a translation is enclosed to the document. If the addressee does understand the language of the elaborated document, only a short

	information on the content of the document is provided in the request for legal assistance for the authorities of the requested state.
Slovenia	When the documents are transmitted directly to the addressee, they are written in the language of the requesting state if the addressee understands the language of the documents. If the requesting authority knows that the addressee understands only some other language, the documents are accompanied by a translation into that other language. In case the documents are transmitted via central authorities the request for service of documents is written in the language that is acceptable to the central authority and the documents to be served to the addressee are in the language of the requesting or requested authority, depending on the language that is understandable to the addressee and the requirements of the requested country.
Sweden	There is no pattern as to whether an incoming request for service in criminal matters is accompanied by the documents to be served translated into Swedish or not. When proceeding the requests without such translation, the addressee is always being advised about his/her right to refuse the service on the grounds of the language used, this under the terms of para 4 (a) of the Swedish Service Act (2010:1932). National legislation provides for the obligation of the court to translate procedural documents in criminal matters, or at least essential parts thereof, to be served abroad when there are reasons to believe that the addressee does not understand Swedish language.
Switzerland	Most Swiss authorities translate the request and essential documents in the language of the requested Party if it requires so. Requesting Parties usually send us the documents in the original language with a translation. Sometimes only in the original language and in most cases these are to be served to nationals of the requesting Party. In these cases the request for service usually explains the decision or act to serve (in one of the Swiss national languages). In rare cases, where the addressee doesn't understand the language of the documents served our need to request additional information may lead to problems in respecting the delays required. No distinction is made between direct transmission and transmission by the central authorities.
Turkey	The procedural documents and judicial decisions are served with Turkish translations via the central authority.
Ukraine	Regarding outgoing MLA requests, the request and documents attached thereto shall be accompanied by a translation certified in accordance with the established procedure in a language specified in the relevant international treaty of Ukraine or, in the absence of such treaty, in an official language of the requested Party, or any other language acceptable for that Party. When submitting a request to the competent authorities of foreign states, the competent authority of Ukraine sets forth the summary of procedural documents, the service of which is requested, in its request.

	<p>In case of incoming MLA requests - pursuant to the Declaration made in accordance with Article 16 of the ETS 030 -the requests and annexed documents shall be sent to Ukraine together with a translation into Ukrainian or into one of the official languages of the Council of Europe unless they are drawn up in those languages.</p> <p>Regarding Para 3 of Article 15 of the ETS 182, it should be noted, that [...]if the documents to be served do not contain a Ukrainian translation and are drawn up in a language that is unknown to the person specified in a request, that person may refuse to accept the documents. In this case, the documents shall be deemed those that were not served.</p> <p>Regarding Para 4 of Article 15 of the ETS 182, it should be noted, that in case the procedural documents and judicial decisions are accompanied by a short summary of their contents translated into Ukrainian or English/French, it speeds up the process of consideration and prompt execution of the MLA request irrespectively of whether the request is received by a Central Authority or authority, empowered for direct cooperation under the international treaty.</p> <p>Upon receipt of foreign requests for service of documents, procedural documents and judicial decisions are transmitted in the language or languages in which they were drawn up and in most cases accompanied with its translation or translation of short summary of the documents.</p>
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10. Has the service by post of procedural documents and judicial decisions, directly addressed to persons living in another State Party (Article 16, ETS No.182) become usual practice? Please explain.

“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.”*

State	Usual practice	Comments
Croatia	No	The service by post of procedural documents and judicial decisions, directly addressed to persons living in another State Party is used regarding the States who ratified Second Additional Protocol and didn't make a reservation on Article 16, under the condition of reciprocity. However, service via central authority is still common way of communication.
Czech Rep	No	Service by post can be chosen in some cases
Denmark	No	Most legal documents served by post require the person concerned to respond back in order for the service to be legally valid. This return notification is very rarely received when the service is done by post.
Finland	No	Service of documents is still routed through the MOJ, both in and out
France	Unknown	The central authority has no statistics on this issue
Germany	As requested State only	Germany has ruled out the application of Article 16 ETS No. 182: no direct service of procedural documents by post is performed outside of the scope of application of the Convention Implementing the Schengen Agreement and of the European Convention on Mutual Assistance in Criminal Matters. Requests for service of procedural documents will be complied with subject to the stipulations of the respective request (by post, or, where this has been requested, by personal delivery). In the meantime, service by post has become the standard.
Ireland		The responsibility for service by post of procedural documents and judicial decisions, directly addressed to persons living in another State rests entirely with judicial authorities and is outside the remit of the Central Authority.
Latvia	Yes	It is possible to send the documents by post.
Moldova	No	

Portugal	Yes	Except where the Code of criminal procedure does not allow it, there are many cases where personal notification is mandatory.
Romania	Yes	Only if the other state party applies Article 16 (there are states parties excluding Article 16 from the scope of application, or involving central authorities).
Slovak Rep	No	The Slovak Republic made a reservation to this Article and excluded its application. The direct transmission is carried out on the basis of other international treaties (e.g. MLA 2000). However problems with the direct transmission occur (e.g. unreturned affidavit of service, therefore the reception becomes legally ineffective).
Slovenia	Yes	In practice a majority of judicial authorities make use of direct service of documents abroad; however service of documents via central authorities is still in use in cases where direct service was unsuccessful or where there are doubts about the correct address of the addressee.
Sweden	Yes	The Swedish Central Authority always recommends national jurisdictions to use direct postal service in the first place, this is also in line with national service legislation that stipulates that the service shall imply lowest possible expenses. Only if such direct postal service has failed does the Central Authority suggest the use of both ETS 030 and, when applicable, ETS 182.
Switzerland	Yes	In most cantons and in particular to neighbouring states this is usual practice. One canton indicated a serious problem in case the postal services of states do not provide acknowledgments of receipt. A list of states allowing authorities of requesting states to obtain acknowledgments of receipt would be helpful to choose the method of service.
Turkey	No	Turkey made a reservation to this article and shall not accept the service of procedural documents and judicial documents by post directly to the persons living in Turkey. The service documents are sent to the Ministry of Justice as the central authority. The service procedure is executed by the Ministry of Justice through the courts or public prosecution offices.
Ukraine	No	Ukraine reserved the right not to apply Art.16. If there is a need to serve procedural documents or judicial decisions, directly addressed to persons living in another State Party, the competent authority of Ukraine shall submit a request for international legal assistance to the competent authorities of the foreign state concerned.[...] Consulates or diplomatic missions of other states in Ukraine have the right to deliver documents to citizens of the state they represent.

11. What has been your experience in the application of special investigative techniques as mentioned under Articles 17, 18, 19 of ETS No. 182, both as a requesting and requested Party? Please describe.

Article 17 – Cross-border observations

Article 18 – Controlled delivery

Article 19 – Covert investigations

State	Experience	Comments
Croatia	No	Republic of Croatia made reservation on Articles 17, 18 and 19.
Czech Rep	None	
Denmark	No	All countries bordering Denmark are EU and Schengen members, and such special investigative techniques are handled according to the rules in the Schengen Convention. We are not aware of any investigations having taken place according to article 19.
Finland	No	We do not apply articles 17 and 18 at all and article 19 only in a limited manner, no experiences.
France	Limited	Cross-border observations and controlled deliveries are rarely requested by judicial authorities and implemented on the basis of EU/Schengen instruments. Several covert investigations have been authorised on the basis of ETS 182.
Germany	Art.17 sometimes	On some occasions, special investigative techniques are applied in the form of cross-border observations pursuant to Article 17 ETS No. 182, for example with Poland.
Ireland	Art. 18	In accordance with Article 33 Para. 2 Ireland does not accept Articles 17 and 19 . Legislation provides for Controlled Deliveries for the purposes of an investigation into an offence where there are reasonable grounds for believing that it is in the public interest having regard to the benefit likely to accrue to the investigation, to permit the delivery to take place. In the case of the Irish Revenue Commissioners joint cross border operations have been conducted with UK HMRC. In such circumstances, a formal JIT is generally established. [...]Such operations have been carried out successfully. More commonly, Revenue Customs sends a Mutual Assistance request under the provisions of Naples II, to allow a container/consignment continue on its journey to this jurisdiction for the purposes of conducting a controlled delivery. We have received full cooperation from the relevant Member States when this action has been requested. Likewise, should Revenue receive such a request, we will comply as requested.
Latvia	Unknown	The Prosecution Office is not competent authority in these matters. The State Police is responsible for it.
Moldova	Art 18 Limited	We have had 2 incoming and one outgoing MLA requests regarding controlled delivery (art. 18) so far. We didn't encounter any problems in the application.
Portugal	No	No information available
Romania	Yes	We have an extensive experience both as a requesting and requested state. Special investigative techniques have been conducted either in the context of joint investigation teams or as a

		separate requests for cooperation addressed in bilateral or multilateral cases. They have been used either individually or in conjunction with other special investigative techniques, mainly within the investigation of serious offences (including organized crime).
Slovak Rep	Art 18	The Slovak Republic made reservations to Articles 17 and 19 excluding their application. Regarding Article 18, the Slovak Republic issued a statement on basis of which the requests of a foreign authority shall be accepted only if they are relating to the controlled import, export or transit of a delivery if the circumstances of the case justify the assumption that the delivery without proper permit contains narcotics, psychotropic substances, precursors, poisons, nuclear and other similar radioactive materials, counterfeit money or securities, firearms or weapons of mass destruction, ammunition or explosives and the requesting party shall provide the assurance that the information obtained as outcome of legal assistance shall be procured with adequate protection. This statement results from the interior public provision of the institute of controlled supply. There were no negative experiences during the application of the stated provision that would deserve particular attention.
Slovenia	Yes	Prosecutor offices have already executed some foreign request (mostly with neighbouring countries) for cross-border observation, controlled delivery and covert investigation. At the same time successful cases of executed outgoing requests for application of special investigative techniques were reported. Police are of opinion that the Protocol enables exchange of information and successful execution of special investigative techniques. Some practical difficulties arose in urgent cases where translation of requests for MLA and documentation was needed for the purposes of ordering some investigative measures. Courts executed foreign requests regarding covert investigations, which were successful
Sweden	No	None under ETS 182. There have been cases of ad-hoc-cooperation with states outside the EU concerning e.g. controlled deliveries within the 1959 conventions framework.
Switzerland	limited	Cross border observation: can be ordered by police only its continuation requests authorization by public prosecutor via MLA. Controlled deliveries will normally be handled on the basis of bilateral police agreements. Covert investigations were used in complex cross-border proceedings with Germany. SIT are rarely used in Swiss Romandy.
Turkey	No	The Republic of Turkey did not accept Article 17 (cross-border observations) by making a reservation. There is no experience related with the other articles.
Ukraine		Ukraine invoked the right not to accept Articles 17 and 19. For the purposes of Article 18, the departments of the Ministry of Internal Affairs of Ukraine, the Security Service of Ukraine and the State Border Guard Service of Ukraine are the competent authorities of Ukraine.

12. Have you ever organised a JIT on the basis of Article 20 ETS No. 182? If so, please explain your experience.

State	Experience	Comments
Croatia	Few	Disregarding the JITs in framework of police cooperation, the Ministry of Justice did not participate in JITs but is aware that there were few organised JITs. Certain difficulties related to use of evidence collected in another country in domestic proceedings and translation of voluminous documentation occurred as problems.
Czech Rep	Yes	Public prosecutor's offices have concluded several JIT agreements on the basis of Article 20 of ETS No. 182. (so far agreements on creation of JITs have been concluded with Switzerland, Serbia and Moldova).
Denmark	No	
Finland	No	
France	Few	France signed 2 JITs based on art 20 ETS 182 as well as a protocol framework agreement on JIT with Serbia (in October 2016)
Germany	Yes	Practitioners in Germany appreciate the opportunity to form joint investigation teams on the basis of Article 20 ETS No. 182 and have done so in several instances. Without exception, the experience gained is positive. An example of "excellent cooperation" was formed with Serbia to deal with organised crime.
Ireland	No	A Garda Síochána (Irish Police) has not participated in a Joint Investigation Team to date, as it has been the preferred option to conduct parallel investigations and to exchange evidence by way of Mutual Assistance Requests. However, a working group has been established in this regard and is due to present its findings on the matter. See comments relating to Revenue Commissioners at Question 11 above.
Latvia	No	Latvia is setting up and participating in JITs with the EU Member States. The legal ground is the Convention of 2000.
Moldova	Yes	We have had organised 10 JITs: 7 of which with Romania
Portugal	Limited	We established a JIT with Switzerland, producing positive results
Romania	Yes	We have a large experience in terms of joint investigation teams. The majority of JITs have been concluded with EU MS, and therefore the legal basis was the EU legal framework (which in terms of wording and legal effects do not differ from Article 20 ETS 182). We concluded JITs based on Article 20 ETS 182 too. RO experience is extremely positive and all the results obtained have clearly indicated that the best way to approach a transnational case is to have such an agreement concluded. At the practical level there are a lot of advantages among which we can shortly list real-time exchange of information, real-time coordination, joint activities, common strategy to investigate, prosecute. All these advantages are directly reflected within the dynamic and effectiveness of the criminal proceedings.
Slovak Rep	No	The Slovak Republic made a reservation to Article 20 excluding its application. All JITs where the Slovak Republic is a contracting party were established on the basis of Article 13 of MLA 2000.

Slovenia	No	Till now Slovenian prosecutor offices organized and cooperated in JITs with other member states of the European Union. The JITs were very successful
Sweden	No	
Switzerland	Yes	JITs are a very efficient tool, used in particular with neighbouring states in procedures concerning transfrontier economic crime, terrorism and organised crime. JITs require excellent understanding of the role of each party, possibilities and legal limits as well as perfect coordination of criminal investigations. A high level of mutual confidence is required. In practice, JIT's were established only with a few countries, such as Czech Republic, Italy, France, Portugal and Germany. Due to Swiss law, several procedural measures have to be ordered. This could be an obstacle for foreign authorities to arrange JIT's with Switzerland. At present a JIT is being established between the Canton of Vaud and Romania.
Turkey	No	There is not any experience about this issue.
Ukraine	Yes	For instance, in August 2017, pursuant to Article 20 of the ETS 182, the Prosecutor General's Office of Ukraine and the National Public Prosecutor's Office of the Republic of Poland signed an agreement on the establishment of the Joint Investigation Team for investigating the firing of the building of the Consulate General of the Republic of Poland in Lutsk. Additionally, for the purpose of investigating a plane crash of the passenger aircraft "Boeing 777" of Malaysia Airlines in the territory of Ukraine, which took place on 17.07.2014, the Prosecutor General of Ukraine signed an agreement on the establishment of the International Joint Investigation Team (hereinafter referred to as "JIT") on 07.08.2014. The parties to the agreement, along with Ukraine, are the Kingdom of the Netherlands, the Kingdom of Belgium and Australia. Such practice is particularly important for rapid exchange of information and gathering evidence in high-profile criminal proceedings.

13. Have you encountered any other legal or practical obstacle in the application of ETS 182? Please explain.

State	Comments
Croatia	N/A
Czech Rep	Czech Republic would like to propose to pay further attention to the practical aspects of using the video conference in the State Parties to the ETS No. 182, where it is difficult for judicial authorities in the requesting state to identify the proper channels and necessary technical information to be provided, when the MLA request for hearing via video conference is being prepared. Other obstacle not encountered.
Denmark	No
Finland	Just minor difficulties that have been cleared with email exchanges.
France	No
Germany	No
Ireland	N/A
Latvia	We have not encountered any practical and legal obstacles.
Moldova	There have been no problems so far.
Portugal	No
Romania	No
Slovak Rep	As a practical obstacle we consider the nonexistence of the contact addresses of the competent judicial authorities
Slovenia	A practical obstacle is that there are no safe channels for exchange of documents between judicial authorities of different states, which are of confident or secret nature.
Sweden	No
Switzerland	No
Turkey	Not yet
Ukraine	There are certain obstacles to applying the provisions of Article 12 (Restitution), namely when deciding issues of returning the property from crime to lawful owners, since such actions, in certain cases, cannot be performed without violating the rights of bona fide purchasers of the said property.

14. If your country, by virtue of Article 33 para 2, has made reservations to Articles 16,17,18,19 or 20 of ETS No. 182, is a (partial or total) withdrawal of these reservations being considered? Please explain.

State	Comments
Croatia	The application of the special investigative techniques provided under Articles 17, 18 and 19 is currently not possible in the framework of cooperation between judicial authorities.
Czech Rep	Czech Republic has made no reservation by virtue of Article 33 par2.
Denmark	N/A
Finland	No, not at this stage anyway.
France	France issued a reservation: art 17 para 2 is not applied
Germany	The current experience has not yet led Germany to considering this.
Ireland	Not at this time
Latvia	No
Moldova	N/A
Portugal	N/A
Romania	No reservations, however we did make declarations in accordance with Article 17 (4) and Article 18 (4) and these declarations need to be amended as they do not reflect the current state of play (legislation) in Romania.
Slovak Rep	The Slovak Republic made reservations to Articles 16, 17, 19 and 20 From the title of central authorities a partial withdrawal of these reservations is being considered.
Slovenia	N/A
Sweden	none
Switzerland	N/A
Turkey	Reservations were made to the Articles 16 and 17, and the withdrawal of these reservations is not being considered.
Ukraine	Pursuant to paragraph 2 of Article 33 of the Second Additional Protocol, Ukraine invoked the right not to accept Articles 16, 17 and 19. Withdrawal of these reservations is not currently considered.

15. Do you have any other comments or proposals related to ETS No. 182?

State	Comments
Croatia	N/A
Czech Rep	No other comments
Denmark	No
Finland	No
France	No
Germany	<p>In some instances, the authorities report that ETS No. 182 is being applied in a relatively small number of cases. It bears noting in this context that the most states with whom international judicial cooperation on the basis of ETS No. 182 might serve as an option have made comprehensive declarations and reservations regarding the Second Protocol, in particular with a view to the channels of communication set out in Article 4 ETS No. 182.</p> <p>Furthermore, it is noted that a large number of the states who have ratified ETS No. 182 are Member States of the European Union and/or Schengen States, in the relationship with whom mutual legal assistance, from Germany's perspective, is foremost based on other legal instruments.</p>
Ireland	N/A
Latvia	No
Moldova	No
Portugal	No
Romania	No
Slovak Rep	The Slovak Republic has no other comments or proposals related to ETS No. 182. It is considered as an effective instrument of the judicial cooperation relating to states who are not signatory to MLA 2000.
Slovenia	No
Sweden	<p>The Prosecution Authority: Sweden is a party to the Strasbourg 1959 convention and its two additional protocols. However, practical use of this convention by the prosecution authorities has diminished during the years, and been replaced first by the Schengen Convention and then by the European Union Convention, which takes precedence, and is the most commonly applied. The prosecution authorities' practical experience of using the tools in the second protocol is therefore very limited. It can probably be useful in relation to countries that are not party to the EU conventions.</p> <p>The Courts: There are no available statistics or data on the practical application of the Protocol in proceedings in the Swedish Courts. The government has, however, not received any indications from the Courts or the Swedish National Courts Administration that the Courts have encountered any legal or practical obstacles in the application of the rules and regulations implementing the protocol.</p>
Switzerland	Many important EU countries did not ratify ETS N° 182. Although the EU MLA Convention of 2000 certainly covers the needs of these

	countries within the EU, it doesn't with regard to non EU countries. The cooperation between these States and Switzerland and other non EU States would be considerably reinforced by the ratification of this ETS.
Turkey	There are no other comments or proposals related to ETS No. 182.
Ukraine	We do not have any comments or proposals.