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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

ASSISTING IN JUDICIAL CO-OPERATION¹

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¹ This draft leaflet aims at providing practitioners and people working in the criminal justice process at large with useful information on the possibility of taking benefit from the extensive experience and work done within the PC-OC. [Note for the Committee: Whatever the decision of PC-OC will be on it, still remains to decide as to the supplementary information to be made available, in particular whether it is opportune to give addresses, to name institutions and bodies involved, to invite/suggest to visit websites, to allow using the FORUM].

The Committee of Experts on the Operation of European Conventions on co-operation in criminal matters (PC-OC) was formally set up thirty years ago and held its first meeting in November 1981; it celebrated its 50th meeting in June 2005. A permanent committee had been recommended in 1980 in order to examine the functioning of a certain number of CoE's conventions in view of facilitating their application. The committee was entrusted to "a. examine the functioning of a certain number of conventions in the criminal field; b. follow and monitor the evolution and progress made in other *fora* (United Nations and the European area) also in view to propose measures so to ensure general uniformity; c. examine the criminal aspects of the European Conventions of Human Rights in relation to the application of the said conventions".

The PC-OC accomplished such a task by the mean of periodical meetings (usually twice a year) in which any problem or question that might have arisen at the level of practitioners as to interpretation of conventions and their application was discussed. Sometime proposing very general issues; other times discussing concrete cases. During its long standing activity PC-OC has benefited of the contributions of national experts in the field of international judicial co-operation, mainly coming from central authorities competent in sending out and executing requests.

Although PC-OC was also involved as to issues related to specific conventions (i.a. terrorism convention; cybercrime convention), it focused its work on the three major general conventions in criminal matter, i.e. extradition, mutual legal assistance and transfer of sentenced persons in particular².

The original task to PC-OC was reiterated under new regulations within the Council of Europe. Following to the major changed that occurred in judicial co-operation field, in particular in the last thirty years and in view of coping the challenge of new forms of criminality and updated *modus operandi* of criminal organizations and therefore in view of tailoring an updated system of judicial co-operation in the Third Millennium, PC-OC is also entrusted with the exercise of modernizing existing international instruments of co-operation. To that extent an *ad hoc* working group was instituted within the Committee (PC-OC Mod) in order to draft Protocols to the 1957 extradition Convention³.

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The work that has been carried out during this long standing activity is to be considered of a great value for practitioners.

It is for this reason that PC-OC makes itself and its works available to all practitioners involved in judicial co-operation (judges, prosecutors, public officials and people at large working in public institutions dealing with this matter).

Relevant documents and useful documentation is now accessible at the website www.coe.int/tcj , including the reports on meetings of PC-OC. *Inter alia* information on national procedures in the relevant fields are available and also papers (expert opinions, studies etc.) on specific issues are available as well (e. g. on extradition and human rights; on double incrimination in extradition; temporary transfer in MLA; police versus judicial co-operation; transfer of mentally disturbed offenders).

None of these documents are to be considered of a binding nature, outside the formal legal instruments as conventions, recommendations, resolutions etc. Nevertheless practitioners might find

² European Convention on Extradition, Paris 1957; European Convention on Mutual Legal Assistance, Strasbourg 1959 ; Convention on Transfer of Sentenced Persons, Strasbourg 1983 (which 68 Sates are Party to).

³ In 1997 the draft of the Additional Protocol to the Convention on Transfer of Sentenced Persons and in 2001 the Second Protocol to the European Convention on Mutual Legal Assistance were finalized.

it interesting looking at these works in their daily work of interpreting and applying the relevant instruments⁴.

PC-OC includes also a list of officials dealing with judicial cooperation at the level of central authorities (Ministries, Prosecutor General Offices etc.) and may count on a high professional Secretariat that might play a role in assisting practitioners.

Lastly, a FORUM has been set up for the exchange of views and raising of questions.

NOTE: *the above is just a proposal for discussion.*

Many points are still to be discussed, e.g.: is this presentation to inform about the existence of PC-OC? Would we encourage people to go to the website also? Would we also invite them to participate to the FORUM? What about the list of officials? Provided that there will be some resistance in making the list public, would then we inform about the existence of such a list and then suggest to go through Central Authorities or public institutions? Would it be wise to make a distinction between conventions as to accession to the relevant documentation which appears on the website? Should we decide to keep parts of the website confidential?

In case the Committee decide to draft and finalize a leaflet, should it be presented in a "charming" way? Should we put logos or other things in it? Should we put headings in it, such as "who are we", "what are you looking for", "what can we do for you" etc.?

⁴ *Note for the Committee: I have asked the Secretariat to allow a judge of the Italian Supreme Court of Cassation dealing with extradition and EAW, to have access to the FORUM. It proved to be for her very useful, in that in a recent case she got great benefit from the discussion we had in the FORUM on double incrimination and that was decisive for deciding the concrete case they had, although they used the FORUM not as a base for decision of course but simply to have more clear ideas on that legal point.*