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COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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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

60th meeting
Strasbourg, 17 – 19 May 2011
AGORA, Room G1

Draft Annotated Agenda

- 1. Opening of the meeting and information by the Secretariat**
- 2. Adoption of the draft agenda**
- 3. Draft Fourth Additional Protocol to the European Convention on Extradition and its draft explanatory report**

The PC-OC is invited to examine the document PC-OC (2010) 13 rev 3 entitled “Draft Fourth Additional Protocol to the European Convention on Extradition” which was amended by the PC-OC Mod during its 11th meeting (16-18 March) in accordance with the instructions of the PC-OC plenary and in the light of the opinion of the Legal Advice Department.

The PC-OC Mod draws the attention of the PC-OC plenary to the following items:

- As regards amendments, in accordance with the opinion of the Legal Advice Department, the PC-OC Mod decided that the scope of an article on amendments should be limited to the Protocol. It included such an article in the draft Protocol in square brackets (Article 9), and invited the PC-OC to consider whether such an article should be included in the final draft. One delegation considered that an amendment procedure which would allow any State Party to block the entry into force of an amendment would have little added value. Another delegation expressed reservations as to the desirability of an amendment clause in general. The PC-OC Mod decided to reflect these concerns in a footnote to the draft article;
- As regards reservations and declarations, the PC-OC Mod considered that providing a treaty basis for a regular review mechanism for reservations and declarations to the Convention and the additional protocols thereto was not feasible and decided not to include such a provision in the draft Protocol. However, given the strong interest among its delegations in ensuring a review of existing reservations with the involvement of the PC-OC, the PC-OC Mod decided to invite the PC-OC plenary to

further reflect on the follow-up to be given to this issue. This may include the possibility of requesting a mandate from the CDPC to draft a non-binding instrument establishing clear tasks for States Parties as well as the PC-OC, or proposing to the CDPC to invite the Committee of Ministers, in the context of the adoption of the Fourth Additional Protocol, to call on States Parties to review their reservations and declarations to the European Convention on Extradition and to report to the Committee of Ministers within two years;

- As regards draft article 10 concerning signature and entry into force, the Secretariat was instructed to clarify with the Legal Advice Department whether it was possible for a member State to accede to the protocol without having signed it previously and, if such possibility exists, to propose amendments accordingly.

The PC-OC is also invited to examine the revised draft Explanatory Report to the Fourth Protocol to the European Convention on Extradition (document PC-OC (2010) 14 rev 3).

4. Proposals by Mr Vladimir Zimin (Russian Federation) on the modernisation of the European Convention on Extradition

The PC-OC is invited to consider the proposals contained in Doc PC-OC (2011)01.

Following an exchange of views on these proposals, the PC-OC Mod agreed that it was not desirable to consider these proposals in the context of the Fourth Additional Protocol. It felt however that there was some interest to continue discussions on certain proposals and in particular the one concerning article 2, paragraph 2 of the European Convention on Extradition.

5. Consolidated document, proposed by Mr Miroslav Kubíček (Czech Republic), reflecting the applicable provisions of the European Convention on Extradition, the first two additional protocols thereto and the draft Fourth Additional Protocol

The PC-OC is invited to examine this document and to consider the follow-up that it wishes to give to it, notably as regards its possible dissemination to practitioners.

6. Draft questionnaire on jurisdiction and transfer of proceedings

The PC-OC Mod examined during its 11th meeting the preliminary draft questionnaire and agreed on some amendments.

The PC-OC is invited to examine the draft questionnaire prepared by Mr Erik Verbert (Belgium) on jurisdiction and transfer of proceedings, to amend it as necessary and to send it to all delegations for replies.

7. Possible ways of allowing practitioners to submit questions to the PC-OC

The PC-OC is invited to consider:

- a. a proposal by the Secretariat on draft recommendations to facilitate the submission to the PC-OC of questions relating to the implementation of conventions concerning international co-operation in the criminal law field, by practitioners who are not members of the PC-OC;

The PC-OC Mod examined during its 11th meeting a preliminary proposal and agreed on some amendments;

- b. the information sheet on the PC-OC prepared by Mr Eugenio Selvaggi (Italy).

8. Practical problems and concrete cases concerning the implementation of conventions

a. In accordance with its usual practice, the PC-OC is invited to devote a part of its plenary meeting to discussing practical cases brought to its attention by its members;

b. Further to the exchange held at its 59th meeting concerning the Convention on the transfer of sentenced persons, the PC-OC is invited to further consider the desirability of updating the standard text providing information on the Convention (PC-OC Inf 12) and of drawing up an additional text as regards information on its Additional Protocol;

c. The PC-OC is furthermore invited to consider a proposal by the German delegation to draw up a list of competent authorities in order to facilitate the implementation of Articles 13 and 15 paragraph 3 of the European Convention on Mutual Assistance in Criminal matters;

d. The PC-OC is invited to have an exchange of views on the paper on disguised extradition (Doc PC-OC (2011) 09) prepared by Mr Eugenio Selvaggi (Italy) including the comments by Mr Miroslav Kubicek (Czech Republic) and Mr Erik Verbert (Belgium)

9. Exchange of views with the PC-CP secretariat on the draft Recommendation concerning foreign prisoners

At its meeting held on 7 and 8 October 2010 the CDPC Bureau instructed the PC-CP to consider that, as regards issues related to transfer of foreign prisoners, the work of the PC-CP should concentrate only on their treatment and conditions of detention prior to transfer and to consult the PC-OC to avoid potential overlaps.

The PC-OC is invited therefore to consider the draft Recommendation concerning foreign prisoners and its commentary (Doc PC-CP(2011)5REV and PC-CP(2011)6REV) and to make any comments and suggestions in this respect.

10. Points for information

The PC-OC is invited to take note of

a. information provided by Switzerland regarding bilateral treaties with Brazil, Cuba, Mexico and Paraguay on the transfer of sentenced prisoners and mutual legal assistance in criminal matters ;

b. information provided by the Secretariat on the electronic discussion forum.

11. Any other business

The PC-OC is invited to discuss its future activities and priorities to be included in its terms of reference for 2012 and 2013.

12. Dates of the next meetings