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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

61th meeting
Strasbourg, 22 – 24 November 2011
AGORA, Room G 02

Draft annotated Agenda

1.	Opening of the meeting
2.	Adoption of the agenda Document PC-OC (2011) OJ 2
3.	Points for information The Secretariat will inform the PC-OC on developments and issues of relevance to their work and in particular the following.
a	Reform of the Council of Europe The PC-OC is invited to take note in particular of the Secretariat structure as reflected in the organigramme set out in the background documents to the agenda.
b	State of procedure of the adoption of the draft Fourth additional Protocol to the European Convention on Extradition The PC-OC is invited to take note of the fact that the Committee of Ministers has agreed during the 1123 rd meeting of its Deputies on 12 October 2011 to transmit the draft Fourth Additional Protocol to the European Convention on Extradition (ETS No. 24) and its Explanatory Report to the Parliamentary Assembly and invited the Assembly to give an opinion on the draft Additional Protocol;
c	Recent signatures and ratifications The Secretariat will inform the PC-OC on recent signatures and ratifications of the treaties of relevance to its work.
d.	Opinion of the CDPC on PACE Recommendation 1953 (2011) – “The obligation of member and observer states of the Council of Europe to co-operate in the prosecution of war crimes”

	<p>The PC-OC is invited to take note of the above Recommendation by the Parliamentary Assembly of the Council of Europe as well as of the opinion by the CDPC.</p> <p><u>Document CDPC (2011)°05</u></p>
e.	<p>Presentation and content of the PC-OC website</p> <p>The Secretariat will present the ongoing work to improve the presentation and content of the PC-OC website.</p> <ul style="list-style-type: none"> List of competent authorities in respect of Articles 13 and 15.3 of the European Convention on Mutual Assistance in Criminal Matters <p>The PC-OC is invited to take note of the draft list of competent authorities in respect of Articles 13 and 15§3 of the European Convention on Mutual Assistance in Criminal Matters and, further to the suggestion of the PC-OC-Mod, to instruct the Secretariat to post the list on the PC-OC's collaborative workspace.</p> <p><u>Document PC-OC INF 77 Restricted</u></p> <ul style="list-style-type: none"> Relevant Case law <p>The PC-OC is invited to consider the draft list of relevant case law of the ECHR, to agree on its publication on the PC-OC website and to discuss ways to ensure that the list is regularly updated.</p> <p><u>Document PC-OC (2011) 21</u></p> <p>The PC-OC is furthermore invited to consider the proposal by the PC-OC-Mod that the plenary invite delegations to inform the Secretariat of relevant case law including from national Supreme Courts or Constitutional Courts in order to be published on the website.</p> <ul style="list-style-type: none"> Useful links <p>Further to the proposal by the PC-OC Mod, the Secretariat invited delegations to submit proposals to enrich the PC-OC website with links to websites of relevance to the work of the PC-OC. The PC-OC is invited to consider the list of links proposed and to instruct the Secretariat to post them on the website.</p> <p><u>Document PC-OC (2011) 25</u></p>
4.	<p>Consideration of the replies to the questionnaire on jurisdiction and transfer of proceedings and follow-up</p> <p>The PC-OC is invited to consider the replies to the questionnaire as well as the follow-up to be given.</p> <p>Attention is drawn to the proposal made by the PC-OC-Mod to consider the development of practical guidelines, if appropriate contained in a legal instrument, addressing mainly the following issues emerging from the replies to the questionnaire in respect of the application of the European Convention on the Transfer of Proceedings in Criminal Matters, of Article 21 of the European Convention on Mutual Assistance in Criminal matters and Article 6, paragraph 2 of the European Convention on Extradition:</p> <ul style="list-style-type: none"> - bilateral consultation between the requesting and the requested states before, during and after (feedback) the submission of requests for cooperation; - proportionality of the case with regard to the procedure initiated and the appropriateness to submit the request;

	<p>- ways to accelerate and facilitate procedures so as to avoid impunity while lowering costs and efforts involved (eg by suggested time limits to react to a request ;development of a model form to submit requests, including a coversheet and/or a summary; reconsider translation requirements and burden of costs).</p> <p><u>Documents:</u> <u>Compilation of replies PC-OC(2011) 14rev</u> <u>Summary of replies PC-OC(2011) 16rev</u></p>
5.	Draft proposals for practical measures to facilitate the application of conventions on international cooperation in criminal matters
a.	<p>Consideration of the draft proposals</p> <p>The PC-OC-Mod discussed and revised the Secretariat proposals in this respect inviting the plenary to consider the amended proposals and decide on the follow up to be given</p> <p><u>Document PC-OC (2011) 04 rev2</u></p>
b.	<p>Consideration of the information sheet on the PC-OC proposed by Mr Eugenio Selvaggi (Italy)</p> <p>Further to the request by the PC-OC –Mod the Secretariat amended the information sheet on the PC-OC, proposed by Mr Eugenio Selvaggi (Italy)in light of its discussions. The PC-OC plenary is invited to consider the information sheet and decide on the follow up to be given.</p> <p><u>Document PC-OC (2011)08 rev</u></p>
6.	<p>Consideration of the feasibility of proposing simplified procedures for the amendment of the European Treaties on co-operation in criminal matters;</p> <p>The PC-OC-Mod considered the reflection paper prepared by the Secretariat and invites the plenary to discuss the issue taking into account that the PC-OC-Mod concluded on the feasibility of such procedures but that its usefulness had to be decided on a case by case basis in future binding instruments to be drafted.</p> <p><u>Document PC-OC (2011) 17</u></p>
7.	<p>Possibilities to encourage and facilitate the review of existing declarations and reservations to the European Treaties on co-operation in criminal matters;</p> <p>The PC-OC-Mod took note of the background document prepared by the Secretariat (PC-OC(2011)18 restricted) as well as of the fact that the Secretariat is presently involved in conducting a comprehensive review of all Council of Europe conventions, whereby the review of existing declarations and reservations is taken into account. The PC-OC-Mod therefore decided to postpone discussion of this item until the outcome of this review exercise. The PC-OC plenary is invited to endorse this decision.</p> <p><u>Document PC-OC (2011) 18 <i>Restricted</i></u></p>

8.	Practical problems and concrete cases concerning the implementation of conventions
a.	<p>Consideration of the feasibility and necessity of collecting technical information from Parties to the Second Additional Protocol of the Convention on Mutual Legal Assistance in Criminal Matters concerning the use of hearings by video conference</p> <p>The PC-OC-Mod considered this issue, agreed on the feasibility in principle and proposes that the PC-OC plenary consider the necessity of collecting the relevant information in the light of the background documents prepared by Ms Merja Norros (Finland).</p> <p>Documents: <u>PC-OC (2011)12 Eng only</u> <u>PC-OC (2011) 20 restricted Eng only</u></p>
b.	<p>Consideration of ways to ensure the authenticity of communications forwarded by electronic means (as referred to in Article 6 of the Draft Fourth Additional Protocol to the European Convention on Extradition)</p> <p>During its 60th meeting the CDPC asked the PC-OC to consider this issue on which the PC-OC-Mod had a preliminary discussion</p>
c.	<p>Discussion on possible consequences of the draft EU Directive on common procedures for granting and withdrawing international protection status (asylum) on extradition procedures, presented by Mr Jakub Pastuszek (Czech Republic)</p> <p>Mr Jakub Pastuszek (Czech Republic) will introduce a discussion on this item.</p> <p><u>Document PC-OC(2011) 24 Eng only</u></p>
d.	<p>Discussion on the relationship between extradition and expulsion (disguised extradition), reflection paper prepared by Mr Eugenio Selvaggi (Italy)</p> <p>This item, which was on the agenda of the 60th meeting of the PC-OC, was postponed to the present meeting. Mr Eugenio Selvaggi (Italy) will introduce a discussion on this item</p> <p><u>Document PC-OC (2011) 09rev</u></p>
e.	<p>Discussion on “dual criminality in abstracto or in concreto” reflection paper prepared by Mr Eugenio Selvaggi (Italy)</p> <p>Mr Eugenio Selvaggi (Italy) will introduce a discussion on this item.</p> <p><u>Document PC-OC (2011) 19</u></p>
f.	<p>Discussion on the issue of “in absentia cases” in connection with Article 3 of the Second Additional Protocol to the European Convention on Extradition and consideration of the draft questionnaire prepared on this</p> <p>The PC-OC-Mod discussed this issue at the request of the German delegation in connection with the application of Article 3 of the Second Additional protocol to the European Convention on Extradition and asked the Secretariat to draft a short questionnaire on in absentia judgments and possibilities for re-trial in consultation with Mr Miroslav Kubíček and Mr Erik Verbert (Belgium). The PC-OC is invited to discuss the issue and to consider the draft questionnaire.</p> <p><u>Document PC-OC (2011) 22 draft questionnaire on in absentia judgments</u> <u>Document PC-OC (1998)7 Trial in absentia note</u></p>
g.	other issues

9.	<p>Follow-up to be given to the following documents proposed by Mr Miroslav Kubíček (Czech Republic)</p> <ul style="list-style-type: none"> - Consolidated document reflecting the applicable provisions of the European convention on Extradition, the additional Protocols thereto and the draft fourth additional Protocol - Consolidated document reflecting the applicable provisions of the European Convention on Mutual Assistance in Criminal Matters and its two Additional Protocols <p>The PC-OC Mod examined these documents and asked Mr Kubíček to update them in the light of its discussions. The PC-OC plenary is invited to examine these updated documents and to consider the follow-up that it wishes to give to it, notably as regards its possible dissemination to practitioners.</p> <p>Documents: PC-OC (2011)07rev and PC-OC (2011)rev2 Eng only (Extradition) PC-OC (2011)15rev Eng only (Mutual Assistance in Criminal Matters)</p>
10.	<p>Election of the Chair and the vice-Chair of the Committee</p>
	<p>According to the PC-OC's terms of reference, the Chair and the Vice-Chair are elected for a term of one year. The terms of the Chair and of the Vice-Chair are renewable once.</p> <p>The PC-OC is invited to elect or to re-elect its Chair and Vice Chair.</p>
11.	<p>Composition of the PC-OC Mod</p>
	<p>The PC-OC is furthermore invited to decide on the composition of its working group (9 members, conditional to the adoption by the CM of the terms of reference for 2012-2013)</p>
12.	<p>Any other business</p>
13.	<p>Dates of the next meetings</p>

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Background documents

"New Start" Report	PC-S-NS (2002) 7
Proposals of the PC-OC concerning normative measures	PC-OC (2007) 06
List of decisions of the 60 th meeting of the PC-OC	PC-OC (2011)13
List of decisions of the 12 th enlarged meeting of the PC-OC Mod	PC-OC Mod (2011)02
List of decisions of the 60 th meeting of the CDPC	CDPC(2011)18
Appendices List of decisions of the 60 th meeting of the CDPC	Appendices I
Discussion paper prepared by the Secretariat on future activities and priorities of the PC-OC	PC-OC (2010) 06
Options for consolidating the Council of Europe instruments on extradition	PC-OC (2010) 04
Organigramme of the Directorate General I of Human Rights and Rule of Law	Organigramme