

Strasbourg, 18/04/2012  
 [PC-OC/Documents 2012/ PC-OC (2012) 05 E Annotated agenda]  
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PC-OC (2012) 05

**EUROPEAN COMMITTEE ON CRIME PROBLEMS**  
**(CDPC)**

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

**62nd meeting**  
**Strasbourg, 9 – 11 May 2012**  
**AGORA, Room G 03**

**Draft annotated Agenda**

<b>1.</b>	<b>Opening of the meeting</b>
<b>2.</b>	<b>Adoption of the agenda</b> <u>Document PC-OC (2012) OJ 1</u>
<b>3.</b>	<b>Points for information</b> The Secretariat will inform the PC-OC on developments and issues of relevance to their work and in particular the following.
<b>a</b>	<b>State of procedure of the adoption of the draft Fourth additional Protocol to the European Convention on Extradition</b>
<b>b</b>	<b>Recent signatures and ratifications</b>
<b>4.</b>	<b>Elaboration of draft practical guidelines as a follow up to the replies to the questionnaire on jurisdiction and transfer of proceedings</b>  During its 61 <sup>st</sup> plenary meeting the PC-OC considered the replies to the questionnaire as well as the follow-up to be given and decided:  - to endorse the proposal made by the PC-OC Mod to develop practical guidelines, if appropriate contained in a legal instrument, in respect of transfer of proceedings <i>inter alia</i> in 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. The guidelines would <i>inter alia</i> address the following issues: - bilateral consultation between the requesting and the requested states

	<p>before, during and after (feedback) the submission of requests for co-operation;</p> <ul style="list-style-type: none"> <li>- the proportionality of the case with regard to the procedure initiated and the appropriateness of submitting the request;</li> <li>- ways to accelerate and facilitate procedures so as to avoid impunity while lowering cost and effort involved (e.g. suggested time limits to react to a request; development of a model form to submit requests, including a coversheet and/or a summary; reconsideration of translation requirements and burden of costs)</li> <li>- ways to deal with differences in national legislation as regards extraterritorial jurisdiction, admissibility of evidence and mandatory and discretionary prosecution</li> </ul> <p>- to instruct its working group, the PC-OC Mod, to elaborate draft guidelines for consideration at its next plenary meeting.</p> <p>During its 13<sup>th</sup> meeting in March, the PC-OC Mod discussed an outline for draft guidelines prepared by the Secretariat and decided to:</p> <ul style="list-style-type: none"> <li>- instruct the Secretariat to amend this draft outline on the basis of the discussions held and to present this draft for consideration and further guidance to the PC-OC plenary;</li> <li>- ask Mr Erik Verbert (Belgium) to update the standard model request form on transfer of proceedings (prepared in the context of the Project on the development of effective practical tools to facilitate judicial co-operation in criminal matters) and present it to the PC-OC plenary for consideration.</li> </ul> <p><u>The PC-OC is invited to</u></p> <ul style="list-style-type: none"> <li>- consider the draft as contained in document PC-OC Mod (2012) 01 Rev and give further guidance on its development</li> <li>- consider the standard model request form on transfer of proceedings as contained in document PC-OC (2012) 6 and decide on the follow-up to be given</li> </ul> <p><i>Background document:</i> Summary of replies to the questionnaire on jurisdiction and transfer of proceedings (PC-OC (2011) 16 Rev)</p>
<b>5.</b>	<p><b>Presentation and content of the PC-OC website</b></p> <p>The Secretariat will inform the PC-OC on the ongoing improvements to the presentation and content of the PC-OC website.</p>
<b>a.</b>	<p><b>Relevant case law of the ECtHR</b></p> <p>During its 61<sup>st</sup> meeting the PC-OC decided :</p> <ul style="list-style-type: none"> <li>- to instruct its working group, the PC-OC Mod, to review the draft list by making it more user- friendly, by introducing 'catchphrases' and by focussing on the specific needs of practitioners;</li> <li>- to instruct the Secretariat to look into the feasibility and most appropriate way of posting the case law on the website;.</li> </ul> <p>During its 13<sup>th</sup> meeting, the PC-OC Mod considered the revised draft list as proposed by Mr Miroslav Kubicek (Czech Republic), thanked him for the excellent work accomplished, and decided to</p> <ul style="list-style-type: none"> <li>- make a proposal to the PC-OC plenary that it endorses the approach adopted in this list;</li> <li>- ask Mr Kubicek to co-ordinate the update and finalisation of the list with contributions to be made by Ms Barbara Goeth-Flemmich (Austria), Mr Erik Verbert (Belgium) and Mr Stéphane Dupraz (France) for consideration by the PC-OC plenary;</li> </ul>

	<ul style="list-style-type: none"> <li>- make a proposal to the PC-OC plenary that it asks the Secretariat to publish section A of the list on the PC-OC website, pending finalisation of the remaining sections;</li> <li>- ask the Secretariat to inquire about the budgetary feasibility of having the list translated into French.</li> </ul> <p><u>The PC-OC is invited to:</u></p> <ul style="list-style-type: none"> <li>- consider the provisional Index of Case Law by the ECtHR of relevance for application of the European Conventions on international judicial cooperation in criminal matters (contained in Document PC-OC (2012)°03 / previous section A of the list contained in PC-OC (2011)21rev) and approve its publication on the public website of the PC-OC;</li> <li>- consider the Case Law by the ECtHR as contained in Document PC-OC (2011)21rev2 and decide on the approach and follow up to be adopted, taking into account the information by the Secretariat on the feasibility and appropriateness of publication;</li> <li>- agree on ways to ensure the regular updating of the case law on the site.</li> </ul>
<b>b.</b>	<p><b>Updated list of useful links</b></p> <p>In preparation of the 61<sup>st</sup> plenary meeting and further to a 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 considered the list of links proposed, agreed that it would be useful to create links to websites of relevant international governmental organisations and courts as well as to relevant governmental websites and decided:</p> <ul style="list-style-type: none"> <li>- to instruct the Secretariat to amend the list of proposed websites in the light of the discussions held and look into the feasibility and most appropriate way of posting them on the website;</li> <li>- to invite delegations to propose links to relevant governmental websites.</li> </ul> <p><u>The PC-OC is invited to:</u></p> <p>consider the list as amended by the Secretariat (PC-OC (2011) 25 Rev2) and decide on the appropriateness of posting the links on the PC-OC website.</p>
<b>c.</b>	<p><b>Use of the Forum</b></p> <p>The Secretariat will inform the PC-OC on the use made of the forum on the collaborative space of the PC-OC website.</p> <p><u>The PC-OC is invited to:</u></p> <p>encourage delegations to make more use of the forum.</p>
<b>6.</b>	<p><b>Possible ways of allowing practitioners to submit questions to the PC-OC</b></p>
<b>a.</b>	<p><b>Finalisation of the information sheet on the PC-OC</b></p> <p>During its 61<sup>st</sup> meeting the PC-OC considered the information sheet on the PC-OC as amended by the Secretariat in the light of the discussions held in the PC-OC-Mod (Document PC-OC (2011) 08 rev) and decided:</p> <ul style="list-style-type: none"> <li>- to instruct its working group, the PC-OC Mod, to finalise the information sheet in the light of the proposals made and to make proposals for its publication and dissemination.</li> </ul> <p>The PC-OC Mod agreed, with minor amendments, on the text proposed in this respect and decided to submit the amended text of the information sheet for adoption by the PC-OC plenary.</p> <p><u>The PC-OC is invited to:</u></p>

	agree on the text of the information sheet contained in Document PC-OC (2011) 08 rev 3.
<b>b.</b>	<b>Proposals for its publication and dissemination</b>
	<p>During its 13<sup>th</sup> meeting the PC-OC Mod took note of the Secretariat proposals to have the information leaflet published on the PC-OC website, printed as a small coloured pamphlet and distributed by the members of the PC-OC to practitioners in their home country and decided to:</p> <ul style="list-style-type: none"> <li>- submit this proposal for consideration to the PC-OC plenary;</li> <li>- make a proposal that the plenary considers the possibility that delegations translate the leaflet into their national language, indicating national contact points for practitioners in their countries.</li> </ul> <p><u>The PC-OC is invited to:</u> consider the proposals for publication and dissemination and agree on the approach to be adopted.</p>
<b>7.</b>	<b>Practical problems and concrete cases concerning the implementation of conventions</b>
<b>a.</b>	<b>Presentation by PC-OC Rapporteurs on recent developments and forum discussions related to extradition, mutual assistance and transfer of sentenced persons</b>
	<p>During its 61<sup>st</sup> meeting the PC-OC adopted Practical measures to facilitate the application of conventions on international cooperation in criminal matters (Document PC-OC (2011) 04Rev3) in which the PC-OC agreed "to appoint Rapporteurs and assisting members for the most important conventions and other issues of particular importance related to cooperation in criminal matters <i>to animate the discussions on the forum, to inform the plenary on discussions held and on other developments of importance and to make proposals for follow-up;</i>"</p> <p>The rapporteurs appointed, Ms Barbara Goeth-Flemmich (Austria), Mr Erik Verbert (Belgium) and Mr Eugenio Selvaggi (Italy) will inform the plenary accordingly and will make proposals for follow-up with regard to transfer of sentenced persons, extradition and mutual assistance in criminal matters respectively.</p> <p><u>The PC-OC is invited to:</u> take note of the information provided and consider possible follow-up.</p>
<b>b.</b>	<b>Consideration of the replies received to the questionnaire on legal and technical aspects of video conferences and proposal for follow-up.</b>
	<p>During its 61<sup>st</sup> meeting the PC-OC considered 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 in the light of the background documents (PC-OC (2011)12 and PC-OC (2011) 20 restricted) and proposals for a short questionnaire prepared by Ms Merja Norros (Finland) and decided:</p> <ul style="list-style-type: none"> <li>- to agree on the usefulness of sending out a questionnaire to collect this information;</li> <li>- to instruct the Secretariat to finalise the questionnaire on technical aspects of videoconferences as agreed during the plenary, to prepare a short introduction and to send it to all delegations;</li> <li>- to instruct the PC-OC Mod to examine the replies received and make a proposal for follow up.</li> </ul> <p>The PC-OC Mod, during its 13<sup>th</sup> meeting, took note of the replies to the questionnaire contained in Document PC-OC (2012) 01 bil Restricted, and decided to:</p>

	<ul style="list-style-type: none"> <li>- ask the Secretariat to send a reminder to states that have not yet replied;</li> <li>- make a proposal to the plenary that it agrees to the publication of the replies on the website of the PC-OC.</li> </ul> <p><u>The PC-OC is invited to:</u> consider the replies contained in Document PC-OC (2012) 01 rev and the proposal to publish the replies on the - public or restricted- website of the PC-OC.</p>
<b>c.</b>	<p><b>Discussion on the relationship between extradition and expulsion</b></p> <p>On the basis of a discussion paper (Document PC-OC (2011) 09rev) prepared by Mr Eugenio Selvaggi (Italy) the PC-OC held an exchange of views during its 61<sup>st</sup> meeting on the relationship between extradition and expulsion (disguised extradition), and decided:</p> <ul style="list-style-type: none"> <li>- to continue discussion on this issue at its next meeting and to instruct the PC-OC Mod to prepare this discussion by proposing a list of concrete questions taking into account the mandate of the PC-OC.</li> </ul> <p><u>The PC-OC is invited to:</u></p> <ul style="list-style-type: none"> <li>- discuss the relationship between extradition and expulsion on the basis of the questions prepared by the PC-OC Mod ( Document PC-OC Mod (2012) 03);</li> <li>- decide on the follow-up to be given to this discussion.</li> </ul>
<b>d.</b>	<p><b>Consideration of a draft note on discussions held on “dual criminality in abstracto or in concreto”</b></p> <p>On the basis of a discussion paper (Document PC-OC (2011)19) prepared by Mr Eugenio Selvaggi (Italy) the PC-OC had an exchange of views during its 61<sup>st</sup> meeting on “dual criminality in abstracto or in concreto”, and decided:</p> <ul style="list-style-type: none"> <li>- to instruct the Secretariat to reflect the discussions held in a draft note;</li> <li>- to instruct the PC-OC Mod to consider this draft note in view of its adoption by the PC-OC and publication on the website as an information document for practitioners</li> </ul> <p><u>The PC-OC is invited to:</u></p> <ul style="list-style-type: none"> <li>- consider the draft note on dual criminality, in concreto or in abstracto (PC-OC (2012)02) as approved by the PC-OC Mod;</li> <li>- agree on the publication of the note on the PC-OC website.</li> </ul>
<b>e.</b>	<p><b>Finalisation of a draft questionnaire on “in absentia cases” in connection with Article 3 of the Second Additional Protocol to the European Convention on Extradition.</b></p> <p>At the initiative of the German delegation, the PC-OC had a discussion during its 61<sup>st</sup> meeting on the issue of “in absentia cases” in connection with Article 3 of the Second Additional Protocol to the European Convention on Extradition and considered the draft questionnaire (Document PC-OC (2011) 22) prepared on this issue further to the PC-OC Mod meeting. The PC-OC agreed that it would be important to further develop the questionnaire and decided:</p> <ul style="list-style-type: none"> <li>- to invite delegations to send written proposals for the development of the questionnaire to the Secretariat;</li> <li>- to instruct the Secretariat to amend the draft questionnaire in the light of the proposals received;</li> <li>- to instruct the PC-OC-Mod to finalise the questionnaire for consideration by the PC-OC plenary at its next meeting.</li> </ul>

	<p>The PC-OC Mod discussed the draft questionnaire in the light of the proposals received for its further development and decided to:</p> <ul style="list-style-type: none"> <li>- finalise the draft questionnaire by written procedure;</li> <li>- submit the draft questionnaire for consideration to the plenary, with a proposal to consider the draft questionnaire proposed by the German delegation separately.</li> </ul> <p><u>The PC-OC is invited to:</u></p> <ul style="list-style-type: none"> <li>- consider the draft questionnaire as amended by the PC-OC Mod;</li> <li>- also consider the draft questionnaire proposed by the German delegation;</li> <li>- decide on the follow-up to be given.</li> </ul>
<b>f.</b>	<p><b>Discussion on the application of interim measures (rule 39) of the ECtHR in cases of extradition</b></p> <p>Mr Erik Verbert (Belgium) will introduce a discussion on the application of interim measures in cases of extradition.</p> <p>Mr Stephen Phillips, Deputy Section Registrar at the ECtHR and Ms Irène Kitsou-Milonas, Head of Section, Secretariat of the Department for the Execution of Judgments of the ECtHR will share their experience on this issue with the PC-OC</p> <p><u>The PC-OC is invited to:</u></p> <p>have an exchange of views on the application of interim measures (rule 39) of the ECtHR in cases of extradition.</p> <p>Background document:</p> <p>Statement issued by the President of the European Court of Human Rights concerning requests for interim measures.</p>
<b>g.</b>	<p><b>Discussion on relations with non-member states of the Council of Europe that are Parties to European Conventions on co-operation in penal matters</b></p> <p>A growing number of non member States of the Council of Europe are Parties to the main European conventions on cooperation in criminal matters and their additional protocols. These concern the European Convention on extradition (Israel, Korea, South-Africa), the European Convention on mutual assistance in criminal matters (Chile, Israël, Korea) and, in particular, the European Convention on the transfer of sentenced persons (Australia, Bahamas, Bolivia, Canada, Chile, Costa Rica, Ecuador, Honduras, Israel, Japan, Korea, Mauritius, Mexico, Panama, Philippines, Tonga, Trinidad and Tobago, United States of America, Venezuela)</p> <p>The Secretariat proposes that the PC-OC consider developing its relations with non-member states of the Council of Europe that are Parties to European Conventions on co-operation in penal matters, for example, by :</p> <ul style="list-style-type: none"> <li>- inviting them to give the names of persons to be included in the list of officials involved in the application of the conventions on co-operation in penal matters and the network of single points of contact;</li> <li>- inviting them to participate in the forum of the PC-OC collaborative space;</li> <li>- organising at each plenary meeting a session devoted to one of the three main Conventions, inviting the Parties that have no permanent observer status to participate;</li> <li>- organising at the 63<sup>rd</sup> plenary meeting a session devoted to the European Convention on extradition and to invite Korea and South-Africa to attend.</li> </ul> <p><u>The PC-OC is invited to:</u></p> <p>consider the proposals and decide on the follow-up to be given.</p>
<b>h.</b>	<p><b>Discussion proposed by the Czech Republic on the issue of bilateral treaties with the Bailiwick of Guernsey, the Isle of Man and the Bailiwick of Jersey on exchange of information relating to tax matters between Parties to the European</b></p>

	<p><b>Convention on Mutual Assistance in Criminal Matters.</b></p> <p>Mr Jakub Pastuszek (Czech Republic ) will introduce the discussion on this issue</p> <p><u>The PC-OC is invited to:</u> hold an exchange of views on the basis of discussion paper PC-OC(2012)04.</p>
<b>8.</b>	<b>Elections</b>
<b>a.</b>	<p><b>Composition of the PC-OC Mod</b></p> <p>During its 61<sup>st</sup> meeting, the PC-OC decided that the composition of the PC-OC Mod would be reconsidered at the next plenary session. However, account should be taken of the fact that the PC-OC will have to elect a new Chair and Vice-Chair during its 63<sup>rd</sup> meeting and that the Chair and Vice-Chair are members of the PC-OC Mod.</p> <p><u>the PC-OC is invited to:</u> - consider postponing a decision on the composition of the PC-OC Mod until its 63<sup>rd</sup> plenary meeting.</p>
<b>b.</b>	<p><b>Gender Equality Rapporteur</b></p> <p>Referring to its terms of reference</p> <p><u>the PC-OC is invited to:</u> elect a Gender Equality Rapporteur from among its members.</p>
<b>9.</b>	<b>Any other business</b>

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<b>Background documents</b>
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List of decisions of the 61st meeting of the PC-OC	<a href="#">PC-OC (2011) 27</a>
List of decisions of the 13 <sup>th</sup> enlarged meeting of the PC-OC Mod	<a href="#">PC-OC Mod (2012)02</a>
List of decisions of the 61st meeting of the CDPC	<a href="#">CDPC (2011) 31</a>
<a href="#">Terms of Reference of the PC-OC</a>	
<a href="#">ResolutionCM/Res(2011)24</a> on intergovernmental committees and subordinate bodies, their terms of reference and working methods	
Summary of replies to the questionnaire on jurisdiction and transfer of proceedings	<a href="#">PC-OC(2011) 16Rev</a>
Practical measures to facilitate the application of conventions on international co-operation in criminal matters	<a href="#">PC-OC (2011) 04 Rev 3</a>