

Strasbourg, 23/10/2012
 [PC-OC/Documents 2012/ annotated agenda OJ2]
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PC-OC (2012) 10

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

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

63rd meeting
 Strasbourg, 13 – 15 November 2012
 AGORA, Room G 02

Draft annotated agenda

1.	Opening of the meeting
2.	Adoption of the agenda PC-OC (2012) 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.	Adoption of the Fourth additional Protocol to the European Convention on Extradition
b.	Recent signatures and ratifications
4.	Finalisation of draft guidelines on practical measures to improve co-operation in respect of transfer of proceedings including a model request form During its 62 nd meeting on 9-11 May 2012, the PC-OC considered and endorsed the approach proposed for the draft outline for practical guidelines proposed by the PC-OC Mod (PC-OC Mod (2012) 01 Rev) as well as for the model request form (contained in document PC-OC (2012)06), made suggestions for their further development and instructed the PC-OC Mod to: - finalise the draft guidelines and the model request form, taking into account the comments made by the plenary and to present it for consideration at its next plenary meeting. The PC-OC Mod finalised the draft guidelines and the appended model request form during its 14th meeting on 26-28 September 2012 for consideration by the PC-OC plenary. It proposed that the plenary adopt these guidelines as a practical PC-OC tool, taking into consideration that the guidelines are of a technical nature and might need to be regularly updated. The Bureau of the CDPC endorsed this approach during their meeting on 4-5 October 2012 (see list of decisions doc CDPC-BU (2012) 4). <u>The PC-OC is invited to:</u> - consider and adopt the draft guidelines;

	<p>- present these guidelines to the CDPC.</p> <p><u>Working document</u> Draft guidelines on practical measures to improve co-operation in respect of transfer of proceedings including a model request form PC-OC Mod(2012)01rev3</p> <p><u>Background documents</u> Compendium of answers to the questionnaire on jurisdiction and transfer of proceedings PC-OC (2011)14 Summary of replies to the questionnaire on jurisdiction and transfer of proceedings PC-OC(2011)16Rev</p>
5.	Content of the PC-OC website
a.	<p>Presentation of recent updates and changes made</p> <p>The Secretariat will inform the PC-OC on the recent updates and changes made to the presentation and content of the PC-OC website.</p> <p>With regard to the recently published index of case law by the ECtHR, it is recalled that further to the decisions taken at the previous plenary meeting of the PC-OC, the index has taken into account the suggestions by its members for additional keywords and cases.</p> <p>During the last meeting, the PC-OC had asked the PC-OC Mod to make proposals regarding the possible indexing of decisions concerning admissibility of complaints.</p> <p>The PC-OC Mod was of the opinion that the inclusion of such decisions in the index would not represent any added value, as such decisions provide no definitive conclusions by the ECtHR as to whether an obligation following from the European Convention on Human Rights has been violated.</p> <p>Underlining that such definitive conclusions can be found only in decisions on inadmissibility of complaints and in judgments on merits of complaints and that decisions on inadmissibility (including decisions on partial inadmissibility, such as the decision in the case of Babar Ahmad and Others v. the United Kingdom) of complaints and judgments on merits are already contained in the index and case summaries, the PC-OC Mod decided to propose that the PC-OC plenary invites delegations to point out any other specific decisions on inadmissibility or admissibility of complaints and judgments of the ECtHR that are of relevance for international co-operation in criminal matters.</p> <p><u>The PC-OC is invited to discuss the proposal of the PC-OC Mod and to take note of the information provided.</u></p>
b.	<p>Consideration of summaries of relevant case law of the ECtHR</p> <p>During its 62nd meeting, the PC-OC also discussed the approach to be adopted with regard to the summaries of the case law by the ECtHR, and decided to:</p> <ul style="list-style-type: none"> - endorse the approach proposed and instruct the PC-OC Mod to finalise the work undertaken and present it for consideration at the next plenary meeting in view of its publication. <p>It is recalled that the PC-OC had also discussed ways to ensure the regular updating of the case law published and had decided to:</p> <ul style="list-style-type: none"> - invite all delegations to keep the Secretariat informed of new Court decisions of relevance to the PC-OC; - instruct the Secretariat to update the publication on a regular basis in consultation with the Chair. <p>The PC-OC Mod considered the summaries of case law prepared, thanked Ms Goeth-Flemmich (Austria), Mr Kubicek (Czech Republic), and Mr Dupraz (France) for their considerable contribution to this important work, agreed on the changes proposed and the</p>

	<p>approach to be adopted and decided to:</p> <ul style="list-style-type: none"> - ask Mr Miroslav Kubicek to co-ordinate the finalisation of this document in co-operation with Mr Erik Verbert (Belgium) and the Secretariat in time for consideration by the PC-OC plenary; - propose that the names of the authors be published on the document. <p><u>The PC-OC is invited to :</u></p> <ul style="list-style-type: none"> - consider the summaries and approve them in view of their publication on the website of the PC-OC; - agree on the cover page of the case law; - instruct the Secretariat to publish the case law. <p><u>Working Document</u> Case Law by the European Court of Human Rights of Relevance for the Application of the European Conventions on International Co-Operation in Criminal Matters PC-OC(2011) 21 rev 3</p>
c.	<p>Proposals to improve country information</p> <p>During its 62nd meeting the PC-OC instructed the PC-OC Mod to make proposals to improve the country information available on the website, including by introducing links to national websites of relevance to international judicial cooperation in criminal matters.</p> <p>The PC-OC Mod discussed ways to improve country information and decided to:</p> <ul style="list-style-type: none"> - propose that the plenary invites PC-OC members and observer states to suggest links to national websites of central and judicial authorities involved in international co-operation in criminal matters. <p>Furthermore, recalling the importance that the PC-OC website contains complete and updated country information, the PC-OC Mod decided to:</p> <ul style="list-style-type: none"> - instruct the Secretariat to send a reminder to all PC-OC members and observer states to update their country information and invite them to inform the Secretariat of possible problems encountered before the plenary; - propose that the PC-OC plenary instructs the Secretariat to make proposals with regard to possible ways of addressing these problems and user-friendly ways to encourage delegations to submit and update country information. <p><u>The PC-OC is invited to</u> discuss proposals to update and improve country information, taking into account the proposals made by the PC-OC Mod.</p> <p><u>Background document</u> Inventory of country information available on the PC-OC website PC-OC(2012)09.</p>
d.	<p>Access to and use of the Forum</p> <p>The PC-OC agreed during its 62nd meeting to extend access to its forum and collaborative space (restricted website) to representatives of non-European states that are Parties to the European conventions on extradition, on mutual assistance in criminal matters and on the transfer of sentenced persons. The Secretariat has received a request by Eurojust who would be very interested in having access to the forum.</p> <p><u>The PC-OC is invited to</u> consider the possibility for observers, other than States Parties to the conventions on co-operation in criminal matters to access the forum and collaborative space.</p>
6.	Possible ways of allowing practitioners to submit questions to the PC-OC
a.	<p>Presentation of the information sheet on the PC-OC</p> <p>The Secretariat will present and distribute the information leaflet on the PC-OC addressed to practitioners.</p> <p>Reference is made to the “Practical measures to facilitate the application of conventions on</p>

	<p>international co-operation in criminal matters” (Doc PC-OC (2011)04 Rev 3), adopted during the 61st meeting of the PC-OC, where the PC-OC agreed “to adopt background material, which would help national representatives to advertise and disseminate information on the work of the PC-OC among practitioners”.</p> <p>It is recalled that the PC-OC agreed on the text during its 62nd meeting, noting that additional editorial changes might be proposed by the publications department of the Council of Europe.</p>
b.	<p>Dissemination</p> <p>PC-OC members agreed, as set out in the “Practical measures to facilitate the application of conventions on international co-operation in criminal matters”, to disseminate in an appropriate way information on the PC-OC and its work to relevant practitioners in their country and offer them a possibility to submit questions on the interpretation and application of the conventions.</p> <p>The PC-OC also considered the proposals for dissemination and publication of the leaflet during its 62nd meeting and decided to:</p> <ul style="list-style-type: none"> - have the information leaflet published on the PC-OC website and, subject to approval by the Council of Europe’s Committee for the rationalisation of publications, to have the information leaflet printed as a small coloured pamphlet, including a space to allow each delegation to insert contact details for practitioners in their home country; - invite the members of the PC-OC to distribute the leaflet to practitioners in their home country in the best possible way, including by posting the text on an appropriate national website; - take note of the proposal by the Romanian and Russian delegations to translate the leaflet into their national language and invited them to inform the Secretariat of the number of leaflets requested in each of these languages. <p><u>The PC-OC is invited to</u> have an exchange of views on possible good practices for dissemination.</p>
7.	<p>Practical problems and concrete cases concerning the implementation of conventions</p>
a.	<p>Presentation by PC-OC Rapporteurs on recent developments and forum discussions related to extradition, mutual assistance and transfer of sentenced persons</p> <p>During its 61st 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 will inform the plenary accordingly and will make proposals for follow-up.</p> <p><u>The PC-OC is invited to</u> take note of the information provided and consider possible follow-up.</p>
b.	<p>Consideration of the feasibility of developing guidelines on the use of video conferences in the context of mutual legal assistance</p> <p>During its 62nd meeting, the PC-OC instructed the PC-OC-Mod to look into the feasibility of developing guidelines on the use of video conferences and report to the plenary at its next meeting.</p> <p>The PC-OC Mod discussed the feasibility of developing such guidelines and decided to inform the plenary that the majority was of the opinion that there was at the moment no need for such guidelines and that, given the rapidity of technical developments in this area and the lack of relevant technical knowledge within the PC-OC, it would not be feasible to develop these guidelines.</p> <p><u>The PC-OC is invited to</u> discuss the need and the feasibility of developing these guidelines.</p>

c. Consideration of a draft note on discussions held on “the relationship between extradition and deportation/expulsion” and possible follow up

Further to its discussion, during its last meeting, on the relationship between extradition and expulsion (disguised extradition), the PC-OC had decided to:

- instruct the Secretariat to reflect the discussions held in a draft note;
- 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 and to make proposals for follow-up to this discussion.

The PC-OC Mod discussed the note and decided to:

- submit this note with some amendments to the plenary in view of its adoption and publication on the website of the PC-OC.

The PC-OC Mod also considered possible follow-up to the discussion and decided to:

- inform the plenary that the majority felt that, at this stage, further follow-up would not be appropriate.

The PC-OC is invited to:

- consider and adopt the draft note as proposed by the PC-OC Mod;
- agree on the publication of the note on the PC-OC website;
- discuss the need and feasibility of possible follow-up.

Working document

Draft note on discussions held on “the relationship between extradition and deportation/expulsion”

PC-OC(2012)08rev (restricted)

Background documents

Questions to guide a discussion on the relationship between extradition and expulsion (disguised extradition)

PC-OC Mod (2012)03

Discussion paper: Disguised extradition, i.e. surrender by other means some ideas to start a discussion

PC-OC (2011)09rev

d. Finalisation of a questionnaire on “*in absentia* cases” in connection with Article 3 of the Second Additional Protocol to the European Convention on Extradition

During its last meeting, the PC-OC considered the draft questionnaire proposed by the PC-OC Mod, as well as the draft questionnaire proposed by the German delegation and decided to instruct the PC-OC Mod to finalise the questionnaire in the light of the comments made and submit it to the PC-OC plenary for adoption.

The PC-OC Mod finalised the draft questionnaire on the basis of the comments made during the 62nd plenary meeting of the PC-OC and decided to submit the draft questionnaire for consideration to the plenary.

The PC-OC is invited to:

- consider and adopt the draft questionnaire as proposed by the PC-OC Mod;
- instruct the Secretariat to send it out to all PC-OC members and Parties to the European Convention on Extradition and make a summary of the answers received;
- instruct the PC-OC Mod to consider the replies received and make proposals for follow-up.

Working document

Draft questionnaire on “*in absentia* cases” in connection with Article 3 of the Second Additional Protocol to the European Convention on Extradition

PC-OC(2011)22rev5

e. Other issues

	Implementation of Article 12 of the Convention on the Transfer of Sentenced Persons (CETS No.112)
8.	<p>Special session on issues concerning the implementation of the European Convention on Extradition</p> <p>During its previous meeting, the PC-OC had a discussion on its relations with the non-European states that are Parties to the European conventions on extradition, on mutual assistance in criminal matters and on the transfer of sentenced persons. The PC-OC, underlining the importance of strengthening these relations for the mutual benefit of all Parties, decided to:</p> <ul style="list-style-type: none"> - invite the states concerned 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; - invite them also to participate in the forum of the PC-OC collaborative space; - organise 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; - organise at the 63rd plenary meeting a session devoted to the European Convention on Extradition and invite Korea and South-Africa to attend. <p><u>The PC-OC is invited to have an exchange of views between Parties to the European Convention on Extradition.</u></p>
9.	Elections
a.	<p>Chair and vice-Chair of the PC-OC</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>Referring to Article 12d of the "Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods", the election of the Chair and vice-Chair shall require a two-thirds majority at the first ballot and a simple majority at the second ballot. In steering committees, the election shall be held by secret ballot, in other committees by a show of hands, unless a member of the committee requests a secret ballot.</p> <p>Considering that the present Chair, Mr Per Hedvall, and vice-Chair, Mr Erik Verbert will reach the term of their second mandate at the end of 2012:</p> <p><u>the PC-OC is invited to elect a new Chair and vice-Chair among its members for a term of one year, starting in 2013.</u></p>
b.	<p>Members of the PC-OC Mod</p> <p>During its 61st meeting, the PC-OC decided that the composition of its working group, the PC-OC Mod, would be reconsidered at the next plenary session. However, considering the fact that the PC-OC will have to elect a new Chair and Vice-Chair during its 63rd meeting and that the Chair and vice-Chair are members of the PC-OC Mod, the PC-OC decided to:</p> <ul style="list-style-type: none"> - postpone a decision on the composition of the PC-OC Mod until its 63rd plenary meeting. <p>Referring to the PC-OC's budget foreseen for 2013, the PC-OC is invited to elect 7 members to attend the PC-OC Mod meetings in 2013. It is recalled that these meetings are enlarged to all other members of the PC-OC but without defrayal of expenses by the Council of Europe.</p> <p>PC-OC members are invited to inform the Secretariat of proposed candidates at their earliest convenience.</p>
10.	Any other business
11	Dates of next meetings

