



COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

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PC-OC Mod (2011) 01

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

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

**List of decisions taken at the 11th meeting of the restricted Group of experts
on international co-operation (PC-OC Mod) enlarged to all PC-OC members
16 – 18 March 2011**

The PC-OC Mod decided to:

1. Draft Fourth Additional Protocol to the European Convention on Extradition

- examine the draft Fourth Additional Protocol to the European Convention on Extradition, notably in the light of the opinion of the Legal Advice Department and Treaty Office of the Council of Europe;
- amend the draft Protocol in accordance with the instructions of the PC-OC plenary;
- submit the amended draft Protocol to the PC-OC plenary, and invite the PC-OC plenary to examine the revised draft at its next meeting;
- draw the attention of the PC-OC plenary to the following points:
 - o 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;
 - o 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;

- instruct the Secretariat to clarify with the Legal Advice Department and Treaty Office the possibility for member States of the Council of Europe to accede to the Convention without having signed it previously, and to propose amendments to the draft Protocol;
- 2. Draft Explanatory Report to the Fourth Additional Protocol to the European Convention on Extradition**
- examine and amend the draft Explanatory Report to the Fourth Additional Protocol, and submit it to the PC-OC plenary;
- 3. Proposals by Mr Vladimir ZIMIN (Russian Federation) on the modernisation of the European Convention on Extradition**
- thank Mr Zimin and have an exchange of views regarding the issues raised in his proposals;
 - following a detailed discussion on these issues, agree that it was not desirable to consider these proposals in the context of the Fourth Additional Protocol;
 - take note, however, that there was some interest to continue discussions on certain proposals, in particular the proposal concerning Article 2, paragraph 2 of the European Convention on Extradition;
- 4. Draft Questionnaire on jurisdiction and transfer of proceedings**
- examine a draft questionnaire prepared by Mr Erik Verbert (Belgium) and the Secretariat on jurisdiction and transfer of proceedings;
 - invite Mr Verbert to amend this questionnaire in the light of its discussions, to finalise it after consulting the members of the PC-OC Mod and to submit it to the PC-OC plenary;
 - invite the PC-OC plenary to examine this questionnaire, amend it as necessary and send it to all delegations for replies;
- 5. Possible ways of allowing practitioners to submit questions to the PC-OC**
- examine a preliminary 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;
 - amend these recommendations and submit them to the PC-OC plenary for consideration;
- 6. Any other business**
- take note of a proposal by Mr Miroslav Kubíček (Czech Republic) to prepare a consolidated document, reflecting the applicable provisions of the European Convention on Extradition, the first two additional protocols thereto and the draft Fourth Additional Protocol;
 - thank Mr Kubíček and invite the PC-OC plenary to examine this document at its next meeting and to consider the follow-up that it wishes to give to it, notably as regards its possible dissemination to practitioners;
 - thank Mr Eugenio Selvaggi (Italy) for accepting to draft an information sheet on the PC-OC and a paper on the relationship between extradition and expulsion;
 - welcome the creation of the new electronic discussion forum of the PC-OC and the use that had already been made of it by its members, transmit the results of its exchange of views on its future development to the PC-OC plenary and invite the PC-OC plenary to further promote its use;
 - take note of the information provided by the German delegation that it will propose to the PC-OC plenary the compilation of a list of competent authorities in order to facilitate the implementation of Article 13 and Article 15, paragraph 3 of the European Convention on Mutual Assistance in Criminal Matters.