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PC-OC Mod (2012) 03

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

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

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

Proposed by the PC-OC Mod

During its 61st meeting the PC-OC held an exchange of views on disguised extradition on the basis of a discussion paper prepared by Mr Eugenio Selvaggi (Document PC-OC (2011) 09rev). It was decided to continue this discussion at its next meeting and to instruct its working group, the PC-OC Mod to prepare the discussion by proposing a list of concrete questions taking into account the mandate of the PC-OC.

Further to their 13th meeting, the PC-OC Mod agreed to propose the following questions which would serve as a basis for discussion in the PC-OC on the relation between extradition and expulsion/deportation. One delegation felt that the PC-OC had no mandate to discuss questions related to expulsion or deportation. Taking account of the mandate of the PC-OC, the majority of the PC-OC Mod felt that the discussion should focus on expulsion/deportation as an alternative to extradition (disguised extradition) but not on the unlawful seizure of persons in other jurisdictions.

1. Can a state that has requested extradition actively request/express the wish that the person is deported instead of extradited?
2.
 - a. Can that state, without expressly requesting deportation/expulsion, provide information that might lead to the deportation/expulsion of the person sought, either before a request for extradition has been made or after?
 - b. What active steps could be taken?
 - c. Can that state provide the necessary assistance to the state that is to return or remove the person for the purposes of facilitating the return/removal?
3.
 - a. Can the requested state expel the person sought instead of trying the request for extradition?
 - b. At what point is the extradition procedure initiated and what are the consequences with regard to a possible deportation/expulsion?
4. Can the requested state deport/expel the person sought if extradition is not possible or after it has refused the request for extradition (depending on the grounds for refusal)?
5. Do member states have national case law on these issues?
6. What follow-up could be given to this discussion?