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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)

**Overview of possible binding and non-binding measures to improve the functioning of the  
Convention on the transfer of sentenced persons and its additional Protocol**

**Note by the Secretariat**

The present note is a non-exhaustive overview of proposals and existing guidelines and tools elaborated by the PC-OC to facilitate the application of the Convention on the Transfer of sentenced Persons and its Additional Protocol. It seeks to assist the PC-OC in considering the most adequate steps to be taken for further improvement of these instruments, by the preparation of (a) new binding instrument(s) as proposed to the CDPC during its 66th meeting, or/and, where possible, by non-binding measures.

It is recalled that the CDPC during its 66<sup>th</sup> meeting had decided to “give the mandate to the PC-OC to continue its work on the updating/improving of the Convention on the Transfer of Sentenced Persons and its additional protocol and carefully consider which issues should be dealt with in (a) new binding instrument(s) or otherwise be dealt with in other ways which could be more effective than the “normative” one, i.e. operational/practical level.”

### **Proposals for future action:**

The summary of replies received to the questionnaires regarding the implementation of the Convention on the transfer of sentenced persons (ETS N° 112) and its Additional Protocol (ETS N° 167) identifies the problems raised by the Parties to these instruments as well as the solutions proposed. [PC-OC \(2013\) 10 ADD Rev.2](#)

The [Presentations](#) made during the special session of the PC-OC on the transfer of sentenced persons in November 2013, and in particular the presentation by Ms Joana Gomes Ferreira (Portugal) on the future of the Convention on the Transfer of Sentenced Persons proposed different options for improvement (second additional Protocol, recommendation, practical guidelines).

Above documents were the main basis for the identification of problems to be addressed and proposals made to address them by the PC-OC Mod during its 17<sup>th</sup> meeting ([List of decisions](#)) and the PC-OC plenary ([List of decisions](#)) during its 66<sup>th</sup> meeting. See table below.

The [Terms of reference](#) require the PC-OC to ensure that (ii) the standard text providing information on the Convention on the Transfer of Sentenced Persons (appendix to Recommendation No. R (84)11) is completed with a text on the Additional protocol and the model request form appended to Recommendation No. R (92)18 is updated.

The e-transfer proposal by Israel to develop an electronic tool to facilitate transfer procedures is also to be considered [PC-OC Mod (2014)04].

**Existing non-binding instruments and practical tools** could be considered for further development or update. These concern:

- [Rec. R \(84\) 11](#) by the Committee of Ministers concerning information about ETS°112
- [Rec. R \(88\) 13](#) and [R \(92\) 18](#) by the Committee of Ministers concerning the practical application of ETS°112
- Country information on the transfer of sentenced persons, ( recently updated template);
- A guide to national procedures on transfer of sentenced persons [PC-OC Inf 5 rev.4](#)  
This guide might be outdated and in many aspects overlapping with the country information;
- Explanatory notes to the Convention and its Additional Protocol [PC-OC Inf 67](#), (2003).  
This comprehensive document is based on the discussions that the PC-OC has entertained till 2003 about difficulties that have arisen or may arise in respect of the practical application of the two above-mentioned treaties, as well as the recommendations adopted by the Committee of Ministers concerning their practical application.
- National requirements with respect of languages in transfer requests [PC-OC Inf 7](#) could be reconsidered.

Table of obstacles identified and solutions proposed

Obstacle	Treaty modification	Recommendation	Other
time-limits as regards: procedures; the revocation of consent; the actual transfer	Mod 17 <sup>th</sup> PC-OC66th		
widening the scope of the Convention to persons who returned voluntarily to their country of origin before having served their sentence	Mod 17th PC-OC66th		
deletion of the consequential link between the expulsion or deportation order and the sentence imposed in Article 3, paragraph 1 of the Additional Protocol	ETS 167 Mod 17th PC-OC 66th		
introduction of time-limits as regards the application of the rule of speciality in the Additional Protocol.	Mod 17th ETS 167 PC-OC 66th		
translation requirements	Mod 17th PC-OC 66th	Mod 17th	Mod 17th
organisation and cost of the actual transfer	Mod 17th PC-OC 66th	Mod 17th	Mod 17th
non-payment of fines or compensation to victims	Mod 17th PC-OC 66th	Mod 17th	Mod 17th
provision of information on the execution of the sentence by the administering state	PC-OC 66th	Mod 17th	
impossibility to transfer mentally ill persons who have committed a crime and whose detention is imposed as a measure by a non-judicial authority.			Mod 17 <sup>th</sup> PC-OC 66 <sup>th</sup> (further debate)
the lack of information on early release given prior to the transfer to the authorities involved and to the person concerned			solved between authorities?(country information for prisoners: appeal to all Parties to provide this information as foreseen in appendix to Rec No R(84)11
the difficulty in			solved? (country

communicating with the authorities in charge of the surrender			information)
standard text providing information on the Additional Protocol		Terms of reference	Terms of reference
update of the model request form appended to Recommendation No. R (92)18		Terms of reference	Terms of reference
E-transfer tool			Proposal by Israel PC-OC Mod (2014)04
country information on procedures			Solved by new templates?
Update of explanatory notes to the Convention and its Additional Protocol PC-OC Inf 67			Secretariat proposal