

COUNCIL OF EUROPE



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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)

Draft letter to the CDPC

On the assessment of conventions by the PC-OC

DRAFT REPLY

Mr Jesper Hjortenberg
Chair of the CDPC

Dear Mr Hjortenberg,

Further to your request dated 25 March 2014 and my preliminary reply addressed to you on 3 June, it is my pleasure to contact you again to give you information on the assessment of the PC-OC concerning the implementation of the treaties for which it is responsible as regards extradition, mutual assistance in criminal matters, transfer of proceedings in criminal matters and the transfer of sentenced persons. Practical problems concerning the implementation of these treaties are discussed at each meeting of the PC-OC and solutions are proposed to address these problems in an adequate way.

The European Convention on Extradition (ETS No. 24, 1957) has been recently updated with a Third and a Fourth additional Protocol in order to adapt it to modern needs (CETS No. 209, 2010; CETS No. 212, 2012). Although the Convention is generally seen to function in a satisfactory way, a higher number of ratifications of the latest additional Protocols would facilitate significantly the implementation of extradition procedures among the 50 Parties to this Convention.

The implementation of the European Convention on Mutual Assistance in Criminal Matters (ETS No. 30, 1959) and the additional Protocols thereto (ETS No. 99, 1978 and ETS No. 182, 2001) is the object of continuous assessment by the PC-OC and proposals to improve the functioning of these instruments are regularly discussed. The PC-OC has agreed to facilitate their practical implementation by the development of model request forms and practical guidelines for practitioners. However, it can be noted that the implementation and reasons for non-ratification by some member states of the second additional Protocol (ETS No. 182) may merit further assessment.

In 2011, the PC-OC conducted an inquiry into the European Convention on the Transfer of Proceedings in Criminal Matters (ETS No. 073), noting that this instrument has only been ratified by 23 member states. It was found that the lack of ratifications was not linked to shortcomings in the convention itself but merely to the fact that some states found sufficient legal basis for co-operation in other existing instruments. In order to address the practical difficulties reported by the Parties as regards the implementation of this Convention, the PC-OC developed, in 2012, Practical measures to improve co-operation in respect of transfer of proceedings, including a model request form (PC-OC INF 78).

Finally I should like to recall that in 2013 the PC-OC conducted a comprehensive inquiry as regards the implementation of the Convention on the transfer of sentenced persons (ETS No. 112) by its 64 Parties and of the Additional Protocol thereto (ETS No. 167, 36 ratifications). This inquiry revealed a number of obstacles to the speedy and successful implementation of this Convention and its Additional Protocol (see Doc PC-OC (2013)10 Rev and PC-OC (2013)10 ADD rev). The PC-OC formulated initial proposals on how to address these obstacles which I presented to the CDPC during its 66th meeting. Following further instructions by the CDPC, the PC-OC reconsidered its proposals during its 67th meeting. I look forward to presenting these proposals to the CDPC at its upcoming plenary meeting in December.

At its next meeting, the PC-OC will discuss the implementation of the Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders (ETS No. 051), the Convention on International Validity of Criminal Judgments (ETS No. 070) and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141). The committee's assessment as regards these instruments will be sent to you in the near future.

Yours sincerely,

Joana Gomes Ferreira

Chair of the PC-OC