

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

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

SUMMARY REPORT
of the 53rd meeting of the PC-OC

Strasbourg, 21-23 November 2007
NBGEN, Room G 02

EXECUTIVE SUMMARY

At its 53rd meeting, the PC-OC:

Simplified Extradition

- amended a preliminary draft text and invited delegations to send their comments (see paragraphs 9-13);
- invited the CDPC Bureau to note its preliminary discussions and to indicate whether time limit provisions can be included in the future draft;
- instructed the PC-OC Mod to finalise the draft text in the light of these comments at its next meeting;

Compensation of persons in the context of extradition

- approved a questionnaire and invited delegations to send their replies (deadline: 1 March 2008, see Appendix IV);

Rule of speciality

- decided to send a short questionnaire on the speciality rule to all delegations (deadline: 1 March 2008, see paragraphs 16-17));

Other normative measures concerning extradition

- decided to pursue its discussions on channels and means of communication and lapse of time at its forthcoming meeting, and to postpone discussions on time limits and the use of languages;

Practical measures

- requested all delegations to send to the Secretariat information concerning national single points of contact and national procedures (see paragraphs 21-26);

Transfer of sentenced persons

- decided to pursue the examination of the Greek proposal to draft a Second Additional Protocol to the European Convention on the transfer of sentenced persons (see paragraphs 28-32);

Request from the Cybercrime Convention Committee

- instructed the Secretariat to prepare a questionnaire and requested delegations to send their replies (deadline: 1 April 2008, see paragraphs 33-35));

- re-elected Ms Barbara Goeth-Flemmich (Austria) as Chair, and re-elected Ms Joana Gomes Ferreira (Portugal) as Vice-Chair;

- set the provisional dates for the next meetings as 17-20 March 2008 for the meeting of the restricted Group of experts and 28-30 April 2008 for the 54th meeting of the PC-OC.

1. OPENING OF THE MEETING

1. The Chair, Ms Barbara Goeth-Flemmich (Austria), opened the meeting and welcomed all participants. She thanked the previous Chair, Mr Eugenio Selvaggi, for his excellent work as Chair.
2. The Head of the Criminal Law Division and Secretary to the CDPC, Mr Carlo Chiaromonte, informed the Committee that the CDPC continued to consider the work of the PC-OC as one of its priorities and that all relevant bodies within the Council of Europe dealing with criminal law issues followed its work very closely. He also informed the Committee that a new Secretary to the PC-OC, Mr Hasan Bermek, had been appointed on 1 November 2007 and that the Committee would have the necessary resources to carry out its planned activities in 2008.
3. The PC-OC welcomed this information. The Chair congratulated Mr Branislav Boháčik (Slovakia), member of the PC-OC, on his election as Chair of the CDPC.

INFORMATION PROVIDED BY THE DIRECTOR OF STANDARD SETTING

4. The Director of Standard Setting of the Directorate General of Human Rights and Legal Affairs (DG-HL), Mr Jan Kleijssen, informed the Committee on the structure of the new Directorate of Standard Setting, which brings together five standard-setting committees, including the CDPC, under the same roof, with the corresponding positive effects on the sharing of best practices and on the creation of synergies within the Secretariat. In this context, Mr Kleijssen particularly referred to the possibility of taking greater account of Human Rights issues in the context of criminal co-operation, and mentioned the possibility of reflecting the general Council of Europe policy against the death penalty in connection with some issues relating to the request of transfer of persons sentenced to death to their countries of origin, which could be included in the European Convention on the Transfer of Sentenced Persons.
5. Mr Kleijssen also informed the PC-OC about the medium-term strategy for the Council of Europe, and in particular about the priority given in this context to the implementation of existing standards. He underlined the fact that the PC-OC is a committee with significant expertise in this area, which will become a model for a variety of other committees within the Directorate of Standard Setting. He also informed the Committee on the general budgetary situation of the Council of Europe, including the continuation of the zero-growth policy.
6. In the course of the discussions following his presentation, Mr Kleijssen indicated that implementation includes ratification of existing conventions which merit being (re)put in the limelight for that purpose. In this connection, the Committee decided to discuss at its next plenary meeting the problem concerning the lack of ratifications of some Conventions, such as the 1972 Convention on the Transfer of Proceedings in Criminal Matters, despite the fact that this Convention remains remarkably up-to-date. Regarding the question of one delegation concerning the possibility of elaborating a comprehensive convention in the criminal field, in accordance with the opening statement of the Secretary General at the 56th plenary meeting of the CDPC, Mr Kleijssen expressed the readiness of the Secretariat to assist the PC-OC, should it decide that the merging of instruments was the best way of giving more visibility to the existing Council of Europe standards.
7. The Chair welcomed the positive prospects for the work of the PC-OC and the focus on implementation as opposed to setting new standards, which fits in very well with the mandate of the PC-OC.

2. ADOPTION OF THE AGENDA

8. The Agenda was adopted, as it appears in Appendix II to this report. Appendix I contains the list of participants.

3. IMPROVING THE OPERATION OF THE EXISTING CONVENTIONS ON INTERNATIONAL CO-OPERATION IN CRIMINAL MATTERS:

3.1 Preparation of normative texts concerning the European Convention on Extradition (CETS No.024)

9. In accordance with the decision taken by the CDPC at its plenary meeting on 18-22 June 2007 to mandate the PC-OC as regards questions relating to the European Convention on Extradition, the Committee started its examination of the following items:

Preliminary draft text relating to simplified extradition

10. The Committee was mandated by the CDPC "to draft the necessary legal instruments to give a treaty basis to simplified forms of extradition when the person sought consents". The CDPC specified that this basis "could take the form of a new legal instrument complementary to the ETS No. 024, supplemented by (a) non-binding instrument(s), assisting States in implementing this mechanism".
11. In order to fulfil this specific mandate, the restricted Group of experts (PC-OC Mod) decided at its last enlarged meeting (3-4 May 2007) that the plenary of the PC-OC should discuss this item on the basis of a draft text. Such a text, based on the 1995 EU Convention on Simplified Extradition, was prepared by Mr Per Hedvall (Sweden), acting on a voluntary basis and in his personal capacity. The Committee held a preliminary exchange of views on simplified extradition on the basis of this text.
12. Taking account of significant differences with regard to the practices of different States, the Committee agreed that the future instrument on simplified extradition should allow for a certain degree of flexibility. It approved a number of amendments to the draft text and identified certain issues which required further attention, and in particular:
 - *Need for a formal request for extradition:* There was agreement that, for the purposes of simplified extradition, the need for a formal request should be abolished in principle. States should nonetheless be given the possibility of derogating from this principle by means of a declaration made at the time of ratification.
 - *Necessary information:* Special attention should be given to the form the transmission of the information should take. Some delegations considered that an alert containing the required information would be sufficient. Certain delegations affirmed that information as such was not sufficient, and that some official documents, in accordance with Article 12 of the European Convention on Extradition, were indispensable. Some delegations also indicated that the information had to be provided by a judicial authority.
 - *Rule of speciality:* The PC-OC agreed that the relation between the consent to extradition and the renunciation of entitlement to the rule of speciality had to be further examined. Some delegations stated that their national legislation treated consent to extradition as an automatic renunciation of the speciality rule. For other States, consent to extradition and renunciation of the speciality rule are two distinct elements, although the former is a precondition for the latter.
 - *Time limits:* Whereas the draft text proposed time limits for the notification of consent and of the final decision on extradition, as well as for surrender, some delegations considered that the future instrument on simplified extradition should not include binding time limits. At its last plenary meeting, the CDPC mandated the PC-OC "to consider first of all drafting non-binding measures" regarding time limits. However, the majority of delegations were of the view that the future instrument would have little added value if it did not include any binding time limits, and that the elaboration of binding deadlines would be in conformity with the other part of PC-OC's mandate, i.e. to "draft the necessary legal instruments to give a treaty basis to simplified forms of extradition". The Committee understood that the CDPC's position on time limits was related to extradition in general and not to simplified extradition. Therefore, it decided to ask the CDPC Bureau to clarify whether time limit provisions can be included in a draft instrument on simplified extradition.

13. The Committee instructed the Secretariat to send an amended version of the text to all delegations for comments and to inform the CDPC Bureau (16-18 January 2008) about the preliminary discussions on the draft text related to simplified extradition. It requested the restricted Group of experts to finalise the draft text in the light of these comments at its coming meeting, with a view to its submission to the next plenary of the PC-OC.

Compensation of persons

14. The Committee examined a draft questionnaire on the compensation of persons in the context of extradition, and approved it with amendments (see Appendix IV). It instructed the Secretariat to send the questionnaire to all delegations and requested the latter to submit their replies by 1 March 2008.
15. While agreeing that this item was not its highest priority, the Committee decided that a draft text concerning compensation issues should be prepared in the light of these replies and of an expertise on the relevant case-law of the European Court of Human Rights.

Conditions and modalities of application of the speciality rule and of the renunciation to the rule

16. The PC-OC agreed upon a proposal of one of its members to prepare a short questionnaire on the speciality rule and its effects on the criminal proceedings of requesting States. It instructed the Secretariat to send out this short questionnaire to all delegations for comments and approval and then to send the final text to all national delegations for reply. It fixed the deadline for replies as 1 March 2008.
17. The Committee requested the restricted Group of experts to discuss the replies to the questionnaire at its next meeting.

Channels and means of communication

18. The Committee observed that issues relating to channels and means of communication were very closely linked to its work on simplified extradition. It decided to continue discussions on this item and instructed the restricted Group of experts to examine this issue at its next meeting.

Lapse of time

19. Following the proposal of one delegation, the Committee decided to include this item among the points to be discussed by the restricted Group of experts. To facilitate discussions, the Committee instructed the Secretariat to conduct research into the existing instruments dealing with lapse of time issues and to present a document to its restricted Group of experts at its next meeting.

Time limits

Practical problems relating to the use of languages

20. The Committee decided to postpone discussion on these two items until after the examination of the other issues concerning extradition.

3.2 Examination of possible ways for implementing practical measures

Network of national single points of contact on co-operation in the criminal field

21. The Committee took note of the information provided by the Secretariat concerning the need to update the contact details of national contact points. It agreed that this information had to be concise and reiterated its request for States to reduce the number of national contact points (preferably one contact person with (a) substitute(s)).
22. It instructed the Secretariat to send to all delegations the currently available contact information, with a view to allowing the delegations to update this information, if necessary. The delegations were requested to send the updated information concerning national contact points to the Secretariat by 1 February 2008, at the latest.

23. The Committee also instructed the Secretariat to explore means of obtaining such contact information from non-member States of the Council of Europe which are Contracting Parties to the relevant conventions.

Database on information on national procedures on judicial co-operation in the criminal field

24. The Committee took note of the Secretariat's presentation concerning the development of a public database in accordance with the Committee's conclusions at its 52nd meeting and approved the database template proposed by the Secretariat. It welcomed the fact that the Secretariat had already developed the technical infrastructure for this database and for the restricted website on which it will be made available. The future database will contain information on national procedures on judicial co-operation in the field of extradition, mutual legal assistance and transfer of sentenced persons.
25. The Committee instructed the Secretariat to send out as soon as possible the relevant forms to be filled out by all delegations, including non-member States which are Parties to the relevant Conventions. It agreed that, when filling out these forms, delegations should seek to include the kinds of practical information about their internal system that they themselves would need from other States. The completed forms should then be sent to the Secretariat, in order for it to feed the information into the public database. The deadlines for the submission of the forms were agreed on as follows:
- 1 February 2008 as regards extradition;
 - 1 April 2008 as regards mutual legal assistance;
 - 1 June 2008 as regards the transfer of sentenced persons.
26. In order to ensure that the information contained in the database remains up-to-date, delegations agreed to regularly inform the Secretariat about any changes to their national procedures and/or legislation.

Practical measures aimed at strengthening the efficiency of international co-operation through better visibility.

27. The PC-OC instructed the Secretariat to prepare a newsletter containing information on current priorities and activities of the PC-OC and place it on the website.

4. TRANSFER OF SENTENCED PERSONS

Examination of the proposal for a Second Additional Protocol to the European Convention on the Transfer of Sentenced Persons

28. The Committee continued its examination of the proposal by the Minister of Justice of the Hellenic Republic for a Second Additional Protocol to the European Convention on the Transfer of Sentenced Persons, in the light of the States' replies to a questionnaire concerning this proposal.
29. The Greek delegation presented to the Committee the key features of the proposal, affirming that the main concern behind it was the proper rehabilitation of the prisoner. The proposal therefore suggests a reversal of the burden of proof, establishing the transfer of foreign prisoners to their country of origin as a principle. Whereas the approval of the administering State and the consent of the prisoner would be presumed to be granted in principle, the procedure should nevertheless involve judicial control and not be automatic. The Greek delegation stated that this proposal should not be considered as a final text, but only as the beginning of a procedure involving negotiations between all States.
30. The Committee took note of the concern raised in the CDPC Bureau that very few non-EU States had replied to the questionnaire, despite the fact that such an instrument would only have added value if it was ratified by non-EU States, given that the EU already has its own instrument dealing with this issue. Delegations from States which had not replied to the questionnaire were invited to share their views on the proposal.
31. As a result of this exchange of views, the Committee identified a number of issues on which several delegations expressed reservations, and in particular the question of the consent of the sentenced person and the importance of this consent for social rehabilitation and reinsertion, as well as the obligation for the administering State to take into charge its nationals. The Committee decided to pursue the examination of this item, concentrating on the problems thus identified and clarifying the objectives of the proposal. The Greek delegation informed the Committee that Greece was ready to elaborate further on its position concerning the question of consent.

32. Taking account of the fact that questions relating to extradition have a higher priority in the work programme of the PC-OC, the Committee agreed that this item should be included on the agenda of one of its coming plenary meetings.

5. QUESTIONS ON THE APPLICATION OF THE CONVENTIONS

Request from the Cybercrime Convention Committee (T-CY) for practical guidance

33. The Committee took note of the information provided by Mr Branislav Boháčik (Slovakia), representative of the CDPC to the T-CY, regarding the context in which this request for information was formulated. In particular, Mr Boháčik pointed to the necessity of ensuring very fast mutual legal assistance in connection with cybercrime, which is not always possible in practice. He also elaborated on the difficulties the T-CY is facing regarding the question of whether Article 32b of the Cybercrime Convention should be interpreted in a broad or restrictive manner.
34. The Committee instructed the Secretariat, in co-operation with Mr Boháčik, to prepare a document containing a description of the requested information accompanied by a small number of specific practical questions. The Secretariat was instructed to send this document to all national delegations. The Committee decided that the sending out of the questionnaire should not be restricted to States Parties to the Cybercrime Convention, as other States may have practical experience regarding the issues at stake, possibly on the basis of other legal instruments.
35. The Committee requested all delegations to submit their replies to these questions to the Secretariat by 1 April 2008 at the latest, and sooner if possible, in order for the replies to be transmitted to the T-CY before its plenary meeting on 3-4 April 2008.

6. ELECTION OF THE CHAIR AND THE VICE-CHAIR OF THE COMMITTEE

36. The PC-OC re-elected Ms Barbara Goeth-Flemmich (Austria) as Chair, and Ms Joana Gomes Ferreira (Portugal) as Vice-Chair of the Committee for a period of one year.

7. ANY OTHER BUSINESS

37. Several delegations emphasised that one of the most important features of the PC-OC was its unique role as a forum for practitioners dealing with conventions on co-operation in criminal matters, which allows them to share their experience and to seek the advice of their colleagues from other countries. In view of this, the Committee decided to allocate half a day of each coming plenary meeting to such exchanges on practical matters. Delegations intending to bring practical cases to the attention of the PC-OC were requested to submit brief summaries to the Secretariat well in advance of the meetings, in order to allow their distribution to all delegations.
38. The Committee decided to take up the question of the composition of the restricted Group of experts at its next plenary meeting.
39. The list of decisions adopted during the meeting is appended to this report (Appendix III).

8. DATES OF THE NEXT MEETING

40. The PC-OC decided to organise two meetings of its restricted Group of experts and two plenary meetings in 2008. The provisional dates for the next meetings were fixed as follows:
- 17-20 March 2008 Meeting of the restricted Group of experts;
 - 28-30 April 2008 54th meeting of the PC-OC.

APPENDIX I**LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS****MEMBER STATES / ETATS MEMBRES****ALBANIA / ALBANIE**

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**STEERING COMMITTEE FOR HUMAN RIGHTS (CDDH) / COMITÉ DIRECTEUR POUR LES DROITS DE
L'HOMME**

Apologised / Excusé

**CONSULTATIVE COUNCIL OF EUROPEAN PROSECUTORS (CCPE) / CONSEIL CONSULTATIF DES
PROCUREURS EUROPEENS**

Apologised / Excusé

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APPENDIX II**Agenda****1. Opening of the meeting****2. Adoption of the agenda****3. Improving the operation of the existing conventions on international co-operation in criminal matters:****3.1 Preparation of normative texts on the following subjects concerning the European Convention on Extradition (CETS No.024), as approved by the CDPC at its last plenary meeting:**

- discussion concerning the preliminary draft text relating to simplified extradition;
- discussion concerning compensation of persons – questionnaire and specific proposals to the CDPC for follow-up, in particular as regards possible preparation of binding and non binding legal instruments on this subject;
- drafting of necessary legal instruments – binding and/or non binding – concerning conditions and modalities of application of the speciality rule and of the renunciation to the rule, with reference to Article 14 of CETS No. 024;
- updating relevant provisions concerning channels and means of communication (Article 12 of CETS No. 024 and Article 5 of its Second Additional Protocol (CETS No. 098));
- drafting of non-binding instruments addressing a set of principles so as to reduce time limits and avoid long extradition procedures (as well as long detention before extradition);
- drafting necessary binding legal instruments dealing with lapse of time, possibly complemented by a non-binding instrument;
- examining solutions to practical problems relating to the use of languages for a simpler, less expensive and more rapid extradition procedure and to identify best practices to be followed by States.

Working documents:

- Questionnaire concerning compensation	PC-OC (2007) 10
- Preliminary draft text relating to simplified extradition	PC-OC (2007) 11
- Report of the CDPC Bureau meeting	CDPC-BU (2007) 27
- Report of the 51st CDPC Plenary meeting	CDPC (2007) 24
- Summary report of the enlarged 4th meeting of the PC-OC Mod	PC-OC Mod (2007) 06 Rev
- Summary report of the 52nd meeting of the PC-OC	PC-OC (2006) 16

3.2 Examination of possible ways for implementing the following practical measures:

- a network of national single points of contact on co-operation in the criminal field;
- a database on information on national procedures on judicial co-operation in the criminal field;
- development of practical measures aimed at strengthening the efficiency of international co-operation through better visibility.

4. Transfer of Sentenced persons

Examination of the proposal for a Second Additional Protocol to the European Convention on the Transfer of Sentenced Persons.

Working documents:

- = Working document prepared by the Secretariat PC-OC (2007) 09
- = Report of the CDPC Bureau meeting CDPC-BU (2007) 27
- = Replies to the questionnaire on the proposal concerning the drafting of a Second Additional Protocol to the European Convention on the Transfer of Sentenced Persons PC-OC (2007) 07 Rev
- = Summary of the replies to the questionnaire on the proposal concerning the drafting of a Second Additional Protocol to the European Convention on the Transfer of Sentenced Persons PC-OC (2007) 08 Rev

5. Questions on the application of the Conventions

Request from the Cybercrime Convention Committee (T-CY) for practical guidance concerning best practices for mutual legal assistance in computer related cases, in particular in urgent cases and questions relating to operational matters such as Article 32b of the Cybercrime Convention concerning trans-border access to stored computer data with consent.

Working documents:

- = Report of the 51st CDPC Plenary meeting CDPC (2007) 24
 - = Report of the 2nd meeting of the Cybercrime Convention Committee (T-CY) T-CY (2007) 03
 - = Convention on Cybercrime CETS No.185
- 6. Election of the Chair and the Vice-Chair of the Committee¹.** CDPC (2007) 01
Terms of Reference for the PC-OC

7. Any other business.

8. Dates of the next meeting.

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¹ For so long as the PC-OC meets only once a year, the terms of office of all persons elected as Chair or Vice-chair or as members of the Bureau should run from the end of the PC-OC meeting at which they are elected until the end of the relevant PC-OC meeting (the following year, in the case of the Chair and Vice -chair, and two years later in the case of members of the Bureau).

APPENDIX III

List of adopted decisions

At its 53rd meeting, chaired by Ms Barbara Goeth-Flemmich, the PC-OC took the following decisions:

1. Improving the operation of the existing conventions on international co-operation in criminal matters

1) Preparation of normative texts on the following subjects concerning the European Convention on Extradition (CETS No.024), as approved by the CDPC at its last plenary meeting:

Preliminary draft text relating to simplified extradition: The PC-OC had an exchange of views on this item on the basis of the preliminary draft text concerning simplified extradition prepared by Mr Per Hedvall. While agreeing on a number of amendments to the draft text, it observed that there remained certain issues which required further attention of the Committee, in particular concerning conditions for surrender, information to be provided in connection with simplified extradition, and more specifically on time limits. It instructed the Secretariat to send an amended version of the text to all delegations for comments and to inform the CDPC Bureau (16-17 January 2008) about the preliminary discussions on the draft text related to simplified extradition. The PC-OC also asked the CDPC Bureau to examine the question of whether time limit provisions can be included in a draft instrument on simplified extradition. The Committee instructed its restricted Group of experts to finalise the draft text in the light of these comments at its coming meeting, with a view to its submission to the next plenary of the PC-OC.

Compensation of persons: The PC-OC examined the draft questionnaire prepared by a member of the PC-OC on the compensation of persons in the context of extradition, and approved it with amendments. It instructed the Secretariat to send the questionnaire to all delegations and requested the latter to submit their replies by 1 March 2008. The PC-OC instructed the Secretariat to inform the restricted Group of experts about the replies received.

The speciality rule: The PC-OC agreed upon a proposal of one of its members to prepare a short questionnaire on the speciality rule and its effects on the criminal proceedings of requesting States. It instructed the Secretariat to send out this short questionnaire to all delegations for comments and approval and then to send the final text to all national delegations. It fixed the deadline for replies as 1 March 2008. The Committee instructed its restricted Group of experts to examine the replies at its next meeting.

Channels and means of communication: The PC-OC decided to continue discussions on this item at the next meeting of the restricted Group of experts.

Lapse of time: The PC-OC instructed the Secretariat to conduct research into the existing instruments dealing with this issue and present a document to its restricted Group of experts at its next meeting.

Time limits and use of languages: The PC-OC decided to postpone discussion on these two items until after the examination of the other issues concerning extradition.

2) Practical measures:

Network of national single points of contact on co-operation in the criminal field: The PC-OC took note of the information provided by the Secretariat concerning the need to update the contact details of national contact points and reiterated its request for States to reduce the number of national contact points. It instructed the Secretariat to send to all delegations the currently available contact information, with a view to allowing the delegations to update this information, if necessary. The delegations were requested to send the updated information concerning national contact points to the Secretariat by 1 February 2008, at the latest. The PC-OC also instructed the Secretariat to explore means of obtaining such contact information from non-member States of the Council of Europe which are Contracting Parties to the relevant conventions.

Database on information on national procedures on judicial co-operation in the criminal field: The PC-OC approved a public database template containing information on national procedures on judicial co-operation in the field of extradition, mutual legal assistance and transfer of sentenced persons, as presented by the Secretariat. It instructed the Secretariat to send out as soon as possible the relevant forms to be filled out and requested national delegations to send to the Secretariat the completed forms to be placed on the public database. The deadlines for the submission of the forms were agreed as follows:

- 1 February 2008 as regards extradition;
- 1 April 2008 as regards mutual legal assistance;
- 1 June 2008 as regards the transfer of sentenced persons.

In order to ensure that the information in the database remains up-to-date, delegations agreed to regularly inform the Secretariat about any changes to their national procedures and/or legislation.

The PC-OC also instructed the Secretariat to prepare a newsletter containing information on current priorities and activities of the PC-OC and place it on the website.

2. Transfer of Sentenced persons

Examination of the proposal for a Second Additional Protocol to the European Convention on the Transfer of Sentenced Persons: The PC-OC continued its examination of the proposal of the Minister of Justice of the Hellenic Republic, in the light of the States' replies to a questionnaire concerning this issue. Having identified a number of key issues related to the proposal which require further consideration (such as the question of the consent of the sentenced person, the main objectives of the new proposal, relevant cases pending before the European Court of Human Rights), the PC-OC decided to pursue the examination of this item. Taking into account that questions relating to extradition have a higher priority in the restricted Group of experts, the PC-OC agreed that this item should be included on the agenda of one of its coming plenary meetings.

3. Questions on the application of the Conventions

Request from the Cybercrime Convention Committee (T-CY) for practical guidance concerning best practices for mutual legal assistance in computer related cases, in particular in urgent cases and questions relating to operational matters: The PC-OC took note of the information provided by Mr Branislav Boháčik, representative of the CDPC to the T-CY. The PC-OC instructed the Secretariat, in co-operation with Mr Boháčik, to prepare a document containing a description of the requested information accompanied by a few specific practical questions. The Secretariat was instructed to send this document to all national delegations, including delegations of States which are not yet party to the Cybercrime Convention. The PC-OC requested all delegations to submit their replies to these questions by 1 April 2008 at the latest.

4. Election of the Chair and the Vice-Chair of the Committee

The PC-OC re-elected Ms Barbara Goeth-Flemmich (Austria) as Chair, and Ms Joana Gomes Ferreira (Portugal) as Vice-Chair of the Committee for a period of one year.

5. Dates of the next meetings

The PC-OC decided to organise two meetings of its restricted Group of experts and two plenary meetings in 2008. The provisional dates for the next meetings were fixed as follows:

- 17-20 March 2008 Meeting of the restricted Group of experts;
- 28-30 April 2008 54th meeting of the PC-OC.

APPENDIX IV

Strasbourg, 28/11/2007

PC-OC (2007) 10 Rev**EUROPEAN COMMITTEE ON CRIME PROBLEMS**
(CDPC)**COMITTEE OF EXPERTS**
ON THE OPERATION OF EUROPEAN CONVENTIONS
ON CO-OPERATION IN CRIMINAL MATTERS
PC-OC**Questionnaire concerning compensation issues
related to the European Convention on Extradition**

At its last plenary meeting on 18-22 June 2007 the European Committee for Crime Problems (CDPC) In relation to proposals for normative measures to improve the operation of relevant conventions, the CDPC decided to mandate the PC-OC to elaborate such measures as regards questions relating to the European Convention on Extradition (CETS No. 024).

In particular, The CDPC took note of the issue of compensation and return of the person and instructed the PC-OC to address a detailed questionnaire on this subject to all its members. The CDPC further instructed the PC-OC to elaborate, on the basis of the summary of the responses to the questionnaire, specific preliminary proposals with a view to submitting them to the CDPC.

In order to ensure that the PC-OC has at its disposal accurate views of its delegations about the issue of compensation of persons concerned with extradition requests, the Secretariat would appreciate if your delegation could respond to the following questions:

SECTION I – CURRENT SITUATION AS REGARDS COMPENSATION OF DETAINED PERSONS

- I.1 Does the legislation of your country provide for the compensation for detention on criminal charges, not followed by penal sentence, or followed by acquittal due to evidence proving that the detained person is not guilty?
- I.2 Under which circumstances can such compensation be refused?
- I.3 Does your country provide for a compensation for detention suffered abroad for extradition purposes where your country is the requesting State and the person, after surrender, is acquitted?
- I.4 Does your country provide for compensation of detention suffered abroad for extradition purposes when your country is the requesting country and the extradition request is withdrawn?"
- I.5 Does the legislation of your country currently provide for compensation for detention for extradition purposes, following the request from another State, when such detention is not followed by extradition? If yes, under which circumstances?

**SECTION II – COMPENSATION ISSUES UNDER THE EUROPEAN CONVENTION ON EXTRADITION
(CETS NO.:024)**

- II.1 In case when the person is extradited and then acquitted in the requesting State:**
- II.1.1 Should the requesting State be held responsible to pay compensation (at least to cover the detention period) and to provide with the possibility for the person to return to the requested State? Please provide reasons.
- II.1.2 Should the requesting State only be responsible for providing the person with the possibility of returning to the requested state? Please provide reasons.
- II.2. In case when the person is arrested in the requested State and the requesting State withdraws its request of extradition:**
- II.2.1 Should compensation to the arrested person be provided by the requesting State? Please provide reasons.
- II.2.2 Should the requested State take responsibility for having affected the person's rights and freedoms and if so – to what extent?
- II.2.3 Which State should be responsible for paying compensation if an authority from the requesting State does not in fact take the extradited person over, despite the fact that the requested state granted a decision to extradite?
- II.3 In case when the person is arrested in the requested State, which refuses to extradite the person, following a period of detention:**
- II.3.1 Should compensation be provided by the requesting State, which issued the request leading to detention? Please provide reasons.
- II.3.2 Should compensation be provided by the requested State, which effectively arrested the person? Please provide reasons.
- II.4 **Please provide any short additional information or comments that you deem useful in relation to compensation issues under the European Convention on Extradition.**
- II.5 Do you think that approximation of legislation or practice would be desirable in this matter, taking into account the fact that it directly concerns the individual's rights? If yes, would you opt for preparing new binding or non binding instrument(s) on these issues?**
