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**PC-OC (2010) 22**

**EUROPEAN COMMITTEE ON CRIME PROBLEMS**  
**(CDPC)**

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

**SUMMARY REPORT**  
**of the 59<sup>th</sup> meeting of the PC-OC**

**Strasbourg, 3-5 November 2010**  
**AGORA, Room G 02**

**1. OPENING OF THE MEETING**

1. The Chair, Mr Erik Verbert (Belgium), opened the meeting and welcomed all participants.
2. The Head of the Law Reform Department, Mr Jörg Polakiewicz, informed the PC-OC about the developments within the Council of Europe of relevance to the criminal law field, and in particular about the preparation of the 30<sup>th</sup> Council of Europe Conference of Ministers of Justice on “modernising justice in the third millennium” (Istanbul, 24-26 November 2010) and the opening for signature of the Third Additional Protocol to the European Convention on Extradition on 10 November 2010. He also provided information about the ongoing reform process within the Council of Europe, including the initiative to move to a biennial budget starting from 2012-2013.

**2. ADOPTION OF THE DRAFT AGENDA**

3. The agenda was adopted, as it appears in Appendix II to the report. Appendix I contains the list of participants.

**3. DRAFT FOURTH ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON EXTRADITION AND THE DRAFT EXPLANATORY REPORT THERETO**

4. In accordance with the mandate it received from the CDPC to modernise the European Convention on Extradition, the PC-OC continued its examination of the draft Fourth Protocol to the Convention. In accordance with the instructions of the PC-OC, the Secretariat had incorporated the existing draft texts amending the European Convention on Extradition (on lapse of time, rule of speciality, channels and means of communication, competent authorities, etc.) into the draft protocol.

5. During its examination of the draft protocol, the PC-OC paid particular attention to Article 1, paragraph 4 and Article 3, paragraph 4, with respect to which one delegation had reserved its position at the previous meeting of the PC-OC. It considered notably two proposals of wording for these two paragraphs suggested by the Bureau of the CDPC, which had been instructed by the CDPC plenary (7-10 June 2010) to examine the draft texts and to provide feedback where appropriate. As regards Article 1, paragraph 4, the PC-OC agreed to amend the text in accordance with the suggestions of the Bureau of the CDPC. As regards Article 3, paragraph 4, the delegation in question, as well as another delegation, did not consider the proposal of the Bureau of the CDPC as sufficiently addressing their concerns. The PC-OC therefore decided to leave this paragraph as before and to reflect in a footnote in the final text to be submitted to the CDPC the position of these two delegations, which requested the addition of a new paragraph giving States the ability to make a declaration excluding the use of this provision. This footnote should also state that the other delegations of the PC-OC were of the view that there was no need for such a declaration, given the optional nature of this provision.
  6. Following the discussions held by the PC-OC at its 58th meeting (4-6 May 2010) on the possible consolidation of the Convention and its protocols, the PC-OC considered the possibility of consolidating the additional protocols to the Convention by including in the present protocol the relevant provisions of the Additional Protocol (ETS No. 86) and the Second Additional Protocol (ETS No. 98) to the Convention. At its 10<sup>th</sup> enlarged meeting (28-30 September 2010), the PC-OC Mod had instructed the Secretariat to prepare a document setting out the potential advantages of a consolidated protocol, as well as the concerns expressed by most delegations of the PC-OC Mod (document PC-OC (2010) 18). Having discussed the advantages and disadvantages of this approach, the PC-OC agreed that such a consolidation exercise was not desirable due to practical reasons, and notably the fact that it may delay ratifications of the future Fourth Additional Protocol.
  7. As regards the relationship between the draft protocol and the Convention, after having considered several issues, the PC-OC instructed the Secretariat to consult the Legal Advice Department and Treaty Office of the Council of Europe on the possibility of inserting new articles directly into the European Convention on Extradition (Articles 6, 14 and 15 of the draft Fourth Additional Protocol), as well as on the compatibility with the treaty practice of the Council of Europe of introducing an obligation to periodically review all reservations made to the European Convention on Extradition and the additional protocols thereto.
  8. The PC-OC instructed the Secretariat to revise the draft explanatory report to the draft protocol in the light of the amendments agreed by the PC-OC. Finally, it instructed the PC-OC Mod to examine, revise and submit to the plenary the final clauses of the protocol and the draft explanatory report.
- 4. PRACTICAL MEASURES**
9. The PC-OC took note of the presentation by the Secretariat of the new PC-OC website and collaborative workspace, which includes a restricted discussion forum for the members of the PC-OC. The PC-OC welcomed the new website and encouraged its members to make full use of the forum feature, which could increase the capacity of the PC-OC to discuss practical problems relating to the application of the relevant conventions and facilitate the sharing of good practices.
  10. The PC-OC held a discussion on possible ways in which the PC-OC could allow practitioners who are not members of the PC-OC to submit questions and practical problems to the Committee through appropriate channels and to receive feedback from the latter, having taken note of the oral information provided by the Secretariat on the preliminary discussion on this issue which took place at the 10<sup>th</sup> meeting of the PC-OC Mod.

11. The participants agreed on the role PC-OC members should play to encourage practitioners to come forward with questions relating to the interpretation of the conventions. However, they also considered that there should be an adequate filtering mechanism, ensuring that the PC-OC devotes its time to those questions and problems where its collective expertise would provide the highest added value. It considered that it was important to define clearly the role of the members, as well as other parties potentially involved in this mechanism, in particular for future members who should be aware of this dimension of the PC-OC's mandate. In this context, the PC-OC also agreed on the importance of the new website, where relevant documentation facilitating the interpretation of the conventions is more easily accessible, and the discussion forums.
12. The PC-OC instructed the Secretariat, in collaboration with the members of the PC-OC Mod, to draw up a document containing possible ways forward and recommendations to the PC-OC and its members with a view to implementing such a mechanism.

## **5. JURISDICTION**

13. The PC-OC continued its discussions on the question of jurisdiction, in the light of the practical cases and experiences shared by its members, bearing in mind that it had identified the following issues which could be subject to further work by the PC-OC:
- European Convention on the Transfer of Proceedings in Criminal Matters: this is the main Council of Europe instrument regulating international aspects of jurisdiction. A review of its application could be well-timed given the EU initiatives in this field;
  - Specific questions relating to double criminality (by extension of the work conducted in this field in the framework of the "New Start" report);
  - The application of Article 21 of the European Convention on Mutual Assistance in Criminal Matters (laying of information);
  - The application of the *aut dedere, aut judicare* principle.
14. The PC-OC decided to collect more information about this subject through a questionnaire on the use of existing instruments and other possibilities, providing for the transfer of proceedings or other measures having an impact on jurisdiction questions. It instructed the Secretariat, in collaboration with Mr Erik Verbert (Belgium), to draw up a draft questionnaire in the light of its discussions. The PC-OC instructed the PC-OC Mod to examine and amend the draft questionnaire as necessary and submit it to the plenary for approval.

## **6. PRACTICAL PROBLEMS AND CONCRETE CASES CONCERNING THE IMPLEMENTATION OF CONVENTIONS**

15. The PC-OC devoted a part of its plenary meeting to discussing practical cases brought to its attention by its members.
16. It examined in particular a case submitted by the Czech Republic, concerning the discovery after the transfer of a person under the Convention on the Transfer of Sentenced Persons, that he had not been informed by the sentencing State about the Convention and the legal consequences of a transfer. The Czech delegation also raised the question concerning the lack of a standard text containing information on the Additional Protocol to the Convention, pointing to the fact that, while the consent of the person is not necessary for the application of the Protocol, his or her opinion must be sought and taken into consideration in each case. Finally, the Czech Republic also expressed the opinion that it might be necessary to revise the standard text on the Convention, as it may not be easy for the sentenced person to read and understand it in some cases.

17. The PC-OC delegations shared their experience concerning the way in which consent is obtained for the purposes of the Convention. While in some States consent is expressed before a court, after being informed of the legal consequences of a transfer, it is an administrative procedure in others. The delegation of the United States of America stated that information is provided by American authorities on the transfer procedure and its legal consequences, while they encourage sentenced persons to contact their consular authorities for information on what would happen to them concretely after the transfer, in particular as regards the likely length of their sentence in the administering State. The Romanian delegation informed the PC-OC that the Romanian authorities provide an information document to their citizens who could potentially be transferred, ensure that their consent is verified by consular services and convert the sentence before the transfer. Some delegations expressed the view that, while the Convention requires the person to be informed about the procedure and legal consequences, it was neither practical nor necessary to inform them of all consequences in terms of actual length of sentence to be served in the administering State. There was also a general agreement that transferring the person back to the sentencing State would not be a desirable situation.
18. Following this exchange, the PC-OC decided that updating the standard text providing information on the Convention on the transfer of sentenced persons and drawing up an additional text as regards information on the Additional Protocol to the Convention should be considered at a future meeting.
19. The PC-OC took note of another question concerning the Convention on the Transfer of Sentenced Persons submitted by the German delegation, as to whether an administering State, when enforcing a foreign judgement following the transfer of a person under the Convention, can subsequently impose preventive detention if this has not been imposed by the sentencing State and the full sentence has been enforced.
20. The PC-OC took note of diverging views expressed by its delegations on this issue, as well as of the information provided by the Secretariat on the ongoing work within the Criminal Law Division on the sentencing, management and treatment of dangerous offenders, which could be of relevance to this topic. It instructed the Secretariat to keep it informed of further developments relating to this work.

## **7. RIGHTS OF VICTIMS IN THE CONTEXT OF INTERNATIONAL CO-OPERATION IN CRIMINAL MATTERS**

21. In accordance with the instructions of the Bureau of the CDPC, the PC-OC took note of a report on the standing of victims in criminal proceedings, prepared for the CDPC by Mr Branislav Boháčik. The Bureau of the CDPC had in particular requested the PC-OC to take position on the recommendations contained in the report as regards international cooperation.
22. The PC-OC held a preliminary discussion on this report, taking note of different points of view expressed by its delegations. It agreed that the standing of victims could be of particular relevance in the context of transfer of sentenced persons, where the victim is usually present on the territory of the sentencing State and where civil claims may be attached to the sentence. One delegation also pointed to the problems faced by victims of crimes committed abroad, when they receive summonses to appear in foreign courts in a language that they do not understand, and considered that appropriate legal aid for civil claims should be provided.

23. The PC-OC instructed the Secretariat to inform the CDPC of the outcome of this discussion, and notably the view of the PC-OC that, if the CDPC decides to conduct work in this field in the future, such work should include an international co-operation component.

#### **8. POINTS FOR INFORMATION**

24. The PC-OC took note of the Information provided by Ms Anna Lipska, representative of the General Secretariat of the Council of the European Union, on developments in the criminal law field within the EU. Ms Lipska notably informed the PC-OC about the developments regarding the proposals on a European Investigation Order, the status of negotiations within the European Parliament as regards the European Protection Order, the EU's work on procedural rights, and the revision of the directives on trafficking in human beings and sexual exploitation of children. She also provided information on the implementation of the European Criminal Records Information System (ECRIS) project and the state of play concerning the 5<sup>th</sup> round of mutual evaluations, concerning financial investigation and financial crime.
25. Ms Lina Monten, representative of the General Secretariat of INTERPOL, provided information on recent developments concerning INTERPOL's work on the status of red notices, and notably the fact that the working group dealing with this issue agreed on a certain number of recommendations to be presented to the INTERPOL General Assembly. The PC-OC requested INTERPOL to provide it with the text of these recommendations and keep it abreast of developments in connection with this issue.
26. The PC-OC also took note of information provided by Ms Astrid Offner (Switzerland) on recent changes to the Swiss code of criminal procedure, as well as on the adoption of a federal law on the co-ordination of asylum and extradition procedures and thanked Ms Offner for this information.

#### **9. ELECTION OF THE CHAIR AND THE VICE-CHAIR**

27. The PC-OC elected Mr Per HEDVALL (Sweden) as Chair and Mr Erik VERBERT (Belgium) as Vice-Chair for one year.

#### **10. COMPOSITION OF THE PC-OC Mod**

28. The PC-OC renewed the composition its restricted group of experts (PC-OC Mod) as follows:

- Ms Selma DE GROOT (Netherlands)
- Mr Stéphane DUPRAZ (France)
- Ms Mme Barbara GOETH-FLEMMICH (Austria)
- Mr Per HEDVALL (Sweden)
- Mr Erwin JENNI (Switzerland)
- Mr Miroslav KUBÍČEK (Czech Republic)
- Mr Eugenio SELVAGGI (Italy)
- Mr Erik VERBERT (Belgium)
- Mr Vladimir P. ZIMIN (Russian Federation)

29. It also elected Ms Selma STEHL (Germany) and Ms Eleni LOIZIDOU (Cyprus) as substitute members.

**11. OTHER BUSINESS**

30. The PC-OC took note of a proposal by Mr Vladimir Zimin (Russian Federation) to modernise Articles 1, 2 and 3 of the European Convention on Extradition, and instructed the PC-OC Mod to examine this proposal in detail at its next meeting and to report to the PC-OC plenary.

**12. DATES OF THE NEXT PC-OC MEETINGS**

31. The PC-OC agreed on the following dates for the next meetings of the PC-OC:
- 11<sup>th</sup> enlarged meeting of the PC-OC Mod: 16-18 March 2011;
  - 60<sup>th</sup> meeting of the PC-OC: 17-19 May 2011;
  - 12<sup>th</sup> enlarged meeting of the PC-OC Mod: [12-14 October 2011] (provisional);
  - 61<sup>st</sup> meeting of the PC-OC: 22-24 November 2011 (provisional).

**APPENDIX I****LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS****ALBANIA / ALBANIE**

Ms Rudina HOXHAJ, Chief of the Sector of the Inter-judicial Cooperation, Jurisdictional Relations,  
Ministry of Justice, ALB – TIRANA Apologised / *Excusée*

Ms Odeta FENGJILLI, Expert/ Jurist, Department of Jurisdictional Foreign Affairs, International Judicial  
Cooperation Section, Ministry of Justice, ALB - TIRANA

**ANDORRA / ANDORRE**

M. André PIGOT, Magistrat Honoraire, Ancien Membre du Conseil Supérieur de la Justice,  
AND - ANDORRA-LA-VELLA Apologised / *Excusé*

M. Carles FIÑANA, Fiscalia General d'Andorra, AND - ANDORRA-LA-VELLA Apologised / *Excusé*

**ARMENIA / ARMENIE**

Mr Hovhannes POGHOSYAN, Head of International Co-operation Department, Police Headquarters,  
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**AUSTRIA / AUTRICHE**

Ms Barbara GOETH-FLEMMICH, Director, Head of Division for International Penal Law,  
Ministry of Justice, A - 1070 VIENNA Apologised / *Excusée*

Mr Johannes MARTETSCHLÄGER, Senior Public Prosecutor, Legal Adviser, Dep IV 4,  
Ministry of Justice, A - 1070 VIENNA

**AZERBAIJAN / AZERBAÏDJAN**

Ms Saadat YUSIFOVA, Senior Advisor, Department for Coordination of Law Enforcement Agencies,  
Administration of the President, AZ-1066 BAKU Apologised / *Excusée*

Mr Vusal ISAYEV, Senior Advisor, Department for Coordination of Law Enforcement Agencies,  
Administration of the President, AZ-1066 BAKU

**BELGIUM / BELGIQUE**

Mr Erik VERBERT, Deputy Legal Adviser, Central Authority, DG Legislation, Ministry Federal Public  
Service Justice, (Mail), B - 1000 BRUSSELS **Chairman/ Président**

Mr Biagio ZAMMITTO, Attaché, Central Authority, Ministry Federal Public Service Justice,  
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M. Jean GAUTIER, Conseiller Général, Direction Général des Affaires Consulaires, SPF Affaires  
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**BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE**

Mr Damir VEJO, Chef du Service pour le crime organisé et la corruption, Ministère de la Sécurité,  
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**BULGARIA / BULGARIE**

Ms Katia PANOVA, Senior Expert, International Co-operation and European Matters Directorate,  
Ministry of Justice, BG - 1040 SOFIA

**CROATIA / CROATIE**

Ms Danka HRŽINA Head of Department for extradition and mutual legal assistance in criminal matters,  
Ministry of Justice , HR - 10000 ZAGREB

**CYPRUS / CHYPRE**

Ms Eleni LOIZIDOU, Attorney, Head of Extradition section, Attorney General's Office, CY – 1403 NICOSIA  
Ms Elli Kanari MORPHAKI, Senior Administrative Officer, Head of International Legal Cooperation,  
Ministry of Justice and Public Order, CY – 1461 NICOSIA Apologised / *Excusée*

**CZECH REPUBLIC / REPUBLIQUE TCHEQUE**

Ms Nicole PETRIKOVITSOVÁ, Head of Unit, International Department for Criminal Matters,  
Ministry of Justice, CZ - 12810 PRAGUE 2 Apologised / *Excusée*  
Mr Jakub PASTUSZEK, Acting Director of International, Department for Criminal Matters,  
Ministry of Justice , CZ - 12810 PRAGUE 2

**DENMARK / DANEMARK**

Mr Eddie Omar ROSENBERG KHAWAJA, Head of Section, Ministry of Justice,  
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Mr Anders Herping NIELSEN, Head of Section, International Division, Law Department,  
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**ESTONIA / ESTONIE**

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Ms Merja NORROS, Ministerial Counsellor, Unit for International Affairs, Ministry of Justice,  
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**GEORGIA / GEORGIE**

Mr Irakli CHILINGARASHVILI, Deputy Head, Department of Legal Affairs, Office of the Chief Prosecutor,  
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**GERMANY / ALLEMAGNE**

Ms Selma STEHL, Desk Officer, Federal Ministry of Justice, D - 10117 BERLIN

**GREECE / GRECE**

Mr Alkiviadis FERESIDIS, Judge, First Instance Court of Piraeus, GR-167 77 ELLINIKO ATHENS

**HUNGARY / HONGRIE**

Mme Klara NEMETH-BOKOR, Directrice adjointe du Département, Ministère de l'Administration Publique  
et de la Justice, H - 1055 BUDAPEST

**ICELAND / ISLANDE**

Ms Valgerdur Maria SIGURDARDÓTTIR, Legal Expert , Department of Police and Judicial Affairs,  
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**IRELAND / IRLANDE**

Ms Eileen MCGOVERN, Administrative Officer, Department of Justice, Equality and Law Reform,  
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**ITALY / ITALIE**

Ms Romina INCUTTI, Magistrato Addetto all'Ufficio II, Direzione Generale della Giustizia Penale, Dipartimento per gli Affari di Giustizia, Ministero della Giustizia, I – 00186 ROMA Apologised / *Excusée*  
 M. Eugenio SELVAGGI, Procureur Général, Parquet Général de la Cassation, Procura Generale, Palazzo di Giustizia, I – 00193 ROMA

**LATVIA / LETTONIE**

Mr Maris STRADS, Prosecutor, International Co-operation Division, Office of the Prosecutor General, LV - 1801 RIGA

**LIECHTENSTEIN**

Mr Harald OBERDORFER, Regierung des Fürstentums Liechtenstein, Ressort Justiz ,  
 Regierungsgebäude, FL - 9490 VADUZ Apologised / *Excusé*  
 Mr Gert ZIMMERMANN, Legal Officer, Ressort Justiz, Regierung des Fürstentums Liechtenstein  
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**LITHUANIA / LITUANIE**

Ms Andrada BAVEJAN, Head, Legal Cooperation Division, International Law Department, Ministry of Justice, , LT - 2600 VILNIUS

**LUXEMBOURG**

Mme Annick HARTUNG, Attachée de Gouvernement, Direction des Affaires Pénales, Ministère de la Justice, 13 rue Erasme, L - 1468 Luxembourg Apologised / *Excusée*

**MALTA / MALTE**

Ms Elaine RIZZO, Lawyer, Office of the Attorney General, The Palace, MLT – VALLETTA  
 Apologised / *Excusée*

**MOLDOVA**

Ms Maria STRULEA, Chef de la Direction des Relations Internationales et de l'Intégration européenne, Ministère de la Justice, MD - 2012 CHISINAU

**MONACO**

Mme Antonella SAMPO-COUMA, Administrateur Principal, Direction des Services Judiciaires, Palais de Justice, MC - 98 000 MONACO Apologised / *Excusée*

**MONTENEGRO**

Ms Nezana MARAS, Adviser, Department for Judiciary, Ministry of Justice, 81000 PODGORICA  
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**NETHERLANDS / PAYS-BAS**

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**POLAND / POLOGNE**

Mr Tomasz CHALANSKI, Prosecutor, Department of International Cooperation and European Law, Ministry of Justice, PL - 00-950 WARSAW Apologised / *Excusé*  
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**PORTUGAL**

Mme Joana GOMES FERREIRA, Procureur, Coordenadora dos Serviços de Cooperação Judiciária Internacional em matéria penal, Procuradoria Geral da República, P - 1200 LISBOA

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**RUSSIAN FEDERATION / FEDERATION DE RUSSIE**

Mr Vladimir P. ZIMIN, First Deputy Chief, General Department for International Legal Co-operation, Office of the Prosecutor General, RUS – 125993 GSP MOSCOW

**SAN MARINO / SAINT-MARIN**

M. Guido CECCOLI, Ambassadeur, Représentant Permanent de Saint-Marin auprès du Conseil de l'Europe, 10, rue Sainte-Odile, F – 67000 STRASBOURG Apologised / *Excusé*

**SERBIA / SERBIE****SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE**

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**SWEDEN / SUEDE**

Mr Per HEDVALL, Director, Division for Criminal Cases and International Judicial Co-operation, Ministry of Justice, SE – 10333 STOCKHOLM  
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**TURKEY / TURQUIE**

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Apologised / *Excusée*

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

Apologised / *Excusé*

**EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE / COMMISSION EUROPEENNE POUR L'EFFICACITE DE LA JUSTICE (CEPEJ)**

Apologised / *Excusé*

**STEERING COMMITTEE FOR HUMAN RIGHTS / COMITE DIRECTEUR POUR LES DROITS DE L'HOMME (CDDH)****EUROPEAN UNION / UNION EUROPEENNE****COMMISSION**

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Apologised / *Excusée*

**GENERAL SECRETARIAT OF THE COUNCIL OF THE EUROPEAN UNION / SECRETARIAT GENERAL DU CONSEIL DE L'UNION EUROPEENNE**

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Apologised / *Excusée*

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**JAPAN / JAPON**

Mr Hiroyuki MINAMI, Consul (Attorney), Consulate-General of Japan, "Tour Europe"  
F – 67000 STRASBOURG Apologised / *Excusé*

**MEXICO / MEXIQUE**

Mlle María Fernanda GONZALEZ, attachée, Représentation du Mexique auprès du Conseil de l'Europe,  
67000 STRASBOURG, France Apologised / *Excusée*

**OBSERVERS WITH THE COMMITTEE /**  
**OBSERVATEURS AUPRES DU COMITE**

**States Observers / *Etats Observateurs***

**ISRAEL**

Mr Yitzchak BLUM, Deputy Director, Department of International Affairs, Ministry of Justice,  
IL - 97765 JERUSALEM  
Ms Regina TAPOOHI, Senior Assistant to the State Attorney, Department of International Affairs,  
Ministry of Justice, IL – JERUSALEM Apologised / *Excusée*

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**INTERNATIONAL INTERGOVERNMENTAL ORGANISATIONS /**  
**ORGANISATIONS INTERNATIONALES INTERGOUVERNEMENTALES**

**UNITED NATIONS OFFICE FOR DRUGS AND CRIME (UNODC) / OFFICE DES NATIONS UNIES  
CONTRE LA DROGUE ET LE CRIME (UNODC)**

**UNITED NATIONS INTERREGIONAL CRIME AND JUSTICE RESEARCH INSTITUTE (UNICRI) /  
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**APPENDIX II****Agenda**

1. **Opening of the meeting**
2. **Adoption of the draft agenda**  
 Draft agenda [PC-OC \(2010\) OJ 2](#)  
 Draft annotated agenda [PC-OC \(2010\) 20](#)
3. **Draft Fourth Additional Protocol to the European Convention on Extradition and its draft explanatory report**  
Working documents  
 Draft Fourth Additional Protocol to the European Convention on Extradition [PC-OC \(2010\) 13 rev](#)  
 Preliminary examination of the draft Explanatory Report to the Fourth Additional Protocol to the European Convention on Extradition [PC-OC \(2010\) 14 rev](#)  
  
 Proposal by Russian Federation concerning Article 15 - Re-extradition to a third State [PC-OC \(2010\) 16](#)  
 Comments of the Czech Republic on the proposal of the Russian Federation [PC-OC \(2010\) 17](#)  
 New Start" Report [PC-S-NS \(2002\) 7](#)  
 Proposals of the PC-OC concerning normative measures [PC-OC \(2007\) 06](#)  
 List of decisions of the 58<sup>th</sup> plenary meeting of the PC-OC [PC-OC \(2010\) 11](#)  
 List of Decisions of the 10<sup>th</sup> enlarged meeting of the PC-OC Mod [PC-OC Mod \(2010\) 03](#)  
 List of Decisions of the 59<sup>th</sup> Plenary Session of the CDPC, 7-10 June 2010 [CDPC \(2010\) 12](#)  
 List of decisions of the CDPC Bureau meeting, 7-8 October 2010 [CDPC-BU \(2010\) 32](#)  
  
**3.1. Language issues**  
Working documents  
 Questionnaire on language issues [PC-OC \(2009\) 20 rev](#)  
 Replies to the questionnaire on language issues [PC-OC \(2010\) 03 rev 2](#)  
 Summary of replies [PC-OC \(2010\) 10](#)  
  
**3.2. Possible consolidation of Additional Protocols**  
Working documents  
 Considerations regarding the consolidation of the additional protocols to the European Convention on Extradition [PC-OC \(2010\) 18](#)  
 Information document prepared by the Secretariat [PC-OC \(2010\) 04](#)  
 List of reservations to the protocols to the European Convention on Extradition [Add Protocol](#)  
[2<sup>nd</sup> Add Protocol](#)  
 Comments on consolidation by the Czech Republic [PC-OC \(2010\) 19](#)  
 (Eng. Only)
4. **Practical measures**
  - a. **Discussion on possible ways of allowing practitioners to submit questions to the PC-OC**
  - b. **Presentation by the Secretariat of the new PC-OC website and collaborative space**

Working documents

Discussion paper prepared by the Secretariat  
Comments by Mr Eugenio Selvaggi

[PC-OC \(2010\) 06](#)[PC-OC \(2010\) 07](#)

(Eng. Only)

Comments by Mr Branislav Boháčik

[PC-OC \(2010\) 08](#)

(Eng. Only)

**5. Jurisdiction**Working documents

Excerpt from the explanatory report of the European Convention on  
the Transfer of Proceedings in Criminal Matters

[Excerpt from the  
explanatory report](#)

Report by Mr Lagodny on possible ways to reduce the double  
criminality requirement

[PC-TJ \(2005\) 06](#)

[Document submitted by the Czech Republic – concurrent jurisdiction](#)

(Eng. only)

**6. Practical problems and concrete cases concerning the implementation of conventions**

[Document submitted by the Czech Republic – informing sentenced  
persons](#)

(Eng. Only)

**7. Rights of victims in the context of international co-operation in criminal matters**

Report on the standing and rights of victims in criminal proceedings

[CDPC \(2010\) 16](#)**8. Points for information****Information provided by Switzerland:**

[Information on codes of procedure](#)

(French only)

Code of procedure

[DE IT](#)

[Information on extradition](#)

(French only)

Law on extradition

[FR DE IT](#)**9. Composition of the PC-OC Mod**Working documents

Committee of Ministers Resolution on committees and subordinate  
bodies, their terms of reference and working methods

[CM Res\(2005\)47](#)**10 Election of the Chair and the Vice-Chair of the Committee****11. Any other business****12. Dates of the next meetings**

**APPENDIX III****List of decisions taken at the 59th meeting of the PC-OC  
3 - 5 November 2010**

The PC-OC decided to:

**1. Draft Fourth Additional Protocol to the European Convention on Extradition and the draft explanatory report thereto**

- examine and amend the draft Fourth Additional Protocol to the European Convention on Extradition (PC-OC (2010) 13 rev);
- as regards Article 3, paragraph 4 of the Fourth Additional Protocol, to reflect in a footnote in the final text to be submitted to the CDPC the position of two delegations requesting the inclusion of the possibility of making a declaration excluding the use of this paragraph, as well as the view of the majority of PC-OC delegations that there was no need for such a declaration, given the optional nature of this provision;
- as regards the possibility of consolidating the additional protocols to the European Convention on Extradition, agree that such a consolidation with the Fourth Additional Protocol was not desirable due to practical reasons, and notably the fact that it may delay ratifications of the Fourth Additional Protocol;
- instruct the Secretariat to consult the Legal Advice Department and Treaty Office of the Council of Europe concerning the following questions relating to the Fourth Additional Protocol:
  - o the possibility of inserting new articles directly into the European Convention on Extradition (Articles 6, 14 and 15 of the draft Fourth Additional Protocol);
  - o the compatibility with the treaty practice of the Council of Europe of introducing an obligation to periodically review all reservations made to the European Convention on Extradition and the additional protocols thereto;
- instruct the Secretariat to revise and complete the draft explanatory report to the draft protocol in the light of its discussions;
- instruct the PC-OC Mod to examine, revise and submit to the plenary:
  - o the final clauses of the draft protocol in the light of the replies of the Legal Advice Department and Treaty Office;
  - o the draft explanatory report to the protocol;

**2. Practical measures**

- hold a preliminary discussion on possible ways in which the PC-OC could allow practitioners who are not members of the PC-OC to submit questions and practical problems to the Committee through appropriate channels and to receive feedback from the latter;
- instruct the Secretariat, in collaboration with the members of the PC-OC Mod, to draw up a document containing possible ways forward and recommendations to the PC-OC and its members with a view to implementing such a mechanism;
- take note of the presentation by the Secretariat of the new website and collaborative space of the PC-OC;

**3. Jurisdiction**

- continue its discussions on the issue of jurisdiction as regards international co-operation in criminal matters on the basis of concrete examples submitted by its delegations;
- instruct the Secretariat, in collaboration with Mr Erik Verbert (Belgium), to draw up a draft questionnaire in the light of these discussions;
- instruct the PC-OC Mod to examine and amend the draft questionnaire as necessary and submit it to the plenary for approval;

#### **4. Practical problems and concrete cases concerning the implementation of conventions**

- discuss two practical cases relating to the transfer of sentenced persons brought to its attention by the Czech Republic and Germany;
- consider, in a future meeting, updating the standard text providing information on the Convention on the transfer of sentenced persons and drawing up an additional text as regards information on the Additional Protocol to the Convention;
- take note of the information provided by the Secretariat on the ongoing work within the Criminal Law Division on the sentencing, management and treatment of dangerous offenders, and to instruct the Secretariat to keep it informed of further developments;

#### **5. Rights of victims in the context of international co-operation in criminal matters**

- take note of a report on the standing of victims in criminal proceedings, prepared for the CDPC by Mr Branislav Boháčik;
- as regards the request of the CDPC Bureau for the PC-OC to take position concerning the recommendations on international co-operation contained in the report, hold a preliminary discussion on this issue;
- instruct the Secretariat to inform the CDPC of the outcome of this discussion, and notably the view of the PC-OC that, if the CDPC decides to conduct work in this field in the future, such work should include an international co-operation component;

#### **6. Points for information**

- take note of the information provided by:
  - o the Secretariat on relevant recent developments within the Council of Europe;
  - o Ms Anna Lipska, representative of the General Secretariat of the Council of the European Union, on developments in the criminal law field within the EU;
  - o Ms Lina Monten, representative of the General Secretariat of INTERPOL, on recent developments concerning INTERPOL's work on the status of red notices, and invite INTERPOL to provide to the PC-OC the recommendations of the working group dealing with this issue;
  - o Ms Astrid Offner (Switzerland) on recent changes to the Swiss code of criminal procedure, as well as on the adoption of a federal law on the co-ordination of asylum and extradition procedures;

#### **7. Election of the Chair and the Vice-Chair of the Committee**

- elect Mr Per HEDVALL (Sweden) as Chair and Mr Erik VERBERT (Belgium) as Vice-Chair for one year;

#### **8. Composition of the PC-OC Mod**

- renew the composition of the PC-OC Mod as follows:
  - o members:
    - Ms Selma DE GROOT (Netherlands)
    - Mr Stéphane DUPRAZ (France)
    - Ms Mme Barbara GOETH-FLEMMICH (Austria)
    - Mr Per HEDVALL (Sweden)
    - Mr Erwin JENNI (Switzerland)
    - Mr Miroslav KUBÍČEK (Czech Republic)
    - Mr Eugenio SELVAGGI (Italy)
    - Mr Erik VERBERT (Belgium)
    - Mr Vladimir P. ZIMIN (Russian Federation)
  - o substitute members:
    - Ms Eleni LOIZIDOU (Cyprus)
    - Ms Selma STEHL (Germany)

**9. Other business**

- take note of a proposal made by Mr Vladimir Zimin (Russian Federation) to modernise Articles 1, 2 and 3 of the European Convention on Extradition;
- to instruct the PC-OC Mod to examine this proposal in detail at its next meeting and to report to the PC-OC plenary;

**10. Dates of the next meetings**

- agree on the following dates for the next meetings of the PC-OC:
  - o 11<sup>th</sup> enlarged meeting of the PC-OC Mod: 16-18 March 2011;
  - o 60<sup>th</sup> meeting of the PC-OC: 17-19 May 2011;
  - o 12<sup>th</sup> enlarged meeting of the PC-OC Mod: [12-14 October 2011] (provisional);
  - o 61<sup>st</sup> meeting of the PC-OC: 22-24 November 2011 (provisional).

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