



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 19/05/2011
[PC-OC/Documents2011/PC-OC (2011) 13E]
<http://www.coe.int/tcj/>

PC-OC (2011) 13

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

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

**List of decisions taken at the 60th meeting of the PC-OC
Under the Chairmanship of Mr Per Hedvall (Sweden)**

Strasbourg
17 - 19 May 2011

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

In accordance with the mandate it received from the CDPC to modernise the European Convention on Extradition, the PC-OC continued the examination of the draft Fourth Additional Protocol to the European Convention on Extradition. In the light of discussions held in the PC-OC Mod, special attention was given to Articles 7 to 15, to the opinion of the Legal Advice Department in this respect as well as to gender equality. The Committee welcomed the fact that one of its delegates volunteered to examine the text of the Draft Protocol from the perspective of gender equality. The Committee also considered, but decided not to retain, proposals regarding the introduction of provisions allowing for

- a. a simplified amendment procedure;
- b. a regular review mechanism for reservations and declarations to the Convention and the Additional Protocols thereto;
- c. Council of Europe Member States to accede to this protocol (without having signed it previously). One delegation underlined however its strong preference for this possibility.

The PC-OC decided to:

- agree on the text of the draft Fourth Additional Protocol to the European Convention on Extradition as amended during the meeting (PC-OC (2010) 13 rev 4);
- agree on the text of the draft explanatory report to the protocol (PC-OC (2010) 14 rev 4) as amended during the meeting;
- submit the draft Fourth Additional Protocol and the draft explanatory report thereto to the CDPC for approval.

2. **Proposals by Mr Vladimir ZIMIN (Russian Federation) on the modernisation of the European Convention on Extradition**

The PC-OC welcomed the document prepared by Mr Zimin, examined the proposals and decided:

- not to consider further these proposals *in the context of the draft Fourth Additional Protocol* so as to avoid any delay in its finalisation;
- to come back to these proposals in the framework of future discussions on the modernisation of the Convention on Extradition.

3. **Consolidated document, proposed by Mr Miroslav Kubiček (Czech Republic), reflecting the applicable provisions of the European Convention on Extradition, the first two additional protocols thereto and the draft Fourth Additional Protocol**

The PC-OC thanked Mr Kubiček for this document and decided to:

- invite delegations to send observations and proposals for its improvement in view of its dissemination and use by practitioners;
- instruct the Secretariat to look into the technical and budgetary possibilities to develop a user-friendly electronic version;
- reconsider the follow-up to be given at its next meeting.

4. **Draft questionnaire on jurisdiction and transfer of proceedings**

The PC-OC considered the draft questionnaire and decided to:

- approve the draft questionnaire further to some amendments [PC-OC (2011) 02rev];
- send it out to the member States, inviting them to reply by 1 September 2011;
- instruct the PC-OC Mod to consider the replies and make proposals to the PC-OC for adequate follow up.

5. **Possible ways of allowing practitioners to submit questions to the PC-OC**

The PC-OC considered the proposals made by the Secretariat as amended by the PC-OC Mod [PC-OC (2011) 04] and the Information sheet on the PC-OC prepared by Mr Eugenio Selvaggi (Italy)[PC-OC (2011) 08] and decided to:

- instruct the PC-OC Mod to:
 - a. finalise the proposals or guidelines in the light of the discussions held and to consider, in particular, measures to increase the visibility of the work of PC-OC;
 - b. finalise the information sheet on the Committee;
- instruct the Secretariat to:
 - a. make proposals to improve the presentation and content of the PC-OC's public website;
 - b. look into the feasibility of publishing on the website the decisions of the European Court of Human Rights that are relevant to the work of the PC-OC, documents of other international organisations and bodies of relevance, links to their websites and relevant national laws;
 - c. send a reminder on the ways to access and use the collaborative workspace and forum to all delegations;
 - d. send a reminder to delegations about the need to update country information and lists of practitioners.

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

The PC-OC considered:

1. the desirability of updating the Standard text providing information about the Convention on the transfer of sentenced persons [PC-OC Inf 12] and of drawing up an additional text as regards information on its Additional Protocol and decided:
 - not to retain these proposals;
2. the proposal by the German delegation to draw up a list of competent authorities in order to facilitate the implementation of Articles 13 and 15§3 of the European Convention on Mutual Assistance in Criminal Matters and decided:
 - to invite delegations to send information about the competent authorities in respect of Articles 13 and 15§3 of the European Convention on Mutual Assistance in Criminal Matters to the Secretariat so as to publish a list on the website of the PC-OC;
3. the Paper on the relationship between extradition and expulsion prepared by Mr Eugenio Selvaggi (Italy) and including comments by Mr Miroslav Kubíček (Czech Republic) and Mr Erik Verbert (Belgium) [Disguised extradition, surrender by other means PC-OC (2011) 09 rev] and decided:
 - to postpone the discussion on disguised extradition until its next plenary meeting;
4. the Case study by Ms Merja Norros (Finland) on hearing by video conference and security issues [PC-OC(2011)12] and decided:
 - to instruct the PC-OC Mod to look into the feasibility of collecting technical information from Parties to the Second Additional Protocol concerning the use of hearings by video conference and to report to the PC-OC.

7. **Exchange of views with the PC-CP secretariat on the draft Recommendation concerning foreign prisoners**

The PC-OC considered the Draft Recommendation concerning foreign prisoners [PC-CP(2011) 5REV] and the draft commentary thereto [PC-CP(2011) 6REV], thanked the scientific experts of the PC-CP for the explanations provided, and decided:

- to invite the PC-CP to take into consideration the comments made during the discussion.

8. **Future activities and priorities**

The PC-OC considered provisional draft terms of reference of the PC-OC for 2012 and 2013 as reflected in [PC-OC (2011)11] which includes general priorities and decided to:

- finalise the examination by written procedure;
- instruct the Secretariat to amend the draft terms of reference in light of the discussions and send them to all delegations for comments;
- submit the revised provisional draft terms of reference for consideration to the CDPC.

The PC-OC also considered its future activities and decided to:

- instruct the PC-OC Mod to further explore the feasibility of proposing simplified procedures for the amendment of the European Conventions on co-operation in criminal matters;
- instruct the PC-OC Mod to explore possibilities to encourage and facilitate the review of existing declarations and reservations to the European Conventions on co-operation in criminal matters;
- invite delegations to submit further proposals concerning the modernisation of the European Conventions on co-operation in criminal matters.

9. Points for information

The PC-OC took note of :

- the information provided by Mr Jan Kleijssen, Director of Standard setting of the Directorate of Human Rights and Legal Affairs, concerning the ongoing reform of intergovernmental structures in the Council of Europe, welcoming the continuation of the CDPC, the PC-OC and the PC-CP;
- the need to review their terms of reference by the end of this year by proposing concrete activities and expected results for 2012 and 2013, taking due account of the need to address gender equality issues where appropriate in the context of their activities;
- the information provided by the Secretariat on the functioning of the electronic discussion forum and shared office space in replacement of the restricted website of the PC-OC;
- the fact that the project relating to the development of effective practical tools to facilitate judicial cooperation in criminal matters has been discontinued owing to the lack of further voluntary contributions;
- the information about the G8 document "Requesting mutual legal assistance in criminal matters from G8 countries; a step by step guide"(2011);
- the information provided by the Swiss delegation regarding bilateral treaties with Brazil, Cuba, Mexico and Paraguay on the transfer of sentenced persons and mutual legal assistance in criminal matters.

10. Dates of its next meetings

The PC-OC decided to have the meeting of the PC-OC Mod on 12 to 14 October 2011 (2,5 days) and to have its next plenary meeting on 22 to 24 November 2011 (3 days).

* * * * *