

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 55th plenary meeting
4-7 November 2008

The PC-OC decided to:

1. Preparation of normative texts concerning the European Convention on Extradition

a) Simplified extradition

- adopt the draft 3rd Additional Protocol to the European Convention on Extradition (PC-OC (2008) 05 Rev 4) with amendments and submit it to the CDPC;
- request a legal opinion from the Treaty Office concerning the regime of declarations and reservations foreseen in the draft 3rd Additional Protocol, and notably its Article 4, paragraph 5, Article 5 and Article 17, to be submitted to the CDPC together with the draft 3rd Additional Protocol;
- amend the draft Explanatory Report to the 3rd Additional Protocol to the European Convention on Extradition (PC-OC (2008) 20 Rev) and agree on the substance of the draft Explanatory Report, with the exception of the paragraphs relating to Article 1 of the draft 3rd Additional Protocol;
- instruct the Secretariat to revise the draft Explanatory Report in the light of the discussions held during the meeting and send it to all delegations;
- request delegations wishing to make stylistic amendments to this text to send their proposals to the Secretariat by 31 January 2009;
- instruct the PC-OC Mod to finalise the draft Explanatory Report at its next meeting in the light of these proposals and to submit the amended Protocol to the approval of the PC-OC at its 56th plenary meeting;

b) Rule of speciality

- on the basis of the replies to the questionnaire PC-OC (2008) 01 rev, the summary of replies prepared by the Secretariat (PC-OC (2008) 12), written contributions submitted by Mr Per Hedvall (Sweden), Mr Eugenio Selvaggi (Italy) and Mr Branislav Boháčik (Slovakia), discuss potential amendments to Article 14 of the European Convention on Extradition on the rule of speciality;
- thank Mr Hedvall, Mr Selvaggi and Mr Boháčik for their contributions;
- take note of the information provided by the Finnish delegation on a case pending before the European Court of Justice concerning the interpretation of the provisions on the rule of speciality of the EU Framework-Decision on the European Arrest Warrant;
- instruct the Secretariat to prepare a new proposal on the basis of these contributions and the discussions held during the meeting;
- instruct the PC-OC Mod to examine this proposal, amend it as necessary and submit it to the plenary for consideration;

c) Lapse of time

- examine the issue of lapse of time on the basis of a background information document prepared by the Secretariat (PC-OC (2008) 06), Article 8 the Convention relating to extradition between the Member States of the European Union, as well as a concrete draft text proposed by Mr Vladimir Zimin (Russian Federation);
- thank Mr Zimin for his contribution;
- instruct the Secretariat to prepare a new draft text amending Article 10 of the European Convention on Extradition, in the light of Article 8 of the Convention relating to extradition between the Member States of the European Union, and the possibilities for reservation contained in Mr Zimin's proposal;
- instruct the PC-OC Mod to examine this draft text, amend it as necessary and submit it to the plenary for consideration;

d) Ways and means of communication

- examine this issue on the basis of a concrete draft text proposed by Mr Vladimir Zimin (Russian Federation);
- thank Mr Zimin for his contribution;
- invite delegations to reflect on this threefold proposal, which deals with competent authorities, communications and necessary documentation, and send to the Secretariat proposals to be taken into account by the PC-OC by 31 January 2009;
- instruct the PC-OC Mod to examine these proposals and make concrete suggestions to the PC-OC plenary for further work;

e) Compensation of persons

- examine this issue on the basis of replies to the questionnaire PC-OC (2007) 10 rev and the summary of replies prepared by the Secretariat (PC-OC (2008) 21), as well as the conclusions of the 6th enlarged meeting of the PC-OC Mod;
- while considering that other issues concerning the modernisation of the European Convention on Extradition should remain the priority of the PC-OC for the time being, agree that compensation of persons is a very important question, in particular as it affects Human Rights, which would deserve further consideration by the PC-OC at a later stage;
- report the results of its stock-taking exercise, as well as the proposals it has considered, to the CDPC;

2. Follow-up of the 28th Conference of the European Ministers of Justice (25-26 October 2007, Lanzarote): the relationship between asylum procedures and extradition procedures

- having taken note of the replies by 20 States to the questionnaire PC-OC (2008) 13 Bil, and considering that more replies would be necessary to have a representative overview concerning the situation in different member States, request all delegations, who have not already done so, to reply to this questionnaire by 31 January 2009;
- instruct the Secretariat to invite the UNHCR to submit comments to the PC-OC before the next PC-OC Mod meeting and to present these comments at the next plenary meeting of the PC-OC;
- instruct the PC-OC Mod to examine the relationship between asylum procedures and extradition procedures in the light of these elements and make concrete proposals to the PC-OC plenary on the necessity of possible future action in this field;

3. Future Council of Europe Ministerial Conferences

- take note of oral information provided by the Secretariat on the preparations of the 29th Council of Europe Conference of Ministers of Justice, which will be held in Tromsø, Norway on 18-19 June 2009;
- take note of a proposal made by Romania during the 57th meeting of the CDPC (2-6 June 2008) to host a Council of Europe Conference of Ministries of Justice and of the Interior in Bucharest in 2010, on issues relating to international co-operation in criminal matters;
- welcome this proposal and hold a preliminary exchange of views as to possible themes for such a conference;

4. Co-operation between the Council of Europe and the EU in the criminal law field

- take note of the Information provided by Ms Anna Lipska, representative of the General Secretariat of the Council of the EU, on new instruments in the criminal law field having been adopted or being negotiated within the EU, and stress the importance for these instruments to be accompanied by adequate guidance for the practitioners;
- take note of the information provided by the Secretariat on general aspects of the co-operation between the Council of Europe and EU bodies, as well as on the recent initiatives taken by the Secretariat to explore possibilities for increasing co-operation with the European Commission and the European Judicial Network (EJN), in particular with a view to developing the practical measures recently implemented by the PC-OC;
- welcome this information and underline the need for better co-operation and regular contacts between the PC-OC and the EJN;
- thank the Czech delegation for having communicated to the PC-OC the dates of important EU meetings in the criminal law field which will take place during the Czech Presidency;

5. Election of the Chair and the Vice-Chair

- elect Mr Erik Verbert (Belgium) as Chair and Ms Barbara Göth-Flemmich (Austria) as Vice-Chair for one year;

6. Composition of the PC-OC Mod

- renew the composition of the restricted Group of Experts (PC-OC Mod) as follows:
 - o Ms Barbara Göth-Flemmich (Austria)
 - o Mr Erik Verbert (Belgium)
 - o Ms Nicole Petrikovitsova (Czech Republic)
 - o Ms Carla Deveille-Fontinha (France)
 - o Mr Eugenio Selvaggi (Italy)
 - o Mr Vladimir Zimin (Russian Federation)
 - o Mr Branislav Boháčik (Slovakia)
 - o Ms Cecilia Riddselius (Sweden)
 - o Mr Erwin Jenni (Switzerland)

7. Any other business

- instruct the PC-OC Mod to examine the replies to the questionnaire on mutual legal assistance in computer-related cases (PC-OC (2007) 15) at its next meeting and to report the results to the Cybercrime Convention Committee (T-CY);

8. Dates of the next meetings

- agree on the following dates for the next meetings of the PC-OC:
 - o 7th enlarged meeting of the restricted Group of Experts: 25-27 February 2009;
 - o 56th meeting of the PC-OC: 12-14 May 2009.