



Strasbourg, 14 May 2009
[PC-OC docs/PC-OC (2009) 11E]

PC-OC (2009) 11

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 56th plenary meeting
12-14 May 2009

The PC-OC decided to:

1. 50th anniversary of the European Convention on Mutual Assistance in Criminal Matters

- welcome the fact that, on 16 June 2009, the Convention will be in force with respect to all member States of the Council of Europe;
- on the occasion of the 50th anniversary of the Convention, have an exchange of views on the ways in which the ratification and implementation of the Second Additional Protocol to the Convention can be promoted;
- take note of the stage of preparation of the signature and ratification of the Second Additional Protocol in different member States;
- agree on the need for keeping the ratification of the Second Additional Protocol on the agenda in all relevant fora, including at the next Conference of the Council of Europe Ministers of Justice (Tromsø, Norway, 18-19 June);

2. 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 5) and its draft Explanatory Report with amendments and submit it to the CDPC;
- instruct the Secretariat to send these texts to the Treaty Office for a legal opinion in view of the next CDPC plenary;
- instruct the Secretariat also to send to the Treaty Office amendments to the draft Protocol proposed by the Russian delegation;

b) *Rule of speciality*

- examine a draft text amending Article 14 of the European Convention on Extradition prepared by the Secretariat and amended by the PC-OC Mod at its 7th enlarged meeting;
- instruct the Secretariat to amend this text on the basis of the discussions held during the meeting and send it to all delegations by 15 June 2009;
- invite all delegations to submit their written comments on this new text to the Secretariat by 1 September 2009;
- instruct the PC-OC Mod to examine this revised text at its next meeting, amend it as necessary and submit it to the plenary;

c) Lapse of time

- examine a draft text amending Article 10 of the European Convention on Extradition prepared by the Secretariat and amended by the PC-OC Mod at its 7th enlarged meeting;
- in the light of this examination, instruct the Secretariat to draft a new text with two new options retained by the PC-OC and to send this text to all delegations by 15 June 2009;
- invite all delegations to submit their written comments on this new text to the Secretariat by 1 September 2009;
- instruct the PC-OC Mod to examine the new proposal in the light of these written comments, amend it as necessary and submit it to the plenary;

d) Channels and means of communication

- take note of a revised proposal submitted by Mr Vladimir Zimin (Russian Federation) dealing with this issue;
- instruct the PC-OC Mod to continue the examination of this item on the basis of this proposal;

e) Compensation of persons

- agree on the content of its report to the CDPC on the results of its stock-taking exercise regarding the compensation of persons in connection with extradition, as set out in the summary report of its 55th meeting (PC-OC (2008) 29);
- ask the CDPC for further guidance as to future action to be taken regarding this subject;

3. 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

- take note of the replies by 27 States to the questionnaire PC-OC (2008) 13 Bil, as well as a summary of replies prepared by the Secretariat (PC-OC (2009) 04 rev);
- take note of the documents submitted by UNHCR on this issue, as well as the oral information provided by representatives of UNHCR;
- take note of the information provided by the Secretariat of the Steering Committee for Human Rights (CDDH) on CDDH's Guidelines on Human Rights Protection in the context of Accelerated Asylum Procedures;
- take note of the fact that, while the majority of member States did not report serious problems regarding the relationship between asylum procedures and extradition procedures, this question is nonetheless an important source of concern for some member States;
- agree that, at the present stage, a majority of delegations did not see a need to embark on further work regarding this question;
- agree that the questionnaire nonetheless allowed the PC-OC to identify a number of issues which could be usefully dealt with in the context of the PC-OC's general terms of reference, in particular when discussing practical problems and concrete cases brought to the attention of the PC-OC by its members;
- report the results of this exercise to the CDPC;

4. Mutual legal assistance in computer-related cases

- take note of the replies to the questionnaire PC-OC (2008) 08 Rev, a summary of replies prepared by the Secretariat (PC-OC (2009) 05), as well as the oral information provided by the Secretariat on the last meeting of the Cybercrime Convention Committee (T-CY) (12-13 March 2009);

5. Draft Convention on counterfeiting of medical products and similar crimes involving threats to public health

- take note of the draft Convention of the Council of Europe on counterfeiting of medical products and similar crimes involving threats to public health, and in particular its Article 19 on international co-operation;
- consider, *inter alia*, that seizure and confiscation could be explicitly mentioned under Article 19, paragraph 4;
- invite delegations who wish to comment on Article 19 of the draft Convention, to provide written comments to the Secretariat by 31 May 2009;

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

- take note of the information provided by the Belgian delegation on difficulties Belgium encountered in extradition cases with South Africa, as well as an example of positive co-operation with Togo;
- take note of a difficulty brought to its attention by Finland relating to the implementation of the European Convention on Mutual Assistance in Criminal Matters;
- take note of the information provided by the Russian delegation on steps taken in order to extend national legal possibilities of co-operation under this Convention and invite the Russian delegation to keep the PC-OC informed of future developments in this area at its next meeting;
- have an exchange of views concerning information requested by Andorra on the practical use made of the Additional Protocol to the Convention on the Transfer of Sentenced Persons by its Parties;

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

- welcome the Conclusions of the Council of the European Union on supporting the Council of Europe's legislative work in the area of criminal justice, adopted at the 2927th Justice and Home Affairs Council meeting (26-27 February 2009);
- take note of the proposal for a project relating to the development of practical measures for facilitating judicial co-operation in criminal matters, which will be partly financed by the EU;
- express support for this proposal;
- 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;

8. Working methods of the PC-OC and the PC-OC Mod

- in the light of the growing number and complexity of issues that need to be dealt with by the PC-OC and the PC-OC Mod, as well as increasing time constraints, agree on ways in which the purpose of the PC-OC Mod as a drafting group can be further affirmed;

9. Dates of the next meetings

- agree on the following dates for the next meetings of the PC-OC:
 - o 8th enlarged meeting of the restricted Group of Experts: 30 September - 2 October 2009;
 - o 57th meeting of the PC-OC: 17-19 November 2009.