

2000



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 31 October 2000
[PC-OC\Docs 2000\10E – Report 41]

PC-OC (2000) 27

EUROPEAN COMMITTEE ON CRIME PROBLEMS

(CDPC)

**Committee of Experts on the Operation
of European Conventions in the Penal Field**

(PC-OC)

**SUMMARY REPORT
of the 41st meeting
Strasbourg, 25 - 28 September 2000**

Secretariat Memorandum
prepared by the
Directorate General of Legal Affairs

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1. The PC-OC held its 41st meeting from 25 to 28 September 2000 at the Council of Europe headquarters in Strasbourg. The Committee met under the chairmanship of Mr M. Knaapen (Netherlands).

Elections

2. Mr M Hatapka (Slovak Republic) was re-elected Vice-Chairman.
3. The Bureau of the Committee is consequently formed as follows:
 - Mr M. Knaapen (the Netherlands), Chairman, elected in March 2000;
 - Mr M. Hatapka (Slovak Republic), 1st Vice-Chairman, elected for a 2nd term in September 2000;
 - Mr E. Selvaggi (Italy), 2nd Vice-Chairman, elected in March 2000.
4. The list of participants forms Appendix I to this report.

5. The Agenda of the meeting, as adopted by the Committee, forms Appendix II to this report.

6. The Committee worked on the basis in particular of the following:

(a) Conventions

ETS 24	European Convention on Extradition
ETS 30	European Convention on Mutual Assistance in Criminal Matters
ETS 112	Convention on the Transfer of Sentenced Persons

(b) Working papers

PC-OC (2000) 13	Summary Report of the 40th meeting
PC-OC (2000) 23	Preliminary Draft Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (text based on the draft reproduced in doc. PC-OC (2000) 21
PC-OC (2000) 17 Rev.2	Draft Cyber-Crime Convention
PC-CY (2000) 17	Document prepared by the Committee PC-CY
PC-OC / INF5 Rev.	Guide to Procedures on the Transfer of Sentenced Persons
PC-OC (2000) 22	Undue delays, document by Mr. Johan Berg
PC-OC (2000) 4	Forms for requests for co-operation
PC-OC (2000) 4 Rev.	Forms for requests for co-operation
PC-OC (2000) 15	Secretariat memorandum, Convention on the Transfer of Sentenced Persons
PC-OC (2000) 16	Secretariat memorandum, European Convention on Extradition
PC-OC (2000) 24	Secretariat memorandum, European Convention on Extradition
PC-OC (2000) 5	Tasks assigned to the PC-OC by the CDPC

(c) Information documents

The list of information documents available is published under the reference PC-OC / INF.

Adoption of the Agenda

7. The Committee adopted the Agenda, as it appears in Appendix II to this report.

Adoption of the report of the 40th meeting

8. The Committee adopted the report of its 40th meeting, as it appears in document PC-OC (2000) 13.

Draft 2nd Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters

9. The discussions held at the Committee's 40th meeting were reflected both in the report of that meeting [doc. PC-OC (2000) 13], and in doc PC-OC (2000) 23 where the (then) latest version of the draft 2nd Additional Protocol was reproduced.

10. For lack of time, the Committee did not then finalise examination of the draft 2nd Additional Protocol. It decided to continue examining the text as a matter of priority at its present meeting.

11. The members had been invited to submit comments in writing, if any. The Netherlands and Switzerland submitted comments. Such comments were incorporated by the Secretariat into doc PC-OC (2000) 23.

12. The text of the draft 2nd Additional Protocol, as amended after the Committee's 41st meeting, is reproduced in document PC-OC (2000) 25. A preliminary draft explanatory report prepared by the Secretariat on the basis of the discussions within the Committee is reproduced in document PC-OC (2000) 26.

13. Those documents were forwarded by the Secretariat to the members of the Committee for comments, if any. Comments forwarded to the Secretariat by 15 November 2000 will be examined by the Bureau of the PC-OC that is meeting for that purpose on 21 November 2000.

14. The texts (draft Protocol plus draft explanatory report) that will come out of the Bureau meeting will again be circulated to all members of the PC-OC for comments and contributions by 10 January by 2001.

15. By 19 January 2000, the Secretariat will circulate the texts that will be submitted to the PC-OC for final examination in March 2001. The draft explanatory report will reflect the explanatory report to the EU Convention.

16. At its 42nd meeting (5 – 7 March 2001) the Committee will finalise the examination of the drafts under consideration and submit them to the CDPC for approval at its plenary session in June 2001. The Committee of Ministers would then be called upon to adopt the 2nd Additional Protocol in September 2001.

17. Informed by the Secretariat that it was now current practice for the Parliamentary Assembly of the Council of Europe to be consulted on major texts before their adoption by the Committee of Ministers, the Committee agreed that the text, as it will come out of the Bureau

meeting scheduled to be held on 24 November, could safely be considered as very close to the final version of the draft Protocol. It should therefore already be submitted to the Parliamentary Assembly .

Crime in Cyberspace

18. The opening chapter of doc. PC-OC (2000) 17 REV 2, of 9 June 2000, describes the procedure followed until now in respect of this matter. Cf. also paragraphs 56 a 67 of the report of the 40th meeting of the Committee.

19. The position of the PC-CY is described in document PC-CY (2000) 17, which is a response from Committee PC-CY to the proposals made by the PC-OC in document PC-OC (2000) 17 REV 2.

20. Professor H.W.Kaspersen (Netherlands), chairman of the PC-CY, participated in the discussion of this point and further clarified the position of his Committee.

21. The Committee held exchanges in between its members, as well as with Mr Kaspersen. It noted that the PC-CY had accepted some of its suggestions, while leaving others behind. It took note of the reasons put forward by the PC-CY for not taking on board all the points made by it. It also took note that some of its members re-stated their clear preference for the PC-OC's suggestions.

Transfer of Sentenced Persons (new guide to procedures)

22. At its 40th meeting, the Committee invited the Secretariat to prepare a revised version of the guide to procedures (cf. paragraphs 33-40 of the report of that meeting).

23. On the basis of the information received from States, the Secretariat prepared a provisional new guide (Doc. PC-OC INF 5 REV).

24. The Committee took note of the document and observed that a certain number of countries had so far failed to contribute. It invited the Secretariat to remind the members from such countries of the advantages of sending in their contributions as soon as possible.

25. This matter should be brought up again in the Committee's next meeting.

Transfer of Sentenced Persons (undue delays)

26. At its 40th meeting and upon a suggestion coming from the expert from Norway, the Committee decided to examine as soon as possible the question of undue delays in transfer procedures under the Convention.

27. The Committee examined the document [PC-OC (2000) 22] prepared by Mr Johan Berg (Norway) and held a brief discussion on some of the points raised in that document.

28. The Committee invited its members to
 (a) react in writing (short texts) to the suggestions made by Mr Berg in his document, and

- (b) identify other issues that might contribute to delays and suggest solutions thereto (preferably in the style of Mr Berg's document).

29. The Committee will come back to this matter at its next meeting.

Transfer of Sentenced Persons (ad hoc arrangements)

30. At its previous meeting, the Committee was invited to consider the advantages of introducing a mechanism for ad hoc arrangements that took care of the particularities of each case. Because of lack of time, the Committee decided to adjourn the point and come back to it as soon as possible. For background information, see report of the 39th meeting, doc PC-OC (99) 10, paragraphs 55 to 59.

Transfer of Sentenced Persons (relations with Parties to the Convention, non-members of the Council of Europe and non-observers)

31. Because of lack of time, the Committee decided to adjourn the point and come back to it as soon as possible.

Forms for requests for co-operation

32. At its 39th meeting, the Committee asked the Secretariat to prepare proposals for examination at the next meeting. The Secretariat prepared a proposal in document PC-OC (2000) 4.

33. At its 40th meeting, short of time, the Committee adjourned this point after having invited its members to forward comments, if any, to the Secretariat. On the basis of comments received, the Secretariat prepared a revised version of that document. The Committee was invited to examine document PC-OC (2000) 4 REV.

34. A number of different comments were made, e.g.:
- item 6 is obviously not necessary;
 - re items 12 to 16, the more the form is able to specify what the request is about, the better; therefore item 12 should break down into many more sub-categories;
 - in particular, it should specify whether the presence of the defence counsel is required;
 - in particular, it should also specify whether the presence of a representative of the requesting State is required;
 - in particular, it should also specify whether the request concerns the search or the seizure of property (Article 5 of ETS 30);
 - item 17 should be deleted;
 - re item 18, information on place and date of birth should be added;
 - re item 18, unclear because the nature of the information sought depends on the requested measure; the form should indicate the Convention under which the request is made;
 - re item 21, acknowledgement of request is necessary in order to make sure that the request did not go astray;

- re item 21, the acknowledgement of request should follow the format of a photocopy of the whole “form”, rather than a scissor-cut end-of-page;
- re item 22, what matters is rather to have a contact person than to know who is actually executing the request;
- re item 26, often will be difficult to fill in;
- numbering of the items should follow a different method;
- the date of receipt of the request should figure in the form;
- the form should mention whether the request is urgent or not and, if so, reasons for urgency;
- the form should mention whether the request is confidential or not.

35. The Committee discussed the question of whether the purpose of the 3exercise was to draft a model request or a cover sheet for requests. The majority of the Committee was in favour of preparing a cover sheet, easily and quickly filled in, readily readable, containing a minimum number of information.

36. Such information should serve the purpose of:

- allowing the receiving end to have a working idea of what the request is about, irrespective of languages;
- allowing to “register” the request by feeding essential information into a computer;
- ascertaining whether there are crucial reasons for urgency, in particular where compliance with the request is instrumental in bringing about the release of a person remanded in custody;
- quickly establishing a personal contact between requesting and requested State.

37. The Committee decided to pursue with the preparation of a cover sheet and to that end instructed the Secretariat to prepare a newly revised draft in the light of the Committee’s discussions, and submit it to the Bureau.

Practical difficulties arising from the application of the Conventions

Transfer of sentenced persons / Languages / Articles 6 and 17

38. The Convention provides for exchange of information and/or documents on three different sets of circumstances, namely:

- (a) at a preliminary stage where the person has expressed an interest in being transferred (Article 4, paragraphs 2 to 4);
- (b) requests for transfer, replies and supporting documents (Article 5 and Article 6, paragraphs 1 and 2);
- (c) information and documents asked by either State before any request for transfer was made (Article 6.3).

39. Article 17 deals with the question of languages to be used. It distinguishes between the situations described above under (a) and (b) and makes provision for languages to be used in one case as in the other. However, it remains mute with regard to the situation described under (c).

40. No other article of the Convention makes provision for languages to be used in the situation described under (c).

41. Hence the question: which languages may be used for the purposes of applying Article 6.3 of the Convention, i.e. when a State provides information and/or documents asked for by another State before any of them having requested the transfer of a sentenced person.

42. Firstly it should be recalled that several articles of the Convention clearly indicate that the latter applies even before a request for transfer is made. Thus the reply to the question above should be found within the Convention.

43. There appears to be no reason for considering that declarations made under Article 17.3 – which in fact have the purpose of derogating from the rule laid down in Article 17.2 – should apply to any information and/or documents other than "requests for transfer and supporting documents".

44. Which leaves us with the rule under Article 17.1 and the rule under Article 17.2. The first applies to information under Article 4, paragraphs 2 to 4; the second applies to requests for transfer and supporting documents. None apply to "information and/or documents asked by either State before any request for transfer was made".

45. One might be led to investigate, for the purposes of the Convention and bearing in mind its operation, which of the two situations (i.e. (a) above and (b) above) is closest to "information and/or documents asked by either State before any request for transfer was made".

46. Article 4 bears the title "obligation to furnish information". That has to do with an obligation imposed on both States to seek and furnish such information as may be required so that each and all the three actors are in a position where they may decide either to agree or not with the transfer.

47. If one reads the part of the explanatory report to the Convention that covers Article 4, one cannot but be realise that it could have been written having in mind information and/or documents asked by either State before any request for transfer was made. The following illustrates that:

"30. The principal purpose of conveying this information to the authorities (including the consular authorities) of the person's home country is to enable that state to decide whether it wants to request a transfer, the assumption being that normally the sentenced person's home country will take the initiative to have its own national repatriated.

"31. If the sentenced person has expressed his interest in a transfer not to the sentencing state, but to the state of which he is a national, paragraph 4 applies: in that case, the sentencing state provides the information referred to in paragraph 3 only upon the express request of the state of which the person is a national."

48. Conversely, no clear argument appears that would allow to bring closer together "information and/or documents asked by either State before any request for transfer is made" and "requests for transfer , replies and supporting documents".

49. The conclusion therefore could be that information and/or documents asked, under the provisions of Article 6, paragraph 3 of the Convention, by either State, before any request for transfer is made, should be transmitted in the language of the Party to which it is addressed or in one of the official languages of the Council of Europe.

50. The Committee decided not to close the discussion on this matter and to come back to it in due time.

Extradition / reservations and declarations

51. The new Council of Europe web site “conventions” incorporates a data base where statements entered by States in respect of Conventions to which they are a Contracting State, are included either under the heading “reservation” or under the heading “declaration”.

52. The classification is made by the Secretariat under its own responsibility. In no way does it engage the responsibility of the States concerned. It is designed to facilitate the search of information concerning the conventions.

53. In some instances, statements make reference to conventional provisions that themselves indicate how such statements should be classified. For example, Article 5 of the Mutual Assistance Convention indicates that statements to the effect that a State may “reserve the right to make the execution of letters rogatory ... dependent on [pre-established] conditions” should come under “declarations”, not under “reservations”.

54. In all other instances, the Secretariat makes reference to the definition of “reservation” under Article 2 of the Vienna Convention on the Law of Treaties (23.05.69). It reads as follows:
“reservation” means a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State.

55. That definition excludes any criteria which would be based on the “name” given by any State to its own statement.

56. Doubts may arise from time to time on whether given statements should come under “reservations” or under “declarations”. In respect of the conventions in the penal field, it is proper to submit such doubts to the PC-OC.

57. Doubts arise, for example, with respect to certain statements made by States with reference to Article 16 of the European Convention on Extradition. That Article reads as follows:

Article 16 – Provisional arrest

1 In case of urgency the competent authorities of the requesting Party may request the provisional arrest of the person sought. The competent authorities of the requested Party shall decide the matter in accordance with its law.

2 ***The request for provisional arrest shall state that one of the documents mentioned in Article 12, paragraph 2.a, exists and that it is intended to send a request for extradition. It shall also state for what offence extradition will be requested and when and where such offence was committed and shall so far as possible give a description of the person sought.***

3 *A request for provisional arrest shall be sent to the competent authorities of the requested Party either through the diplomatic channel or direct by post or telegraph or through the International Criminal Police Organisation (Interpol) or by any other means affording evidence in writing or accepted by the requested Party. The requesting authority shall be informed without delay of the result of its request.*

4 *Provisional arrest may be terminated if, within a period of 18 days after arrest, the requested Party has not received the request for extradition and the documents mentioned in Article 12. It shall not, in any event, exceed 40 days from the date of such arrest. The possibility of provisional release at any time is not excluded, but the requested Party shall take any measures which it considers necessary to prevent the escape of the person sought.*

5 *Release shall not prejudice re-arrest and extradition if a request for extradition is received subsequently.*

58. France, Switzerland, Moldova, Austria and Hungary all entered statements in respect of that Article, to the effect that they require demands for provisional arrest to be accompanied by a description of the facts attributed to the person concerned.

59. Such statements read as follows:

France:

In the case of a request for provisional arrest, France shall require a short memorandum of the facts alleged against the person sought.

Switzerland:

Switzerland asks that any request addressed to it in accordance with Article 16, paragraph 2, contain a brief description of the offence alleged against the person claimed, including the essential particulars by which the nature of the offence can be appraised with reference to the law of extradition.

Moldova:

The Republic of Moldova asks that any request addressed to it in pursuance of Article 16, paragraph 2, contain a brief description of the offence alleged against the person claimed, including the essential particulars by which the nature of the offence can be appraised in accordance with the present Convention

Austria:

In case of a request for provisional arrest Austria also requires a short statement of the facts the person claimed is charged with.

Hungary:

In case of request for provisional arrest Hungary also requires a short statement of the facts the person claimed is charged with.

60. Presently, the data base reports the statements of France, Switzerland and Moldova under “reservations”, and the statements of Austria and Hungary under “declarations”.

61. Because there is no substantial difference between the different statements, the discrepancy on classification must be overcome.

62. Two different approaches may be taken in respect of the substance of the matter.

63. Under the first approach, one might say that Article 16.2 is worded in such detail that it may not be interpreted to include any requirement not explicitly mentioned therein.

64. In fact, Article 16.2 requires that requests for provisional arrest be accompanied by:

- a statement that a document exists that justifies the arrest of the person;
- a statement of the intention to request extradition;
- a statement indicating the offence for which extradition will be requested;
- a statement indicating the place where the offence was committed, and
- so far as possible, a description of the person sought.

65. Such a detailed enumeration should be interpreted as an indication that any other information is not required. Should a State, by way of a statement, require any other kind of information, it is proper to conclude that that State is *modifying the legal effect of the provisions of Article 16.2 in their application to it*. In other words, that State is making a reservation.

66. A second approach remains however possible. One may indeed question the meaning of the provision of Article 16.2 under which requests for provisional arrest must be accompanied by a statement indicating the offence for which extradition will be requested. Should that mean that the offence is to be described by its “name”, then a difficulty arises because names given to offences vary from one country to another. Murder, assault and fraud are names given to a set of facts and circumstances that differ from one country to another. It follows that any information that would describe an offence by its name would in most cases not reflect any intelligible notion. The only helpful description of an offence consists in describing the facts that allegedly amount to such an offence.

67. Therefore, where a State requires a description of the facts, it does no more than re-state in a clearer fashion what is already contained in the Convention. It is therefore producing a “declaration”, not a “reservation”.

68. The Committee took note of the fact that statements entered by States when signing or ratifying CoE conventions are registered in the CoE website as either (or both) reservations or declarations. It considered that in case of doubt, statements could be listed twice. It further thought that where the country that issues the statement also categorises it, then the country’s categorisation should be respected in the website lists. It deemed, however, that the circumstance that a given statement is categorised (by countries as much as by the Secretariat) did in no way prevent different findings on the legal nature of that statement.

Extradition / prosecution v. execution of sentence

69. Austria requested from Slovakia the extradition of a foreign national for the purposes of his prosecution. Extradition was granted, but due to the fact that the person concerned was serving a sentence in Slovakia, temporary surrender under Article 19.2 of the Extradition Convention was arranged.

70. After the surrender of the person, the Austrian courts completed the proceedings and rendered a judgement sentencing the person to a term of imprisonment. As a consequence, Slovakia requested Austria to send a new request for extradition, this time for the purpose of serving the imposed sentence.

71. Austria answered that under the Austrian legal thinking such new request was not necessary once extradition was granted.

72. Many experts supported that view. Once extradition is granted and unless it is granted under a specific proviso, the assumption is that it is valid for both the purpose of prosecution and the purpose of serving the sentence that prosecution eventually leads to.

73. There are instances where countries grant extradition, for example of their own nationals, for the sole purpose of prosecution, on the condition that the person, once sentenced, if sentenced, shall be returned in order to serve the sentence in the country of origin.

74. Temporary surrender under Article 19.2 does not change this picture: it is no more than a side-track within an otherwise straightforward procedure.

Extradition / temporary surrender

Mutual assistance / temporary transfer

75. The question was raised of whether persons temporarily surrendered under Article 19.2 of the Extradition Convention or Article 11 of the Mutual Assistance Convention were entitled to resorting to procedural means designed to prevent their return to the country from which they were transferred.

76. A tentative reply to this question can be found in the draft explanatory report to the draft 2nd Additional Protocol to the Mutual Assistance Convention where it reads (with reference to Article 9) that “even in the cases where a person is transferred to the country of his or her nationality, that country must be ready to live up to its obligation under paragraph 1 of Article 11 (newly drafted) to “send back” the person”.

Extradition / territorial application

77. A question was raised concerning the interpretation of the declaration made by the United Kingdom concerning Articles 27 and 28 of the European Convention on Extradition, with respect to the relations between the United Kingdom and countries with which the UK concluded a bilateral treaty still in force.

78. The expert from the United Kingdom stated that bilateral treaties concluded by the UK remain in force in respect of territories not covered by the European Convention on Extradition.

Tasks assigned to the PC-OC by the Bureau of the CDPC.

79. At its 38th meeting, under an Agenda item worded as above, the Committee had discussed some matters of significance to it. At its 39th meeting, the Committee asked the Secretariat to submit such matters for examination at the present meeting. For that purpose, the Secretariat prepared document PC-OC (2000) 5.

80. At its 40th meeting, short of time, the Committee did not examine this point. It invited its Bureau to examine it and report back. However, again short of time, the Bureau did not examine this point.

81. Short of time, the Committee adjourned this point for discussion in due time.

EURO 2000

82. The experts from Belgium and the Netherlands reported to the Committee on measures taken in order to facilitate international co-operation in criminal matters at the time of the EURO 2000, and the lessons to be drawn from that experience.

83. At the request of members of the Committee, including the expert from the Czech Republic - in whose territory incidents occurred recently at the time of a major meeting of the International Monetary Fund, involving crowds of foreign nationals - the experts from Belgium and the Netherlands agreed to forward to the Secretariat for distribution to the Committee written materials from where to find ideas for measures to take in the future in similar circumstances.

Reservations to Conventions

84. Reservations to Conventions, both reservations entered in the past and reservations entered at present by States that become a Party to one or another of the Conventions in the penal field, often require clarification. The Committee agreed that it would be appropriate for it, as a matter of routine, to examine and discuss reservations, as appropriate.

Exchange of views on practical problems relating to the setting up of the International Criminal Court (ICC)

85. The Secretariat informed the Committee about a Consultation meeting on the implications of ratification of the Rome Statute that was held at the Council of Europe on 16 and 17 May last. The Secretariat directed the Committee to further information that will soon be forwarded to its members.

Information on co-operation in criminal matters between

86. Bearing in mind its role in co-ordinating developments in co-operation in criminal matters involving member States of the Council of Europe, the Committee welcomed information on the latest such developments.

(a) between the Members of the European Union

87. The PC-OC was informed by Mme Anne Delahaie (France) of the latest developments

in co-operation in criminal matters between the Members of the European Union.

88. Reference was made by the Secretariat to a meeting held on 15 May 2000 (the 7th of a series started on 25 March 1997), between a Council of Europe delegation (including the chairmen of the CDPC, the CDCJ and the PC-OC) and the troika of the Article 36 Committee. An 8th meeting in the same series is scheduled to be held on 6 November 2000.

(b) other

89. The Committee was informed of the latest developments in the work being carried out within the framework of the United Nations in relation to the preparation of a convention on organised crime.

Information documents available

90. The Secretariat prepared and made available to all members of the Committee a certain number of information documents, as listed in doc. PC-OC / INF. The Committee was invited to put forward comments and suggestions, if any, concerning the contents and presentation of such documents.

91. Members of the Committee were requested to forward to the Secretariat any information that might be of assistance in updating the above documents.

Future work

92. The Committee will go on affording priority to the 2nd Additional Protocol to the European Convention on Mutual Assistance, which it expects to have finalised by the Spring of 2001.

93. Several topics for future work were mentioned, as follows:

- (a) see paragraph 84 above;
- (b) as soon as the 2nd Additional Protocol will have been finalised, consideration should be given to recommendations on its practical application, in particular in respect of matters such as costs, joint investigation teams, etc;
- (c) work could also be done that might assist with the co-operation between States of different cultural and legal tradition, in particular in the Mediterranean area;
- (d) work could also be carried out in order to find ways and means of easing co-operation between States where there is great disparity between sentences applied for comparable offences;
- (e) see paragraph 94 ahead.

Miscellaneous (1)

94. The Secretariat informed the Committee about plans by the Project Group on Data Protection (CJ-PD) to set up as from 2001 a working party entrusted with preparing a report on data protection in the fields of (a) international legal co-operation in criminal matters and (b) international police co-operation. The CJ-PD's plan includes an offer for the PC-OC to appoint two or three members of the working party.

95. The Committee considered that that would constitute a good means of getting

involved in that work. However, it took the view that the specific interests of international legal co-operation in criminal matters could not be taken care of in an adequate fashion unless any draft coming out of the planned exercise was to be submitted to the approval of either the PC-OC or the CDPC, which are the bodies within the Council of Europe that were given specific responsibilities in that field.

96. The Committee asked its Chairman to write a letter to the Chairman of the CJ-PD expressing such views (cf. Appendix III).

Miscellaneous (2)

97. The Committee was informed that as from 1 October 2000, the channel for communications with Sweden in matters pertaining to international legal co-operation in criminal matters is no longer the Ministry of Foreign Affairs but the Ministry of Justice.

98. The Committee was also informed that the channel for communications with Switzerland in matters pertaining to international legal co-operation in criminal matters is no longer the Federal Department for Police but the Federal Office for Justice.

99. The Committee was informed that although the official channel for communications with Germany in matters pertaining to international legal co-operation in criminal matters is the Ministry of Justice, in practice communications may be established directly with public prosecutors.

100. The Committee took note that the Ministry of Justice of Croatia had changed name to become the Ministry of Justice, Administration and Local Autonomy.

Dates of next meetings

101. The Committee agreed on the following dates for its next meetings:

5 – 7 March 2001

and

24 – 26 September 2001

102. The Bureau of the PC-OC should meet on 24 November and, if necessary, again in the beginning of 2001.

APPENDIX I / ANNEXE I**LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS**

* * * *

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APPENDIX II / ANNEXE II**AGENDA**

1. **Opening of the meeting**
2. **Elections**
3. **Adoption of the Agenda**
4. **Adoption of the report of the previous meeting**
5. **Draft 2nd Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters**
6. **Crime in Cyberspace**
7. **Transfer of Sentenced Persons (new guide to procedures)**
8. **Transfer of Sentenced Persons (undue delays)**
9. **Transfer of Sentenced Persons (ad hoc arrangements)**
10. **Transfer of Sentenced Persons (relations with Parties to the Convention, non-members of the Council of Europe and non-observers)**
11. **Forms for requests for co-operation**
12. **Practical difficulties arising out of the application of the Conventions**
13. **Tasks assigned to the PC-OC by the Bureau of the CDPC.**
14. **EURO 2000**
15. **Reservations to Conventions**
16. **Exchange of views on practical problems relating to the setting up of the International Criminal Court (ICC)**
17. **Information on co-operation in criminal matters between**
 - **the Members of the European Union**
 - **other**
18. **Information documents available**
19. **Future work**
20. **Miscellaneous**
21. **Dates of next meetings**

APPENDIX III / ANNEXE III**LETTER TO THE CHAIRMAN OF THE CJ-PD**

Ms Eva SOUHRADA-KIRCHMAYER
 Chair of CJ-PD
 Federal Chancellery V/3
 Ballhausplatz 1 A
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The Hague, 22 october 2000

Dear Ms Souhrada-Kirchmayer,

The Secretariat informed the Committee of Experts on the Operation of Conventions in the Penal Field (PC-OC) about plans by the Project Group on Data Protection (CJ-PD) to set up as from 2001 a working party entrusted with preparing a report on data protection in the fields of (a) international legal co-operation in criminal matters and (b) international police co-operation.

The CJ-PD's plan includes an offer for the PC-OC to appoint two or three members of the working party. That would indeed constitute a good means of involving our Committee in that work. We appreciate the offer and will certainly take it into consideration in due course.

However, in our view, the specific interests of international legal co-operation in criminal matters cannot be taken care of in an adequate fashion unless any draft coming out of the planned exercise is submitted to the approval of either the PC-OC or the European Committee on Crime Problems (CDPC), which are the bodies within the Council of Europe that were given specific responsibilities in that field.

I would appreciate if you could take into consideration the PC-OC's views, as stated above.

Yours sincerely,

Marc Knaapen
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