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PC-OC Mod (2012) 04

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 14th meeting of the restricted Group of experts
on international co-operation (PC-OC Mod) enlarged to all PC-OC members
under the Chairmanship of Mr Per Hedvall (Sweden)
26-28 September 2012**

1. Finalisation of the draft guidelines on practical measures to improve co-operation in respect of transfer of proceedings, including a model request form

The PC-OC Mod discussed and amended the draft guidelines and the appended model request form as contained in document PC-OC Mod(2012)01rev.3 and decided to:

- present this draft for consideration to the PC-OC plenary;
- propose that the plenary adopt these guidelines as a practical PC-OC tool, taking into consideration that the guidelines are of a technical nature and might need to be regularly updated.

2. Presentation and content of the PC-OC website

b. Relevant case law of the ECtHR

The PC-OC Mod considered the index of case law as revised by Mr Miroslav Kubicek (Czech Republic), thanked him for the excellent work accomplished and decided to:

- instruct the Secretariat to publish the index, with the amendments agreed upon during the meeting, on the public website of the PC-OC, including an appropriate disclaimer.

The PC-OC Mod also considered the possibility of indexing decisions of the ECtHR concerning admissibility of complaints, and decided:

- that the inclusion of such decisions in the index would not represent any added value, as such decisions provide no definitive conclusions of the ECtHR as to whether an obligation following from the European Convention on Human Rights has been violated.

Underlining that such definitive conclusions can be found only in decisions on inadmissibility of complaints and in judgments on merits of complaints and that decisions on inadmissibility (including decisions on partial inadmissibility, such as the Decision in the case of Babar Ahmad and Others v.

the United Kingdom) of complaints and judgments on merits are already contained in the index and case summaries, it was decided to:

- propose that the PC-OC plenary invites delegations to point out any other specific decisions on inadmissibility or admissibility of complaints and judgments of the ECtHR that are of relevance for international co-operation in criminal matters.

The PC-OC Mod considered the summaries of case law prepared, thanked Ms Goeth-Flemmich (Austria), Mr Kubicek (Czech Republic), and Mr Dupraz (France) for their considerable contribution to this important work, agreed on the changes proposed and the approach to be adopted and decided to:

- ask Mr Miroslav Kubicek to co-ordinate the finalisation of this document in co-operation with Mr Erik Verbert (Belgium) and the Secretariat in time for consideration by the PC-OC plenary;
- propose that the names of the authors be published on the document.

c. Useful links

The PC-OC Mod discussed ways to improve country information and decided to:

- propose that the plenary invites PC-OC members and observer states to suggest links to national websites of central and judicial authorities involved in international co-operation in criminal matters.

Furthermore, recalling the importance that the PC-OC website contains complete and updated country information, the PC-OC Mod decided to:

- instruct the Secretariat to send a reminder to all PC-OC members and observer states to update their country information and invite them to inform the Secretariat of possible problems encountered before the plenary;
- propose that the PC-OC plenary instructs the Secretariat to make proposals with regard to possible ways of addressing these problems and user-friendly ways to encourage delegations to submit and update country information.

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

a. Follow-up to the replies received to the questionnaire on legal and technical aspects of videoconferences

The PC-OC Mod discussed the feasibility of developing guidelines on the use of videoconferences in mutual assistance in criminal matters and decided to:

- inform the plenary that the majority was of the opinion that there was at the moment no need for such guidelines and that, given the rapidity of technical developments in this area and the lack of relevant technical knowledge within the PC-OC, it would not be feasible to develop these guidelines.

b. Paper on the relationship between extradition and deportation/expulsion

The PC-OC Mod discussed the draft note contained in document PC-OC (2012)08 on the discussion held during the 62nd meeting of the PC-OC and decided to:

- submit this note with some amendments to the plenary in view of its adoption and publication on the website of the PC-OC.

The PC-OC Mod also considered possible follow up to the discussion and decided to:

- inform the plenary that the majority felt that, at this stage, further follow-up would not be appropriate.

c. Finalisation of a draft questionnaire on “*in absentia* cases” in connection with Article 3 of the Second Additional Protocol to the European Convention on Extradition.

The PC-OC Mod finalised the draft questionnaire (PC-OC(2011)22rev.4) on the basis of the comments made during the 62nd plenary meeting of the PC-OC and decided to:

- submit the draft questionnaire for consideration to the plenary.

4. Any other business

The PC-OC Mod discussed the preparation of the special session on extradition during the upcoming plenary meeting.

The PC-OC also took note of the information provided by the Secretariat on the outcome of the 31st Council of Europe Conference of Ministers of Justice held in Vienna on 19–21 September 2012, the signatures on that occasion of the different treaties and in particular of the Fourth Additional Protocol to the European Convention on Extradition and the activities of the European Committee on Crime Problems.

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