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PC-OC (2023)14

**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 84<sup>th</sup> meeting of the PC-OC**  
**Chaired by Joana Gomes Ferreira (Portugal)**

**Hybrid Meeting held on 14-16 November 2023**

**1. Opening of the meeting and adoption of the agenda**

After the opening of the meeting by the Chair, the agenda was adopted as reflected on the website.

**2. Points for information**

The PC-OC took note of the information provided by the Secretariat regarding its draft terms of reference for the period 2024-2027 and signatures and ratifications of the conventions under its purview since its last plenary meeting. The PC-OC also took note of information provided by delegations on the latest bilateral treaties concluded or being negotiated in the area of international co-operation in criminal matters and other developments of relevance for the work of the Committee. In this connection, the PC-OC expressed interest in organising an exchange with a representative from the United Arab Emirates at one of its upcoming plenary meetings.

The PC-OC took note of information provided by Gabriela Bláhová (Czech Republic, representative of the PC-OC at the Cybercrime Convention Committee) regarding the plenary meeting of the Cybercrime Convention Committee held on 27-28 June 2023 and thanked her for her contribution to the PC-OC's work.

The PC-OC examined the proposals for an update of the index and summaries of the case-law of the European Court of Human Rights by Miroslav Kubiček (consultant). The PC-OC expressed its gratitude to Mr Kubiček for his excellent and generous contribution to the work of the Committee, decided to approve

the proposals with the addition of two cases, and to publish the updated version of the index and summaries of the case-law on its website.

The PC-OC took note of an expression of interest by Kazakhstan in the European Convention on Mutual Assistance in Criminal Matters and decided to invite a delegation from Kazakhstan to its next plenary meeting for a presentation and exchange.

The PC-OC held a short discussion on its future work plan which it decided to pursue at its next plenary meeting. It instructed the PC-OC Mod to pursue these discussions at its next meeting with a view to preparing a point on this issue on the agenda of the next plenary meeting of the PC-OC.

### **3. European Convention on Mutual Assistance in Criminal Matters**

#### **a. Co-operation with the European Public Prosecutor's Office (EPPO)**

The PC-OC examined a study assessing the feasibility of negotiating a binding legal instrument regarding the application of the European Convention on Mutual Assistance in Criminal Matters on the relations with the European Public Prosecutor's Office. This study, foreseen in the terms of reference of the PC-OC, was prepared by a working group set up by the PC-OC at its last plenary meeting and approved by the PC-OC Mod at its last meeting in September 2023.

The PC-OC adopted this feasibility study and decided to submit it to the CDPC, inviting the latter to transmit the study to the Committee of Ministers.

#### **b. Draft Third Additional Protocol**

The PC-OC examined a draft Third Additional Protocol, indicating possible amendments to the Convention and its Second Additional Protocol, as examined and amended by the PC-OC Mod at its last meeting in September 2023. The provisions of this draft pertained to channels of communication, hearing by video conference, confidentiality, the *ne bis in idem* principle, the use of technical recording devices in the territory of another Party, co-ordination of prosecutions, and time limits for the execution of MLA requests.

The PC-OC agreed that the provisions relating to confidentiality, the *ne bis in idem* principle and the co-ordination of prosecutions should be removed from the draft protocol. It further decided to include a proposal by North Macedonia to amend Article 21 of the Convention (laying of information) in the draft for further discussion by the PC-OC Mod. As regards confidentiality, it invited the delegation of the United Kingdom, with the assistance of the Secretariat, to propose a questionnaire on this question for consideration at the next meeting of the PC-OC Mod, with a view to increasing transparency and clarity on the practices of different States Parties regarding this matter.

The PC-OC invited all delegations to send comments and proposed text revisions to the existing draft Third Additional Protocol to the Secretariat in writing by 2 February 2024 and instructed the PC-OC Mod to continue examining the draft protocol in the light of these comments at its next meeting.

The PC-OC further decided to instruct the Secretariat to prepare a draft explanatory report to the draft Third Additional Protocol, in co-ordination with the various delegations which proposed the provisions included in the draft, for the next PC-OC Mod meeting.

#### **c. Exchange of experiences on MLA proceedings (including with non-European states)**

The PC-OC held an exchange of experiences regarding MLA proceedings, on the basis of concrete cases and practical difficulties encountered by delegations, focussing particularly on summonses and difficulties in enforcing confiscation decisions.

#### **d. Request by Thailand for an opinion on accession**

The PC-OC took note that, by a letter addressed to the Chair of the PC-OC, the Thai authorities expressed their intention to request to accede to this Convention and requested the PC-OC to prepare an opinion on their possible accession in accordance with its policy paper on the matter endorsed by the Committee of Ministers in March 2023. The PC-OC decided to instruct the Secretariat to set in motion the procedure foreseen in this policy paper with respect to Thailand and the European Convention on Mutual Assistance in Criminal Matters.

### **4. European Convention on Extradition**

#### **a. Draft guidance on good practices regarding the post-surrender phase**

The PC-OC examined, with the participation of Aviad Eliya (expert), the draft guidance on good practices regarding the post-surrender phase and its appendix (template for an agreement on temporary surrender), as prepared by the PC-OC Mod at its 34<sup>th</sup> meeting in September 2023. It warmly thanked Mr Eliya for his contribution to the PC-OC's work.

The PC-OC adopted this guidance, which it decided to submit to the CDPC for information. It instructed the Secretariat to publish it on the PC-OC's website, under the page devoted to tools for implementation relating to extradition.

#### **b. Exchange of experiences on extradition proceedings (including with non-European States)**

The PC-OC had an exchange of experiences regarding extradition proceedings, on the basis of concrete cases and practical difficulties encountered by delegations, focussing notably on questions relating to transit. The PC-OC also took note of information provided by the Ukrainian delegation on the resumption of some direct flights reducing the need to have recourse to transit, as well as prison conditions and security in Ukraine and the ability of the Ukrainian authorities to provide information and assurances in this regard.

#### **c. Request by the Republic of Chile for an opinion on accession**

In the light of the information provided by the Chilean delegation at its 83<sup>rd</sup> plenary meeting in May 2023 that the Republic of Chile intends to formally start procedures in order to request to be invited to accede to the European Convention on Extradition, the PC-OC examined a draft opinion on such an accession in accordance with its policy paper endorsed by the Committee of Ministers in March 2023. The PC-OC notably took into account relevant information compiled by the Secretariat, views and experiences provided by various delegations, as well as information provided by the Chilean authorities. It also took note of a presentation by the Chilean delegation on its extradition framework.

The PC-OC adopted its first opinion in line with its policy paper on accession and decided to transmit it to the CDPC for consideration. It invited the CDPC to authorise the Secretariat to transmit this opinion to the Committee of Ministers when the Republic of Chile formally requests to be invited to accede to the European Convention on Extradition.

### **5. Supervision of conditionally sentenced or conditionally released offenders**

The PC-OC held a brief discussion on matters relating to the supervision of conditionally sentenced or conditionally released offenders, on the basis of a discussion paper prepared by Mariana Radu (Romania). It warmly thanked Ms Radu for her contribution to the work of the Committee. It decided that the matter merited further attention of the Committee and invited delegations to send their replies to the questions contained at the end of this discussion paper by 2 February 2024. The PC-OC instructed the PC-OC Mod to pursue discussions on this issue at its next meeting.

## **6. Asset Recovery**

The PC-OC took note of the draft terms of reference of the Committee of Experts on Criminal Asset Recovery (PC-RAC), which is currently before the Committee of Ministers, bearing in mind that this activity was proposed following the joint session between the PC-OC and the Committee of the Parties of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (COP 198), organised in November 2022.

Considering the enhanced role foreseen for the PC-OC in this drafting process, the PC-OC decided to designate Tetiana Shorstka (Ukraine) as its representative to this drafting Committee, and Joana Ferreira (Portugal) as her substitute.

## **7. Presentation on the Ljubljana-the Hague Convention**

The PC-OC took note with interest of a presentation on the Ljubljana-the Hague Convention by Quirien van Straelen on behalf of the Dutch delegation. It thanked Ms van Straelen for her excellent presentation, which it instructed the Secretariat to disseminate to the PC-OC delegations. It took note of the calls of several of its delegations having contributed to the negotiation process for a speedy signature and ratification of this treaty.

## **8. Elections**

The PC-OC expressed its deep gratitude to Joana Ferreira (Portugal) for her outstanding performance as Chair of the Committee for two years.

The PC-OC elected Adil Abilov (Azerbaijan) as Chair and Joana Ferreira (Portugal) as vice-Chair for a period of one year starting from 1 January 2024.

It also elected Stéphanie Djian (France) as second substitute member of the PC-OC Mod.

## **9. Dates of future meetings**

The PC-OC agreed on the dates of its meetings to be held in 2024 as follows: plenary meetings on 14-16 May and 12-14 November; meetings of the PC-OC Mod on 5-7 March and 24-26 September.