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PC-OC(2024)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 86<sup>th</sup> meeting of the PC-OC  
chaired by Adil Abilov (Azerbaijan)**

**12-14 November 2024**

**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:

- information provided by the Chair concerning the 85<sup>th</sup> plenary session of the CDPC (17-19 June 2024);
- information provided by Eva Pastrana, Head of the Criminal Law Division and Secretary to the CDPC, on the current priorities of the Council of Europe and the importance of international cooperation in this regard, including:
  - o the Informal Conference of the Ministers of Justice of the Council of Europe "Towards Accountability for International Crimes Committed in Ukraine", held on 4-5 September 2024, where the work of expert bodies such as the PC-OC was underlined, as well as the application of the conventions under the PC-OC's purview to the investigation and prosecution of core international crimes;
  - o the imminent finalisation of a new global convention regarding the protection of the environment through criminal law;
  - o the ongoing work within the CDPC or its subcommittees, including the fight against the smuggling of migrants, AI and criminal liability, penological work, or technology-facilitated violence against women and girls;

- information provided by the Secretariat concerning the follow-up given to the PC-OC's conclusions regarding the possible promotion by the EU of conventions under PC-OC's purview vis-à-vis third countries, as well as on the signatures and ratifications of these conventions since the last plenary meeting of the PC-OC;
- information provided by delegations on bilateral treaties recently concluded or currently under negotiation.

The PC-OC took note of the information provided by Jörg Polakiewicz, Director of Legal Advice and Public International Law, on consultations within the Core Group regarding a Special Tribunal for the crime of aggression against Ukraine, and the Council of Europe's contribution to this work, with a particular focus on aspects relating to international co-operation in criminal matters and the question of the applicability of conventions under the PC-OC's purview in this context. The PC-OC welcomed this information, expressed its interest in being kept informed of further developments in this respect and its readiness to provide its own views on the matter if needed.

The PC-OC also welcomed the information provided by the Secretariat that Namibia had expressed interest in the European Convention on Mutual Assistance in Criminal Matters. It decided to extend an invitation to Namibia to attend its forthcoming plenary meeting for an exchange of views. The PC-OC welcomed the increasing global outreach of its work since the adoption of its policy paper on the accession of third states to relevant Council of Europe conventions.

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

#### **a. Draft Third Additional Protocol**

In accordance with the PC-OC's terms of reference, which provide for the preparation, by the end of 2024, of a draft Additional Protocol to the Convention, the PC-OC examined a draft Third Additional Protocol, as proposed by the PC-OC Mod at its last meeting in September 2024 on the basis of written drafting proposals and comments made by a number of delegations. It also examined the draft explanatory report to the draft Third Additional Protocol.

The PC-OC amended and finalised the draft Third Additional Protocol and the explanatory report thereto. It decided to submit these documents to the CDPC, inviting the latter to approve and transmit them to the Committee of Ministers.

#### **b. Draft questionnaire on confidentiality**

The PC-OC had a preliminary examination of the replies to a questionnaire on confidentiality in MLA proceedings. This questionnaire, which was initially proposed by the UK delegation in order to increase transparency and clarity on the practices of different States Parties, was addressed by the PC-OC to all delegations in May 2024.

The PC-OC thanked delegations who responded to the questionnaire and invited delegations who have not yet replied to do so by 31 January 2025. It instructed the PC-OC Mod to further examine these replies, aided by a summary to be prepared by the Secretariat, and advise the PC-OC on the follow-up to be given to this file.

#### **c. Request by Kazakhstan for an opinion on accession**

In the light of the information provided by the Kazakh authorities that Kazakhstan intends to formally start procedures in order to request to be invited to accede to the European Convention on Mutual Assistance in Criminal Matters, 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 written information provided by the Kazakh authorities. It also took note of the presentation made

by a delegation from Kazakhstan, which was present during the meeting to reply to questions raised by PC-OC delegations.

The PC-OC adopted its opinion on this matter 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 Kazakhstan formally requests to be invited to accede to the European Convention on Mutual Assistance in Criminal Matters.

**d. 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. In this connection, the PC-OC took note of an update provided by the UK delegation regarding the online submission portal for MLA and extradition requests, its invitation to other delegations to make further use of it and welcomed the offer of the UK delegation to assist practitioners for that purpose.

**4. European Convention on Extradition**

**a. 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, in particular on issues relating to transit, different practices regarding the use of simplified extradition procedures on the basis of red notices, the nexus between extradition and asylum procedures, the interpretation of the Petruhhin judgment, as well as problems relating to the execution of the extradition decision in the requested State which can lead to a waste of resources for the requesting State.

**b. Update of the publication “Extradition: European standards”**

The PC-OC welcomed the information that the work regarding the update of this Convention was concluded by Raquel Tavares (expert) and warmly congratulated the expert. Considering that the PC-OC Mod was unable to examine this detailed and comprehensive document, due to the limited time available at its last meeting, it decided to instruct the PC-OC Mod to examine this document at its next meeting and advise the PC-OC on the follow-up to be given to this file.

**5. Convention on the Transfer of Sentenced Persons**

**a. Draft questionnaire on the application of the Convention**

The PC-OC examined a draft questionnaire compiled by the Secretariat, under the supervision of the Chair, based on proposals for questions sent by delegations and main areas of focus identified by the PC-OC Mod at its 36<sup>th</sup> meeting in September 2024. It amended and complemented this questionnaire and decided to address it to all delegations of States Parties to the Convention on the Transfer of Sentenced Persons, inviting them to send their replies to the Secretariat by 31 January 2025. It instructed the PC-OC Mod to examine these replies at its next meeting.

**b. Exchange of experiences on proceedings regarding the transfer of sentenced persons (including with non-European states)**

In the context of its discussion on the draft questionnaire, the PC-OC also had an exchange of experiences regarding the transfer of sentenced persons.

**6. Supervision of conditionally sentenced or conditionally released offenders**

The PC-OC took note of the replies sent by delegations to questions contained in a discussion paper prepared by Mariana Radu (Romania). It welcomed the suggestion by Mariana Radu to prepare a template

for country information profiles regarding the European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders (ETS No. 051), and invited her to submit her proposals for examination by the PC-OC Mod at its next meeting.

## **7. Exchange with a delegation from the United Arab Emirates on international co-operation in criminal matters**

The PC-OC held an exchange of views with Judge Abdul Rahman Murad Alblooshi, Undersecretary of the Legal Affairs Sector of the Ministry of Justice of the United Arab Emirates, who attended the plenary meeting at the PC-OC's invitation. The exchange concerned various issues relating to international co-operation in criminal matters, focussing on extradition and mutual assistance. The PC-OC warmly thanked Judge Alblooshi for having accepted its invitation, his presentation, as well as the information he provided during this exchange.

As the first exchange of this nature, the PC-OC considered this to be a very useful and productive exercise, deciding to pursue such exchanges, where appropriate, with other non-parties to Council of Europe conventions in the future.

## **8. Asset Recovery**

The PC-OC took note of the information provided by the Chair of the Committee of Experts on Criminal Asset Recovery (PC-RAC), Mr Cornel-Virgiliu Calinescu, in accordance with the terms of reference of PC-RAC. It thanked Mr Calinescu for this information regarding the progress made with the preparation of a draft additional protocol supplementing the Council of Europe Convention on laundering, search, seizure and confiscation of the proceeds from crime and on the financing of terrorism (CETS no. 198).

The PC-OC instructed the PC-OC Mod to look at the first draft of the Additional Protocol at its next meeting and advise the PC-OC on further actions.

## **9. Update of the PC-OC document on ECHR case-law**

The PC-OC took note of the document on the case-law of the European Court of Human Rights as updated by Miroslav Kubiček (expert) and reviewed by the PC-OC Mod. It warmly thanked Mr Kubiček for his valuable contribution to the work of the Committee and decided to publish the updated document on its website.

## **10. Future workplan of the PC-OC**

The PC-OC reviewed the implementation of its [workplan agreed at its last plenary meeting](#) and took note of various steps taken for its implementation. It decided to pursue this review at its next plenary meeting.

The PC-OC took note of the proposal by one delegation to consider the development of a practical database to help practitioners to determine the provisions of the conventions and their additional protocols that would be applicable in their relations, given a corresponding State Party and the area of co-operation. Taking note of the fact that this would not be achievable within the ordinary budgetary resources allocated to the PC-OC, it decided to instruct the PC-OC Mod to pursue discussing this matter with a view to developing the concept for a possible new project.

## **11. Elections**

The PC-OC re-elected Adil Abilov (Azerbaijan) as Chair and Joana Gomes Ferreira (Portugal) as vice-Chair for a second one-year term starting from 1 January 2025.

## **12. Dates of future meetings**

The PC-OC agreed on the dates of its meetings to be held in 2025 as follows: plenary meetings on 13-15 May and 4-6 November; meetings of the PC-OC Mod on 25-27 March and 23-25 September.