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PC-OC (2019)06

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 76th meeting of the PC-OC
under the Chairmanship of Ms Barbara Goeth Flemmich (Austria)
27-29 May 2019**

1. Opening of the meeting and adoption of the agenda

After the opening of the meeting by the Chair, the PC-OC adopted the [agenda](#) as published online.

2. Points for information

The PC-OC took note of:

- The information provided by Mr Jan Kleijssen, Director, Information Society and Action against crime Directorate, on the celebration of the 70th anniversary of the Council of Europe at a time of major difficulties affecting both its budget and the relationship between the two statutory bodies of the Council of Europe, the Committee of Ministers and the Parliamentary Assembly. The declarations adopted by the Ministers of Foreign Affairs at the Ministerial Conference in Helsinki on 17 May 2019 aimed to address these difficulties. It is expected that decisions to be taken by the Parliamentary Assembly in June on its rules of procedure and the election of a new Secretary General will bring some clarity. In the meantime, the current budgetary difficulties of the Organisation compelled the Secretary General to propose a contingency plan which could lead to a substantial (more than 40%) reduction of intergovernmental activities, including those of the PC-OC;
- The information provided by Ms Ilina Taneva, Deputy Head of the Criminal Law Division, on the successful outcome of the high-level Council of Europe Conference on prison overcrowding which took place in Strasbourg, on 24 and 25 April 2019. The interventions and conclusions can be found on the website: www.coe.int/prisonovercrowding;

- The information provided by the Secretariat that the comments provided by the PC-OC on the draft provisions on the use of languages, emergency MLA and the use of videoconferences have been forwarded to the Secretariat of the Cybercrime Committee (T-CY) and will be taken into account at the next plenary meeting of the T-CY, combined with a meeting of the Drafting Plenary of the Second Additional Protocol, which will take place on 9-11 July 2019;
- Information on projects to enable electronic transmission of requests for international co-operation. Note was taken in particular of the final report adopted by INTERPOL's working Group on the E-MLA project, supported by the European Commission, as well as of the adoption of a Resolution in support of the E-MLA development by the General Assembly of ICPO-INTERPOL on 18-21 November 2018 in Dubai. The Committee also noted the information provided on the Treaty of the Conference of Ministers of Justice of Iberamerican States (COMJIB), on the Electronic Transmission of International Legal Cooperation Requests between Central Authorities which will be opened for signature at the next Plenary Meeting of COMJIB in Medellin, Colombia from July 23 to 25, 2019;
- The information provided by experts on the negotiation and conclusion of bilateral treaties of relevance to the work of the PC-OC;
- The information provided by the Secretariat on the latest signatures and ratifications of the different treaties within the remit of the PC-OC.

3. Presentation and content of the PC-OC website

Country information and contact persons

The PC-OC took note that, due to staff shortage, the updates received have not yet been published on the website and that this will be done in the coming weeks.

The PC-OC decided to:

- reiterate its invitation to experts who hadn't done so, to send in their country information on national procedures in respect of extradition, MLA, seizure and confiscation as well as transfer of sentenced persons as soon as possible;
- also reiterate its call to update or provide information on contact persons and bilateral treaties of relevance to the Committee.

a. Update of the index and summaries of relevant case law of the ECtHR

The PC-OC took note that, due to the budgetary situation, it was still uncertain whether it would be feasible to elaborate an update of the index and summaries of relevant case law of the ECtHR this year.

The PC-OC decided to invite experts to inform the Secretariat of any further decision by the ECtHR which could be of relevance for the future update of the index and summaries of case law by the PC-OC Mod.

4. Convention on the Transfer of Sentenced Persons

a. Consideration of a draft recommendation on the Transfer of Sentenced Persons

Further to the provisional approval of the draft recommendation and its appendix 1 during its previous meeting, the PC-OC further considered the draft, contained in Doc PC-OC (2018) 7 rev 2, and in particular its appendices 2 and 3 as proposed by the PC-OC Mod.

The experts discussed and agreed on some amendments to the text and decided to:

- approve the text of the draft recommendation and submit it to the CDPC for consideration at its next meeting in December.

b. Consideration of the draft commentary to the recommendation

The PC-OC furthermore considered the draft commentary proposed by the PC-OC Mod, agreed on amendments proposed and decided to:

- approve the text of the draft commentary and submit it to the CDPC for consideration at its next meeting.

5. Implementation of the Action Plan on Combating Transnational Organised Crime (TOC)

a. Information by national delegations on the follow up given to the letters sent by the Chair of the PC-OC to review and limit reservations and declarations to Council of Europe treaties within the remit of the PC-OC

Recalling the decision taken at their 73rd meeting “that the experts receiving the letter should undertake the necessary internal steps to consult with the different authorities concerned and report back to the plenary on the outcome of the review exercise”, the Committee took note of the outcome reported...

The PC-OC decided to:

- keep this item on the agenda and invite experts to continue informing the plenary of the follow up given to the letters at its upcoming meetings.

b. Presentation by Mr Martin Polaine (Consultant) of a preliminary study on the feasibility and possible added value of preparing a new binding instrument as regards international co-operation on the management, the recovery and sharing of assets: followed by an exchange of views involving the COP 198

The PC-OC heard the presentation by Mr Martin Polaine of his preliminary study and had an exchange of views in the presence of Mr Lado Lalicic, representing the Secretariat of the COP 198.

The PC-OC decided to:

- resume discussions and take a decision on the proposal at its next meeting on the basis of the final version of the study which will be available in October.

c. Interconnecting judicial networks

The PC-OC heard the information from Mr Panagiotis Maniatis (Greece) that the UNODC is, currently, promoting and supporting a *Network of Prosecutors and Central Authorities from Source, Transit and*

Destination Countries in response to Transnational Organized Crime in Central Asia and Southern Caucasus (CASC Network). The aims of the network are to (a) enhance inter-regional co-operation in mutual legal assistance; (b) exchange best practices in MLA networks, as well as working in partnership with focal points of general prosecutor's offices and/or central authorities of other countries; and (c) build capacities of the relevant representatives of the prosecutor's offices and other central authorities involved in the area of international judicial co-operation. The CASC network unites central authorities responsible for MLA in Armenia, Azerbaijan, Georgia, Kazakhstan, Kirgizstan, Tajikistan, Turkmenistan and Uzbekistan.

The PC-OC also considered the proposal that this network will be taken into account as a possible counterpart in the fight against transnational organised crime and when undertaking further action on the interconnection of judicial networks.

The Committee furthermore took note of information from the experts from Chile on the possible links that could be established with the Iberamerican Association of Public Prosecutors (AIAMP) and from the expert from Azerbaijan on the work of the International Association of Prosecutors (IAP).

The PC-OC decided to:

- invite experts from the above networks (CASC, AIAMP and IAP) to present their activities and possible co-operation in the fight against transnational organised crime at the next plenary meeting on 13-15 November 2019.

6. European Convention on Mutual Assistance in Criminal Matters

a. Consideration of a draft questionnaire on the application of Articles 13 and 22 of the Convention concerning exchange of information from judicial records

The PC-OC considered the draft questionnaire, agreed on some amendments and decided to:

- send out the questionnaire to all members and other representatives of the Parties to the Convention with the request to send the replies by 30 August at the latest;
- ask the PC-OC Mod to consider the replies received and to make proposals for follow up.

b. Preparation of a special session to celebrate the 60th anniversary of the Convention

The PC-OC considered the proposals by its working group for possible items to be discussed during the thematic session planned at the 77th plenary meeting of the PC-OC to celebrate the 60th anniversary of the Convention. The Committee also took note of the information that Mr Erik Verbert (Belgium) is proposing to make a presentation on the impact of recent case-law of the ECtHR on the Convention and the Additional Protocols thereto.

The PC-OC decided to:

- endorse the proposals by the PC-OC Mod to address the following items during a one day session to be held on 14 November 2019:
 - an overview of the history of the Convention and of its present and future challenges, to be presented by an academic ;
 - the impact of recent case-law of the ECtHR on the Convention and the Additional Protocols thereto, to be presented by Mr Erik Verbert (Belgium);
 - the exchange of information from judicial records under Articles 13 and 22 of the Convention;
 - electronic transmission of MLA requests (E-MLA), to be presented by representatives from INTERPOL and IberRed;
- also organise two parallel workshops, one devoted to videoconferences and the other on joint investigation teams;
- thank Mr Adil Abilov (Azerbaijan) ,Ms Yael Bitton (Israel), Ms Joana Ferreira (Portugal) and Mr Antonio Segovia (Chile) for accepting a role as moderators or rapporteurs in these workshops;

- ask the PC-OC Mod to finalise the organisation of the session in line with the discussions held.

7. European Convention on Extradition

a. Update of the publication from 2007 on Extradition European Standards and model request form

The PC-OC took note of the information that Mr Verbert will prepare the draft update of the publication “Extradition European Standards” as well as the draft model request in time for consideration by the PC-OC Mod during its meeting in September.

The Committee decided to resume discussion of this item at its next plenary meeting.

b. Possible consequences of the Petruhhin and related judgments of the CJEU

The PC-OC further discussed the consequences of the Petruhhin and related judgments of the CJEU, and decided to follow closely further developments on this important issue.

c. Other

The PC-OC took note with interest of the presentation by Ms Gabriela Gonzalez Cofre (Chile) of the guide on extraditions prepared by the AIAMP. The Committee also discussed a practical case on extradition submitted by Mr Roman Nogai (Moldova).

8. Co-operation with the European Public Prosecutor’s Office (EPPO): presentation by the European Commission and exchange of views.

The PC-OC heard the presentation delivered by Mr Peter Csonka, representing the European Commission, DG Justice and Consumers, and had an exchange of views on possible modalities to ensure co-operation between the EPPO and third States on the basis of Council of Europe instruments and in particular as regards mutual assistance in criminal matters.

The PC-OC decided to continue following this important issue closely in the future.

9. Future activities of the PC-OC (2020-2021)

The PC-OC decided to take note of the draft terms of reference proposed by the Secretariat on the basis of the proposals by the PC-OC Mod and comments received after a written consultation procedure.

10. Election of one or two substitute members of the PC-OC Mod and of a gender equality rapporteur

The PC-OC decided to elect:

- Mr Adil Abilov (Azerbaijan) and Ms Marina Spiliotopoulous (Cyprus) as, respectively, first and second substitute members of the PC-OC Mod;
- Ms Marina Spiliotopoulous (Cyprus) as its gender equality rapporteur.