



Strasbourg, 17 March 2021
[PC-OC/PC-OC Mod/Docs PC-OC Mod 2021/ PC-OC Mod (2020)02E]
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PC-OC Mod (2021)02

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 30th 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 Erik Verbert (Belgium)**

Meeting held by Videoconference 16-17 March 2021

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.

The PC-OC Mod took note of the words of welcome by Ms Hanne Juncher, recently appointed as Head of the Action against Crime Department who underlined the importance of the work of the PC-OC both as regards the development of practical tools for practitioners as in standard setting. She mentioned in particular the Convention on Mutual Assistance in Criminal Matters where a new protocol could be considered to create a solid legal basis for cooperation with the European Public Prosecutor's Office as well as to update the Convention where necessary. She also welcomed the involvement of PC-OC members in the work of other Council of Europe activities such as the HELP programme, the Medicrime COP and the T-CY.

2. Points for information of relevance to the work of the PC-OC

The PC-OC Mod took note of the information provided by Ms Hanne Juncher that:

- as from 2022 the Council of Europe will work on the basis of a quadrennial Programme (2022-2025) and 2 biennial budgets (2022-2023, 2024-2025) so as to ensure improved visibility, stability and certainty of its work. This exercise involves defining shorter and longer-term priorities and working methods for all intergovernmental committees and reflecting these in their new terms of reference;
- the draft 2nd Additional Protocol to the Budapest Convention is planned to be finalised in time for the celebration of the 20th anniversary of the Convention in November this year.

The Working Group took furthermore note of:

-the list of decisions of the recent meeting of the Bureau of the CDPC (4-5 March) and in particular the future work of the CDPC on artificial intelligence and criminal law related to vehicles and automated driving; the protection of the environment and on victims' rights.

- of the draft programme presented by Ms Solveig Volquardsen (Germany), of the video conference to be held on 5 May under the aegis of the German Chairmanship of the CM, during the next plenary meeting of the PC-OC, on : "Strengthening international cooperation in criminal matters: extradition and mutual legal assistance" .The Conference would address the MLA cooperation with the European Public Prosecutor's Office (EPPO) as well as the following topics on the application of the European Convention on Extradition: effects of prison conditions, effects of the ECJ jurisprudence (Petruhin and other) as well as the lessons learned from the Covid 19 pandemic.

- of the information by Ms Joana Ferreira (Portugal) that the next plenary meeting of the European Judicial Network, under the Portuguese Presidency, would take place by videoconference, on 29 June, including workshops on digital evidence and confiscation of assets.

3. Co-operation with the European Public Prosecutor's Office (EPPO)

The PC-OC Mod welcomed that the Committee of Ministers had agreed that the PC-OC continue its preliminary work on the development of an additional protocol to the 1959 Convention so as to provide a solid legal basis for cooperation with the EPPO. The Group underlined that such an additional protocol would be needed given that unilateral declarations by the Parties involved in the EPPO would not be a sufficient or acceptable basis for all Parties. The PC-OC Mod also considered the proposal to combine in the future additional protocol cooperation with the EPPO with other elements to update the Convention but agreed that this would take too much time and that cooperation with the EPPO should be dealt with as a priority. The PC-OC Mod decided to:

- propose to the plenary to develop as a priority an additional protocol concerning cooperation with the EPPO;
- invite at the next plenary meeting representatives of the EPPO and of the European Commission to discuss the desired scope and effects of such instrument.

4. European Convention on Mutual Assistance in Criminal Matters

a. Review of the draft standard form to facilitate the exchange of judicial records

The PC-OC Mod considered and amended the draft standard form in the light of the comments made during the last plenary meeting and decided to submit this draft to the plenary for adoption.

b. Inserting provisions on asset recovery and sharing as well as on the liability of legal persons and offences dealt with in civil, administrative and criminal procedures

The working group also considered the further development of the 1959 Convention by the insertion of certain new provisions and agreed that the issue of asset recovery, and in particular confiscation, should be dealt with separately because most of these issues did not enter into the scope of the Convention but had to do with the execution of sentences. These are regulated by other CoE Conventions such as the European Convention on the International Validity of Criminal Judgments, the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and in particular by the Council of Europe

Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism which falls within the remit of the COP 198. However, given the interest to discuss problems arising around these issues in international cooperation, as indicated by Ukraine and Israel, the PC-OC decided to

-invite the plenary to consider discussing these issues further, for example during a special session in cooperation with the COP 198.

As regards other issues to be addressed in a possible additional protocol to the Convention, the PC-OC Mod agreed that these could concern:

- the liability of legal persons,
- co-operation with civil and administrative authorities dealing with criminal offences,
- MLA as regards non-conviction based confiscation,
- the restitution of stolen assets to victims and states,
- an update of "channels of communication" to allow for electronic communication.

The PC-OC Mod decided to invite the plenary to continue discussing possible subjects to be included in an update of the 1959 Convention, taking into account proposals made in the past.

5. European Convention on Extradition

Consideration of guidelines to the model request form for extradition

The PC-OC Mod discussed the preliminary draft guidelines proposed by Mr Erik Verbert (Belgium) suggested some amendments and additions and decided to finalise the draft guidelines in an informal online meeting of the members of the Mod and other volunteers among the participants on 24 March and to present these to the plenary for adoption.

6. Next meetings

The PC-OC Mod took note that the next plenary meeting of the PC-OC would be held from 4 to 6 May on an online basis. It also recalled the need to elect a Chair, a vice-Chair as well as 1 or 2 substitute members for the PC-OC Mod.

The dates proposed for the 31st meeting of the PC-OC Mod are 7-9 September and those for the 80th plenary meeting of the PC-OC 16-18 November 2021.