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PC-OC Mod (2024)09

**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 36<sup>th</sup> meeting of the restricted Group of experts  
on international co-operation (PC-OC Mod) enlarged to all PC-OC members  
chaired by Adil Abilov (Azerbaijan)**

**(Room G4, AGORA)**  
**24-26 September 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 of relevance to the work of the PC-OC**

The PC-OC Mod 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.

In this regard, she informed the PC-OC Mod about the Informal Conference of the Ministers of Justice of the Council of Europe ("Towards Accountability for International Crimes Committed in Ukraine") which was held on 4-5 September 2024. In addition to the Ministers' agreement about the necessity of establishing an effective Special Tribunal for the Crime of Aggression against Ukraine, she drew the PC-OC Mod's attention to the fact that the Ministers also welcomed the work of the Council of Europe in expert bodies relating to the operation of the Council of Europe's conventions on international cooperation in criminal matters, and their application to the investigation and prosecution of core international crimes.

Ms Pastrana also informed the PC-OC Mod about the ongoing work within the CDPC regarding the fight against the smuggling of migrants, including the 2<sup>nd</sup> International Conference on Migrant Smuggling which took place in Strasbourg on 10-11 September. As migrant smuggling is by definition

a transnational crime, the conventions on international co-operation in criminal matters are crucial in this regard;

- 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 the expected participation of the United Arab Emirates in an exchange to take place during the next plenary meeting of the PC-OC;
- information provided by delegations on bilateral treaties recently concluded or currently under negotiation.

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

#### **a. Draft Third Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters**

The PC-OC Mod examined the draft Third Additional Protocol and its draft Explanatory Report, together with concrete drafting proposals and amendments sent by several delegations following the PC-OC's invitation to do so at its last plenary meeting.

The PC-OC Mod amended the draft Third Additional Protocol and its draft Explanatory Report in the light of these drafting proposals, after exchanging with all the delegations that made concrete drafting suggestions. It decided to complete the draft Protocol with draft final clauses prepared by the Secretariat as instructed by the PC-OC at its last plenary meeting, which it reviewed and amended in the light of the comments received from the Council of Europe Directorate of Legal Advice and Public International Law (DLAPIL).

The PC-OC Mod decided to submit these documents as amended for consideration at the next plenary meeting of the PC-OC in November 2024, with a view to their adoption and submission to the CDPC, in accordance with the terms of reference of the PC-OC. It further instructed the Secretariat to circulate the amended draft to all delegations as soon as possible, in order to allow for sufficient time for internal consultations before the next plenary meeting.

Considering the short time between the next plenary meetings of the PC-OC and the CDPC, the PC-OC Mod recalled the PC-OC's invitation to all delegations to be particularly attentive to co-ordinating with the heads of delegation of the CDPC regarding the draft Third Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters.

#### **b. Questionnaire regarding confidentiality**

The PC-OC Mod thanked the eleven delegations which have already replied to this questionnaire. Considering that a more representative sample would be necessary to render any future work of the PC-OC on this question as useful as possible, it decided to invite delegations who have not done so to send their replies to this questionnaire to the Secretariat by 22 October. It invited the PC-OC to examine these replies at its next meeting and decide on the follow-up to be given to this questionnaire, including a further call for more replies if necessary.

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

The PC-OC Mod examined the replies of delegations to questions contained in a discussion paper prepared by Mariana Radu (Romania) on the enforcement of suspended sentences and parole. The PC-OC Mod welcomed the fact that these replies provided a representative overview on the approach of various delegations to complex issues which are rarely discussed within the PC-OC and can already be considered a helpful tool for practitioners. It invited the PC-OC to decide at its next plenary meeting whether it wishes to give any further follow-up to this file.

### **5. Questions to be included in a draft questionnaire on the transfer of sentenced persons**

The PC-OC Mod examined the proposals sent by six delegations regarding possible questions to be included in a future questionnaire to be approved by the PC-OC on the application of the Convention on the Transfer of Sentenced Persons. The PC-OC Mod identified seven main areas which emerge from these proposals, namely issues relating to mental health, costs (including the issue of damages), time frames required to process transfer requests, translation, prison conditions (including guarantees), legal remedies and information pertaining to the prospects for actual execution in the administering state. It decided to complement these with a question regarding the volume of cases dealt with under the Convention by States Parties.

The PC-OC Mod instructed the Secretariat to prepare a draft questionnaire on the basis of these identified areas and the proposals sent by delegations, to be checked by the Chair before the next plenary meeting of the PC-OC. The PC-OC Mod invited the PC-OC to consider this draft questionnaire, with a view to addressing it to the States Parties to the Convention.

#### **6. Exchange of experiences relating to international co-operation**

The PC-OC Mod discussed cases brought to its attention by delegations, relating notably to practical difficulties arising from dual criminality considerations in extradition cases and the use of assurances in such cases.

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

The PC-OC Mod welcomed the information that the work regarding the update of this Convention was concluded by Raquel Tavares (expert) and warmly congratulated the expert. Considering the limited time available in the present meeting, it decided to examine this document in more detail at its next meeting.

#### **8. Any other business**

The PC-OC Mod discussed 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 Mod expressed its gratitude to Mr Kubiček for his excellent and generous contribution to the work of the Committee, decided to approve the proposals and to publish the updated version of the index and summaries of the case-law on the website following approval by the PC-OC.

The Chair informed the PC-OC Mod that the next plenary meeting of the PC-OC on 12-14 November 2024 will be convened for three full days and only in in-person format.