

Strasbourg, 2 December 2016

CDPC (2016) 21

# EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

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## LIST OF DECISIONS

### 71<sup>st</sup> PLENARY SESSION

Strasbourg, 29 November – 1 December 2016

Council of Europe  
Main Building, Palais de l'Europe  
Room 9

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The European Committee on Crime Problems (hereafter CDPC), meeting in Strasbourg under the Chairmanship of Dr. Hans-Holger Herrinfeld (Germany), decided:

#### 1. Opening of the meeting

- to take note of the opening address by Mr Carlo Chiaromonte, Secretary of the CDPC, on the most recent developments in the Council of Europe (hereafter CoE) since the last CDPC plenary session of June 2016. A particular mention was given to the Cypriot Chairmanship of the Committee of Ministers (hereafter, CM) which attaches great importance to the protection of cultural heritage in particular by promoting the efforts of the CoE to finalise the new draft Convention on offences relating to cultural property. Mr Chiaromonte also stressed the importance of enhancing the common approach between transnational organised crime (hereafter, TOC) and terrorism within the Secretariat. Therefore the related activities and work of the two competent steering committees should be carried out in closer collaboration. In this

regard, he provided a concrete example which is the conference to be organised in 2017 in Málaga (Spain) by both committees involved in these topics (CDPC and the Committee on Terrorism - hereafter, CODEXTER);

## 2. Adoption of the draft agenda

- to adopt the agenda without amendments (the information provided by the Secretariat – item 12 –, the list of participants and the agenda appear in Appendices I, II and III respectively);

## 3. Activities and priorities of the CDPC for 2016-2017

- to keep this item for discussion at forthcoming meetings;

## 4. Activities related to transnational organised crime: Action Plan

- to take note that Ms Fabienne Schaller (France) resigned as the co-ordinator on transnational organised crime (hereafter, TOC) given her new professional commitments and thank her for all the work implemented so far in this field and to welcome Mr Jesper Hjørtenberg (Denmark), member of the Bureau of the CDPC, as the new co-ordinator on TOC;
- to examine the document prepared by the Secretariat [CDPC (2016) 13] which contains both the level of implementation of the activities contained in the first preliminary work plan on TOC and the work plan of activities to be implemented in 2017 and to express its support for the activities contained therein;
- to take note of the presentation by the scientific expert, Prof. Lorena Bachmaier-Winter, on the main elements for reviewing Recommendation Rec (2005)9 on the protection of witnesses and collaborators and to congratulate her, and Mr Jesper Hjørtenberg (the co-ordinator on TOC), on their excellent work carried out in both drafting and presenting the above-mentioned document;
- on the basis of this, to hold a debate on the review of Recommendation Rec (2005)9 and agree to proceed with the review using a two-step process by:

Step 1: instructing the Secretariat, with the help of experts:

- to draft a questionnaire on certain aspects related to witness protection and collaborators of justice and to send this questionnaire to all CDPC delegations;
- to analyse the responses to the questionnaire received from the CDPC delegations and, on the basis of these responses, draft an interim report on the needs to update Recommendation Rec(2005)9;
- to submit this report to the CDPC plenary meeting for information and a further decision;

Step 2: following a final decision on reviewing the recommendation, to decide on the Terms of Reference for a possible drafting group to be mandated to review the above-mentioned recommendation;

- to take note with satisfaction that the White Paper on TOC has been translated into Spanish and is available on the Criminal Law Division website;

## 5. Smuggling of migrants

- to take note of the concept paper and the draft agenda of the conference on the smuggling of migrants to be held in 2017;
- to reiterate the decision taken at its last meeting that, at this point, the focus of future activities of the CDPC on this topic should be concentrated on practical measures to facilitate the fight against the serious crime of smuggling of migrants;

- therefore, to request the Secretariat to organise a conference on the topic of smuggling of migrants, without considering it as a “high-level”, aimed at identifying the major challenges and best practices on this issue and coming up with some elements for a future CoE recommendation on the fight against the smuggling of migrants;

## **6. Council of Europe Convention on Offences relating to Cultural Property**

- to take note of the information provided by the Chair of the Committee on Offences Relating to Cultural Property (PC-IBC), Mr Hans-Holger Herrfeld, on the outcome of the 2nd meeting held on 7-10 November 2016;
- to express some concerns relating to the schedule of the preparation of the draft Convention and consider that the proposed plan to conclude the work of the PC-IBC by February/March 2017 in order to open the new convention for signature in May 2017 is too ambitious. In particular, this short timeframe could be detrimental to the quality of the new draft Convention;
- to examine the document CDPC (2016)12 entitled “*Request for views of the CDPC on issues concerning the draft convention on offences relating to cultural property*” and provide its views and input concerning certain criminal law issues pertaining to the draft Convention, in particular:
  - in relation with Article 3 of the draft Convention (theft and other forms of unlawful appropriation), to advise the PC-IBC to take into account the following proposal:
 

*“Each Party shall ensure that the offences of theft and unlawful appropriation under their national law apply to movable cultural property”*
  - in relation with the question of criminal or non-criminal (administrative) sanctions to be included in the draft Convention, to advise the PC-IBC that, should delegations see the need to allow State Parties in respect of all or some of the criminal offences to apply in case of minor offences non-criminal sanctions rather than criminal sanctions, it would be preferable to specifically foresee that possibility e.g. by amending the article entitled “Sanctions and measures” (currently Article 16 of the draft Convention)
- to take note of the willingness of Cyprus to host the opening for signature ceremony of the future Convention on offences relating to cultural property even if the drafting process of the convention is not finalised during the Cypriot Chairmanship of the Committee of Ministers;

## **7. Council for Penological Co-operation (PC-CP) – Exchange of views with the Chair, Mr Vivian Geiran**

- to have an exchange of views with Mr Vivian Geiran (Ireland), Chair of the PC-CP and to take note of the activities carried out by the PC-CP since the last CDPC meeting in June and of the work planned for the future and to thank the committee for its excellent work;

### **a. Draft Recommendation on the European Rules on community sanctions and measures**

- to examine, amend and approve the revised draft Recommendation and its commentary and to send it to the Committee of Ministers for final adoption;

### **b. Radicalisation in Prison**

- to examine, amend and approve the draft Council of Europe Handbook for prison and probation services regarding radicalisation and violent extremism;
- to take note of the recently held meeting of prison and probation staff designated specifically to deal with radicalisation to violent extremism (Strasbourg, 23-24 November 2016). The good practices identified at the meeting will be published together with the Guidelines and the

Handbook on Radicalisation for use by the prison and probation services in their work and training of their staff.

**c. Follow up to the 21st Council of Europe Conference of Directors of Prison and Probation Services and organisation of the 22nd Council of Europe Conference of Directors of Prison and Probation Services**

- to take note that, as a follow-up to the 21st CDPPS and in conformity with the instructions given by the CDPC at its plenary meeting in June 2016, the PC-CP will start work in 2017 on Guidelines for the attention of prison and probation services regarding children of imprisoned parents;
- to take note that the 22nd CDPPS will take place on 13-14 June 2017 at the Norwegian Prison Staff Training Academy in Lillestrøm, Norway, and that its title will be: "Staff recruitment, training and development". It will be preceded by the EuroPris General Assembly and Conference which has proven to be a very positive experience creating useful synergies and is valued by the Directors General of the European prison administrations;

**d. SPACE**

- following the impossibility of Mr Marcelo Aebi, Deputy Director of the School for Criminal Sciences at the University of Lausanne, to participate in the CDPC meeting, instructed the Secretariat to transmit by e-mail the SPACE presentation to all CDPC members and to invite Mr Aebi to one of its next plenary meetings;

**8. Prison overcrowding**

- to take note that a subgroup will meet on 7 December 2016 with a view to developing proposals of possible follow-up to the White Paper on prison overcrowding;

**9. Committee of Experts on the operation of European conventions on co-operation in criminal matters (PC-OC) – Exchange of views with the vice-Chair, Ms Joana Ferreira**

- to hold an exchange of views with Ms Joana Ferreira (Portugal), vice-Chair of the PC-OC, on the latest activities carried out by the committee and to thank the committee for its excellent work. Particular attention was drawn to:
  - a) the election of Mr Erik Verbert (Belgium) as Chair of the PC-OC and the re-election of Ms Joana Ferreira as its vice-Chair;
  - b) the new website of the PC-OC and the ongoing updating of its content;
  - c) the progress made in the implementation of the Action Plan on TOC by the PC-OC and in particular:
    - the overview of reservations to CoE treaties within the remit of the PC-OC and proposals for follow-up;
    - the draft overview of judicial networks and proposals to promote their interconnection;
    - the decision to use the PC-OC's single points of contact as a network of contact persons for operational questions concerning the fight against TOC;
    - the Special Session on the implementation of the Second Additional Protocol to the Convention on Mutual Assistance in Criminal Matters (ETS No. 182) organised during the last plenary meeting of the PC-OC and the decision to develop a questionnaire to ensure its follow-up;
  - d) the discussion on possible amendments to the Convention on the Transfer of Sentenced Persons (ETS No. 112) in a Second Additional Protocol as well as the adoption of a questionnaire concerning the possible establishment of an e-transfer tool to facilitate the

implementation of the Convention;

e) the discussions on practical questions raised regarding extradition.

## 10. Terrorism

- to take note of the information provided by Mr Kristian Bartholin, Co-Secretary of the CODEXTER, on the continuing work by the CODEXTER on counter-terrorism matters, notably on the amendments to the Recommendation on special investigation techniques, the drafting Committee on Terrorists Acting Alone, the current work on Terrorism and the Internet and the first meeting of the CoE 24/7 Foreign Terrorist Fighters Network of Contact Points.
- to thank Ms Joana Ghorayeb (France) as CDPC representative at the drafting Committee on Terrorists Acting Alone;
- to welcome the work done by both scientific experts (Prof. Ana Salinas and Prof. Peter Neumann) concerning their joint preliminary report on the links between terrorism and organised crime and thank Prof. Salinas for presenting it to the plenary meeting;
- to examine the preliminary joint report and hold an exchange of views with Prof. Salinas;
- to take note of the progress made in the organisation of the forthcoming conference on this topic to be held in Málaga (Spain) in 2017;
- to keep this item under review and provide regular follow-up on the issue of the links between terrorism and organised crime;

## 11. The role of victims within the criminal justice system

- to thank the scientific expert, Ms Anna Wergens, for the report on a possible update of the Convention on Compensation of Victims;
- to hold a discussion on the issue and agree to draft a questionnaire to be sent to all CDPC delegations to find out both the practical difficulties as to the application of the Convention and areas of improvement for its implementation;
- to instruct the secretariat to send out this questionnaire;
- in relation to the more general future work of the CDPC on victims' rights, to discourage the drafting of a new convention but to further consider the idea of drafting a non-binding legal instrument (recommendation) or guidelines on this topic using a more comprehensive and broader approach;
- as far as the scope of this future non-binding legal instrument is concerned, to invite the Secretariat, together with the help of experts, to draft a questionnaire aimed at finding out whether such an instrument could provide more clarity in relation to the practical experiences of member States in the implementation of existing instruments and how member States apply the rules on victims' rights internally, before beginning the work;

## 12. Information provided by the Secretariat

- to take note of the information provided by Secretariat on sub-items a. to d. (see Appendix I)

**13. Any other business**

- to take note of the information provided by the CDPC Gender Equality Rapporteur, Ms Irene Fuentetaja Cobas, (Spain), on the new initiatives to be implemented by the CDPC in its future work as regards gender equality;
- to thank Ms Fuentetaja for all these initiatives, included at the document [CDPC(2016)15] prepared by Ms Fuentetaja, which were considered and examined by the CDPC;
- after holding a discussion on these initiatives:
  - to postpone the proposed examination of member States' gender approach to legislation regarding hate crimes;
  - to consider the gender perspective in the CDPC's work regarding cyberbullying and victims of crime;
  - to invite the Gender Equality Commission of the Council of Europe to provide a presentation of the Gender Equality achievements, objectives and actions developed by the Council of Europe at the forthcoming CDPC plenary meeting for an exchange of views;
  - to appoint a second Gender Equality Rapporteur within the CDPC
- to renew for one additional year the mandate of the Chair, Mr Hans-Holger Herrfeld, and the Vice-Chair, Mr Slawomir Buczma, of the CDPC;

**15. Dates of the next meetings**

- to hold its forthcoming plenary meetings:
  - from Monday 19 June to Wednesday 21 June 2017;
  - from Tuesday 28 November to Friday 1 December 2017.