

Strasbourg, 27 September 2016

CDPC-BU (2016) 3

EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

ANNOTATED AGENDA

BUREAU MEETING

Warsaw, 10 - 11 October 2016

Ministry of Justice
Al. Ujazdowskie 11
00-950 Warsaw
Meeting Room No. 305

Secretariat of the CDPC
Information Society and Action against Crime Directorate, DG I

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1. **Opening of the meeting**

The meeting will start at 11:30 on Monday 10 October 2016.

2. **Adoption of the draft agenda**

The CDPC is requested to adopt the draft agenda of the meeting.

3. **Future activities and priorities of the CDPC for 2016-2017**

The Bureau is invited to have a discussion on which topics/activities (with the exception of those related to the implementation of the Action Plan on TOC, item 4) it should focus its work on over the next two years, how the work should be prioritised, and how the work/tasks should be implemented. Bureau Members are also invited to present and discuss any possible new future activities the CDPC should deal with in its forthcoming work.

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

Following the adoption of the White Paper on Transnational Organised Crime, the CDPC endorsed an Action Plan on Transnational Organised Crime (TOC). At its last Plenary, the CDPC expressed its support of the activities contained in a document containing a first preliminary work plan (Document CDPC (2016) 10).

The Secretariat will organise an exchange of views with a scientific expert (Ms Lorena Bachmaier-Winter) who will inform the Bureau on witness protection and incentives for co-operation activities;

The Bureau is requested to take note of this exchange of views. It is also invited to take note of the information document [CDPC-BU (2016) 4] prepared by the Secretariat containing both the development of the implementation of the activities contained in the first preliminary work plan and the major activities to be developed in the period 2016-2017.

5. **Smuggling of migrants**

At the Plenary meeting of the CDPC in June 2015, the Maltese delegation presented its proposal entitled “Criminality and Migration” for a new activity concerning the issue of smuggling of migrants. This proposal was strongly supported by other delegations. On the whole, the Committee welcomed the proposal.

The CDPC decided “to examine the proposal by Malta to include in future CDPC activities the question of the criminal law aspect related to the issue of smuggling of migrants and to add to the terms of reference of the CDPC an activity on this matter”. This resulted in the inclusion of a specific task in its terms of reference for 2016-2017: “studying where the CDPC can provide added value to a criminal law response to the phenomenon of organised smuggling of migrants”.

Following this decision, a group of experts was set up. It prepared several documents, including the two documents which the CDPC examined at its last Plenary in June:

- “National laws relating to smuggling of migrants in Council of Europe member States” [CDPC (2016)3], which focused on internal legislation and international co-operation;
- “Preventing and suppressing the smuggling of migrants in Council of Europe member States – A way forward” [CDPC (2016)4], which presented a certain number of possible actions that the Council of Europe could implement in the future, including the drafting of a legal instrument.

At its last meeting (April 2016), the Bureau discussed at length the issue of smuggling of migrants as reported in the minutes of its meeting report (see extract of the CDPC Bureau list of decisions).

At their 126th Session (Ministerial Conference - Sofia, 18 May 2016), the Committee of Ministers adopted a decision where they “welcomed the preparation before the end of the year of adequate measures to provide member States with concrete tools to prevent and fight people smuggling;”.

At its last Plenary Session (Strasbourg, 27 – 30 June 2016), the CDPC held a discussion on the issue of smuggling of migrants and “conclude[d] that at this point the focus of future activities of the CDPC should be on practical measures to strengthen and facilitate the fight against the serious crimes of smuggling of migrants [...]” and also “request[ed] the Secretariat to organise a high-level conference on the topic of smuggling of migrants aimed at identifying the major challenges, best practices on this issue and possible solutions [...]”. The Italian delegation proposed to host this high-level conference. The Secretariat is in contact with the Italian authorities concerning the practical modalities of this event.

The Bureau is invited to take note of the developments on this matter and on how the practical organisation progresses. The Bureau is also invited to specify, together with the Secretariat, which topics need to be urgently addressed, what can be expected from this high-level Conference, and propose subjects/items to be included in a draft agenda for the Conference.

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

On 2 March 2016, the Committee of Ministers of the Council of Europe adopted the terms of reference of the Committee on Offences Relating to Cultural Property (PC-IBC). This Committee will meet over the next two years (2016-2017) to draft the new convention that should be ready by the end of 2017 and will replace the 1985 European Convention on Offences Relating to Cultural Property (known as the “Delphi Convention”).

The new Convention could aim inter alia to criminalize the deliberate destruction and illicit trafficking of cultural property and foster co-operation between states, and, as indicated in the terms of reference of the drafting committee, it could deal with the following issues:

- Definition of cultural property;
- Criminalisation of behaviour which has the potential to harm cultural property;
- Criminalisation of illicit destruction of cultural property;
- Criminalisation of trafficking in cultural property;
- Prevention of offenses relating to cultural property;
- International co-operation.

The Committee on Offences relating to cultural property (PC-IBC) held its 1st meeting in Strasbourg on 31 May to 1 June 2016. It elected unanimously Mr Hans-Holger HERRNFELD as its Chair. The aim of this meeting was to lay down the ground work for the scope of the future convention. Following this 1st meeting, the Secretariat, together with the experts and the Chair of the PC-IBC met in Strasbourg on 25-26 August 2016, drafted the draft Council of Europe Convention on Offences relating to Cultural Property [PC-IBC (2016) Conv1].

The Bureau of the CDPC is invited to take note of the information provided by the Chair.

The Bureau is also invited to take note that the 2nd Plenary Meeting of the PC-IBC will take place on 7-10 November 2016.

7. Council for Penological Co-operation (PC-CP)

a. Summary meeting report of the last meeting of the PC-CP WG

The Bureau is invited to take note of the agenda and of the summary meeting report of the last PC-CP meeting (26-28 September 2016) and to make any observations it might find necessary in relation to this.

b. Draft Recommendation on the European Rules on community sanctions and measures

The Bureau is invited to take note of the revised draft Recommendation and its commentary following the CDPC plenary meeting in June 2016 and the meeting of the PC-CP WG in September 2016. It is further invited to make any additional comments and proposals related to the texts in preparation in view of the PC-CP plenary meeting on 19-21 October 2016 and the approval of the draft texts at the CDPC plenary meeting in December 2016.

c. Radicalisation in Prison

At the CDPC plenary meeting in June 2016 it was decided to speed up the adoption of the Handbook so that the text will be on the agenda of the CDPC plenary meeting in December 2016. The Bureau is invited to consider the revised draft Handbook and to make any comments and proposals related to the text.

The Bureau is invited to take note that a meeting of prison and probation staff designated specifically to deal with radicalisation to violent extremism will take place in Strasbourg on 23-24 November 2016. The meeting is funded by a Belgian voluntary contribution. Good practices collected at the meeting will be published together with the Guidelines and the Handbook on Radicalisation.

d. 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, 13 – 14 June 2017, Lillestrøm, Norway

The Bureau is invited to take note that the PC-CP will start work in 2017 on Guidelines for the attention of prison and probation services regarding children of imprisoned parents.

8. Prison overcrowding

At the last Plenary, the CDPC decided “to endorse the draft White paper on prison overcrowding and to instruct the Secretariat to submit it to the Committee of Ministers for information”. At this occasion, the Plenary also decided “to set up a temporary subgroup of the CDPC to develop proposals of possible follow-up to the White paper”.

The Bureau is invited to take note that the CM approved the White Paper and, in accordance with the recommendations contained in the document, the White Paper will be sent to the secretariats of the intergovernmental committees and other Council of Europe bodies which were represented in the Drafting Committee. This will be accompanied by a request to promote the White Paper among their members and to provide feedback regarding possible measures to enhance its dissemination and use at national level.

The Bureau is requested to have a discussion on the foreseen subgroup of the CDPC. In this regard, the Bureau is invited to decide on the missions assumed by this subgroup and the specific tasks of it. The Bureau should also decide what will be the composition of the subgroup as well as the date and the venue of its first meeting. The Bureau is also invited to decide whether a term of reference for this subgroup, which would not be submitted to the CM, should be drafted or not.

9. Committee of Experts on the operation of European conventions on co-operation in criminal matters (PC-OC)

The Bureau of the CDPC is invited to take note of the agenda [PC-OC Mod (2016)OJ2] and the list of decisions [PC-OC Mod (2016) 09] of the 22nd meeting of the PC-OC Mod, held on 27-29 September 2016 in Strasbourg.

Attention is drawn to the implementation of the Action Plan on Transnational Organised Crime (item 4) and in particular the examination by the PC-OC Mod of:

- the draft overview of reservations to CoE Treaties within the remit of the PC-OC and proposals for follow up [PC-OC Mod (2016)05Add];
- the draft overview of judicial networks and proposals to promote their interconnection [PC-OC Mod(2016)06];
- the possibility to create a network of contact persons within the PC-OC concerning the fight against TOC.

Attention is furthermore drawn to the preparation of a Special Session on the implementation of the Second Additional Protocol to the Convention on Mutual Assistance in Criminal Matters during the next plenary meeting of the PC-OC which will take place on 15-17 November 2016 (item 5).

Finally, the Bureau is invited to take note of the discussion under item 6 on possible amendments to the Convention on the Transfer of Sentenced Persons in a Second Additional Protocol as well as of the draft questionnaire concerning the possible establishment of an e-transfer tool to facilitate the implementation of the Convention. The draft questionnaire will be submitted to the PC-OC plenary in November [Doc PC-OC Mod (2016)07]

10. Terrorism

The Bureau is invited to take note that the CODEXTER Bureau took into account the comments, remarks and written proposals for amendments to Recommendation Rec (2005) 10 on special investigation techniques sent by the members of the CDPC. The Chair of the SIT Drafting Group, Mr Nicola PIACENTE, led the discussion and provided assistance in the examination of the CDPC proposals. The draft amended Recommendation will be submitted to the CODEXTER for finalisation at the 31st Plenary meeting.

The Bureau is invited to take note that the CODEXTER drafting committee established to elaborate a recommendation of the Committee of Ministers on "Terrorists Acting Alone" will begin its work on 3-4 November 2016 at the premises of the Council of Europe in Strasbourg. To date, the members of the Drafting Committee are the following (10): Austria, Belgium, Bosnia and Herzegovina, Greece, Hungary, Italy, Romania, the Russian Federation, Spain and Turkey. The CDPC has already appointed as its representative Ms Joanna GHORAYEB, who will attend the meeting of the Drafting Group as representative of the CDPC.

The Bureau is invited to take note of the document [CODEXTER (2016) 12] prepared by the two academic experts appointed by the Secretariat to prepare a report on the links between terrorism and organised crime which will provide an overview of the problem, an analysis of the international legal framework and a catalogue of possible measures to be considered by the CODEXTER and the CDPC. The academic experts are expected to prepare a preliminary report for the CODEXTER and the CDPC Plenaries by October 2016. This report will serve as the basis for the CODEXTER's deliberations on "Links between terrorism and organised crime" planned for the 31st Plenary Meeting. A final report, taking into account the guidance provided to the academic experts by the CODEXTER and the CDPC will be presented in April 2017. The Secretariat is considering organising a follow-up conference to the Malaga Conference (held in 2014) in 2017. Document [CODEXTER (2016) 12] is an initial paper containing the main elements that the experts will include in their report.

11. The role of victims within the criminal justice system

Following the work carried out by the CDPC on Review of Council of Europe legal instruments in criminal matters [CDPC (2014) 14 Fin], the CDPC kept a divided opinion on the issue of the European Convention on the Compensation of Victims of Violent Crimes. At its last meeting, the Bureau decided "to identify a consultant and instruct the Secretariat to request the consultant to prepare a paper for the next Bureau meeting in October containing elements on a possible update of the European Convention on the Compensation of Victims of Violent Crimes" and the Plenary endorsed this decision.

The Plenary also took note of the opening address made by Mr Jan Kleijssen, Director of the Information Society and Action against Crime Directorate, in which he mentioned the role of victims within the

criminal justice system and invited the CDPC to consider this specific matter as an important issue to be developed in its future work.

The question of the role of victims within the criminal justice system is wider than the topic dealt with by the European Convention on the Compensation of Victims of Violent Crimes and raises some new issues, such as restorative justice. In this regard, three documents are brought to the Bureau's attention:

- Report on the standing and rights of victims in criminal proceedings [CDPC (2010) 16] drafted by a consultant Mr Brano Bohacik in 2010, in which he analyses which are the main dispositions in international law concerning the issue of victims;
- An article of July 2016 issue by the Canadian Journal of Criminology and Criminal Justice, "Victims' Reflections on the Protective and Proactive Approaches to the Offer of Restorative Justice: The Importance of Information", in which the authors deal with the subject of restorative justice.
- An information document [CDPC-BU (2016) 5] drafted by the Secretariat in which it presents the main developments on victims' rights in international law since the 2010 document prepared by the consultant. It also develops some elements for reflection on that question, such as restorative justice or child-friendly criminal law justice.

The Bureau is requested to identify which topics should be dealt with by the CDPC and which direction it would like to take. It is up to the Bureau to decide whether the CDPC should stay focused on the topic of the Convention, e.g. compensation of victims of violent crimes, or should expand the topic to restorative justice as well. According to the chosen path, an expert could be identified and could write the expected report.

12. Information provided by the Secretariat

The Bureau is invited to take note of the information provided by the Secretariat on sub-items a. to d. below and make any comment it considers appropriate.

- a. MEDICRIME**
 - b. Trafficking in human organs**
 - c. Dangerous Offenders**
 - d. Cybercrime**
- 13. Any other business**
- 14. Dates of the next meetings**