

Strasbourg, 5 June 2015

CDPC (2015) 15

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

68th Plenary Session

Strasbourg, 2-5 June 2015
Palais, Room 9

List of Decisions

The European Committee on Crime Problems (hereafter CDPC), meeting in Strasbourg under the Chairmanship of Mr Jesper Hjortenber, decided:

1. Opening of the meeting

- to take note of the opening address of Mr Jan Kleijssen, Director of the Information Society and Action against Crime Directorate, Directorate General of Human Rights and Rule of Law, on the most recent developments in the Council of Europe and in the Directorate, since the last CDPC plenary session of December 2014. Mr Kleijssen congratulated the CDPC on its approach with regard to the activities in its field of competence (transnational organised crime, prison overcrowding, trafficking on human organs) which have also required the expertise of other relevant Council of Europe bodies giving as an example of how to achieve common objectives efficiently. He also requested that the members identify objective criteria and geographical areas when promoting criminal law conventions with global dimension in non-member States;
- to welcome the participation of Morocco for its the first time to the CDPC, following the [Neighbourhood Partnership with Morocco 2015-2017](#) (CM(2015)16) endorsed by the Committee of Ministers of the Council of Europe (hereafter CM) on 4 February 2015;

2. Adoption of the draft agenda

- to adopt the agenda without amendments (the list of participants and the agenda appear in Appendices I and II respectively);

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

- to approve the preliminary draft terms of reference of the CDPC for the years 2016-2017 and to instruct the Secretariat to send it to the CM for adoption;
- 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;

- to include the promotion of the latest criminal law conventions in the terms of reference;
- to take note of the interventions by Portugal, Spain, and Mexico on the need for promotional activities in Ibero-American countries;

4. Review of Council of Europe legal instruments in criminal matters

a. Review of the Council of Europe Conventions within the direct responsibility of the CDPC

- to examine, discuss, amend the conclusions of and finalise the document “Review of the Council of Europe conventions within the direct responsibility of the CDPC” and adopt it;
- to examine the replies received by States on the document “Memorandum on the revision of the 1985 European Convention on Offences Relating to Cultural Property” (ETS No. 119), and decide to endorse the conclusion contained in this document;
- to instruct the Secretariat to set up a Working Group composed of members of the CDPC and scientific experts with sound expertise in the field of criminal law and cultural property;
- to continue working on issues related to a possible update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) namely considering possible amendments to the Convention or finding practical solutions to problems;

b. Review of the CoE Conventions by other CoE bodies

- to take note of the information provided by the Secretariat on the implementation/assessment of the conventions for which other CoE committees/bodies are responsible (Group of Parties Lanzarote, PC-OC, T-CY, GRECO, Conference of the Parties CETS No. 198), in accordance with decision n° 9 made by the CM;

5. Drafting a document/report with a view to identifying new forms of behaviour that have emerged in the recent past in connection with the use of modern technologies and that have brought to light possible lacunae in the existing criminal offences/law

- to take note of the report “on the impact of the new technologies on behaviour and legislation in the criminal law field” prepared by Mr Yves Charpenel, First Prosecutor General to the Cour de Cassation of France, who had been appointed as a consultant and to thank Mr Yves Charpenel for his work;
- to endorse the decision by Bureau “to instruct the Secretariat to request that the relevant CoE bodies (notably the TC-Y and the PC-OC) give their opinions on possible transversal actions that could be developed under this item”;

6. Follow-up to the 31st Council of Europe Conference of Ministers of Justice (Vienna, 19–21 September 2012): “Responses of Justice to Urban Violence”

a. International conference on urban violence (Lisbon, 23-24 October 2014)

b. Responses of justice to urban violence involving juveniles

- to take note of the information provided by the Secretary to the CDPC, Mr Carlo Chiaromonte, on the follow-up to the last Conference of Ministers of Justice and in particular: 1) on the international conference that took place in Lisbon, Portugal, on the subject of “Urban violence” on 23-24 October 2014; and 2) the developments related to the drafting of a working paper and the questionnaire prepared by a consultant on the question of responses of justice to urban violence involving juveniles;
- to examine and amend the document “Information document on the Working Group on urban violence” and in particular the objective that the Working Group on urban violence should achieve and to stress that there does not seem to be for the time being a need to draft legal instruments;
- to examine the replies received to the questionnaire on urban violence and juvenile involvement and the summary of these replies and instruct the Secretariat that these documents should be duly taken into account by the Working Group on urban violence;

7. Council for Penological Co-operation (PC-CP) - Exchange of views with the Chair, Mr Mauro Palma

- to exchange views with the Chair of the PC-CP, Mr Mauro Palma, on the current activities carried out by the PC-CP, in particular:
 - 1) the current work on the draft Guidelines for the prison and probation services facing radicalisation and violent extremism;
 - 2) the forthcoming 20th Council of Europe Conference of Directors of Prison and Probation Services (9-10 June 2015, Bucharest, Romania);
 - 3) the work started in relation to the review of the recommendations and resolutions in the prison and probation field, namely the drafting of a CM Recommendation on the European Rules on sanctions and measures enforced in the community;
 - 4) the progress made by the Drafting Committee on Prison overcrowding.
- to approve the preliminary draft terms of reference of the PC-CP for the years 2016-2017 and to instruct the Secretariat to send it to the CM for adoption;

a. Radicalisation in prison

- to examine and discuss the “Draft Guidelines for the prison and probation services facing radicalisation and violent extremism” as prepared by the PC-CP Working Group at its last meeting 22-24 April 2015 and to make comments and proposals for amendments to this document;
- that the CODEXTER should be involved in this topic and requested to give an opinion on the draft Guidelines at a later stage;
- to kindly request the PC-CP for a consolidated version of these draft Guidelines after the Working Group meeting (14-16 September 2015) inviting them to ensure that a coordination with their national CDPC representatives is guaranteed;
- to kindly invite the Chair of the PC-CP to inform the Committee about the comments made by the CDPC so that they can be duly taken into account in the future drafting work;

b. 20th Council of Europe Conference of Directors of Prison and Probation Services, 9-10 June 2015, Bucharest

- to take note of the information on the 20th Conference of Directors of Prison and Probation Services, “Radicalisation and other Strategic Challenges” that will take place in Bucharest on 9-10 June 2015;

8. Prison overcrowding

- to take note of the information provided by the Chairs of the PC-CP and the CDPC on the work carried out up to now by the Drafting Committee on Prison overcrowding, set up under the auspices of the CDPC;
- to make comments on the structure of the White Paper on prison overcrowding that is going to be drafted and on the main topics to be considered in this White Paper and make reference to any initiatives taken in different member States to diminish overcrowding, as well as examples of best practices;

9. Document/guidelines containing “Model provisions” defining a certain number of rules to be duly considered by the expert committees in their drafting work as the base to be followed during future negotiations of any possible convention on a criminal law matter

- to examine in detail the document on the “Model provisions project” (CDPC (2014)17rev5) and adopt the provisions in the document with the exception of Article 4 and Article 12. A final decision on those provisions will be taken in the forthcoming plenary meeting;
- to agree that this document (“Model provisions”) once adopted should be submitted to the CM;

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

- to have an exchange of views with the Chair, Ms Joana Gomes Ferreira, on the current activities carried out by the PC-OC, in particular concerning:
 - 1) the Draft protocol to amend the Additional Protocol to the Convention on the Transfer of Sentenced Persons (ETS No. 167) and the draft revised explanatory report;
 - 2) the e-transfer proposal by Israel, to develop an electronic tool to facilitate transfer procedures;
 - 3) the questionnaire to be addressed to member States by the PC-OC as a follow up to the special session on international co-operation as regards the seizure and confiscation of proceeds of crime, including the management of confiscated goods and asset sharing, which was held on 19 November 2014 as a first follow up to the White Paper on Transnational Organised Crime;
 - 4) the replies received to the inquiry conducted by the PC-OC to answer the request by the CDPC Bureau “that the PC-OC consider, in its forthcoming work and meetings, the question of compatibility between the Convention on Mutual Assistance in Criminal Matters and the Cybercrime Convention with regard to the exchange of requests for international co-operation in matters related to electronic evidence” as well as the opinion adopted by the PC-OC;
- to endorse the opinion of the PC-OC that there is no incompatibility between the Convention on Mutual Assistance in Criminal Matters and the Cybercrime Convention with regard to the exchange of requests for international co-operation in matters related to electronic evidence and to the contrary that the two instruments are complementary;
- to approve the preliminary draft terms of reference of the PC-OC for the years 2016-2017 and to instruct the Secretariat to send it to the CM for adoption;

11. Activities related to transnational organised crime: “White Paper”

- to take note of the information provided by the Chair of the CDPC, Mr Hjortenber, and by the co-Secretary of the CDPC, Mr Oscar Alarcón, on the developments related to the work carried out to prepare the draft Action Plan on Transnational Organised Crime and have a discussion on how this activity should be continued in the future;

12. Terrorism

- to take note of the information provided by the co-Secretary of the CODEXTER, Mr Kristian Bartholin, on the ongoing work by the CODEXTER on its activities on counter-terrorism matters and in particular on the draft Additional Protocol to the Convention on prevention of terrorism;

13. Information provided by the Secretariat

- to take note of the information provided:

a) Medicrime:

- by Mr Alarcón concerning the activities carried out by the Criminal Law Division to promote the MEDICRIME Convention and to encourage more ratifications of it;
- and welcomed the fact that Guinea is the 5th country to have ratified the MEDICRIME Convention (30 May 2015), initiating the process that will allow its the entry into force;
- and to inform the Committee that the Criminal Law Division will organise: a) the 4th regional conference on the MEDICRIME Convention, to be held in Cyprus, on 10-11 November 2015; and b) a Parliamentary Conference on the MEDICRIME Convention to be held in Paris on 24 November 2015, in co-operation with the PACE and EDQM;
- and to invite delegations to provide the Secretariat with: a) the contact details of the Focal Point at national level (and Ministry involved) responsible for the MEDICRIME Convention; b) the translation, where it exists, of the MEDICRIME Convention into their official language.

b) Trafficking in organs

- by the Spanish delegation that Spain hosted the opening ceremony for signature of this Convention in Santiago de Compostela on 25-26 March 2015;

c) Dangerous Offenders

- and of the future activities to be carried out by the Criminal Law Division with a view to promoting the Recommendation CM/Rec(2014)3 concerning dangerous offenders;

d) Cybercrime

- by the Secretary to the TC-Y, Mr Alexander Seger, on the ongoing work carried out by the TC-Y;

14. Any other business

- to take note that no other issues were raised;

15. Dates of the next CDPC Bureau and Plenary meetings

- to take note of the dates of its next meeting (1-4 December 2015);
- to take note of the dates of the next bureau meeting (1-2 October 2015).

Appendix I



Strasbourg, 5 June 2015
[CDPC plenary/2015 plenary_1/oj lp/cdpc list of participants]

CDPC (2015) LP 1 Fin (Bil)

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

COMITE EUROPEEN POUR LES PROBLEMES CRIMINELS
(CDPC)

68th Plenary Session / 68^{ème} Session plénière

Strasbourg, 2 – 5 June / 2 – 5 juin 2015

Main Building / Palais de l'Europe

Room / Salle 9

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

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**No nomination / Pas de nomination

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Apologised/Excusé

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Mr Vladimir ZIMIN, Prosecutor's Office of the Russian Federation

Mr Evgeny KOROVIN, Federal Security Service of the Russian Federation

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SAN MARINO / SAINT-MARIN

**No nomination / Pas de nomination

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**No nomination / Pas de nomination

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* * * *

**COMMITTEE OF EXPERTS ON THE OPERATION OF EUROPEAN CONVENTIONS ON
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CONVENTIONS EUROPEENNES DANS LE DOMAINE PENAL
(PC-OC)**

Mme Joana GOMES FERREIRA

Chair of the PC-OC/Présidente du PC-OC

Procurador de la República, Procuradoria Geral da República, Serviços de Cooperação Judiciária Internacional, Rua do Vale do Pereiro n° 2 - 4 e, P - 1200 LISBOA

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* * * * *

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SECRETARIAT DU CONSEIL DE L'EUROPE

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Mr Jan KLEIJSEN	Director, Information Society and Action against Crime Directorate / Directeur, Direction de la Société de l'Information et de la Lutte contre la Criminalité
Mr Carlo CHIAROMONTE	Head of Criminal Law Division / <u>Secretary to the CDPC</u> Chef de la Division du droit pénal / <u>Secrétaire du CDPC</u>
Ms Iliana TANEVA	Deputy Head of Criminal Law Division / Secretary to the PC-CP Chef adjoint de la Division du droit pénal / Secrétaire du PC-CP
Mr Oscar ALARCON JIMENEZ	Administrative Officer / Administrateur Co-Secretary to the CDPC / Co-secrétaire du CDPC Secretary to the PC-GR-DD / Secrétaire du PC-GR-DD
Ms Tanja RAKUSIC-HADZIC	Administrative Officer / Administrateur Head of Criminal Law Co-operation Unit / Chef de l'Unité de coopération en matière de droit pénal
Ms Anita VAN DE KAR-BACHELET	Administrative Officer / Administrateur Secretary to the PC-OC / Secrétaire du PC-OC
Mr Kristian BARTHOLIN	Administrative Officer / Administrateur Co-Secretary to the CODEXTER / Co-secrétaire du CODEXTER
Mr Alexander SEGER	Secretary of the Cybercrime Convention Committee (T-CY) / Secrétaire du Comité de la Convention Cybercriminalité
Ms Marjaliisa JÄÄSKELÄINEN	Assistant / Assistante
Ms Anaïs SCHAAF	Assistant / Assistante

Interpreters / Interprètes

Ms Lucie DE BURLET
Ms Chloé CHENETIER
Mr Didier JUNGLING

Appendix II

Strasbourg, 1 June 2015

CDPC (2015) OJ 1

EUROPEAN COMMITTEE ON CRIME PROBLEMS **(CDPC)**

68th Plenary Session

Strasbourg, 2 (10.00) – 5 June 2015 (12.00)

AGENDA

Council of Europe

Main Building, Palais de l'Europe

Room 9

1. **Opening of the meeting**
2. **Adoption of the draft agenda**
 Draft agenda [CDPC \(2015\) OJ 1](#)
 Annotated agenda [CDPC \(2015\) 12](#)
 For information:
 List of decisions of the 67th CDPC Plenary, 2-4 December 2014 [CDPC \(2014\) 28](#)
 List of decisions of the CDPC Bureau meeting, 22-23 April 2015 [CDPC-BU \(2015\) 2](#)
3. **Future activities and priorities of the CDPC for 2016-2017**
 Terms of reference for the years 2014-2015 [Terms of reference](#)
 Resolution on intergovernmental committees and subordinate bodies, their terms of reference and working methods [CM Res \(2011\) 24](#)
 Preparation of the Terms of reference for the years 2016-2017 [Draft terms of reference](#)
 Proposal by the delegation of Malta [CDPC \(2015\) 14](#)
4. **Review of Council of Europe legal instruments in criminal matters**
- a. **Review of the CoE Conventions within the direct responsibility of the CDPC**
 Decision by the Committee of Ministers on the review of the Council of Europe Conventions [CM decision](#)
 Draft report on the assessment/review of Conventions within the direct responsibility of the CDPC (Please note the document is 50 pages long) [CDPC \(2014\) 14 rev2](#)
 Memorandum on the revision of the 1985 European Convention on Offences Relating to Cultural Property [CDPC \(2015\) 6](#)
 Compilation of replies to the memorandum [CDPC \(2015\) 9](#)
- b. **Review of the CoE Conventions by other CoE bodies**
 Letter by the CDPC Chair and compilation of replies/contributions received by the relevant CoE monitoring/conventional bodies responsible for the assessment/implementation of CoE Conventions in criminal law matters [Compilation](#)
5. **Drafting a document/report with a view to identifying new forms of behaviour that have emerged in the recent past in connection with the use of modern technologies and that have brought to light possible lacunae in the existing criminal offences/law**
 For information:
 Draft report relating to identifying new forms of behaviour that have emerged in the recent past in connection with the use of modern technologies and that have brought to light possible lacunae in the existing criminal offences/law [CDPC \(2015\) 5](#)
6. **Follow-up to the 31st Council of Europe Conference of Ministers of Justice (Vienna, 19-21 September 2012) : “Responses of Justice to urban violence”**
 Resolution on responses of justice to urban violence [MJU-31 \(2012\) RESOL. E](#)
 Decision of the Committee of Ministers [Decision](#)
- a. **International conference on urban violence (Lisbon, 23-24 October 2014)**
 Concept paper [CDPC \(2014\) 6](#)
 Programme [Programme](#)
 Conclusions [Conclusions](#)
 Information document on the Working Group on urban violence [CDPC \(2015\) 13](#)

- b. Responses of justice to urban violence involving juveniles**
 Preliminary report on responses of justice to urban violence involving juveniles [CDPC \(2014\) 3](#)
 Questionnaire on urban violence and juvenile involvement [CDPC \(2014\) 23](#)
 Compilation of replies to the questionnaire (Please note the document is 106 pages long) [CDPC \(2015\) 7 Rev](#)
 Summary of replies to the questionnaire [CDPC \(2015\) 10](#)
- 7. Council for Penological Co-operation (PC-CP) – Exchange of views with the Chair, Mr Mauro Palma**
 Summary Meeting report of the 8th Working Group Meeting of the PC-CP, 4-6 February 2015 [PC-CP \(2015\) 1](#)
 Summary Meeting report of the 9th Working Group Meeting of the PC-CP, 22-24 April 2015 [PC-CP \(2015\) 5](#)
 Preparation of the Terms of reference for the years 2016-2017 [Draft terms of reference](#)
- a. Radicalisation in Prison**
 Draft Guidelines for prison and probation services regarding radicalisation and violent extremism Sent by e-mail on 21/5
- b. 20th Council of Europe Conference of Directors of Prison and Probation Services, 9-10 June 2015, Bucharest**
 Draft programme [Draft programme](#)
- 8. Prison overcrowding**
 1st meeting of the Drafting working committee on prison overcrowding – Executive summary [CDPC \(2014\) 29](#)
 2nd meeting of the Drafting working committee on prison overcrowding – Executive summary [CDPC \(2015\) 11](#)
- 9. Document/guidelines containing “Model provisions” defining a certain number of rules to be duly considered by the expert committees in their drafting work as the base to be followed during future negotiations of any possible convention in a criminal law matter**
 Information document by Dr. Hans-Holger Herrnfeld [CDPC \(2014\) 7](#)
 Document on Model Provisions [CDPC \(2014\) 17 rev4](#)
 Addendum: Draft elements for an Explanatory Report [CDPC \(2014\) 24 rev2](#)
 Comments on the project on Model Provisions [CDPC \(2015\) 2](#)
[Russian proposals](#)
- 10. Committee of Experts on the operation of European conventions on co-operation in criminal matters (PC-OC) – Exchange of views with the Chair, Mrs Joana Gomes Ferreira**
 List of decisions of the 19th meeting of the PC-OC Mod, 17-19 February 2015 [PC-OC Mod \(2015\)04](#)
 Draft agenda of the 68th Plenary meeting of the PC-OC, 27-29 May 2015 [PC-OC \(2015\) OJ 1](#)
 List of decisions of the 68th Plenary meeting of the PC-OC, 27-29 May 2015 [PC-OC \(2015\)14](#)
 The preliminary draft protocol amending ETS 167 [PC-OC Mod \(2015\)01rev](#)
 E-transfer proposal [PC-OC Mod \(2014\) 04](#)
 The replies to the question on the compatibility between the European Convention on Mutual Assistance in Criminal Matters and the Convention on Cybercrime [PC-OC Mod\(2015\)02rev2 Bil.](#)
 The draft questionnaire on the use and efficiency of CoE instruments as regards international co-operation in the field of seizure and confiscation of proceeds of crime [PC-OC Mod \(2015\)03rev](#)

- Preparation of the Terms of reference for the years 2016-2017 [Draft terms of reference](#)
11. **Activities related to transnational organised crime; “White Paper”**
 White Paper (Please note the document is 49 pages long) [White Paper](#)
 Preliminary document presenting the main elements of the Action Plan as follow-up to the White Paper [CDPC \(2014\) 19 Rev](#)
 Comments on Reflection Document for an Action Plan on Transnational Organised Crime [CDPC \(2015\) 4](#)
12. **Terrorism**
 Political declaration [CM\(2015\)74 final](#)
 Action Plan – The fight against violent extremism and radicalisation leading to terrorism [CM\(2015\)74 add final](#)
 Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism [Additional Protocol](#)
 Explanatory Report [Explanatory Report](#)
 Main working documents of the Conference on terrorism and organised crime [Concluding statement](#)
 Work by CODEXTER on Special Investigation Techniques [CODEXTER \(2014\) 1](#)
13. **Information provided by the Secretariat**
- a. **Medicrime**
 Council of Europe Convention on the counterfeiting of medical products and similar crimes involving threats to public health (Medicrime Convention) (CETS No. 211) [Chart of signatures and ratifications](#)
- b. **Trafficking in human organs**
 International Conference on the fight against Trafficking in Human Organs, 25-26 March 2015, Santiago de Compostela (Spain) [Programme](#)
[Conclusions](#)
 Council of Europe Convention against Trafficking in Human Organs
 Explanatory Report
- c. **Dangerous Offenders**
 Recommendation of the Committee of Ministers to member States concerning dangerous offenders
 Commentary
- d. **Cybercrime**
 For information:
Criminal justice access to data in the cloud: challenges [T-CY \(2015\)10](#)
14. **Any other business**
15. **Dates of the next meetings**
 CDPC Plenary:
 CDPC Bureau: