

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

Bureau Meeting
(CDPC-BU)

Paris, 4-5 October 2012
10.00 am

CoE Paris Office
55, avenue Kléber
(Métro Boissière)

Annotated Agenda

- 1. Opening of the meeting**
- 2. Adoption of the draft agenda**
- 3. Working methods of the Bureau and of the Plenary of the CDPC**

The Bureau is invited to hold a discussion on the working methods both of the Bureau and of the plenary of the CDPC and seek new possible ways to enhance efficiency, functioning and value of their work. Members of the Bureau are invited to make proposals in this respect. The Bureau could decide to instruct the Secretariat to prepare a working document to be presented to the next plenary containing the Bureau's proposals.

In this regard and only as a possible option proposed by the Secretariat, the Bureau could decide to revise and update the document "Working methods of the CDPC and its Bureau" (CDPC (2007) 02 rev6) that was examined and approved by the CDPC at its 57th Plenary session, in June 2008 (extract from the meeting report) : *"The CDPC examined and adopted the revised document entitled "Working methods of the CDPC and its Bureau". This document had been previously revised by the Bureau in the light of the Committee of Ministers (hereafter CM) Resolution Res(2005)47 on committees and supporting bodies."* Since then, a new resolution has been adopted by the CM on the functioning of steering committees (Resolution CM/Res(2011)24). In addition, every steering committee has to focus its work on the subject matters indicated in its terms of reference (hereafter ToR) presented to the CM every 2 years. The ToR of the CDPC for 2012-2013 contains six "expected results", which the CDPC is being implementing. Next ToR of the CDPC for 2014-2015 should be prepared at the beginning of next year.

The Chair will also inform the Bureau on his participation in the GR-J (Rapporteur Group on Legal co-operation) meeting of 6 September.

4. **Preparation of the next plenary (4-7 December 2012)**

The Bureau is invited to examine the preliminary draft agenda of the next CDPC plenary, as prepared by the Secretariat in close consultation with the Chair. The Bureau is invited to discuss which items should be considered by the plenary taking notably account of the fact that the CDPC has to examine and adopt the preliminary draft Council of Europe Convention against Trafficking in Human Organs and its explanatory report. In this respect, on the basis of the information provided by the Chair of the Committee of Experts on trafficking in human organs (see item below), the Bureau should discuss how many days the plenary should set aside for this point.

5. **Trafficking in organs**

The Bureau is invited to take note of the information provided by the Chair of the Committee of Experts on Trafficking in Human Organs, Tissues and Cells (PC-TO), Mr Hans-Holger Herrnfeld, and the Secretariat about the state of play as regards the negotiations of the draft preliminary Council of Europe Convention against Trafficking in Human Organs. The PC-TO will hold its last meeting on 15 – 19 October 2012 with a view to finalising the negotiations of the preliminary draft Convention and its Explanatory Report and submitting it to the CDPC for finalisation and subsequent submission of the draft Convention to the CM for formal adoption. At present, a number of legal and policy issues have still not been resolved by the PC-TO, and it is likely that the CDPC will have to devote a substantial part of the upcoming plenary meeting to finalising the draft Convention and its Explanatory Report before submitting it to the CM.

The Bureau is therefore invited to decide, on a preliminary basis, how much time should be set aside for the finalisation of the draft Convention and its Explanatory Report during the December plenary meeting.

The Bureau is also invited to examine the proposals made in the latest version of the preliminary draft Convention (doc. PC-TO(2012) 1 – rev 4), in particular as regards Articles 1, 2, 4 – 9, and 11 with a view to express its views and its position on these proposals as a basis for the PC-TO to reach a possible compromise.

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”**

The Bureau is invited to take note of the information provided by the Chair on the Conference of the Ministers of Justice to which he participated as Chair of the CDPC, the CoE Committee that is responsible, in cooperation with the CDCJ and CDDH, for its preparation.

The Bureau is invited to initiate a discussion on how the CDPC could, according to the mandate given to it in its ToR, “ensure, as appropriate, the follow-up of any decision taken by the Committee of Ministers subsequent to the Conference”. In this regard, the Bureau is invited to examine the draft resolution to be adopted by the Ministers of Justice (see document CM (2012) 119) and in particular paragraphs 16 and 17 containing proposed future action for the CDPC.

In this regard, the CM will examine, at one of its next meeting, the resolutions as adopted by the Ministers in Vienna and, therefore, it could instruct the CDPC accordingly.

7. **Dangerous offenders**

The GR-J examined the draft ToR of the group of experts on dangerous offenders (PC-DD) at its meeting of 5 July. While no specific observations were made regarding the contents of the ToR itself some delegations questioned the need in general terms to create new committees and the costs they entail. The draft ToR was approved without any amendments (i. e. as prepared and submitted by the CDPC) and sent to the GR-PBA (Rapporteur Group on Programme, Budget and Administration), which will consider it at its meeting of 27 September 2012. Pending the final CM decision on the PC-DD, the Secretariat has already booked meeting rooms for 2 meetings to be held in 2012 (the 3rd meeting would take place in 2013) : 19-21 November and 10-13 December.

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

The Bureau is invited to take note of the PC-CP Working Group last meeting report contained in Doc PC-CP(2012)9. In particular, it is invited to note that the PC-CP elected Mr André Vallotton as its new Chair and Mr Mauro Palma as its Vice-Chair for a period of one year. The PC-CP considered and revised a draft paper on the scope, definitions and basic aspects of electronic monitoring and forwarded it to the CDPC for further consideration. It discussed the organisation and contents of the 17th CDAP (22-24 November 2012, Rome) and made specific proposals in this respect (see below).

The Bureau is invited in particular to take note of the fact that the PC-CP Working Group considered possible topics for its next meeting's agenda and decided that it would be of interest to examine the issue of violence in juvenile detention institutions, its reasons and ways of reducing it. This issue was considered to be of priority by the participants at the 16th CDAP (Strasbourg, October 2011) and it might be considered also in the light of the findings of the Joint report of the Office of the High Commissioner for Human Rights, the United Nations Office on Drugs and Crime and the Special Representative of the Secretary-General on Violence against Children on prevention of and responses to violence against children within the juvenile justice system.

The Bureau is invited to examine this proposed new activity by the PC-CP Working Group and provide its view on it, which will be reported to the subordinated committee.

The Bureau is further invited to take note that on the 6 September, the GR-J considered the draft Recommendation on foreign prisoners and several delegations expressed their support and readiness to adopt the text as it stands. At the request of one delegation, waiting still for instructions from their capital, the final decision was postponed for the next GR-J meeting on 9 October 2012. The Italian delegation and the Secretariat underlined that this text will be the central topic of the forthcoming 17th Conference of Directors of Prison Administration (22-24 November, Rome) and that its adoption and promotion are of crucial importance for the success of the Conference.

a. Preparation of the 17th Council of Europe Conference of Directors of Prison Administration (CDAP)

The Bureau is invited to take note of the draft programme for the Conference (22-23 November 2012) and of the oral information provided in addition by the Secretariat and to make any comments or proposals it finds fit. The Italian Minister of Justice and the CoE Deputy Secretary General should open the Conference; representatives of the European Court of Human Rights and of the European Committee for the Prevention of Torture will attend the event. In consideration of the theme of the Conference, the Italian Minister of Justice has invited the prison administrations of some South Mediterranean countries.

Representatives of the Consultative Council of European Judges (CCJE) and of the Consultative Council of European Prosecutors (CCPE) and other European judges and prosecutors as well as representatives of the CDPC and the PC-CP will attend a special meeting (to be held on 24 November 2012) with the directors of prison and probation services dedicated to ways of combating prison overcrowding. This meeting will look into the implementation of CM Recommendations n° R(99)22 concerning prison overcrowding and prison population inflation and Rec(2003)22 concerning conditional release.

The Bureau is invited to appoint its representatives to take part in this meeting which is organised notably as a follow-up to Resolution n° 2 adopted at the 30th CoE Conference of Ministers of Justice of 2010.

b. Electronic monitoring

The Bureau is invited to consider the document PC-CP(2012)7rev ("Scope and definitions of electronic monitoring") that was prepared by the PC-CP following the decisions taken at the last CDPC plenary, as well as its appendix which describes in details the main types of electronic monitoring techniques and equipments. The CDPC is invited to make comments and observations, more specifically regarding the drafting process to be carried out by the PC-CP before the next CDPC plenary meeting.

9. Promotion of the Integrity of Sport against the Manipulation of Results, notably match-fixing

At their 1145th meeting (13 June 2012) the CM "invited the European Committee on Crime Problems (CDPC), in co-operation with the Group of States against Corruption (GRECO) and EPAS (European Partial Agreement on Sport) to consider the feasibility of an Additional Protocol to the Council of Europe Criminal Law Convention on Corruption (ETS No. 173), which could expand the scope of application of its provisions to the private non-profit sector, notably sport".

The Secretary of the CDPC had a meeting with the Executive Secretary to GRECO and the Secretary of EPAS to discuss how could it be better envisaged to proceed in order to provide the requested follow-up to this part of the CM decision. It was decided that a number of questions could be submitted to the GRECO and CDPC Bureaus for examination and decision whether or not these questions should be sent to all representatives of these two bodies. The main objective of the demarche is to have more clear overview of the subject matter before deciding any possible concrete action.

The text agreed between the Secretariat to be submitted to the CDPC and GRECO Bureaus is the following :

"At their 1145th meeting (13 June 2012) the Ministers' Deputies "invited the European Committee on Crime Problems (CDPC), in co-operation with the Group of States against Corruption (GRECO) and EPAS to consider the feasibility of an Additional Protocol to the Council of Europe Criminal Law Convention on Corruption (ETS No. 173), which could expand the scope of application of its provisions to the private non-profit sector, notably sport".

In order to allow the CDPC and GRECO to form a view on this matter it is suggested that delegations be invited to respond to the following questions:

- What corrupt practices/phenomena in **non-profit sectors** (such as sport, humanitarian aid, politics, trade unions etc.), if any, are not covered by the existing legal provisions on bribery in your country?
- Are there any plans or intentions in your country to address these practices/phenomena and possible legal lacunae related thereto
- Are you aware of any studies of these practices/phenomena that have been carried out in your country?
- What are in your view the (perceived) legal difficulties in criminalising these practices/phenomena?"

The Bureau is invited to consider these questions with a view to their possible submission to the plenary.

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

The 14th meeting of the restricted Group of experts on international co-operation (PC-OC-Mod) enlarged to all PC-OC members will take place on 26-28 September 2012. In preparation of the 63rd plenary meeting of the PC-OC to be held on 13 to 15 November 2012 and in line with the decisions taken by the plenary, the working group will notably:

- finalise draft practical guidelines on jurisdiction and transfer of proceedings for consideration by the PC-OC plenary;
- finalise an index and summaries on case-law of the European Court of Human Rights of relevance to the work of the PC-OC, in view of its publication on the PC-OC website;
- consider the feasibility of developing guidelines on the use of videoconferences in mutual legal assistance in criminal matters;
- examine a draft note on the relationship between extradition and expulsion and make proposals for follow up to the discussion held in the PC-OC;

- finalise a draft questionnaire on “in absentia cases”, in connection with Article 3 of the Second Additional Protocol to the European Convention on Extradition.

It is to be noted that a shared office space has been created on the PC-OC website. Most working documents have been posted on this shared office space, allowing participants in the PC-OC Mod meeting to propose amendments and make comments to the drafts proposed before the start of the meeting. The publication of the working documents on the public website of the PC-OC will take place 10 days before the start of the meeting.

The CDPC Bureau is invited to take note of this information and make any comments/give any instruction to the PC-OC on its current and future work.

11. Activities related to transnational organised crime

The Bureau is invited to take note that the GR-J, at its meeting of 6 September, resumed consideration of the revised draft terms of reference of the Committee of experts on Transnational Organised Crime (PC-COT) (see document “Terms of reference” under item 11, amended following discussions by the GR-J when it first examined it in July). In the discussion that followed in the GR-J, several delegations (9) maintained their reservations against the creation of this sub-committee, while referring to work carried out in the field covered by the draft terms of reference in other international fora. They considered that other methods could be found for carrying out this work than the creation of a sub-committee. A number of other delegations (8) expressed their support for the creation of the sub-committee, indicating *inter alia* that this activity was clearly covered by the CDPC’s terms of reference and that the proposal to create a sub-committee was part of a “compromise package” agreed by the CDPC when considering the implementation of its terms of reference. The sub-committee would ensure the necessary transversality in carrying out this activity and would take account of work in other international fora. In addition, it was said that the revised version of the draft terms of reference would make the sub-committee much less costly than the original proposal.

In conclusion, the Chairman of the GR-J noted that the draft ToR would be transmitted to the GR-PBA for consideration in the light of the discussion held in the GR-J, before their possible adoption by the CM.

12. Follow-up to the decision adopted by the Plenary on activities related to piracy

At its 62nd plenary meeting, the CDPC continued its discussion, started at the 61st plenary meeting on possible future work on “criminal prosecution of suspected pirates” (proposed by the delegation of the Russian Federation) and considered the proposal by the CDPC Bureau in this respect. The plenary decided “to adopt the proposal of the Bureau, that member states wishing to exchange best practices with regard to combating sea piracy through criminal law could meet in the margins of CDPC Plenary meetings and report back to the Plenary on their activities”. The CDPC furthermore instructed the Secretariat “to make the necessary preparations for a first meeting of the group of interested member states in the margins of the second CDPC Plenary meeting in 2012”.

In preparation of this possible first meeting, the Secretariat prepared a background working paper on sea piracy (document CDPC (2012)11).

The CDPC-BU is invited to:

- examine and discuss the paper prepared by the Secretariat in view of its consideration by the plenary;
- instruct the Secretariat to invite delegations of the CDPC to confirm their interest in participating in the first meeting on best practices in combating sea piracy of the group of interested member states in the margins of the second CDPC Plenary meeting in 2012.

13. Alternative measures to imprisonment

The Bureau is invited to consider Doc. CDPC (2012) 13 prepared by the Secretariat as a basis for further discussions and to make any comments and proposals it finds fit in this respect.

The Bureau is also invited to take note that at the last PC-CP Working Group meeting in June the participants considered Document CDPC (2012) 2 on alternative measures to imprisonment and decided to invite the Belgian delegate for further debates on this matter at its next meeting. These debates may be based also on the above Doc. CDPC (2012) 13 and on any possible oral comments made by the Bureau at the current meeting in order to help the Secretariat prepare a revised version of this document for the next CDPC plenary meeting.

14. Information provided by the Secretariat

a. Medicrime

The Bureau is invited to take note of the information provided by the Secretariat on the state of play with regard to the signature and ratification of the Medicrime Convention.

b. Review of Council of Europe Conventions

- c** The Bureau is invited to take note of the fact that the GR-J, at its meeting of 6 September, has started discussing the contents of the report of the Secretary General on the review of Council of Europe conventions (see documents SG/Inf(2012)12 and SG/Inf(2012)12 add) and also take note of the main outcome of these discussion.

15. Any other business

16. Date of the next meeting