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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

**DISCUSSION PAPER ON THE REFORM PROCESS OF THE COUNCIL OF EUROPE -
FUTURE ACTIVITIES AND PRIORITIES OF THE CDPC**

Document prepared by
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I. Introduction

1. At its last meeting (Prague, 18-19 April 2011), the Bureau of the CDPC decided to include an item on the agenda of its plenary meeting (Strasbourg, 14-16 June 2011) concerning the recent developments of the reform process of the Council of Europe (CoE) and its possible impact on future priorities and main activities of the CDPC for 2012-2013. For this purpose, the Bureau instructed the Secretariat to prepare a document containing proposals in this regard to be discussed by the CDPC plenary (see item 8 of the list of decisions in document CDPC-BU (2011) 03).

2. It is important to note that the information contained in this document will aim firstly at clarifying the immediate structural future of the CDPC and its subordinate bodies, the PC-OC and PC-CP, in the context of the reform of the CoE in particular following the latest decisions taken by the Committee of Ministers (CM) on the 2 May 2011 concerning the new intergovernmental design in 2012-2013. Indeed, following intensive consultations between the Secretary General and member states, the Ministers' Deputies adopted the proposals of the Secretary General on this issue, in particular to maintain the structure of the CDPC which will continue to be supported by the PC-OC and PC-CP in their current format. In this regard, the related working documents under item 7 of the draft agenda enclose important information concerning the adopted proposal of the Secretary General for the new set-up for intergovernmental structures (see "New set-up for intergovernmental structures" in SG/Inf (2011)9 and "Priorities for 2012-2013 and their budgetary implications" in CM(2011)48rev) which was announced notably by Mr. Gérard Stoudman, Special Representative of the Secretary General for Organisational Development and Reform, in a letter sent on 6 May 2011 to all Committee Chairpersons (see "Letter to the Committee Chairpersons" in "Letter").

3. This decision does indeed confirm the major importance of the activities of the CDPC which have been carried out for more than 5 decades in the field of crime prevention and crime control leading to the continued success of more than 30 historic CoE Criminal Law Conventions which have been widely ratified by member states as well as non-member states and implemented therefore to the benefit of the authorities and citizens in Europe and beyond. In this respect, it should be further stressed that the primary goal of the CDPC in relation to the reform of the organisation concerns primarily the preservation of its leading and indispensable steering role enabling the successful coordination of common policies of its member states in the criminal law field thereby contributing significantly to the creation of a secure and harmonised pan-European legal space while also reaching out to the world. For this purpose, the present document will seek to provide a general overview of the current vision and future strategic aims of the CM in relation to the reform process which should constitute duly the primary basis for the examination of possible new criminal law priorities and the necessary activities and working methods of the CDPC and subordinate bodies regarding which the Secretariat herein encloses preliminary proposals to be discussed by the CDPC plenary as mentioned above. It should be noted subsequently that the CM will be invited to adopt the terms of reference of all steering committees and subordinate structures including of the CDPC, PC-OC, PC-CP before the end of 2011.

4. As a final introductory comment, the Secretariat would like to stress that the reform process of the CoE and its impact on the work of intergovernmental structures is a challenging opportunity to strengthen the CDPC's unique criminal law forum. Indeed, the CDPC may consider the possibility of identifying new means to strengthen the active

cooperation between member states in this field and new activities regarding crime prevention and crime control in view of the effective translation of common political priorities into strategic actions while increasing synergies with other relevant international organisations in particular the European Union (EU) to ensure the immediate impact of the organisation on current and emerging crimes which threaten peace and stability in the region and beyond.

II. Expected results of the new intergovernmental design as the new working framework for the future

5. For the purpose of identifying possible new activities and working methods of the CDPC and its subordinate bodies to secure its on-going relevance within the framework of the reform of the CoE, it is first important to clarify briefly the intentions of the CM in the rationalisation of all intergovernmental structures and its future expectancies in this regard. Indeed, measures for the reform of intergovernmental committees as proposed by the Secretary General of the CoE and adopted by the CM (see document CM (2011) 48rev) aimed at notably:

- Enhancing CM/intergovernmental committees interactions in implementing the organisation's key priorities;
- Establishing steering committees with over-arching responsibility for a priority sector;
- Ensuring strengthened input from the relevant specialised ministries and policy-level representation.

6. The following parameters notably are taken into account in the restructuring process:

- Clearly defined expected results which should be concrete and as far as possible measurable;
- Reinforced partnerships with other international actors;
- Transversal approach to be promoted where relevant (project groups, taskforces).

7. New draft terms of reference will cover a period of maximum 2 years. Indeed, it is important to note that as from 2012, the mandates of the CDPC as well as other intergovernmental structures will be time-limited and not automatically renewed nor prolonged. Their clear link to their attributed programme of activity as well as the priorities of the Secretary General for 2012-13 will be decisive in this respect. In addition, in 2013, new terms of reference will be prepared for the attention of the CM with a view of the implementation of the future biannual programme of activities. It should finally be stressed that by the end of March 2013 the functioning of the new intergovernmental design will be critically reviewed.

8. Accordingly, new terms of reference of all intergovernmental committees will be examined by the CM from the outset in accordance with the new operational and thematic pillars ("Human Rights, Rule of law and Democracy") which reflect the new set priorities of the organisation from 2012. With regards to the CDPC and its subordinate bodies, their new terms of reference should clearly relate to its new set pillar, namely the "Rule of Law" and focus on achieving the set expected results for 2012 and 2013 which should be clear, concrete, and where possible measurable. In other words, the practical visibility and concrete impact of the results-orientated work of the CDPC on the common needs of member states in the field of criminal law are fundamental when determining the political relevance of actions taken by the CDPC. For this purpose, the consistent and coherent

approach of the CDPC should continue to be ensured but on the basis of its recently established “sector” which concerns the “strengthening of the rule of law and developing common standards” with its new fixed programme “the development of common standards and policies” and for activities in the field of prisons, the sector on “ensuring justice” with the programme “prisons and police”. It should be noted that these structural measures do not imply substantial changes as the established sectors and programmes in fact refer to the already existing activities’ framework but expected goals will have more weight when reviewing the efficiency of the work of all steering committees hence the fact that in the future draft terms of reference of all intergovernmental bodies should precisely reveal the concrete and final outcome of each activity.

9. In this respect, the CDPC is invited to contribute to the reform process in relation to intergovernmental structures by making proposals in particular concerning possible new working methods which would suit the new set and interconnected priorities for the next decade which for the CDPC concerns the development of common solutions in the field of criminal law to “Threats to the Rule of Law” as well as “Establishing Pan-European Common Standards”.

III. Preliminary proposals for new activities and working methods of the CDPC to enhance its relevance, coherence and efficiency.

10. Given the experience and global vision of the CDPC concerning criminal matters at the European as well as global levels, its positive and important role in translating the above-mentioned priorities of the organisation in the field of criminal law into concrete measures of added value was further recognised and strongly reinforced in particular with the establishment of an additional plenary meeting from 2011. This measure does indeed confirm the political relevance of criminal law activities as carried out by the CDPC where member states are given an exclusive opportunity to unite on the basis of a strong and well-established cooperation to address existing and future challenges to peace and stability in Europe and beyond by:

1. Establishing strong mechanisms for the follow-up of existing standards and policies to ensure that they are effectively implemented;
2. Developing common standards and policies regarding priority issues in accordance with the shared values and priorities of the 47 member states.

11. In this regard, with the continued success in particular of CoE Criminal Law Conventions developed under the aegis of the CDPC and widely ratified and implemented by the 47 member states as well as non-member states, the reform process could provide the perfect opportunity to enhance the capacity of the CDPC to act on the basis of its fruitful expertise through more flexible, comprehensive and effective means to develop new standards and policies as well as setting-up follow-up mechanisms as described above to enhance the efficient impact of the organisation in combating in particular “serious and organised crimes” by reason of their transnational and therefore global nature. For this purpose, the CDPC has the opportunity to identify efficient and pragmatic means to address such crimes as well as possible common and priority areas. It should also be stressed that the CDPC took account of the need to open up Conventions to non-member states to widen cooperation among states by including non-European states in fighting globally organised crimes in view of the effective and realistic impact of the organisation. For this purpose, the recent and on-going activities of the CDPC concerning the development of criteria and procedure to be followed as regards the accession of non-member states to CoE Conventions in the field of criminal law (see CDPC (2011)07 under item 9 of the draft agenda) and the decisions on the given follow-up related to the possible

establishment of a clear technical procedure in this regard will have a crucial impact on the CDPC's future and concrete perspectives as they should be contained in its new expected results.

12. Furthermore, taking into account one of the new priorities of the organisation for the next decade to reinforce "the effectiveness of the Council of Europe treaty law" and the current contribution of the CDPC in this regard (see in particular PACE Recommendation 1920 (2010) on "Reinforcing the effectiveness of Council of Europe treaty law" at document CDPC (2011)08) which concluded on the fact that by far the majority of criminal law instruments are active and up-to-date, future activities may be envisaged however in this area in relation in particular to the conventions which could be up-dated as well as those which are "inactive".

13. The CDPC's capacity to follow the implementation of existing standards and policies may be enhanced also through a more comprehensive and flexible approach. If standards are a foundation for existing CoE cooperation projects as well as monitoring activities, the CDPC should be given the means to have a clear and concrete overview of arising problems in the implementation of the relevant standards as well as existing best practices which could serve priority criminal law issues (such as those concerning prisons). This overview works well on topics directly under the CDPC's control, such as international co-operation and penitentiary issues, but could be increased for other areas. This would improve its capacity to detect systemic problems which warrant the development of new legal measures. In concrete terms, this would involve more institutionalised interactions between conventional committees and other monitoring bodies as well as with coordination activities, with the CDPC acting as a hub. These synergies would enable the CDPC to take stock regularly of effective tools as well as of existing challenges.

14. In this regard, taking into account the already existing strong political commitment of member states regarding specific issues related to "serious and organised crimes", the CDPC is invited to take a step further by providing a global vision of the dimension of organised crimes in view of strengthening the power of governments in fighting the scourge of crime as a global problem. The regular assessment of the global security climate in relation to transnational organised crimes in the European region in particular would inevitably strengthen and enlarge the "leading and indispensable steering" role of the CDPC which would, as mentioned previously, act as a hub when collecting information and data in cooperation in particular with other CoE services and other international organisations dealing with specific forms of organised criminal networks involved for example in drug trafficking, money laundering, trafficking in human beings, corruption, terrorism, or financial fraud. On the basis of a comprehensive approach, a global analysis of organised crime in the European region and the tendencies of this phenomenon could be developed in view of setting-up adequate global strategies to assist member states in addressing the challenges and threats posed by the changing nature of transnational organised crime which jeopardize the health and future of all countries. In this regard and for the purpose of additional practical efficiency, cooperating with the EU is indispensable to benefit from its experience regarding organised crime in the region while providing an input with the related experience of the organisation concerning its 20 additional member states as well as its non-member states which have ratified CoE Conventions in the field of criminal law. Possible synergies could be identified in this area leading to the establishment of common and coherent measures to fight globally organised crime thereby securing a pan-European legal space.

15. It is important to note that the improved capacity of member states in addressing this phenomenon which may also involve the manipulation or corruption of national institutions would further strengthen public trust in the Rule of Law. Therefore, in view of securing a strong international judicial framework which embraces the unitary Pan-

European approach in facing notably the enhanced and rapidly developing hazards of this phenomenon which took a new dimension with today's threats from the use of new information technology, the following proposals may suit the mentioned and possible new means of the CDPC to address this multi-faceted phenomenon:

1. Establish a new restricted and advisory sub-committee "on global organised crime" composed of a limited number of experts including the Chairs of the CDPC and the PC-OC and PC-CP as well as representatives of the relevant conventional bodies and where necessary of other relevant steering committees and international organisations, in particular the EU, which could share its experience with this issue. Such group could be tasked in particular with the sharing of information on trends and best practices in view of the development of regular comprehensive analysis of this global phenomenon as well as with the strategic coordination concerning organised crime which would be discussed in-depth within the framework of this specialised forum to finally transmit strategic and concrete proposals to the CDPC.
2. Organise an annual international seminar on organised crime which would involve all relevant stakeholders at all levels to ensure that the CDPC benefits from the practical experience of field actors in particular in view of taking stock of existing problems and identifying imminent threats as well as sharing useful information including best practices.
3. Both proposals may be found as necessary tools since the established duties of the restricted sub-committee mentioned under item 1 could include the substantial organisation of the proposed international event and ensure its necessary follow-up.

IV. Conclusion

16. Faced with the profound challenges emerging from transnational organised crime, and in view of increasing its efficiency in today's modern world, the CDPC should grasp the opportunity of the reform of the CoE regarding which the recent decisions have confirmed the common agreement on the selection of priority activities of the CDPC, the related and specific established goals as well as its chosen working methods which have led to the visible success of the organisation for now numerous years in addressing criminal challenges at the regional and global levels. The aforementioned proposals are there to initiate discussions within the CDPC in view of modernising its working methods and activities to enlarge the scope of its future goals and therefore widening its concrete translations of its commitments into actions. Taking account in a more effective manner of the increased pace of developments of transnational crimes in Europe, identifying new types of crimes which should be addressed in a more comprehensive way and including a global vision on organised crime in Europe would add clear and concrete value to the leading steering role status of the CDPC. In this respect, it is important to stress that the new activities of the CDPC in this field will be implemented progressively through an on-going process to ensure that effective solutions are found to build new and secure 'common bridges' between all States.

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