



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 5 October 2011
cdpc/docs 2011/cdpc (2011) 20 - e

CDPC (2011) 20

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

SERIOUS AND ORGANISED CRIME
Possible activities under the aegis of
the European Committee on Crime Problems (CDPC)

Document prepared by the Directorate General of
Human Rights and Legal Affairs (DGHL)

CDPC website: www.coe.int/cdpc
CDPC e-mail: dgi.cdpc@coe.int

Introduction:

1. Serious and organised crime poses a direct threat to the internal security of all European states. By its very nature, this kind of crime, mostly transnational in character, usually cannot be efficiently suppressed by each state on its own, but requires a targeted and comprehensive approach, including through international co-operation mechanisms.
2. In response to this threat, European states have co-operated in the combat against serious and organised crime using the framework of various international and supranational fora. Many of these frameworks, e.g. the UNODC, Interpol and the EU, have already proven their worth, however, a truly pan-European framework and a common strategic approach by all European states to tackling serious and organised crime are arguably still lacking.
3. On the other hand, criminal organisations and individual criminals, from both within and outside Europe, have been making steady progression demonstrating their ability to forge alliances and operate across borders in all parts of Europe, thus further complicating the detection work and subsequent criminal prosecution in individual member states. As an example, Yakuza (Japanese mafia) gangs are known to have sub-contracted criminals based in the Western Balkans region to plan and execute robberies in London and Paris¹.
4. The Council of Europe is ideally/uniquely placed to deal with this problem/threat with the European Committee on Crime Problems (CDPC) well-established in the field of criminal law co-operation and capable of addressing the many-faceted issues related to serious and organised crime **in a pan-European context**.
5. Since 1958 the CDPC has contributed to the development of international criminal law, drafting a number of important legal instruments in the fight against serious and organised crime. Moreover, criminal law issues have recently been identified by the Committee of Ministers as one of the top priorities in the work programme of the Council of Europe for the years to come².

¹ Cf. H. Brady: "The EU and the fight against organised crime", Centre for European Reform, April 2007, p. 31.

² • **Threats to the Rule of Law**

(...) The new programme line *Organised Crime, Money Laundering – MONEYVAL – Terrorism, Cybercrime, Trafficking in Human Beings – GRETA – and Counterfeiting of Medical Products* develops an integrated approach and response to major threats to the rule of law building on the significant set of standards and follow-up mechanisms it has developed over the years. In these areas, the Organisation will pursue its active partnerships with other international organisations including UN, UNODC, OECD, FATF, EU, OSCE and OAS. (...)

• **Development of Pan-European Common Standards and Policies**

6. In bringing together all the member states of the Council of Europe, the CDPC could lead the fight against serious and organised crime, in close co-ordination with strategic partners, in particular the European Union and its various bodies, the United Nations and Interpol.

A common objective: a more secure and just European continent

7. Since its creation in 1949 the Council of Europe has been dedicated to the promotion human rights, democracy and the rule of law among its member states and beyond.
8. As stated above, serious and organised crime constitutes a threat to the internal security of Europe and contributes significantly to undermining the rule of law and compromising the integrity of democratic institutions.
9. It has also a negative impact on national economies, particularly in the current context where states are facing the consequences of a global economic crisis. Significant amounts of money are lost through tax evasion, money laundering and illegal economic markets, not to mention the indirect economic harm caused by organised crime as criminal activity can undermine the credibility and competitiveness of a state's financial and commercial sectors.
10. Furthermore, serious and organised crime can have a direct impact on the lives of ordinary law-abiding citizens and businesses, creating a feeling of insecurity and contributing to social tension. There are thus many important reasons for the Council of Europe, taking into account its core mandate/values, to engage actively in the fight against serious and organised crime with a view to creating a more secure and just Europe for its citizens.
11. Given the fact that some other international and supranational fora are already engaged in combating serious and organised crime, the aim of the Council of Europe should be to identify and carry out activities which are compatible with, and complementary to, those of the aforementioned fora, acting as a bridge-builder, creating synergies and promoting co-operation across Europe.

(...) Under the programme line *Development and Implementation of Common Standards and Policies* activities will aim either at updating existing standards or addressing new challenges such as for instance, in the criminal field, trafficking in organs, tissues and cells.

Proposed range of activities

12. The proposed range of activities is the following:

- the identification of current and future serious and organised crime issues;
- the development, in close co-ordination with strategic partners, of pan-European strategies and possible common policies on preventing and combating serious and organised crime;
- the collection, assessment and exchange of best practices in the prevention of, and fight against, serious and organised crime from all Council of Europe member states;
- the preparation and dissemination of an annual report on trends and developments in serious and organised crime in the Council of Europe member states with recommendations as to possible action by the CDPC (new binding/non-binding legal instruments, revision of existing legal instruments, seminars or conferences);
- the preparation and dissemination of special thematic reports focusing on specific types of serious and organised crime;
- the preparation of awareness-raising seminars and conferences on various aspects of serious and organised crime.

13. Although some of these activities may already be carried out by some European states in other fora, in particular the EU, none of them are currently carried out on a comprehensive pan-European level.

An ad-hoc committee on serious and organised crime

14. Taking into account the existing strong political commitment of member states regarding specific issues related to “serious and organised crime”, the CDPC should take a step further by providing a global vision of the dimension of organised crime which would strengthen the power of governments to fight the scourge of crime as a universal problem. The regular assessment of the global security climate in relation to transnational organised crime, in the European region in particular, would inevitably strengthen and widen the “leading and indispensable steering” role of the CDPC which would act as a hub when collecting information and data in co-operation with other CoE departments/directorates 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.

15. The challenges and threats posed by the changing nature of transnational organised crime jeopardize the health and future of all countries. Organised crime and its current and future trends in the European region could be analysed on a worldwide/global scale so that concrete strategies could be set up in order to assist member states in tackling this phenomenon.

16. To undertake these activities, the Secretariat proposes to establish a restricted ad-hoc committee of experts on serious and organised crime, reporting directly to the CDPC.

17. The ad-hoc committee should be composed of:

- 23 representatives of the member states' governments (and one additional member for the member state whose representative is elected as chair) with practical experience in the fight against serious and organised crime;
- 2 scientific experts appointed by the Secretary General, at least one of whom should be a specialist in criminology;
- representatives of the European Union, the United Nations Office on Drugs and Crime (UNODC) and Interpol as observers. In addition, other relevant international organisations may be invited to participate as observers, if needed;
- representatives of other relevant Council of Europe committees and bodies as observers;
- representatives of observer states and states having acceded to the relevant Council of Europe legal instruments as observers.

18. The ad-hoc committee would/should meet two or three times a year, each meeting lasting for three days. If needed, the ad-hoc committee may decide to invite representatives of academic research institutions with particular expertise in the field to make presentations and participate in debates as observers.

19. The ad-hoc committee would/should co-ordinate its work with the aforementioned strategic partners (EU, UNODC, Interpol) with a view to assuring compatibility and complementarity of activities and avoid any unnecessary overlaps.

20. The activities of the ad-hoc committee would/should partly consist in the collection and analysis of data transmitted by all 47 Council of Europe member states. These data may relate to the prevention, detection and investigation of criminal cases identifying specific natural persons. For this reason, the activities of the ad-hoc committee would/should be carried out in a manner consistent with existing international standards regarding data protection, in particular the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) and the applicable EU and domestic legislation of the member states.

Expected benefits and added value for member states

21. The member states would be provided with a regular analysis of trends in serious and organised crime in the **whole of Europe**, thus making it possible to **identify priorities** at both a domestic and regional level and **source/provide the necessary human and financial resources** to combat most efficiently the criminal activities in question.

22. Member states faced with specific challenges from serious and organised crime would benefit from the promotion and **exchange, on a pan-European level, of best practices** and information on prevention, detection and investigation developed by other member states.
23. Moreover, co-operation in the framework of the Council of Europe would very likely act as a **catalyst for trust building and improving everyday co-operation** between the law enforcement and judicial authorities of member states, where such close co-operation does not already exist.
24. The creation of an intergovernmental **pan-European forum for the discussion and analysis** of serious and organised crime would deepen and improve member states' understanding of these phenomena, and contribute to the **formulation of comprehensive policies and strategies**.
25. Finally, the Council of Europe could provide a **level playing field** for co-operation at a strategic level not only between the EU and non-EU member states of the Council of Europe, but also, and just as significantly, by providing the possibility of **involving key non-European states** in particular observer states and non member states parties to legal instruments of the Council of Europe in the field of criminal law.

Appendix

Roadmap

1. Following the decision taken by the Plenary at its meeting in June 2010, the Bureau examine, at its meeting in October, the document “Serious and organised crime - Possible activities under the aegis of the European Committee on Crime Problems (CDPC)” prepared by the Secretariat and instruct the Secretariat to amend it according to the Bureau’s discussions and comments – **October 2011**.
2. The revised above-mentioned document is presented to the CDPC Plenary in December for examination and approval – **December 2011**
3. A possible preliminary draft terms of reference of a restricted Committee of Experts on Serious and Organised Crime (PC-SOC) is prepared by the Secretariat and presented to the CDPC Bureau for examination – **March 2012**
4. A possible draft terms of reference of a restricted Committee of Experts on Serious and Organised Crime (PC-SOC) is prepared by the Secretariat and presented to the CDPC Bureau for examination and final approval – **June 2012**
5. The draft terms of reference of a restricted Committee of Experts on Serious and Organised Crime (PC-SOC) is presented to the Committee of Ministers, together with the entire CDPC report of the June plenary meeting, for approval – **October/November 2012**
6. The first meeting of the restricted Committee of Experts on Serious and Organised Crime (PC-SOC) takes place – **February/March 2013**.