

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

**63<sup>rd</sup> Plenary Session**

**Strasbourg, 4–7 December 2012**  
Agora Building  
Room G02

**Annotated Agenda**

**1. Opening of the meeting**

The meeting will be opened at 9.30 a.m. by Mr Jan Kleijssen, Director of Information Society and Action against Crime, Directorate General of Human Rights and Rule of Law.

**2. Adoption of the draft agenda**

The Committee is invited to adopt the agenda for its Plenary meeting and decide on the order of business.

**3. Trafficking in organs**

In Autumn 2011, a Committee of Experts on Trafficking in Human Organs, Tissues and Cells (PC-TO) was set up - under the authority of the CDPC - by the Committee of Ministers of the Council of Europe (hereafter CM) with the specific task of elaborating a binding international criminal law instrument against trafficking in human organs, and, if appropriate, an additional protocol against trafficking in human tissues and cells. The PC-TO has held four meetings (December 2011, March, June and October 2012).

At its last meeting on 15–19 October 2012, the PC-TO finalised the negotiations of the preliminary draft Convention against Trafficking in Human Organs and its Explanatory Report and decided to submit them to the CDPC for finalisation, approval and subsequent transmission to the CM for formal adoption.

Aware that a certain number of legal and policy issues related to the preliminary draft Convention would not be entirely resolved by the PC-TO, the Bureau of the CDPC decided to instruct the Secretariat to circulate a questionnaire in advance of the CDPC Plenary meeting (i. e. immediately after the meeting of the PC-TO), addressed to all CDPC delegations and focusing on the most important points to be decided

by the CDPC concerning the preliminary draft Convention and with the main objective of allowing the CDPC to better understand delegations' positions with regard to these issues.

Consequently, on 24 October 2012, a questionnaire, prepared by the Chair of PC-TO, Mr Hans-Holger Herrnfeld, on issues left open in the preliminary draft Convention prepared by the PC-TO was sent to all CDPC delegations with the deadline of 26 November to respond.

The Secretariat prepared a compilation of the replies provided by the CDPC delegations to this questionnaire and distributed the compilation to all CDPC delegations before the Plenary meeting.

The CDPC is invited :

- 1) to take note of the information provided by the Chair of the PC-TO Mr Herrnfeld on the work carried out by the PC-TO with regard to the elaboration of the aforesaid international binding legal instruments;
- 2) to examine the preliminary draft Council of Europe Convention against Trafficking in Human Organs and its preliminary draft Explanatory Report and approve them;
- 3) to transmit the draft Council of Europe Convention against Trafficking in Human Organs to the CM for adoption and the draft Explanatory Report to the CM for information.

**4. 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 CDPC is invited to take note of the information provided by Mr Lorenzo Salazar on the Conference of the Ministers of Justice, in which he participated in his capacity as Chair of the CDPC, the CoE Committee that is responsible, along with the CDCJ and CDDH, for its preparation.

In this regard, the CDPC is invited to examine:

- 1) the resolution as adopted by the Ministers of Justice in Vienna; and more particularly
- 2) the decision as adopted by the CM containing a specific request for future action by the CDPC.

The CDPC is invited to initiate a discussion on how it could, according to the mandate given to it in its Terms of Reference, “ensure, as appropriate, the follow-up of any decision taken by the Committee of Ministers subsequent to the Conference (of Ministers of Justice)”. The CDPC may wish to decide to instruct the Bureau to discuss in more detail how the CDPC can best ensure a proper follow-up to the Vienna Conference and to the relevant decision of the CM and report back to the next CDPC Plenary meeting in 2013.

**5. Dangerous offenders**

The CDPC is invited to take note of the fact that on the 21 November the CM decided on the setting-up of an ad hoc group of experts within the remit of the CDPC: the ad hoc drafting group on Dangerous Offenders (PC-GR-DD).

Following this decision by the CM, the CDPC is invited to take note of the information provided by the Secretariat on the possible road map as regards the future work of the PC-GR-DD and in particular the dates of its meetings.

**6. Council for Penological Co-operation (PC-CP)**

The CDPC is invited to take note of the information provided by Mr André Vallotton, Chair of the PC-CP, on the current and future activities of the Committee. The CDPC is also invited to have an exchange of views on the PC-CP's work and priorities with its Chair.

**a. The 17<sup>th</sup> Council of Europe Conference of Directors of Prison Administration (CDAP) – Rome (22-24 November 2012)**

Following an invitation made by the Italian authorities, the 17th CDAP took place in Rome on 22-24 November 2012. Its topic was “Foreign Prisoners” and apart from the promotion of the newly adopted

Committee of Ministers recommendation concerning foreign prisoners (10 October 2012), it also covered the treatment and preparation for release of foreign prisoners in general and ways of reducing their numbers in custody. The directors of probation services were also invited. The work was organised in plenary sessions and workshops. The Italian Minister of Justice and the CoE Deputy Secretary General opened the Conference. Some 160 participants attended the event, including representatives of the CDPC, the European Court of Human Rights and the European Committee for the Prevention of Torture (CPT) and other relevant CoE bodies. In consideration of the theme of the Conference, the Italian Minister of Justice invited the prison administrations of several South Mediterranean countries.

A special meeting, chaired by Mr Salazar, in his capacity as Chair of the CDPC, with representatives of the Consultative Council of European Judges (CCJE) and the Consultative Council of European Prosecutors (CCPE) and other European judges and prosecutors was held on 24 November together with the directors of prison and probation services. It was dedicated to ways of combating prison overcrowding and mainly looked into the implementation of CM Recommendations No.R(99)22 concerning prison overcrowding and prison population inflation and Rec(2003)22 concerning conditional release.

The CDPC is invited to take note of the information on the Conference provided by the Chairs of the CDPC and the PC-CP and in particular of the conclusions adopted (see also the website of the Conference ([http://www.coe.int/t/dghl/standardsetting/prisons/Conference\\_17\\_en.asp](http://www.coe.int/t/dghl/standardsetting/prisons/Conference_17_en.asp)). It is also invited to instruct its Bureau to consider the best possible ways of ensuring a suitable follow-up to the outcome of the Conference and of the special meeting and report back to the next CDPC Plenary meeting in 2013.

#### **b. Electronic monitoring**

At its Plenary meeting in December 2011, “the CDPC decided that the work on electronic monitoring should be given priority”.

At its last Plenary meeting in June 2012, the CDPC entrusted “the PC-CP, as a first step and for the purpose of further discussion of the subject, with the task to draft a paper clarifying the possible scope of the term “electronic monitoring”, which should relate to the use of such technology outside prisons, as well as identifying the aspects regarding its use that should be addressed in order to develop standards against disproportionate use. The PC-CP should take into account that some member states have already developed standards and rules on electronic monitoring. The PC-CP should not deal with questions related to if, and at what stages of the criminal process, electronic monitoring could be used as this is a matter reserved for national law”.

The Bureau of the CDPC, at its last meeting in October 2012, took note of the document on electronic monitoring prepared by the PC-CP taking into account the remarks made by the CDPC, approved the work carried out so far by the PC-CP on electronic monitoring and instructed it to continue its work and present its preliminary results at the next CDPC Plenary meeting, in December 2012.

The CDPC is therefore invited to take note of the information provided by the Chair of the PC-CP on the work on electronic monitoring and in particular the suggestion to send to all member states a short questionnaire in order to gather some missing information. The results of this questionnaire would then be discussed at the PC-CP Plenary meeting, in March 2013. The CDPC is also invited to decide whether the PC-CP could start preparing a preliminary draft Recommendation on this issue.

#### **7. Promotion of the Integrity of Sport against the Manipulation of Results, notably match-fixing**

The CDPC is invited to take note of the information provided by the Secretariat on the state of play as regards the implementation of the decisions adopted by the CM at their 1145th meeting (13 June 2012) on match-fixing issues.

In particular, the CM “invited the EPAS Governing Board, where appropriate, in co-operation with the Group of States against Corruption (GRECO), the European Committee on Crime Problems (CDPC), MONEYVAL and other relevant bodies, and in co-ordination with the European Union, to launch the

negotiation of a possible Council of Europe Convention against Manipulation of Sports Results and notably Match-fixing.” (see point a. below).

The CM also "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" (see point b. below).

**a. Possible Council of Europe Convention against Manipulation of Sports Results and notably Match-fixing**

The CDPC is invited to take note that the Bureau, at its last meeting in October 2012, was informed that the EPAS (European Partial Agreement on Sport) of the Council of Europe has prepared a preliminary draft convention against manipulation of sports results. The Bureau noticed that three chapters of this preliminary draft convention (III: "Criminalisation and law enforcement"; IV: "Sanctions" and V: "International co-operation") out of seven contain provisions of both substantial and procedural criminal law. It entrusted the Chair of the CDPC with sending a letter to the Chair of the EPAS Governing Board in order to clarify that the CDPC wishes to play an active role in the drafting process and in particular to discuss the relevant provisions of the draft convention related to criminal law at a plenary session and inform him that, in view of its heavy agenda in December 2012, the CDPC Plenary would not be in a position to examine in depth the draft convention before its meeting in May/June 2013, and also to recall that in the past the CDPC delegations have already voiced their doubts as to the need for a new criminal law convention on match-fixing. Mr Salazar sent a letter to the Chair of the Governing Board of the EPAS on 9 October. The Chair of the Governing Board of the EPAS replied by a letter dated 9 November.

The Bureau is invited to take note of the information provided by Ms Helena Lisuchova, member of the CDPC Bureau, in her quality as CDPC representative in the drafting group set up by the EPAS, on the current and planned activities concerning the possible Council of Europe convention against manipulation of sports results. It is also invited to take note of the relevant documents related to this issue, and in particular the preliminary draft convention against manipulation of sports results as prepared by the EPAS and the exchange of letters between the Chairs of the CDPC and of the EPAS Governing Board.

On the basis of the documents available and the information provided, the CDPC is invited to discuss and decide on the best possible way to ensure a suitable follow-up to this issue.

**b. Feasibility of an Additional Protocol to the Council of Europe Criminal Law Convention on Corruption (ETS No. 173)**

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

The Bureaus of the CDPC and the GRECO agreed on a very short questionnaire, which was then sent to all delegates of the CDPC and the GRECO inviting them to reply directly to the CDPC Secretariat only. This procedure should allow the CDPC and the GRECO to form a co-ordinated view on this issue.

The CDPC is invited to instruct its Bureau to prepare a working document, on the basis of the replies to the questionnaire collected by the Secretariat, containing a concrete proposal with regard to the action to be taken following the CM decision and submit it to the plenary.

**8. Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters (PC-OC)**

Further to an exchange of views with Mr Per Hedvall, Chair of the PC-OC, concerning the ongoing and future activities of the PC-OC, the CDPC is invited to take note of the decisions adopted by the PC-OC during their 63rd plenary meeting (13-15 November 2012).

Particular attention is drawn to :

- 1) the finalization and the approval by the PC-OC of Guidelines on practical measures to improve co-operation in respect of transfer of proceedings, including a model request form. Attention is also drawn to the background information and general introduction to the guidelines and model request form (PC-OC Mod (2012)01 Rev4). The guidelines and model request form should be published as a practical PC-OC tool for practitioners, taking into account that the guidelines are of a technical nature and might need to be regularly updated. Subject to the approval of the CDPC, the PC-OC also decided to instruct the Secretariat to publish the guidelines and model request form on the PC-OC website;
- 2) the recent achievements by the PC-OC as it aims to become more useful to practitioners involved in international co-operation in criminal matters. These include the development of the PC-OC website, and in particular the inclusion of an index and summaries of case law of the European Court of Human Rights of particular relevance to their work. Reference is also made to the publication of an information leaflet on the PC-OC, inviting practitioners to submit questions to the PC-OC via their national PC-OC expert;
- 3) the discussion held on the application of Article 12 of the Convention on the Transfer of Sentenced Persons further to a request addressed to the PC-OC by the CDPC Bureau. The questions were raised under the agenda item dealing with practical problems and concrete cases concerning the implementation of conventions. Reference is made to page 4, item 5 e sub 1, of the list of decisions of the PC-OC.

The CDPC is invited to:

- consider the Guidelines on practical measures to improve co-operation in respect of transfer of proceedings, including a model request form as finalized by the PC-OC and approve it;
- approve the proposal to publish the Guidelines on practical measures to improve co-operation in respect of transfer of proceedings, including a model request form on the PC-OC website as a practical tool for practitioners;
- take note of the information provided by the Chair of the PC-OC on its ongoing and future activities.

## **9. Activities related to transnational organised crime**

The CDPC is invited to take note of the fact that on the 21 November the CM decided on the setting-up of an ad hoc group of experts within the remit of the CDPC: the ad hoc drafting group on transnational organised crime (PC-GR-COT).

Following this decision by the CM, the CDPC is invited to take note of the information provided by the Secretariat on the possible road map as regards the future work of the PC-GR-COT and in particular the dates of its meetings.

## **10. Activities related to piracy**

At its last meeting, the Bureau instructed the Secretariat to send a questionnaire prepared by the Russian Federation to all CDPC delegations asking for their replies with a deadline before the next CDPC Plenary and instructed the Secretariat to prepare a compilation of the replies received before the next plenary.

The CDPC is invited to take note of the compilation of the replies by the CDPC delegations and to discuss if and how to proceed with possible future activities in this field.

## **11. Alternative measures to imprisonment**

At the 61st Plenary meeting of the CDPC in June 2012, the Belgian delegation presented a paper on the issue of “alternative measures to imprisonment”. The CDPC instructed the Bureau to make a proposal for work on this topic and present it to the Plenary. The Bureau, having examined a working document prepared by the Secretariat, instructed it to submit this document to the Plenary for a further exchange of

views on this matter.

The CDPC is therefore invited to take note of the document CDPC (2012) 13rev as prepared and further amended by the Secretariat following the Bureau meeting and to discuss if and how to proceed with possible activities in this field.

**12. Information provided by the Secretariat**

The CDPC is invited to take note of the information provided by the Secretariat on the sub-items a and b.

**13. Any other business**

**a. Gender Equality Rapporteur**

In accordance with its current Terms of Reference, Ms Antonella Sampo-Couma (Monaco) was elected as Gender Equality Rapporteur by the CDPC from among its members during its last plenary session (June 2012).

The CDPC is invited to take note of the fact that the CDPC Gender Equality Rapporteur took part in the meeting on 16 November 2012 between all Gender Equality Rapporteurs of the CoE bodies. Ms Antonella Sampo-Couma will inform regularly the CDPC on her activities as Gender Equality Rapporteur.

**b. Terms of office of the Chair and of the vice-Chair of the CDPC**

The Chair and the vice-Chair of the CDPC were elected in December 2011. According to Resolution (2011)24 by the CM on intergovernmental committee, “The term of office of the Chair and Vice-Chair shall be one year. It may be renewed once”. And “The terms of office of such members (Bureau) shall correspond to the duration of the mandate of the committee and may be renewed once”.

The CDPC is invited to decide on the renewal for one year the terms of office of the Chair and the vice-Chair, who were both elected in December 2011.

**14. Date of the next CDPC Bureau and Plenary meetings**

The CDPC is invited to take note of the information provided by the Chair and the Secretariat in this regard.