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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

69th Plenary Session

Strasbourg, 1 – 4 December 2015

Council of Europe
PALAIS (Main Building)
Room 9

Annotated Agenda

- 1. Opening of the meeting**
- 2. Adoption of the draft agenda**
- 3. Future activities and priorities of the CDPC for 2016-2017**

Following the adoption of the CDPC's terms of reference for the years 2016 and 2017 by the Committee of Ministers of the Council of Europe (hereafter CM), the Committee is invited to have a discussion on which topics/activities it should focus its work on over the next two years, how the work should be prioritised and how the work/tasks should be implemented.

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

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

Following the relevant decisions of the Plenary of the CDPC and its Bureau with regard to the document "Review of the Council of Europe conventions within the direct responsibility of the CDPC" (see decisions on item 4a of the CDPC Plenary in December 2014 and Bureau in October 2015), the CDPC is requested to examine, discuss and **approve** the draft terms of reference for a committee of experts tasked with the drafting of a new Council of Europe Convention on Offences relating to Cultural Property, as well as a draft Explanatory Report. The CDPC should also instruct the Secretariat to submit the draft terms of reference of this committee to the CM for final adoption.

Moreover, the CDPC should discuss how and when to start working on a possible update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116). In this respect,

the CDPC could instruct its Bureau to consider this question at its next meeting in April 2016.

b. Review of the CoE Conventions under other CoE bodies

The Secretariat will inform the CDPC on the implementation/assessment of the conventions for which other CoE committees/bodies are responsible (Group of Parties Lanzarote Convention, PC-OC, T-CY, GRECO, Conference of the Parties CETS No. 198).

5. Smuggling of migrants

At the last Plenary meeting of the CDPC (Strasbourg, 2-5 June 2015), the Maltese delegation presented its proposal entitled “Criminality and Migration” for a new activity concerning the issue of smuggling of migrants. This proposal was strongly supported by other delegations. On the whole, the Committee welcomed the proposal.

The CDPC decided “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”. This resulted in the inclusion in its terms of reference for 2016-2017 of a specific task: “studying where the CDPC can provide added value to a criminal law response to the phenomenon of organised smuggling of migrants”.

Following this decision, a group of experts was set up. It met for three times together with the Chairman of the CDPC and its Secretary. They drafted a “Discussion Paper on criminality and migration” which aims to give an overview of the current international legal framework in criminal matters dealing with the smuggling of migrants and identify possible shortcomings.

The Bureau of the CDPC examined the Discussion Paper at its last meeting (Prague, 1-2 October 2015), congratulated the experts, including the Chair of the CDPC, for the excellent work carried out in drafting the “Discussion Paper on criminality and migration”, and decided “to invite the experts to draft a questionnaire to be sent to all CDPC delegations focusing on the two aspects specifically linked to criminal law matters that are still not entirely covered in the draft Discussion Paper: 1) the assessment of possibilities for improving international co-operation in criminal matters between the countries involved and the identification of possible gaps and proposing possible solutions; and 2) a general analysis of relevant national legislation and its concrete application”. The Bureau also decided “that, on the basis of the answers to the questionnaire received, the Discussion Paper should be finalised by the experts and presented at the next CDPC plenary meeting for examination and discussion”.

On 16 October, the questionnaire was sent to all CDPC delegations with a deadline of 6 November to respond. At the present time, the CDPC Secretariat has received only 16 replies. Given the low number of replies received and that some replies were sent to the Secretariat after the deadline, the experts have not been able to take the replies into account in order to make a full review the Discussion Paper before the Plenary meeting.

However, on the basis of the replies received, the Secretariat, in close co-operation with the Chairman of the CDPC, has prepared a document presenting a brief summary of the replies received so far.

The CDPC is invited to take note of the presentations made by the two experts (Mr Calogero Ferrara, Prosecutor, Tribunal of Palermo (Italy), and Dr Andreas Schloenhardt (Professor of Criminal Law in the School of Law at The University of Queensland in Brisbane (Australia) and Professorial Research Fellow at the Faculty of Law, Department of Criminal Law and Criminology at the University of Vienna (Austria)) on the “Discussion Paper on criminality and migration”, document CDPC (2015) 16.

The CDPC is also invited to take note of the information provided by its Chairman, Mr Jesper Hjortenbergh, and by its Secretary, Mr Carlo Chiaromonte, on the two main working documents on this issue (the “Discussion Paper on criminality and migration” and the “Preliminary summary of the replies to the questionnaire concerning smuggling of migrants”, document CDPC (2015) 21.

On the basis of the presentations made by the two experts, the information provided by the Chairman and the Secretary of the CDPC and the relevant documents prepared, the CDPC is requested to have a debate on this item, to take the necessary decisions on how to proceed in the future with this subject matter and to make a decision on which concrete follow-up could be given to the question of "Smuggling of migrants" by the CDPC.

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"

Following the decision of the Bureau of the CDPC "to instruct the Secretariat to prepare a report taking stock of all the follow-up activities carried out after the 31st Council of Europe Conference of Ministers of Justice (Vienna, 19-21 September 2012): "Responses of Justice to urban violence", in particular the results of the conference on "Urban violence" held in Lisbon, Portugal, in October 2014 and outcome of the activities related to the question of responses of justice to urban violence involving juveniles", the CDPC is requested to examine the document prepared by the Secretariat on this issue (document CDPC (2015) 23) and instruct its Bureau to discuss how this subject matter should be considered in the future by the CDPC.

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

The CDPC is invited to have an exchange of views with the Chairman, Mr Mauro Palma, on the current activities carried out by the PC-CP, take note of the reports of the last PC-CP (working group and plenary) meetings as well as the main outcome of the PC-CP's work and in particular:

- the current work on the Draft Guidelines for prison and probation services regarding radicalisation and violent extremism;
- the organisation of the forthcoming 21th Council of Europe Conference of Directors of Prison and Probation Services;
- the work started in relation to the review of the recommendations and resolutions in the prison and probation field, namely the drafting of a Committee of Ministers Recommendation on the European Rules on sanctions and measures enforced in the community;
- the progress made by the Working Group on Prison overcrowding.

a. Radicalisation in Prison

The CDPC is invited to take note of the information provided by the Chair of the PC-CP on the progress made in the drafting work on the "Guidelines for the prison and probation services regarding radicalisation and violent extremism".

The PC-CP started working on these Guidelines following the decision by the CM to include the issue of radicalisation in prison in the Action Plan "The fight against violent extremism and radicalisation leading to terrorism which may lead to terrorism" (see document CM(2015)74 add final and in particular point 2.2 of the Action Plan).

The main aim of the Guidelines is to provide the prison and probation services with practical guidelines which should help them prevent, detect and deal with cases threatening to lead to terrorist acts. It will recommend measures related to general prevention, to good prison management, as well as to mentoring, preparation for release, post-release supervision and work with former prisoners.

The Guidelines will also contain basic principles and safeguards regarding the co-operation and exchange of information between prison and probation services and police and intelligence services.

The CDPC is requested to **examine** and discuss the document "Draft Guidelines for the prison and probation services regarding radicalisation and violent extremism" (document PC-CP (2015) 2 rev 4), **approve** it and instruct the Secretariat to submit it to the Committee of Ministers for final adoption.

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

The CDPC is invited to take note the information provided by the Chair of the PC-CP on the main outcome of the Conference and on the organisation of the forthcoming Conference in 2016.

c. Elections

The CDPC is requested to elect the new members of the PC-CP working group (see document PC-CP (2015) 15 and the list of candidates sent by email on 24 November 2015).

8. Prison overcrowding

The Drafting Committee on Prison overcrowding under the auspices of the CDPC held its third meeting on 26-27 October 2015 and the CDPC is invited to take note of the information provided by the Chairs of the PC-CP and the CDPC on the work carried out by the Drafting Committee so far.

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

The CDPC is invited to take note of the information on the work carried out so far in the drafting of the documents on the “Model provisions project”.

The CDPC is requested to examine the documents on the “Model provisions project” (CDPC (2014) 17rev5 and CDPC (2014) 24 rev3) with a view to finally approving them as documents to be used as guidelines by future expert groups that may be mandated by the Committee of Ministers to negotiate the criminal law conventions of the Council of Europe. The CDPC should also give instructions to submit this document to the Committee of Ministers.

Following the decision taken by the CDPC Bureau at its last meeting, on 16 October, CDPC delegations were requested to send to the Secretariat by 12 November any possible written comments on:

1) the two provisions on the document on “Model Provisions for Council of Europe Criminal Law Conventions” (CDPC (2014) 17 rev5) still pending final approval after the last CDPC Plenary meeting (Articles 4 and 12) and

2) the “Addendum: Draft elements for an Explanatory Report” (CDPC (2014) 24 rev3).

Written comments on this document were requested by the Bureau with a view to avoiding the detailed examination (of each single paragraph) of the whole Explanatory report during the CDPC Plenary meeting.

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

The CDPC is invited to have an exchange of views with the Chairperson of the PC-OC, Mrs Joana Gomes Ferreira, on the current activities carried out by the PC-OC, take note of the lists of decisions of the 20th meeting of the PC-OC Mod held on 15-17 September 2015 (document PC-OC Mod (2015)08) and of the 69th PC-OC plenary meeting held on 3-5 November 2015 (document PC-OC (2015)15).

Moreover, the CDPC should pay particular attention to:

1) the Draft protocol to amend the Additional Protocol to the Convention on the Transfer of Sentenced Persons (CETS No. 167) (document PC-OC Mod (2015) 01rev4);

2) the E-transfer proposal by Israel, to develop an electronic tool to facilitate transfer procedures (document PC-OC Mod (2014)04);

3) the model request form and guidelines on mutual assistance in criminal matters (document PC-OC

Mod (2014) 10rev6 and document PC-OC (2015) 09rev3);

4) the review of Conventions within the remit of the PC-OC (document PC-OC (2015) 06rev3).

11. Activities related to transnational organised crime: “White Paper” and the “Action Plan”

Following the decision of the CDPC Plenary decisions “to endorse the Bureau’s proposal to draft an accurate Action Plan that should be examined by the CDPC at its plenary meeting in December;” (66th CDPC meeting, June 2014) and “to instruct the Secretariat, together with the assistance of a consultant and the Chair of the CDPC, to prepare a draft Action Plan to be submitted to the CDPC at one of its next meetings the Bureau instructed the Secretariat to prepare a draft document containing the main elements of an accurate action plan to be submitted for consideration to the plenary in December” (67th CDPC plenary meeting, December 2014), the CDPC is invited to take note of the information provided by the Chair of the CDPC, Mr Hjortenbergh, the Chairperson of the former group of experts on Transnational Organised Crime, Prof. Dr Lorena Bachmaier Winter (Complutense University, Law Faculty, Procedural Law Department, Madrid) and the Secretariat on the developments related to the work carried out to prepare the draft Action Plan. The CDPC is requested to examine the draft Action Plan (document CDPC (2015) 17 rev2) and **approve** it. The CDPC should also instruct the Secretariat to transmit the Action Plan to the Committee of Ministers.

12. Terrorism

The CDPC is invited to take note of the information provided by the Secretariat on the continuing work by the CODEXTER on counter-terrorism matters and the list of decisions taken by CODEXTER at its last meeting (document CODEXTER (2015) 9).

13. Information provided by the Secretariat

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

- a. Medicrime**
- b. Trafficking in human organs**
- c. Dangerous Offenders**
- d. Cybercrime**

14. Elections

The CDPC is request to **elect** members of the CDPC Bureau (see document CDPC (2015) 18).

15. Any other business

16. Dates of the next meetings