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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

Bureau Meeting
(CDPC-BU)

Naples, 14 – 15 April 2016

Castel Capuano
Via Concezio Muzy
Naples
Italy

Annotated Agenda

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

The Bureau is invited to take note of the information provided by the Director of Information Society and Action against Crime, Mr Jan Kleijssen, on the most recent developments occurred in the Council of Europe since the last CDPC Plenary meeting.

It should also take note of the information provided by the Secretary of the CDPC, Mr Carlo Chiaromonte, on the latest Committee of Ministers' decisions related to the CDPC and in particular that on 1 March the GR-J examined the documents submitted by the CDPC following its 69th meeting held in Strasbourg on 1-4 December 2015 and that:

- a number of delegations welcomed the documents submitted by the CDPC;
- as for the Guidelines for prison and probation services regarding radicalisation and violent extremism, the Legal Adviser explained that given the non-legally binding status of the draft, the imperative form (shall) is used incorrectly in a number of provisions. Six delegations took the floor and indicated their preference for not changing the terminology proposed by the CDPC, whereas one delegation expressed the opposite opinion. The text was approved as it had been presented;
- the terms of reference for a drafting Committee on Offences Relating to Cultural Property (PC-IBC) was adopted;
- concerning the Action Plan on TOC, a discussion on the financing of the Plan took place. Many delegations supported the Action Plan whereas one delegation (FR) raised doubts on its added value;

- concerning the “Model provision” one delegation (RUS) made some comments on the document and requested that the document was sent back to the CDPC.

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

With regard to the document “Review of the Council of Europe conventions within the direct responsibility of the CDPC”, the Secretariat has also integrated in this document the parts related to conventions in criminal matters for which the CDPC is not directly responsible.

The Bureau is requested to examine this revised and completed document [CDPC (2016) 14Fin], endorse it and instruct the Secretariat to prepare it for the next Plenary meeting so that the CDPC can finally adopt it and transmit it to the Committee of Ministers, thus completing the exercise of reviewing all the conventions in criminal matters.

Moreover, following the CDPC’s decision in this regard, the Bureau 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).

5. Smuggling of migrants

At the Plenary meeting of the CDPC in 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 four times together with the Chairman of the CDPC and its Secretary. They drafted a “Discussion Paper on criminality and migration” which was examined by the Bureau of the CDPC at its meeting in Prague (October 2015). The Bureau decided to send a questionnaire to all CDPC delegations focusing on the two aspects specifically linked to criminal law matters that were 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”. On 16 October, the questionnaire was sent and 26 replies have been received.

At its last Plenary meeting in December 2015, the CDPC decided:

- *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 (“Discussion Paper on criminality and migration”, “Replies to the questionnaire”, “Preliminary summary of the replies to the questionnaire concerning smuggling of migrants”), to hold a debate on this item;*
- *to invite those delegations which did not provide their replies to the questionnaire (more than half of the member States) to do so at their earliest convenience;*
- *to invite the experts to complete the “Discussion Paper on criminality and migration” by including a number of measures and concrete proposals for action to ensure a proper follow-up to the question of “Smuggling of migrants” within the CDPC and to submit it to the Bureau and afterwards to the forthcoming CDPC plenary meeting;”.*

As follow-up to these decisions, the group of experts prepared two documents. The first document (“National laws relating to smuggling of migrants in Council of Europe member States – Summary of answers received” [CDPC (2016)3]) focuses on internal legislation and international co-operation and completes and replaces the previous “Discussion Paper on criminality and migration” as requested by

the CDPC. The second document (“Preventing and suppressing the smuggling of migrants in Council of Europe member States – A way forward” [CDPC (2016)4] presents a certain number of possible actions that the Council of Europe could implement in the future, including the drafting of a convention.

The Bureau is invited to hold a discussion on this important item on the basis of the new developments which have occurred since the last Plenary in December. It is requested to examine the two new documents (“National laws relating to smuggling of migrants in Council of Europe member States – Summary of answers received” [CDPC (2016)3] and “Preventing and suppressing the smuggling of migrants in Council of Europe member States – A way forward” [CDPC (2016) XX]) and in particular the proposed actions to be undertaken contained in the latter document. The Bureau is requested to agree upon the final versions of these two documents to be presented to the Plenary meeting of the CDPC in June.

6. Council of Europe Convention on Offences relating to Cultural Property

On 2 March 2016 the Committee of Ministers of the Council of Europe adopted the terms of reference of the Committee on Offences Relating to Cultural Property (PC-IBC). This Committee will meet over the next two years (2016-2017) to draft the new convention that should be ready by the end of 2017 and will replace the 1985 European convention on offences relating to cultural property (known as the “Delphi Convention”). It will be open to signature not only to CoE member States but also other countries outside Europe.

The new Convention aims to criminalize the illicit destruction and trafficking of cultural property and foster co-operation between states and, as indicated in the terms of reference of the drafting committee, it will deal with the following issues:

- Definition of cultural property;
- Criminalisation of behaviour which has the potential to harm cultural property;
- Criminalisation of illicit destruction of cultural property;
- Criminalisation of trafficking in cultural property;
- Prevention of offenses relating to cultural property;
- International co-operation.

A group of experts together with the Chair and the Secretary of the CDPC had a meeting in Paris on 5 April. The aim of this meeting was to lay down the ground work for the scope of the future convention. A document (“Discussion Paper on elements to be included in the draft Council of Europe Convention on offences relating to cultural property”) was drafted which contains elements that will form the basis of the future convention in particular in relation to the issues of “Purpose of the Convention”, “Scope and use of terms” and “Substantive criminal law”. The remaining parts of the convention will be developed at a later stage. This document will then be used as the main working document when negotiations start at the first plenary meeting of the PC-IBC in May/June.

The Bureau is invited to take note of the information provided by its Chair on the outcome of the meeting in Paris, examine the document “Discussion Paper on elements to be included in the draft Council of Europe Convention on offences relating to cultural property” and make any preliminary comments it considers appropriate on this document.

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

The CDPC Bureau is invited to take note of the meeting reports of the last plenary meeting of the PC-CP as well of the report of the last meeting of its Working Group [Docs. PC-CP (2015) 15 and PC-CP (2016) 1].

The Bureau is also invited to take note of the PC-CP’s terms of reference for 2016-2017 and the work it needs to carry out during the two years in question.

The Bureau is further invited to consider the text of a draft Committee of Ministers Recommendation on the European Rules on community sanctions and measures [Doc. PC-CP (2015) 10 Rev.3] which will

replace Recommendations (92)16 and (2000)22. The PC-CP WG worked on this draft at its meetings in September 2015 and in January 2016 and it is expected to finalise the text and its commentary by the end of 2016 for approval by the CDPC at its plenary meeting in December 2016.

The Bureau is invited to make any proposals for amendments and additions to the draft text it considers necessary.

The Bureau is further invited to take note that the draft Recommendation will be put forward for discussion at the forthcoming 21st Council of Europe Conference of Directors of Prison and Probation Services (14-15 June 2016, Zaandam, the Netherlands) and any possible observations or proposals for amendments will be recorded and considered at the subsequent meeting of the PC-CP WG in September 2016.

a. Radicalisation in Prison

The Bureau is invited to take note of the final text of the “Guidelines for prison and probation services regarding radicalisation and violent extremism” as adopted by the Committee of Ministers on 2 March 2016.

The Bureau is further invited to take note that as instructed by the CDPC and in conformity with its terms of reference for 2016-2017, in January 2016 the PC-CP started working on a Handbook for prison and probation services on the same subject. The Handbook (which was sent to the Bureau members on 31 March by e-mail) will build upon and will further develop the set of standards and principles contained in the Guidelines. It will contain practical advice, indicators of radicalisation, examples of possible tools and methods for preventing and dealing with radicalisation leading to violent extremism and some examples of good practices.

The Bureau is invited to take note of the draft preliminary structure of the Handbook and to make any proposals in relation to it as necessary. It is further invited to take note that a more developed draft text of the Handbook will be discussed at the PC-CP WG meeting on 11-13 May 2016.

b. 21st Council of Europe Conference of Directors of Prison and Probation Services, 14-15 June 2016, Zaandam, The Netherlands

The Bureau is invited to take note of the theme and the draft programme of the Conference, and of its Concept paper and website.

The Bureau should decide who will represent the CDPC at this Conference.

8. Prison overcrowding

The Bureau is invited to consider the draft White paper on prison overcrowding and to take note of the oral information provided by Jesper Hjørttenberg, General rapporteur [Doc. PC-CP (2015) 6 Rev.3]. It is further invited to take note that the fourth and last meeting of the Drafting Committee will take place on 21-22 April 2016 and that after the draft White Paper is finalised and considered also by the PC-CP WG at its meeting on 11-13 May 2016, it will be sent to the CDPC for adoption at its plenary meeting in June 2016.

The Bureau is invited to make any suggestions/comments/proposals for change regarding the draft text as necessary and regarding the follow-up to be given to the White paper once adopted.

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 provided by the Secretariat on the developments related to “Model provisions”. At its meeting of 1 March, the GR-J “agreed to refer the document on

model provisions back to the CDPC together with the comments of one delegation, with a view to clarifying the CDPC's position".

The Bureau is requested to examine the comments made by one delegation on the document "Model provisions" [CDPC (2014) 17rev5]. These comments were sent by e-mail to the Bureau members on 31 March.

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

The CDPC Bureau is invited to take note of the list of decisions of the 21st meeting of the PC-OC Mod [PC-OC Mod (2016)04], held on 23-25 February 2016, and the draft agenda of the 70th meeting of the PC-OC which will take place on 2-4 May 2016. Particular attention is drawn to:

- 1) the draft template for country information on national procedures as regards the application of ETS No. 141 [PC-OC Mod (2016)01rev];
- 2) the replies to the questionnaire on the use and efficiency of CoE instruments as regards international co-operation in the field of seizure and confiscation of proceeds of crime [PC-OC Mod(2015)06 rev 3];
- 3) the Draft protocol to amend the Additional Protocol to the Convention on the Transfer of Sentenced Persons (CETS No. 167) and its draft explanatory report [PC-OC Mod (2015) 01rev6 and PC-OC(2015)02rev2];
- 4) the proposals by the Netherlands and the PC-OC Mod to amend the Convention on the Transfer of Sentenced Persons in a Second Additional Protocol [PC-OC(2015)05 and PC-OC Mod (2016)03];
- 5) the comments received on the E-transfer proposal by Israel, to develop an electronic tool to facilitate transfer procedures [PC-OC Mod (2015) 05 rev.2];
- 6) the terms of reference for the years 2016-2017.

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

Following the decisions of the CDPC Plenary (Strasbourg, 1-4 December 2015), it was decided to "instruct the Secretariat to transmit the Action Plan to the CM for its adoption", "set up a sub-group responsible for the overseeing of the Action Plan's progress" and "appoint Ms Fabienne Schaller (France) as the co-ordinator of this subgroup".

The CDPC Bureau is invited to:

- take note the information provided by the Chair of the CDPC, Mr Hans-Holger Herrfeld and the Secretariat, on the working methodology to be followed for the implementation of the Action Plan;
- examine carefully the document prepared by the Secretariat [CDPC (2016) 5] (sent to the Bureau members on by e-mail) which contains a first preliminary work plan of activities to be implemented in the near future;
- take decisions on how the Action Plan should be implemented, starting in 2016, notably the setting up of the Working Group.

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 [CODEXTER (2015) 9] and the last Bureau meeting [CODEXTER (2016)10].

13. Adoption of the draft agenda and preparation of the next Plenary meeting

The Bureau is requested to examine the preliminary draft agenda for the 70th CDPC Plenary Meeting, which will take place on 28 June-1 July 2016 in Strasbourg, and approve it for distribution to delegations.

14. 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

The Bureau of the CDPC is invited to take note of the information provided by the Secretariat on the different activities in this field:

- a) 4th Regional Conference on the MEDICRIME Convention, Larnaca, Cyprus (10-11 November 2015).
- b) Parliamentary Conference on the MEDICRIME Convention, Paris (24 November 2015): the conclusions of this conference will be available once they have been adopted by the Committee on Social Affairs, Health and Sustainable Development of the Parliamentary Assembly.
- c) EUROPOL Pharmacrime meeting (28 January 2016): the Secretariat made a presentation of the MEDICRIME Convention at EUROPOL's annual Pharmacrime meeting to law-enforcement officers. Some law-enforcement representatives from EU countries heard about the MEDICRIME Convention for the first time. Additional contacts with Colombian authorities (present at EUROPOL for the first time) were made.
- d) Follow up to the Asia-Pacific Economic Cooperation (APEC) training: In February 2016 the EDQM participated in training for health professionals on the supply chain of medical products which was held in Lima (Peru) and organised by the APEC. During that training the EDQM Secretariat presented the MEDICRIME Convention. Its mechanism of the points of contacts was welcomed by the Peruvian authorities. A Multisectoral Technical Group on prevention and combating smuggling, illegal trade and counterfeiting of medical and related products (CONTRAFALME) will take place on 14 April 2016. This technical group is mainly composed of prosecutors and pharmaceutical inspectors dealing with the illegal marketing of medical products.
- e) Regional Workshop on the MEDICRIME Convention: a regional workshop on the contact points is to be held in Tbilisi, Georgia, in June 2016. Three participants per country (from justice, police and customs authorities) from 14 CoE member States will be invited. Other countries (Algeria, Israel, Jordan, Morocco and Tunisia) will also be invited.
- f) Pilot training for legal professionals on MEDICRIME: following the decision of the CDPC plenary meeting on taking "note of the Spanish request to be a pilot country for the launching of this curriculum", the Secretariat has been in contact with both the Spanish National School of Judges and the National School of Prosecutors to evaluate the modalities and implementation of this three-month blended training. The Bureau is invited to take note that:
 - the curriculum is in the process of finalisation;
 - the national co-ordinator has been identified: this person will act as co-ordinator during the entire training and has already been trained on the methodology to be followed.
- g) Report on MEDICRIME-Cybercrime: a report dealing with this ever-growing phenomenon and establishing links between the MEDICRIME Convention and the Cybercrime Convention is going to be drafted. It will be presented at the forthcoming plenary meeting of the Cybercrime Convention Committee, to be held on 14-18 November 2016, on the occasion of the 15th anniversary of the opening for signature to the member States and the non-member States of the Cybercrime Convention.

b. Trafficking in human organs

- a) International Conference “Human Rights and Biomedicine: Ethical and legal aspects of organ donation”: On the occasion of the 20th anniversary of the Russian Federation becoming a member of the Council of Europe, the Ministry of Health of the Russian Federation and the Council of Europe are co-organising an international conference to be held in Moscow, on 26 April 2016.
- b) Neighbouring countries: the promotion of CoE conventions is at the heart of CoE co-operation with neighbouring countries.

c. Dangerous Offenders

The CDPC Bureau is invited to take note of the information provided by the vice-Chairman of the CDPC Mr Slawomir Buczma and the Secretariat on the regional seminar devoted to dangerous offenders held in Yerevan, Armenia, on 19-20 January 2016 aimed at promoting the Recommendation CM/Rec(2014)3 of the Committee of Ministers concerning dangerous offenders.

d. Cybercrime**15. Any other business****16. Dates of the next meetings**