

Strasbourg, 18 November 2016

CDPC (2016) 11

EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

ANNOTATED AGENDA

71st PLENARY SESSION

Strasbourg, 29 November – 1 December 2016

Council of Europe
Main Building, Palais de l'Europe
Room 9

1. Opening of the meeting

The meeting will start at 10:00 on Tuesday, 29 November 2016.

2. Adoption of the draft agenda

The CDPC is requested to adopt the draft agenda of the meeting.

3. Activities and priorities of the CDPC for 2016-2017

The CDPC is invited to have a discussion on which topics/activities (with the exception of those related to the implementation of the Action Plan on TOC, item 4) 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. CDPC Members are also invited to present and discuss any possible new future activities the CDPC should deal with in its forthcoming work.

4. **Activities related to transnational organised crime: Action Plan**

Following the adoption of the White Paper on Transnational Organised Crime, the CDPC endorsed an Action Plan on Transnational Organised Crime (TOC). At its last Plenary, the CDPC expressed its support of the activities contained in a document containing a first preliminary work plan (Document CDPC (2016) 10).

The Secretariat will organise an exchange of views with a scientific expert (Ms Lorena Bachmaier-Winter) who will inform the Committee on witness protection and incentives for co-operation activities.

The CDPC is invited to take note of the information document [CDPC (2016) 13] prepared by the Secretariat containing both the development of the implementation of the activities contained in the first preliminary work plan and the major activities to be developed in the period 2016-2017.

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. 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 of a specific task in its terms of reference for 2016-2017: “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 prepared several documents, including the two documents which the CDPC examined at its last Plenary in June:

- “National laws relating to smuggling of migrants in Council of Europe member States” [CDPC (2016)3], which focused on internal legislation and international co-operation;
- “Preventing and suppressing the smuggling of migrants in Council of Europe member States – A way forward” [CDPC (2016)4], which presented a certain number of possible actions that the Council of Europe could implement in the future, including the drafting of a legal instrument.

At their 126th Session (Ministerial Conference - Sofia, 18 May 2016), the Committee of Ministers adopted a decision where they “welcomed the preparation of adequate measures to provide member States with concrete tools to prevent and fight people smuggling;”.

At its last Plenary Session (Strasbourg, 27 – 30 June 2016), the CDPC held a discussion on the issue of smuggling of migrants and “conclude[d] that at this point the focus of future activities of the CDPC should be on practical measures to strengthen and facilitate the fight against the serious crimes of smuggling of migrants [...]” and also “request[ed] the Secretariat to organise a high-level conference on the topic of smuggling of migrants aimed at identifying the major challenges, best practices on this issue and possible solutions [...]”.

The CDPC is invited to take note of the developments on this matter and on how the practical organisation progresses, examine and discuss the concept paper and the draft agenda for the Conference.

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 in 2017 and will replace the 1985 European Convention on Offences Relating to Cultural Property (known as the “Delphi Convention”).

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

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

The Committee on Offences relating to cultural property (PC-IBC) held two meetings (31 May-1 June and 7-10 November 2016). It elected unanimously Mr Hans-Holger HERRNFELD as its Chair. The aim of the first meeting was to lay down the ground work for the scope of the future convention. Following this meeting, the Secretariat, together with the experts and the Chair of the PC-IBC prepared the draft Council of Europe Convention on Offences relating to Cultural Property [PC-IBC (2016) Conv1].

During the 2nd meeting, the PC-IBC examined the first 7 articles of the draft Convention. The next meeting of the PC-IBC will take place on 9 to 13 January 2017.

The CDPC is invited to take note of the information provided by the Chair on the developments occurred since the last plenary meeting. The CDPC is also requested to provide its views and inputs concerning certain criminal law issues pertaining to the draft Convention relating to Cultural Property, which is currently being prepared by the PC-IBC Committee. These questions emerged in the course of the negotiations held during the 2nd Meeting of the PC-ICB from the 7th to 10th of November 2016 and appear in the document CDPC (2016)12.

7. Council for Penological Co-operation (PC-CP) – Exchange of views with the Chair, Mr Vivian Geiran

Summary meeting report of the 6th PC-CP plenary meeting

The CDPC is invited to take note of the information provided by the Chair of the PC-CP, Mr Vivian Geiran, regarding the main outcome of the Plenary meeting of the PC-CP and to have an exchange of views on the activities carried out in the penitentiary field.

a. Draft Recommendation on the European Rules on community sanctions and measures

Since the last CDPC plenary meeting in June 2016, the PC-CP examined and further revised the draft Recommendation and its commentary at the meeting of the Working Group in September 2016 and at the Plenary meeting in October 2016. The PC-CP examined the written proposals for amendments made by the CDPC, by the French prison administration and by the UK probation service as well as the oral comments and proposals made by the Greek, Finnish, Norwegian and UK delegates during the Plenary meeting.

The CDPC is invited to examine and approve the revised draft Recommendation and its commentary and to send it to the Committee of Ministers for final adoption.

b. Radicalisation in Prison

At the CDPC plenary meeting in June 2016 it was decided to speed up the adoption of the Handbook so that the text will be on the agenda of the CDPC plenary meeting in December 2016. The Handbook was revised in the light of the comments made during the CDPC plenary in June, at the meeting of the PC-CP Working Group in September 2016 and was finalised at the Plenary meeting in October 2016.

The CDPC is invited to examine and approve the draft Handbook and to send it to the Committee of Ministers for information and promotion of the text at national level.

The CDPC is further invited to take note of the recently held meeting of prison and probation staff designated specifically to deal with radicalisation to violent extremism (Strasbourg, 23-24 November 2016). The good practices collected at the meeting will be published together with the Guidelines and the Handbook on Radicalisation for use by the prison and probation services in their work and training of their staff.

c. Follow up to the 21st Council of Europe Conference of Directors of Prison and Probation Services and organisation of the 22nd Council of Europe Conference of Directors of Prison and Probation Services, 20-21 June 2017, Lillestrøm, Norway

The CDPC is invited to take note that, as a follow-up to the 21st CDPPS and in conformity with the instructions given by the CDPC at its plenary meeting in June 2016, the PC-CP will start work in 2017 on Guidelines for the attention of prison and probation services regarding children of imprisoned parents.

The CDPC is further invited to take note that the 22nd CDPPS will take place at the Norwegian Prison Staff Training Academy and that its title will be: "Staff recruitment, training and development". It will be preceded as usual by the EuroPris General Assembly and Conference which has proven to be a very positive experience creating useful synergies and is valued by the Directors General of the European prison administrations.

d. SPACE

The CDPC is invited to take note of the presentation by Prof. Marcelo Aebi, University of Lausanne related to the SPACE I and SPACE II surveys for 2015.

The CDPC is further invited to take note that a EU direct grant of 100 000 euros for the period October 2016 – March -2018 will allow to convene a meeting of the SPACE I and a meeting of the SPACE II national correspondents in order to finalise a study on pre-trial detention in Europe and a study on foreign offenders for the period (2005-2015).

8. Prison overcrowding

At its last Plenary meeting, the CDPC decided "to endorse the draft White paper on prison overcrowding and to instruct the Secretariat to submit it to the Committee of Ministers for information". At this occasion, the Committee also decided "to set up a temporary subgroup of the CDPC to develop proposals of possible follow-up to the White paper".

The CDPC is invited to take note that a first meeting of the sub-group is scheduled for 7 December 2016, at the Eurojust premises in The Hague and that the following countries will be represented at the meeting (Bulgaria, Lithuania, Denmark, Italy, Hungary and The Netherlands). The PC-CP Chair will also attend.

9. Committee of Experts on the operation of European conventions on co-operation in criminal matters (PC-OC) – Exchange of views with the Vice-Chair, Ms Joana Ferreira

The CDPC is invited to have an exchange of views with Ms Joana Ferreira Gomes, Vice-Chair of the PC-OC and to take note of the list of decisions of the 22nd meeting of the PC-OC Mod [PC-OC Mod (2016) 11], held on 27-29 September 2016, and of the 71st meeting of the PC-OC [PC-OC(2016)06], held on 15-17 November 2016.

Attention is drawn to:

- the new website of the PC-OC and the ongoing update of its content (item 3)
- the implementation of the Action Plan on Transnational Organised Crime by the PC-OC (item 4) and in particular the examination of
 - a. the overview of reservations to CoE Treaties within the remit of the PC-OC and proposals for follow up [Doc PC-OC Mod (2016)05revAdd];
 - b. the draft overview of judicial networks and proposals to promote their interconnection [PC-OC

Mod(2016)06rev] ;

c. the possibility to create a network of contact persons within the PC-OC concerning the fight against TOC.

Attention is furthermore drawn to the Special Session on the implementation of the Second Additional Protocol to the Convention on Mutual Assistance in Criminal Matters organised in the context of the Action Plan on TOC during the last plenary meeting of the PC-OC on 16 November 2016 (item 5).

The CDPC is also invited to take note of

- the discussion under item 6 on possible amendments to the Convention on the Transfer of Sentenced Persons in a Second Additional Protocol as well as of the adoption of a questionnaire concerning the possible establishment of an e-transfer tool to facilitate the implementation of the Convention[Doc PC-OC Mod (2016)07rev]
- the discussions on questions raised regarding extradition (item 7)
- the election of Mr Erik Verbert (Belgium) as Chair, and the re-election of Ms Joana Gomes Ferreira (Portugal) as vice-Chair of the PC-OC (item 8).

10. Terrorism

The CDPC is invited to take note that the CODEXTER took into account the comments, remarks and written proposals for amendments to Recommendation Rec (2005) 10 on special investigation techniques sent by some members of the CDPC. The draft amended Recommendation was approved by the CODEXTER at its 31st Plenary meeting (16-17 November 2016) and will be sent soon to the Committee of Ministers for final adoption.

The CDPC is invited to take note that the CODEXTER drafting committee established to elaborate a recommendation of the Committee of Ministers on "Terrorists Acting Alone" began its work on 3-4 November 2016. To date, the members of the Drafting Committee are the following (10): Austria, Belgium, Bosnia and Herzegovina, Greece, Hungary, Italy, Romania, the Russian Federation, Spain and Turkey. The CDPC has already appointed as its representative Ms Joanna GHORAYEB, who will attend the meetings of the Drafting Group as representative of the CDPC. At its first meeting, the drafting committee preliminarily agreed on a definition of "terrorists acting alone" and some general provisions covering cooperation and coordination between member States at the domestic level, as well as a safe guard clause on the obligation for member States to apply the recommendation in accordance with relevant human rights standards and the principle of rule of law. The next of a total of three meetings of the drafting committee will take place early next year, and the drafting committee is expected to finalise its work in the second half of 2017.

The CDPC is invited to take note of the document [CODEXTER (2016) 22] prepared by the two academic experts appointed by the Secretariat to prepare a report on the links between terrorism and organised crime and to provide comments thereon. The aforesaid document provides a preliminary overview of the problem and a preliminary analysis of the international legal framework and a catalogue of possible measures to be considered by the CODEXTER and the CDPC. This report served as the basis for the CODEXTER's deliberations on "Links between terrorism and organised crime" planned for the 31st Plenary Meeting. A final report, taking into account the guidance provided to the academic experts by the CODEXTER and the CDPC and containing a catalogue of possible measures to be considered by the CODEXTER and the CDPC will be presented in April 2017. The Secretariat is considering organising a follow-up conference to the Malaga Conference (held in 2014) in 2017. Document [CODEXTER (2016) 12] is an initial paper containing the main elements that the experts will include in their report.

11. The role of victims within the criminal justice system

Following the work carried out by the CDPC on Review of Council of Europe legal instruments in criminal matters [CDPC (2014) 14 Fin], the CDPC kept a divided opinion on the issue of the European Convention on the Compensation of Victims of Violent Crimes (STE No. 116). The Bureau proposed "to

identify a consultant and instruct the Secretariat to request the consultant to prepare a paper containing elements on a possible update of the European Convention on the Compensation of Victims of Violent Crimes” and the Plenary endorsed this proposal.

The Plenary also took note of the opening address made by Mr Jan Kleijssen, Director of the Information Society and Action against Crime Directorate, in which he mentioned the role of victims within the criminal justice system and invited the CDPC to consider this specific matter as an important issue to be developed in its future work.

The question of the role of victims within the criminal justice system is wider than the topic dealt with by the European Convention on the Compensation of Victims of Violent Crimes and raises some new issues, such as restorative justice. At its last meeting (10-11 October 2016), the Bureau decided “that two different subjects should be dealt separately: 1) the specific issue of possible updating of the Convention on the Compensation of Victims of Violent Crimes and 2) the more general question of the role of victims in the criminal justice system, including the restorative justice”. It also instructed the Secretariat ‘a) to hire an expert who should prepare a working document presenting the main reasons, the purpose and the scope for a possible updating of the Convention on the Compensation of Victims of Violent Crimes and to present this document at the forthcoming Plenary meeting; b) to update the document CDPC-BU (2016) 5 focusing on the broader question of the role of victims in the criminal justice system”. An expert has been appointed by the Secretariat.

In this regard, four documents are brought to the CDPC’s attention:

- Report on the standing and rights of victims in criminal proceedings [CDPC (2010) 16] drafted by a consultant Mr Brano Bohacik in 2010, in which he analyses which are the main dispositions in international law concerning the issue of victims;
- An article of July 2016 issue by the Canadian Journal of Criminology and Criminal Justice, “Victims’ Reflections on the Protective and Proactive Approaches to the Offer of Restorative Justice: The Importance of Information”, in which the authors deal with the subject of restorative justice.
- An information document [CDPC (2016) 14] drafted by the Secretariat in which it presents the main developments on victims’ rights in international law since the above-mentioned 2010 document prepared by the consultant. It also develops some elements for reflection on that question, such as restorative justice and possible future work in this field;
- A document drafted by an expert, Ms Anna Wergens, in which some background information are given on a possible update of the European Convention on the Compensation of Victims of Violent Crimes and which provides for a questionnaire, in order to identify the practical issues encountered by member States.

The CDPC is requested to have an exchange of views with Ms Anna Wergens on her document and on the opportunity to update the Convention. Where appropriate, it should also discuss the improvements that could be made to the Convention on Compensation of Victims. The CDPC is also invited to have a discussion on the general issue of the role of victims in the criminal justice system, including restorative justice. It should decide which activities should be carried out and the topics that should be covered by these possible new activities.

12. 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 and make any comment it considers appropriate.

- a. MEDICRIME**
- b. Trafficking in human organs**
- c. Cybercrime**

- d. **CEPEJ (European Commission for the Efficiency of Justice)**
- 13. **Any other business**
- 14. **Dates of the next meetings**