

Strasbourg, 16 October 2016

CDPC-BU (2016) 7

EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

BUREAU MEETING

Warsaw, 10 - 11 October 2016

List of Decisions

The Bureau, meeting in Warsaw on 10 and 11 October 2016, under the Chairmanship of Mr Hans-Holger Herrnfeld (Germany), decided:

1. Opening of the meeting

- to thank Mr Slawomir Buczma (Poland) for organising this Bureau meeting in Warsaw.

2. Adoption of the draft agenda

- to adopt the agenda without any amendments.

3. Future activities and priorities of the CDPC for 2016-2017

- to take note of the information provided by Mr Carlo Chiaromonte, Secretary of the CDPC, on the most recent developments in the Council of Europe (hereafter, CoE) since the last CDPC Plenary session in June 2016;
- to have an exchange of views on new items to be discussed by the CDPC at its next plenary:
 - a) the issue of cyberbullying was raised by the Secretariat. Mr Chiaromonte informed the Bureau that preliminary internal discussions between relevant services of the CoE had started. While the Bureau showed its interest in the matter which is an emerging concern in today's information society, it considered necessary to have a clear picture of the situation in CoE member States as far as the criminal law aspects on cyberbullying are concerned. The possibility of organising a conference aimed at sharing experiences was also mentioned. Finally, the Bureau members requested that an expert should be identified and that perhaps a questionnaire be drafted and sent to member States in order to collect clear information on the issue;
 - b) the role of victims within the criminal law system (see item n° 11).

4. Activities related to transnational organised crime: Action Plan

- to take note that Ms Fabienne Schaller (France) has resigned as the co-ordinator on transnational organised crime (hereafter, TOC) given her new professional commitments and thank her for all the work implemented so far in this field;
- to appoint Mr Jesper Hjortenbergt (Denmark) as the new co-ordinator on TOC;
- to take note of both the level of implementation of the activities contained in the first preliminary work plan on TOC, notably the creation of judicial networks, the review of relevant reservations/declarations to CoE conventions, the practitioners' forum on TOC and the assessment on the functioning of the Second Additional Protocol on MLA, and the major activities to be developed in the period 2016-2017;
- in view of the forthcoming activities, to have an exchange of views with Prof. Lorena Bachmaier-Winter, scientific expert, on the issue of witness protection and incentives for co-operation activities;
- to instruct the Secretariat, along together with the scientific expert, to present for discussion at the forthcoming Plenary meeting of the CDPC in December 2016 a document containing both the main elements for reviewing the Recommendation Rec (2005)9 on the protection of witnesses and collaborators and the draft ToR of a possible drafting group with the objective of updating the recommendation;
- that, if the final decision of the CDPC Plenary is to update the above-mentioned recommendation, a reduced drafting Group composed of experts, representatives from member States and the Secretariat should be set up;
- to take note that, given that the other actions included in this Action entitled "Witness protection and incentives for co-operation activities" are inter-related with the updating of the recommendation, the other concrete actions should be implemented in parallel.

5. Smuggling of migrants

- to take into consideration the information provided by the Italian representative on the reasons for finally not hosting the high-level conference on this subject;
- unless another CDPC delegation proposes to host this conference, to instruct the Secretariat:
 - a) to consider the possibility of organising this conference in Strasbourg;
 - b) to draft a concept paper for this conference;
 - c) to prepare a draft agenda proposing those subjects to be discussed;
 - d) to identify possible speakers;
 - e) to invite representatives from the Ministry of Justice, practitioners, prosecutors, academics and others involved in legislation to take part to this conference.

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

- to take note of the information provided by the Chair of the Committee on Offences Relating to Cultural Property (hereafter PC-IBC), Mr Hans-Holger Herrnfeld, on the state of play since the CDPC meeting in June: 1) the chair, the secretary and the scientific experts of the PC-IBC have prepared a draft CoE Convention on offences relating to cultural property on the basis of the outcome of the 1st meeting of the PC-IBC, held on 31 May to 1 June 2016; 2) the 2nd plenary meeting of the PC-IBC will take place on 7-10 November 2016; 3) the Convention should be ready, insofar as possible, for adoption and opening for signature at the Ministerial Session to be held in Cyprus on 19 May 2017; 4) the CDPC should have a first examination of the draft Convention at its next plenary in December; 5) when the final text of the draft Convention has been approved by the PC-IBC, the CDPC should examine it and approve it by written procedure

presumably in February 2017; 5) the draft convention as approved by the CDPC in such way will follow the usual CoE procedure for the final adoption of the conventions (receive an opinion by the Parliamentary Assembly of the CoE, adoption by the Committee of Ministers of the CoE and opening to signature).

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

a. Summary meeting report of the last meeting of the PC-CP WG

- to take note of the agenda and of the summary meeting report of the last PC-CP meeting (26-28 September 2016);

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

- to take note of the revised draft Recommendation and its commentary following both the CDPC plenary meeting in June 2016 and the meeting of the PC-CP working group in September 2016;
- to make some comments and proposals for changes related to the draft Recommendation in view of the PC-CP plenary meeting on 19-21 October 2016 and instruct the Secretariat to make sure that all comments made by the CDPC (Bureau and plenary) are always duly brought to the attention of the members of the PC-CP (WG and plenary);
- that the draft Recommendation and its commentary are examined and approved at the CDPC plenary meeting in December 2016.

c. Radicalisation in Prison

- to take note of the revised draft Handbook on radicalisation and that an expert meeting of designated representatives of the prison and probation services responsible for dealing with radicalisation and violent extremism will take place in Strasbourg on 23-24 November 2016.

d. 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, 13 – 14 June 2017, Lillestrøm, Norway

- to take note that the next CDPSS in 2017 will focus on staff education and training and that, as follow-up to the previous one the PC-CP will start working on drafting a text regarding children of imprisoned parents.

8. Prison overcrowding

- in order to implement the relevant decision taken at the last plenary on this issue, to instruct the Secretariat to set-up the subgroup to the CDPC composed of representatives from those countries which spontaneously showed their interest at the last CDPC meeting (Belgium, Bulgaria, Greece, Hungary, Italy, the Netherlands and Slovenia), as well as of judges, prosecutors and other relevant entities with a particular interest in the topic;
- that the composition of this subgroup should be a balance between countries with and without experience in reducing prison overcrowding;
- to appoint Mr Hjortenbergh as representative of the Bureau in the subgroup;
- to instruct the Secretariat to send a letter to the mentioned countries and other bodies asking for a representative to be appointed to this working group and, after receiving the appointed persons, organize the first meeting of the subgroup.

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

- to take note of the list of decisions of the 22nd meeting of the PC-OC Mod, held on 27-29 September 2016 in Strasbourg, and in particular to:
 - a) the implementation of activities of the Action Plan on TOC carried out by the OPC-OC;
 - b) the preparation of a Special Session on the implementation of the Second Additional Protocol to the Convention on Mutual Assistance in Criminal Matters during the next plenary meeting of the PC-OC (15-17 November 2016);
 - c) the discussion on possible amendments to the Convention on the Transfer of Sentenced Persons in a Second Additional Protocol as well as on the draft questionnaire concerning the possible establishment of an e-transfer tool to facilitate the implementation of the Convention.

10. Terrorism

- to take note that the CODEXTER Bureau took into account the comments, remarks and written proposals for amendments to Recommendation Rec (2005) 10 on special investigation techniques sent by some delegations of the CDPC;
- to note that the CODEXTER drafting committee set up to produce a recommendation of the Committee of Ministers on "Terrorists Acting Alone" will begin its work on 3-4 November 2016 and that Ms Joanna Ghorayeb (France) will represent the CDPC at this meeting;
- as a follow-up of the international conference organised in Málaga (Spain) on 25-26 September 2014, to take note of the document prepared by two academic experts outlining the main elements concerning links between terrorism and organised crime and welcome the fact that a preliminary report will be ready for the CODEXTER and the CDPC Plenary meetings in November and December 2016 respectively;
- to note that the above-mentioned report will be presented at a conference to be organised in Málaga in 2017.

11. The role of victims within the criminal justice system

- to take note of the different working documents: an article presenting a scientific work/research on *Restorative Justice*, an information document prepared by the Secretariat [CDPC-BU (2016) 5] in which it presents the main recent developments on victims' issues, and a report prepared by a CDPC expert in 2010;
- to consider the role of victims within the criminal justice system as an important issue to be developed in CDPC future work provided that it is dealt with using a holistic approach;
- 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;
- in view of the above, to instruct 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;
- in the light of the discussions held, to consider that the drafting of a new legal instrument (recommendation) on victims' rights could be a positive approach and invite the CDPC plenary

to give its opinion;

- that, if the final decision of the CDPC plenary is to draft a recommendation, to bring to the attention of the Secretariat and future drafting group that:
 - a) in view of this recommendation the document “Model provisions for Council of Europe Criminal law conventions” may need to be modified accordingly;
 - b) this exercise should be linked with the action line 3 of the Action Plan on TOC.

12. Information provided by the Secretariat

To take note of the information provided by the Secretariat below:

a. MEDICRIME

- to take note with satisfaction that Belgium and France ratified the MEDICRIME Convention on 1st August and on 21 September respectively;
- take note that a Workshop on the MEDICRIME Convention was organised in Minsk, Belarus, on 7 July 2016 where the CoE Secretariat was informed of Belarus’ intention to sign the convention by the end of 2016;
- to take note of the co-ordination stakeholders meeting organised by the European Healthcare Fraud and Corruption Network held at Europol’s premises and aimed at sharing experiences, the latest developments and identifying common future actions related to falsified medication;
- to take note of the launch of the MEDICRIME pilot training programme at the Spanish Judicial School: this 10-week training course is aimed at increasing judges’ capacities to improve the national implementation of the MEDICRIME Convention;
- to take note of the preliminary document produced by the scientific experts outlining the linkages and gaps between the MEDICRIME and the Cybercrime Conventions.

b. Trafficking in human organs

- in the context of Resolution CM/Res(2013)55 on establishing procedures for the collection and dissemination of data on transplantation activities outside a domestic transplantation system, to consider that given that one of the items included in this Resolution falls within the remit of the Santiago de Compostela Convention on trafficking in human organs, to take part in the training workshops for national focal points organised by the European Directorate for the Quality of Medicines and HealthCare (hereafter, EDQM).

c. Cybercrime

- to take note of both the document entitled “Recommendations for consideration by the T-CY” in the framework of the Criminal justice access to data in the cloud as well as the Draft Guidance Note on Production Orders (related to Article 18 of the Cybercrime Convention).

13. Any other business

- to thank Ms Linda Katharina Drazdiak, Norway, for all the excellent work provided during her time as a member of the CDPC Bureau and wish her all the best in her future function in the Ministry.

14. Dates of the next meetings

- to hold the next Bureau meeting on 4-5 April 2017 in Prague, Czech Republic.