

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

64th Plenary Session

Strasbourg, 28-31 May 2013

Council of Europe
PALAIS (Main Building)
Room 5

Annotated Agenda

1. Opening of the meeting

The meeting will be opened at 2.00 p.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. Future activities and priorities of the CDPC

The CDPC is invited to take note of the information provided by the Secretariat on the state of preparation of the terms of reference of the Council of Europe (hereafter CoE) intergovernmental committees for the years 2014-2015. In this context, it should consider the decisions of the Committee of Ministers (hereafter CM) on the Report by the Secretary General of the CoE: "Review of CoE conventions" and that the CDPC, like all other relevant CoE committees and bodies, will be requested to undertake a certain number of measures relating to the management of the CoE conventions falling within its scope of competence.

Delegations are invited to examine the proposals that were taken up by the Bureau as new tasks that could be dealt with by the CDPC over the next two years and included in its terms of reference for 2014-2015 to be presented to the CM for adoption, as follows:

- to prepare a document/guidelines containing "Model provisions" clearly defining a certain number of rules to be strictly followed during future negotiations of any possible convention on a criminal law matter with a view to avoiding useless long discussions in the ad hoc drafting committees with regard to standard provisions covering issues such as jurisdiction, corporate liability,

- sanctions and measures, aggravating circumstances, international co-operation;
- to plan a detailed programme of activities to ensure the proper follow-up to the work carried out by the Ad hoc Drafting Group on Transnational Organised Crime (PC-GR-COT) in 2013;
- to ensure the appropriate follow-up to the resolution of the 31st Conference of the CoE Ministers of Justice (Vienna, September 2012), notably on juvenile justice and on urban violence, and the (mis)use of new modern telecommunication technologies;
- to consider possible activities related to the statute of public prosecutor services in the criminal justice system, in co-operation with the CCPE;
- to look at new forms of criminal behaviour that have emerged in the recent past in connection with the illegal use of modern technologies and that have generated new kinds of criminal offences;
- to examine the “old” recommendations adopted by the CDPC over the years in order to assess their capacity to adapt to the current climate.

All these proposals, plus others related to the implementation of CM decisions on CoE conventions, have been included in the document “Draft Terms of reference” for the years 2014-2015 of the CDPC.

Delegations are invited to examine the draft terms of reference of the CDPC for 2014-2015 with a view to their approval and to instruct the Secretariat to send them to the CM.

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 the Secretariat on the follow-up to the 31st Conference of the CoE Ministers of Justice and in particular to examine:

- the concept paper prepared by the Secretariat on a possible international conference on the subject of “Urban violence” that could be organised in 2014;
- the document, prepared by the Secretariat in accordance with the relevant decision of the CDPC at the last plenary in December, containing a compilation of the existing CoE recommendations on juvenile offenders and justice as well as other legal instruments on this matter produced by other international organisations (UN and EU).

The CDPC may decide to instruct the Secretariat to entrust a consultant with the task of drafting a working paper on the subject and to instruct its Bureau to follow closely the preliminary work carried out in this field.

5. Dangerous offenders

The CDPC is invited to take note of the information provided by the Chair of the ad hoc drafting group on Dangerous Offenders (PC-GR-DD), Mr Slawomir Buczman, with the regard to the 1st and 2nd meetings of the PC-GR-DD and on the progress made in the drafting exercise of the future recommendation on dangerous offenders.

On the basis of this information, the CDPC is invited to examine the draft recommendation, make general comments on it, endorse its content and provide guidelines to the PC-GR-DD with a view to the final approval of the recommendation by the group at its next meeting in September..

The PC-GR-DD will hold another final meeting in September 2013 in Paris and submit the final version of the draft recommendation to the CDPC for its approval at its next plenary session (December 2013).

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

The CDPC is invited to hold an exchange of views with Mr André Vallotton, Chair of the PC-CP, on the current and future activities of the Committee.

a. Preparation of the Terms of reference for the years 2014-2015

The CDPC is invited to examine the proposals for activities that could be dealt with by the PC-CP over the next two years and included in the terms of reference of the PC-CP for 2014-2015: delegations are invited to examine the draft terms of reference of the PC-CP for 2014-2015 with a view to their approval and their submission to the CM.

In particular, the CDPC is requested to discuss the proposal by the Bureau that plenary meetings of the PC-CP are to be held only upon request by the CDPC (in principle they could take place once every 2 years), in particular provided that there are sound reasons for the PC-CP to draft an important legal instrument, and that the topic of this legal instrument is clearly within the competence of themes normally dealt with by the PC-CP.

b. Follow-up to the conclusions adopted at the 17th Council of Europe Conference of Directors of Prison Administration (CDAP)

The CDPC is invited to take note of the information provided on the planned follow-up to the 17th CDAP and on the organisation of the 18th CDAP.

c. Electronic monitoring

The CDPC is invited to take note of the information provided by the Chair of the PC-CP on the work related to electronic monitoring and to examine the preliminary draft recommendation and draft commentary which were revised by the PC-CP plenary in March 2013.

CDPC delegations are requested to provide concrete comments on the draft recommendation and its draft commentary. The final version of the draft recommendation will be submitted to the CDPC for its approval at its next plenary session (December 2013).

d. Violence in juvenile detention centres

The CDPC is invited to take note of the fact that the PC-CP discussed the question of violence in places of detention for juveniles and that it was of the opinion that there is a need for a more in-depth study on the causes of violence involving juveniles and on ways of dealing with it.

The CDPC is invited to hold a discussion on whether the CDPC should entrust the PC-CP with studying the situation in Europe and drafting a report on the matter.

e. SPACE

The CDPC is invited to take note of the presentation made by Prof. Marcelo Aebi on the results of the 2011 SPACE I survey (prisons) and of the 2011 SPACE II survey (community sanctions and measures).

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 competitions

The CDPC is invited to take note that the Bureau, at its last meeting in April 2013, held an exchange of views with the Chair of the GRECO, Mr Marin Mrčela, on the position of the two bodies on the issues related to match-fixing and took 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 CoE convention against manipulation of sports competitions.

Following these discussions and the exchange of letters between the chairs of the CDPC and of Governing Board of the EPAS with regard to the procedure to be followed to implement the decision of the CM on a possible convention on manipulation of sports competitions, the Bureau instructed the Secretariat to prepare a document presenting a proposal for the provisions on the criminal law aspects drafted in accordance with the discussions held during the Bureau meeting and also taking account of the position already previously expressed by the CDPC both at its last plenary and in the conclusions of the feasibility study of the CDPC of February 2012 [document : CDPC (2012)1]. This document has also been sent for possible comments to the GRECO's Bureau in view of its forthcoming meeting (Moscow, 17 May 2013) and has been transmitted to the EPAS.

The CDPC is invited to examine the document prepared by the Secretariat (document: CDPC (2013) 6) containing a draft proposal for the criminal law provisions in the draft convention against the manipulation of sports competitions, and to decide on the follow-up to be given to this document notably in view of the forthcoming meeting of the drafting group of EPAS (13-15 June 2013).

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

The Bureaux of the CDPC and the GRECO agreed on a 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 would allow the CDPC and the GRECO to form a co-ordinated view on this issue.

A document has been prepared by the Secretariat that summarises the replies received by delegations from the CDPC and/or the GRECO to the questionnaire concerning the issue of the feasibility of an Additional Protocol to the Council of Europe Criminal Law Convention on Corruption (ETS No. 173). One of the conclusions of this document states that "in the majority of countries that replied (...) corrupt practices in the non-profit sector are covered by existing legislation".

The CDPC is invited to examine this document (CDPC (2013) 3) and decide on the follow-up to be given to this item.

8. Trafficking in human organs

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

At its last plenary session (December 2012), the CDPC examined article by article the preliminary draft Convention against Trafficking in Human Organs prepared by the PC-TO and, after three readings, approved it. It also decided to send the revised draft Explanatory Report to delegations for possible comments by a written procedure and to instruct its Bureau to examine the consolidated version of the draft explanatory report at its meeting of April 2013 with a view to resending the final version of this text to delegations for final approval by a written procedure.

The Bureau examined and agreed upon the consolidated version of the draft explanatory report (prepared by the Secretariat, with the assistance of Mr Hans-Holger Herrfeld in his capacity as Chair of the PC-TO) and instructed the Secretariat to resend the final version of the new consolidated draft explanatory report as approved by the Bureau to all CDPC delegations with a deadline of 2 weeks for final approval by a written procedure. By an e-mail of 23 April, CDPC Members were invited “to inform the Secretariat by e-mail, if they agree with this Bureau decision and in particular if they have any particular additional comments to the new consolidated version of the draft explanatory report by 7 May at the latest. If the Secretariat has not received a reply from a CDPC Member within the aforesaid deadline, it will be considered that the CDPC Member in question agrees to the decision of the Bureau”.

Very few comments were received by the Secretariat which mainly agreed with the new consolidated version. Some other comments were of an editorial nature and will be included in the final version. 2 delegations (Germany and the United Kingdom) presented proposals for amendments to the draft explanatory report.

The CDPC is invited:

- to **take note** of the final version of the draft Convention against trafficking in human organs as finalised by the Secretariat following the CoE Editorial Unit’s, the Legal Advice Department’s and the Treaty Office’s comments on the text of the draft Convention as approved by the CDPC in December 2012. No discussions on the content of the draft convention will be opened.
- to **approve the draft explanatory report** by deciding on the follow-up to be given to the new proposals for amendments as presented by 2 delegations (Germany and the United Kingdom).

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

Further to an exchange of views with Ms Selma de Groot, 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 64th plenary meeting (28-30 May 2013).

Particular attention is drawn to the follow up decided to the special session on mutual legal assistance, to the questions raised with regard to Article 12 of the Convention on the Transfer of Sentenced Persons and to the decisions with regard to the development of the website of the PC-OC.

Delegations are furthermore invited to examine the draft terms of reference of the PC-OC for 2014-2015 with a view to their approval and their submission to the CM.

10. Activities related to transnational organised crime

The CDPC is invited to take note of the information provided by the Secretariat and by Mr Tihomir Kralj (representative of the Bureau to the PC-GR-COT) on the planned activities related to transnational organised crime and in particular that the ad hoc drafting Group on Transnational Organised Crime (PC-GR-COT) will hold its 1st meeting on 24-26 June 2013, in Paris.

11. Activities related to piracy

The CDPC is invited to discuss if and how to proceed with possible future activities in this field.

12. Alternative measures to imprisonment

The CDPC is invited to instruct the PC-CP to continue with planned / possible activities in this field.

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 e.

14. Any other business

15. Date of the next CDPC Bureau and Plenary meetings

The CDPC is invited to take note of the dates of the next Bureau meeting (30 September-1 October) and plenary session (2-5 December).