



Strasbourg, 4 December 2015

CDPC (2015) 26

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

69th Plenary Session

Strasbourg, 1-4 December 2015
Palais, Room 9

List of Decisions

The European Committee on Crime Problems (hereafter CDPC), meeting in Strasbourg under the Chairmanship of Mr Jesper Hjortenberga (Denmark), decided:

1. Opening of the meeting

- to hold a minute's silence for the victims of the recent terrorist attacks that took place in CoE member States and in 3rd countries and send its respects and condolences to the victims of terrorist attacks;
- to take note of the opening address by Mr Jan Kleijssen, Director of the Information Society and Action against Crime Directorate, Directorate General of Human Rights and Rule of Law, on the most recent developments in the Council of Europe (hereafter CoE) and in the Directorate, since the last CDPC plenary session of June 2015. Mr Kleijssen mentioned that in response to the recent tragic events, the CoE is determined to continue its action to prevent and fight against terrorism in full respect of our common principles of freedom, democracy, human rights and the rule of law which unite our member States and which constitute the best protection against this spiral of hate. He informed the CDPC members of the opening for signature of the new Protocol on foreign terrorist fighters and congratulated the CDPC for its contribution to the CoE's efforts in this respect, expressed through its work on the guidelines on radicalisation in prison and by reinforcing its close co-operation with the Committee of Experts on Terrorism (hereafter CODEXTER) notably in the field of Special Investigative Techniques and as to the topic on links between organised crime and terrorism;
- to issue a statement with regard to the recent terrorist attacks (Appendix I);

2. Adoption of the draft agenda

- to adopt the agenda without amendments (the list of participants and the agenda appear in Appendices II and III respectively);

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

- to consider four issues as the main priorities to be implemented over the next two years:
 - 1) starting the work on the implementation of the Action Plan on Transnational Organised Crime (hereafter TOC);
 - 2) drafting a new convention on cultural property;
 - 3) considering how to best deal with the question of smuggling of migrants;
 - 4) following-up the activities related to its subordinate bodies on penitentiary issues (PC-CP) and international co-operation matters (PC-OC);

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

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

- to take note of the information provided by the Secretary to the CDPC, Mr Carlo Chiaromonte, on recent developments in this field and also on his participation in the last Bureau meetings of the Steering Committee in Culture, Heritage and Landscape (CDCPP) and to welcome the good cooperation with this Committee;
- following the relevant CDPC Plenary's and Bureau's decisions with regard to the document "Review of the Council of Europe conventions within the direct responsibility of the CDPC", to examine 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;
- to instruct the Secretariat to submit the draft terms of reference to the Committee of Ministers (hereafter CM) for final adoption;
- to instruct its Bureau to examine how the CDPC should continue working on issues related to a possible update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) namely considering possible amendments to the Convention or finding practical solutions to problems;

b. Review of the CoE Conventions by other CoE bodies

- to take note of the information provided by the Secretariat on the implementation/assessment of the conventions for which other CoE committees/bodies are responsible (Group of Parties Lanzarote, PC-OC, T-CY, GRECO, Conference of the Parties CETS No. 198), in accordance with decision n° 9 made by the CM;

5. Smuggling of migrants

- 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" that they prepared together with the Chairman and the Secretariat of the CDPC;
- to congratulate the experts, including the Chairman of the CDPC, on their excellent work carried out in drafting the above-mentioned document;
- 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;

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”

- to take note of the document prepared by the Secretariat on this issue (“Follow-up to resolutions”) 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)

- to exchange views with the Chair of the PC-CP, Mr Mauro Palma (Italy), on the current activities carried out by the PC-CP, in particular:
 - 1) the current work on the draft Guidelines for prison and probation services regarding radicalisation and violent extremism;
 - 2) the organisation of the forthcoming 21st Council of Europe Conference of Directors of Prison and Probation Services;
 - 3) the work started in relation to the review of the recommendations and resolutions in the prison and probation field, namely the drafting of a CM Recommendation on the European Rules on sanctions and measures enforced in the community;
 - 4) the progress made by the Drafting Committee on Prison overcrowding;
- to congratulate Mr Mauro Palma for his excellent work provided during his two mandates as Chair of the PC-CP;

a. Radicalisation in prison

- to examine and discuss the “Draft Guidelines for prison and probation services facing radicalisation and violent extremism” as prepared by the PC-CP Working Group and by the PC-CP Plenary at its last meeting 17-19 November 2015 and to make comments and proposals for amendments to this document;
- to take note of the opinion prepared by the CODEXTER on the draft Guidelines;
- to approve the document “Draft Guidelines for prison and probation services facing radicalisation and violent extremism” and to instruct the Secretariat to submit this document to the CM for final adoption;

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

- to take note of the information on the main outcome of the 20th Conference of Directors of Prison and Probation Services, “Radicalisation and other Strategic Challenges” and on the organisation of the forthcoming Conference to be held in Zaandam, The Netherlands, on 14-15 June 2016;
- to instruct the Secretariat to check with the Dutch authorities if it would be possible to explore the possibilities of holding a special meeting with judges and prosecutors, in the form of side event, regarding prison overcrowding as this is still an ever-growing concern for the CoE;

c. Elections

- to elect Ms Annie Devos (Belgium), Ms Nadya Radkovska (Bulgaria), Ms Nathalie Boissou (France) and Mr Nikolaos Kourlouris (Greece) as members of the PC-CP Working Group;
- to renew the mandates of Mr Attila Juhasz (Hungary) and Mr Dominik Lehener (Switzerland) for two additional years;

8. Prison overcrowding

- to take note of the information provided by the Chairs of the PC-CP and the CDPC on the work carried out up to now by the Drafting Committee on Prison overcrowding, set up under the auspices of the CDPC;

9. Document/guidelines containing “Model provisions” defining a certain number of rules to be duly

considered by the expert committees in their drafting work as the base to be followed during future negotiations of any possible convention on a criminal law matter

- to examine the documents on the “Model provisions project” (CDPC (2014) 17rev5 and CDPC (2014) 24 rev3) and to adopt them as documents to be used as guidelines by future expert groups that may be mandated by the CM to negotiate the criminal law conventions of the CoE;
- to instruct the Secretariat to submit these documents to the CM for information;
- that the Russian Federation presented its position in relation with some provisions of these documents on model provisions;

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

- to hold an exchange of views with the Chair, Ms Joana Gomes Ferreira (Portugal), on the current activities carried out by the PC-OC, in particular concerning:
 - 1) the Draft protocol to amend the Additional Protocol to the Convention on the Transfer of Sentenced Persons (ETS No. 167) ;
 - 2) the E-transfer proposal by Israel, to develop an electronic tool to facilitate transfer procedures;
 - 3) the Model request form and practical guidelines for practitioners on mutual assistance in criminal matters;
 - 4) the implementation of the Action Plan to the White Paper on TOC;
 - 5) the review of Conventions within the remit of the PC-OC;
- to express its gratitude to Ms Gomes Ferreira for her wide-reaching leadership during her mandate as Chair of the PC-OC which had led to fruitful results in the framework of this Committee;

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

- to take note of the presentation of the draft Action Plan on transnational organised crime drafted by both scientific experts, Prof. Dr Lorena Bachmaier Winter, Complutense University, Law Faculty, Procedural Law Department, Madrid (Spain), and Prof. Dr John A. E. Vervaele, Willem Pompe Institute for Criminal Sciences, Utrecht Centre for Regulation and Enforcement in Europe, Utrecht University, Utrecht (the Netherlands);
- to congratulate both scientific experts and all members of the Working Group on TOC for the excellent quality of the draft Action Plan and to express its support on this document and to the activities contained in it;
- to examine the draft Action Plan (document CDPC (2015) 17 rev2), to amend/modify some provisions contained in it and to approve it;
- to set up a sub-group responsible for the overseeing of the Action Plan’s progress and to appoint Ms Fabienne Schaller (France) as the co-ordinator of this subgroup;
- to instruct the Secretariat to transmit the Action Plan to the CM for its adoption;
- to take note with satisfaction that the White Paper on TOC was translated into different languages (Italian, Romanian and Russian) and is available at the Criminal Law Division website;

12. Terrorism

- to take note of the information provided by the co-Secretary of the CODEXTER, Mr Kristian Bartholin, concerning the ongoing work by the CODEXTER in its activities on counter-terrorism matters and in particular the future work of the CODEXTER, i.e. the drafting of three new recommendations on a) special investigative techniques, b) terrorists acting alone and c) the Internet and terrorism;

13. Information provided by the Secretariat

a) Medicrime:

- to take note of the information provided by the co-Secretary of the CDPC, Mr Oscar Alarcón Jiménez, concerning the multiple activities carried out by the Criminal Law Division, and those to which the Secretariat was invited, aimed at promoting the MEDICRIME Convention, in particular:

- the 11th Conference organised by the European Healthcare Fraud and Corruption Network, held in The Hague, Netherlands on 5-6 November 2015;
 - the 4th Regional Conference on the MEDICRIME Convention organised jointly by the CoE and the Cypriot authorities, held in Larnaca, Cyprus, on 10-11 November 2015. In this regard, the CDPC conveys its warmest thanks to the Cypriot authorities for their support in organising and hosting this conference and welcomes with great pleasure the excellent news received during the Conference from the Permanent Secretary of the Ministry of Justice that Cyprus will soon ratify the MEDICRIME Convention;
 - the Parliamentary Conference on the MEDICRIME Convention, jointly organised by the Parliamentary Assembly of the Council of Europe (PACE), the European Directorate for the Quality of Medicines & HealthCare (EDQM) and the Directorate General Human Rights and Rule of Law of the Council of Europe (DGI), held in Paris, France, on 24 November 2015. The CDPC welcomes the Handbook for parliamentarians on the MEDICRIME Convention drafted on the occasion of this Conference and congratulates the scientific experts and Secretariat for their excellent work carried out when drafting this handbook;
- to welcome the information provided on the current work on the curriculum on the MEDICRIME Convention for judges and prosecutors. On this respect, to take note of the Spanish request to be a pilot country for the launching of this curriculum;
 - in view of the implementation of the forthcoming activities in this field, to invite those delegations which did not yet send their replies to the Criminal Law Secretariat to do so at their earliest convenience, notably:
 - a) the contact details of the Focal Point at national level (and the Ministry involved) responsible for the MEDICRIME Convention;
 - b) the translation, where it exists, of the MEDICRIME Convention into their official language;
 - in relation with the status of signatures and ratifications, to acknowledge and welcome that Guinea is the fifth country which has ratified the MEDICRIME Convention, which has initiated the procedure for its entering into force on 1 January 2016. Moreover, the CDPC welcomes with pleasure the recent signatures of the MEDICRIME Convention by Croatia and Bosnia and Herzegovina and calls upon other countries to support to join this Convention;

b) Trafficking in organs

- to take note of the information provided by the Spanish delegation about the opening ceremony for signature of the trafficking of Human Organs Convention (Santiago de Compostela Convention) held in Santiago de Compostela, Spain, on 25-26 March 2015;
- in relation with the status of signatures and ratifications, to acknowledge and welcome that Ireland and the Russian Federation recently signed the Santiago de Compostela Convention;
- in view of the implementation of forthcoming activities in this field, to invite the delegations to provide the Criminal Law Division Secretariat with:
 - a) the contact details of the Focal Point at national level (and the Ministry involved) responsible for the Santiago de Compostela Convention;
 - b) the translation, where it exists, of the Santiago de Compostela Convention into their official language;
- to take note of the activities implemented in this field by the Secretariat;

c) Dangerous Offenders

- to welcome the organisation of a regional seminar devoted to dangerous offenders to be 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

- to take note of the information provided by the Secretary to the TC-Y, Mr Alexander Seger, on the ongoing work carried out by the TC-Y;

14. Elections

- to proceed with the elections of the Chair and the vice-Chair of the CDPC and the members of the CDPC Bureau. The Chairman of the CDPC is Mr Hans-Holger Herrnfeld (Germany), elected for one year renewable; the vice-Chairman of the CDPC is Mr Slawomir Buczma (Poland) elected for one year renewable; the new elected members of the Bureau are: Ms Helena Lisuchova (Czech Republic), Mme Anita Marfurt (Switzerland) and Mr Jesper Hjortenberg (Denmark) for two years renewable. The terms of office of three members of the Bureau (Ms Drazdiak (Norway), Ms Radu (Romania) and Mr Salazar (Italy)) has been renewed for two years (2016-2017);
- to express its warmest thanks to Mr Jesper Hjortenberg for the excellent way in which he has chaired the committee over the last two years;

15. Any other business

- to take note that no other issues were raised;

16. Dates of the next CDPC Bureau and Plenary meetings

- to take note of the dates of its next meeting (28 June - 1 July 2016);
- to take note of the dates of the next Bureau meeting (14-15 April 2016).

Appendix I

Statement on recent terrorist attacks

The European Committee on Crime Problems (CDPC) condemns the tragic events that have recently been carried out in/or aimed at CoE member States (France, the Russian Federation and Turkey) or that took place in other countries (Egypt, Lebanon, Mali and Tunisia).

It would like to pay homage to the many victims and extends its deepest sympathy to their families and loved ones. It expresses its full empathy and solidarity with all the persons, including law-enforcement officers, and authorities that have been affected.

In response to these tragic events, the CDPC supports the Council of Europe's work to resolutely continue the fight against terrorism in full respect of the principles of freedom, democracy, human rights and the rule of law which unite its member States and which constitute the best protection against the spiral of hate.

The CDPC will continue to give the highest priority to its contribution in the implementation of the Action Plan on the fight against violent extremism and radicalisation leading to terrorism adopted in May 2015.

For this reason, the CDPC would particularly like to call attention to the Guidelines for prison and probation services regarding radicalisation and violent extremism, which highlight the role that these services can have in the prevention, detection and treatment of radicalisation.

The Action Plan on transnational organised crime, adopted by the CDPC, shows that the links between terrorism and organised crime are strong and international co-operation among countries is needed to fight these phenomena. Action is also foreseen to tackle the financing of these criminal organisations and strengthen international co-operation in criminal matters.

Appendix II

Strasbourg, 27 November 2015

CDPC (2015) OJ 2

EUROPEAN COMMITTEE ON CRIME PROBLEMS **(CDPC)**

69th Plenary Session

Strasbourg, 1 (10.00) – 4 December 2015 (12.00)

AGENDA

Council of Europe

Main Building, Palais de l'Europe

Room 9

1. **Opening of the meeting**
2. **Adoption of the draft agenda**
 Draft agenda
 Annotated agenda
 For information:
 List of decisions of the 68th CDPC Plenary, 2-5 June 2015
 List of decisions of the CDPC Bureau meeting, 1-2 October 2015
3. **Future activities and priorities of the CDPC for 2016-2017**
 Terms of reference for the years 2014-2015
 Resolution on intergovernmental committees and subordinate bodies, their terms of reference and working methods
 Draft Terms of reference for the years 2016-2017
4. **Review of Council of Europe legal instruments in criminal matters**
- a. **Review of the CoE Conventions within the direct responsibility of the CDPC**
 Decision by the Committee of Ministers on the review of the Council of Europe Conventions
 Report on the assessment/review of Conventions within the direct responsibility of the CDPC (Please note the document is 50 pages long)
 Memorandum on the revision of the 1985 European Convention on Offences Relating to Cultural Property
 Compilation of replies to the memorandum
 Draft Terms of reference for a drafting committee on Offences related to cultural property
- b. **Review of the CoE Conventions by other CoE bodies**
 Letter by the CDPC Chair and compilation of replies/contributions received by the relevant CoE monitoring/conventional bodies responsible for the assessment/implementation of CoE Conventions in criminal law matters
5. **Smuggling of migrants**
 "Migration challenges for Europe: need for collective action"
 Proposal by the delegation of Malta
 Discussion paper on "Criminality and migration"
 Questionnaire on criminality and migration
 Replies to the questionnaire (Please note the document is 207 pages long)
 Preliminary Summary of the replies to the questionnaire concerning smuggling of migrants
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"**
 Resolution on responses of justice to urban violence
 Decision of the Committee of Ministers
 Follow-up to resolutions
- a. **International conference on urban violence (Lisbon, 23-24 October 2014)**
 Conclusions
 Information document on the Working Group on urban violence

- b. Responses of justice to urban violence involving juveniles**
 Preliminary report on responses of justice to urban violence involving juveniles
 Questionnaire on urban violence and juvenile involvement
 Compilation of replies to the questionnaire (Please note the document is 108 pages long)
 Summary of replies to the questionnaire
- 7. Council for Penological Co-operation (PC-CP) – Exchange of views with the Chair, Mr Mauro Palma**
 Summary Meeting report of the 10th Working Group Meeting of the PC-CP, 14-16 September 2015
 Summary Meeting report of the 5th PC-CP Plenary, 17-19 November 2015
 Draft Terms of reference for the years 2016-2017
- a. Radicalisation in Prison**
 Draft Guidelines for prison and probation services regarding radicalisation and violent extremism
 Commentary by the Scientific Expert
 Opinion by CODEXTER
 Action Plan – The fight against violent extremism and radicalisation leading to terrorism
- b. Follow-up to the 20th Council of Europe Conference of Directors of Prison and Probation Services, 9-10 June 2015, Bucharest**
 Closing speech, Mr Mauro Palma, Chair of the PC-CP
- c. Elections**
 Memorandum concerning the Election of Members of the PC-CP Working Group
- 8. Prison overcrowding**
 Executive summary of the 2nd meeting of the Drafting working committee on prison overcrowding, 20-21 May 2015
 Executive summary of the 3rd meeting of the Drafting working committee on prison overcrowding, 26-27 October 2015
 Draft White Paper on prison overcrowding
 Draft Recommendation on the European Rules on community sanctions and measures
 First draft structure of Recommendation on the European Rules on community sanctions and measures
- 9. Document/guidelines containing “Model provisions” defining a certain number of rules to be duly considered by the expert committees in their drafting work as the base to be followed during future negotiations of any possible convention in a criminal law matter**
 Information document by Dr. Hans-Holger Herrnfeld
 Document on Model Provisions
 Addendum: Draft elements for an Explanatory Report
 Comments on the document on model provisions for Council of Europe criminal law conventions

- 10. Committee of Experts on the operation of European conventions on co-operation in criminal matters (PC-OC) – Exchange of views with the Chair, Mrs Joana Gomes Ferreira**
 List of decisions of the 20th meeting of the PC-OC Mod, 15-17 September 2015
 List of decisions of the 69th Plenary meeting of the PC-OC, 3-5 November 2015
 Model request form and guidelines on mutual assistance in criminal matters
 Consideration of 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 and proposals for follow-up (Please note the document is 161 pages long)
 Preparation of a Draft Protocol to amend the Additional Protocol to the Convention (ETS No. 167)
 Consideration of comments received to the E-transfer proposal by Israel and proposals for follow up
 Finalisation of the review of Conventions within the remit of the PC-OC
 Draft Terms of reference for the years 2016-2017
- 11. Activities related to transnational organised crime; “White Paper”**
 White Paper (Please note the document is 49 pages long)
 Preliminary document presenting the main elements of the Action Plan as follow-up to the White Paper
 Comments on Reflection Document for an Action Plan on Transnational Organised Crime
 Draft Council of Europe Action Plan on Combating Transnational Organised Crime (2016-2020)
- 12. Terrorism**
 List of decisions of the 29th meeting of the CODEXTER, 17-18 November 2015
 Political declaration
 Action Plan – The fight against violent extremism and radicalisation leading to terrorism
 Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism
 Explanatory Report
 Main working documents of the Conference on terrorism and organised crime
 Work by CODEXTER on Special Investigation Techniques
 Information document: Work on special investigation techniques
- 13. Information provided by the Secretariat**
- a. Medicrime**
 4th Regional Conference on the MEDICRIME Convention, Larnaca, Cyprus (10-11 November 2015)
 Parliamentary Conference on the MEDICRIME Convention, Paris (24 November 2015)
 Council of Europe Convention on the counterfeiting of medical products and similar crimes involving threats to public health (Medicrime Convention) (CETS No. 211)
- b. Trafficking in human organs**
 International Conference on the fight against Trafficking in Human Organs, 25-26 March 2015, Santiago de Compostela (Spain)

Council of Europe Convention against Trafficking in Human Organs
Explanatory Report

- c. Dangerous Offenders**
Seminar to promote the Recommendation on Dangerous Offenders,
Yerevan, Armenia (19-20 January 2016)
Recommendation of the Committee of Ministers to member States
concerning dangerous offenders
Commentary
- d. Cybercrime**
- 14. Elections**
Memorandum concerning the Elections for the CDPC
- 15. Any other business**
- 16. Dates of the next meetings**
CDPC Plenary:
CDPC Bureau:

Appendix III

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 4 December 2015
[CDPC plenary/2015 plenary_2/oj lp/cdpc list of participants]

CDPC (2015) LP 2 Fin (Bil)

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

COMITE EUROPEEN POUR LES PROBLEMES CRIMINELS
(CDPC)

69th Plenary Session / 69^{ème} Session plénière

Strasbourg, 1 – 4 December / 1 – 4 décembre 2015

Main Building / Palais de l'Europe

Room / Salle 9

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

MEMBER STATES / ETATS MEMBRES**ALBANIA / ALBANIE**

**No nomination / Pas de nomination

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Apologised/Excusé

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Apologised/Excusé

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