

Strasbourg, 18 April 2016
cdpc-bu/cdpc-bu (2016) 2

CDPC-BU (2016) 2

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

Bureau Meeting
(CDPC-BU)

Naples, 14 – 15 April 2016

List of Decisions

The Bureau, meeting in Naples on 14 and 15 April 2016, under the Chairmanship of Mr Hans-Holger Herrnfeld (Germany), decided:

1. Opening of the meeting

- to congratulate the new elected Chair, Mr Hans-Holger Herrnfeld, who opened the meeting by welcoming the Bureau members present and expressing the gratitude to Mr Lorenzo Salazar (Italy) for organising this Bureau meeting in Naples;

2. Adoption of the 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 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) since the last CDPC Plenary session in December 2015. Mr Kleijssen mentioned that the CoE is determined to continue its work on the smuggling of migrants which will be, together with terrorism, among the main topics of the forthcoming 126th Ministerial Session of the Committee of Ministers of the CoE (hereafter CM) on the overall theme "Democratic security for all in Europe in challenging times", which will take place in Sofia on 18 May 2016. He stated that the CoE as the human rights organisation in Europe cannot remain inactive on such an important issue for the CoE member States. He also provided some information about the Internet governance strategy for 2016-2019, recently adopted by the CM, which aims at ensuring that public policy for the Internet is people-centred in order to build democracy online, to protect Internet users and to ensure respect and protection for human rights online. He encouraged the CDPC Bureau members to invite the CDPC to take this into consideration in its further work;

- to take note of the information provided by the Secretary of the CDPC, Mr Carlo Chiaromonte, on the CM decisions taken in March related to the CDPC's work:
 - a) the adoption of:
 - the Action Plan (2016-2020) on transnational organised crime;
 - the Guidelines for prison and probation services regarding radicalisation and violent extremism;
 - the terms of reference of the Committee on Offences relating to Cultural Property (PC-IBC);
 - b) the sending back to the CDPC of the "Model provisions" at the request of one delegation;

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

- to take note of the information provided by Carlo Chiaromonte on the new revised document submitted to the Bureau, notably that in the new document [CDPC (2016) 14Fin], the Secretariat has integrated the parts related to conventions in criminal matters for which the CDPC is not directly responsible but which were subsequently "assessed" by the PC-OC. Moreover, a summary of the replies that the CDPC received from other bodies responsible for the monitoring of some conventions (GRECO, TC-Y, Lanzarote etc) has also been added;
- to examine the revised document, amend it and instruct the Secretariat to prepare it for the next Plenary meeting in June so that the CDPC can finally adopt it and transmit it to the CM, thus completing the exercise of reviewing the CoE conventions in criminal matters.
- to send this document to the Chairs of other relevant CoE committees/bodies for their possible comments;
- to identify a consultant and instruct the Secretariat to request the consultant to prepare a paper for the next Bureau meeting in October containing elements on a possible update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116), taking also into account the existing documents on this issue, which would be the main working document for the discussions at the CDPC Plenary meeting in December;

5. Smuggling of migrants

- to examine the two new documents ("National laws relating to smuggling of migrants in Council of Europe member States" and "Preventing and suppressing the smuggling of migrants in Council of Europe member States – A way forward") prepared by the working group on smuggling on migrants to respond the CDPC's requests "to complete the Discussion Paper 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";
- that the document "National laws relating to smuggling of migrants in Council of Europe member States" is referenced as a working document prepared for the discussion at the forthcoming CDPC Plenary meeting in June and to be sent to the Secretary General of the CoE for information;
- to consider that rather than drafting a new convention on the subject matter, a recommendation could be a better solution to achieve efficient results in the fight against the smuggling of migrants as a recommendation could urge member States to implement the already existing provisions/texts, in particular the United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air by effectively criminalising, investigating and

prosecuting acts of smuggling of migrants. Drafting and negotiating such a recommendation would have the advantage to produce quicker results than a possible new convention, as it would take considerable time until a new convention would be finally negotiated and actually enter into force and could thus become applicable in a relevant number of member States. Finally the recommendation may include a specific provision suggesting that, after an assessment of the situation, if the existing instruments are not sufficient for an effective fight against smuggling of migrants, the CoE could come back to the question of whether to draft a new convention;

- in view of the above, to instruct the Secretariat to revise, together with the experts, the document "Preventing and suppressing the smuggling of migrants in Council of Europe member States – A way forward" accordingly and explaining the added value of drafting a CoE recommendation on the topic of the smuggling of migrants and presenting the general content of such a recommendation. This finally revised document should be ready for discussion at the forthcoming CDPC Plenary meeting in June 2016;
- to discuss at the next CDPC Plenary meeting in June whether - and if so which one – a legal instrument (CoE convention or recommendation) should be drafted;
- that, if the final decision of the CDPC Plenary is to draft a recommendation, an open-ended drafting Group composed of experts, representatives from member States and the Secretariat should be set up with the objective of starting the drafting work of the recommendation immediately after the summer break;

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

- to take note of the information provided by the Chair on the outcome of the meeting held in Paris on 5 April aimed at laying down the ground-work for the scope of the future convention;
- to examine the document "Discussion Paper on elements to be included in the draft Council of Europe Convention on offences relating to cultural property" [PC-IBS (2016) 01] and make preliminary comments on this document;
- to take note of all the preparatory work for the forthcoming 1st meeting of the PC-IBS which will take place on 31 May - 1 June 2016;

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

- to take note of the reports of the last PC-CP meetings;
- to preliminary examine and provide some comments on the text of the draft 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 and take note that the above draft Recommendation will be discussed at the forthcoming 21st Council of Europe Conference of Directors of Prison and Probation Services (14-15 June 2016) and any possible comments or proposals for amendments to this text will be considered at the subsequent meeting of the PC-CP Working Group in September 2016;

a. Radicalisation in Prison

- to take note of the draft preliminary structure of the Handbook and that a more developed draft text of the Handbook will be discussed at the PC-CP Working Group meeting on 11-13 May 2016;

- to take note that the Norwegian member of the Bureau sent some comments on the preliminary structure of the Handbook and instruct the Secretariat to forward these comments to the PC-CP Working Group for its consideration;

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

- to take note of the theme, the concept paper and the draft programme of the Conference;
- to appoint Mr Jesper Hjortenbergt to represent the CDPC at this Conference;

8. Prison overcrowding

- to take note of the oral information provided by Mr Jesper Hjortenbergt, General rapporteur and praise the excellent work on the draft White paper on prison overcrowding;
- to examine the draft White paper on prison overcrowding, make a number of comments on this document and instruct the Secretariat and Mr Hjortenbergt to inform the working group on overcrowding about these comments;
- to instruct the Secretariat to make sure that the final text of the draft White Paper, as approved by the PC-CP Working Group in May, will be made available to the CDPC at the latest by the end of May;
- to invite those CDPC delegations, who so wish, to make written comments on the text finalised by the PC-CP Working Group and send them to the CDPC in advance of its next Plenary meeting;

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

- to bring comments made by one delegation on the Model provisions document to the attention of the CDPC delegations at the next CDPC Plenary meeting in June with the view to deciding on the follow-up to be given to these comments;

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

- to take note both of the list of decisions of the 21st meeting of the PC-OC Mod held on 23-25 February 2016 and the draft agenda of the 70th meeting of the PC-OC to be held on 2-4 May 2016. Particular attention was drawn by the members of the Bureau to:
 - the draft template for country information on national procedures as regards the application of ETS No. 141 [PC-OC Mod (2016)01rev];
 - 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];
 - 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];
 - 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];
- following the comments received on Israel's e-transfer proposal, the development of an electronic tool to facilitate transfer procedures [PC-OC Mod (2015) 05 rev.2];

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

- to welcome the adoption of the Action Plan on Transnational Organised Crime (hereafter TOC) by the CM on 2 March 2016;
- to take note the information provided by the Chair of the CDPC, Mr Hans-Holger Herrfeld, and the Secretariat, following a preliminary meeting held with the Co-ordinator on TOC;
- to agree on the working methodology to be followed for the implementation of the Action Plan on TOC and instruct the Secretariat to draft a document describing it and present it to the Plenary for its information;

12. Terrorism

- to take note of the information provided by the Secretariat on the work by the CODEXTER on counter-terrorism matters and the lists of decisions taken by CODEXTER at its last Plenary (November 2015) and Bureau (February 2016) meetings;
- to take note of the progress made by the drafting group on the updating of the Recommendation Rec(2005)10 of the Committee of Ministers to member states on “special investigation techniques” in relation to serious crimes including acts of terrorism adopted by the CM in 2005 and that the CDPC will make an opinion on this revised recommendation when the text is finalised;
- as follow-up to the conference organised in Málaga on terrorism and organised crime, to take note of the information provided by the Secretariat concerning the possibility of elaborating a joint CDPC-CODEXTER study on the links between terrorism and organised crime. The joint study will be prepared by academic experts and will focus on the mapping out of links between organised crime and terrorist organisations in Europe, the implication of terrorist organisations in organised crime and a series of proposals for legal and practical measures to efficiently suppress such organised criminal activities;

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

- that the agenda of the next CDPC Plenary meeting should contain the same items as they were included in the agenda of the Bureau meeting;

14. Information provided by the Secretariat

- to take note of the information provided by the Secretariat on sub-items a. to c. below:

a. Medicrime

- a) EUROPOL Pharmacrime meeting (The Hague, The Netherlands, 28 January 2016): take note that, following the presentation made by the Secretariat of the MEDICRIME

Convention at EUROPOL's annual Pharmacrime meeting to law-enforcement officers, additional contacts with Colombian authorities (present at EUROPOL for the first time) were made;

- b) Follow-up to the Asia-Pacific Economic Cooperation (APEC) training: to welcome the interest of the Peruvian authorities in the MEDICRIME Convention and take note of the presentation, via a teleconference, of the MEDICRIME Convention made by the Secretariat on 14 April 2016 to the Peruvian multisectoral Technical Group on prevention and combating smuggling, illegal trade and counterfeiting of medical and related products (CONTRAFALME) mainly composed of prosecutors and pharmaceutical inspectors dealing with the illegal marketing of medical products;
- c) Pilot training for legal professionals on MEDICRIME: to take note that:
- the curriculum on MEDICRIME is in the process of finalisation;
 - the first pilot training will take place in Spain and begin in September 2016;
 - the national co-ordinator for the first pilot training has been identified;
- d) Report on MEDICRIME-Cybercrime: to take note that, given that the online selling of falsified medical products is an ever-growing phenomenon, a report establishing links between the MEDICRIME and the Cybercrime Conventions is going to be drafted and 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": to take note that Ms Joana Gomes Ferreira will represent the CDPC at this conference co-organised by the Ministry of Health of the Russian Federation and the CoE to be held in Moscow, on 26 April 2016, on the occasion of the 20th anniversary of the Russian Federation becoming a member of the CoE;
- b) Neighbouring countries: to welcome the fact that the promotion of CDPC conventions is at the heart of CoE co-operation with neighbouring countries;

c. Dangerous Offenders

- 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 CM concerning dangerous offenders;

15. Any other business

- to congratulate its Bureau member Ms Helena Lisuchova, Czech Republic, on the birth of Jan Michal on 14 April 2016;

16. Dates of the next meetings

- to hold the next Bureau meeting on 13-14 October 2016 in Warsaw, Poland.