

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

Bureau Meeting
(CDPC-BU)

Prague, 1 – 2 October 2015

Ministry of Justice
Vyšehradská 16
Praha, Czech Republic

List of Decisions

The Bureau, meeting in Prague, Czech Republic, on 1 and 2 October 2015, under the Chairmanship of Mr Jesper Hjortenberga (Denmark), decided:

1. Opening of the meeting

- to take note of the information provided by Mr Carlo Chiaromonte, Secretary to the CDPC, on the most recent developments in the Council of Europe (CoE) activities related to CDPC work and in particular the interest showed by the Committee of Ministers of the Council of Europe (hereafter, CM) and the Parliamentary Assembly of the Council of Europe (hereafter, PACE) on work currently carried by the CDPC in relation to the issue of smuggling of migrants;

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

- to adopt the agenda without any amendments;
- to consider the following five items to be examined as the main priorities at the next plenary meeting of the CDPC (1-4 December 2015):
 - the Action Plan on Transnational Organised Crime;
 - the smuggling of migrants/criminality and migration;
 - the Guidelines for prison and probation services regarding radicalisation and violent extremism as prepared by the PC-CP;
 - the “Model provisions” for CoE criminal law conventions;
 - a review of the CoE conventions within the responsibility of the CDPC;
- to adopt the order of business of the next CDPC plenary meeting;

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

- to discuss which issues the CDPC should focus its future work on in its forthcoming mandate according to the tasks included in the Terms of Reference for 2015-2016;
- to suggest a minor change in the draft Terms of Reference for the years 2016-2017: consisting of splitting the current specific task number vi of the ToR into two different ones given the importance that they both deserve:

(vi) ensure that a follow-up is given to the 19th and 20th Conferences of Directors of Prison Administration as well as to the White Paper on Prison Overcrowding;

- to take note of the information provided by Mr Chiaromonte on the issue of smuggling of migrants, in particular:
 - the declaration made by the Secretary General in response to the current migrant crisis in Europe: “I can confirm that I have commissioned urgent analysis of the legal shortcomings which presently inhibit the prosecution of smugglers. This includes taking stock of the existing legal instruments and their practical enforceability. Furthermore it has become evident that, even when investigators have a clear idea of smugglers’ identities, a lack of judicial co-operation, notably between European states and countries in our South Mediterranean neighbourhood, is preventing law enforcement from acting on this information. I will shortly report back on Council of Europe measures which can be taken to improve co-operation and strengthen the rule of law in this field”;
 - the thematic debate “Migration challenges for Europe: need for collective action” held on 24 September at the CM where the Deputies underlined the ongoing work by the CDPC on this matter;
 - the preliminary draft report on “Organised crime and migrants” prepared by the PACE (Committee on Migration, refugees and Displaced Persons) that is expected to be discussed and approved at the next PACE session in January 2016;
- to congratulate the four experts, including the Chair of the CDPC, for the excellent work carried out in drafting a draft “Discussion Paper on criminality and migration”, submitted to the Bureau;
- to invite the experts to draft a questionnaire to be sent to all CDPC delegations focusing on the two aspects specifically linked to criminal law matters that are still not entirely covered in the draft Discussion Paper: 1) the assessment of possibilities for improving international co-operation in criminal matters between the countries involved and the identification of possible gaps and proposing possible solutions; and 2) a general analysis of relevant national legislation and its concrete application;
- that the question of practical implementation of the existing legislation on smuggling of migrants is a key issue and the possible setting up of a monitoring system in this regard should be considered;
- that, on the basis of the answers to the questionnaire received, the draft Discussion Paper should be finalised by the experts and presented at the next CDPC plenary meeting for examination and discussion;

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

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

- to take note of the information provided by Mr Carlo Chiaromonte on a meeting he held with colleagues in Strasbourg from the Directorate of Democratic Governance, including the Secretariat of the Steering Committee for Culture, Heritage and Landscape (CDCPP), and in particular of the interest showed by the CDCPP to work together with the CDPC on its ongoing

activities related to the Convention on Cultural Property (ETS No. 119);

- to instruct the Secretariat to prepare a mandate for a committee of experts tasked with the drafting of a new convention on cultural property, to be discussed at the next CDPC plenary meeting. This mandate should include as observers representatives of the CDCPP;

b. Review of the CoE Conventions by other CoE bodies

- to instruct the Secretariat to include the contributions received by other CoE bodies, when they are ready, in a document entitled “Review of the Council of Europe Conventions in criminal matters”;

5. Drafting a document/report with a view to identifying new forms of behaviour that have emerged in the recent past in connection with the use of modern technologies and that have brought to light possible lacunae in the existing criminal offences/law

- that, after the drafting and the analysis of the report, there is no need for any further development on this subject;
- to instruct the Secretariat to take this item off the agenda of the CDPC;

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”

**a. International conference on urban violence (Lisbon, 23-24 October 2014) and
b. Responses of justice to urban violence involving juveniles**

- to instruct the Secretariat to prepare a report taking stock of all the follow-up activities carried out after the 31st Council of Europe Conference of Ministers of Justice (Vienna, 19-21 September 2012): “Responses of Justice to urban violence”, in particular the results of the conference on “Urban violence” held in Lisbon, Portugal, in October 2014 and outcome of the activities related to the question of responses of justice to urban violence involving juveniles;

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

- to take note of the reports of the last PC-CP working group meeting (document PC-CP(2015)11) as well as the main outcome of the PC-CP’s work and in particular:
 - the current work on the draft Guidelines for prison and probation services regarding radicalisation and violent extremism (Doc. PC-CP (2015) 2 rev 3);
 - the drafting of a Committee of Ministers Recommendation on the European Rules on community sanctions and measures updating and replacing Recommendations N° (92) 16 and Rec(2000)22 (Docs PC-CP (2015) 9 rev and PC-CP (2015) 10 rev);
 - the progress made by the Working Group on Prison overcrowding;
 - the preparations for the 21st Council of Europe Conference of Directors of Prison and Probation Services (CDPPS) (the Netherlands, June 2016);
 - the memorandum regarding the forthcoming elections of four new members to the PC-CP Working Group (Doc. PC-CP (2015) 13);
 - the draft agenda and draft order of business of the PC-CP plenary meeting (17-19 November 2015) (Docs OJ (2015) 1 plenary and OB (2015) 1 plenary);

a. Radicalisation in Prison

- to take note of the information by the Secretariat on the progress made in the drafting work on the “Guidelines for prison and probation services regarding radicalisation and violent extremism”;
- to examine the draft Guidelines and inform the Secretariat of the PC-CP on certain comments and concerns the Bureau have with regard to the current draft text: the Bureau considers that it

would also be important to draft an explanatory memorandum to these Guidelines that would help readers of the document to better understand the objective and the purpose of the different provisions/measures; the text should be further developed and focus more on practical experience and substantial proposals, which would have a real added value for practitioners rather than abstract situations; reference to probation services is almost absent from the Guidelines; who the Guidelines are aimed at still remains unclear;

- to instruct the Secretariat to send the final draft version of the draft Guidelines to all CDPC delegations as soon as possible, in order to receive written comments in time for discussion on the text during the next CDPC plenary meeting;

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

- to take note of the closing speech made by Mr Mauro Palma at the above Conference and of the general satisfaction of all delegations with the organisation and holding of this event;

c. Elections

- to take note that Mr Vivian Geiran is proposed as the Chair of the PC-CP for next year, with Mr Jörg Jesse as vice-Chair and that four new members of the PC-CP need to be elected at the forthcoming CDPC plenary meeting;

8. Prison overcrowding

- to take note of the results of the meeting held in Rome between the Chair of the Working Group on prison overcrowding, Mr Mauro Palma, its General Rapporteur, Mr Jesper Hjortenber, and the Secretary of the PC-CP, Ms Iлина Taneva, aimed at revising the draft White Paper on prison overcrowding, as prepared by the Working Group;
- to welcome the work carried out by the Working Group in drafting the White Paper and express the wish for this document to become a CoE policy paper when finally adopted by the CDPC (in 2016);
- to examine the draft White Paper, make some comments, and instruct the Secretariat to inform the Working Group about these comments so that they can be taken into consideration;
- to acknowledge that the draft White Paper will be examined at the next meeting of the Working Group to be held in Paris on 26-27 October 2015 and that the final draft will be examined by the CDPC at its plenary session in June 2016;

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 basis/model to be followed during future negotiations of any possible convention in a criminal law matter

- to instruct the Secretariat to send a letter to all CDPC delegations providing background information on the “Model provisions” exercise and inviting them to send any possible written comments on 1) the two provisions still open for discussion (Articles 4 and 12) and 2) the Explanatory report with a view to avoiding a detailed examination (of every single paragraph) of the whole Explanatory report;

10. 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 20th meeting of the PC-OC Mod held on 15-17 September 2015, in particular:
 - the finalisation of a curriculum and training material on international co-operation in criminal

matters jointly developed under the HELP Project, to be presented to the PC-OC plenary at its next meeting (3-5 November);

- the preliminary discussion held on prison standards in extradition procedures;
 - the discussion held on the application of Article 16 of the European Convention on Extradition- provisional arrest- by alternative measures to detention;
 - the 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;
 - the discussions on possible amendments to the Convention on the Transfer of Sentenced Persons and to the additional Protocol thereto as well as on the proposal to develop an electronic tool to facilitate transfer procedures - E-Transfer proposal;
 - the progress made in the review of the conventions within the remit of the PC-OC;
- to invite the PC-OC to inform the CDPC as quickly as possible whether or not the draft Protocol to amend the Additional Protocol to the Convention on the Transfer of Sentenced Persons will be brought to the CDPC plenary for examination in December this year;

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

- to take note of the information provided by the Chair of the CDPC, Mr Hjortenberg, and by Mr Oscar Alarcón Jiménez, Co-Secretary of the CDPC, on the developments related to the draft Action Plan and to discuss the implementation of this activity in the future;
- to thank the group of experts on TOC for the excellent work provided and welcome the draft Action Plan;
- to examine in detail the draft Action Plan on TOC, make some general comments prior to its examination at the CDPC plenary meeting and instruct the Secretariat:
 - to harmonise the terminology of the draft Action Plan with the one used in the White Paper,
 - to include an explicit reference to the mid-term and final assessment in the duration of the Action Plan,
 - to provide guidance in a reader-friendly way on the possible priorities identified,
 - that the CDPC Bureau will follow the implementation of the Action Plan with the assistance of experts with the required technical expertise and knowledge in this field,
 - to prepare a matrix summarising all the different actions foreseen in the draft Action Plan in a reader-friendly way,
 - as far as Line of action 2.4 of the draft Action Plan (“Administrative synergies and co-operation with the private sector”) is concerned, to take note that other studies on the transparency of legal persons are currently underway. Therefore the Action Plan should avoid any overlaps and this should be taken into consideration when implementing the actions,
 - as regards Line of action 2.5 of the draft Action Plan (“Recovery of Assets”), to include a reference to the tracing of assets to be confiscated;

12. Terrorism

- to take note of the information provided by the Secretariat on the ongoing work by the CODEXTER on its activities on counter-terrorism matters and in particular on the opening for signature of the Additional Protocol to the Convention on prevention of terrorism to be held on 22 October 2015 in Riga, Latvia.

13. Information provided by the Secretariat

- to take note of the information provided by Mr. Alarcón Jiménez on sub-items a. to d. below:

a. Medicrime

- following the 3rd regional MEDICRIME Conference held in Skopje in June 2014, to welcome the signature by Croatia of the MEDICRIME Convention on 3 September 2015 and the readiness of Albania to sign in 2015,
- to congratulate Guinea for ratifying the Convention on 24 September 2015, and take note that this is the 5th ratification which will enable the MEDICRIME Convention to enter into force on 1 January 2016;
- to take note of the state of play concerning the 4th Regional conference on the MEDICRIME Convention to be held in Larnaca, Cyprus, on 10-11 November 2015 and encourage the CDPC delegations invited to this event to provide the Secretariat with their countries representatives' details;
- to take note of the Conference on the MEDICRIME Convention addressed to parliamentarians to be held in Paris, France, on 24 November 2015, an event jointly organised by the Criminal Law Division in co-operation with the PACE and the EDQM, and to welcome the Guide for parliamentarians on the MEDICRIME Convention drafted with the valuable input of CDPC scientific experts on the occasion of this event;
- to take note of the state of play on the curriculum and training material for judges and prosecutors on the MEDICRIME Convention jointly developed under the HELP Project;

b. Trafficking in human organs

- to welcome the signature by the Russian Federation of the Santiago de Compostela Convention on 24 September 2015 and the future signature by Ireland on 8 October 2015, increasing the number of signatories to the Convention to 16 States Parties;

c. Dangerous Offenders

- to take note of the state of play concerning the forthcoming seminar to be carried out by the Criminal Law Division in Armenia with a view to promoting the Recommendation CM/Rec(2014)3 concerning dangerous offenders;

14. Elections

- to take note that:
 - the terms of office of the Chair of the CDPC (Mr Hjortenbergh), the vice-Chair (Ms Lisuchova) and three members of the Bureau (Mr Buczma, Mr Herrnfeld and Ms Schaller) will expire at the end of the next plenary session of the CDPC;
 - the terms of office of three members of the Bureau (Ms Drazdiak, Ms Radu and Mr Salazar) can be renewed for two years (2016-2017);
 - the CDPC should proceed with the election of a Chair and a vice-Chair and three members of the Bureau, the term of office starting as from the beginning of 2016, as well as with the renewal of the terms of office of three members of the Bureau;

15. Any other business**16. Dates of the next meetings**

- to take note of the dates of its next plenary meeting (1-4 December 2015), starting on Tuesday 1 December at 10am and finishing on Friday 4 December at around 12pm;
- to hold its next meeting, tentatively, on 14-15 April 2016.