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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

Bureau Meeting
(CDPC-BU)

Paris, 2-3 October 2014

CoE Paris Office

List of Decisions

The Bureau, meeting in Paris on 2 and 3 October 2014, with Mr Jesper Hjortenbergt (Denmark) in the Chair, decided:

- to express its gratitude to Mme Fabienne Schaller (France) for organising a visit to the Cour de Cassation in Paris;

3. Future activities and priorities of the CDPC

- to take note of the information provided by the Secretary to the CDPC, Mr Carlo Chiaromonte, on the most recent developments in the CoE activities related to CDPC work. Mr Chiaromonte informed the Bureau that the Secretary General agreed to make a foreword to the White Paper approved by the CDPC at its last plenary and that the report of the last plenary meeting will be presented by the Chair of the CDPC to the meeting of the GR-J on 7 October;

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

- to take note of and examine the document prepared by the Secretariat (CDPC (2014)14) containing all relevant information on those conventions that are the direct responsibility of the CDPC;
- to instruct the Secretariat:
 - to divide the document into two parts:
 - a) a first part with general information on each convention, i.e. number of ratifications and signatures, entry into force, whether or not the subject matter of the convention has been dealt by other international instruments;

Mailbox : dgi-cdpc@coe.int
Website : www.coe.int/cdpc

- b) a second part as an attachment with more detailed information, notably on possible obstacles to a larger number of ratifications, including some elements enabling the CDPC to draw conclusions with regard to the follow-up to be given to each of the conventions;
- not to list in the document the last three conventions included in the table of contents, namely on preventing and combating violence against women and domestic violence (CETS No. 210), on the counterfeiting of medical products and similar crimes involving threats to public health (CETS No. 211) and against trafficking in Human Organs because they have been adopted by the Committee of Ministers only recently and therefore it is not possible to proceed with an evaluation on their implementation;
- to make comments/proposals for amendments, in particular:
 - a) in relation to the European Convention on the Punishment of road traffic offences (ETS No. 52), the Bureau considered that the decision to review/update this convention or not should be seen inter alia in the light of the question of the mutual recognition of fines. The Bureau recalled the importance of the payment of fines and the harmonisation of CoE standards with EU legislation insofar as there the EU Commission has already prepared a proposal in this respect;
 - b) in relation to the European Convention on the compensation of victims of violent crimes (CETS No.116), the Bureau considered that more information should be included on this convention in the document. In particular information on the recent developments in the EU legislation (new directives and the procedural rights aspects) should be developed;
 - c) in relation to the European Convention on Offences relating to cultural property (CETS No. 119), the importance of the subject matter of this convention, in particular the aspect related to the huge illicit profits that illicit trafficking in cultural property generate for organised crime organisations (according to some statistics is the third most common form of trafficking after arms and drug trafficking) should be highlighted;
 - d) in relation to the Convention on insider trading (CETS No.130) and Protocol to the Convention on insider trading (CETS No.133), the Bureau believed that the decision to review/update this convention or not should be seen inter alia in the light of the EU regulation and directive (Regulation EU 596/2014 and Directive 2014/57 on criminal sanctions for market abuse). The recent case law of the European Court of Human Rights (ECtHR) on administrative sanctions and criminal sanctions (non-bis in idem) should also be taken into account;
 - e) in relation to the Convention on the protection of the environment through criminal law (ETS No. 172), the Bureau considered that the subject matter covered by this convention is mainly of a global nature and therefore to update this convention at a regional level does not seem to be useful or valuable work;
 - f) following these proposals for amendments, to endorse this document and instruct the Secretariat to present a revised version for discussion at the forthcoming CDPC plenary in December 2014;
 - g) to take note of the information provided by the Secretariat on the assessment of the conventions on criminal matters for which other CoE committees are responsible (Group of Parties Lanzarote, PC-OC, T-CY, GRECO, Conference of the Parties CETS No.1989), in accordance with decision n° 9 made by the Committee of Ministers;
- to instruct the Secretariat to invite an expert on the subject matter covered by the European Convention on Offences relating to cultural property (CETS No. 119) to take part in the plenary meeting of the CDPC in December and make a presentation on issues related to the current exercise carried out by the CoE in relation to this convention;

b. 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

- to confirm the importance of continuing to develop its work on this topic;
- to take note that Mr Yves Charpenel, First Prosecutor General to the Cour de Cassation of France, has been appointed as a consultant for the drafting of a report aiming at identifying new forms of behaviour that have emerged in connection with the use of modern technologies which have brought to light possible lacunae in the existing criminal offences/law;
- to instruct the Secretariat to send the report to the Bureau members for possible comments in view of its discussion at the plenary meeting in December 2014;
- to examine the questionnaire prepared by the consultant and instruct the Secretariat to ask the consultant to modify it taking into account the following issues:
 - criminal law aspects and privacy policy (personal data protection) issues should be focussed on more precisely;
 - question 4.3 should be clarified;
 - part 1 of the questionnaire may not be necessary;
- to consult the competent bodies, T-CY and the Steering Committee on Media and Information Society (CDMSI), for this exercise;

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”

- to take note of the information provided by the Secretariat on the follow-up to the last Conference of Ministers of Justice and in particular on the international conference that will take place in Lisbon (23-24 October 2014) on the subject of “Urban violence”;
- in relation with the preliminary draft programme of this conference, to discuss it and fine-tune the topics to be tackled in Lisbon;
- with regard to the document “Preliminary report on responses of justice to urban violence involving juveniles” and the questionnaire prepared by Ms Josiane Bigot, to examine both documents and make some comments;
- to instruct the Secretariat to modify the questionnaire in a user-friendly way taking into consideration the following issues:
 - replace the term “adolescents” by “juveniles”;
 - include questions on practical information (frequency of this phenomenon, if any, in the member state, its extent, the number of judgments, the number of police reports, other statistics);
 - issues related to restorative justice and civil liability should not be included;

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

- to take note of the information on the on-going activities and future work of the PC-CP and of relevant working documents: meeting reports, country factsheets, draft reports on violence in institutions for juvenile offenders, the use of quasi-compulsory measures as alternatives to imprisonment and the use of restorative justice in prison;
- to take note of the draft annotated agenda of the forthcoming plenary meeting of the PC-CP (5-7

November 2014);

- to request the Secretariat to consider the best way of linking/bringing together the enormous and important quantity of data collected in the penitentiary field (SPACE) with the work carried out by other CoE bodies that evaluate the justice systems in member states, in particular the CEPEJ;

a. Follow-up to the 19th Council of Europe Conference of Directors of Prison and Probation Services, 17-18 June 2014 Helsinki (Finland)

- to take note of the information by the Chair of the CDPC and the Secretariat on the organisation and the outcome of the Conference and to express its satisfaction with the excellent and valuable discussions held and the results achieved;
- to examine the proposal to set up a “Drafting Working Committee of experts on prison overcrowding” composed of representatives of different relevant bodies of the CoE; this initiative, launched at the Conference of Directors of Prison Administration (Rome, 2012) and subsequently supported at the following years’ Conferences (2013 in Brussels and 2014 in Helsinki), aims at assisting states to discuss and possibly develop national strategies for combating prison overcrowding; in the Drafting Working Committee, judges and prosecutors, representatives of ministries of justice, legislative bodies, prison and probation services should be represented;
- to agree to set up the above-mentioned “Drafting Working Committee of experts on prison overcrowding”. This can be done according to Article 14 lett. a of Appendix 1 to Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods;
- that the “Drafting Working Committee of experts on prison overcrowding” should be made up of two representatives from the following committees: CDPC, CCJE, CCPE, PC-CP, PC-OC, and one representative from the following CoE bodies: PACE, ECtHR, HR Commissioner, CPT. The Drafting Working Committee should hold a total of three meetings to accomplish its tasks. The first meeting will take place on 8-9 December 2014 and two other meetings will be held in 2015 (dates to be decided). The aim of these meetings will be to examine and discuss the main reasons leading to prison overcrowding (sentencing policies or practices, length of judicial proceedings, legislative reasons, lack of possibilities for conditional release, lack of alternatives to custody, the functioning of transfer of prisoners, foreign prisoners) and to discuss possible ways and solutions for dealing with prison overcrowding. The outcome of this work could take the form of a White Paper or a set of Guidelines addressed to the relevant national authorities;

6. Promotion of the Integrity of Sport against the Manipulation of Results, notably match-fixing

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

- to take note of the decision taken by the GRECO (June 2013) concerning the issue of the feasibility of an Additional Protocol to the Council of Europe Criminal Law Convention on Corruption (ETS No. 173) and in particular its decision to ask the CDPC to commission a feasibility study (or set up a working party) on the advisability of amending the Convention or complementing it with an Additional Protocol with a view to covering the non-profit sector;
- to recall the CDPC’s earlier decision in which it considered it unnecessary to draft an Additional Protocol to ETS No. 173 (CDPC plenary meeting, 28-31 May 2013);
- to instruct the Secretariat to prepare an information document containing background information on this issue so that the CDPC can take a decision on the GRECO’s request at the forthcoming plenary meeting in December 2014;

7. 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 to be followed during future negotiations of any possible convention in a criminal law matter

- to take note of the presentation made by Hans-Holger Herrnfeld (Germany) on the activities that he has carried out so far, to examine the document he has prepared (“Model provisions project”) aimed at developing standard model provisions for future criminal law conventions and to congratulate him for the high-quality of his work;
- to ask Mr Herrnfeld to complete his work as scheduled and present the results of this project at the CDPC plenary meeting in December 2014 with a view to the adoption of the Model Provisions document by the CDPC;
- to request that the PC-OC provide Mr Herrnfeld with a written opinion on the model provision document as regards international co-operation contained in the model provisions developed by the CDPC for future Council of Europe conventions in the field of criminal law;

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

- to welcome the current work carried out by the PC-OC and its planned future activities;
- to take note of the draft agendas of the PC-OC Mod, to be held on 7-8 October 2014, and of the 67th plenary meeting of the PC-OC, to be held on 18-20 November 2014, including a special session on the seizure and confiscation of the proceeds of crime, management of confiscated goods and assets sharing to be held on 19 November 2014;
- to invite a representative of the CDPC Bureau to attend the next PC-OC plenary meeting and participate in the special session;
- to request that the PC-OC provide the CDPC with written comments on the Opinion of the T-CY on the specific recommendation 2.2 (possible update of the European Convention on Mutual Legal Assistance in Criminal Matters (ETS No. 30)) contained in Recommendation 2041 (2014) of the Parliamentary Assembly of the Council of Europe on “improving user protection and security in cyberspace”;
- to request that the PC-OC consider, in its forthcoming work and meetings, the question of compatibility between the MLA convention and the Cybercrime convention with regard to the exchange of requests for international co-operation in matters related to electronic evidence and report back to the CDPC on the outcome of this exercise;

9. Activities related to transnational organised crime

- to welcome the idea that the Secretary General of the CoE sponsors the White Paper with the drafting of a foreword;
- to take note that the Chair of the CDPC will present the White Paper to the GR-J on 7 October 2014;
- to instruct the Secretariat to prepare, in close co-operation with Ms Lorena Bachmaier Winter (Spain), Chair of the former ad-hoc drafting Group on Transnational Organised Crime, a draft document containing the main elements of an accurate “Action Plan” to be shared among the Bureau members prior to its submission for consideration at the plenary meeting in December 2014;

10. Terrorism

- to take note of the information provided by the Chair and the Secretariat on the International Conference on Terrorism and Organised Crime (Malaga, 25-26 September) and its results;
- to take note of the ongoing preparatory work by the CODEXTER on Special Investigation Techniques. In this regard, the Bureau agreed that two CDPC members, Mr Edin Jahic (Bosnia and Herzegovina) and Mr Tihomir Kralj (Croatia), represent the CDPC in the joint drafting group on Special Investigation Techniques, composed of representatives of different relevant Council of Europe bodies, that is going to be created;
- to take note that the CODEXTER will consider at its next plenary meeting (13-14 November 2014) whether to supplement the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196) with an additional protocol obliging States Parties to the protocol to criminalise, in particular:
 - The act of actively and intentionally seeking to be recruited for terrorism;
 - The act of actively and intentionally seeking to be trained for terrorism;

11. Information provided by the Secretariat

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

a. Medicrime

- in relation with the status of signatures and ratifications, to acknowledge that Moldova is the fourth country to have ratified the MEDICRIME Convention (14/08/2014);
- in relation to the promotion of the MEDICRIME Convention, to take note of the awareness-raising activities implemented by the Secretariat since the last plenary meeting which aim to assist countries in their process of signing/ratifying the MEDICRIME Convention, in particular:
 - a regional MEDICRIME conference held on 19-20 June 2014 in Skopje ("The former Yugoslav Republic of Macedonia") addressed to countries from the Balkan region which included the participation of the Minister of Justice and the Minister of Health; the conclusions of this conference were presented to the Committee of Ministers (GR-J and GR-SOC) for information;
 - a meeting with the "Foundation Chirac" held on 1 July 2014 aimed at discussing ways of future co-operation in order to promote the MEDICRIME Convention in view of the preparation of the 15th Francophonie Summit to be held on 29-30 November 2014 in Dakar (Senegal);
 - the participation of the Secretariat in a meeting organised by UNODC held on 9-11 July 2014 in Vienna (Austria) aimed at the development of model legislative provisions to combat trafficking in fraudulent medicine in line with the UN Convention against Transnational Organized Crime (UNTOC);
 - in the framework of the South Programme Joint Project, a CoE Convention Seminar was held on 7-8 July 2014 in Jerusalem (Israel) aimed at promoting the MEDICRIME Convention with a view to increasing the interest of Israeli officials in their country's ratification;

b. Trafficking in organs

- to take note of the information provided by the Secretariat on the adoption by the Committee of Ministers of the Council of Europe Convention against Trafficking in Human Organs on 9 July 2014;

- to take note that the Convention will be opened for signature at a ceremony to be held in Santiago de Compostela (Spain) on 24-25 March 2015;

c. Dangerous Offenders

- in relation to the promotional activities on Recommendation CM/Rec(2014)3 concerning dangerous offenders, to take note of the information provided by the Secretariat, in particular:
 - the organisation of a workshop devoted to the promotion of the CoE Recommendation on dangerous offenders held at the University of the Basque country in Bilbao (Spain) on 16 September 2014, which was attended by high-level representatives from the judicial and academic sectors and gave policy guidance to national authorities on the main rules to follow when dealing with dangerous offenders in line with new international and CoE standards;
- to support warmly the idea of further activities aimed at promoting and raising awareness of this new legal text among legal professionals, law enforcement officers, NGOs and other professionals working in the field of the new recommendation;

d. Cybercrime

- to ask the Secretariat to request that the GR-J postpone the examination and approval of the draft reply by the Committee of Ministers on Recommendation 2041 (2014) of the Parliamentary Assembly on "Improving user protection and security in cyberspace" given the fact that this draft reply was only brought to the attention of the Bureau of the CDPC by one of its members during the meeting. The Bureau noticed that the draft reply refers to some possible action to be taken by the CoE with regard to certain issues notably "on the question whether the European Convention on Mutual Assistance in Criminal Matters (ETS No. 30) needs to be updated in order to deal with mutual assistance concerning transnational cybercrime and cyber evidence" (paragraph 2.2 of the Recommendation). In this regard the Bureau considered that the CDPC should be given the possibility to make comments on this issue and involve the PC-OC, which is the competent CoE committee with regard to the implementation of the Convention on Mutual Legal Assistance;

12. Any other business

- to instruct the Secretariat to contact the Ministry of Justice of the United Kingdom with a view to finding out the availability of the UK representative to continue his mandate as a member of the Bureau;
- to approve the draft opinion on Parliamentary Assembly Recommendation 2047 (2014) on "The large-scale arrival of mixed migratory flows on Italian shores" with some minor amendments and to instruct the Secretariat to send it to all CDPC delegations for final approval by a written procedure;

13. Dates of the next CDPC Plenary meeting and of the next meeting of the Bureau

- to take note that the dates of the next CDPC Plenary meeting are 1-4 December 2014. The meeting will start at 10 a.m. on Monday 1 December and finish at around noon on Thursday 4 December 2014;
- to hold the next Bureau meeting in Venice (Italy) on 22-23 April 2015.