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A GENDER PERSPECTIVE ON THE COUNTERFEITING/FALSIFICATION OF MEDICAL PRODUCTS AND SIMILAR CRIMES

Concept note

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This paper, commissioned by the European Committee on Crime Problems (hereinafter, CDPC), explores a topic in relation to the fight against the falsification of medical products and similar crimes, in particular those included in the [Council of Europe Convention against the falsification of medical products and similar crimes involving threats to public health](#)¹, also known as the MEDICRIME Convention. Indeed, it will examine the relationship between the latter and gender equality issues. This approach aims at making progress both in the prevention of the falsification of medical products and similar crimes, and in the promotion of gender equality. The relationship will be studied at both the international and national levels.

The fight against falsified medical products

For more than 60 years the Council of Europe (hereinafter, CoE) has been committed to defend Human Rights and part of this effort has been to ensure the access to health care services and good quality medicines. Opened for signature in October 2011, the MEDICRIME Convention is a criminal law convention aimed at protecting public health by criminalising certain acts, protecting the rights of victims and promoting cooperation at both the national and international level.

The falsification of medical products generates 10 to 25 times more revenue than drug trafficking² but it does not impact on populations in the same way. Victims are often from poorer backgrounds and only very rarely go to court over such issues due to socio-economic factors.

Gender equality

The [Gender Equality Strategy of the Council of Europe](#) (2014-2017)³ defines gender equality as “equal visibility, empowerment, responsibility and participation of both women and men in all spheres of public and private life”. Gender equality is the opposite of gender inequality, not of gender difference. . It stresses the equal enjoyment by women and men of rights and opportunities. A gender neutral perspective is assumed to affect both sexes equally but may actually preserve existing gender inequalities or have a differential impact on women and men and as such disadvantage women or men. Recognising the differential impact legislation and public policies may have on women and men is vital to effectively address gender inequalities. A gender perspective is needed to look at the impact of gender on people's opportunities, social roles and interactions in order to promote gender equality.

While most member States are committed to *de jure* gender equality, the CoE has also highlighted the importance of achieving *de facto* gender equality in Europe and is taking steps to embed gender

¹ CETS No.211

² “Counterfeit medicines and Organized crime”, Institute of Research Against Counterfeit Medicines (IRACM), p.18, September 2013.

³ Available at: <https://rm.coe.int/1680590174>

mainstreaming in all its various committees and organs so that a gender equality perspective is achieved in all policies and measures⁴.

Gender equality and the falsification of medical products

When dealing with the falsification of medical products, the MEDICRIME Convention aims to protect the victims, that is to say the most vulnerable people regardless of whether they are women or men. However, it is recognised that women tend to face more disadvantages and therefore can be more affected by falsified medical products.

The CDPC first adopted a gender-neutral approach to dealing with criminal offences. However, it appears that certain offences have clear gender-related links, which we now aim to explore. The assumption is that women are more vulnerable to the falsification of medical products than men, due to the different roles of men and women in the household, differences in status and entitlement, differences in access to resources, care and support, and cultural norms affecting both health risks and the use of falsified medical products.

At the global level, women make the majority of the world's poorest populations and they also suffer more often from different serious diseases (AIDS, malaria, etc)⁵. Such illnesses require expensive and heavy treatments, making them often inaccessible. The use of parallel systems to obtain treatment medicines hence becomes a necessity for many patients, including women.

As women are often responsible for the care of children and other relatives, it is likely that if they purchase and consume falsified medicines, their children and/or relatives will also take them.

Due to socio-economic constraints, it is unlikely that women with no resources will go to court to seek compensation for falsified medical products bought in good faith, which is at the root of the illicit production and trade of such medical products.

Additional issues should be noted here:

- a) **Online fake medicines.** The Internet is the largest unregulated market of medical products. It is a technical tool which allows both criminals to remain anonymous and consumers (women and men) to get easily their purchase orders, which exposes them more to falsified medical products. Although legitimate online pharmacies do exist, there is also a large number of illegal online pharmacies.

⁴ Vid. Sup. strategic objective 5 entitled "Achieving Gender Mainstreaming in all policies and measures" from the Gender Equality of the Council of Europe.

⁵ World Health Organization, *Leading the realization of human rights to health and through health: report of the High-Level Working Group on the Health and Human Rights of Women, Children and Adolescents*, p. 18, Geneva, 2017. See also: World Health Organization, available at: <http://www.who.int/mediacentre/factsheets/fs334/en/> ; UN statistics Division, *The World's Women 2015* (in particular, Chapter 1, 2 and 8), available at: <http://unstats.un.org/unsd/gender/worldswomen.html>

- Viagra, one of the most falsified medicines available, is used by men with erectile dysfunctions. The psychological consequences of the erectile dysfunction can result in men obtaining falsified Viagra which in turn can cause unwanted side effects and, in more serious cases, irreversible and fatal lesions.
 - Contraceptives and other products used by women are also an important part of this illegal trade.
- b) Certain medical devices such as breast and hip implants are widely used in Europe, mostly by women. Several scandals have revealed how severe the repercussions of falsified products of this nature can be⁶.

The CDPC is considering integrating a gender equality approach, in its activities to combat the falsification of medical products. This report will consider three major components:

1. Collect information on the most purchased falsified medical products
2. Analyse whether those products are targeted to women, men or both (unisex)
3. Provide a gender-impact analysis of the use of falsified medical products

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| • Target of the paper: | Authorities of the Parties ⁷ to the MEDICRIME Convention |
| • Objective of the paper | Efficient implementation of the MEDICRIME Convention |

⁶ Breast implant scandal, scandal over vaginal mesh implants, etc.

⁷ The MEDICRIME Convention has been ratified by 10 States (August 2017).