



Strasbourg, 7 June 2018

CDPC(2018)11

EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

LIST OF DECISIONS

74th PLENARY SESSION

Strasbourg, 5-7 June 2018

Council of Europe
Main Building
Room 9

The European Committee on Crime Problems (hereinafter the CDPC), meeting in Strasbourg under the Chairmanship of Mr Slawomir Buczma (Poland), decided:

1. Opening of the meeting

- 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, who first of all congratulated Mr Slawomir Buczma on the Chairmanship of the CDPC. The Director paid tribute to the memory of Mr Eugenio Selvaggi, Chair of the CDPC from 2003 to 2005 and member and Chair of the PC-OC. He informed the Committee that on 20 June the special session to celebrate the 60th anniversary of the European Convention on Extradition will be dedicated to Mr Selvaggi's memory and that the Deputy Secretary General of the Council of Europe (CoE) will grant a posthumous pro merito medal to Mr Selvaggi. He also informed the CDPC about recent developments in the work and activities of the CoE, notably: a) on 4 April 2018 the Committee of Ministers (CM) of the CoE adopted the Recommendation concerning children with imprisoned parents and that several countries have indicated that they will translate the text into their national languages, disseminate it and make use of it in their work with such children and their families. He called for all delegations to do the same as

once a standard-setting text is adopted, it needs to be implemented and this can only be done by the national authorities; b) on 12 and 13 April 2018 a High-Level Conference, held in Copenhagen on the initiative of the Danish Chairmanship of the CM, adopted the Copenhagen Declaration reiterating the shared responsibility and the subsidiarity principles, which aim at achieving a balance between the national and European levels of the Convention system, an improved protection of rights and better prevention and effective remedies available at national level. It reiterates that the effective national implementation of the Court's judgments is the responsibility of the States because any ineffective implementation, especially if related to "serious systemic and structural human rights problems, remains the principal challenge confronting the Convention system"; c) the issue of Artificial Intelligence that is a key area of interest in Europe and the world. He considered that the CDPC could and should play an important role in this field, since it is in the interest of all member States of the CoE to engage in a discussion within this committee on the criminal law impact and responsibility of artificially intelligent machines such as autonomous vehicles in greater detail. Finally, Mr Klejssen informed the CDPC that the CoE is in a difficult financial situation and reiterated that it cannot be excluded that budgetary pressures will have an effect on the work of the Committee;

2. Adoption of the draft agenda

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

3. Activities and priorities of the CDPC for 2018-2019

- to endorse the proposal made by the Bureau relating to the organisation of the future plenary meetings to focus on 2 or a maximum of 3 key subject matters during each of its plenary meetings and that other items of importance will be kept anyway on the agenda, where necessary. This new approach will start as from its plenary meeting in November 2018 where a thematic session on Artificial Intelligence and Criminal law responsibility in CoE States will take place on 28 November;

4. Activities related to transnational organised crime (TOC): Action Plan

- to take note of the information provided by Mr Jesper Hjortenber, CDPC co-ordinator on Transnational Organised Crime (hereafter, TOC), and Mr Oscar Alarcón-Jiménez, Secretariat, on the most recent developments in the implementation of the Action Plan on TOC, in particular: a) the outcome of the first meeting of the drafting working group on the review of the Recommendation Rec (2005)9 on the protection of witnesses and collaborators of justice that was held in Paris on 19-20 April 2018; b) the review of reservations/declarations to the CoE conventions on international co-operation in criminal matters. In this regard, the PC-OC prepared two documents providing: 1) the list of reservations made to the Conventions on Extradition, MLA, Transfer of Proceedings, Laundering, Search, Seizure and Confiscation of the Proceeds of Crime, Transfer of Sentenced Persons and 2) an assessment of these reservations. With a view to identifying those reservations and declarations that create obstacles to efficient co-operation, including as regards the fight against TOC, the PC-OC created 3 working groups, each devoted to a group of treaties, which produced, in respect of each State Party, an agreed list of reservations and/or declarations identified as potentially out-dated and/or creating obstacles for efficient co-operation in the treaty concerned. These lists will be appended to a letter, addressed to the PC-OC expert of each country, inviting the expert concerned to ask the appropriate authority of the Party concerned to reconsider the reservations and declarations made in respect to the treaties in question, in view of their possible update or withdrawal. Once the letters have been sent, the PC-OC experts of the States concerned will inform the PC-OC plenary on the follow-up to be given;

5. Council for Penological Co-operation (PC-CP) – Exchange of views with the Chair, Mr Dominik Lehner

- to have an exchange of views with the PC-CP Chair, Mr Dominik Lehner, regarding the tasks and activities carried out by the PC-CP since December 2017 and planned to take place before the next plenary meeting of the CDPC;

- a. 23rd Council of Europe Conference of Directors of Prison and Probation Services, Jõhvi, Estonia (19-20 June 2018)**
- to thank the Estonian Ministry of Justice and its prison administration for hosting this important event and take note of the draft programme and the list of speakers;
- b. Recruitment and training of prison and probation staff**
- to take note of document PC-CP (2018) 5Rev and of the information provided by the Chair regarding the time-line for drafting the Handbook for recruitment and training of prison and probation staff;
- c. Restorative justice**
- to finalise and approve the draft Recommendation on restorative justice in criminal matters and instruct the Secretariat to transmit it to the Committee of Ministers for adoption;
 - to finalise and adopt the draft commentary to the Recommendation and to transmit it to the Committee of Ministers for information;
- d. Revision of the commentary to the European Prison Rules and possible updating of some Rules**
- to finalise and adopt the revised commentary to the European Prison Rules and to instruct the Secretariat to transmit it to the CM for approval;
 - to give mandate to the PC-CP to prepare preliminary draft texts amending the following rules of the EPR on: Solitary confinement (Nos 3, 24, 53 and 60.5), Women (No 34), Complaints (No 70), Inspections and monitoring (Nos 92 and 93), Foreign nationals (No 37), Adequate staffing level (Nos 71 to 91), Use of restraints (No 68), Records and file management (No 15.1) as well as some technical changes in the Preamble in order to align them to the most recent judgments of the ECtHR and the CPT standards as well as to the UN Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules);
 - to consider these proposed amended draft texts of the rules and their accompanying commentary at one of its plenary sessions;
- 6. Prison overcrowding**
- to take note of document CDPC (2018) 7 and of the information provided by the Chair of the CDPC sub-group on prison overcrowding, Ms Marjorie Bonn (the Netherlands);
 - to endorse the proposals contained in the above document regarding the holding and the programme of a high-level CoE Conference in 2019, involving all relevant actors such as ministries of justice prison and probation services, judges and prosecutors;
 - to encourage the sub-group to study in more detail a multi-disciplinary approach for this possible conference and to prepare the relevant working documents and a draft agenda;
- 7. Committee of Experts on the operation of European conventions on co-operation in criminal matters (PC-OC) – Exchange of views with the Chair, Mr Erik Verbert**
- to hold an exchange of views with Mr Erik Verbert (Belgium), Chair of the PC-OC, on the latest activities carried out by the committee which will have its next plenary meeting from 19 to 21 June 2018. Particular attention was drawn to:
 1. The implementation of the Action Plan on Transnational Organised Crime by the PC-OC [PC-OC 2016)05].
 2. The European Convention on Extradition:
 - the organisation of a special session on 20 June devoted to the development of case-law of the ECtHR of relevance to extradition proceedings, as well as to the issue of diplomatic assurances in this context,
 - the publication of the replies received to a question asked on use of alternatives to detention in extradition cases and the consideration of draft guidelines on this issue by the PC-OC,
 - the consideration of preliminary draft PC-OC guidelines on the provision of timely information to

the Parties requesting extradition on the detention or measures of restriction imposed on the person sought.

3. Developments on the Convention on the Transfer of Sentenced Persons including by the consideration of draft elements for an update or consolidation of existing recommendations.

4. The European Convention on Mutual Assistance in Criminal Matters in particular the assessment of the application of the 2nd Additional Protocol and the discussion on the issue of MLA for the purpose of proceedings against legal entities;

8. Revision of the model provisions; issues of administrative sanctions

- to examine the questionnaire prepared by the expert on the issue of administrative sanctions, make some proposals to modify its structure, particularly with regards to its length;
- to instruct the Bureau to examine the revised version at its next meeting and send it to all CDPC delegations afterwards;

9. Victims

- to take note of the working document prepared by the Secretariat on the outcome of the questionnaire on the Convention on the Compensation of Victims of Violent Crimes and proposals for follow up;
- to discuss the future work of the CDPC on the more general question of the role of victims in the criminal justice system and have an exchange of views with Prof. Ms Suzan van der Aa on the possible scope of a non-binding instrument in this regard;
- to ask Prof. van der Aa to prepare a short draft questionnaire on this issue, for consideration by the CDPC Bureau on the basis of the discussions held. The questionnaire should aim at providing more clarity in relation to the practical experiences of member States in the implementation of existing CoE instruments;
- once the draft questionnaire has been approved by the Bureau, it should be sent to all CDPC delegations;

10. Links between Organised Crime and Terrorism

- take note of the information provided by the Secretariat on the organisation of the first meeting of the Joint Working Group of Experts on links between Organised Crime and Terrorism that will be held on 10 October 2018 in Paris;
 - to take note that the delegations of [Belgium, Croatia, Cyprus, Czech Republic, France, Greece, Italy, the Russian Federation, Serbia, Tunisia, Ukraine] have expressed their interest in nominating experts to the Joint Working Group (CDPC-CDCT)

11. Terrorism

- to take note of the information provided by the Secretariat, on the most recent activities carried out in the field of counter-terrorism, and in particular the Council of Europe Counter-Terrorism Strategy (2018-2022) outlining the principle strands of activities to be implemented by the CDCT and other relevant committees in the aforesaid period;

12. Smuggling of migrants

- to take note of the information provided by the Secretariat on the organisation of the 1st meeting of the two focused working groups composed of a limited number of experts dealing with a) preventive measures and b) practical measures to improve international co-operation, that will take place on 21-23 June in Paris;
- to instruct its Bureau to follow up closely the outcome and achievements of these two focused groups at its next meeting and report back to its next plenary;

13. Cybercrime Convention Committee (T-CY)

- to hold an exchange of views with Mr Alexander Seger, Secretary to the T-CY, on the recent work carried out in the Cybercrime field and in particular the drafting of the 2nd Additional Protocol to the Budapest Convention on Cybercrime;

14. Opinion by the CDPC on the PACE Recommendation 2121 (2018) – The case for drafting a European convention on the profession of lawyer

- to take note of the fact that the Committee was invited by the Committee of Ministers of the Council of Europe to give an opinion on the Parliamentary Assembly of the Council of Europe Recommendation 2121 (2018): The case for drafting a European convention on the profession of lawyer and to agree with the Bureau's decision "to wait for the opinions that other committees of the CoE, in particular the CDCJ, will provide on the question of drafting a convention on the profession of lawyer before preparing its own opinion.";

15. Information provided by the Secretariat

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

16. Any other business

- to welcome Mrs Beatrice Gabriela Ioan, Chair of the Committee on Bioethics (DH-BIO), thank her for the presentation of the guide on the prohibition of financial gain with respect to the human body and its parts from living or diseased donors and have an exchange of views on issues of common interest;

17. Dates of the next meetings

- to hold the 75th CDPC plenary meeting from 27 to 29 November 2018.

APPENDIX I

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 7 June 2018
[CDPC plenary/2018 plenary_1/oj lp/cdpc list of participants]

CDPC (2018) LP 1 Fin (Bil)

**EUROPEAN COMMITTEE ON CRIME PROBLEMS
COMITE EUROPEEN POUR LES PROBLEMES
CRIMINELS
(CDPC)**

74th Plenary Session / 74ème Session plénière

Strasbourg, 5 – 7 June / 5 – 7 juin 2018

**Council of Europe
Main Building / bâtiment principal
Room 9 / Salle 9**

List of participants / liste des participants

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|------------------------------|---|
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| Mr Matthieu BIRKER | Adviser / Conseiller |
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Interpreters / Interprètes

Mme Lucie DE BURLET
Mme Cynera JAFFREY
Mme Isabelle MARCHINI

APPENDIX II

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 21 August 2018

CDPC(2018)OJ1

**European Committee on Crime Problems
(CDPC)**

74th Plenary Meeting

Agenda

Strasbourg (France), 5-7 June 2018
Council of Europe, Main Building, Room 9

Opening at 9.30, Tuesday
Closing at 17.30, Thursday

The agenda and the documents of the meeting are available on the website

www.coe.int/CDPC

E-mail: dgi-cdpc@coe.int

1. Opening of the meeting

2. Adoption of the draft agenda

Draft agenda

[CDPC\(2018\)8](#)

Annotated agenda

For information:

[CDPC-BU\(208\)2](#)

List of decisions of the CDPC Bureau meeting, 20-21 March 2018

[CDPC\(2017\)27](#)

List of decisions of the 73rd CDPC Plenary, 28 November – 1 December 2017

3. Activities and priorities of the CDPC for 2018-2019

[Terms of reference](#)

Terms of reference for the years 2018-2019

[CM Res \(2011\)24](#)

Resolution on intergovernmental committees and subordinate bodies, their terms of reference and working methods

4. Activities related to transnational organised crime: Action plan

a. State of play in the implementation of the Action plan

[White paper](#)

White Paper ([Please note the document is 49 pages long](#))

[CDPC\(2015\)17Fin](#)

Council of Europe Action Plan on Combating Transnational Organised Crime (2016-2020)

[CDPC\(2018\)11](#)

Working document presenting the activities already implemented or under current implementation and those remaining activities that are planned to be implemented

b. Protection of witnesses and collaborators

[CDPC\(2016\)18](#)

Review Recommendation Rec (2005)9 on the protection of witnesses and collaborators

[CDPC\(2017\)21Rev](#)

Report on the Assessment of the answers to the questionnaire: Review of the Recommendation Rec(2005)9 on the protection of witnesses and collaborators

| | |
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| CDPC(2017)25 | Terms of reference of the Drafting Working Group to review the Recommendation Rec(2005)9 on the protection of witnesses and collaborators |
| CDPC(2018)10 | Summary report of the 1 st meeting of the Drafting group to update Recommendation Rec (2005)9 on the protection of witnesses and collaborators of justice |
| | c. Activities implemented by the PC-OC (this part will be examined under the PC-OC item No 7) |
| PC-OCMod(2017)04Bil.Addrev2 Extract | Summary of replies to the Questionnaire on the application of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (ETS No. 182) (extract) |
| | Extracts of the list of decisions |
| PC-OC(2017)06 - extract | of the Plenary of the PC-OC (22-24 May 2017, decision 4.b.) and |
| PC-OCMod(2017)09 - extract | of the last PC-OC Mod (26-28 September 2017, decisions 4.a) |
| PC-OC(2017)08Bil. | Draft letter inviting Parties to review reservations |
| CDPC(2017)1Rev | Catalogue of International Judicial Networks of Relevance in the Fight against Transnational Organised Crime – Report |
| PC-OCMod(2017)07rev | Preparation of the meeting to promote the interconnection of international judicial networks |
| | 5. Council for Penological Co-operation (PC-CP) – Exchange of views with the Chair, Mr Dominik Lehner |
| PC-CP(2018)2 | Summary Meeting report of the 17 th Meeting of the PC-CP Working Group, 22-24 January 2018 |
| PC-CP(2018)8 | Summary Meeting report of the 18 th Meeting of the PC-CP Working Group, 11-13 April 2018 |
| PC-CP(2018)9 | Report of the meeting of the LINCS national correspondents (16-17 April 2018) |
| Terms of reference | Terms of reference for 2018-2019 |
| | a. 23rd Council of Europe Conference of Directors of Prison and Probation Services, Jõhvi, Estonia (19-20 June 2018) |
| Draft programme | Draft Programme of the Conference and its Website |

b. Recruitment and training of prison and probation staff[PC-CP\(2018\)5rev](#)

Recruitment and training of prison and probation staff: scoping document

c. Restorative justice[PC-CP\(2017\)6Rev8](#)

Draft Recommendation concerning restorative justice in criminal matters

[PC-CP\(2017\)12Rev5](#)

Commentary to Recommendation concerning restorative justice in criminal matters

[CDPC\(2018\)2](#)

Compilation of comments on the draft Recommendation on Restorative Justice

d. Revision of the commentary to the European Prison Rules[PC-CP\(2018\)1rev2](#)Revised Commentary to Recommendation CM/Rec(2006)2 of the Committee of Ministers to Member States on the European Prison Rules and suggested ensuing amendments to the text of the Recommendation itself (Please note the document is 73 pages long)[PC-CP\(2018\)4rev](#)

Analytical report

6. Prison overcrowding[CM\(2016\)121-add3](#)

White Paper on prison overcrowding

[CDPC\(2016\)22](#)
[CDPC\(2017\)10](#)

Executive Summaries of the two meetings of the CDPC Sub-Group on Prison Overcrowding, 7 December 2016/7 June 2017

[Link to CM documents](#)

Thematic Debate on conditions of detention – Committee of Ministers, 13 March 2018

[CDPC\(2018\)7](#)

Conference on prison overcrowding – Concept paper

7. Committee of Experts on the operation of European conventions on co-operation in criminal matters (PC-OC) – Exchange of views with the Chair, Mr Erik Verbert

| | |
|---|---|
| Draft agenda | 74th Plenary meeting of the PC-OC, 19-21 June 2018 |
| Draft programme | Special session on the European Convention on Extradition (20 June 2018) |
| PC-OCMod(2018)04 | List of decisions of the 25 th meeting of the PC-OC Mod, 20-22 February 2018 and |
| PC-OC (2017)10 | List of decisions of the 73 rd Plenary meeting of the PC-OC, 20-22 November 2017 |
| PC-OCMod(2018)01 | Overview of possible non-binding measures to improve the functioning of the Convention on the transfer of sentenced persons and its additional Protocol |
| PC-OCMod(2017)08Bil.rev.2 EXTRACT | Legislation, model agreement and practice in asset sharing (extract) |
| PC-OC(2017)09 | Discussion paper on possible issues to be addressed in a Council of Europe binding instrument (convention) addressing international co-operation as regards the management, the recovery and sharing of assets prepared by Mr Vladimir ZIMIN (Russian Federation) |
| PC-OC(2015)15rev.4BIL | Measures of restriction in extradition cases Replies to a question asked by Mr Vladimir ZIMIN (Russian Federation) |
| Terms of reference | Terms of reference for the years 2018-2019 |

8. Revision of the model provisions; issues of administrative sanctions

| | |
|------------------------------|---|
| CDPC(2017)14 | Model Provisions for Council of Europe Criminal Law Conventions |
| CDPC(2017)15 | Addendum to Document on Model Provisions - Draft elements for an Explanatory Report |

[CDPC\(2018\)9rev](#) Draft questionnaire on administrative sanctions (revised version)

9. Victims

[CDPC\(2018\)6rev](#) Outcome of the questionnaire on ETS 116 and proposals for follow up

[CDPC\(2016\)14](#) Information document on victims

10. Links between Organised Crime and Terrorism

[CODEXTER\(2017\)4](#) Report on the links between terrorism and organised crime

[Programme](#) Programme of the Conference on Terrorism and Organised Crime

[Conclusions](#) Conclusions of the Conference

[CDPC\(2018\)5](#) Follow-up to the Conference

11. Terrorism

List of decisions of

[CDCT\(2018\)5](#) the 1st Plenary meeting of the CDCT, 16-18 May 2018 and

[CODEXTER\(2017\)9](#) the 33rd Plenary meeting of the CODEXTER, 22-24 November 2017

sent on 25/5 Council of Europe Counter-Terrorism Strategy (2018-2022)

[CM/Rec\(2018\)6](#) Recommendation on “terrorists acting alone” in relation to serious

crimes including acts of terrorism and

[CM\(2018\)28-add2](#)

its explanatory memorandum

12. Smuggling of migrants

[CDPC\(2016\)3](#)

National Laws Relating to Smuggling of Migrants in Council of Europe Member States

[CDPC\(2016\)4Rev](#)

Preventing and suppressing the smuggling of migrants in Council of Europe member States – “a way forward”

[Programme](#)

Programme of the Conference

[Conclusions](#)

Conclusions of the Conference

[CDPC\(2017\)26](#)

Follow-up to the Council of Europe Conference on the smuggling of migrants

[CDPC\(2018\)3rev](#)

Working documents of the two Working Groups on Smuggling of migrants

[CDPC\(2018\)4rev](#)

13. Cybercrime Convention Committee (TC-Y)

[T-CY\(2018\)16](#)

Discussion Guide for consultations with civil society, data protection authorities and industry

[T-CY\(2017\)3](#)

Terms of Reference for the Preparation of a Draft 2nd Additional Protocol to the Budapest Convention on Cybercrime

[T-CY\(2017\)36](#)

Meeting report of the 18th Plenary of the T-CY, 27 – 28 November 2017

[T-CY\(2018\)18](#)

Summary report of the 3rd meeting of the T-CY Protocol Drafting Group, 11 – 13 May 2018

[T-CY\(2018\)8](#) Summary report of the 2nd meeting of the T-CY Protocol Drafting Group, 31 January-02 February 2018

[T-CY\(2017\)21](#) Summary report of the 1st Meeting of the T-CY Protocol Drafting Group, 19-20 September 2017

14. Opinion by the CDPC on the PACE Recommendation

[Recommendation](#) **Recommendation 2121 (2018) – The case for drafting a European convention on the profession of lawyer**

[Letter](#) Letter by the Council of Bars and Law Societies of Europe (CCBE)

[Contribution](#) CCBE contribution on the proposed European Convention on the Profession of Lawyer

[Statistics](#) Statistics for CCBE

15. Information provided by the Secretariat

a. Gender Equality

[CoE Gender Equality Strategy](#) Council of Europe Gender Equality Strategy 2014-2017

[CDPC\(2016\)15](#) Possible items for the new Gender Equality Rapporteur of the CDPC to be dealt with

[CDPC\(2017\)19](#) A gender perspective on the Falsification of medical products and similar crimes (Concept paper)

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

[CM\(2017\)32-final](#) Council of Europe Convention on Offences relating to Cultural Property

[CM\(2017\)32-addfinal](#) Explanatory Report

c. Medicrime

[Chart](#)

Chart of signatures and ratifications of Treaty 211

d. Trafficking in human organs

[Media release](#)

Media release of the Parliament of Australia

e. Committee on Bioethics (DH-BIO) – Exchange of views with the Chair, Mrs Beatrice Gabriela Ioan

[Guide](#)

Guide on the prohibition of financial gain

16. Any other business

17. Dates of the next meetings

- 75th CDPC Plenary: the week of 26 to 30 November