

Strasbourg, 29 November 2018

CDPC(2018)21

EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

LIST OF DECISIONS

75th PLENARY SESSION

Strasbourg, 27-29 November 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 information provided by Mr Slawomir Buczma regarding the thematic debate and working lunch of the Chairs of the Council of Europe (hereinafter CoE) intergovernmental committees with the Secretary General on 20 September 2018 and the main outcomes of this event; and by Mr Carlo Chiaromonte, Secretary to the CDPC, about recent developments in the work and activities of the CoE and in particular: a) on the Priorities of the Finnish Presidency of the Committee of Ministers, which started on 21 November 2018 and will end on 17 May 2019; b) that on 3 October 2018 the Committee of Ministers (hereinafter CM) of the CoE adopted Recommendation CM/Rec(2018)8 concerning restorative justice in criminal matters and took note of the Commentary thereto and took note of the abridged report of the 74th plenary session of the CDPC; c) on the recent ratifications and signatures of the CoE Conventions in criminal law field; and d) on the general developments with regard to the CoE financial situation;

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 and organisation of its future work and forthcoming plenaries

- to welcome the successful organisation of the thematic session on artificial intelligence and criminal law and publish the interventions and video-recording of the session on the website of the CDPC;
- to invite delegations to send their comments on the summing up of the session by Prof. Sabine Gless before 24 December 2018;
- to recognize the importance of this topic and create a restricted working group of 15 representatives of member states supported by some scientific experts to take stock of existing regulations and identify future challenges related to the development of artificial intelligence to be addressed in the criminal law field, with a particular focus on criminal liability and license conditions for the marketing and use of items equipped with artificial intelligence as well as to make proposals for possible action and standard setting activities in this field, taking into account the concept paper and summing up of the thematic session ;
- to invite delegations to indicate their interest in participating in this working group by responding to the invitation to be sent by the Secretariat and appoint governmental experts;
- to continue the organisation of thematic sessions in the future, for example, once a year;

4. 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 June 2018 and planned to take place before the next plenary meeting of the CDPC;
- to agree with the proposals made at the PC-CP plenary meeting (6-8 November 2018) regarding its future activities related to sex offenders and to offenders with mental and intellectual disabilities;

a. Recruitment and training of prison and probation staff

- to take note of the presentation made by Nicola Carr, scientific expert; of document PC-CP (2018) 5Rev2 and of the information provided by the Chair regarding the time-line for drafting the Guidelines for recruitment, selection, and training and development of prison and probation staff;
- to welcome the work done so far by the PC-CP and to invite the national delegations to send any written comments and proposals regarding the draft Guidelines by 15 January 2019 which are to be taken into consideration by the PC-CP in its further work on the text;
- to instruct the Secretariat to make the Guidelines ready for examination by the CDPC for their possible adoption at its next plenary meeting;

b. Revision of the European Prison Rules

- to take note of document PC-CP (2018) 15 Rev4 and of the information provided by the Chair regarding the progress made in revising and updating some of the rules contained in the European Prison Rules and of the respective commentary to these, in accordance with the mandate given by the CDPC plenary meeting in June 2018;
- to welcome the work done so far by the PC-CP and the scientific experts;
- to make some general comments and proposals regarding the draft text and to send specific written comments and drafting suggestions to the Secretariat not later than 25 January 2019, which are to be taken into consideration by the PC-CP in its further work on the text;

c. Council of Europe Conferences of Directors of Prison and Probation Services

- to take note of the information on the outcomes of the 23rd Council of Europe Conference of Directors of Prison and Probation Services (CDPPS) “Working together effectively: Management and Co-operation Models between Prison and Probation Services” (19-20 June 2018, Estonia) and on the state of preparation and topics of the 24th CDPPS ““Offender Management: Tradition and Technology” (21-22 June 2019, Cyprus);
- to appoint Ms Marjorie Bonn (The Netherlands) to represent the CDPC at this Conference;

5. Prison overcrowding

- to take note of the information provided by the Chair of the CDPC sub-group on prison overcrowding, Ms Marjorie Bonn, regarding the dates, venue and funding of the high-level CoE Conference “Prison Overcrowding: Trends and Responses” (24-25 April 2019), Strasbourg;
- to communicate to the Secretariat by the end of 2018 names of national judges and prosecutors who could be invited to the Conference;
- to endorse the proposal to invite organisations like the International Association of Prosecutors and to discuss also alternative conflict resolution methods (like mediation);

6. 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 that held its 74th meeting on 19-21 June 2018 and its last plenary meeting from 14 to 16 November 2018. Particular attention was drawn to:
 1. The implementation of the Action Plan on Transnational Organised Crime (TOC) by the PC-OC:
 - the action undertaken to review and limit declarations and reservations that are out-dated or create obstacles for co-operation in the fight against TOC;
 - the assessment of the application of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters;
 - the decision to appoint a consultant to undertake a study on the added value and feasibility of the proposal to prepare a binding instrument as regards international co-operation on the management, the recovery and sharing of assets;
 2. The Convention on the Transfer of Sentenced Persons:
 - the progress made in the drafting of a recommendation on the application of the Convention on the Transfer of Sentenced Persons and the Additional Protocol thereto;
 3. The European Convention on Extradition:
 - the adoption of Guidelines on the provision of information regarding detention or other measures of restriction imposed in extradition proceedings;
 - the publication of the interventions and discussions held during the special session on Extradition held on 20 June 2018 and the decisions on follow up including the development of a model request form;
 4. The European Convention on Mutual Assistance in Criminal Matters :
 - the decision to hold a thematic session devoted to the Convention in November 2019, celebrating its 60th anniversary;
 - the discussion on the application of Articles 13 and 22 of the Convention concerning exchange of information from judicial records and the decision to develop a questionnaire to explore this issue further;
 5. The election of Ms Barbara Goeth-Flemmich (Austria) as its Chair and Mr Erik Verbert (Belgium) as its Vice-Chair for a term of one year, starting in 2019;
- to invite national delegations to send their written comments on the draft Recommendation on the application of the Convention on the Transfer of Sentenced Persons and the Additional Protocol thereto to the Secretariat by 31 January 2019;

7. Smuggling of migrants

- to take note of the information provided by the Secretariat on the outcomes of the 1st meetings 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 took place in June in Paris;
- that, taking into account the contents of the debates held and the outcomes reached during the meeting of the working group on preventive measures, the possible future activities of this working group should not remain in the remit of the CDPC because there is very little substantive elements directly related to its field of competence, and therefore to request the Secretariat to find out if there are other more competent and appropriate bodies in the CoE that could be interested in taking over this activity;
- to instruct its Bureau to follow up closely the outcome and achievements of the other working group (on international cooperation) at its next meeting and report back the plenary;

8. Cybercrime Convention Committee (T-CY) – Exchange of views with Mr Gareth Sansom, T-CY representative, Department of Justice of Canada

- to hold an exchange of views with Mr Gareth Sansom (Canada), member of the T-CY, on the recent work carried out in the Cybercrime field and in particular the study conducted by the T-CY on the issue of Cyber violence (its definition and the forms it may take) with the aim to identify the different CoE legal instruments which may apply in such cases;
- to address this issue further at the next meeting of the CDPC Bureau;
- to take note of the progress made in the drafting of the 2nd Additional Protocol to the Budapest Convention on Cybercrime which is expected to be finalised at the end of 2019;

9. Group of States against Corruption (GRECO) – Exchange of views with Mr Gianluca Esposito, Executive Secretary to the GRECO

- to have an exchange of views and take note of the information provided by Mr Esposito concerning GRECO's monitoring work, which has started its 5th evaluation round with a focus on corruption prevention in central governments, including top executive functions, and law enforcement authorities, in the 49 member States (47 CoE member States plus the United States of America and Belarus);
- to take note of the newly adopted rule of procedure allowing GRECO to carry out ad hoc evaluations at any time when there are reliable information indicating that an institutional reform, legislative initiative or procedural change may result in a member's serious violation of a CoE anti-corruption standard (Rule 34 of GRECO's Rules of Procedure);
- to take note in particular of the information about areas in which additional standards could be considered, such as criminalisation of corruption in sport, irrespective of whether the sport organisation is a profit or not-for-profit organisation; make abuse of functions, illicit enrichment, and embezzlement of property in the private sector mandatory incriminations for CoE member states; consider the adequacy of rules relating to immunities, jurisdictions and sanctions, and whether it would be appropriate to establish a civil action / *actio popularis* mechanism, having in mind recent experiences in member States;
- that the CDPC could consider at one of its next meetings whether it is necessary to elaborate new anti-corruption standards or update the existing ones in order to address the above issues;

10. Election

- to proceed with the elections of the vice-Chair of the CDPC and the members of the CDPC Bureau. In this regard:
- renew the mandate of the Chair of the CDPC, Mr Sławomir Buczma (Poland), for one year;
- elect Jesper Hjøtenberg (Denmark) Vice-Chair of the CDPC for one year renewable;
- the new elected members of the Bureau are: Ms Emmanuelle Wachenheim (France), Ms Katariina Jahkola (Finland), Mr Antonio Folgado (Portugal) and Mr Alexander Kunosik (Slovak Republic) for two years renewable;

- to express its warmest thanks to Ms Helena Lusichova (Czech Republic), CDPC Vice-Chair and Ms Tanja Trtnik (Slovenia) for their work at the CDPC Bureau;

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

- considering the opinions of the CDCJ, the CDDH and the CEPEJ regarding the PACE proposal to draft a convention on the profession of lawyer, to decide that there is a need to undertake a study on the feasibility and added value of a binding instrument, to which the CDPC should be associated, so as to define the aim and scope of such instrument while taking into account the particular situation of defence lawyers in criminal law proceedings;

12. Opinion on the Draft Additional Protocol concerning the protection of human rights and dignity of persons with mental disorder with regard to involuntary placement and involuntary treatment;

- referring to the text of the draft Protocol which explicitly excludes from its scope the placement and treatment ordered in the context of a criminal law procedure (ref. Art. 2, p.3), to decide not to provide any opinion on Draft Additional Protocol concerning the protection of human rights and dignity of persons with mental disorder with regard to involuntary placement and involuntary treatment currently being negotiating by the Committee on Bioethics (DH-BIO);

13. Information points

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

14. Dates of the next meetings

- to hold a thematic High Level Conference on Prison Overcrowding (24-25 April 2019) followed by one-day CDPC plenary meeting (25 April in the afternoon – 26 April in the morning) and to hold its 77th meeting during the week 2-6 December 2019.

APPENDIX I

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 29 November 2018
[CDPC plenary/2018 plenary_2/oj lp/cdpc list of participants]

CDPC(2018)LP2Fin(Bil)

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

75th Plenary Session / 75ème Session plénière

27-29 November / 27-29 novembre 2018

**Thematic Session on Artificial Intelligence and Criminal Law /
Session Thématique sur l'intelligence Artificielle et le Droit Pénal**

28 November / 28 novembre 2018

**Council of Europe / Conseil de l'Europe, Strasbourg
Main Building / bâtiment principal
Room 9 / Salle 9**

List of participants / liste des participants

MEMBER STATES / ETATS MEMBRES**ALBANIA / ALBANIE**

Ms Alma KASA, Human Rights and Reporting Unit, Department of International Organizations, General Directory for political issues and security, Ministry for Europe and Foreign Affairs

ANDORRA / ANDORRE

Mme. Nuria GARCIA VAL, Procureure Adjointe de la Principauté d'Andorre, Andorra la Vella – PRINCIPAT D'ANDORRA

ARMENIA / ARMÉNIE

Mr Hovhannes POGHOSYAN, Deputy Head of Headquarters, Head of International Cooperation Department, Police of the Republic of Armenia, 0025 YEREVAN, str.Nalbandyan 130, Republic of Armenia

AUSTRIA / AUTRICHE

LStA MMag. Barbara GÖTH-FLEMMICH, Leiterin der Abteilung für Internationales Strafrecht, Director - Division for International Penal Law, Bundesministerium für Justiz, Museumstraße 5, 1070 Wien

AZERBAIJAN / AZERBAÏDJAN

Mr Elshan HASANOV, Deputy Permanent Representative of the Republic of Azerbaijan to the Council of Europe, 2, rue Westercamp, 67000 Strasbourg

BELGIUM / BELGIQUE

M. Steven LIMBOURG, Adviseur-generaal, Service public fédéral Justice, Direction générale Législation, Direction Pénale, Waterloolaan 115, boulevard de Waterloo, 1000 Bruxelles

BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE

Mr Nenad EŠPEK, Expert associate for the fight against cybercrime, Section for combating organized crime and corruption, Ministry of Security of Bosnia and Herzegovina, Trg Bosne i Hercegovine 1, 71 000 Sarajevo

BULGARIA / BULGARIE

Mr Petar RASHKOV, Head of Justice Section, Permanent Representation of Bulgaria to the EU, Square Marie-Louise 49, 1000-Bruxelles

CROATIA / CROATIE

Apologised/Excusé

CYPRUS / CHYPRE

Ms Elena KLEOPA, Attorney of the Republic, Law Office of the Republic of Cyprus, Apelli 1, 1403 Nicosia, Cyprus
Tel. +35722889110 Fax +35722665080

CZECH REPUBLIC / RÉPUBLIQUE TCHÈQUE

Ms Helena LISUCHOVA, Head of the International Cooperation Department, Ministry of Justice, Vyšehradská 16, CZ - 128 10 PRAGUE 2

DENMARK / DANEMARK

Mr Jesper HJORTENBERG, National Member of Denmark for EUROJUST, Maanweg 174, 2516 AB The Hague, The Netherlands

ESTONIA / ESTONIE

Mr Markko KÜNNAPU, Adviser, Ministry of Justice, Suur-Ameerika 1; 10122, Tallinn

FINLAND / FINLANDE

Ms Katariina JAHKOLA, Ministry of Justice, Counsellor of Government/Head of the Prosecution and Criminal Sanctions Unit

FRANCE

Mme Emmanuelle WACHENHEIM, Ministère de la justice – Direction des affaires criminelles et des grâces, Chargée de mission auprès du sous-directeur de la négociation et de la législation pénales, Ministère de la justice, 13, place Vendôme, 75042 PARIS Cedex

GEORGIA / GÉORGIE

Mr Demetre JINJOLIA, Prosecutor, International Cooperation Unit of the Legal Department, Office of the Chief Prosecutor of Georgia

GERMANY / ALLEMAGNE

Dr. Hans-Holger HERRNFELD, Federal Ministry of Justice and for Consumer Protection, Criminal Law Department - Unit IIB6, European Public Prosecutors Office, European Criminal Law Policy, Mohrenstr. 37, 10117 Berlin

GREECE / GRÈCE

Ms Kalliopi THEOLOGITOU, Public Prosecutor at the Court of First Instance of Athens
Tel. +6944 586866

HUNGARY / HONGRIE

Dr Tünde FORMAN, Head of Department, Department of International Criminal Law and Human Rights, Ministry of Justice, 1055 Budapest, Kossuth Lajos tér 2-4, Hungary

ICELAND / ISLANDE

**No nomination / Pas de nomination

IRELAND / IRLANDE

Ms Ursula STAPLETON, Assistant Principal Officer, International Policy Division, Department of Justice and Equality, Ministry of Justice, Montague Court, 7-11 Montague Street, Dublin 2 D02FT96, Ireland

ITALY / ITALIE

Mr Lorenzo SALAZAR, Sostituto Procuratore Generale, Punto di contatto della Rete Giudiziaria Europea (EJN) e Corrispondente nazionale dell'Eurojust, Procura Generale presso la Corte di Appello di Napoli, Palazzo di Giustizia, P.zza Cenni 1 - 80143 Napoli (NA)

LATVIA / LETTONIE

Ms Indra GRATKOVSKA, Head of the Criminal Law Department, Ministry of Justice, Brivibas blvd. 36, LV – 1536 RIGA

LIECHTENSTEIN

Apologised/Excusé

LITHUANIA / LITUANIE

Apologised/Excusé

LUXEMBOURG

Mme Brice CLOOS, Attaché, Gouvernement du Grand-Duché de Luxembourg, Ministère de la Justice, Direction des affaires pénales, Centre administratif Pierre Werner, 13, rue Erasme, L – 1468 Luxembourg-Kirchberg

MALTA / MALTE

**No nomination / Pas de nomination

REPUBLIC OF MOLDOVA / RÉPUBLIQUE DE MOLDOVA

Ms Diana ROTUNDU, Prosecutor Chief of the Unit of International Cooperation, European Integration and Protocol, General Prosecutor's Office of the Republic of Moldova

MONACO

M. Maxime MAILLET, Administrateur à la Direction des Services Judiciaires, Palais de Justice, 5 rue Colonel Bellando de Castro, B.P.513, 98015 MONACO CEDEX

MONTENEGRO

Apologised/Excusé

NETHERLANDS / PAYS-BAS

Ms Marjorie BONN, Senior legal adviser, Ministry of Security and Justice, Department for legislation and legal affairs, Section criminal law, Turfmarkt 147, 2500 EH Den Haag, The Netherlands

NORWAY / NORVÈGE

Ms Anne-Li N. FERGUSON, Senior Adviser, The Royal Norwegian Ministry of Justice and Public Security, P.O. Box 8005 Dep., N-0030 Oslo

POLAND / POLOGNE

Dr Sławomir BUCZMA, National Expert, General Secretariat of the Council of the European Union, Rue de la Loi, 175, B-1048 Brussels, Belgium

Chair of the CDPC / Président du CDPC

Ms Bogumiła WARCHALEWSKA, Deputy to the Permanent Representative, Permanent Representation of Poland to the Council of Europe, Strasbourg

Mr Maciej JANCZAK, Deputy Permanent Representative, Permanent Representation of Poland to the Council of Europe, Strasbourg

PORTUGAL

Mr António FOLGADO, Head of Division for Criminal Justice, International Affairs Department, Directorate General for Justice Policy, Ministry of Justice

ROMANIA / ROUMANIE

Apologised/Excusé

RUSSIAN FEDERATION / FÉDÉRATION DE RUSSIE

Mr Sergey TARASENKO, Deputy Head of Department of the New Threats and Challenges, Ministry of Foreign Affairs of the Russian Federation

Mrs Saglar OKONOVA, Second Secretary, Department of the New Threats and Challenges, Ministry of Foreign Affairs of the Russian Federation

Mr Vladimir ZIMIN, Senior Assistant to the Prosecutor General of the Russian Federation on Special Tasks

Mr Vladislav ZAYTSEV, Chief of the Law Department of the Federal Penitentiary Service of the Russian Federation

Mr Sergey ANISIMOV, Officer of the International Department of the Federal Penitentiary Service of the Russian Federation

Mr Anton MARKOVSKIY, Deputy to the Permanent Representative of Russia to the Council of Europe

SAN MARINO / SAINT-MARIN

**No nomination / Pas de nomination

SERBIA / SERBIE

Ms Neda MARKOVIĆ, Independent Advisor in the Sector for Normative Affairs, Ministry of Justice, Nemanjina 22-26, 11000 Belgrade

SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE

Mr Alexander KUNOŠIK, Ministry of Justice of the Slovak Republic, Župné námestie 13,813 11, Bratislava
Tel. +421 2 88891348

SLOVENIA / SLOVÉNIE

Mr Helmut HARTMAN, Legal Adviser, Permanent Representation of Slovenia to the Council of Europe, 40, allée de la Robertsau, 67000 Strasbourg

SPAIN / ESPAGNE

Ms Irene FUENTETAJA COBAS, Deputy Assistant Director General for Justice Affairs in the EU and IIOO
Ministry of Justice, C/ San Bernardo, 62. 28071, Madrid

SWEDEN / SUÈDE

Ms Johanna GUSTAFSSON, Legal adviser, Division for Criminal Law, Ministry of Justice, Regeringskansliet, SE-103 33 Stockholm

SWITZERLAND / SUISSE

Mme Anita MARFURT, Juriste, Département fédéral de justice et police, Office fédéral de la justice, Unité Droit pénal international, Bundesrain 20, CH – 3003 BERNE

M. Bernardo STADELMANN, Juriste, Sous-directeur, Département fédéral de justice et police, Office fédéral de la justice, Chef du Domaine de direction Droit pénal, Bundesrain 20, CH-3003 Berne

“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA” /**“L’EX-REPUBLIQUE YOUGOSLAVE DE MACEDOINE”**

Mr Nikola PROKOPENKO, State Advisor, Ministry of Justice of the Republic of Macedonia, str. Dimitrie Cuposki no. 9, 1000 Skopje

TURKEY / TURQUIE

Mr. Mehmet Emre SARIYILDIZ, Rapporteur Judge, General Directorate of International Relations and EU Affairs, Ministry of Justice, Ankara

UKRAINE

Mrs Kateryna G. SHEVCHENKO, Head of the International Legal Cooperation Department, Deputy Head of the Directorate for International Law, Ministry of Justice of Ukraine, str. Horodetskogo 13, UA - 01001 KYIV

UNITED KINGDOM / ROYAUME-UNI

Apologised/Excusé

**OBSERVERS WITH THE COMMITTEE /
OBSERVATEURS AUPRES DU COMITE****MOROCCO / MAROC**

M. Ayoub ABOUJAAFAR, Magistrat détaché à la direction des affaires pénales et des grâces, Ministère de la justice, AMAL 5 N°1128 CYM RABAT, 10140

CDPC BUREAU / BUREAU DU CDPC
(CDPC-BU)

CZECH REPUBLIC / RÉPUBLIQUE TCHÈQUE

Vice-Chair of the CDPC/Vice-Présidente du CDPC

Ms Helena LISUCHOVA, Head of the International Cooperation Department, Ministry of Justice, Vyšehradská 16,
CZ - 128 10 PRAGUE 2

DENMARK / DANEMARK

Mr Jesper HJORTENBERG, National Member of Denmark for EUROJUST, Maanweg 174, 2516 AB The Hague,
The Netherlands

GERMANY / ALLEMAGNE

Dr. Hans-Holger HERRNFELD, Federal Ministry of Justice and for Consumer Protection, Criminal Law
Department - Unit IIB6, European Public Prosecutors Office, European Criminal Law Policy, Mohrenstr. 37, 10117
Berlin

POLAND / POLOGNE

Chair of the CDPC / Président du CDPC

Mr Sławomir BUCZMA, National Expert, General Secretariat of the Council of the European Union, Rue de la Loi,
175, B-1048 Brussels, Belgium

SLOVENIA / SLOVÉNIE

Apologised/Excusé

Ms Tanja TRTNIK, Senior Adviser, Ministry of Justice of the Republic of Slovenia, Župančičeva 3, 1000
Ljubljana

SWITZERLAND / SUISSE

Mme Anita MARFURT, Juriste, Département fédéral de justice et police, Office fédéral de la justice, Unité Droit
pénal international, Bundesrain 20, CH – 3003 BERNE

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**COMMITTEE OF EXPERTS ON THE OPERATION OF EUROPEAN CONVENTIONS ON
CO-OPERATION IN CRIMINAL MATTERS / COMITE D'EXPERTS SUR LE FONCTIONNEMENT DES
CONVENTIONS EUROPEENNES DANS LE DOMAINE PENAL (PC-OC)**

Mr Erik VERBERT
Senior Deputy Legal Adviser, Central Authority, DG Legislation, Ministry Federal Public Service Justice, 115
Boulevard de Waterloo, B - 1000 BRUSSELS

Chair of the PC-OC / Président du PC-OC

**COUNCIL FOR PENOLOGICAL CO-OPERATION /
CONSEIL DE COOPERATION PENOLOGIQUE (PC-CP)**

Dr. Dominik LEHNER
President, Expert Committee on Offender Risk Assessment Northwest & Central Switzerland,
Elisabethenstrasse 53, 4051 Basel, Switzerland

Chair of the PC-CP / Président du PC-CP

Dr. Nicola CARR, Associate Professor in Criminology, School of Sociology & Social Policy, University of
Nottingham, Law and Social Sciences Building, University Park, Nottingham, NG7 2RD

**CYBERCRIME CONVENTION COMMITTEE /
COMITÉ DE LA CONVENTION SUR LA CYBERCRIMINALITÉ (T-CY)**

Mr Gareth SANSOM, T-CY representative, Department of Justice of Canada

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**OBSERVERS WITH THE COUNCIL OF EUROPE /
OBSERVATEURS AUPRES DU CONSEIL DE L'EUROPE**

HOLY SEE / SAINT-SIÈGE

Maître Jean PAILLOT, Avocat au Barreau de Strasbourg, 7 rue Brûlée, 67000 Strasbourg

JAPAN / JAPON

M. Kosuke YUKI, Consul, Consulat Général du Japon à Strasbourg, 20 Place des Halles, 67000 STRASBOURG

Mme Françoise Nadia RICHER, Assistante au Consulat Général du Japon

**THEMATIC SESSION ON ARTIFICIAL INTELLIGENCE AND CRIMINAL LAW /
SESSION THÉMATIQUE SUR L'INTELLIGENCE ARTIFICIELLE ET LE DROIT PÉNAL**

28 November / 28 novembre

Session I

Moderator/Chair / Modérateur/président

Prof. Dr. iur. Sabine GLESS, Professur für Strafrecht und Strafprozessrecht, Juristische Fakultät der Universität Basel, Peter Merian-Weg 8, Postfach CH-4002 Basel

Speakers / Intervenants

Prof. Dr. Dominik HERRMANN, Head of Working Group, Otto-Friedrich-Universität Bamberg, An der Weberei 5, 96047 Bamberg, Germany

Dr Mariarosaria TADDEO, Research Fellow, Deputy Director | Digital Ethics Lab, Oxford Internet Institute, University of Oxford, Turing Fellow | Alan Turing Institute, London, 1 St Giles, Oxford, OX1 3JS, UK

Session II

Moderator/Chair / Modérateur/président

Mr Sławomir BUCZMA, National Expert, General Secretariat of the Council of the European Union, Rue de la Loi, 175, B-1048 Brussels, Belgium

Speaker / Intervenent

M. Joël VALMAIN, Conseiller Technique "Europe-International" du Délégué interministériel à la sécurité routière, Adviser for European and International Affairs to the Interministerial Delegate for Road Safety, 18, rue des Pyrénées, Bureau O-C-J 252, F - 75020 Paris

National experts / Experts nationaux

Ms Fiona PETERSEN, The UK Law Commission, 1st Floor, Tower, Post Point 1.54, 52 Queen Anne's Gate, London SW1H 9AG,

Prof. Dr. Eric HILGENDORF, University of Würzburg

M. Pierre-Mathieu GAITE, Magistrat, Direction des Affaires Criminelles et des Grâces, Bureau de la Législation Pénale Générale

Univ.-Prof. Dr. Susanne REINDL-KRAUSKOPF, Hon.-Prof. (The University of Queensland)
Universität Wien – ALES-Austrian Center for Law Enforcement Sciences, Institut für Strafrecht und Kriminologie,
Schenkenstr. 4, 1010 Wien, Österreich
The University of Queensland – School of Law – Brisbane Qld 4072 – Australia

Ms Irene NORSTED, Adviser, Department of Public Roads, Urban Mobility and Traffic Safety, The Norwegian Ministry of Transport and Communication, Oslo

Session III

Moderator/Chair / Modérateur/président

Prof. Dr. iur. Sabine GLESS, Professur für Strafrecht und Strafprozessrecht, Juristische Fakultät der Universität Basel, Peter Merian-Weg 8, Postfach CH-4002 Basel

Speakers / Intervenants

Professor Bryant Walker SMITH, University of South Carolina, 1525 Senate Street, Room 323, Columbia, SC 29208, USA

Prof. Bruno DEFFAINS, CRED, Université Paris 2 Panthéon Assas, 19-21 rue Valette, 75005 Paris

Ms Dafni LIMA, PhD candidate, Aristotle University of Thessaloniki, Mpizaniou 16, 54640, Thessaloniki, Greece

Dr. Jérôme PERRIN, Directeur Scientifique, RENAULT S.A.S., Direction de la Recherche, DEA-IR

Session IV

Moderator/Chair / Modérateur/président

Prof. Dr. Lorena BACHMAIER , Catedrática Derecho Procesal, Universidad Complutense, Facultad de Derecho

Speakers / Intervenants

Mr Andrea CANDRIAN, Vice Head, International Criminal Law Unit, Federal Office of Justice, Bundesrain 20, CH-3003 Bern, Switzerland

Mme Juliette LELIEUR, Maître de conférences en droit pénal, Habilitée à diriger des recherches, 1 place d'Athènes, B.P. 66, 67045 Strasbourg Cedex

Mr Erik VERBERT, Chair of the Committee of Experts on the Operation of European Conventions on Co-Operation in Criminal Matters (PC-OC), Senior Deputy Legal Adviser, Central Authority, DG Legislation, Ministry Federal Public Service Justice, 115 Boulevard de Waterloo, B - 1000 BRUSSELS

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Ms Sylvia MEYER, Sevogelstrasse 85, CH-4052 Basel

Lic. iur. Olivier RAEMY, Eidgenössisches Departement für Umwelt, Verkehr, Energie und Kommunikation UVEK, Bundesamt für Strassen ASTRA, Abteilung Strassenverkehr, Verkehrsregeln, Weltpoststrasse 5, CH-3015 Bern

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Direction Générale des droits de l'Homme et Etat de Droit

Mr Christos GIAKOUMOPOULOS	Director General of Human Rights and Rule of Law / Directeur générale des Droits de l'Homme et de l'État de droit
Mr Ivan KOEDJIKOV	Head of Action against Crime Department / Chef de la Service de la Lutte contre la Criminalité
Mr Gianluca ESPOSITO	Executive Secretary of the Group of States against Corruption (GRECO) / Secrétaire Exécutif du Groupe d'Etats contre la Corruption (GRECO)
Mr Carlo CHIAROMONTE	Head of Criminal Law Division / Secretary to the CDPC Chef de la Division du droit pénal / Secrétaire du CDPC
Mr Yannick MENECEUR	Artificial intelligence Advisor / Conseiller en intelligence artificielle
Ms Iliana TANEVA	Deputy Head of Criminal Law Division / Secretary to the PC-CP Chef adjoint de la Division du droit pénal / Secrétaire du PC-CP
Ms Anita VAN DE KAR-BACHELET	Administrative Officer / Administrateur Secretary to the PC-OC / Secrétaire du PC-OC
Ms Teresa ARMENGOL-DE-LA-HOZ	Administrative Officer / Administrateur
Ms Marjaliisa JÄÄSKELÄINEN	Assistant / Assistante
Ms Carlota MALDONADO MONTSERRAT	
	Trainee / Stagiaire
Ms Justine LAUBACHER	Trainee / Stagiaire

Registry of the European Court of Human Rights / Greffe de la Cour européenne des droits de l'homme

Mr Kresimir KAMBER Lawyer / juriste

Interpreters / Interprètes

Ms Amanda BEDDOWS
Ms Rebecca BOWEN
Ms Isabelle MARCHINI

APPENDIX II

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 07 December 2018

CDPC(2018)OJ2

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

75th Plenary meeting

Agenda

Strasbourg (France), 27-29 November 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

[CDPC\(2018\)OJ2](#)

Draft agenda

[CDPC\(2018\)20](#)

Annotated agenda

3. Activities and priorities of the CDPC for 2018-2019 and organisation of its future work and forthcoming plenaries

[CDPC-BU\(2018\)4](#)

List of decisions of the CDPC Bureau meeting, 1-2 October 2018

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

List of decisions of the 74th CDPC Plenary, 5-7 June 2018

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

[PC-CP\(2018\)18](#)

Summary meeting report of the 8th Plenary meeting of the PC-CP, 6-8 November 2018

[PC-CP\(2018\)17](#)

Summary Meeting report of the 19th Meeting of the PC-CP Working Group, 17-19 September 2018

[Terms of reference](#)

Terms of reference for 2018-2019

a. Recruitment and training of prison and probation staff

[PC-CP\(2018\)14rev2](#)

Draft Guidelines regarding recruitment, selection, training and development of prison and probation staff

(Please note that this document has been prepared **following the PC-CP plenary on 6-8 November**)

b. Revision of the European Prison Rules

[PC-CP\(2018\)15Rev4](#)

Revision of the European Prison Rules (Please note the document is 78 pages long)

(Please note that this document has been prepared **following the PC-CP plenary on 6-8 November**)

c. Council of Europe Conferences of Directors of Prison and Probation Services

[Website](#)

23rd CDPPS, Estonia (19-20 June 2018)

[Draft outline of the programme](#)

24th Council of Europe Conference of Directors of Prison and Probation Services, Agia Napa, Cyprus (21-22 May 2019)

5. 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

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

Conference on prison overcrowding – Concept paper

[CDPC\(2018\)19Rev](#)

Preparation of a High Level Conference on Prison Overcrowding

6. 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

[PC-OC\(2018\)11](#)

List of decisions of the 75th Plenary meeting of the PC-OC, 14-16 November 2018

[PC-OCMod\(2018\)07](#)

List of decisions of the 26th meeting of the PC-OC Mod, 25-27 September 2018

[PC-OC\(2018\)04](#)

List of decisions of the 74th Plenary meeting of the PC-OC, 19-21 June 2018

PC-OC(2018)05	Special session on the European Convention on Extradition (20 June 2018) – Programme, presentations and summaries of the panel discussions
PC-OCMod(2017)04ADDrev3 EXTRACT	Summary of the replies received to the Questionnaire on the application of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (ETS No. 182)
PC-OC(2018)02-rev3	PC-OC Guidelines on the provision of information regarding detention or other measures of restriction imposed in extradition proceedings.
PC-OC(2018)07rev	Draft recommendation concerning the application of the Convention on the Transfer of Sentenced Persons and the Additional Protocol thereto (The text of the recommendation and of the guidelines contained in appendix 1 were provisionally approved by the PC-OC at its 75th meeting)
PC-OC(2018)03-rev	Draft elements for an updated Recommendation on the Transfer of Sentenced Persons
PC-OC(2018)10rev	Presentation of the outcome of the work of the PC-OC working groups to limit reservations to Council of Europe treaties within the remit of the PC-OC and discussion on follow up
PC-OC(2017)08rev Bil.	Letter to PC-OC experts for the update and limitation of reservations to Council of Europe treaties on international co-operation in criminal matters
Terms of reference	Terms of reference for the years 2018-2019
	7. Smuggling of migrants
Conclusions	Conclusions of the Conference on smuggling of migrants
CDPC(2018)5rev	Follow-up to the Conference on smuggling of migrants
CDPC-SOM-C(2018)1	Conclusive observations of the 1 st meeting of the Working Group on fostering international co-operation and investigative strategies in fighting the smuggling of migrants
CDPC-SOM-P(2018)1	Conclusive observations of the 1st meeting of the Working Group on the prevention of smuggling of migrants

8. Cybercrime Convention Committee (TC-Y) – Exchange of views with Mr Alexander Seger, Secretary to the T-CY

[T-CY\(2018\)28](#)

Summary report of the 4th Meeting of the T-CY Protocol Drafting Group, 17-19 September 2018

[T-CY\(2018\)26](#)

Discussion paper: Conditions for obtaining subscriber information in relation to dynamic versus static IP addresses

[T-CY\(2018\)22](#)

Meeting report of the 19th Plenary of the T-CY, 9 July 2018

[Key messages](#)

Octopus Conference 2018 key messages, July 2018

[T-CY\(2017\)10](#)

Mapping study on cyber violence (Draft) (Please note the document is 151 pages long)

9. Election

[CDPC\(2018\)16](#)

Memorandum concerning the Elections for the CDPC

10. Opinion by the CDPC on the PACE Recommendation

[Recommendation](#)

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

[Opinion](#)

Opinion by the CDCJ

[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

11. Information points

a. Activities related to transnational organised crime: Action plan

b. Links between Organised Crime and Terrorism

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

d. Medicrime and Trafficking in human organs

e. Terrorism

12. Any other business

13. Dates of the next meetings