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 remits 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 Hjotenberg (Denmark) Vice-Chair of the CDPC for one year renewable;
- the new elected members of the Bureau are: Ms Emmanuelle Wachenheim (France), Ms Katarina 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

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
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* * * *
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SESSION THÉMATIQUE SUR L'INTELLIGENCE ARTIFICIELLE ET LE DROIT PÉNAL

28 November / 28 novembre

Session I

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Ms Amanda BEDDOWS
Ms Rebecca BOWEN
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APPENDIX II

Strasbourg, 07 December 2018

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

**CDPC(2017)10**  
Conference on prison overcrowding – Concept paper

**CDPC(2018)7**  
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

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 1st 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