The CDPC, meeting in Strasbourg under the Chairmanship of Mr Slawomir Buczma (Poland), took the following decisions:

1. **Opening of the meeting**

   - to take note of the information provided by Jan Kleijssen, Director, Information Society – Action against Crime, Council of Europe, concerning the election of the new Secretary General, Ms Marija Pejčinović Burić (former Deputy Prime Minister and Minister of Foreign Affairs of Croatia) who took up her functions on 18 September 2019. He thanked the French delegation for the very successful French Presidency of the Committee of Ministers and informed the meeting that the Georgian Chairmanship of the Council of Europe’s Committee of Ministers started on 27 November 2019 and will last for a six-month period (until mid-May 2020), focusing on human rights and environmental protection, civil participation in decision making, child-friendly justice and democracy through education, culture and youth engagement. Mr Kleijssen was pleased to announce that all member States had now fulfilled their budgetary obligations and that the Committee of Ministers adopted the
Programme and Budget 2020-2021 on 21 November 2019, marked by a return to zero real growth, which entails an adjustment to inflation. Mr Kleijssen also highlighted the important work undertaken by the Ad hoc Committee on Artificial Intelligence (CAHAI) mandated by the Committee of Ministers to examine the feasibility of a legal framework for the development, design and use of artificial intelligence, based on the organisation’s fundamental values, including a multi-stakeholder consultation. The CAHAI had its first meeting in Strasbourg (18-20 November) where it took stock of all AI-related standards and activities within and outside the Organisation (further information on the work of the CAHAI can be found on the website: www.coe.int/ai, and social media such as Twitter: @COE4AI). Mr Kleijssen finally underlined the importance of the work of the CDPC as regards criminal law aspects of AI, the environment and migration and the revision of the European Prison Rules.

- to welcome Mr Gianluca Esposito as Head of Action against Crime Department, which he will perform in conjunction with his work as Executive Secretary of GRECO and congratulate Mr Carlo Chiaromonte with his appointment as Council of Europe Counter-Terrorism Coordinator;
- to appoint two of its delegates (Mr Steven Limbourg, Belgium and Dr Tünde Forman, Hungary) as members of the election committee to collect the nominations of possible candidates for the elections to the CDPC Bureau.

2. **Adoption of the 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 for 2020-2021 (Terms of reference) and forthcoming plenaries**

- to take note of the information provided by the Secretariat regarding the terms of reference for 2020-2021 of the CDPC and of the PC-OC and PC-CP, adopted recently without any major changes by the Committee of Ministers;
- to endorse the proposal by its Bureau to organise a thematic session during one of its plenary meetings in 2020, preferably during the spring session, on the development of international co-operation in criminal matters with third countries, focusing both on legal and practical issues and obstacles;
- that the priorities of the CDPC future work should be: (i) artificial intelligence, (ii) protection of the environment through criminal law, (iii) smuggling of migrants, (iv) prison overcrowding, (v) international co-operation in criminal matters.

4. **Council for Penological Co-operation (PC-CP)**

- to have an exchange of views with Mr Dominik Lehner, PC-CP Chair, regarding the past PC-CP WG and plenary meetings and the decisions taken at them, as well as regarding the suggested work plan for the next two years in line with the recently adopted terms of reference for 2020-2021 by the Committee of Ministers;
- to thank Mr Lehner for his excellent work as PC-CP Chair in the past two years and to wish him success in his future work and to welcome Ms Annie Devos (Belgium) as the next PC-CP Chair (as of January 2020);
- to take note of the presentation made by Prof. Marcelo Aebi regarding the latest data surveys in the framework of SPACE I and SPACE II, the data collection in relation to the European Sourcebook on criminal justice statistics and the related research which are co-funded by the EU and the CoE and the planned holding of two conferences in the framework of a new EU/CoE co-funded project;
- to consider the list of candidates for the four vacancies at the PC-CP WG and to elect: Mr Manfred Kost (Germany); Mr Vivian Geiran (Ireland); Ms Laura Negredo Lopez (Spain) and Ms Maria Lindström (Sweden) as members of the PC-CP Working Group (for the period January 2020 – December 2021, renewable once).
a. Sex offenders
   - to take note that the draft Recommendation regarding the assessment, management and (re)integration into the community of individuals accused or convicted of sexual offences and its draft explanatory report (document PC-CP (2019)3Rev4) were examined for the first time by the PC-CP WG in September and by its plenary in November this year and will be revised accordingly. The drafting will continue with a view to finalising the text for approval by the CDPC plenary winter session in 2020;
   - to consider the draft text and to make some general comments and suggestions regarding its scope, definitions and contents to be examined at the PC-CP WG meeting in January 2020.

b. Revision of the European Prison Rules (EPR)
   - to consider document PC-CP (2018)15 Rev 7 as revised at the PC-CP plenary meeting (5-7 November 2019);
   - to thank the PC-CP and Prof Dirk van Zyl Smit for the excellent work related to the revision and update of the European Prison Rules and their commentary;
   - to finalise the draft text of the revised and updated EPR and the commentary thereto, approve them and forward the texts to the Committee of Ministers for adoption.

c. Council of Europe Conferences of Directors of Prison and Probation Services (CDPPS)
   - to take note of the information provided by the PC-CP Chair regarding the overall contents of the discussions held during the 24th CDPPS' Offender Management: Tradition and Technology' (Cyprus, 21-22 May 2019), notably the summary notes and conclusions (www.coe.int/cdpps2019);
   - to instruct the PC-CP, in line with its mandate, to produce a study for the CDPC plenary in 2020 on the utility of drafting a standard-setting text in order to provide the necessary framework for the ever-increasing use of artificial intelligence by the prison and probation services in Europe;

5. Prison overcrowding
   - to discuss the outcomes of the high-level Conference on prison overcrowding on the theme of "Responses to Prison Overcrowding" held in the margins of the last CDPC plenary in April 2019 and in particular the conclusions of the General Rapporteur regarding the follow-up to be given to it and to have an exchange of views with the Secretariat;
   - to agree in principle that there is an added value in holding, in the near future, a Ministers of Justice Conference which should deal inter alia with prison overcrowding;
   - to instruct the Secretariat to prepare a discussion paper for the Bureau presenting main elements for possible title, topics and, above all, clear outcomes of this conference.

6. Committee of Experts on the operation of European conventions on co-operation in criminal matters (PC-OC)
   - to take note of the list of decisions of the 76th and 77th meeting of the PC-OC (27-29 May and 13-15 November 2019), and of the 28th meeting of the PC-OC Mod (24-26 September 2019);
   - to have an exchange of views with the Chair of the PC-OC, Ms Barbara Goeth-Flemmich (Austria), on the activities of the Committee, to congratulate the Committee for the important work achieved and to take note in particular of:
     • the successful outcome of the thematic session to celebrate the 60th anniversary of the European Convention on Mutual Assistance in Criminal Matters which took place on 14 November 2019. This event enabled delegations to discuss ways to make mutual assistance in criminal matters better, faster and more adapted to today's needs;
     • the decision by the PC-OC to ensure follow-up to the study by Mr Martin Polaine (consultant) “On the feasibility and possible added value of preparing a new binding instrument as regards international co-operation on the management, recovery and sharing of assets” in so far as
mutual legal assistance in criminal matters is concerned, including issues such as asset recovery and asset sharing and to give further consideration to Secretariat proposals for a “New Start 2.0” for the future development of the CoE MLA framework;
- the development of a model request form and guidelines for extradition;
- the actions undertaken to implement the Action Plan on Transnational Organised Crime and in particular as regards the interconnection of judicial networks;
- the discussions in the PC-OC, further to an exchange of views with the European Commission, to enable co-operation of non-EU member States with the European Public Prosecutor’s Office on the basis of Council of Europe treaties, underlining that it wished to follow closely the outcome of these discussions;
- the re-election of Ms Barbara Goeth-Flemmich as the Chair and Mr Erik Verbert (Belgium) as the vice-Chair of the PC-OC.

- to approve the text of the draft Recommendation on the practical application of the Convention on the Transfer of Sentenced Persons and the Additional Protocol thereto as well as the explanatory memorandum proposed by the PC-OC and submit the draft Recommendation to the Committee of Ministers for adoption.

7. Artificial Intelligence and criminal law

- to acknowledge the excellent progress made so far by the Working Group of experts, set up by the CDPC last year;
- to thank the General Rapporteur, Prof. Sabine Gless for her excellent contribution to the work carried out so far, to take note of her presentation of the outcomes of the Working Group and particularly the analysis of the replies to the questionnaire and to have an exchange of views with her;
- to take note of the information provided by Mr Jan Kleijssen on the work on AI carried out by other Council of Europe bodies and notably on the necessity to ensure a good coordination within the Organisation and by Ms Clementina Barbaro, Co-Secretary to the Ad hoc Committee on Artificial Intelligence (CAHAI), on the work carried out by this committee which is focused on a feasibility study related to drafting a common framework for an international legally binding instrument;
- to instruct the Working Group to carry out a feasibility study identifying the scope and the main elements of a future Council of Europe instrument on AI and criminal law, preferably a convention.

8. Smuggling of migrants

- to take note of the information provided by Mr Esposito, that smuggling of migrants is a subject of great importance for many member States and that therefore, in the opinion of the Secretariat, an international legal instrument should be drafted to combat effectively this phenomenon;
- in this respect, to instruct the Secretariat to prepare an information document taking stock of all the main elements contained in the different working documents produced by the CDPC over the years in this field;
- to take note of the information provided by Mr Calogero Ferrara, Chair of the Working Group on Fostering International Co-operation and Investigative Strategies in Fighting the Smuggling of Migrants, regarding the activities of this WG and in particular the draft Action Plan prepared by it;
- to welcome the draft Action Plan, to examine the proposals contained in it and to introduce some amendments in order to allow more flexibility as to the possible follow-up to be given to it;
- to send the revised document by e-mail to the CDPC delegations for their comments by way of a written procedure as time is needed for consultations at national level with all relevant agencies;
- to entrust its Bureau to consider all proposals made by the delegations by way of a written procedure and revise accordingly the Action Plan with a view to its approval at the next CDPC plenary meeting in June 2020.
9. Administrative sanctions

- to postpone the discussion of this item due to the fact that the analysis of the replies to the questionnaire will only be available at a later date and in time for the next CDPC-BU meeting.

10. Victims’ rights

- to thank Prof. Suzan van der Aa (consultant) for the excellent analysis of the replies received to the questionnaire on the rights of victims in the criminal justice system;
- underlining the importance of further examining the issue of victim’s rights and protection, to invite the consultant to make concrete proposals for an update of Recommendation Rec (2006)8 of the Committee of Ministers on assistance to crime victims or additional guidelines thereto, taking into account standards contained in other Council of Europe instruments, EU legislation as well as the different proposals contained in the replies to the questionnaire;
- to consider, in the light of available resources, the possibility of developing a webpage with country information in several languages on the rights of victims in Council of Europe member States.

11. Environment and Criminal Law

- to take note that during the Georgian Chairmanship of the Committee of Ministers a Conference on environment and human rights will be held in February 2020;
- to hold an exchange of views on the Council of Europe Convention for the protection of the environment through criminal law;
- to instruct the Secretariat to prepare a paper with options for consideration by the Bureau of the CDPC for future work by the CDPC in the area of the protection of the environment through criminal law, bearing in mind the ongoing work of the European Union in this area.

12. Cybercrime Convention Committee (T-CY)

- to take note of the progress made in the drafting of a second additional protocol to the Budapest Convention and the extension of its terms of reference until December 2020;
- to take note of the discussions held in the 77th meeting of the PC-OC with Mr Alexander Seger, Secretary to the T-CY, on the comments made by the PC-OC on some provisions regarding MLA in the draft second additional protocol;
- to take note that the PC-OC Mod and the T-CY Protocol Drafting Group will have a joint meeting on 24 January 2020 in order to discuss MLA provisions foreseen in the draft second additional protocol of the Budapest Convention in order to ensure the best possible coherence with pre-existing Council of Europe norms.

13. Elections

- to elect Mr Jesper Hjortenberg (Denmark) as Chair of the CDPC;
- to elect Ms Katarina Jahkola (Finland) as Vice-Chair of the CDPC;
- to elect Mr Thomas Gregoire (France) as Member of the Bureau;
- to elect Mr Sławomir Buczma (Poland) as Member of the Bureau;
- to elect Mr Florin-Răzvan Radu (Romania) as Member of the Bureau;
- to renew the term of office of Ms Barbara Göth-Flemmich (Austria) as Member of the Bureau;
- to renew the term of office of Mr Hans-Holger Herrnfeld (Germany) as Member of the Bureau;
- to thank Mr Sławomir Buczma for his excellent stewardship of the Committee over the last two years and commend him on the achievements made during his tenure.

14. Information points

a. Activities related to transnational organised crime and the Action plan

- to instruct the Secretariat to ensure that the work suspended last year on the review of Recommendation Rec(2005)9 on the protection of witnesses and collaborators of justice is resumed as soon as possible.
b. **Links between Organised Crime and Terrorism**
   - to take note that the Working Group of experts on links between Organised Crime and Terrorism has prepared draft guidelines on this subject matter.

c. **Terrorism**
   - to take note of the recent activities undertaken by the CDCT namely a) the progress made in the elaboration of a common European definition of terrorism, b) the work just started on gathering evidence in conflict zones and c) the finalisation of a comprehensive screening tool for determining if a radicalised individual is likely to become a terrorist acting alone.

d. **Council of Europe Convention on Offences relating to Cultural Property**
   - to take note that a Conference on this subject was held in Cyprus on 24 and 25 October this year.

e. **Medicrime and Trafficking in Human Organs**
   - to take note that the Conference of the Parties to the Medicrime Convention will hold its first meeting in December at which its Rules of Procedure will be adopted;
   - to take note of the status of signatures and ratifications of both conventions.

15. **Any other business**

a. **Feasibility study on drafting a European convention on the profession of lawyer (Recommendation 2121 (2018) of the Parliamentary Assembly)**
   - to take note of the information provided by its Chair regarding his participation in the CDCJ Bureau meeting on 17 September 2019 on this subject and in particular the fact that the scientific expert was requested to explore the existing standards and what added value a possible convention would have, its possible impact on other international instruments in this area in the case of a low number of ratifications and also on the case law of the European Court of Human Rights on this subject;
   - it also underlined that the CDPC needs to follow this issue closely and to have the opportunity to provide its opinion as necessary.

14. **Dates of the next meetings**
   - to hold its next plenary meeting during the week of 8-12 June 2020.
Appendix I

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

77th Plenary Session / 77ème Session plénière
3-6 December / 3-6 décembre 2019

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

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Apologised/Excusé

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Ms Sara WEBSTER
Ms Amanda BEDDOWS
European Committee on Crime Problems (CDPC)

77th Plenary meeting

Agenda

Strasbourg (France), 3-6 December 2019
Council of Europe, Main Building, Room 9

Opening at 10:00, Tuesday
Closing at 12:00, Friday

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(2019)21 | Annotated agenda |
| CDPC(2019)14 | List of decisions of the 76th CDPC Plenary, 25-26 April 2019 |
| CDPC-BU(2019)4 | List of decisions of the CDPC Bureau meeting, 10-11 October 2019 |
| Terms of reference | Terms of reference for the years 2018-2019 |
| Terms of reference | Terms of reference for the years 2020-2021 |
| CM Res (2011)24 | Resolution on intergovernmental committees and subordinate bodies, their terms of reference and working methods |

3. Activities and priorities of the CDPC for 2018-2019 and organisation of its future work for 2020-2021 (Terms of reference) and forthcoming plenaries

| CDPC(2019)22Bil. | Please note the document is 51 pages long |

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

| PC-CP(2019)4 | Summary Meeting report of the 21st Meeting of the PC-CP Working Group, 1-3 April 2019 |
| PC-CP(2019)7 | Summary Meeting report of the 22nd Meeting of the PC-CP Working Group, 25-27 September 2019 |
| PC-CP(2019)10 | Summary Meeting report of the 9th Plenary meeting of the PC-CP, 5-7 November 2019 |
| Terms of reference | Terms of reference for 2018-2019 |
| Terms of reference | Terms of reference for 2020-2021 |
| PC-CP(2019)9Rev | Elections |
a. Sex offenders

PC-CP(2019)3Rev4
Draft CM Recommendation regarding the assessment, management and integration back into the community of individuals accused or convicted of sexual offences

b. Revision of the European Prison Rules

PC-CP(2018)15Rev7
Revision of the European Prison Rules (Please note the document is 78 pages long)

Comments
CPT comments on the draft EPR

c. Presentation of SPACE by Prof. Marcelo Aebi

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

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


5. Prison overcrowding

Website
Conclusions
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, Ms Barbara Göth-Flemmich

PC-OC(2019)06
List of decisions of the 76th Plenary of the PC-OC, 27-29 May 2019

PC-OComod(2019)07
List of decisions of the 28th meeting of the PC-OC Mod, 24-26 September 2019

PC-OC(2019)OJ2
Agenda of the 77th Plenary of the PC-OC, 13-15 November 2019
List of decisions of the 77th Plenary of the PC-OC, 13-15 November 2019

Draft recommendation concerning the practical application of the Convention on the Transfer of Sentenced Persons and the Additional Protocol thereto

Draft explanatory memorandum to the recommendation

(The text of the draft recommendation and the draft explanatory memorandum were approved by the PC-OC at its 76th meeting)

Discussion paper on possible further developments in mutual assistance in criminal matters at the Council of Europe

Co-operation with the European Public Prosecutor's Office: presentation by the European Commission

Terms of reference for the years 2020-2021

7. Artificial Intelligence and criminal law

Concept paper

Final remarks of the Thematic Session, 28 November 2018

Conclusions from the Conference in Helsinki, 26-27 February 2019

Restricted Working Group of experts

Report of the 1st meeting of the Working Group on Artificial Intelligence and Criminal Law

- Working paper I

- Working paper II

- Work plan
8. Smuggling of migrants

Final observations

Final observations for Council of Europe Further Action on the 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(2019)13

Report of the 2nd meeting of the Working Group on fostering international co-operation and investigative strategies in fighting the smuggling of migrants

CDPC(2019)9

Draft Council of Europe Action Plan on fostering international co-operation and investigative strategies in fighting the smuggling of migrants

9. Administrative sanctions

CDPC(2019)1Bil.

Compilation of replies to the questionnaire on Administrative Sanctions (Please note the document is 170 pages long)

10. Victims' rights


Compilation of replies to the questionnaire on the Rights of Victims (Please note the document is 140 pages long)

CDPC(2019)18

Analysis of the replies received to the questionnaire of the Rights of Victims

11. Environment and Criminal Law

(Item at the Secretariat’s initiative)

Convention

Convention on the Protection of Environment through Criminal Law (ETS No.172)

Document 12801/19

EU environmental criminal law - Presidency report
12. Cybercrime Convention Committee (T-CY)

**T-CY(2018)4**  Guidance Note on election interference


**T-CY(2013)25rev**  T-CY Rules of procedure


**T-CY(2019)19**  State of play of the preparation of the 2nd Additional Protocol to the Budapest Convention

**T-CY(2019)28**  Discussion guide for consultations on the 2nd Additional Protocol to the Budapest Convention

**PC-OC(2019)1**  Comments by the PC-OC to draft provisions of the future 2nd Additional Protocol to the Cybercrime Convention (CETS n° 185) regarding languages of requests, emergency MLA and video conferencing

**T-CY(2018)23rev**  Provisional text of provisions of the 2nd Additional Protocol

**Cursory review**  Cursory review: the global state of cybercrime legislation

13. Election

**CDPC(2019)16**  Memorandum concerning the Elections for the CDPC

14. Information points

b. Links between Organised Crime and Terrorism

c. Terrorism

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

e. Medicrime and Trafficking in human organs

15. Any other business

a. Feasibility study on drafting a European convention on the profession of lawyer (Recommendation 2121 (2018) of the Parliamentary Assembly)

Extract - CDCJ

Extract from the report of the 105th meeting of the Bureau of the CDCJ (21-22 March 2019)

Appendix III - CDCJ

Consultant’s profile and terms of reference

Recommendation

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

CM/AS(2019)Rec2121-final

Reply adopted by the Committee of Ministers

16. Dates of the next meetings