



Strasbourg, 12 October 2019

CDPC-BU(2019)4

EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

LIST OF DECISIONS

Bureau meeting

Lisbon (Portugal), 10-11 October 2019

The Bureau, meeting in Lisbon, Portugal, on 10-11 October 2019, under the Chairmanship of Mr Slawomir Buczma (Poland), took the following decisions:

1. Opening of the meeting and adoption of the draft agenda

- to open the meeting and to adopt its agenda;
- to welcome Mr Gianluca Esposito, the new Head of the Action against Crime Department and GRECO Executive Secretary, DG I, Council of Europe and to take note of the information provided on the election of the new Secretary General of the Council of Europe, Ms Marija Pejčinović Burić, former Deputy Prime Minister and Minister of Foreign and European Affairs of Croatia, and that all member states of the Council of Europe have now paid their obligatory contributions to the Ordinary Budget for 2019. Note was also taken of the decision to regard the role and activities of the CDPC as a priority within the Department.

2. **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 timeline for adoption of the terms of reference for 2020-2021 by the Committee of Ministers, by the end of November;
- not to hold a thematic session during its next plenary meeting (3-6 December 2019) because of its full agenda;
- to finalise the draft agenda of its next plenary meeting and its order of business;
- to propose the organisation of a thematic session during one of its plenary meetings in 2020, preferably during the spring session. It was finally agreed to propose a thematic session on the development of international co-operation in criminal matters and mutual legal assistance (including Joint Investigation Teams) in particular;
- to propose 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) mutual legal assistance.

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

- to have an exchange of views regarding the suggested work plan for the next two years;
- to take note that the mandate of four elected members of the PC-CP WG will expire at the end of the current year and that therefore the CDPC delegations will be requested in the coming weeks to suggest possible replacements of the outgoing members.

a. **Sex offenders**

- to take note that the draft Recommendation regarding the assessment, management and integration back 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 this year and revised accordingly and that it is planned that after the PC-CP plenary meeting in November 2019 the drafting will continue with a view to finalising the text for approval by the CDPC plenary meeting in December 2020;
- to put the said document on the next CDPC plenary meeting agenda for information only and to convey any possible general comments made by the delegations on the text to the PC-CP WG which will continue the drafting at its next meeting in January 2020.

b. **Revision of the European Prison Rules**

- to consider document PC-CP (2018)15 Rev 6 (which was finalised at the PC-CP WG meeting in April 2019);
- to consider the CPT opinion on the draft text;
- to instruct the PC-CP to consider the CPT opinion at their plenary meeting in November 2019 when finalising the EPR and their commentary;
- to indicate in a clear manner (for example in track changes) any possible new amendments made to the text during the PC-CP plenary before sending the revised text to the CDPC delegations in good time before their plenary meeting in December 2019.

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

- to take note of the information provided by the Secretariat, notably the different presentations made during the Conference held in Cyprus in May 2019 and to consider the summary notes and conclusions made by the PC-CP Chair (www.coe.int/cdpps2019);
- to instruct the PC-CP 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;
- to take note of the title and suggested contents of the 25th Council of Europe Conference of Directors of Prison and Probation Services "Prison and Probation Work: Rights, Accountability and Challenges" (9-10 June 2020, Dublin, Ireland).

4. Prison overcrowding

- to discuss the outcomes of the high-level Conference on prison overcrowding on the theme of “Response 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 (even though not exclusively devoted prison overcrowding) and to continue the discussion at the next CDPC plenary meeting regarding possible title, topics and above all clear outcomes of such a Conference.

5. 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 meeting of the PC-OC (27-29 May 2019) and of the 28th meeting of the PC-OC Mod (24-26 September 2019) as well as of the draft terms of reference of the PC-OC for 2020-2021;
- to have an exchange of views with the Chair of the PC-OC, Ms Barbara Goeth-Flemmich, and the Secretariat on the activities of the Committee and in particular as regards:
 - 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. This text will be submitted to the CDPC at its next plenary meeting in December for final approval before transmitting it to the Committee of Ministers for adoption;
 - the preparation of the thematic session to celebrate the 60th anniversary of the European Convention on Mutual Assistance in Criminal Matters which will take place on 14 November during the 77th plenary meeting of the PC-OC (13-15 November 2019). It is expected that this session will provide an opportunity to give a new impetus for the further development of mutual assistance in criminal matters;
 - the decision by the PC-OC Mod to follow up the study by Mr Martin Polaine (consultant) only in so far as Mutual Assistance in Criminal Matters is concerned in the context of the further discussions on this topic (see previous item);
 - the discussions in the PC-OC, further to the request by 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.

6. 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 instruct the Working Group to make proposals at its meeting on 7 November regarding the follow-up to be given to the analysis of the replies to the questionnaire on AI and criminal justice;
- to instruct the Secretariat to invite the General Rapporteur, Prof. Sabine Gless, to the next CDPC plenary meeting in December 2019 to present the outcomes of the Working Group and particularly the analysis of the replies to the questionnaire, bearing in mind the need to remain focused on the criminal law-related challenges.

7. Smuggling of migrants

- to instruct the Secretariat to invite the Chair of the Working Group on Fostering International Co-operation and Investigative Strategies in Fighting the Smuggling of Migrants, Mr Calogero Ferrara, at the next CDPC plenary meeting in December to present the Action Plan prepared by the Working Group and to discuss the possible follow-up to be given to it, including considering the preparation of an international legal instrument in this area.

8. Administrative sanctions

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

9. Victims' rights

- to take note that 26 replies were received to the questionnaire on the rights of victims in the criminal justice system;
- to examine and discuss the outcomes of the analysis of these replies prepared by the scientific expert, Prof. van der Aa, which reveal that there was no consensus among member States concerning the need to develop a new instrument on this subject, due also to the fact that many texts and different measures already exist, including a recent important recommendation on restorative justice elaborated by the CDPC;
- to instruct the Secretariat to invite Prof. van der Aa to present her findings at its next plenary and resume discussion on possible follow up.

10. Cybercrime Convention Committee (T-CY)

- to take note of the meeting report of the last TC-Y meeting [Doc. TC-Y (2019)21] and on the work underway on the drafting of a Second Additional Protocol to the Budapest Convention;
- to strongly reiterate its position that there is a clear need to ensure that provisions related to MLA in such a protocol do not unnecessarily differ from existing provisions in the European Convention on Mutual Assistance in Criminal Matters and its Additional Protocols;
- to instruct the PC-OC to closely follow the drafting process of this protocol.

11. Elections

- to take note that the CDPC will need to proceed to the election of its Chair and of two Bureau members;
- to instruct the Secretariat to make a call for interested candidates for these positions.

12. 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 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 important subject matter;
- to agree that the CDPC will provide an opinion on the text by way of written procedure.

c. Terrorism

- to take note of the recent activities undertaken by the CDCT and its working groups, 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 the drafting work on a comprehensive screening tool for determining if a radicalised individual is likely to become a terrorist acting alone.

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- d. Council of Europe Convention on Offences relating to Cultural Property**
- to take note that a Conference on this subject will be held in Cyprus 24 and 25 October this year and will be attended by the Deputy Secretary General of the Council of Europe.
- e. Medicrime and Trafficking in human organs**
- to take note that the first meeting of the Conference of the Parties to the Medicrime Convention will take place in December and will adopt their Rules of Procedure;
 - to take note of the status of signatures and ratifications of both conventions.
- f. Convention for the protection of the environment through criminal law**
- to take note that one of the priorities of the Georgian Chairmanship of the Committee of Ministers, starting in November 2019, will be the protection of the environment and that a Conference on environment and human rights will be held in February 2020;
 - to hold a discussion at the next CDPC plenary meeting on how the CDPC can valuably contribute to this topical subject matter and notably consider the Convention for the protection of the environment through criminal law and the reasons for the low number of signatures and ratifications.
- 13. 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 to 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 case of low number of ratifications and also on the case-law of the European Court on this subject;
 - it also underlined that the CDPC needs to closely follow this issue and to have the opportunity to provide its opinion as necessary.
- 14. Dates of the next meetings**
- to decide about the dates and place of its next meeting during the plenary meeting in December 2019.