



Strasbourg, 6 October 2023

# EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

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## LIST OF DECISIONS

### Bureau meeting

Paris, 5-6 October 2023

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#### 1. Opening of the meeting

The meeting was opened by the Chair at 2.00 p.m. on Thursday, 5 October 2023. The CDPC Bureau welcomed its two new members.

#### 2. Adoption of the draft agenda

The Bureau adopted the agenda of the meeting.

#### 3. Information by the Secretariat

The Bureau members welcomed Hanne Juncher, the newly appointed Director of Information Society and Action against Crime, DG I and held an exchange of views with her on the most recent and significant developments in the Council of Europe.

Ms Juncher specifically dwelled on some points contained in the Declaration adopted at the Fourth Summit of the Heads of State and Government held in Reykjavik in May 2023, namely the creation of a Register of Damage Caused by the Aggression of the Russian Federation against Ukraine

which is part of the overall package of the accountability of Russia for the war. Other key issues related to the democratic backsliding, to addressing new challenges, the protection of the environment and the AI. She also informed that the Framework Convention on AI is expected to be adopted by the Committee of Ministers at the end of April 2024 and to be opened for signature in London at a Special Ministerial Session to commemorate the 75th anniversary of the Council of Europe.

The smuggling of migrants is another priority topic and it was suggested to create a subordinate body to the CDPC (PC-TM) to deal with this issue. The CM is still negotiating what should be the final outcome of this work.

Ms Juncher also informed that the CDPC Secretariat is expected to be reinforced in case new tasks are assigned to it but that more information regarding this will be provided after the Programme and Budget for 2024-2027 is adopted by the CM at the end of November 2023.

The CDPC Bureau members recalled the strong concerns already expressed by the CDPC Bureau in March 2023 and the CDPC plenary in June 2023 regarding the resource situation affecting the CDPC Secretariat. They welcomed that these concerns have been brought to the attention of the Committee of Ministers and expressed hope that a solution will be found to this situation in the near future. They requested to have feedback on the latest developments at their plenary meeting in November 2023.

#### **4. Hate crime**

The Bureau recalled that the third meeting of the Committee of Experts on Hate Crime (PC/ADI-CH) was held on 30-31 March 2023, where the Committee met in-person to discuss and review the draft Recommendation on Combating Hate Crime. Following revision to the Recommendation after this third meeting, the Recommendation was sent to the Plenary Meetings of both the CDPC and the Committee on Anti-Discrimination, Diversity and Inclusion (CDADI) for their consideration and comments. A public consultation was also held in June-July 2023, which also included a number of conference calls with select institutions, civil society organisations and others.

The fourth meeting of the Committee of Experts on Hate Crime (PC/ADI-CH) is taking currently place (4-6 October 2023). The main aim of the meeting is to examine and agree on the final drafts of the Recommendation and Explanatory Memorandum.

The Bureau held an exchange of views with the Secretariat regarding progress made and the way forward towards the adoption of the Recommendation at the forthcoming CDPC Plenary. It was decided that after the finalisation of the text of the recommendation and the explanatory memorandum by the PC/ADI-CH and in order to organise the joint approval by the two Steering Committees, the drafts will be considered on 20 November by the CDPC plenary and subsequently the CDADI committee will join online the CDPC plenary meeting.

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

The Bureau took note of the 2023 summary meeting reports of the PC-CP and its Working Group and had an exchange of views with its Secretary.

The Bureau also took note of the PC-CP ToR for 2024-2027 and had no comments to make regarding the work plan.

The Bureau noted that four PC-CP WG members will be leaving at the end of 2023 and therefore the CDPC is invited to elect four new members during their plenary meeting in November 2023. The outgoing members are from Belgium, Bulgaria, Germany and Ireland and therefore candidates from these countries cannot be presented.

The Bureau instructed the Secretariat to issue a call for candidates to the CDPC for the four vacant positions.

**a. 29th Council of Europe Conference of Directors of Prison and Probation Services (CDPPS) (25-26 June 2024, Sofia, Bulgaria)**

The Bureau took note of the oral information provided by the PC-CP Secretary regarding the state of preparation for the Conference and had no comments and suggestions to make at this stage.

**b. Mental health**

The Bureau took note that the drafting of a CM Recommendation regarding the management of mental disorders and the promotion of positive mental health by the prison and probation services is advancing and that the first draft was discussed at the 33<sup>rd</sup> PC-CP WG meeting (19-21 September 2023). It will be considered by the PC-CP plenary meeting (10-12 October 2023) and is expected to be finalised for adoption by the end of 2024 as planned.

The Bureau considered the draft text and had no comments or suggestions concerning the substance of this text.

**c. Artificial Intelligence**

The Bureau took note that the CDPC delegations of Germany and UK have provided written comments and suggestions to the draft CM recommendation regarding the ethical and organisational aspects of the use of artificial intelligence and related digital technologies by prison and probation services. The comments from these delegations as well as from the Finnish delegation (sent in May 2023) were considered at the 33<sup>rd</sup> meeting of the PC-CP WG and respective amendments to the text were introduced. In view of the well advanced drafting process, the PC-CP WG decided that it will present the draft at its plenary meeting as well as at the CDPC plenary meeting in November 2023. It will also follow the advancement of the drafting process of the future Framework Convention on artificial intelligence, human rights, democracy and the rule of law, which is expected to be adopted by the end of April 2024, in order to align the text as necessary to it.

The CDPC Bureau thanked the PC-CP WG and scientific experts for their excellent work and decided that the PC-CP plenary should consider and finalise the draft text as planned.

The CDPC Bureau further decided to invite the CDPC plenary to postpone the final approval at their level until the Framework Convention on AI is approved at the end of March 2024 by CAI, in order to ensure that there is no inconsistency between the Recommendation and the Convention. It instructed the Secretariat to consult the Secretariat of the Committee of Ministers in order to ensure that the postponement of this deliverable is reflected in an optimal way in the abridged meeting report of its upcoming plenary meeting.

**6. Committee of Experts on the operation of European conventions on co-operation in criminal matters (PC-OC)**

The Bureau took note of the list of decisions of the enlarged PC-OC Mod meeting of 26-28 September 2023 and of the oral information provided by its Secretary.

The Bureau notably took note of the discussions held during the PC-OC Mod meeting regarding the issue of co-operation with the European Public Prosecutor's Office (EPPO) under the 1959 European Convention on Mutual Assistance in Criminal Matters. It noted that, following the conclusion in the Working Party on Judicial Cooperation in Criminal Matters (COPEN) that there is currently no common support for a self-standing instrument among the EU Member States, the PC-OC plenary is expected to finalise its feasibility study with the conclusion that a self-standing instrument on this issue is not feasible at this stage.

The Bureau also took note of the discussions within the enlarged PC-OC Mod meeting regarding a Third Additional Protocol to the European Convention on Mutual Assistance in Criminal Matter, which includes provisions regarding channels of communication, videoconferencing, confidentiality, the introduction of a *ne bis in idem* exception to the execution of MLA requests, use of technical recording devices, co-ordination of prosecutions and the introduction of time limits for the execution of requests.

The Bureau was also informed about the ongoing work regarding the elaboration of a guidance on good practices regarding the post-surrender phase in extradition proceedings, expected to be finalised at the next plenary meeting of the PC-OC.

The Bureau noted that the PC-OC will adopt its first opinion on the possible accession of a non-member State to a Council of Europe convention on international co-operation in criminal matters, as it will examine a request by the Republic of Chile regarding the European Convention on Extradition.

## **7. Environment and Criminal Law**

The Bureau took note of the information provided by the Secretary to the drafting committee on the new convention on the protection of the environment through criminal law (PC-ENV), Mr Carlo Chiaromonte. Mr Chiaromonte presented the agenda of the 2nd meeting of the PC-ENV which will take place on 16-18 October in Strasbourg. This meeting will be entirely devoted to discussions and negotiations concerning the draft convention. He also informed that the European Commission received the mandate to negotiate on behalf of the European Union and that the latter will have a coordination meeting before the meeting starts. He also informed that the draft Convention is aligned substantially to the new EU Directive on the environment.

The Bureau took also note that the ToR of the PC-ENV Committee were prolonged by the Committee of Ministers until 31 December 2024.

## **8. Smuggling of Migrants**

The Bureau took note of the decisions adopted by the CDPC during its 83rd Plenary meeting, held in June 2023, namely the launching of actions n°3 (Fostering co-operation amongst source, transit and destination countries) and n°5 of the Action Plan in Fighting the Smuggling of Migrants (Ensuring information knowledge in the field of migrant smuggling).

The Bureau noted that implementation of action n°3 is expected through the organisation of a joint Council of Europe Network of Prosecutors on Migrant Smuggling - Eurojust Focus Group on Migrant Smuggling event, on cooperation tools between third countries and European states (modalities yet to be determined). Implementation of action n°5 will be achieved through the

completion of country-profiles featuring legal and judicial information on migrant smuggling (deadline for submitting country-profiles is set to 31 October 2023). So far three country factsheets were received.

The Bureau also took note that, following the Reykjavik Declaration, which stresses the “necessity to fight against trafficking and smuggling of migrants”, draft terms of reference of a Committee of Experts on fighting the smuggling of migrants (PC-TM) have been produced. They were discussed at the recent GR-J meeting of the Committee of Ministers and several delegations indicated that they were in favour of not drafting a new legal instrument but of producing a feasibility study on the existing national and international legal framework in this area and how to improve the implementation of the existing legal instruments dealing with migrants’ smuggling, in particular the relevant UN Palermo Protocol and EU law. In case this study reveals the necessity for a new legal instrument, then a decision could be taken in this respect by the CM.

The Bureau noted that the revised ToR of PC-TM will be discussed at an informal GR-J meeting on 10 October 2024. Following this the CDPC draft ToR could be amended accordingly before being formally adopted by the CM. The programme and budget for 2024-2027 with the ToR of all intergovernmental committees is expected to be adopted by the end of November 2023.

Several Bureau members expressed their views, with some noting that the smuggling of migrants involves cooperation of a number of key agencies and ministries and is not only a criminal law matter. Yet others underlined that there is a real and urgent need to enhance international cooperation to combat this problem and guidance and agreement in this area are needed whatever the form this would take.

Concern was expressed by the Bureau members that the mandate has not been seen by the CDPC and will be adopted without being considered by them.

The CDPC Bureau recommended that any work in this area should be preceded by a feasibility study and that the CDPC would be ready to co-ordinate such a study which should *inter alia* assess the necessity and feasibility of a new legal instrument. It should build upon the work done so far by the CDPC, including the Action Plan on fostering international cooperation and investigative strategies in fighting the smuggling of migrants.

## 9. Bureau elections

As the terms of office of the current Chair end at the end of 2023 and as the Vice-Chair resigned, a new Chair and Vice-Chair will be elected at the CDPC plenary meeting in November and depending on the outcome of the elections the remaining vacant positions of CDPC Bureau members will be filled.

The Bureau instructed the Secretariat to send a reminder to the CDPC delegations regarding the elections of the CDPC Chair and Vice-Chair and for filling any vacant Bureau positions.

## 10. Information points

The Bureau took note of the information provided by the Secretariat on points a to h.

### a. Asset Recovery

The Bureau took note of the draft ToR of the Committee of Experts on Criminal Asset Recovery (PC-RAC) and of the oral information provided by the Secretariat and had no comments to make.

**b. Draft Recommendation on combating technology-facilitated violence against women and girls**

The Bureau took note of the draft ToR of the Committee of Experts on combating technology-facilitated violence against women and girls (GEC/PC-eVIO) and of the concept note on the expected work plan and outcome.

The Bureau decided to invite the CDPC delegations to put forward candidates for the four CDPC members of the GEC/PC-eVIO in due course and designate these at the CDPC plenary meeting in November 2023.

The Bureau instructed the Secretariat to issue a call for candidates.

**c. CAI (Committee on Artificial Intelligence)**

The Bureau noted that four more plenary meetings of the Committee on Artificial Intelligence (CAI) will be held until the finalisation of the draft Framework Convention on Artificial Intelligence, Human Rights, Democracy and the Rule of Law. The dates of the next CAI plenary meeting will be 24-26 October 2023. The remaining three plenary meetings will be held at the beginning of 2024, the finalisation of the Convention is planned for mid-March 2024 with a view to its adoption by the Committee of Ministers by the end of April 2024.

**d. Artificial Intelligence and criminal law**

The Bureau expressed the view that a possible resumption of the CDPC's activities on this matter could be considered following the finalisation of the work on the Framework Convention, at the first plenary meeting of the CDPC in 2024.

**e. Medicrime**

The Bureau noted that the MEDICRIME Committee gathered in Portugal (21-22 September) following the operation *Corpus Insanus* aimed at dismantling clandestine laboratories of anabolic substances.

They further noted that the Bureau of the MEDICRIME Committee adopted an opinion on a draft recommendation on unaccounted disappearances of medicinal products for human and veterinary use from the legal supply chain.

The Bureau further took note that (a) two new countries ratified the MEDICRIME Convention: Ivory Coast (20 July 2023) and Cyprus (5 September 2023); (b) different technical cooperation activities aimed at promoting the convention took place.

**f. Terrorism**

The Bureau took note of the oral information provided by the Secretariat regarding the CDCT work and activities. More than 20 activities are planned and some of these are starting to be implemented. Council of Europe member States but also non-member States are actively participating, in the first place the USA.

One major CDCT activity relates to agreeing on a Council of Europe definition of terrorism and the prospects are good that soon an agreement will be reached.

**11. Dates of the next meetings**

The Bureau decided to fix the 2024 meeting dates during the CDPC plenary meeting in November 2023 after the election of the new Chair and Vice Chair and of other CDPC Bureau members as necessary.