

COUNCIL OF EUROPE



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Venice, 15 October 2024

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EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

Bureau meeting

Venice, 14-15 October 2024

LIST OF DECISIONS

Criminal Law Secretariat

DGI-CDPC@coe.int / www.coe.int/cdpc

1. Opening of the meeting

The meeting was opened by the Chair at 10:00 a.m. on Monday, 14 October 2024.

2. Adoption of the draft agenda

The Bureau adopted the agenda of the meeting.

3. Information by the Chair, the members of the CDPC Bureau and the Secretariat

The meeting started with an address by the Chair, Mr Fritz Zeder, followed by addresses by the Secretary, Ms Eva Pastrana, and Bureau members. It was noted that the meeting agenda did not contain a point concerning the activity of the CDCT, possibly due to an omission, and it was decided to ask Mr Carlo Chiaromonte to report on that issue after his intervention on the Environment and Criminal Law. The Bureau was informed about the appointment of the new Secretary General of the Council of Europe, Mr Alain Berset, and the Director General of DGI, Mr Gianluca Esposito. The Secretary of the CDPC reported on their priorities and plans for the future. Many of the SG's priorities coincide with CDPC's priorities: support to Ukraine, countering migrant smuggling, protection of the environment, and violence against women. Communication must be enhanced, including raising awareness on the global outreach of most of the CoE Conventions, to which the CDPC Vice-Chair, Mr Lorenzo Salazar proposed to optimise the CDPC's communication resources and better disseminate the outcomes of the CDPC Plenaries. The Chair and the rest of the Bureau members agreed with his proposal.

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

The Bureau heard updates by the Chair of the PC-CP, Ms Laura Negro, and by its Secretary, Ms Iliana Taneva regarding the 36th PC-CP WG meeting. The Bureau engaged in an exchange of views on penological topics, including the issue that apart from the revision of the commentary to Recommendation CM/Rec(2022)12 on foreign prisoners, the Recommendation itself will also be revised. During the exchanges, the Bureau took note of the upcoming retirement of the PC-CP Secretary in the summer of 2025.

a. Mental health

The Bureau took note of the draft CM Recommendation regarding the management of mental disorders and the promotion of positive mental health by the prison and probation services and the draft Explanatory Memorandum which will be further considered at the PC-CP plenary meeting on 5-7 November 2024. The Bureau noted that there will be only two weeks between the said meeting and the CDPC Plenary meeting and encouraged PC-CP delegates to coordinate with their respective CDPC representatives.

The Bureau was invited to consider the draft texts and to make any comments and suggestions in this respect that it considers relevant. The Bureau thanked the scientific experts for the excellent assistance provided to the PC-CP.

b. Education in prison

The Bureau took note of the fact that work on the updating and replacing of CM Recommendation Rec(89)12 on education in prison was underway and that a first draft of the text will be considered

at the PC-CP plenary meeting in November 2024, at this stage not yet accompanied by an explanatory memorandum. The Recommendation and its explanatory memorandum are planned to be finalised by the end of 2025.

The Bureau was invited to consider the draft text and to make any comments and suggestions in this respect that it considers relevant. There were no specific comments at this stage.

c. Artificial Intelligence use by the prison and probation services

The Bureau noted that, on 9 October 2024, the Committee of Ministers adopted the Recommendation on the ethical and organisational aspects of the use of AI and related digital technologies by prison and probation services which had previously been delayed to ensure consistency with the Framework Convention on AI, Human Rights, Democracy and Rule of law, adopted on 17 May 2024.

d. 29th CDPPS “Human Rights, Democracy and the Rule of Law at the heart of Prisons and Probation” (Sofia, Bulgaria, 24-25 June 2024)

The Bureau also took note of the excellent organisation of the Conference in Sofia on 24-25 June 2024, confirmed by all participants who also very much appreciated its contents and the quality of the presentations and speakers.

The Bureau was also invited to note that, during the Conference, the Polish State Secretary officially announced that Poland will host next year's Conference on 24-25 September 2025 in Krakow. The title and the contents of the Conference will be discussed at PC-CP level at their forthcoming plenary and WG meetings.

5. 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 24-26 September 2024 and of the oral information provided by its Secretary, Mr Hasan Bermek.

The Bureau also took note of the discussions within the enlarged PC-OC Mod meeting regarding a draft Third Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters and its draft Explanatory Report. The main provisions of the Convention to be modernised concern channels of communication, videoconferencing, use of technical recording devices, interception of telecommunications, costs and the introduction of time limits for the execution of requests. The PC-OC Secretary provided the Bureau with details of the Third Additional Protocol and engaged in exchanges with Bureau members in respect of the various provisions. He informed the Bureau that the draft Third Additional Protocol is expected to be submitted to the CDPC Plenary in November 2024. The Bureau noted that there will be only one week between the PC-OC Plenary meeting and the CDPC Plenary meeting and encouraged PC-OC delegates to coordinate with their respective CDPC representatives.

The Bureau further took note of the discussions held by the PC-OC Mod regarding the issue of confidentiality in MLA proceedings, a draft questionnaire on the application of the Convention on the transfer of sentenced persons, and a questionnaire on the supervision of conditionally released offenders.

As a follow-up to the Vilnius Informal Conference of Ministers of Justice on 5 September 2024, in which the CDPC Vice-Chair participated, and following CoE preliminary discussions regarding international co-operation and judicial assistance in connection with the current discussions on the establishment of the Special Tribunal for Ukraine, the Bureau was informed that the Director of the Legal Advice and Litigation Department (DLAPIL) will brief the PC-OC Plenary.

6. Environment and Criminal Law

The Bureau took note of the information provided by the PC-ENV Secretary, Mr Carlo Chiaromonte on the finalisation of the text of the new draft Convention on the Protection of the Environment through Criminal Law, as well as on the outcome of the 5th meeting of the Committee of experts on the protection of the environment through criminal law (PC-ENV), which took place on 7-9 October 2024 in Strasbourg. This meeting was dedicated to discussing and agreeing on the text of the draft Explanatory Report. The Bureau was provided with details about the contents of the Convention and of the Explanatory Report.

The Bureau congratulated Mr Chiaromonte for the impressive work carried out in respect of this very important deliverable for the CDPC and discussed the next steps, notably the adoption of the draft Convention and the draft Explanatory Report at the next CDPC Plenary in November.

The Bureau decided to invite a representative from the new CoE Ad Hoc Multidisciplinary Group on Environment (GEM) to the November CDPC Plenary. The GEM had held its first meeting from 25-27 September in Strasbourg. The Bureau envisaged appointing a representative to the GEM in order to facilitate coordination.

In so far as the Counter terrorism issue was concerned, Mr Carlo Chiaromonte informed the meeting that the CDCT Bureau will meet this week and committed to provide further updates at the next CDPC Plenary.

7. Smuggling of Migrants

The Bureau took note of the information provided by the Secretariat regarding the implementation of the Action Plan on Fighting the Smuggling of Migrants, as well as of details of the 2nd International Conference on Migrant Smuggling, organised by the Council of Europe in Strasbourg on 10-11 September 2024.

The Bureau then engaged in an exchange of views with Mr Andreas Schloenhardt and Mr Calogero Ferrara concerning the draft report that assesses the need for and feasibility of a possible Council of Europe instrument in the field of migrant smuggling. During the detailed discussions, the members of the Bureau, the experts and the Secretariat, *inter alia*, exchanged views concerning various parts of the report and made proposals concerning possible amendments, where necessary. The experts and the Bureau agreed on certain amendments to the report and on the change of order of certain chapters.

Ahead of its presentation at the CDPC Plenary in November 2024, the Bureau tasked the CDPC Secretariat to elaborate a brief note to be shared with the CDPC members outlining proposals and options to move further in order to fulfil the CM's mandate: "*Within the existing Council of Europe frameworks, consider and explore concrete ways to improve international co-operation in fighting the smuggling of migrants, thereby also considering the protection from aggravated instances of migrant smuggling, with full respect for their human rights and taking into account the relevant*

legal framework, and prepare a report assessing the need for and feasibility of a possible instrument in this field'.

8. Asset Recovery

The Bureau took note of the information provided by the Chair of the Committee of Experts on Criminal Asset Recovery (PC-RAC), Mr Cornel Virgiliu Calinescu. In particular, it took note of the fact that the PC-RAC held its first two meetings in May and September of 2024, while the third meeting is taking place at the same time as the CDPC Bureau meeting, between 14 and 16 October 2024. The Bureau was also informed about the progress on the zero draft of the additional protocol supplementing the Council of Europe Convention on laundering, search, seizure and confiscation of the proceeds from crime and on the financing of terrorism (CETS no. 198) and was provided with details of its content.

The Bureau was also invited to make any comments and suggestions in this respect and some of its members held an exchange of views with the PC-RAC Chair.

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

The Bureau was invited to take note of the report from the 1st meeting of the Committee of Experts on Combating Technology-Facilitated Violence against Women and Girls (GEC/PC-eVIO), which includes a draft Recommendation to be finalised by the end of 2025. Ms. Eva Pastrana, also Co-Secretary of GEC/PC-eVIO, provided an overview of the working methods, identified experts (where there remained a vacancy for an expert ideally with a criminal law and technology background), the elected Chair (Ms Venus Mahmood, proposed by the CDPC) and Vice-Chair (Mr Tryggvi Hallgrímsson, proposed by the GEC) and the next steps, including potential engagement with digital partners. This first meeting, held in person in Strasbourg on 1-2 October 2024, introduced key themes such as harmonising definitions of technology-facilitated violence against women and girls (TFVAWG), ensuring access to justice for victims, and addressing both criminal and civil law aspects.

The expected Recommendation will align with existing CoE instruments, including the Istanbul Convention on preventing and combating violence against women and domestic violence, the Budapest Convention on Cybercrime, and the Convention on Mutual Assistance in Criminal Matters, as well as GREVIO General Recommendation No.1. Members emphasised the need for a holistic, technology-neutral approach to prevent TFVAWG and to ensure accountability of digital platforms. The Secretariat will prepare the first draft of the Recommendation, based on these discussions, for review at the second meeting.

10. Information points

The Bureau was invited to take note of the information provided by the Secretariat on points a. to c.

a. Committee on Artificial Intelligence (CAI)

The Bureau took note that the Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law was adopted by the Committee of Ministers on 17 May 2024 and opened for signature in Vilnius, Lithuania, on 5 September 2024. The CAI Secretary, Mr Kristian Bartholin, updated the Bureau on the work on risk and impact assessment of AI systems from the point of view of Human Rights, Democracy and Rule of Law (HUDERIA) to support the

implementation of the Framework Convention on AI. The Bureau engaged in an exchange of views with the CAI Secretary and warmly congratulated him for the work carried out.

b. Artificial Intelligence and criminal law

The Bureau was reminded that during the last CDPC Plenary meeting, delegates had highlighted the lack of sufficient information needed to make an informed decision regarding the scope of the future legal instrument on criminal liability related to the use of artificial intelligence. To address this, the Secretariat, in collaboration with Professor Gless and potentially other expert(s), had been tasked with drafting a comprehensive paper outlining the key issues to be regulated and the possible scope of the future instrument. This paper would serve as the basis for discussions at the next Plenary meeting, where a decision is expected to be taken. Following some exchanges on the use of AI in certain criminal justice fields and by justice and police authorities, the Bureau members agreed to ensure that the focus of the future instrument be criminal liability related to the use of AI, as stated in the Terms of Reference.

One Bureau member pointed out that the report also has to contribute to the question of whether a legal instrument on Artificial Intelligence and criminal law is needed at all.

In light of the above, the Bureau was invited to note that the Secretariat has completed a selection process and has designated a new expert to assist Professor Gless in preparing the detailed paper for the November Plenary meeting. The newly appointed expert is Judge Peralta from Spain, who is expected to bring significant expertise on AI and emerging technologies. The Bureau was informed on the new expert's profile and that both Professor Gless and Judge Peralta are currently working on the paper.

c. Medicrime

The Bureau took note of the information provided by the Executive Secretary of the MEDICRIME Convention, Mr Oscar Alarcón-Jiménez, in particular that the Bureau of the MEDICRIME Committee gathered on 26-27 September 2024 to discuss, *inter alia*, the final draft report of the 1st Monitoring round, and that the 8th Plenary meeting of the Committee of the Parties will take place on 21-22 November 2024.

The Bureau also took note that the MEDICRIME Convention was signed by the Republic of Chad on 11 September 2024. Further details, including co-operation activities, can be found in the documents appended to the draft agenda.

The Bureau was further apprised of a seminar organised for the Human Rights Defender of Armenia (10 September), a seminar addressed to more than 160 customs officers (19 September) and another seminar in Tunisia (20 September) with a view to promoting the MEDICRIME Convention. The Bureau was also informed of a workshop organised in Côte d'Ivoire (18 September) to introduce and validate the preliminary draft law for the implementation of the MEDICRIME Convention.

The Bureau also engaged in an exchange with Mr Oscar Alarcón-Jiménez during which he mentioned that up to seven CDPC representatives or their delegates could be invited to the November plenary meeting of the MEDICRIME Committee of the Parties.

d. Trafficking in Human Organs

The Bureau took note of the information provided by Mr Oscar Alarcón-Jiménez, the Executive Secretary of the Council of Europe Convention against the Trafficking in Human Organs, known as the Santiago de Compostela Convention, on the Bureau of the Santiago de Compostela Committee held on 10-11 October 2024. The Committee had discussed the answers to both the Country profile questionnaire provided by the Parties and the questionnaire of the 1st monitoring round for its adoption at the next plenary meeting of the Committee of the Parties.

e. Cultural Property

The Bureau took note of the information provided by the Secretariat on the meeting organised in Zaragoza (19-20 June) to set-up an Advisory Group to enhance the establishment, operation and development of National Platforms pending the setting up of the Committee of the Parties to the Council of Europe Convention on Offences relating to Cultural Property. This Advisory Group is called the “Aragon Group”.

11. Any other business

Restorative Justice

The CDPC has been tasked with drafting guidelines to implement Recommendation CM/Rec (2018)8 on restorative justice by the end of 2026. After a presentation by Ms Laura Hein from the European Forum for Restorative Justice (EFRJ) at the CDPC’s June Plenary, the CDPC had discussed the role of the CoE in promoting the EFRJ study, as called for by the Venice Declaration. The CDPC Secretary informed the Bureau on some options for supporting the study’s promotion as suggested by the EFRJ. Suggestions include, *inter alia*, organising a workshop in Strasbourg, identifying an expert to compile a summary of the 1200-page study and making it accessible for wider dissemination.

The CDPC Secretariat will disseminate details on the above suggestions and propose next steps for 2024. The EFRJ representative may be invited to the CDPC Plenary. Further actions can be foreseen for 2025 and 2026.

Pompidou Group

Following the July letter from the President of the Pompidou Group to the CDPC Chair, the CDPC has been invited to appoint one or two experts to the drafting expert group tasked with the preparation of policy guidelines in the area of combatting organised crime relating to drug trafficking, based on the case-law of the ECtHR. The Bureau decided to invite a representative of the Pompidou Group to address the CDPC Plenary.

Other points addressed were the CDCJ’s planned communication to CDPC members on the European Convention on Information on Foreign Law and other initiatives by CoE services or divisions that may be relevant for CDPC work, such as the current revision of the Child-friendly Justice guidelines led by the Children’s Rights Division.

Election of CDPC Bureau members and of CDPC representatives in other committees

The Secretary of the CDPC was asked to analyse the rules concerning the appointment of Bureau members. Regarding the current vacancies for the CDPC Bureau, the Secretary was asked to

send a message to CDPC members who are not represented at the CDPC Bureau encouraging the submission of candidates, informing their Permanent Representatives in parallel.

12. Dates of the next meetings

The Bureau took note of the fact that the next Plenary meeting will take place in Strasbourg on 20-22 November and decided to fix the next Bureau meeting for 28-29 April in Vienna. The date of the next 2025 Plenary meeting was fixed for 17 to 19 June in Strasbourg.