



Strasbourg, 13 October 2022

# EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

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## LIST OF DECISIONS

### Bureau meeting

Venice (Italy), 12-13 October 2022

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**1. Opening of the meeting**

The meeting was opened by Katariina Jahkola, CDPC Chair.

**2. Adoption of the draft agenda**

The Bureau adopted its agenda.

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

The Bureau members held an exchange of views on the most recent and significant developments in the Council of Europe. The Bureau noted the reply of the Committee of Ministers to the Parliamentary Assembly of the Council Europe regarding its Recommendation 2231 (2022) "The Russian Federation's aggression against Ukraine: ensuring accountability for serious violations of international humanitarian law and other international crimes", which takes account of the comments of the CDPC on this Recommendation.

The Secretariat informed the Bureau about recent delays and difficulties faced in the implementation of some CDPC activities due to the lack of availability of budgetary and human resources. This concerned notably the implementation of the activities regarding the Network of Prosecutors on Migrant Smuggling (item 4 of the Agenda), AI and criminal law (item 7) and the environment and criminal law (item 9). The Bureau expressed regret at this situation, considering that these activities were still priorities and should be carried out as soon as possible. The Bureau members also agreed to raise awareness about this situation, both within the CDPC and in their capitals.

#### **4. Action Plan on Smuggling of migrants**

The Bureau took note that there had been no meeting of the Network of Prosecutors on Migrant Smuggling since the last CDPC Plenary held in June 2022. It noted that a restricted website had been created to foster co-operation and exchange of information between the members of the Network, which currently has 24 members and is fully operational. The Secretariat informed the Bureau of contacts with the relevant focus group within Eurojust which expressed interest in the work of this Network. The Bureau noted that the Network will hold its next meeting early in 2023.

#### **5. Hate crime**

The Bureau took note of the information provided by Ms Stephanie Oener, Chair of the Committee of Experts on Hate Crime (PC/ADI-CH) on the outcome of the 2<sup>nd</sup> meeting of the PC/ADI-CH held on 29-30 September 2022.

The Bureau welcomed the progress made by the Committee on the draft Recommendation on Combating Hate Crime. It also noted that work on a draft Explanatory Report to this Recommendation would begin soon, for consideration at the next meeting of the PC/ADI-CH in March 2023 and subsequent submission to the first CDPC plenary meeting in 2023. The Bureau considered that the first substantial discussions of the CDPC on these texts would also take place at that plenary meeting.

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

The CDPC Bureau took note that two PC-CP WG meetings were held since the last CDPC plenary session: on 19-20 June 2022 in Sevilla and on 20-22 September 2022 in Strasbourg. It noted that during those meetings, contributions made by the Registry of the ECtHR, the CPT and CDBIO to the White Paper on the management by the prison and probation services of offenders with mental health disorders were considered. It noted that the text was further redrafted and finalised for adoption by the PC-CP plenary meeting on 25-27 October 2022. The Bureau also noted that the White paper is expected to be ready for adoption by the CDPC plenary meeting in November 2022 with a view to sending it in due course to the Committee of Ministers for information and dissemination at national level. The Bureau was also informed that the PC-CP WG is of the opinion that a CM Recommendation should also be adopted in this rather sensitive and complex area as the replies to the questionnaire revealed that the national authorities need guidance on how to manage such persons, which would require a decision on this to be taken at the next CDPC plenary meeting.

The Bureau noted that the draft Committee of Ministers Recommendation on the ethical and organisational aspects of the use of AI and related digital technologies by the prison and probation services was also examined in the above-mentioned meetings and that the scientific experts also held a drafting meeting between the two above meetings of the WG (on 30-31 August 2022) which allowed to significantly advance in developing the text and the explanatory

report. The draft Recommendation is scheduled to be ready for approval by the CDPC plenary meeting at the end of 2023 to correlate the text and its definitions to the general AI framing instrument, which is expected to be finalised in 2023.

The Bureau noted that the 27th Council of Europe Conference of Directors of Prison and Probation Services (CDPPS) held on 21-22 June 2022 in Sevilla, Spain was a great success and was attended by more than 140 participants. It took note of the outcome of discussions on key topics, as well as the fact that the presentations and other relevant documents are available on the Conference website ([www.coe.int/cdpps2022](http://www.coe.int/cdpps2022)).

The Bureau was also informed that the 28<sup>th</sup> CDPPS will be held on 6-7 June in Berlin, Germany and will be hosted by the Federal Ministry of Justice. A special session will be dedicated to presenting the penal law and policy of the 16 German Landers.

Finally, the Bureau noted that SPACE II data (on community sanctions and measures) for 2021 were published and discussed during the Conference and was met as usual with a lot of media attention.

The Secretariat also informed the CDPC of the holding in Prague, the Czech Republic (at the same time as its meeting) of a Conference organised by the Czech Presidency of the EU, dedicated to restorative justice and to the follow-up to the Venice Declaration on the Role of Restorative Justice in Criminal Matters, adopted by the Ministers of Justice in December 2021 (during the Italian Presidency of the Committee of Ministers). A number of delegations informed in Prague that legislative reforms and revision of practices are taking place in Europe as a response to the Venice Declaration. Therefore, there is a need to report to the CDPC plenary meeting in November 2022 on these developments and discuss the CDPC's role in ensuring the follow-up to the Venice Declaration.

The CDPC Bureau agreed to invite a representative of the European Forum for Restorative Justice (EFRJ) to inform of these developments and also to consider possible follow-up options to the Venice Declaration.

## **7. Artificial Intelligence and criminal law**

The Bureau noted that there had been no further meeting of the Drafting Committee to elaborate an instrument on AI and Criminal Law (CDPC-AICL) since the last CDPC plenary meeting. Members of the Bureau expressed their support for the continuation of CDPC-AICL activities, including the drafting of a non-binding instrument in this field. In this regard, the next meeting of CDPC-AICL is tentatively scheduled for early 2023.

## **8. 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 2022. It noted, in particular, that the PC-OC Mod approved a draft policy paper on the accession of non-member States to Council of Europe conventions on international co-operation in criminal matters, setting out proposals for a procedure for the Committee of Ministers to consult the PC-OC and the CDPC in case of requests by third States to accede to these Conventions and defining criteria for the assessment of these requests. The Bureau noted that this text would be finalised at the next PC-OC plenary meeting in November 2022, two weeks before the CDPC's own plenary meeting, and subsequently submitted to the CDPC. The Bureau expressed broad agreement with the approach proposed by the PC-OC Mod and instructed the

Secretariat to make this text already available on the agenda of the next CDPC plenary meeting, and to update it once the text is finalised by the PC-OC.

The CDPC also took note of the discussions held within the enlarged PC-OC Mod meeting regarding the issue of co-operation with the European Public Prosecutor's Office under the 1959 European Convention on Mutual Assistance in Criminal Matters, on the basis of replies to the questionnaire sent to non-EU member States on possible co-operation with this institution based on unilateral declarations made by EU member States. The Bureau noted that the PC-OC Mod considered the positions expressed by different delegations and came to the conclusion that it would be unrealistic in the current circumstances to expect to reach an agreement on a new legal instrument on this matter within the timeframe initially envisaged. The PC-OC Mod decided to propose to the PC-OC to consider conducting a feasibility study to assess the opportunity and feasibility of negotiating such an instrument and to make a proposal to the CDPC, with a view to amending the terms of reference of the PC-OC. The Bureau expressed support for this approach, while affirming that the work on facilitating co-operation between the EPPO and non-EU member states remains a priority for the CDPC.

The CDPC also took note of information regarding the ongoing work within the PC-OC to update the MLA Convention, as well as to develop specific guidance on questions relating to the application of the European Convention on Extradition. It further noted that a joint session on asset recovery between the PC-OC and the COP198 Committee would be held on 17 November, in the margins of the next PC-OC plenary meeting to be held on 15-17 November.

## **9. Environment and Criminal Law**

The Bureau was informed by the Secretariat that the examination by the Committee of Ministers of the draft Terms of Reference of the new Committee on the protection of the environment through criminal law (PC-EPCL) was delayed owing to concerns regarding the availability of material and human resources necessary for this work to start. Affirming that this issue should be considered a major priority for action by the Council of Europe and the CDPC, the Bureau considered that, as a last resort if no other solution can be found, it could be envisaged for one of the plenary meetings of the CDPC in 2023 to be held online in order to allow this work to commence sooner. The Bureau agreed that, under the circumstances, the timeframe envisaged in the original draft terms of reference should be extended to allow for the completion of this work by the end of 2024, following three meetings of PC-EPCL.

## **10. Victims' rights**

The Bureau took note of the information provided by the Secretariat on the progress made by the Working Group on Victims' Rights (CDPC-VR) regarding the draft Recommendation on the Rights, Services and Support for Victims of Crime and its Explanatory Report which will update and replace the Committee of Ministers Recommendation Rec(2006)8 on Assistance to Crime Victims. It noted that the third meeting of the CDPC-VR was scheduled for the week following the CDPC Bureau meeting, in view of the finalisation of its work for examination and approval by the CDPC at its next Plenary meeting in November 2022. The Secretariat informed the Bureau that there was already broad agreement on these texts and no major outstanding issues were anticipated for the CDPC plenary meeting.

The Bureau further took note of the information provided by the Secretariat on the possibility for representatives of the European Society of Criminology to present to the CDPC Plenary on the plea for a pan-European Survey on crime victimisation, following its publication in the European Journal of Criminology in 2023.

**11. Information points**

The Bureau took note of the information provided by the Secretariat, notably on the status of the work of CAI (Committee on Artificial Intelligence), the issues faced by the Committee of the Parties of the Medicrime Convention, notably as regards the continued participation of the Russian Federation in the work of this Committee, as well as the various developments regarding Council of Europe action against terrorism. The Bureau took note, in particular of the organisation of an International Conference on “Transnational Terrorist Threats from Emerging and Re-emerging Violent Extremist Movements” on 3-4 November 2022, in co-operation with the German Ministry of Foreign Affairs.

**12. Any other business**

The Bureau took note of the information provided by the Secretariat regarding recent activities of the Consultative Council of European Prosecutors (CCPE). The Bureau noted, in particular, that the CCPE considered that it would be desirable to update the Committee of Ministers Recommendation Rec(2000)19 on the Role of Public Prosecution in the criminal justice system, which had been prepared by the CDPC. In this connection, the Bureau agreed to invite a representative of the CCPE to one of the upcoming plenary meetings of the CDPC for an exchange of views.

**13. Dates of the next meetings**

The Bureau recalled that the next CDPC plenary meeting would take place on 28-30 November 2022.