



Strasbourg, 26 April 2021

CDPC-EC(2021)1

EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

WORKING GROUP ON THE ENVIRONMENT AND CRIMINAL LAW (CDPC-EC)

MEETING REPORT

1st meeting

20-21 April 2021

Teleconference

Document prepared by the CDPC Secretariat
Directorate General I – Human Rights and Rule of Law

Following its decisions at the last Plenary meeting on 3-4 November 2020, the CDPC set up an ad hoc Working Group on the Environment and Criminal Law (CDPC-EC), consisting of experts appointed by the members of the CDPC. The Working Group was entrusted with the main task of assessing whether the drafting of a new Council of Europe Convention on the protection of the environment through criminal law or modernising the existing 1998 Convention (ETS No.172) is feasible and appropriate or not. This assessment will take place through a comprehensive feasibility study produced by the Working Group.

The Working Group held its first meeting via the electronic platform KUDO on 20-21 April 2021. Mr Thomas Grégoire, elected by the Bureau of the CDPC as the chair of the Working Group, opened the meeting and welcomed all participants, emphasising the importance of the work ahead of them. The Chair outlined the main objective of the first meeting, which was to take a clear and shared position on the possible way forward in this domain. Mr Carlo Chiaromonte, Head of the Criminal Law Division at the Council of Europe also welcomed all participants and provided an overview of the working methods of the Council of Europe in general and of the specialised working groups of experts, such as this one, in particular.

The members of the Working Group held a *tour de table* in which all participants briefly introduced themselves and their national experience on environment and criminal law. The Chair introduced the scientific expert, Ms Véronique Jaworski, who presented the “Working Paper on the Protection of the Environment through Criminal Law”. This included an overview of the current and future context and challenges regarding environmental crime.

The Chair also presented the discussion paper prepared by the Secretariat, highlighting that the objective was to present avenues for reflection which can serve as a basis for discussion. These elements, grounded on the work of Ms Jaworski, may be used within the feasibility study to assess whether the drafting of a new Convention or the modernisation of the existing one is feasible or not. The Chair invited the participants to discuss these elements as a preliminary identification of questions and topics related to the feasibility study and its scope.

All members agreed on the importance of analysing the exact reasons for the failure of the existing 1998 Convention in each State, to avoid repeating the same mistakes. Some delegations specifically mentioned the important role of the “implementation” part, whereby, to implement such an instrument, considerable tools and (financial) means are essential, such as for example, the specialisation of relevant competent national authorities, the transborder cooperation, and the need to increase the availability and accessibility of specific data. The Working Group also noted the importance of ensuring that a possible new convention would be considered politically attractive to increase the likelihood of ratification.

Based on these discussions, it was agreed that the following three questions should be answered by each member State in the form of ‘contribution points’, to achieve the objective of the first meeting of the Working Group:

1. Please specify the reasons **why** your State did not sign or ratify the 1998 Convention on the Protection of the Environment through Criminal Law (for example, political or circumstantial reasons or specific elements of the Convention that were considered problematic);
2. Please identify **the specific elements** (and/or possible articles) of the 1998 Convention that your State considers to be **relevant** today and should **remain** in a possible new Convention;

3. Please specify the **connection or interdependency (if any) between criminal law and administrative law** within your domestic law in the context of the environment (In order to prosecute an environmental offence, does it require the breach of administrative environmental law or are there 'stand-alone' offences that criminalise damaging the environment within your domestic law system?).

The Chair confirmed that these contribution points should be sent to the Secretariat by 31 May 2021 and will form the basis of discussion for the next meeting on 14 June 2021. On this note, it was agreed that the next meeting would be considered as an 'intermediary' meeting that will aim to analyse the outcomes of the contribution points to take a clear position on the way forward in this domain.

The second day of the meeting focused on continuing the exchanges from the previous day. The Chair opened the discussion on the key notions to be defined. The participants specifically expressed the importance of utilising definitions that are in line with existing international initiatives (for example, legal rules within the EU law and mutual legal assistance (MLA)), to ensure that a possible new convention will include harmonised definitions that can be accepted across borders.

The Chair directed the discussion towards the key components that the Working Group may need to explore as part of the planned feasibility study. Following Ms Jaworski's development of the avenues for reflection, one delegation noted the role of reinstatement under sanctions (non-criminal liability), by linking the criminal behaviour that created an offence to the act of repairing the environment. Similarly, another delegation raised the concept of causality, to establish the link between the crime and the damage caused. All members emphasised the importance of cooperation in this domain. The Working Group, therefore, agreed that some of the preliminary elements to be explored within the planned feasibility should include:

- Substantial criminal law (Including the link between criminal law and administrative law in the context of environmental crime);
- Sanctions (including reinstatement);
- Cooperation across borders (Including the use of existing international structures);
- Tools (Including concrete implementation methods).

The Chair reiterated the next steps of the Working Group, including the submission of the contribution points by each member State by 31 May 2021, in preparation for the next 'intermediary' meeting on 14 June 2021. It was also suggested that the Secretariat should consider preparing a preliminary outline of the feasibility study, together with Ms Jaworski, to serve as a basis for discussion in future meetings.

APPENDIX I

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 21 April 2021

CDPC-EC(2021)LP Fin

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

**Working Group on the Environment and Criminal Law (CDPC-EC) /
Groupe de travail sur l'environnement et le droit pénal (CDPC-EC)**

20-21 April / 20-21 avril 2021

**Council of Europe / Conseil de l'Europe, Strasbourg
Teleconference**

List of participants / liste des participants

AUSTRIA / AUTRICHE

Mr Christian MAYER, Desk Clerk of two units in Criminal Legislation Directorate at the Ministry of Justice, Museumstrasse 7, Vienna

BELGIUM / BELGIQUE

Mme Sylvie HILGERS, Fonctionnaire sanctionnatrice en matière d'environnement et experte au sein du Département de la police et des Contrôles

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Ms Martine BLONDEEL, Representative of the Flemish Region

Ms Robertine DEGRAVE, Representative of the Brussels-Capital-Region

BULGARIA / BULGARIE

Mr Milen GEORGIEV, Chief Expert, Cooperation in Criminal Matters Unit, International Legal Cooperation and European Affairs Directorate, Ministry of Justice of the Republic of Bulgaria

CROATIA / CROATIE

Ms Mia BIČANIĆ ŠLOGAR, Head of Service, Ministry of Justice of the Republic of Croatia

CYPRUS / CHYPRE

Lina Chatziathanasiou, Counsel of the Republic, Law Office of the Republic, Apelli 1, Agioi Omologites Nicosia, Nicosia, 2013,

CZECH REPUBLIC / RÉPUBLIQUE TCHÈQUE

Ms Lucie SCHUBERTOVIÁ, Senior Ministerial Counsellor, Legislative Department, Ministry of Justice of the Czech Republic

Mr Simon PEPRIK, Legislative Department, Ministry of Justice of the Czech Republic

ESTONIA / ESTONIE

Ms Mare TANNBERG, Adviser, Penal Law and Procedure Division, Criminal Policy Department, Ministry of Justice, Suur-Ameerika 1, 10122 Tallinn

FINLAND / FINLANDE

Ms Leena MÄKIPÄÄ, Senior Ministerial Adviser, Legislative Affairs, Department for Criminal Policy and Criminal Law, Ministry of Justice

Ms Heidi NUMMELA, Senior Specialised Prosecutor, National Prosecution Authority, Prosecution District of Southern Finland

FRANCE

Chair / Président

M. Thomas GREGOIRE, Chef du bureau de la négociation pénale européenne et internationale

M. Pierre BECKERS, Magistrat – Adjoint au chef du bureau de la négociation pénale européenne et internationale

GEORGIA / GÉORGIE

Ms Nino LATSABIDZE, Deputy Head of International Relations and European Integration Department, Ministry of Environmental Protection and Agriculture of Georgia

GERMANY / ALLEMAGNE

Mr Markus BUSCH, Federal Ministry of Justice and Consumer Protection

Ms Julia BARSCH, Federal Ministry of Justice and Consumer Protection

IRELAND / IRLANDE

Mr Fiachra BYRNE, Deputy Permanent Representative, Permanent Representation of Ireland to the Council of Europe

LATVIA / LETTONIE

Mr Vitālijs POLOVINSKIS, State Police, Central Criminal Police Department, Chief of Unit

Ms Laura ROZENBERGA, The State Environmental Service, Director of Legal department

THE NETHERLANDS / PAYS-BAS

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NORTH MACEDONIA / MACEDOINE DU NORD

Ms PhD. prof Marina MALISH SAZDOVSKA, Professor at Faculty of Security, Skopje,

PORTUGAL

Mr António FOLGADO, Legal Adviser, Cabinet of the Minister for Justice

ROMANIA / ROUMANIE

Ms Mariana RADU, Assistant to the National Member for Romania at Eurojust, EUROJUST, P.O. Box 16183, 2500 BD The Hague, The Netherlands

RUSSIAN FEDERATION / FÉDÉRATION DE RUSSIE

Mr Mikhail MOTURENKO, Senior Prosecutor of the International Cooperation Department of the Organizational and Legal Directorate of the Main Directorate of International Legal Cooperation of the Prosecutor General's Office of the Russian Federation

Mr Konstantin KOSORUKOV, Deputy to the Permanent Representative, Permanent Representation of the Russian Federation to the Council of Europe, 75, allée de la Robertsau - 67000 Strasbourg

SLOVENIA / SLOVÉNIE

Dr. Vasilka SANCIN, Associate Professor of International Law, Head of the Department of International Law, Director of the Institute for International Law and International Relations, Faculty of Law, University of Ljubljana, Poljanski nasip 2, 1000 Ljubljana

SPAIN / ESPAGNE

Ms Sonia NUEZ RIVERA, Advisor, Secretary of State for Justice, Ministry of Justice, C/San Bernardo 45 – 28015 Madrid

SWITZERLAND / SUISSE

Mme Manon SIMON, Juriste, Département fédéral de justice et police DFJP, Office fédéral de la justice OFJ, Domaine de direction Droit pénal, Unité Droit pénal international

M. Géraldine ZUMWALD, Juriste, Département fédéral de l'environnement, des transports, de l'énergie et de la communication DETEC, Office fédéral de l'environnement OFEV, Division Droit, Service Coordination de l'exécution et de la surveillance

TURKEY / TURQUIE

Ms Berna ÖZCAN GENÇ, Rapporteur Judge, Ministry of Justice of the Republic of Turkey

Mr Güray GÜÇLÜ, Legal Counselor, Permanent Representation of Turkey to the Council of Europe

UKRAINE

Mr Stanislav SONICH, Chief Specialist of the Sector for International Cooperation and Protocol Measures of the State Environmental Inspectorate of Ukraine

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EXPERTS / INTERVENANTS

Mme Véronique JAWORSKI, Senior Lecturer, University of Strasbourg, Researcher at the SAGE political social sciences laboratory / Maître de conférence HDR à l'Université de Strasbourg, Chercheur à SAGE

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**EUROPEAN COMMITTEE ON LEGAL CO-OPERATION /
COMITÉ EUROPÉEN DE COOPÉRATION JURIDIQUE (CDCJ)**

Mme Ekaterina KUDELICH, Deputy Director, International Law and Cooperation Department, Ministry of Justice of the Russian Federation

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SECRETARIAT OF THE COUNCIL OF EUROPE
SECRETARIAT DU CONSEIL DE L'EUROPE

Directorate General of Human Rights and Rule of Law /
Direction Générale des droits de l'Homme et Etat de Droit

| | |
|----------------------------|--|
| Mr Carlo CHIAROMONTE | Head of Criminal Law Division / <u>Secretary to the CDPC</u> Chef de la Division du droit pénal / <u>Secrétaire du CDPC</u> |
| Ms Phoebe JAMIESON | Administrative Officer / Administrateur |
| Ms Marjaliisa JÄÄSKELÄINEN | Assistant / Assistante |

Interpreters / Interprètes

Mme Zeina MOKAIESH
Mme Claudine PIERSON

APPENDIX II

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 22 March / mars 2021

CDPC(2021)OJ1

**EUROPEAN COMMITTEE
ON CRIME PROBLEMS
COMITÉ EUROPÉEN
POUR LES PROBLÈMES CRIMINELS
(CDPC)**

**WORKING GROUP OF EXPERTS ON THE ENVIRONMENT
AND CRIMINAL LAW
GROUPE DE TRAVAIL D'EXPERTS SUR L'ENVIRONNEMENT
ET LE DROIT PENAL
(CDPC-EC)**

1st Meeting / 1^{ère} réunion

20-21 April / avril 2021

Online / en ligne

**AGENDA
ORDRE DU JOUR**

Document prepared by the CDPC Secretariat
Directorate General I – Human Rights and Rule of Law

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

| 20 April 2021 | |
|----------------------|---|
| 10:00 – 10:30 | <p style="text-align: center;">Opening of the meeting</p> <p>Welcome and opening remarks by Mr Thomas GRÉGOIRE, elected chair of the CDPC-EC Working Group, and Mr Carlo CHIAROMONTE, Head of the Criminal Law Division</p> <ol style="list-style-type: none"> I. Adoption of the agenda II. Tour de table: brief introduction of participants III. Information by the Secretariat on the aims and methodology of the Working Group |
| 10:30 – 11:00 | Introduction and presentation of the Working Document, prepared by Ms Véronique JAWORSKI, the Council of Europe independent expert |
| 11:00 – 11:30 | Discussion of current international action on Environment and Criminal Law |
| 11:30 – 12:30 | Presentation, examination, and exchange of views on the Discussion Paper |
| 12:30 – 14:30 | <i>Lunch Break</i> |
| 14:30 – 16:00 | Identification of the main elements that will constitute the focus of the group's work to determine the way forward |
| Around 16:00 | <i>Coffee break</i> |
| 16:15 – 17:00 | Exchange of views on addressing the main elements identified by the Working Group within a feasibility study |
| 17:00 | <i>End of day one</i> |

| 21 April 2021 | |
|---------------|--|
| 14:00 – 15:00 | Continued exchange of views and discussions |
| 15:00 | Identification of next steps |
| | Summary of discussions, outcomes and dates of next meeting |
| 16:30 | <i>Concluding remarks and close of the meeting</i> |

| 20 avril 2021 | |
|---------------|---|
| 10h00 – 10h30 | <p style="text-align: center;">Ouverture de la réunion</p> <p>Bienvenue et remarques introductives, par M. Thomas GRÉGOIRE, président élu du Groupe de Travail CDPC-EC, et M. Carlo CHIAROMONTE, chef de la Division Droit Pénal</p> <ol style="list-style-type: none"> I. Adoption de l'ordre du jour II. Tour de table : brève présentation des participants III. Informations par le Secrétariat concernant les objectifs et la méthode de travail du Groupe de Travail |
| 10h30 – 11h00 | Introduction et présentation du document de travail, préparé par Mme Véronique JAWORSKI, l'expert indépendant du Conseil de l'Europe |
| 11h00 – 11h30 | Discussion de l'action internationale actuelle en matière d'environnement et de droit pénal |
| 11h30 – 12h30 | Présentation, examen et échange de vues sur le document de travail |
| 12h30 – 14h30 | <i>Pause de midi</i> |
| 14h30 – 16h00 | Identification des principaux éléments qui constitueront l'axe de travail du groupe pour déterminer la voie à suivre |

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|----------------------|---|
| <i>Environ 16h00</i> | <i>Pause café</i> |
| 16h15 – 17h00 | Échange de vues sur le traitement des principaux éléments identifiés par le groupe de travail dans le cadre d'une étude de faisabilité |
| <i>17h00</i> | <i>Fin du premier jour de réunion</i> |

| 21 avril 2021 | |
|----------------------|--|
| 14h00 – 15h00 | Poursuite des échanges de vues et des discussions |
| 15h00 | Identification des prochaines étapes |
| | Résumé des discussions, résultats et prochaine réunion |
| <i>16h30</i> | <i>Observations finales et clôture de la réunion</i> |