



Strasbourg, 17 June 2021

CDPC-EC(2021)2

EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

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

MEETING REPORT

2nd meeting

15 June 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 to replace 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 second meeting via the electronic platform KUDO, on 15 June 2021. The meeting was dedicated to drawing conclusions on the way forward in this domain by examining the answers to the following Contributions Points, which were submitted by the members of the Working Group, following the decisions of the last meeting which took place on 20-21 April 2021:

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?).

Mr Thomas Grégoire, elected Chair of the Working Group, opened the meeting, welcomed all participants and expressed his appreciation for the received contributions. He summarised the initial conclusions concerning the first Contribution Point and opened up the floor to the Working Group to consider elaborating on their submissions. Many States noted that they had difficulty when trying to determine the specific reasons why the Convention was not signed or ratified in each respective State.

This being said, it was mentioned by several States that the work of the European Union on the Directive on the Protection of the Environment through Criminal law (2008/99/EC), may be a significant reason why the Council of Europe Convention was overshadowed at that specific time. As a result, the Chair expressed the importance of close coordination and collaboration with the European Union in the future work of the Council of Europe.

Additionally, the Working Group noted that the existence of 'stand-alone' offences that are completely separate from administrative law was often problematic in each domestic system, which may have prevented the signing or ratification of the Convention. The Chair also noted that there is a need to integrate legal security/predictability into the future work of the Working Group to ensure that the scope and extent of the obligations placed upon each member State are clear and unproblematic.

Regarding the second Contribution Point, the Working Group specifically noted that the following articles remain relevant for a possible new Council of Europe Convention, subject to some lexical or structural nuances:

- Article 5 – Jurisdiction;
- Article 6 – Sanctions for environmental offences;

- Article 7 – Confiscation measures;
- Article 8 – Reinstatement of the environment (optional);
- Article 9 – Corporate liability;
- Article 10 – Co-operation between authorities;
- Article 11 – Rights for groups to participate in proceedings (optional);
- Article 12 – International co-operation.

It was agreed that such nuances may include the implementation of optional provisions that ensure that the text is flexible enough to accommodate existing domestic legal arsenals, whilst ensuring legal security.

With reference to the third Contribution Point, the Chair noted that a large number of States often had a correlation between the administrative law and criminal law in each domestic law. Consequently, the lack of a connection between the two in the 1998 Convention may have hindered its success. A possible new instrument would, therefore, need to ensure that the provisions are correlated in the context of the environment.

Those States who had not yet submitted their contribution points or those who wished to modify or expand on their existing submissions were invited to do so by no later than 30 June 2021.

On this basis, the Working Group decided to instruct the Secretariat, together with the Scientific Expert, Ms Véronique Jaworski, to begin preparing the preliminary draft skeleton for the planned feasibility study. The Chair highlighted that the feasibility study will not only incorporate the aforementioned conclusions of the Contribution Points, but it will also take into account all of the topics discussed in the first meeting and address emerging trends to maintain a broad scope.

This draft will be sent to all members of the Working Group prior to the next meeting and will subsequently form the basis of discussion for the third meeting which is expected to take place following the summer break. The exact date, format and place of the next meeting will be communicated to all members of the Working Group in due course.

APPENDIX I

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 15 June/juin 2021

CDPC-EC(2021)2LP 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)

15 June 20 / 15 juin 2021

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

List of participants / liste des participants

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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

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Ms Mariam KOTOLASHVILI, Specialist, Department for International Relations and Legal Affairs, Office of the Prosecutor General of Georgia

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Mr Markus BUSCH, Federal Ministry of Justice and Consumer Protection

Ms Julia BARSCH, Federal Ministry of Justice and Consumer Protection

GREECE / GRÈCE

Mr Christos NAINOTOS, Deputy Prosecutor of the Court of First Instance of Thessaloniki

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

UKRAINE

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EXPERTS / INTERVENANTS

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

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Direction Générale des droits de l'Homme et Etat de Droit

Mr Carlo CHIAROMONTE

Head of Criminal Law Division / **Secretary to the CDPC**
Chef de la Division du droit pénal / **Secrétaire du CDPC**

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APPENDIX II

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 20 May / mai 2021

CDPC-EC(2021)OJ2

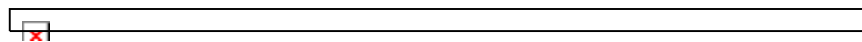
**EUROPEAN COMMITTEE
ON CRIME PROBLEMS
COMITÉ EUROPÉEN
POUR LES PROBLÈMES CRIMINELS
(CDPC)**

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

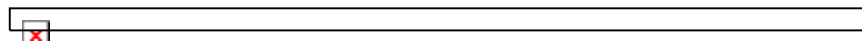
2nd Meeting / 2^{ème} réunion

15 June / juin 2021

Online / en ligne



**DRAFT AGENDA
PROJET D'ORDRE DU JOUR**



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

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| 15 June 2021 | |
|----------------------|--|
| 10:00 – 10:15 | Opening of the meeting 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. |
| 10:15 – 11:30 | Presentation, examination and exchange of views of the Contribution Points submitted by the members of the Working Group. |
| 11:30 – 12:30 | Conclusions of the way forward in this domain on the basis of these discussions. |
| <i>12:30 – 14:30</i> | <i>Lunch Break.</i> |
| 14:30 – 16:00 | Continued discussions if required. |
| | Identification of next steps. |
| | Summary of discussions, outcomes and dates of next meeting. |
| <i>17:00</i> | <i>Concluding remarks and close of the meeting.</i> |

| 15 juin 2021 | |
|----------------------|---|
| 10h00 – 10h15 | Ouverture de la réunion 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. |
| 10h15 – 11h30 | Présentation, examen et échange de vues sur les points de contribution soumis par les membres du groupe de travail. |
| 11h30 – 12h30 | Conclusions sur la voie à suivre dans ce domaine sur la base de ces discussions. |
| <i>12h30 – 14h30</i> | <i>Pause de midi.</i> |
| 14h30 – 16h00 | Poursuite des discussions si nécessaire. |
| | Identification des prochaines étapes. |
| | Résumé des discussions, résultats et prochaine réunion. |
| <i>17h00</i> | <i>Observations finales et clôture de la réunion.</i> |