



## Concept note

### **The MEDICRIME Convention: an international instrument to fight counterfeiting pharmaceutical crime in times of COVID-19 pandemic**

(Strasbourg, 8 - 9 June 2021, online)

The Council of Europe is organising a Conference of High ranking representatives of national police services and other law enforcement authorities to discuss the role of the MEDICRIME Convention<sup>1</sup> in the investigation of offences and how it fills the gaps in the criminal law with the aim of protecting public health.

The objectives of the conference are to highlight the added value of the MEDICRIME Convention in the investigation and prosecution of offences contained in the Convention, and the importance of cooperation with judicial authorities to enable effective prosecutions and support public health authorities in intelligence sharing and technical skill provision towards effective investigations. It will also illustrate the need for international cooperation to address a truly transnational crime impacting on individual countries. It will further provide an opportunity to exchange experiences on successful investigations and will share knowledge and useful contacts from the world of combating crimes involving counterfeit medical products and similar crimes, including transnational trafficking.

The Council of Europe took an early interest in addressing counterfeit medical products and similar crimes involving threats to public health, involving law enforcement, public health authorities, industry and prosecutors. It focused on the criminalisation of certain acts, the protection of the rights of victims and the promotion of national and international co-operation.

The work of the police in the effective investigation of crimes involving medical products has been challenging in a number of member states notably in terms of ensuring the requisite powers, technical skills and knowledge involving medical products. Courts have faced challenges when it comes to identifying an appropriate and relevant legal basis on which to adjudicate.

Over the last two decades, the phenomenon of counterfeit (also often referred to as “falsified”) medical products and other similar crimes has grown exponentially, yet national legislation and enforcement power provision have not kept pace. This has led to investigations being forced to find other criminal law offences and powers in order to be able to address these specific crimes. Prosecutors are faced with the argument that crimes involving medical products are merely regulatory health product-related issues and not serious enough because there is insufficient or no criminal law to support them in many countries.

It is therefore crucial to support police forces of member States with guidance on how best to approach the investigation of counterfeiting of medical products and other similar crimes involving

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<sup>1</sup> *Council of Europe Convention on the counterfeiting of medical products and similar crimes involving threats to public health*, CETS No. 211, Moscow, 28 October 2011.

threats to public health, including their transnational trafficking by organised crime groups. All this bearing in mind that counterfeiting within the MEDICRIME Convention refers to a false representation as regards the identity and/or source of a medical product. It does not include intellectual property crimes.

The conference will allow the exchange of experiences and good practices between the police representatives of the member States and will examine challenges and solutions under the following key areas:

- **The investigating authorities' ability to investigate the type of acts criminalised under the MEDICRIME Convention.**

Representatives from law enforcement will discuss practical challenges encountered in combating the trafficking and supply of counterfeit medical products and similar crimes. These will include as well how the transnational organised crime have capitalised on the gaps in both legislation and enforcement capability and the varying levels from country to country of effective enforcement in this area.

- **Recognising when existing investigative tools are no longer effective tools**

Police, other investigating authorities, prosecutors and experts will discuss the value and limitations of existing tools to effective investigation crimes related to medical products. They will illustrate from their investigations how they have overcome some of these challenges from less than optimum resources. Experts will explain and elaborate on possible untapped resources available to investigators and prosecutors and those tools that have been developed, but may not, as yet, be implemented, such as the MEDICRIME Convention and the Palermo Convention<sup>2</sup>.

- **Building an effective response using examples of past cases**

Law enforcement representatives and experts will discuss their cases in general terms and look at how through better intelligence some of these crimes could be prevented by earlier detection or response by targeted intelligence-led operations involving both national and international co-operation. They will show how the detection phase benefitted from effective training in the identification of counterfeit and illicitly supplied medical products. They will discuss how skill and expertise gaps and intelligence deficits could be filled through a multi-skilled, multi-disciplinary and inter-agency approach to enable efficient and effective investigations by law enforcement authorities in member States. The disruption and dismantling of organised crime groups involved in trafficking of counterfeit of medical products and similar crimes involving threats to public health requires a cooperative approach to investigation to maximise strengths and resources that some law enforcement authorities have experienced. They will share these at the conference.

- **Conclusions**

The Conference conclusions will incorporate the views and experiences of the participants. Flowing from the discussions, the value of developing a 24/7 network between prosecutors and law enforcement will be highlighted to enable effective and timely investigations that lead to prosecutions. Training for law enforcement in medical product-related investigation and intelligence gathering skills as a way to help fill current gaps and strengthen institutional and investigative knowledge would be highlighted. The Conference will also be an opportunity to identify the enforcement powers and offences that need to be in place and how these may be reinforced.

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<sup>2</sup> United Nations, *United Nations Convention against Transnational Organised Crime and the Protocols Thereto*, 15 November 2000 (by resolution 55/25).