

Strasbourg, 8 April 2020

ADVICE ON THE APPLICATION OF THE MEDICRIME CONVENTION IN THE CONTEXT OF COVID-19

The Committee of the Parties of the [MEDICRIME Convention](#)¹ advises that the Coronavirus disease (COVID-19) pandemic has created extraordinary challenges for the authorities of all member States of the Council of Europe and other countries. There are specific and intense challenges for staff working in various places. The protection of the public health systems and individual health rests not only with healthcare practitioners and health service providers, but with all those who contribute to the protection of public health from falsified medical products and similar crimes.

Council of Europe member States and State Parties (hereinafter, States) have the primary duty of taking all possible actions using the provisions of the MEDICRIME Convention to protect public health through focusing on criminal behaviour of those, including criminal networks, taking advantage of the vulnerabilities in our systems that are currently under pressure. The MEDICRIME Convention was designed partly with public health epidemics and pandemic crises, such as the Covid-19 virus, in mind.

- 1) States have the availability of the framework of the MEDICRIME Convention to bring together all their resources to address the current circumstances, in particular criminally associated behaviours, to protect public health. The MEDICRIME Convention framework is tailor-made to face the current challenges caused by the impact of the Covid-19 pandemic. States Parties are reminded of their **obligations under the Convention in this regard**, while choosing the most effective way to protect public health and consequently the health of everyone within their jurisdiction.
- 2) States should **respect the WHO guidelines on fighting the pandemic** as well as **national health and clinical guidelines** consistent with international standards. **Shortages in public health systems**, in particular in medical products and personal protective equipment, are already causing tragic fatalities and will trigger **criminally minded opportunists to capitalise on these weaknesses to supply falsified medical products**. These include deliberately substandard manufactured medicines and medical devices, protective masks and rapid detection tests, that will not achieve their intended purpose. They risk giving a false promise of detection and prevention of illness or even falsely being presented as a treatment for the virus.
- 3) Monitoring online platforms offering medical products, both to public health systems and to individuals, is key at this time. Individuals who feel vulnerable and helpless may risk procuring face masks, medicines and other medical devices from any source. **States will need to work together to disrupt the supply line of falsified medical products exchanged** between, to and/or through their territories.
- 4) **Staff availability at key points will be needed to detect and stop the trafficking of falsified medical products**. This will be challenging for States where only essential services are permitted to operate. Essential service may not always be interpreted as providing a detection service for falsified medical products. This is a risk to the lives of people and to the functionality of the public health system.
- 5) **The prevention of the unauthorised diversion from States' health systems and supply lines of vital medical products is critical to prevent criminals exploiting shortages** and from making an unjust profit at the expense of victims of the COVID-19 virus. States' regulated medical products supply systems are under pressure at this time. They may not, within current resources and capacity levels, be in a position to detect breaches in time to prevent people from being exposed to health risks through not having the availability of medical products or through receiving medical products that have been kept in unsuitable

¹ 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.

and risky conditions and environments while being trafficked in the unauthorised and illegal supply chain.

6) Care is required in ensuring that action to prevent falsified medical products from infiltrating the health service and reaching individuals does not have an impact on the legitimate supply of medical products available to recipients. This will require **close co-operation between national agencies and services**. Likewise, **healthcare professionals and health services should ensure that they do not procure medical products from unverified sources**. Procuring a falsified medical product does not resolve a capacity or supply deficiency. It exacerbates a health risk to the public health system and to the population.

7) When the pandemic crisis has passed, States will still need to gather the evidence of criminality involved in medical product crimes during this time. In many cases, it may be too late as evidence may have disappeared. Online links, if they still exist, become challenging to connect to offenders, and the medical products may have been consumed or discarded. **Proactive action to prevent or to address criminality may be challenging now but cannot be ignored**. Current circumstances are ideal for criminals to exploit weaknesses in systems and have adverse impacts on public health and the well-being of individuals, in many cases on their lives. Detecting criminals involved in offences covered by the MEDICRIME Convention may act as a deterrent in future epidemics and pandemics.

8) Other countries will also seek evidence from State Parties and vice versa. This is not the time to act alone. **Countries are all in this together and thus co-operation, both domestically and internationally, needs to be continued and further strengthened**. Consequently, international co-operation in criminal matters shall be carried out promptly and to the widest extent possible.

9) **Information to victims on the impact of falsified medical products on their health** will need to be provided. This may be available in States. In many cases, it may have to be obtained from another State. The rights of victims need to be considered now, not when it may be too late or more challenging to obtain information.

MEDICRIME Convention

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