



Strasbourg, 13 June 2014

CDPC (2014) 13 rev

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

66th Plenary Session

Strasbourg, 10-13 June 2014
Palais, Room 9

List of Decisions

The European Committee on Crime Problems (hereafter CDPC), meeting in Strasbourg under the Chairmanship of Mr Jesper Hjortenberg, decided:

1. Opening of the meeting

- to take note of the opening address of Mr Jan Kleijssen, Director of the Information Society and Action against Crime Directorate, Directorate General of Human Rights and Rule of Law, on the most recent developments in the Council of Europe (hereafter CoE) and in the Directorate, in particular those activities relevant to the work of the CDPC. Mr Kleijssen drew the CDPC's attention to the CoE Secretary General report on the "State of democracy, human rights and the rule of law in Europe" and invited the CDPC considering whether it would not be an idea to propose an addendum to this report where other core aspects characterising the system of rule of law in Europe could be presented. He mentioned issues that fall within the CDPC field of competence such as prisons, international cooperation in criminal matters, fighting against organised crime. He also acknowledged the excellent results achieved by the CDPC over the past years, underlining the fruitful and multidisciplinary collaboration with other relevant CoE bodies and committees working in different areas.

2. Adoption of the draft agenda

- to adopt the agenda without amendments (the list of participants and the agenda appear in Appendices I and II respectively).

3. Future activities and priorities of the CDPC

a. Review of Council of Europe legal instruments in criminal matters

- to take note of the information provided by Mr Carlo Chiaromonte, Secretary to the CDPC, on the

state of play concerning the process of reviewing the CoE conventions in criminal matters by the CDPC and in particular on the document containing information on the conventions within the direct responsibility of the CDPC;

- after a discussion on how the review of these conventions should be carried out in the future, to instruct the Bureau to prepare a document on the implementation/assessment of these conventions for the CDPC at its plenary meeting in December 2014;
- to thank the Chairpersons of GRECO, T-CY, Conference of Parties Convention 198, PC-OC, Lanzarote Committee for their replies to the Chair of the CDPC providing comprehensive information and feedback on the implementation/assessment of the conventions for which their committees are responsible;
- to thank the Chairpersons of the PC-OC, Ms Joana Gomes Ferreira (Portugal), and of the T-CY, Mr Markko Künnapu (Estonia), for the useful exchange of views on the implementation/assessment of the conventions for which their committees are responsible;
- to invite the Chairpersons of the GRECO and MONEYVAL at the next CDPC plenary meeting in December with a view to providing a feedback to the CDPC on the implementation/assessment of the conventions for which they are responsible.

b. Drafting a document/report with a view to identifying new forms of behaviour that have emerged in the recent past in connection with the use of modern technologies and that have brought to light possible lacunae in the existing criminal offences/law

- to thank Mr Yves Charpenel, First Prosecutor General to the *Cour de Cassation de France*, for making a presentation on “The legal and behavioural impact of modern technologies”¹;
- after discussing how to implement this task that has been included in the expected results in the CDPC terms of reference for the years 2014-15, to instruct the Bureau to draft, together with the Secretariat and with the possible assistance of (a) consultant(s)/expert(s), a document/report highlighting the most significant developments in the field of the (mis)use of modern technologies as emerged over the recent years and the new forms of criminal behaviours in that respect which would need to be considered in substantial/procedural criminal law systems, in particular by identifying possible lacunae in the existing substantial/procedural criminal law.

4. Follow-up to the 31st Council of Europe Conference of Ministers of Justice (Vienna, 19–21 September 2012): “Responses of Justice to Urban Violence”

- to take note of the information provided by the Secretariat on the follow-up to the last Conference of Ministers of Justice and in particular 1) on the international conference to be held in Lisbon, Portugal, on the subject of “Urban violence” on 23-24 October 2014 and 2) on the developments related to the drafting of a working paper by a consultant (Ms Josiane Bigot, Judge at the Court of Appeal of Colmar (France));
- to take note of the presentation made by Ms Josiane Bigot on the two working documents that she prepared (“Preliminary report on responses of justice to urban violence involving juveniles” and the questionnaire) and thank her for the excellent work she carried out;
- to instruct the Bureau to revise the questionnaire at its next meeting and send it out to all CDPC delegations. The replies received should constitute the basis for an analysis/report related to the part of the Ministers’ Resolution contained in paragraph 20;
- that the outcome of the conference on “Urban violence” to be held in Lisbon in October should provide for the main elements for an analysis/report related to the part of the Ministers’ Resolution contained in paragraph 21.

5. Council for Penological Co-operation (PC-CP) - Exchange of views with the Chair, Mr Mauro Palma

- to take note of the information provided by Mr Mauro Palma (Italy) concerning the main outcome of the last PC-CP working group meetings and on the state of preparation of the next Conference of Directors of Prison and Probation Services to be held in Helsinki, Finland, on 17-18 June 2014;

¹ Available on the CDPC website

- to examine the draft annotated agenda of the next plenary session of the PC-CP (5-7 November 2014) and approve it.

a. Preparation of the 19th Council of Europe Conference of Directors of Prison and Probation Services (CDAP) 17-18 June 21014 Helsinki, Finland

- see above

b. Space

- to take note of the presentation made by Prof. Marcelo Aebi on the results of the 2012 SPACE I survey (prisons) and of the 2012 SPACE II survey (community sanctions and measures).

6. Promotion of the Integrity of Sport against the Manipulation of Results, notably match-fixing

a. Draft Council of Europe Convention against Manipulation of Sports competitions

- to take note of the information on the recent developments related to the negotiation process of the draft Convention against Manipulation of Sports Competitions provided by the Chair of the CDPC, Mr Jesper Hjortenber, and the Executive Secretary of the EPAS, Mr Stanislas Frossard;
- to examine and endorse the "Opinion of the CDPC on the draft Council of Europe Convention against Manipulation of Sports Competitions";
- to agree that since Article 11 of the draft Convention ("The fight against illegal sports betting") does not require member states to criminalise "illegal sports betting", the CDPC refrains from making any comment on this matter. However, during the plenary meeting, Malta has expressed its reservations on Article 3. 5. a):

"Whereas Malta agrees with the overall objective of the Convention, Malta has consistently maintained a strong reservation to the definition of "illegal sports betting" which it considers as going beyond the scope of the Convention especially insofar as relations amongst States parties are concerned."

and provided a note that appears in Appendix III;

- in relation with Article 26 of the draft Convention "Measures with a view to international co-operation in criminal matters", the CDPC stated that the provisions of the draft Convention concerning international co-operation have been elaborated taking into account the experience of drafting some recent CoE conventions in the criminal law sphere. Moreover, the CDPC noted that the Russian Federation made the following statement:

"Taking into account the possibility of third states (not members of the CoE) to access to the future Convention, the Russian delegation expressed its regret that the draft Convention does not contain more detailed provisions on international co-operation, including extradition, mutual legal assistance in criminal matters, freezing, seizure, confiscation and recovery of the proceeds of crime, as it is done in the latest UN conventions against particular forms of crime. Moreover, the draft Convention has no provisions on jurisdiction related to legal persons as well as on legal assistance in relation to legal persons in cases of their liability which may be not only criminal, but also administrative or civil."

- to instruct the Secretariat to transmit the opinion to the EPAS.

b. Feasibility of an Additional Protocol to the Council of Europe Criminal Law Convention on Corruption (ETS No. 173)

- following the decision taken by the GRECO concerning the issue of the feasibility of an Additional Protocol to the Council of Europe Criminal Law Convention on Corruption (ETS No. 173) that it is premature to take a firm decision on the matter as the question merits further consideration, notably in light of the outcome of the work underway within the Enlarged Partial Agreement on Sport (EPAS) on a draft Convention against manipulation of sports competitions, to reconsider this issue at its next plenary session in December.

7. Document/guidelines containing “Model provisions” defining a certain number of rules to be duly considered by the expert committees in their drafting work as the base to be followed during future negotiations of any possible convention in a criminal law matter

- to take note of the presentation by Hans-Holger Herrnfeld (Germany) on the preliminary work carried out so far, examine the document “Model provisions project – Draft outline project” that he prepared and hold an exchange of views and discuss how to implement this project in the future;
- to endorse the Bureau’s proposal to set up a small group of experts who could assist Mr Herrnfeld in finalising the work on the model provisions which should be presented at the next CDPC plenary session in December;
- to agree to enlarge the participation of this group of experts to those delegations who expressed their wish to take part in this exercise: The Netherlands (Ms Marjorie Bonn), the Russian Federation (Mr Vladimir Zimin), United Kingdom (Mr Roderick Macauley), a representative from Finland and a representative from France (both to be appointed at a later stage).

8. Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters (PC-OC)

- to take note of the list of decisions of the 66th meeting of the PC-OC held on 19-21 May 2014 and of the information provided by Ms Joana Gomes Ferreira on subjects of common interest and in particular on the implementation/assessment of the conventions for which the PC-OC is responsible;
- to give the mandate to the PC-OC to continue its work on the updating/improving of the Convention on the Transfer of Sentenced Persons and its additional protocol and carefully consider which issues should be dealt with in (a) new binding instrument(s) or otherwise be dealt with in other ways which could be more effective than the “normative” one, i.e. operational/practical level;
- to take note of the preparation by the PC-OC, in co-operation with other CoE relevant committees or bodies - such as MONEYVAL - for whom this question is of particular relevance, of a special session on seizure and confiscation of proceeds of crime, including the management of confiscated goods and asset sharing during its forthcoming plenary meeting in November 2014;
- to consider this special session as a follow-up to the White Paper on Transnational Organised Crime;
- to take note of the PC-OC concern that transfer of prisoners and extradition procedures based on the relevant CoE conventions are increasingly obstructed by prison overcrowding and deterioration of conditions of detention in some member states;
- to take note of the delays occurring sometimes in respect of extradition procedures caused by problems related to the interaction between extradition and asylum procedures.

9. Activities related to transnational organised crime

- to take note of presentation of the final draft White Paper, revised after the last CDPC plenary meeting, made by Ms Lorena Bachmaier Winter (Spain), Chairperson of the former ad-hoc drafting Group on Transnational Organised Crime;
- to endorse the White Paper and take note that the Russian Federation made the following statement:

“The Russian delegation does not support some conclusions and recommendations made by the ad-hoc drafting group on transnational organized crime (PC-GR-COT) included in the White Paper. In particular, the delegation considers unjustified the statement that refusal to extradite its own nationals is one of two problems most often invoked by the practitioners in relation to the execution of requests for cooperation and is opposed to the conclusion that each state should facilitate the extradition of its own nationals to be brought to justice in the requesting state (page 19). The delegation considers incorrect the conclusion that the confiscation of proceeds of crime should embrace only the assets «owned by criminal organizations» (pages 42, 46), as this is a deviation from the previous treaty obligations by many states to make efforts to confiscate all criminal assets.”

- to submit the White Paper to the Committee of Ministers for its consideration accompanied by a note explaining the background and main purpose of this document and inform it on the foreseen follow-up to the White Paper;
- to endorse the Bureau's proposal to draft an accurate Action Plan that should be examined by the CDPC at its plenary meeting in December;
- to agree on the proposal made by Mr Jan Kleijssen (see item n° 1) inviting the Secretary General to consider the White Paper as an addendum to his report ("State of democracy, human rights and the rule of law in Europe").

10. Terrorism - Exchange of views with Mr Nicola Piacente, Chair of the CODEXTER

- to take note of the information provided by Mr Nicola Piacente (Italy) concerning the activities carried out by the CODEXTER, and in particular the ongoing work on Special Investigation Techniques;
- to consider the document prepared by the CODEXTER ("Preliminary draft discussion paper") and agree on the establishment of a drafting group composed of members of different relevant committees (CDPC, CODEXTER, CDMSI, T-CY and MONEYVAL) for the purpose of elaborating a set of draft amendments to Recommendation Rec(2005)10 for examination and finalisation by the Plenaries of the five Committees in view of a final adoption by the Committee of Ministers;
- to consider this activity as a follow-up to the White Paper on Transnational Organised Crime;
- to take note of the information provided by the Secretariat on the future conference on terrorism and organised crime (Málaga, 25-26 September) and in particular that a limited number of CDPC representatives who would wish to attend the conference are invited to express their interest in participating actively in the event.

11. Cybercrime - Exchange of views with Mr Markko Künnapu, Chair of the T-CY

- to take note of the information provided by Mr Markko Künnapu on subjects of common interest and in particular on the implementation/assessment of the conventions for which the T-CY is responsible.

12. Request for observer status by the Conference of Ministers of Justice of the Ibero-American countries (COMJIB) to the CDPC

- to take note of the information provided by Mr Federico Ruiz Wilson, Head of the Private Office of the Secretary General of the Conference of Ministers of Justice of the Ibero-American countries (hereafter COMJIB);
- to grant the observer status to the COMJIB.

13. Information provided by the Secretariat

- to take note of the information provided by the Secretariat on the following sub-items:
 - a) Medicrime:**
 - in relation with the status of signatures and ratifications, to acknowledge and welcome that Hungary is the third country which has ratified the MEDICRIME Convention;
 - to take note of the multiple Secretariat's activities related to the promotion of the MEDICRIME Convention with the aim to assist countries in their process of signing/ratifying it, in particular international conferences, side-events, forums, workshops, etc;
 - to take note of the information provided by Ms Sabine Walser (EDQM Secretariat) on the current work implemented by the CD-P-PH/CMED in promoting the MEDICRIME Convention;
 - to take note of the information provided by Mr Oscar Alarcón on the second regional conference on the MEDICRIME Convention, to be held in Skopje, "The former Yugoslav Republic of Macedonia", on 19-20 June 2014;
 - to provide the Secretariat with the contact details of the Focal Point at national level (and Ministry involved) responsible of the MEDICRIME Convention.

b) Trafficking in organs

- to take note of the information provided by the Secretariat regarding the state of play related to the process of adoption of the draft convention against trafficking in human organs;
- to take note of the willingness of Spain to host the opening ceremony of signature of this convention once adopted by the Committee of Ministers.

c) Dangerous Offenders

- to welcome the adoption of the Recommendation CM/Rec(2014)3 of the Committee of Ministers to member States concerning dangerous offenders and recall the importance of promoting it among member States with the organisation of specific activities;
- in relation with the promotional activities of the Recommendation CM/Rec(2014)3 concerning dangerous offenders, to take note of the information provided by the Secretariat on:
 - the presentation of the above-mentioned recommendation in a multilateral meeting entitled “The management by prison administrations of life-sentenced and other long-term prisoners”, held in Strasbourg on 10-11 April 2014;
 - the organisation of a workshop devoted to dangerous offenders to be held at the University of the Basque country in Bilbao (Spain) on 16 September 2014;

d) Information on the latest developments in the cooperation

- to take note of the information provided by Ms Tanja Rakusic-Hadzic on the on-going co-operation projects in the field of prisons and police.

14. Any other business

- a) to examine the recommendation of the Parliamentary Assembly of the Council of Europe on “Improving user protection and security in cyberspace” communicated by the Committee of Ministers to the CDPC for information and possible comments;
- b) to take note of the recommendation and express its regret that due to the short deadline the CDPC was not in a position to make any comments on it;
- c) following the resignation of Ms Antonella Sampo-Couma (Monaco) as CDPC Gender Equality Rapporteur, to welcome the application of Mr Freddy Gazan (Belgium) and appoint him as new CDPC Gender Equality rapporteur.

15. Dates of the next CDPC Bureau and Plenary meetings

- to take note of the dates of its next meeting (1-4 December 2014).

Appendix I

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 13 June 2014

[CDPC plenary/2014 plenary_1/oj lp/cdpc list of participants]

CDPC (2014) LP 1 FIN (Bil)

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

COMITE EUROPEEN POUR LES PROBLEMES CRIMINELS
(CDPC)

66th Plenary Session / 66^{ème} Session plénière

Strasbourg, 10 – 13 June / 10 – 13 juin 2014

Main Building / Palais de l'Europe

Room / Salle 9

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

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**COMMITTEE OF EXPERTS ON THE OPERATION OF EUROPEAN CONVENTIONS ON
CO-OPERATION IN CRIMINAL MATTERS / COMITE D'EXPERTS SUR LE FONCTIONNEMENT DES
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**TRANSNATIONAL ORGANISED CRIME /
LE CRIME ORGANISÉ TRANSNATIONAL**

Prof. Dr. Lorena BACHMAIER, Universidad Complutense, Facultad de Derecho, Departamento de Derecho Procesal

**CYBERCRIME CONVENTION COMMITTEE /
COMITE DE LA CONVENTION CYBERCRIMINALITE (T-CY)**

Mr Markko KÜNNAPU **Chair of the T-CY / Président du T-CY**
Adviser, Ministry of Justice, Tonismagi 5A, EST-15191 Tallinn

**COMMITTEE OF EXPERTS ON TERRORISM /
COMITE D'EXPERTS SUR LE TERRORISME (CODEXTER)**

Mr Nicola PIACENTE **Chair of the CODEXTER / Président du CODEXTER**
Deputy Chief Prosecutor, Coordinator of the Anti-Terrorism Unit, Prosecution Office of Genova

**THE EUROPEAN ORGANISATION OF PRISON AND
CORRECTIONAL SERVICES (EUROPRI)**

Ms Kirsten HAWLITSCHKEK, Executive Director, EuroPris - the European Organisation of Prison and Correctional Services, P.O.Box 13635, 2501 EP The Hague, Netherlands

**THE CONFERENCE OF MINISTERS OF JUSTICE OF THE IBEROAMERICAN COUNTRIES / LA
CONFÉRENCE DES MINISTRES DE LA JUSTICE DES PAYS IBÉRO-AMÉRICAINS (COMJIB)**

Mr Federico RUIZ WILSON, Head of the Private Office of the Secretary General of the COMJIB

* * * * *

**OBSERVERS WITH THE COUNCIL OF EUROPE /
OBSERVATEURS AUPRES DU CONSEIL DE L'EUROPE**

HOLY SEE / SAINT-SIÈGE

Maître Jean PAILLOT, 39 rue Oberlin, 67000 Strasbourg

UNITED STATES OF AMERICA / ÉTATS-UNIS D'AMÉRIQUE

**No nomination / Pas de nomination

CANADA

**No nomination / Pas de nomination

JAPAN / JAPON

M. Takaaki SHINTAKU, Consulat Général du Japon à Strasbourg, 在ストラスブール日本国総領事館, 20 Place des Halles, 67000 STRASBOURG

MEXICO / MEXIQUE

Amb. Santiago OÑATE LABORDE, Permanent Observer, Permanent Mission of Mexico to the Council of Europe

Mr José HUMBERTO LÓPEZ PORTILLO, Deputy Attaché for Legal Affairs, Legal Office of the Attorney General of Mexico (PGR) in Europe, Embassy of Mexico in Spain (Madrid)

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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 Jan KLEIJSEN	Director, Information Society and Action against Crime Directorate / Directeur, Direction de la Société de l'Information et de la Lutte contre la Criminalité
Mr Ivan KOEDJIKOV	Head of Action against Crime Department / Chef de la Service de la Lutte contre la Criminalité
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>
Mr Oscar ALARCON JIMENEZ	Administrative Officer / Administrateur Co-Secretary to the CDPC / Co-secrétaire du CDPC Secretary to the PC-GR-DD / Secrétaire du PC-GR-DD
Ms Iliana TANEVA	Deputy Head of Criminal Law Division / Secretary to the PC-CP Chef adjoint de la Division du droit pénal / Secrétaire du PC-CP
Ms Anita VAN DE KAR-BACHELET	Administrative Officer / Administrateur Secretary to the PC-OC / Secrétaire du PC-OC
Mr Kristian BARTHOLIN	Administrative Officer / Administrateur Co-Secretary to the CODEXTER / Co-secrétaire du CODEXTER
Ms Marjaliisa JÄÄSKELÄINEN	Assistant / Assistante
Ms Anaïs SCHAAF	Trainee / Stagiaire

Directorate General for Democracy /
Direction Générale de la Démocratie

Mr Stanislas FROSSARD	Executive Secretary, Enlarged Partial Agreement on Sport (EPAS)
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Interpreters / Interprètes

Ms Corinne McGEORGE
 Ms Chloé CHENETIER
 Ms Julia TANNER

Appendix II

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

CDPC (2014) OJ 1

Strasbourg, 5 June 2014

EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

66th Plenary Session

Strasbourg, 10 (14.00) – 13 June 2014 (12.00)

AGENDA

Council of Europe

Main Building, Palais de l'Europe

Room 9

[The agenda with links to the working documents is available on the CDPC website]

1. **Opening of the meeting**
2. **Adoption of the draft agenda**
 Draft agenda
 Annotated agenda
 For information:
 List of decisions of the 65th CDPC Plenary, 2-5 December 2013
 List of decisions of the CDPC Bureau meeting, 7-8 April 2014
3. **Future activities and priorities of the CDPC**
 Terms of reference for the years 2014-2015
 Resolution on intergovernmental committees and subordinate bodies, their terms of reference and working methods
- a. **Review of Council of Europe legal instruments in criminal matters**
 Decision by the Committee of Ministers on the review of the Council of Europe Conventions
 Letter to the chairpersons of the relevant CoE monitoring/conventional bodies
 Replies received by the relevant CoE monitoring/conventional bodies

 Information document on the Conventions within the CDPC direct responsibility
- b. **Drafting a document/report with a view to identifying new forms of behaviour that have emerged in the recent past in connection with the use of modern technologies and that have brought to light possible lacunae in the existing criminal offences/law**
4. **Follow-up to the 31st Council of Europe Conference of Ministers of Justice (Vienna, 19-21 September 2012) : “Responses of Justice to urban violence”**
 Resolution on responses of justice to urban violence
 Decision of the Committee of Ministers
 Concept paper on an international conference on urban violence
 Working documents on juvenile offenders prepared by the consultant (Mrs Josiane Bigot) – see decision n° 4, 3rd indent of the CDPC Plenary:
 - Preliminary report on responses of justice to urban violence involving juveniles
 - Preliminary questionnaire
5. **Council for Penological Co-operation (PC-CP) - Exchange of views with the Chair, Mr Mauro Palma**
 Summary Meeting report of the 5rd Working Group Meeting of the PC-CP, 19-21 February 2014
 Summary Meeting report of the 6th Working Group Meeting of the PC-CP, 31 March – 2 April 2014
 Draft annotated agenda of the PC-CP Plenary meeting, 5-7 November 2014
- a. **19th Council of Europe Conference of Directors of Prison and**

Probation Services, 17-18 June 2014, Helsinki

Draft programme

CV of the speakers and moderators and summaries of the presentations

b. Violence in juvenile detention centres

Research Memo: Violence in institutions for juvenile offenders - Summary of Preliminary Findings

c. SPACEAnnual Penal Statistics: SPACE I, Survey 2012 (Please note the document is 177 pages long)Annual Penal Statistics: SPACE II, Survey 2012 (Please note the document is 85 pages long)

Executive summary of the SPACE

Media coverage: Presentation of annual Council of Europe penal statistics

6. Promotion of the Integrity of Sport against the Manipulation of Results, notably match-fixing

Decision of the Committee of Ministers

a. Council of Europe Convention against Manipulation of Sports Competitions

Draft Convention against manipulation of sports competitions

Draft Explanatory Report

Letter by the Chair to CDPC delegations

Opinion of the CDPC on the draft Council of Europe Convention against Manipulation of Sports Competitions

E-mail sent by the Chair of the CDPC to all CDPC Delegations on 5 May 2014

b. Feasibility of an Additional Protocol to the Council of Europe Criminal Law Convention on Corruption (ETS No. 173)

Questionnaire

Replies to the questionnaire (Please note the document is 53 pages long)

Summary of the replies

Decision of the CDPC plenary: see item 7. b.

Decisions of the GRECO plenary: see items 27 and 28

7. Document/guidelines containing “Model provisions” defining a certain number of rules to be duly considered by the expert committees in their drafting work as the base to be followed during future negotiations of any possible convention in a criminal law matter

Information document by Dr. Hans-Holger Herrfeld

8. Committee of Experts on the operation of European conventions on co-operation in criminal matters (PC-OC) - Exchange of views with the Chair, Mrs Joana Gomes Ferreira

List of decisions of the 17th meeting of the PC-OC Mod, 18-20 March 2014

Agenda of the 66th Plenary meeting of the PC-OC, 19-21 May 2014

List of decisions of the 66th Plenary meeting of the PC-OC, 19-21 May 2014

Summary of replies received to the questionnaires regarding the implementation of the Convention on the transfer of sentenced persons and its Additional Protocol

9. Activities related to transnational organised crime; “White Paper” - Exchange of views with Dr. Lorena Bachmaier

Terms of reference of the Ad hoc Drafting Group on Transnational

Organised Crime (PC-GR-COT)
Draft White Paper (Please note the document is 62 pages long)

10. **Terrorism - Exchange of views with Mr Nicola Piacente, Chair of the CODEXTER**
Agenda of the 26th meeting of the CODEXTER, 6-7 May 2014
List of decisions of the 26th meeting of the CODEXTER, 6-7 May 2014
Conference on terrorism and organised crime (Malaga, 25-26 September 2014)
Work by CODEXTER on Special Investigation Techniques
11. **Cybercrime - Exchange of views with Mr Markko Künnapu, Chair of the T-CY**
Abridged meeting report of the 10th Plenary of the T-CY, 2-3 December 2013
Draft annotated agenda of the 11th Plenary of the T-CY, 17-18 June 2014
Conference - Article 15 safeguards and criminal justice access to data, 19-20 June 2014
12. **Request for observer status by the Conference of Ministers of Justice of the Iberoamerican countries (COMJIB) to the CDPC**
Letter by the chair of the COMJIB
13. **Information provided by the Secretariat**
 - a. **Medicrime**
Draft programme of the 3rd Regional Conference on the MEDICRIME Convention, Skopje, FYROM, June 2014
Council of Europe Convention on the counterfeiting of medical products and similar crimes involving threats to public health (Medicrime Convention) (CETS No. 211)
 - b. **Trafficking in human organs**
Opinion of the Parliamentary Assembly
Draft Council of Europe Convention against Trafficking in Human Organs
Draft Explanatory Report
 - c. **Dangerous Offenders**
Recommendation of the Committee of Ministers to member States concerning dangerous offenders
Commentary
 - d. **Information on the latest development in the cooperation**
14. **Any other business**
Recommendation of the Parliamentary Assembly communicated by the Committee of Ministers to the CDPC for information and possible comments
Draft opinion of the CDPC on Recommendation 2041 (2014)
15. **Dates of the next meetings**
CDPC Plenary: 1 – 4 December
CDPC Bureau: 9 – 10 October

Appendix III

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

CDPC (2014) 5 rev

Strasbourg, 13 June 2014
cdpc/docs 2014/cdpc (2014) 5 - e

EUROPEAN COMMITTEE ON CRIME PROBLEMS **(CDPC)**

OPINION OF THE EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC) ON THE DRAFT COUNCIL OF EUROPE CONVENTION AGAINST MANIPULATION OF SPORTS COMPETITIONS

CDPC website: www.coe.int/cdpc
CDPC e-mail: dgi-dpc@coe.int

1. Following a letter by the Chair of the CDPC dated of 7 March 2014, the CDPC accepted by a large majority to agree by written procedure with the text of the criminal law provisions (Articles 15, 17 to 19, 21 to 23, 25, 26) of the draft Council of Europe Convention against Manipulation of Sports Competitions. A very few comments on the mentioned articles were presented by three delegations.
2. As a first general remark, the CDPC is in agreement with the criminal law provisions (listed in point 1 of the present opinion) that are under its direct responsibility. Other provisions of the draft Convention fall under the remit of other relevant Council of Europe conventional or monitoring bodies, such as Moneyval, GRECO or T-CY.
3. However, the CDPC is of the opinion that Article 19 paragraphs 1 and 2 should read as follows :

Article 19 – Jurisdiction

1. *Each Party shall adopt such legislative or other measures as may be necessary to establish jurisdiction over the offences referred to in Articles 15 to 17 this Convention where that offence is committed:*

- a. *in its territory; or*
- b. *on board a ship flying its flag; or*
- c. *on board an aircraft registered under its law; or*
- d. *by one of its nationals or by a person who has his or her habitual residence in its territory.*

2. *Each State or the European Union may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply or to apply only in specific cases or conditions the rules on jurisdiction laid down in paragraph 1.d of this article.*

This is the text that was adopted by the members of the EPAS drafting Group at their 6th and last meeting held in Strasbourg on 21-22 January 2014.

4. Regarding Article 18 paragraph 4 of the draft Convention dealing with corporate liability, the CDPC is of the opinion that the text should be aligned with the most recent standard provision in this regard (Article 26 Paragraph 4 of the Lanzarote Convention and Article 11 paragraph 4 of the Medicrime Convention). The text should read as follows :

Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offence.

5. Moreover, the CDPC is of the opinion that the relevant parts of the draft Explanatory Report should be amended in accordance with the changes made to the draft Convention as indicated in points 3 and 4 of the present opinion.

6. Since Article 11 of the draft Convention (“The fight against illegal sports betting”) does not require member states to criminalise “illegal sports betting”, the CDPC refrains from making any comment on this matter. However, during the CDPC plenary meeting (10-13 June 2014), Malta has expressed its reservations on Article 3. 5. a):

"Whereas Malta agrees with the overall objective of the Convention, Malta has consistently maintained a strong reservation to the definition of "illegal sports betting" which it considers as going beyond the scope of the Convention especially insofar as relations amongst States parties are concerned."

7. In relation with Article 26 of the draft Convention “Measures with a view to international co-operation in criminal matters”, the CDPC stated that the provisions of the draft Convention concerning international co-operation have been elaborated taking into account the experience of drafting some recent CoE conventions in the criminal law sphere. However, the Russian Federation made the following statement at the CDPC plenary meeting:

“Taking into account the possibility of third states (not members of the CoE) to access to the future Convention, the Russian delegation expressed its regret that the draft Convention does not contain more detailed provisions on international co-operation, including extradition, mutual legal assistance in criminal matters, freezing, seizure, confiscation and recovery of the proceeds of crime, as it is done in the latest UN conventions against particular forms of crime. Moreover, the draft Convention has no provisions on jurisdiction related to legal persons as well as on legal assistance in relation to legal persons in cases of their liability which may be not only criminal, but also administrative or civil.”