

MEDICRIME CONVENTION

24/7 NETWORK



COUNCIL OF EUROPE



CONSEIL DE L'EUROPE



1.BACKGROUND TO THE PROPOSAL FOR A 24/7 NETWORK OF IN THE AREA OF MEDICRIME

The current pandemic situation has shown that criminal networks have reacted very rapidly and established both the production and trade of falsified medical products related to Covid-19. The production and illegal trade have yet again proven to be a growing and lucrative phenomenon that poses a significant threat to public health in all Council of Europe member States and beyond. It has become increasingly global in recent years as criminal networks expand across borders and consolidate the scope and scale of their illegal operations. This phenomenon calls for a global and coordinated response.

The MEDICRIME Convention^[1] provides a unique legal framework for domestic coordination, exchange of information, and international cooperation for fighting these crimes effectively. It also foresees international cooperation in criminal matters, including the fight against falsified medical products and other similar crimes, which requires a solid and meaningful structure for reinforced collaboration between competent judicial and law-enforcement authorities at the national level. Yet, limited or no contacts exist between the Parties to the Convention and third countries, despite the pressing need. The absence of linkages between authorities clearly impedes the exchange of information crucial for dismantling the organised criminal networks engaged in all stages of the illicit supply chain, in particular distribution and trafficking, and ultimately reduces the effectiveness of the fight against the counterfeiting of medical products.

The objective of the proposed “MEDICRIME 24/7 Network” (hereinafter “24/7 Network”) is to strengthen international cooperation in criminal matters to combat the counterfeiting of medical products and other similar crimes. It is conceived as a simple, agile, and cost-effective mechanism to facilitate the immediate exchange of key police and judicial information on a 24-hour, seven-days-a-week basis.

Despite the existence of several international co-operation networks, the high level of specialisation required in this field makes the creation of a specialised network for the MEDICRIME Convention essential. The goals of this specialised network are twofold: firstly, to develop effective co-operation between all actors involved at the national level, and secondly, to achieve rapid and adequate co-operation at the international level.



2. LEGAL FRAMEWORK FOR THE 24/7 NETWORK

The MEDICRIME Convention provides the necessary legal bases on which the 24/7 Network might be created, as a measure to prevent and combat effectively the counterfeiting of medical products and similar crimes involving threats to public health. For instance, Article 17 provides for the cooperation and the exchange of information between competent national authorities, while Chapter VII of the Convention covers international aspects.

The latter provides for two mechanisms of international cooperation: the first covering criminal matters (Art. 21) and the second prevention and other administrative matters (Art. 22).

Regarding the international cooperation in criminal matters, the Convention (Art. 21) provides that “Parties shall co-operate with each other, [...] in pursuance of relevant applicable international and regional instruments and arrangements, agreed on the basis of uniform or reciprocal legislation and their domestic law, to the widest extent possible, for the purpose of investigations or proceedings concerning the offences established in accordance with this Convention, including seizure and confiscation”.

A second mechanism for international co-operation on prevention and other administrative measures aims, first and foremost, to protect and provide assistance to victims. It provides for the designation of a national focal point which shall be responsible for transmitting and receiving requests for information and/or co-operation in connection with the fight against falsified medical products and similar crimes posing a threat to public health (Art. 22).

A feasibility study on the 24/7 Network for the MEDICRIME Convention was prepared in the framework of the NA FAMED project[2]. This study considered the successful experience of existing Council of Europe networks, including the networks for the Budapest Convention on Cybercrime[3] and the Riga Protocol on the prevention of terrorism[4], and recommends the creation of the 24/7 Network and its promotion.



3. DESIGNATION OF THE FOCAL POINTS

The feasibility study points out that Parties may decide to establish specialised units, either within their law enforcement agencies or prosecution offices preferably with the authority to act in matters of international cooperation.

If the designated focal point does not have authority over international mutual assistance or extradition, Parties must ensure it is able to co-ordinate effectively and swiftly with the competent authorities.

4. RESPONSIBILITIES OF THE FOCAL POINTS

Within the 24/7 Network, each focal point would be responsible for sharing information, and must operate in accordance with domestic law and relevant international obligations. The authors of the feasibility study recommend assigning the following responsibilities to the 24/7 Focal Point:

- providing immediate assistance for the purpose of investigations or proceedings concerning criminal offences within the scope of the MEDICRIME Convention;
- facilitating, or, if permitted by domestic law and practice, providing technical advice, collecting evidence, providing legal information and locating suspects;
- providing information about the system in place for the assistance of victims of the offences within the scope of the MEDICRIME Convention;
- facilitating or executing international co-operation requests related to criminal offences covered by the MEDICRIME Convention;
- facilitating the protection and provision of assistance to victims of criminal offences covered by the MEDICRIME Convention;
- Expediting effective contacts between Parties and third countries



5. ROLE AND RESPONSIBILITIES OF THE COUNCIL OF EUROPE

The Secretariat of the Council of Europe will primarily be responsible for accessing, keeping and updating the list of designated focal points. The Council of Europe will make sure that all data and information are subject to proper protection.

The Council of Europe will not be involved with the practical operation of the 24/7 Network. It will not oversee which focal points are exchanging information, nor will it be privy to the content of the information exchanged.

However, to facilitate the effective functioning of the 24/7 Network, the Council of Europe will convene regular meetings of the focal points. These meetings will enable the members to evaluate the 24/7 Network's operation, share best practices and improve mutual trust.

6. THE FUNCTIONING OF THE 24/7 NETWORK

The establishment of the 24/7 Network is foreseen in a project proposal, which is currently being considered for funding by voluntary contributions. The future project would examine key technical aspects for the establishment of such a network. These issues include the parameters of the national structure, the selection process of national focal points (judicial and/or law-enforcement authorities), the development of training programmes (e.g. on international cooperation, the implementation of the MEDICRIME Convention and the operational role of focal points), national measures for the exchange of information, including evidence, between relevant professionals (health professionals, prosecutors, police officials, customs officials), administrative formalities, etc.



7. RESOURCES

The development and functioning of the 24/7 Network will depend upon extrabudgetary contributions, mobilised and used in accordance with the rules and procedures of the Council of Europe.

NOTES

[1] Council of Europe Convention on the counterfeiting of medical products and similar crimes involving threats to public health (MEDICRIME Convention), CETS No.211, Moscow, 28 October 2011, see in particular, Articles 17, 21 and 22.

[2] Needs Assessment – Falsified Medical Products (NA-FAMED).

[3] Council of Europe, Convention on Cybercrime, ETS No.185, Budapest, 23 November 2001.

[4] Council of Europe, Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism, CETS No.217, Riga, 22 October 2015.



NA FAMED project (September 2020 – July 2021)

The Needs Assessment- Falsified medical products project (NA-FAMED) is the first cooperation project on the Council of Europe Convention on the counterfeiting of medical products and similar crimes involving threats to public health (known as the MEDICRIME Convention) implemented by the Criminal Law Co-operation Unit. This project is designed to provide technical assistance and support the State Parties to the MEDICRIME Convention, and other countries, to fight against the falsification of medical products and similar crimes.

INFORMATION

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The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states

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