

15 November 2024

Roadmapping Document Policy Formulation

Policy Guidelines on Combating organised crime relating to drug trafficking, based on the case law of the European Court of Human Rights

I. Introduction

In the framework of the follow up to the 4th Council of Europe Summit and based on a proposal by the Netherlands, at its 133rd Ministerial Session of May 2024, the Committee of Ministers of the Council of Europe decided that:

“18. in pursuit of a relentless fight against corruption and organised crime, [the Committee of Ministers of the Council of Europe] invited the Pompidou Group to prepare policy guidelines in the area of combating organised crime relating to drug trafficking, based on the case law of the European Court of Human Rights.”

When presenting the mid-term review of the Italian Presidency at the Committee of Ministers' Rapporteur Group on Social and Health issues (GR-SOC), on 9 July 2024, the Chair of the Permanent Correspondents confirmed the Group's willingness to implement this decision. As a follow up, he sent letters to the Chairs of the two most relevant Council of Europe intergovernmental committees: the Steering Committee on Crime Problems (CDPC); and the Steering Committee on Human Rights (CDDH).

In view of this, a **Joint Expert Group (OC-DT) in developing Policy Guidelines on combating organised crime relating to drug trafficking, based on the case law of the European Court of Human Rights**, is to be established.

The **deliverable** of this exercise will be a set of comprehensive policy guidelines representing legal, human rights, and practical perspectives in combating organised crime and drug trafficking based on the case law of the European Court of Human Rights and other international and European standards. This shall constitute the basis of future Committee of Ministers' recommendation[s] to member states on combating organised crime when in the form and related to drug trafficking. Those recommendations should be leading towards the introduction or strengthening of effective measures to combat drug trafficking and organised crime while safeguarding human rights based on the case law of the European Court of Human Rights.

It is expected that the **Joint Expert Group will be composed** of three experts nominated from Pompidou Group's Permanent Correspondents; three experts from the relevant standard setting Committees in the Council of Europe: the European Committee on Crime Problems (CDPC); the Steering Committee for Human Rights (CDDH); and the MEDICRIME Committee (Convention on counterfeiting of medical products and similar crimes involving threats to public health). Two consultants with expertise in the domain of organised crime and drug trafficking/ECHR law will be engaged to carry out a preliminary assessment and evaluation of the current landscape and of the existing framework (see, Item IV).

The **composition of the Joint Expert Group** shall be as follows:

- Three nominated experts from Pompidou Group's Permanent Correspondents
- Three nominated experts from relevant intergovernmental Committees (CDPC, CDDH, MEDICRIME)
- Three Secretariat members of the Pompidou Group
- Two consultants (experts) to be engaged for the Preliminary Background Study; and advise the works of the Joint Expert Group when needed.

II. Timeline

Tentative

Nomination and Endorsement of three experts from Pompidou Group's Permanent Correspondents: <ul style="list-style-type: none"> ✓ Mr Gareth Anthony HENRY, Chair of the Joint Expert Group (JEG) – Ireland ✓ Ms Theano Christodoulou MAVROMOUSTAKI, Vice Chair of the Joint Expert Group, Cyprus ✓ Mr Christian SCHNEIDER, Member of the Joint Expert Group, Switzerland 	November 2024
Nomination and Endorsement of three experts from relevant inter-governmental Committees <ul style="list-style-type: none"> <input type="checkbox"/> CDPC <input type="checkbox"/> CDDH <input type="checkbox"/> MEDICRIME 	November/December 2024
Engagement of Expert Consultancy Services <ul style="list-style-type: none"> <input type="checkbox"/> Expertise Consultant - 1 <input type="checkbox"/> Expertise Consultant - 2 	December 2024
Establishment of the Joint Expert Group on Organised Crime and Drug Trafficking (OC-DT)	December 2024
Organisation of 1 st OC-DT meeting (online) - Review of Terms of Reference	17 December 2024
Organisation of 2 nd OC-DT meeting- Review of Preliminary Background Study	Paris, 7 February 2025
Organisation of 3 rd OC-DT meeting (online) – Development of Policy Guidelines	June 2025
Organisation of 4 th OC-DT meeting - Development of Policy Guidelines	September 2025
Organisation of 5 th OC-DT meeting – Finalisation of Draft Policy Guidelines	October 2025
Submission for adoption to the Permanent Correspondents of Pompidou Group of draft Policy Guidelines on combating organised crime relating to drug trafficking, based on the case law of the European Court of Human Rights	November 2025
Submission of the document on Policy Guidelines on combating organised crime relating to drug trafficking, based on the case law of the European Court of Human Rights to the Committee of Ministers' Rapporteur Group on Legal Co-operation (GR-J) prior to its submission to the Deputies.	January 2026

The sought **profile for the nominated experts from intergovernmental bodies** shall be:

- ☐ Experts with academic backgrounds that span criminal law, human rights, and drug policy. This includes fields like criminology, sociology, and public health.
- ☐ Experts or officers/civil servants who have worked in law enforcement, prosecution, or defence related to drug trafficking cases; criminal investigations and trials involving organised crime networks.
- ☐ Professionals with a strong foundation in criminal law, international law, and human rights. Specifically, and of great interest would be their familiarity with European Court of Human Rights jurisprudence related to drug trafficking and organised crime.
- ☐ Experts who uphold high ethical standards and demonstrate impartiality, lack of bias, and a dedication to human rights principles.

III. Terms of Reference of the Joint Expert Group (OC-DT)

The OC-DT shall **aim** to develop comprehensive and effective policy guidelines addressing drug trafficking as one of the forms of organised crime while ensuring respect for human rights and more specifically the case law of the European Court of Human Rights. Its scope shall include:

- Analysis of relevant case law from the European Court of Human Rights (ECHR) related to drug trafficking and organised crime.
- Identified common patterns, legal principles, and human rights considerations vis-a-vis organised crime and its forms among them the drug trafficking.
- Consider the impact of drug trafficking on individuals, communities, and society.

OC-DTG shall **focus** on:

- Review of the existing international, regional, and model national legal instruments related to drug trafficking and organised crime.
- Ensure that policy guidelines align with ECHR jurisprudence, emphasising the protection of fundamental rights.
- Identify comprehensive strategies to be used for an effective prevention of drug trafficking, enhancement of law enforcement, and dismantling of criminal networks.
- Consider the inclusion and use of interdisciplinary approaches, including public health, social services, and education in addition to those of the domain of the inter-governmental committees that are represented in the OC-DT.
- Ensure reference and inclusion of international cooperation modalities especially concerning the use of tools aimed at an efficient collaboration with other states and organisations to combat cross-border drug trafficking as a continental threat.

IV. Terms of Reference for the Background Study

The **Background Study** would represent a briefing document (prepared by consultants with expertise in the domain and that are contractually engaged by the Council of Europe) which will be used to inform the Joint Drafting Expert Group prior to its drafting work (expected to be initiated in 2025). The document will serve as an informative brief providing the expected scope, structural elements, challenges and indicate the existing policy framework gaps in order to develop policy guidelines on combating organised crime relating to drug trafficking based on the case law of the European Court of Human Rights. More specifically, this document should include the following:

1. Identify and take note of the existing European and global legal frameworks pertaining strategies and legal frameworks aimed at combating organised crime relating to drug trafficking.
2. Summarise existing research, case law and legal precedents related to organised crime and drug trafficking, particularly focusing on relevant case law of the European Court of Human Rights.
3. Provide a compilation of issues and challenges linked to requirements and restrictions related to criminalisation, investigative techniques, law enforcement, transborder measures, information exchange, and international cooperation when facing the form of organised crime/drug trafficking.
4. Give an overview on the application and /or feasibility of simultaneous financial investigations and of legal frameworks permitting the freezing and seizure of funds and other assets suspected to be proceeded of drug trafficking.
5. Analyse pertinent (leading) case law of the European Court of Human Rights, illustrating how these rulings impact current practices and policies.
6. Based on the analysis, identify structural set up and issues of consideration for future policy guidelines.

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