

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

Joint Expert Group – 2nd meeting Report 10 February 2024, Strasbourg (online)

1. Opening of the meeting

The Chair of the Joint Expert Group (OC-DT) welcomed all participants and recalled the terms of reference for the Background Study to be prepared by the independent experts from academia. A briefing was provided on the Group's progress, addressing questions raised in the report of the first meeting. It was specifically confirmed that the focus of the Study would remain on issues related to drugs and organised crime, without extending to other topics such as VAT and fraud. The agenda for the meeting was then adopted by the Group members.

2. Document on bringing human rights to the heart of drug and addiction policies: guidance for aligning drug and addiction policies with human rights

The Secretariat of the Pompidou Group provided a brief presentation on the Document "Guidance for aligning drug and addiction policies with human rights", which was adopted at the 95th Permanent Correspondents. Additionally, the Secretariat informed the Group about the establishment of a new Drafting Committee on Human Rights and Drug Policies (DH-PDA), as a subordinate body to the CDDH as of 1 May 2025, which has been tasked with developing a Council of Europe Recommendation on aligning drug and addiction policies with human rights. The DH-PDA Terms of Reference provide for a period of 1 May 2025 – 31 December 2026. One expert from academia raised a question about the possibility of coordinating the work, given the clear links to human rights. They also expressed concern that others might perceive an overlap between the work of the OC-DT Group and the DH-PDA.

Another expert from academia noted that the DH-PDA approach would focus more on health rather than a criminal justice perspective. The Chair of the Group deemed it beneficial to adopt a coordinated approach with the work of the DH-PDA.

The Secretariat stated that they will aim to coordinate a meeting between the OC-DT Group and the DH-PDA, highlighting that the Council of Europe's general approach is to ensure a clear balance between protecting public health and security while respecting and protecting human rights.

3. Presentation "Tools and Scope provided by the Convention on Cybercrime and its Second Additional Protocol"

Mr. Giorgi JOKHADZE, Project Manager in the Cybercrime Division, gave a presentation on the Council of Europe Convention on Cybercrime (Budapest Convention) and its Second Additional Protocol, highlighting their significance as key international criminal justice instruments on cybercrime and electronic evidence.

An expert from academia raised a question about the relationship between the Council of Europe Convention on Cybercrime and the UN Cybercrime Convention.

It was noted that there is a clear complementarity between the two, while also noting that the UN Convention goes beyond the Council of Europe instrument, addressing also financial matters. Additionally, it was highlighted that there is a growing trend of States accelerating their accession to the Budapest Convention.

4. European and global legal frameworks and/or strategies aimed at combating organised crime relating to drug trafficking

The members of the Joint Expert Group were invited to raise any issues or provide input on legal frameworks related to organised crime and drug trafficking.

The expert from Italy highlighted the recent finalisation of the Protocol to the Convention on Mutual Assistance in Criminal Matters, which is expected to be open for signature in May. They emphasised that the legal provisions are particularly relevant, noting that the Protocol's broad scope would cover any investigations into organised crime and drug trafficking.

The expert from the MEDICRIME Committee discussed the relevance of the Council of Europe Convention on the counterfeiting of medical products and similar crimes involving threats to public health (MEDICRIME Convention), noting that in itself, the Convention does not focus on organised crime, but he pointed out that there are several substances not controlled by international conventions. He referred to Article 13 of the Convention, which **outlines aggravating factors, under which organised crime can be considered**. Additionally, he mentioned the recent development of a network on controlled substances involving law enforcement and the justice sector, highlighting the gap in the regulation of uncontrolled substances in the health sector. Given the growing nature of organised crime, he emphasised the need for action to address these gaps.

One academic expert sought clarification on whether the MEDICRIME Convention overlaps with organised crime to any significant extent.

Another expert noted that the **broad definition of organised crime could create tension and ambiguity**.

The Chair of the Group acknowledged the broad scope and suggested that this issue be reflected upon and revisited at the next meeting.

5. Issues and challenges related to the scope of the Background Study

The expert from Italy acknowledged that the previous observations regarding the legal provisions of the new Protocol to the Convention on Mutual Assistance in Criminal Matters were equally relevant to this discussion.

It was suggested that the Group take into account the initial points raised by the two academic experts and use them as a foundation for further deliberations on the matter.


6. Administrative and logistical questions

It was reiterated that the next meeting would be held on 28-29 April at the Council of Europe's premises in Paris. The Secretariat will provide members with practical information regarding the Paris Office and the reimbursement rules.

7. Other business

None

List of documents

1.	Agenda of the 2nd OC-DT meeting
2.	Terms of Reference of the Joint Experts Group (including the ToRs for the independent experts)
3.	Guidance Document on bringing human rights to the heart of drug and addiction policies: guidance for aligning drug and addiction policies with human rights
4.	<p>Presentation “Tools and Scope provided by the Convention on Cybercrime and its Second Additional Protocol”</p>  <p>pompidou_convention_tools_feb_2025.</p>