First Monitoring Report of MEDICRIME Convention

Thomas Wahl

eucrim
European Law Forum: Prevention • Investigation • Prosecution

News

AUTHOR

Thomas Wahl
Senior Researcher
Max Planck Institute for the Study of Crime, Security and Law

Published in
2025, Vol. 20(1) eucrim pp 40 – 41
ISSN: 1862-6947
https://eucrim.eu

On 2 April 2025, the first monitoring report on the implementation of the Council of Europe Convention on the Counterfeiting of Medical Products and Similar Crimes Involving Threats to Public Health (MEDICRIME Convention) was released. The MEDICRIME Convention is the first binding international instrument in the criminal law field on the counterfeiting of medical products and similar crimes; it entered into force on 1 January 2016 (→ eucrim 2/2016, 84-85).

The first monitoring round of the implementation of the MEDICRIME Convention has focused on the protection of public health through the MEDICRIME Convention in times of pandemics, including the COVID-19 crisis. The report covers this theme in 13 of the 23 States which were Parties to the Convention at the time the monitoring round report was adopted. The monitoring round collected information and identified measures taken in eight areas:

- Prevention and training;
- Education of civil society on good practices;
- Protection of victims' rights;
- Cooperation and exchange of information between authorities/bodies;
- Detection of counterfeit medical products;
- Investigation and prosecution of offenders for intentional crimes related to counterfeit medical products and similar crimes;
- Sanctions and aggravating circumstances;
- Collection, collation and analysis of data.

With regard to *prevention and training*, the report stresses as a good practice that most State Parties have well-developed regulatory authorities that guarantee the quality, safety and efficacy of the medical products that they authorise for marketing. However, deficiencies exist in the area of trainging, such as lack of training for procurement programmes and the distribution of medical products as key areas for the effective fight against counterfeit medical products, especially during a pandemic. In addition, review programmes on the effectiveness of training measures and the training of specialised investigation teams on counterfeit medical products with specialised investigation techniques are largely non-existent.

Other key findings include:

- *Education*: Information of the general public and awareness-raising campaigns, in particular in view of avoiding procurement from unauthorised online sources, worked well. Evidence was lacking regarding

encouragement by the State Parties of civil society to become engaged in delivering awareness-raising campaigns to the public, as was the extent of delivery by civil society of such campaigns.

- *Victim protection*: All State Parties ensure adequate protection for victims of falsified medical products.
- *Cooperation and information sharing*: Cooperation mechanisms are in place, albeit most are general and not specific to counterfeiting medical products. Effectiveness of cooperation mechanisms is generally not reviewed and contact points for information exchange are in place, but often their powers are fragmented.
- *Detection*: Measures to proactively detect counterfeit medical products and to prevent that these products reach patients are found inadequate in the majority of the State Parties. It is also regretted that no additional measures during a pandemic were taken in the field of detection.
- Investigations and prosecutions: The level of implementation of the criminal offences under Arts. 5-8 of the MEDICRIME Convention as well as the liability of legal persons (Art. 11 of the MEDICRIME Convention) is satisfying. However, in many State Parties specialized prosecutors in the field of counterfeiting medical products and similar crimes involving threats to public health have not been established. This leads also to problems of case allocation. Positively highlighted is that in the majority of states all prescribed offences in Arts. 5-8 and 9 of the MEDICRIME Convention are investigated and not subject to a complaint.
- *Sanctions and aggravating circumstances*: All States Parties ensure a sufficient level of implementing the provision on sanctions (Art. 12 of the MEDICRIME Convention); in particular, the domestic laws permit the seizure, confiscation and disposal, including the destruction of medical products and other materials and instrumentalities employed to the commission of the offences established in Arts. 5-8 of the MEDICRIME Convention. Most State Parties have also implemented the obligations set up by Art. 13 of the MEDICRIME Convention that indicates six aggravating circumstances which, in so far as they do not already form part of the constituent elements of the offence, may, in conformity with the relevant provisions of domestic law, be taken into consideration in determining the sanctions in relation to the offences established in accordance with the Convention. However, the approaches of implementation of Art. 13 are different. No Party reported the consideration as an aggravating circumstance the commission of offences under the MEDICRIME Convention during a pandemic.
- *Data collection*: Data collection remains a low priority in the majority of the State Parties, limiting the assessment of the impact of counterfeit medical products. This is seen a critical issue, particularly during public health crises, such as the COVID-19 pandemic.

In the final part, the report provides a series of recommendations to strengthen the enforcement of the MEDICRIME Convention and to enhance public health protection. The importance of cooperation among all stakeholders, including civil society, is underscored. The report concludes that despite pandemic-related challenges, State Parties have stepped up efforts to raise public awareness about the risks of counterfeit medical products and the dangers of purchasing medicines, medical devices and other medical products from unauthorised online platforms. The Parties have developed legislation and measures in place in several critical areas, which apply equally to pandemic and non-pandemic situations alike. However, the absence of review mechanisms challenge the effectiveness of the measures, which becomes more critical in times of major crises, such as a pandemic.

About eucrim

eucrim is the leading journal which regularly informs about current developments in European criminal and “criministrative” law.
All news items are freely accessible at: https://eucrim.eu/news/

Stay informed by emailing to eucrim-subscribe@csl.mpg.de to receive alerts for new releases of issues.
The project is co-financed by the Union Anti-Fraud Programme (UAFP), managed by the European Anti-Fraud Office (OLAF).



Co-funded by
the European Union