

Prisons, probation and police

I. In brief

With over 60 years' existence, the Council of Europe has gained significantly-acknowledged worldwide expertise and experience in the area of prisons, probation and its work with law-enforcement agencies in general. The most well-known standards in this field are the **European Prison Rules**ⁱ which are regularly revisedⁱⁱ in order to reflect the most modern European policies and practices based on humane prison conditions and the treatment of prisoners. The latest revision of the Rules was inspired by the relevant case law of the **European Court of Human Rights** and by the findings and recommendations contained in the annual general reports of the **European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment (CPT)**ⁱⁱⁱ which has unrestricted access to all places of detention in the **47 member states** of the Organisation. The impact of the activities in the prison and police field is the result of the synergy between standard-setting, monitoring and assistance provided to the member states.

II. Background

The work related to prisons, probation and the police is an integral part of the overall work of the Council of Europe related to human rights, democracy and the rule of law, the three pillars of the *raison d'être* of the Organisation, in accordance with its Statute.

The main objective is to help the 47 member states^{iv} improve their legislation and practice related to the work of the police as well the execution of penal sanctions and measures. These efforts are part of the overall aim of the Organisation to create a common European space where societies function in conformity with the standards set by the Council of Europe and where individual human rights and fundamental freedoms, including of persons who have transgressed the law, are respected.

III. Comparative advantages and added value

The Council of Europe is the only European intergovernmental organisation with an extensive and recognised standing in the area of human rights' protection including in relation to prisons, probation and the police. The work in these areas is based on the **established synergy between** the relevant Council of Europe **standards**; the **monitoring** mechanisms put in place to supervise their implementation by the member states and the **technical assistance** activities provided to help countries in need to improve the work of the police, prison and probation staff, detention conditions and the treatment of detainees.

The standards elaborated by the Council of Europe and the findings of its monitoring bodies are the basis for the technical assistance provided and the latter, in turn, allows the Council of Europe to be better informed of the situation in a given country, if necessary adjusting the standards or their interpretation in order to better reflect the existing laws and practices in Europe whilst ensuring full respect for human rights.

The fact that the Council of Europe is an intergovernmental organisation which covers virtually the entire continent has several important consequences:

- Its actions and decisions are agreed, adopted and supported at the highest **political level** by the national authorities and the outcome of the monitoring of their implementation by the member states may also lead to political or legal consequences;
- By working with all European countries, the Council of Europe strives to achieve a **Europe without dividing lines**; a common space governed by the rule of law, based on democratic principles and protection of human rights and fundamental freedoms;
- The Council of Europe works closely with **international and local NGOs and the civil society** sector which allows information

regarding the situation in member states to be gathered and regularly updated and, when necessary, measures to be taken to improve the implementation of the Organisation's standards.

The Organisation has a vast set of **binding international legal instruments** (over 200) of which the most well-known in the prison, probation and police fields are:

- The European Convention for the Protection of Human Rights and Fundamental Freedoms (1950) - ETS No. 005;
- The European Convention on the supervision of conditionally sentenced or conditionally released offenders (1964) – ETS No. 051;
- Convention for the Transfer of Sentenced Persons (1983) – ETS No. 112;
- The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (1987) – ETS No. 126;
- The Additional Protocol to the Convention on the transfer of sentenced persons (1997) - ETS No. 167.

As well as these binding legal instruments, the Committee of Ministers has adopted a substantive **set of recommendations** which are regularly reviewed and, if needed, updated. Of these the most important and well-known are the European Prison Rules^v. The other most recent and relevant Committee of Ministers' recommendations are:

- CM/Rec(2012) 5 on the European Code of Ethics for Prison Staff;
- CM/Rec(2010)1 on the Council of Europe probation rules;
- Rec(2008)11 on the European Rules for juvenile offenders subject to sanctions or measures;
- Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse;

- Rec(2003)23 on the management of life-sentence and other long-term prisoners;
- Rec(2003)22 concerning conditional release;
- Rec(2001)10 on the European Code of Police Ethics;
- Rec(2000)22 on improving the implementation of the European rules on community sanctions and measures;
- R(99)22 concerning prison overcrowding and prison population inflation;
- R(98)7 concerning the ethical and organisational aspects of health care in prison;
- R(97)12 on staff concerned with the implementation of sanctions and measures;
- R(93)6 concerning prison and criminological aspects of the control of transmissible diseases including aids and related health problems in prison;
- R(92)16 on the European rules on community sanctions and measures.

These recommendations reflect the development of the Council of Europe's soft-law rules and principles in the prison, probation and police fields over the years. Due to the political commitment behind their adoption and the well-functioning monitoring bodies which supervise their implementation (in particular the European Court of Human Rights, the CPT and the Commissioner for Human Rights) these soft-law instruments have influenced amendments in national laws and practices, new training modules for staff, change in penal and disciplinary proceedings and overall improvement in the treatment of detainees.

The Council of Europe has been carrying out intergovernmental work in the penal and penitentiary field for more than fifty years. The work is done under the auspices of the **European Committee on Crime Problems** (CDPC) and its subordinate bodies, notably the **Council for Penological Co-operation** (PC-CP) and the **Committee of Experts on the Operation of European Conventions on Co-**

operation in Criminal Matters (PC-OC). These committees are attended by national delegations from the 47 member states and work with a network of internationally-acknowledged consultants and experts who are invited in their personal capacity. This ensures that the right balance is found between national specificities and sensitivities and the need to agree on contemporary common European standards based on the Council of Europe's aims and principles.

The Council of Europe collects **Annual Penal Statistics** – SPACE I (on prisons) and SPACE II (on community sanctions and measures). This is a very valuable source of information not only for all prison and probation professionals but also for national authorities, enabling them to carry out informed reforms of the system if necessary.

The Council of Europe holds regular **Conferences of Directors of Prison Administration (CDAP)**, which in 2012 became an annual event, and to which it has become a tradition to invite **Directors of Probation Services**. During these important forums networks are created, best practices are exchanged and the latest Council of Europe standards are promoted.

In turn, the participants in the **intergovernmental committees and conferences**, including the consultants and professionals involved, take part in technical assistance projects in some of the Council of Europe's member states. In this way the Organisation's standards are promoted, high-quality expertise is provided in the field and feedback to the intergovernmental work is provided.

Not only do the experts involved in the technical assistance projects have extensive international experience, they often have **local knowledge** of the area in which the assistance is carried out. They are briefed before and during the project and remain in constant contact with

the Council of Europe's secretariat or, in some cases, are accompanied by a member of the secretariat during their mission. This allows the control and sustainability of the projects to be maintained. The projects may also be implemented by local Council of Europe staff in the **field offices**^{vi}.

IV. Geographic contextualisation

Bosnia and Herzegovina: the Joint Project with the EU stemmed from the achievements of the previous programmes and was aimed at: introducing alternative sanctions; building capacity for prison staff in the human rights area; improving the situation of vulnerable and high-risk prisoners; assisting with drafting of a new law on mental health or amendments to the existing one; facilitating the installation of an Information Management System; and assisting with the development of an independent inspection mechanism. The two-year Joint Programme was financed jointly by the EU and the Council of Europe. The results achieved within the Joint Programme have enabled local policy makers, primarily Ministries of Justice at all levels, to further develop the prison systems. The project helped also to create a "prison network" across the country.

A voluntary contribution project, 'Enhancing recruitment procedures and training of staff for the State prison of Bosnia and Herzegovina', financed by the US Government and implemented by the Council of Europe, started in 2012.

Georgia: Demolition of an insanitary prison, replaced by a more modern establishment with better amenities, and preparation of a plan of action for treating infectious diseases during detention.

Moldova: Following the post-electoral events in 2009, a number of Council of Europe and EU high-level visits, including the CPT, were made to Moldova to better understand the situation with a view to making recommendations to the

authorities regarding the fundamental principles of human rights, rule of law and democracy.

Intense consultations between the Council of Europe and the EU resulted in an EU/Council of Europe joint “Democracy Support Programme”, implemented by the Council of Europe and financed by the EU. The JP resulted *inter alia* in reinforced institutional/ operational systems for prevention of ill-treatment and effective investigation of complaints discouraging this negative phenomenon affecting especially police forces; improved processing of allegations of ill-treatment in accordance with European standards, leading to imposition of sanctions when appropriate; refurbishment of a police detention centre in line with CPT standards; a core group of judges, police officers and prosecutors was trained to act as national trainers on prevention of torture and ill-treatment, illegal arrests, procedural rights surrounding police custody and positive obligations to protect detainees, witnesses, investigation of allegations of ill-treatment etc.

For more information, please visit:
http://www.coe.int/t/dghl/cooperation/capacitybuilding/prison_en.asp

The “former Yugoslav Republic of Macedonia”: the CPT reiterated its dissatisfaction with detention conditions in Idrizovo prison, because of which the Government applied for and received a loan from the Council of Europe Development Bank (CEB) for refurbishment of the said prison. In parallel with refurbishment of the prison, and in co-operation with the EU, the CoE will implement a JP to improve the capacity of prison staff to deal with different categories of prisoners and to reinforce the national provision of training for prison and police staff, in line with European standards.

Turkey: “Dissemination of Model Prison Practices and Promotion of the Prison Reform in Turkey” project is funded by the European Union and has been implemented jointly by the Council of Europe and the Turkish Ministry of Justice since

2009. The “support of the penal reform” component of the project provided technical assistance in the architectural design of new prisons, rehabilitation of old ones and guidelines for prison architecture. It developed a training strategy and strengthened the training capacity of the Prison Staff Training Schools of Turkey. Concrete tools such as a “Prison Management Manual” for prison governors and a “Prison Doctor’s Handbook” for medical staff have been developed. In addition, two Model Prisons in western and eastern parts of Turkey were established in order to provide a full range of services to prisoners for rehabilitation and the training of inmates in compliance with international human rights and prison standards. Special importance has been attached not only to the material conditions in these prisons but also to the professional attitudes and behaviour of employees.

For more information, please visit:
http://www.coe.int/T/E/Legal_Affairs/About_us/Activities/7Prog_Turkey.asp

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ⁱ Recommendation Rec(2006)2 of the Committee of Ministers to the member states on the European Prison Rules

ⁱⁱ Adopted for the first time in 1973, revised in 1987 and in 2006

ⁱⁱⁱ Established in 1989 by virtue of the European Convention for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment (ETS n° 126)

^{iv} Belarus is the only European state which is not yet a member of the Council of Europe.

^v Recommendation Rec(2006)2 of the Committee of Ministers to the member states on the European Prison Rules

^{vi} As of 31 August 2012 the Council of Europe has field offices in the following cities: Baku (Azerbaijan); Belgrade (Serbia); Chisinau (Moldova); Kyiv (Ukraine); Moscow (Russian Federation); Sarajevo (Bosnia and Herzegovina); Tbilisi (Georgia); Tirana (Albania); Yerevan (Armenia). In addition, the Council of Europe has, since 1975, had a Liaison office to the European Union Institutions in Brussels. As of 2008, the Office is headed by a Special Representative of the Secretary General at Ambassador level.