

Strasbourg, 19 November 2011  
pc-cp/docs 2011\pc-cp(2011)18e

PC-CP (2011) 18

**EUROPEAN COMMITTEE ON CRIME PROBLEMS**  
**(CDPC)**

**Council for Penological Co-operation**  
**(PC-CP)**

**1<sup>st</sup> Plenary Meeting**

**Strasbourg, 8-10 November 2011**

**SUMMARY MEETING REPORT**

**Document prepared by the Directorate General I - Human Rights and Rule of Law**

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**BRIEF FOREWORD**

**The PC-CP:**

- Finalised the draft recommendation containing European Code of Ethics for Prison Staff in the light of the comments made by the CDPC delegations and sent the text to the CDPC for approval;
- Finalised the draft recommendation on foreign prisoners and its draft commentary in the light of the written and oral comments made by the CDPC delegations and sent the texts to the CDPC for approval;
- Considered the conclusions of the 16<sup>th</sup> Conference of Directors of Prison Administration with the participation of Directors of Probation Services (13-14 October 2011) and the follow-up to be given to it and took specific decisions in this respect;
- Considered the discussion paper on the follow-up to be given to the 30<sup>th</sup> Conference of the Ministers of Justice and noted that all actions which fell under its responsibilities were carried out;
- Considered its format and working methods and made some proposals in this respect.

1. The Council for Penological Co-operation (PC-CP) held its 1<sup>st</sup> plenary meeting in Strasbourg on 8-10 November 2011 with Ms Sonja Snacken in the Chair. The list of participants is appended to this report (Appendix II).

**I. Opening of the meeting and adoption of the agenda**

2. The agenda was adopted (see Appendix I).

**II. Summary report of the 68<sup>th</sup> meeting [Doc. PC-CP (2011) 11]**

3. The PC-CP considered the summary meeting report of its 68<sup>th</sup> meeting and had no comments to make.

**III. Items for information**

4. Mr Jan Kleijssen, Director, Information Society and Action Against Crime Directorate informed the participants of the reform process and of the new structures put in place as of 1 October 2011. He underlined that the work will be based on thematic approach and will imply more transversality throughout the Organisation. He welcomed the representatives of the Council of Europe member states, expressed regret that not all member states were represented, as planned and underlined that the aim of holding PC-CP plenary meetings is to give all national delegations the possibility to discuss in details draft texts prepared by the PC-CP before they are approved by the CDPC. As this is the first time such a meeting is held he requested the participants to share their opinion at the end of the current meeting on whether this working method seems efficient enough or whether it would be better to hold an additional CDPC meeting instead when draft texts prepared by the PC-CP need to be discussed by all delegations. He also underlined that the new terms of reference of the intergovernmental committees (including these of the PC-CP itself) were not yet adopted by the Committee of Ministers and that this is expected to be done by the end of next week.
5. Mr Carlo Chiaromonte drew the PC-CP attention to the decisions taken at the last CDPC meeting regarding the draft European Code of Ethics for Prison Staff and the draft recommendation on Foreign Prisoners and the need to take the CDPC comments into account.

**IV. Draft recommendation concerning foreign prisoners and its commentary [Docs. PC-CP (2011) 5 rev 4 and PC-CP (2011) 6 rev]**

6. The PC-CP took note that in addition to the comments and observations made at the last CDPC plenary meeting, 8 CDPC delegations had sent written comments on the text.
7. The PC-CP considered the draft recommendation as amended by the Secretariat following the written comments sent by the national delegations. Regarding the concerns expressed by certain delegations in relation to the use of the word "shall" it was underlined that the use of "shall" has been consistent in recent recommendations of the PC-CP, namely Recommendation n° R(92)16 on the European Rules on community sanctions and measures; Recommendation Rec(2006)2 on the European Prison Rules, Recommendation Rec(2008)11 on the European Rules for juvenile offenders subject to sanctions and measures and was most recently adopted by the Committee of Ministers at its meeting on 20 January 2010 with the adoption of Recommendation CM/Rec(2010)01 on the Council of Europe Probation Rules. The Commentary on this Recommendation explains the position accepted at that time<sup>1</sup>. It was also noted that the relevant UN legal texts, starting with the Standard Minimum Rules for the Treatment of Prisoners have adopted the same approach. In the light of this drafting approach, it would be invidious if the recommendation relating to foreign prisoners was to adopt a different approach which could suggest that their needs were being taken less seriously than the needs of others.
8. The scope of the Recommendation was amended so that to cover only foreign persons who are not considered to be residents by the state concerned and who are to be transferred, extradited or expelled to another state as a consequence of their offence (Rule 1.3). An additional paragraph was added in order to invite states to apply this recommendation also to foreign residents in case it would

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<sup>1</sup> "The practice of defining a set of rules in an appendix to a recommendation, which is the case in the above mentioned texts, does in no way modify its legal nature. It is meant to send a strong political message to the national authorities as regards their policy and practice in the field."

be in their interest and namely to improve their social reintegration and prospects to lead law-abiding life (Rule 1.4).

9. Several delegations had made observations regarding the term “offender” as they found it misleading in the cases when a person is not yet convicted and sentenced. It was agreed to add to the definitions (Rule 2) the term “suspect” in order to cover such cases and to use the terms “suspect and offender” throughout the whole text of the recommendation when rules apply to both categories.
10. Regarding Rule 4 it was agreed that the term “to be considered for” is general enough and does not necessarily mean that a particular suspect or offender will be sentenced to community sanctions or measures but that he would have the right as all other suspects and offenders to have his case examined.
11. Regarding Part II “Use of remand in custody” the term: “offender” was replaced by: “suspect”.
12. Regarding part III “Sentencing” it was agreed that the rules it contains aim to improve the execution of sanctions and measures as governed by Recommendation n° R(92)17, to underline more specifically the role prison and probation services should play in this respect and more particularly in taking positive steps to avoid discrimination. They in no way are meant to be interpreted as rules relating to court work.
13. In part IV “Conditions of detention” several rules were amended in order to take into account existing practices in the member states, safety and security risks and also in order to reflect the fact that it may not always be possible to ensure the recommended procedures (translation and interpretation, contact details of family members, clothing, etc.).
14. Regarding several concerns expressed in relation to rules related to consular representatives it was underlined that the PC-CP ad hoc terms of reference in relation to its work on foreign prisoners, as adopted by the Committee of Ministers, provided specifically to deal with this issue. Moreover Recommendation n° R(84)12 on foreign prisoners which this one is meant to replace also mentions consular representatives, as well as the relevant EU Framework decisions in this area. Again the aim of these rules is in no case to be interpreted as contrary to the Vienna Convention on Consular Relations but as practical examples of the role consular representatives may play in the case of foreign prisoners whom they are in charge of. Amendments were also introduced in this section in order to accommodate questions regarding data protection and prisoner’s consent (Rules 26.1 and 26.2).
15. The section on freedom of thought, conscience and religion was shortened as the European Prison Rules apply to all prisoners in this respect but it was felt necessary to underline that a foreign prisoner may exercise and change his religion but has to be protected from being compelled to do so.
16. The section on infant children of imprisoned foreign nationals was re-drafted in order not to be interpreted as discriminating national prisoners in this respect.
17. Several rules in Chapter V “Release” were re-drafted and the section on international transfers was significantly shortened.
18. Chapter VII was renamed to “Research and Data Collection” in order to better reflect the contents of the rules it contained.
19. In parallel to discussing the draft recommendations instructions were given to the scientific experts regarding additions and amendments to the draft commentary.

**V. Draft European Code of Prison Staff Ethics [Docs. PC-CP (2011) 1 and PC-CP (2011) 7]**

20. Before starting work on the draft Code it was underlined that the text had been presented at the 16<sup>th</sup> Conference of Directors of Prison Administration (13-14 October 2011, Strasbourg) and met with a significant support from the delegations. It was also noted that there have been 6 written comments and observations made by the CDPC national delegations on the text.
21. The PC-CP then discussed the draft rules. Rule 15 was amended to simplify the list of persons it contained and an additional sentence was inserted to Rule 24 to underline the importance of respecting prisoner’s freedom of thought, conscience and religion.

**VI. Outcome and follow up to the 16<sup>th</sup> Conference of Directors of Prison Administration with the participation of Directors of Probation Services (13-14 October 2011) and follow-up to the 30<sup>th</sup> Conference of the Ministers of Justice**

22. The PC-CP considered the conclusions adopted by the Conference and in particular the request to establish European standards regarding the use of electronic monitoring, to draft Code of ethics for probation staff and to create a platform for exchange of best practices. It also took into account the opinion expressed by the CDPC Bureau at its meeting in October 2011 that priority should be given to the work on electronic monitoring and agreed that this item should be high on its next agenda.
23. The PC-CP took also note that there was no agreement reached at the Conference regarding the drafting of a binding legal instrument on prisons despite the fact that many delegations were of the opinion that there is a need to establish at European or national level standards regarding the use of individual cells, their size, ventilation, light and equipment in prisons, the need to have maximum capacity defined for each individual prison (which should be respected in order to avoid overcrowding), etc.
24. The PC-CP examined also doc. CDPC (2011) 6 "Discussion paper on the follow-up to be given to the 30<sup>th</sup> Conference of Ministers of Justice" and noted that all actions suggested in it which fell under its responsibility (namely points 1-4) have been carried out and that the next step would be to hold a Conference involving judges, prosecutors, prison and probation staff in order to agree on the main aspects of a responsible penal policy and steps to better implement the European standards and to combat prison overcrowding and degrading prison conditions.

**VII. Other business**

25. The PC-CP discussed, following Mr Kleijssen's request, its current format of work and was of the opinion that it was beneficial to have a plenary meeting in order to have a broader forum for discussion and for taking decisions. As this was the first time such a meeting was held it was not surprising that not all national delegations attended. It would be useful to raise the issue at the next CDPC meeting so that more national delegations attend. It was nevertheless underlined that the representation of the national authorities should differ depending on the topics to be discussed. In case draft legal texts are discussed which is the case at this meeting, it would be good to have representatives who would attend the CDPC plenary meetings afterwards to be able to ensure a follow-up to the approval of such legal texts. In case other issues, for example relating to the implementation of existing standards in the prison and probation field, are to be discussed, then it would be good to have representatives of the respective services attending in order to enrich the contents of the discussions and ensure better implementation of the standards at national level.
26. The request for comments sent by Professor Peter B. Boorsma, President of Council for the Administration of Criminal Justice and Protection of Juveniles was discussed and in relation to this was discussed the more general issue of how to deal with similar requests in the future was also considered. It was decided that the PC-CP should elaborate a procedure for dealing with such requests.

**VIII. Dates of the next meetings**

27. The next meeting was scheduled as follows: 28-30 March 2012.

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**APPENDIX I**

**AGENDA / ORDRE DU JOUR**

<b>1) Adoption of the agenda / Adoption de l'ordre du jour</b>	<b>PC-CP (2011) OJ 3</b> <i>Bilingual / Bilingue</i>
<b>2) Summary report of the last meeting / Rapport sommaire de la dernière réunion</b>	<b>PC-CP (2011) 11</b> <i>English / Français</i>
<b>3) Information / Informations</b>	
<b>4) Foreign nationals in prison / Détenus étrangers</b>	
<ul style="list-style-type: none"> <li>▪ <b>Draft recommendation concerning foreign prisoners /</b> Projet de Recommandation relative aux détenus étrangers</li> </ul>	<b>PC-CP (2011) 5 rev 3</b> <i>English / Français</i>
<ul style="list-style-type: none"> <li>▪ <b>Member states' comments on the Draft Recommendation concerning foreign prisoners /</b> Commentaires des Etats membres sur le Projet de Recommandation relative aux détenus étrangers</li> </ul>	<b>PC-CP (2011) 15</b> <i>Bilingual / Bilingue</i>
<ul style="list-style-type: none"> <li>▪ <b>Draft Commentary on the Recommendation concerning foreign prisoners /</b> Projet de commentaire sur la Recommandation relative aux détenus étrangers</li> </ul>	<b>PC-CP (2011) 6 rev</b> <i>English / Français</i>
<ul style="list-style-type: none"> <li>▪ <b>Member states' comments on the Draft Commentary to the Recommendation concerning foreign prisoners /</b> Commentaires des Etats membres sur le Projet de commentaire sur la Recommandation relative aux détenus étrangers</li> </ul>	<b>PC-CP (2011) 16</b> <i>Bilingual / Bilingue</i>
<ul style="list-style-type: none"> <li>▪ <b>Ad Hoc Terms of Reference of the Council for Penological Co-operation (PC-CP) relating to detained foreign nationals /</b> Mandat occasionnel du Conseil de coopération pénologique (PC-CP) relatif à la détention de ressortissants étrangers</li> </ul>	<b>PC-CP (2010) 01 rev 2</b> <i>English / Français</i>
<b>5) Draft European Code of Ethics for Prison Staff /</b> Projet de Code d'éthique européen pour le personnel pénitentiaire	
<ul style="list-style-type: none"> <li>▪ <b>Text of the Draft European Code of Ethics for Prison Staff /</b> Texte du Projet de Code d'éthique européen pour le personnel pénitentiaire</li> </ul>	<b>PC-CP (2011) 7 rev</b> <i>English / Français</i>
<ul style="list-style-type: none"> <li>▪ <b>Member States' comments on the Draft European Code of Ethics for Prison Staff /</b> Commentaires des Etats membres sur le Projet de Code d'éthique européen pour le personnel pénitentiaire</li> </ul>	<b>PC-CP (2011) 17</b> <i>Bilingual / Bilingue</i>
<ul style="list-style-type: none"> <li>▪ <b>EPSU Comments</b></li> </ul>	<b>Press Communication</b> <i>(English only)</i>

**6) Outcome and follow-up to the 16<sup>th</sup> Conference of Directors of Prison Administration with the participation of Directors of Probation Services (13-14 October 2011) / Résultats et suivi de la 16<sup>e</sup> Conférence des Directeurs d'administration pénitentiaire avec la participation des Directeurs de services de probation (13-14 octobre 2011)**

**Conclusions**  
*English / French*

**Analysis of the questionnaire addressed to the CDAP participants/Analyse du questionnaire adressé aux participants de la CDAP**

**7) Any other business / Questions diverses**

- **Letter from Professor Peter B. Boorsma, President, Council for the Administration of Criminal Justice and Protection of Juveniles**

**Letter**  
*(English only)*

**8) Dates of the next meetings / Dates des prochaines réunions**

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**APPENDIX II**

**List of Participants / Liste des Participants**

**MEMBER STATES / ETATS MEMBRES**

**ALBANIA / ALBANIE**

\*\*\*\*\*Apologised/Excusé\*\*\*\*\*

**ANDORRA / ANDORRE**

\*\*\*\*\*Apologised/Excusé\*\*\*\*\*

**ARMENIA / ARMÉNIE**

\*\*\*\*\*Apologised/Excusé\*\*\*\*\*

**AUSTRIA / AUTRICHE**

\*\*\*\*\*Apologised/Excusé\*\*\*\*\*

**AZERBAIJAN / AZERBAÏDJAN**

Huseynagha ALIKHANOV, Deputy Head of the Penitentiary Service, Ministry of Justice, Baku

**BELGIUM / BELGIQUE**

\*\*\*\*\*Apologised/Excusé\*\*\*\*\*

**BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE**

\*\*\*\*\*Apologised/Excusé\*\*\*\*\*

**BULGARIA / BULGARIE**

Mitko DIMITROV, General Director, General Directorate "Execution of Sentences", Ministry of Justice, Sofia

Nadya RADKOVSKA, Head of the Department for International Relations and Training of Staff, General Directorate Execution of Sentences, Ministry of Justice, Sofia

**CROATIA / CROATIE**

\*\*\*Apologised/Excusé\*\*\*

**CYPRUS / CHYPRE**

\*\*\*Apologised/Excusé\*\*\*

**CZECH REPUBLIC / RÉPUBLIQUE TCHÈQUE**

\*\*\*Apologised/Excusé\*\*\*

**DENMARK / DANEMARK**

Annette ESDORF, Secretary to the Management, Deputy Director, Danish Prison and Probation Services, Ministry of Justice, Copenhagen

**ESTONIA / ESTONIE**

\*\*\*Apologised/Excusé\*\*\*

**FINLAND / FINLANDE**

Katja PUIKKO, Lawyer, Judicial Unit, Central Administration, Criminal Sanctions Agency, Helsinki

**FRANCE**

Christelle ROULIN, Magistrat, rédactrice au sein du bureau de l'action juridiction et du droit pénitentiaire, Administration pénitentiaire, Ministère de la Justice, Direction de l'Administration pénitentiaire, Sous-direction des personnes placées sous main de Justice, Paris

**GEORGIA / GÉORGIE**

\*\*\*Apologised/Excusé\*\*\*

**GERMANY / ALLEMAGNE**

\*\*\*Apologised/Excusé\*\*\*

**GREECE / GRÈCE**

\*\*\*Apologised/Excusé\*\*\*

**HUNGARY / HONGRIE**

Attila JUHÁSZ, Prison Director, Senior member, Heves County Remand Prison, Eger

**ICELAND / ISLANDE**

\*\*\*Apologised/Excusé\*\*\*

**IRELAND / IRLANDE**

Gerry McDONAGH, Principal Officer, Prisons & Probation Policy Division, Department of Justice and Equality, Dublin

**ITALY / ITALIE**

\*\*\*Apologised/Excusé\*\*\*

**LATVIA / LETTONIE**

\*\*\*Apologised/Excusé\*\*\*

**LIECHTENSTEIN**

\*\*\*Apologised/Excusé\*\*\*

**LITHUANIA / LITUANIE**

\*\*\*Apologised/Excusé\*\*\*

**LUXEMBOURG**

\*\*\*Apologised/Excusé\*\*\*

**MALTA / MALTE**

\*\*\*Apologised/Excusé\*\*\*

**MOLDOVA**

Vladimir POPA, Deputy Head, Central Probation Office, Chisinau

Natalia POTOTCHI, Consultant, Analytical and International Programs' Service, Central Probation Office, Chisinau

**MONACO**

\*\*\*Apologised/Excusé\*\*\*

**MONTENEGRO**

\*\*\*Apologised/Excusé\*\*\*

**NETHERLANDS / PAYS-BAS**

\*\*\*Apologised/Excusé\*\*\*

**NORWAY / NORVÈGE**

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**POLAND / POLOGNE**

\*\*\*Apologised/Excusé\*\*\*

**PORTUGAL**

\*\*\*Apologised/Excusé\*\*\*

**ROMANIA / ROUMANIE**

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**RUSSIAN FEDERATION / FÉDÉRATION DE RUSSIE**

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**SERBIA / SERBIE**

\*\*\*Apologised/Excusé\*\*\*

**SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE**

\*\*\*Apologised/Excusé\*\*\*

**SLOVENIA / SLOVÉNIE**

\*\*\*Apologised/Excusé\*\*\*

**SPAIN / ESPAGNE**

\*\*\*Apologised/Excusé\*\*\*

**SWEDEN / SUÈDE**

\*\*\*Apologised/Excusé\*\*\*

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Walter TROXLER, Chef de l'unité exécution des peines et des mesures, Département fédéral de justice et police (DFJP), Office fédéral de la justice, Bern

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\*\*\*Apologised/Excusé\*\*\*

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Hakan UMUT, Examining Judge, General Directorate of Prisons and Detention Houses, Yenimahalle-Ankara

**UKRAINE**

\*\*\*Apologised/Excusé\*\*\*

**UNITED KINGDOM / ROYAUME-UNI**

\*\*\*Apologised/Excusé\*\*\*

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**MEMBERS OF THE  
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Peter LINDSTRÖM, Associate Professor, Polismyndigheten i Stockholms Län, Stockholm, Sweden

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Andrew COYLE, Director, International Centre for Prison Studies, University of Essex, United Kingdom

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Róisín Mary MULGREW, School of Law, University of Nottingham, United Kingdom

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**OBSERVERS WITH THE COUNCIL OF EUROPE /  
OBSERVATEURS AUPRES DU CONSEIL DE L'EUROPE**

**HOLY SEE / SAINT-SIÈGE**

\*\*\*\*\*Apologised/Excusé\*\*\*\*\*

**UNITED STATES OF AMERICA / ÉTATS-UNIS D'AMÉRIQUE**

\*\*\*\*\*Apologised/Excusé\*\*\*\*\*

**CANADA**

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\*\*\*\*\*Apologised/Excusé\*\*\*\*\*

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ORGANISATIONS INTERNATIONALES NON-GOUVERNEMENTALES**

**EUROPEAN ORGANISATION FOR PROBATION / ORGANISATION EUROPÉENNE DE LA PROBATION  
(CEP)**

Marc CERÓN, President, Barcelona, Spain

**UNITED NATIONS CHILDREN'S FUND (UNICEF)**

\*\*\*\*\*Apologised/Excusé\*\*\*\*\*

**INTERNATIONAL CENTRE FOR PRISON STUDIES**

\*\*\*\*\*Apologised/Excusé\*\*\*\*\*

**OTHER PARTICIPANTS/ AUTRES PARTICIPANTS**

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\*\*\*\*\*Apologised/Excusé\*\*\*\*\*

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\*\*\*\*\*Apologised/Excusé\*\*\*\*\*

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**SECRETARIAT OF THE COUNCIL OF EUROPE /  
SECRETARIAT DU CONSEIL DE L'EUROPE**

**DIRECTORATE GENERAL  
HUMAN RIGHTS AND RULE OF LAW  
INFORMATION SOCIETY AND ACTION AGAINST CRIME DIRECTORATE**

**DIRECTION GÉNÉRALE  
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DIRECTION DE LA SOCIÉTÉ DE L'INFORMATION ET DE LA LUTTE CONTRE LA CRIMINALITÉ**

Jan KLEIJSSSEN  
Director, Information Society and Action Against Crime Directorate

**Action against Crime Department/Criminal Law Division**  
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Sylvie BOUX  
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