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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

Council for Penological Co-operation
(PC-CP)

**DRAFT EUROPEAN
CODE OF ETHICS FOR PRISON STAFF**

Draft Recommendation CM/Rec (2012)XX of the Committee of Ministers to member states on the European Code of Ethics for Prison Staff

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Recalling that the aim of the Council of Europe is to achieve greater unity between its members;

Bearing in mind that it is also the purpose of the Council of Europe to promote the rule of law, which constitutes the basis of all genuine democracies;

Considering that the criminal justice system plays a key role in safeguarding the rule of law and that prison staff have an essential role within that system;

Having regard to the European Convention on Human Rights and the case law of the European Court of Human Rights;

Having regard also to the work carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and in particular the standards it has developed in its general reports;

Reiterating that no one shall be deprived of liberty save as a measure of last resort and in accordance with a procedure prescribed by law;

Stressing that the enforcement of custodial sentences and the treatment of prisoners necessitate taking account of the requirements of safety, security and good order, while also ensuring prison conditions which do not infringe human dignity and which offer meaningful occupational activities and treatment programmes to prisoners, thus preparing them for their reintegration into society;

Considering it important that Council of Europe member states continue to update and observe common principles regarding their prison policies;

Considering, moreover, that the observance of such common principles will enhance international co-operation in this field;

Considering that the achievement of a number of the objectives of the prison service depend on public involvement and cooperation and that the efficiency of the prison service is dependent on public support;

Noting the significant social changes which have influenced important developments in the penal field in Europe in the course of the last two decades;

Endorsing once again the standards contained in the recommendations of the Committee of Ministers of the Council of Europe, which relate to penitentiary policy and practice and in particular:

Recommendation n°R (89) 12 on education in prison;

Recommendation n°R (93) 6 concerning prison and criminological aspects of the control of transmissible diseases including AIDS and related health problems in prison;

Recommendation n°R (97) 12 on staff concerned with the implementation of sanctions and measures;

Recommendation n°R (98) 7 concerning the ethical and organisational aspects of health care in prison;

Recommendation n°R (99) 22 concerning prison overcrowding and prison population inflation

Recommendation Rec(2003)22 on conditional release (parole);

Recommendation Rec(2003)23 on the management by prison administrations of life sentence and other long-term prisoners;

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

Recommendation 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 (2008)11 on the European Rules for juvenile offenders subject to sanctions or measures;

Bearing in mind the United Nations Code of Conduct for Law Enforcement Officials, United Nations Standard Minimum Rules for the Treatment of Prisoners and the United Nations Standard Minimum Rules for the Treatment of Women Prisoners and Non-custodial measures for Women Offenders (Bangkok Rules);

Considering the need to establish common European principles and guidelines for the overall objectives, performance and accountability of prison staff to safeguard security and individual's rights in democratic societies governed by the rule of law,

Recommends that the governments of member states be guided in their internal legislation, practice and codes of conduct of prison staff by the principles set out in the text of the European Code of Ethics for Prison Staff, appended to the present recommendation, which should be read in conjunction with the European Prison Rules, with a view to their implementation, and to give the widest possible circulation to this text.

Appendix to Recommendation CM/Rec (2012) XX

I. Definition of the Scope of the Code

This Code applies to prison staff at all levels .

In this Code the term “prison” is used to describe institutions reserved for holding persons who have been remanded in custody by a judicial authority or who have been deprived of their liberty following conviction.

Nothing in this Code ought to be interpreted as precluding the application of any relevant international human rights instruments and standards, especially the European Prison Rules, as well as other professional Codes of Ethics applicable to specialised groups of staff.

II. Objectives of Prison Staff

1. The main objectives of prison staff in a democratic society governed by the rule of law shall be:
 - to protect and respect the fundamental rights and freedoms of individuals as enshrined, in particular, in the European Convention on Human Rights;
 - to ensure that all prisoners are safe and held in conditions that comply with relevant international standards and in particular the European Prison Rules;¹
 - to respect and protect the right of the public to be safeguarded from criminal activity;
 - to work towards the social reintegration of prisoners on release, by providing them with the opportunity to use their time in prison positively.

III. Prison Staff and the Criminal Justice System

2. Prison staff shall have roles and duties different from those of the police, the military, the prosecution and the judiciary in respect of prisoners.
3. Prison staff shall cooperate appropriately with relevant institutions of the criminal justice system, including with probation services, where they exist.

IV. Guidelines for Prison Staff Conduct

A. Accountability

4. Prison staff shall carry out all their duties in accordance with national law and international standards.
5. Prison staff at all levels shall be personally responsible and accountable for their own actions or omissions or for orders to subordinates; they shall always verify the lawfulness of their intended actions.

B. Integrity

6. Prison staff shall maintain and promote high standards of personal honesty and integrity.
7. Prison staff shall maintain positive professional relationships with prisoners and members of their families.
8. Prison staff shall not allow their private, financial or other interests to conflict with their position. It is the responsibility of all prison staff to avoid such conflicts of interest and to request guidance in case of doubt.
9. Prison staff shall oppose all forms of corruption within the prison service. They shall inform superiors and other appropriate bodies of any corruption within the prison service.
10. Prison staff shall carry out instructions properly issued by their superiors, but they shall have a duty to refrain from carrying out any instructions which are clearly illegal and to report such instructions, without fear of sanction.

¹ Recommendation Rec(2006) 2 of the Committee of Ministers to member states on the European Prison Rules (Adopted by the Committee of Ministers on 11 January 2006 at the 952nd meeting of the Ministers' Deputies)

C. Respect and Protection of Human Dignity

11. Prison staff shall at all times respect and protect everyone's right to life.
12. In the performance of their daily tasks, prison staff shall respect and protect human dignity and maintain and uphold the human rights of all persons.
13. Prison staff shall not inflict, instigate or tolerate any act of torture or other inhuman or degrading treatment or punishment, under any circumstances, including when ordered by a superior.
14. Prison staff shall respect and protect the physical, sexual and psychological integrity of all prisoners, including against assault by fellow prisoners.
15. Prison staff shall at all times treat prisoners, visitors and colleagues with politeness and respect.
16. Prison staff shall only interfere with individual's right to privacy when strictly necessary and only to obtain a legitimate objective.
17. Prison staff shall not use force against prisoners except in self-defence or in cases of attempted escape or active or passive physical resistance to a lawful order and always as a last resort.
18. Prison staff shall carry out personal searches only when strictly necessary and shall not humiliate prisoners in the process.
19. Prison staff shall use instruments of restraint only as provided for by the European Prison Rules.² In particular they shall never use them on women during labour, during birth and immediately after birth.

D. Care and Assistance

20. Prison staff shall be sensitive to the special needs of individuals, such as juveniles, women, minorities, foreign prisoners, elderly and disabled prisoners, and any prisoner who might be vulnerable for other reasons, and make every effort to provide for their needs.
21. Prison staff shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required.
22. Prison staff shall provide for the safety, hygiene and appropriate nourishment of persons in the course of their custody. They shall make every effort to ensure that conditions in prison comply with the requirements of relevant international standards, in particular the European Prison Rules.
23. Prison staff shall work towards facilitating the social reintegration of prisoners through a programme of constructive activities, individual interactions and assistance.

E. Fairness, Impartiality and Non-Discrimination

24. Prison staff shall respect plurality and diversity and not discriminate against any prisoner on the basis of sex, age, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status or the type of offence alleged or committed by that prisoner.
25. Prison staff shall take full account of the need to challenge and combat racism and xenophobia, as well as to promote gender sensitivity and prevent sexual harassment of any form both in relation to other staff and to prisoners.
26. Prison staff shall carry out their tasks in a fair manner, with objectivity and consistency.
27. Prison staff shall apply objective and fair disciplinary procedures as provided for by the European Prison Rules³. Moreover they shall respect the principle that prisoners charged with a disciplinary offence shall be considered innocent until proven guilty.

² Rule 68

³ Rules 56-63

F. Cooperation

28. Prison staff shall ensure that prisoners have regular and adequate access to their lawyers and families throughout their imprisonment.

29. Prison staff shall promote cooperation with governmental or non-governmental organisations and community groups working for the welfare of prisoners.

30. Prison staff shall promote a spirit of cooperation, support, mutual trust and understanding among colleagues.

G. Confidentiality and Data Protection

31. Information of a confidential nature in the possession of prison staff shall be kept confidential, unless the performance of duty or the needs of justice strictly require otherwise.

32. Particular attention shall be paid to the obligation to respect principles of medical confidentiality.

33. The collection, storage, and use of personal data by the prison staff shall be carried out in accordance with international data protection principles and, in particular, shall be limited to the extent necessary for the performance of lawful, legitimate and specific purposes.

V. General

34. Prison staff shall respect the present Code. They shall also, to the best of their capability, prevent and rigorously oppose any violations of it.

35. Prison staff who have reason to believe that a violation of the present Code has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities.

36. Codes of ethics for prison staff, based on the above principles, shall be developed in member states and shall be overseen by appropriate bodies.