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

**SUMMARY OF REPLIES TO THE QUESTIONNAIRE  
ON URBAN VIOLENCE AND JUVENILE INVOLVEMENT**

Document prepared by the CDPC Secretariat  
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## **I) Introduction**

On 28 November 2012, in response to the resolution on responses of justice to urban violence passed at the 31<sup>st</sup> Council of Europe Conference of Ministers of Justice, the Council of Europe Committee of Ministers “instruct(ed) the European Committee on Crime Problems (CDPC) to examine:

- the experiences of member states with regard to preventing the involvement of juveniles in urban violence as perpetrators and/or victims and recommend, as necessary, suitable measures, in particular related to prevention and the criminal justice systems;
- the existing laws and practices in Europe concerning the sanctioning and treatment of juveniles involved in acts of urban violence as well as practices regarding the involvement of families, to draw up best practices in this regard and recommend, as necessary, suitable measures, in particular related to the criminal justice systems;
- the existing laws and practices in Europe regarding restorative justice and recommend, as necessary, specific restorative justice measures aimed at dealing with the phenomenon of urban violence and adapted to the needs of juveniles at all stages of the criminal justice procedure” (see paragraph 4 of the appended decision of the CM).

As part of the follow-up to this decision, the CDPC decided “to instruct the Secretariat to entrust a consultant with the task of drafting – on the basis of the abovementioned compilation - a working paper aimed at taking stock of the existing legal instruments on the subject of juvenile offenders, specifically when they are involved in urban violence, determining in particular whether or not these instruments still produce the desired results at the present time and identifying possible future steps/activities to be carried out in this field as a follow-up of and as required by decisions taken by the CM at its 1156<sup>th</sup> meeting on 28 November 2012 (item 4)”.

Fourteen questions were drawn up:

- What are the specific characteristics of urban violence, as defined by the Conference on Urban violence<sup>1</sup> stated above: frequency, extent and legal classification?
- How many instances of urban violence, if any, have occurred in your country in the past ten years (If no such instances have occurred you should just indicate this and only where appropriate respond to the questionnaire)? What was the background for these instances of urban violence?
- How many judgments have there been in your country relating to instances of urban violence within this time? Please could you provide any available statistics on urban violence in your country;
- How are acts of delinquency dealt with when committed by juveniles and what specific responses and preventative measures are taken?
- Could you give an approximation of the number of juveniles (persons under the age of 18) that have been involved (both generally and those that have been prosecuted) in these acts of urban violence?
- Have special measures been taken in your country to prevent juveniles’ involvement in acts of urban violence? If so, what kind: social, at school, etc.?

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<sup>1</sup> It is the International Conference on Urban Violence held in Lisbon on 23-24 October 2014. The Conclusions of this Conference are appended to the present document.

- Have you found that some preventive measures work better than others? In that case give a brief explanation of these.
- When a juvenile is involved in acts of urban violence what measures are applied to him or her?
- Are there different measures/sanctions available to a juvenile involved in urban violence depending on his/her specific age (e.g. juveniles of certain ages cannot undertake unpaid work as part of a social work court order)? If so, please provide an overview of these different measures/sanctions.
- Are there any special criminal procedural measures which apply to juveniles involved in urban violence?
- To what extent are families involved in these procedures?
- Are any special social rehabilitation measures taken for the juveniles concerned? Are the juveniles concerned subject to specific monitoring?
- Practical examples of how the national criminal justice system deals with urban violence are welcome.

This questionnaire was sent to the CDPC delegations and 21 replies have been received to date and have been compiled in a document CDPC (CDPC (2015) 7).

This document contains explanations and summaries of the replies and attempts to draw some preliminary conclusions.

## **II) Urban violence in Europe**

### **1) Picture of urban violence in Europe**

Several of the states that replied to the questionnaire described incidents that may constitute urban violence.

Some States (Andorra, Azerbaijan and the Netherlands) said the phenomenon was completely unknown in their territory.

The Lisbon conference underlined that urban violence is the result of various socio-economic problems that affect an urban area. The information collected suggests that this is in fact the case in practice. Hungary, for example, admitted, despite stating that no case of urban violence had occurred in the last ten years, that most of the demonstrations that had degenerated in the country had been linked to social and economic problems in the areas concerned. Latvia also said that its period of urban violence was linked to the deterioration in the global economic environment and the situation in the country itself at the end of 2008. France also includes protests against social or economic projects among the motives of perpetrators of urban violence.

Estonia, on the other hand, has experienced such an incident in a context not necessarily linked to socio-economic problems in the true sense of the term: it involved the response to a government decision to relocate a monument commemorating the Red Army's entry into Tallinn in the Second World War. Serbia also describes a situation of urban violence not necessarily linked to the country's social and economic situation: this involved an incident that occurred at a football match, during which one person actually died. France also mentions sports events as possible motivation for outbreaks of urban violence. Monaco also refers to violent behaviour of football supporters and states that this results every year in one or two prosecutions and convictions for acts of violence, rebellion against the law-enforcement authorities or the use of incendiary devices.

Hungary also describes one situation that appears to be different from other incidents: on 15 March 2008, radical and far-right groups threw Molotov cocktails, stones and glass objects at police officers. Similarly, on 7 April 2008 radical organisations organised a racist and anti-Semitic flash mob. Parallel to this, an antifascist demonstration was held. Nonetheless, the country states that a strong police presence had been able to avert any violent consequences.

France also refers to reasons other than sport events and the social and economic situation and cites as examples a police arrest, a court decision as well as protests against environmental projects. As for the United Kingdom, it indicates that the violent events that occurred in London in August 2011 were precipitated by the fatal shooting of a man by police officers. After that event, a peaceful demonstration took place and then, violence broke out. It is interesting to note that in the case of the United Kingdom, outbreaks of violence were not limited to the place of origin but quickly spread outside to 12 areas of London, before reaching 66 areas across all the country. Ireland reports 2 instances of urban violence which are not linked to the social and economic situation: the first one happened in 2010 on the fringe of large protest march against university fees, and the second one happened in 2013 on the fringe of minor protests against the visit of Queen Elizabeth of United Kingdom to Ireland. Both instances are qualified as "small scale urban violence".

These situations were dealt with by States under the provisions of criminal law.

## **2) How States deal with incidents**

Most States do not have any statistics available that enable them to establish the number of cases dealt with, but some have sent figures to the CDPC.

For example, Finland states that 136 arrests were made by the police during a violent episode in 2006. Estonia indicates that 90 people were convicted following incidents that took place in Tallinn in 2007. Bulgaria provides statistics on offences associated with sports events: in 2013, a total of 96 breaches of the law were committed at such events, and this figure rose to 117 in 2014. In Serbia, incidents that occurred in Belgrade on 10 October 2010 and involved some 6,500 rioters led to the arrest of about 250 individuals. A decision was made to charge 131 of those arrested, 44 of whom were convicted and 34 were acquitted in first instance. 53 cases are still pending. The country also refers to 16 juveniles who were convicted during the incidents. Eight were acquitted and the cases against three were referred to the public prosecutor concerned. The case against five individuals was suspended.

Hungary mentions 71 criminal proceedings instituted after demonstrations became violent on 23 October 2006. It is interesting to note that the prosecutions were not only brought against the participants but also against police officers. 484 participants in the demonstrations were arrested and 227 were prosecuted. The country also says that 13 police officers were convicted and that most of them were given suspended custodial sentences.

The details of the experiences of States show that the authorities responsible for maintaining public order play a key role in this area, either in advance by refusing to authorise certain demonstrations (for example, gatherings that are in themselves contrary to public order) or during events (by accompanying demonstrators). Hungary emphasises the important role played by the police during the incidents which occurred in the country.

Serbia highlights the specific role played by the public prosecutor's office specialising in cybercrime. In this regard, it ties in with the conclusions adopted in Lisbon, which underlined the central role played by the new communication technologies. It refers to the violence that took place at the Pride March (formerly Gay Pride), during which 150 people were injured. It turned out that, apart from the physical violence, the aggressive behaviour continued via the Internet. As a result of the Internet investigation, 21 individuals were charged with endangering public order.

In the United Kingdom, delimited to the events of August 2011, 5175 offences were registered and 4105 arrests occurred. 2138 people were convicted. The country indicates to the CDPC that, during the 2011 riots, in the West Midlands, 61% of people arrested were unemployed while 17% of them were students. These statistics confirm the role played by the economic and social conditions in urban violence.

### **III) The criminal-law response to urban violence**

#### **1) Classification as a criminal offence**

As far as the legal classification of urban violence is concerned, in all the States that replied to the questionnaire “urban violence” is not in itself defined as a criminal offence.

However, three trends may be identified in the way the phenomenon is dealt with by States under the criminal law.

Some States have chosen to make conduct related to urban violence a criminal offence as defined by the Lisbon conference.

For example, Azerbaijan criminalises mass disorder, while Ireland criminalises violent disorder. Switzerland and Germany have opted for the term “riot” in their respective criminal codes. United Kingdom and Ireland have also opted for the “riot” qualification. The Irish Criminal Justice (Public Order) Act, 1994 defines the offence of riot as involving 12 or more persons, while violent disorder involves 3 or more persons.

Latvia has also elected to criminalise mass riots that result in demolition, destruction, the burning of property, violence against individuals or resisting public officials. This conduct is punishable when the person in question organises or participates in such a demonstration. Russian Federation also indicates that there is no criminalisation of urban violence or collective disorder in its legislation, but that the incrimination of mass riot exists, defined as a specific behaviour with violence, pogroms, arson, destruction of property, use of firearms, explosive devices and also the armed resistance to governmental representatives. The penalisation of this conduct covers the organisation of these riots and also the participation to these, the incitement to commit them and using violence against citizens and receiving of training to the organisation of such events.

Other States (such as Slovakia and Hungary) have opted for a more general definition of public disorder.

Yet other States, by contrast, have decided to “divide up” the event and not regard it in its entirety but as many different incidents, most of which involve damage to property. For example, Hungary criminalises sabotage and vandalism, while the Czech Republic criminalises damage to the property of others. This is also the case with the Netherlands, which criminalises overt violence or joint public violence against persons or property.

As pointed out above, Serbia refers to a case of urban violence that occurred during a football match, and it would seem that the sports events are a cause of concern for States. Bulgaria, Hungary and Serbia address this particular dimension. Bulgaria, for example, has passed a law on the protection of public order during sports events (promulgated in the Bulgarian Official Gazette, No. 96 of 29 October 2004). The same applies to other States that either regard it as a separate offence or as an aggravating circumstance.

Hungary has also forwarded to the CDPC information about an offence having a more political dimension, such as overturning the constitutional order by force or conspiracy against the constitutional order. It also refers to assaults against a public official.

Demonstrations are also a main matter of concern to States as they have the potential to turn into urban violence. However, although States have acknowledged imposing punishments for abuses committed at these demonstrations most of them remain conscious of the need to preserve freedom of assembly and association.

## **2) Penalties**

Offences relating to urban violence are subject to various penalties, which may range from simple fines to terms of imprisonment for those deemed to be criminally liable. Aggravating circumstances may also result in stiffer penalties.

For example, Germany distinguishes between rioting and aggravated cases of rioting. The aggravating circumstance may in particular be carrying a firearm or other weapon. The period of imprisonment in the case of a simple riot may not exceed three years but can vary between six months and ten years in the case of aggravated rioting.

Estonia considers it an aggravating circumstance when a person covers his or her face at such events. The organisation and preparation of mass disorders and participation in such events are punishable by fines or up to five years' imprisonment. Hungary also provides for terms of imprisonment, as do Latvia and Serbia.

Estonia also considers the situation of legal entities which, under the Estonian Criminal Code, can be held made liable in cases of mass disorder. However, legal entities can only be sentenced to fines.

Hungary adopts a very proactive approach in this area, for example by providing for a sentence of one to five years' imprisonment for preparing to stage a rebellion and by imposing punishments for organising and participating in one. However, it does provide for sentence mitigation when an individual voluntarily refrains from committing the offence. By providing for penalties for the preparation of incidents of mass disorder, Estonia has also adopted a proactive approach with regard to outbreaks of violence.

In the United Kingdom, the one who commits the riot offence risks to ten years of imprisonment while the violent disorder offence is punished by five years. The persons involved in affrays can be sentenced to punishment that can go to three years of imprisonment.

These are therefore relatively stiff penalties but they nonetheless take account of the consequences of acts rather than the act itself. This may be justified by the desire to preserve freedom of assembly and not to prevent citizens from organising peaceful demonstrations.

It is now necessary to consider the key issue of juveniles involved in urban violence.



#### **IV) Juveniles and urban violence**

States generally do not have any statistics available that enable them to determine accurately the number of minors involved in urban violence. Estonia, for example, has informed the CDPC that about 10% of individuals who committed offences during the Tallinn riots in 2007 were minors. In the United Kingdom, during the events of 2011, 27% of tried persons were between 10 and 17 years old. This percentage even reached 39% in some areas, like in Nottingham or in Merseyside.

Bulgaria estimates at around 220 the number of juveniles sentenced to probation for acts related to urban violence. Monaco states that, since 2007, 17 case files have concerned acts of violence committed by a total of 36 minors. Eight judicial inquiries were related to so-called group violence comprising five perpetrators at most.

Despite the lack of available statistics, it would appear that juveniles are still a key element in the criminal-law approach to the phenomenon, especially when it comes to preventive measures adopted by States.

##### **1) The prevention of urban violence**

The vast majority of States that have developed preventive measures did not conceive them specifically from the point of view of urban violence. As in the case of France, prevention of this type of violence is included more in the more general context of preventing juvenile crime. As for the Russian Federation, it applies particular measures bound for juveniles that can potentially be involved in mass riots, namely:

- The detection of juveniles belonging to groups involved in those events, leaders as well as active participants;
- The group behaviour analysis during large-scale sporting, cultural and politic events;
- The record of such groups by law enforcements, the taking of measures aiming to the dissolution or reorientation of these groups.

It is interesting to note that most measures taken by States are of a social and educational nature and that criminal penalties often appear to be measures of last resort when others have failed. The Irish Children Act 2001 expressly requires that all avenues be explored before detention for a child is used. The measures taken in the member States would appear to be designed more to prevent re-offending than to deal with first offenders.

Germany, for example, wishes to promote the development of juveniles as independent, socially integrated individuals through various measures to prevent juvenile crime itself.

Switzerland places its faith more in its federal dimension by giving the local authorities responsibility for preventing juvenile crime. Among the measures taken, reference may be made to the restriction on sales of alcohol to young people and to extending the availability of late-night transport. This involvement of local actors is in keeping with the conclusions of the Lisbon conference, at which their key role was highlighted. Among the preventive measures referred to, Switzerland has described several highly successful approaches:

- promoting civic commitment, neighbourhood cohesion and neighbourhood development;
- organised and easily accessible leisure activities;
- the prevention of violence in associations and at sports events;
- conflict prevention and intervention in the public space.

Russian Federation also proceeds by an allocation of competences between federal, regional and local authorities. Thus, each one, in its field of competence, is in charge of the

organisation of sporting, cultural and social infrastructures intended to juveniles. Ireland also makes a reference to “Garda Youth Diversion Projects”. These projects are community-based, multi-agency crime prevention initiatives run by community based organisations, often national or locally-based youth or community-development oriented NGOs.

Slovakia also adopts the approach of developing preventive activities aimed at juveniles, especially through classes at school. Bulgaria has developed a programme of co-operation between schools and the police: police officers who have been specially trained for this purpose visit schools to hold discussions with pupils, and 36 topics have been included in this programme. In Hungary, the police play an important crime-prevention role in schools. Portugal is also one of the States to introduce preventive measures in schools, while the Czech Republic has drawn up a strategy to prevent sociopathic behaviour among children and young people. In the Russian Federation also, police officers begin activities in schools and other educational institutions (round-table discussions, competitions, “law classes”) aiming to teach the law, positive moral values, the basis of a healthy lifestyle, patriotism, tolerance with regard to social, cultural, racial, national and religious differences.

Finland has also developed programmes aimed at juveniles. These also involve the local authorities and focus on schools. Portugal has also placed the emphasis on school curricula.

United Kingdom has set up a huge programme in order to put an end to gang and youth violence. To that purpose, actions are implemented for the most disadvantaged in order to break up the intergenerational cycle of criminality and violence. Several initiatives were implemented and most of them were successful. Thus, innovative ways of working with young people are developed. They incorporate different actors, including police department, probation services and local authorities. United Kingdom also applied funds for young disadvantaged people. Young people involved in gang or in violence are also invited to develop entrepreneurial skills. Since June 2014, five social companies have started to sell. United Kingdom has also set up the National Citizens’ Service in whom more than 13.000 young people have already participated.

To summarise, it would seem that the most effective measures to prevent juvenile crime and, especially, urban violence are those implemented in schools.

## **2) The criminal law applicable to juveniles involved in urban violence**

Many States have stressed that juvenile criminal law generally applies when a young person is involved in acts of urban violence. Hungary has even established the position of public prosecutor for young offenders.

All States specify an age from which an individual is held criminally responsible. The average age is around fourteen years, but in Hungary it is twelve and ten in the United Kingdom. In the vast majority of States, juvenile criminal law ceases to apply when an individual has reached the age of eighteen. However, Switzerland has an upper threshold of twenty-two years. There is also a classification of “younger” and “older” young people. In Montenegro the approach is similar: the Criminal Code classes as “young” a person aged between 14 and 18 at the time of the commission of the offence. A “younger juvenile” is over 14 years of age but under 16 at the time of the offence. An “older juvenile” is at least 16 and no more than 18 years of age. Finally, there is a category of “young adult”, which comprises individuals aged between 18 and 21. Punishments are therefore age-appropriate.

Generally speaking, punishments that may be imposed on minors are less severe than those imposed on adults. In France, punishments imposed on minors aged 13 to 18 take account of their reduced criminal responsibility, which is also the case in Russian Federation for

minors of 14 to 18. The Russian Federation also explains that, considering that the “mass riots” are located in the category of small offences; custodial sentences cannot be required for minors in that case. Courts may rather consider sentences with educative influence, like the warning, the transfer under parents or guardian authority, the duty to fix the damage caused, restrictions of free time activities or the arrangement of particular obligations of behaving. In Monaco, too, the emphasis is mainly on measures to provide educational assistance or on a placement in a home.

The frequently encountered punitive measures that a court may impose on juvenile offenders include:

- a warning;
- the obligation to participate in sports activities;
- the obligation to do community or humanitarian work;
- the obligation to attend school regularly or to work;
- placement in certain establishments.

France has introduced different forms of unpaid work and -integration activities that a court may impose on juvenile offenders. For example, community service orders may be made against minors aged 16 to 18 instead of a term of imprisonment. This punishment is tightly regulated and the minor can always refuse to do the work. There is also a “day activity” measure, which consists in having the minor participate in vocational integration activities or attending school. Finally, measures or activities to help or compensate the victim or in the interests of the community are also provided for in the range of penalties available to the court. However, the latter is subject to the victim’s agreement when its purpose is to provide help or compensation for the harm done.

United Kingdom has published Guidelines, “Overarching Principles: Sentencing Youths”. Its system is focused on the intervention and rehabilitation in the community.

The issues of drug and alcohol dependency are also frequently mentioned. For example, some young people have to undergo frequent checks on blood alcohol levels or for drug addiction. Consequently, it can be seen that States take serious account of addictions in order to deal with the problems of juvenile crime.

Apart from the fact that custodial sentences are extremely rare and the emphasis is on educational measures, juveniles are, in the majority of the States that replied to the questionnaire, also subjected to specific procedural arrangements. For example, Montenegro stated that criminal procedures were “guided by the interests of the child”. Furthermore, most States lay down precise rules that apply to police officers, prosecutors and judges who have to deal with juvenile crime. These rules mainly involve the requirement not to use force and to make special arrangements for interviews. Hungary also states that the testimony of a young person may not be tested by a polygraph. There is also provision for the compulsory assistance of counsel. Specific measures are also taken with regard to holding a young person in custody, especially in the Czech Republic. Temporary detention, like any other form of detention, is also strictly regulated when the offender is a minor.

France states that preference is given to fast-track procedures accompanied by referral to a court in view of the significant breach of public order. The investigating judge or juvenile court judge therefore refers the minor on the same day to a court for judicial investigation, and educational or security measures can also be taken that same day. France also mentions two specific expedited procedures whereby the duration of proceedings involving

minors can be considerably shortened. These are “short term judgment” and “immediate presentation”<sup>2</sup>.

As for the Russian Federation, it has established a hybrid criminal procedure. Thus, some of the proceeding stages of juveniles are ruled by general principles of the criminal trial (the preliminary phases and judgment take place in front of the courts of general competence). In parallel, a whole series of procedural guarantees apply only to minors with the purpose of guaranteeing the necessary protection of their rights and legal interests.

The families of juvenile offenders also play a key role in criminal proceedings involving these young people.

Accordingly, in many States their presence is compulsory for each stage of the proceedings, unless it is proved that the child’s representative is acting against his or her interests or is an accomplice in the offence (Switzerland provides for the representative to be excluded from all or part of the proceedings when this is justified by compelling public or private interests; Serbia states that the representative may be excluded from the questioning if this is justified in the minor’s interests). Specific measures are also in place to ensure that the absence of legal representatives can be compensated for, whether this results from the parents’ predetermined absence or is connected with the fact that the said representative is involved in the offence. In France, those civilly responsible for the minor are involved at each stage of the proceedings. For example, they are summoned to court and interviewed by the judge at every hearing. They are also required to attend. In the United Kingdom, every young people under 16 years of age must have a parent/guardian with him/her in court, unless the court thinks it is unreasonable. The country involves especially the parents as the content of the referral order designed to favour rehabilitation measures instead of an imprisonment for first-offender is jointly decided by youth specialists and parents. Therefore, the latter are invested in the sentence and take responsibility for their children. In Bulgaria, parents are also deemed liable for offences committed by their children and are issued with a warning, are obliged to attend courses or consultations on child education or are even given a fine.

The Russian Federation has indicated in its replies that in the case where the whole family is socially deprived, measures aiming to the rehabilitation of the latter are taken. Beside, in the case where an event threatens the life, the health or the development of a child, Russian Federation indicates that this latter can be removed from his/her family and placed in a specialised institution for juveniles. In 2012, the United Kingdom also launched a program for families: families with multiple issues are identified and an intensive support is given to them. Local authorities also have a key role in this program. The country specifies in its replies that the guidelines and legislation are aimed at encouraging greater parental engagement and supporting parents to develop better parenting skills.

Bulgaria states that when a minor is imprisoned it is essential for his or her contacts with family and friends to be maintained. Ireland also states that it is desirable to allow the child’s education to proceed without interruption and to preserve and strengthen the relationship between children and their parents and family members.

Replies received from Member States indicate that friends and family are also very much involved in social rehabilitation measures taken in respect of juvenile offenders. These measures of social rehabilitation involve also the schools and the community in general. In this regard, they are in keeping with the preventive measures that have been taken in the various states. For example, France states that the services for the judicial protection of young people responsible for implementing educational measures and for monitoring young offenders involve the latter’s families in their work. Russian Federation supplies a list of several specialized institutions for juveniles in need for a social reintegration which are

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<sup>2</sup> « Jugement à délai rapproché » and « Présentation immédiate »

focused on helping children in need. These institutions are oriented on the protection of juveniles in need, without being necessary offenders. According to the Irish Children Act, it is desirable to foster the ability of families to develop their own means of dealing with offending by their children.

Most of the States that replied to the questionnaire agree that the main objective is not to punish the young people but, rather, to ensure that they can become fully developed adults by preventing them from falling back into the delinquency trap.

## **V) Conclusion**

Urban violence is a growing phenomenon in Europe, as shown by several examples described at the Lisbon Conference and in many of the replies received to the questionnaire.

The replies received indicate that there is no unanimous definition of the phenomenon at a European level. Accordingly, a common approach to the phenomenon would enable States to better tackle this issue, which can reach dramatic proportions. For reasons of legal clarity, it might be appropriate to consider a common definition of the phenomenon, which would also avoid the fragmentation of offences that may exist in some States and could result in a more effective method of combating this phenomenon.

Despite the few statistics available in member States, specific measures are being taken to prevent outbreaks of violence. Specific provisions aimed in particular at juveniles, who often seem to be those most involved in this phenomenon, also exist in several States.

Replies received to the questionnaire broadly share the Conclusions adopted during the Lisbon Conference, especially by underlining that there is no harmonised definition of urban violence. Such a definition would be desirable as this would enable the relevant member States authorities to more efficiently prevent, incriminate and punish. These replies also underline the role played not only by law enforcement authorities but also by local actors regarding to urban violence prevention, as well as the importance of new information and communication technologies during the investigation of such cases. The working group who will work under the auspices of the CDPC on certain of the most important aspects linked to the general question of urban violence should particularly focus on these aspects.

## Appendices

1156th meeting – 28 November 2012

### **Item 10.2**

#### **31st Council of Europe Conference of Ministers of Justice (Vienna, 19-21 September 2012) – Report of the Secretary General (CM(2012)145)**

##### *Decisions*

##### The Deputies

1. took note of the Resolution on responses of justice to urban violence and decided to transmit it to the European Committee on Crime Problems (CDPC), the European Committee on Legal Co-operation (CDCJ), the Steering Committee for Human Rights (CDDH), the Convention Committee on Cybercrime (T-CY), the Steering Committee on Media and Information Society (CDMSI) and the European Commission for the Efficiency of Justice (CEPEJ), for them to bear it in mind in their future work;
2. took in particular note that the Ministers of Justice agreed to share best practices and use the lessons learned to consider adopting or strengthening justice systems appropriate for juveniles in particular for tackling the growing problem of urban violence, developing restorative justice measures adapted to the needs of juveniles and using them, where appropriate, in criminal procedure and developing specialised training programmes appropriate for professionals, such as judges, prosecutors, police officers, social workers, mediators, probation and prison staff;
3. instructed the relevant Council of Europe bodies to promote consultations with juveniles and their families in the future Council of Europe work related to prevention and education;
4. instructed the European Committee on Crime Problems (CDPC) to examine:
  - the experiences of member states with regard to preventing the involvement of juveniles in urban violence as perpetrators and/or victims and recommend, as necessary, suitable measures, in particular related to prevention and the criminal justice systems;
  - the existing laws and practices in Europe concerning the sanctioning and treatment of juveniles involved in acts of urban violence as well as practices regarding the involvement of families, to draw up best practices in this regard and recommend, as necessary, suitable measures, in particular related to the criminal justice systems;
  - the existing laws and practices in Europe regarding restorative justice and recommend, as necessary, specific restorative justice measures aimed at dealing with the phenomenon of urban violence and adapted to the needs of juveniles at all stages of the criminal justice procedure;
5. instructed the European Committee on Crime Problems (CDPC) to examine, in co-operation with other relevant steering committees, ways to promote dialogue and co-operation between law enforcement authorities, telecommunication providers and Internet service providers in order to facilitate prevention of urban violence, as well as gathering of evidence and ensuring accountability of instigators of violence, while guaranteeing full compliance with the European Convention on Human Rights;
6. taking the decisions above into account, took note of the Secretary General's report, as it appears in document CM(2012)145, as a whole.

## **INTERNATIONAL CONFERENCE ON URBAN VIOLENCE CONCLUSIONS**

It is both the fact that urban violence reflects a deep-seated tension within society and the depth of the destruction that it has the potential to cause which has made it such a priority issue.

The aim of the Conference was to bring together representatives of law enforcement authorities, academics, telecommunications providers and Internet service providers to address key areas: possible ways to develop fruitful dialogue and efficient co-operation with a view to further preventing urban violence; how to gather evidence on the accountability of the instigators of violence; the need of ensuring that the imposition of restrictions and the following interference with Human Rights are always done in accordance with the European Convention on Human Rights (ECHR).

The four Sessions of the Conference, each focusing on various aspects of urban violence, have highlighted the different challenges facing States in particular with regard to the coordination of the relevant actors in preventing and suppressing urban violence.

The insightful presentations pointed to examples of successful experiences and modalities for States with regard to organising their domestic response to urban violence.

- SESSION 1 focused on the role which various stakeholders, both public and private, play in urban violence. It clearly demonstrated that as a result of its multidimensional nature, with strong social and economic influences, co-ordination and a common definition within Council of Europe (CoE) member States is crucial in order to develop broader strategies in preventing urban violence. Speakers highlighted the different roles and potential risks and benefits that the Internet plays in this phenomenon. In this regard they agreed that strict rules must be put into place to ensure accessibility by judicial authorities to Internet intelligence whilst also ensuring a prohibition on mass surveillance.
- SESSION 2 was dedicated to presenting different scenarios of urban violence in some CoE member States. It discussed a) the numerous participants and social groups involved, b) the different causes and solutions to urban violence experienced by member States themselves and c) policing urban violence. Diverse views on the use of social media in the mobilisation and development of urban violence in different jurisdictions and in different circumstances were highlighted. It was acknowledged that lessons need to be learnt from past occurrences of urban violence in CoE member States
- SESSION 3 concentrated on the use and admissibility of electronic evidence in criminal proceedings. The fact that electronic evidence was a new challenge faced by judicial stakeholders in order to bring instigators and participants to justice was underlined. The speakers emphasised the importance not only of obtaining such evidence in order to hold those responsible to account but also of ensuring this evidence was legal and admissible in court. The fact that the urgency of investigation in urban violence cases must not diminish the respect of the fundamental rights of individuals was emphasised. The speakers highlighted the unsatisfactory situation with regard to the gathering of electronic evidence which currently solely relies on the good will of Internet providers.



- SESSION 4 dealt with both the responses of the justice system to urban violence, including the actions of the police and prosecutors, and the individual's rights and freedoms, particularly the rights to freedom of expression and assembly and the right of access to information. It stressed that although the police have a role in prevention, it is the state and not the police who must solve the problems which cause urban violence. This duty of the state was again highlighted when the participants discussed the relationship between freedom of expression and security. It was agreed that any such limitations on the freedom of expression in relation to urban violence must be centred around the proportionality principle, with only justified interferences being accepted.

Following the discussions, the participants of the Conference agreed that:

- a) a common terminology and description across CoE member States for forms of 'collective disorders' should be adopted in order to facilitate prevention strategies;
- b) the use of electronic evidence is a key element for the law enforcement agencies in the prosecution of crimes relating to urban violence and should therefore be admissible as evidence in court where appropriate;
- c) involvement in preventing urban violence of local authorities and of other relevant local actors should be considered as a key element;
- d) co-operation between public authorities and the Internet and telecommunications industry should be reinforced and Human Rights and the legal framework regulating their relations clarified;
- e) protecting the fundamental rights and freedoms of those involved in demonstrations in particular articles 10 and 11 of the ECHR is of paramount importance. Therefore, balance must always be struck between those rights and the interest of protecting public order when urban violence occurs;
- f) the police should be equipped and trained for Internet monitoring for prevention and identification of perpetrators of urban violence;
- g) intelligence and public order units should work jointly to prevent disorders during gatherings and avoid an intelligence gap;
- h) based on the lessons learned, developing police guidelines and tactics in this area would help in the prevention of urban violence and also prevent any excessive force used by the police;
- i) further research should be done, in collaboration with the police and prosecuting services, on the effects of social media in urban violence.

In conclusion, the CoE and the Conference participants expressed their gratitude to the Portuguese authorities for their generous hospitality and for co-organising and hosting this important Conference in Lisbon.