

Strasbourg, 14 March 2011
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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

**DRAFT OPINION OF THE EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)
ON PARLIAMENTARY ASSEMBLY RECOMMENDATION 1952 (2011) ON
THE PROTECTION OF WITNESSES AS A CORNERSTONE FOR JUSTICE AND
RECONCILIATION IN THE BALKANS**

Secretariat memorandum prepared by
the Directorate General of Human Rights and Legal Affairs (DGHL)

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CDPC (2011) – Draft Opinion on PACE Rec 1952

1. Following the adoption by the Parliamentary Assembly of Recommendation 1952 (2011) on the protection of witnesses as a cornerstone for justice and reconciliation in the Balkans, the Committee of Ministers decided to communicate it to the European Committee on Crime Problems (CDPC) for information and possible comments. The CDPC examined the above Recommendation and decided to contribute to the response of the Committee of Ministers by providing the following comments concerning matters within its fields of competence:
2. The CDPC took note of the initiative of the Parliamentary Assembly to foster greater coordinated efforts beyond the region concerned to accept and relocate protected witnesses to acquire new identities if needed. In this regard, the CDPC observed that witnesses can be particularly vulnerable to acts of violence not only in the context of prosecution of war crime cases, but also in relation to cases relating to organised crime or trafficking.
3. The CDPC observed that safeguards for witness protection can only be fully effective in combination with other procedural measures such as a simplified extradition procedure, the effective implementation of measures related to mutual assistance in criminal matters, the establishment of joint investigative teams and other measures of international cooperation.
4. The CDPC also drew attention to the fact that the costs needed to set up adequate and efficient witness protection programmes cannot be underestimated and should therefore duly be taken into account when assessing the criteria of the scope of application with regard to witnesses entitled to witness protection and/or support.
5. The CDPC expressed its readiness to undertake an assessment of the existing instruments of the Council of Europe in this field, in particular of Recommendation (1997)13 on the intimidation of witnesses and rights of the defense and Recommendation (2005)9 on the protection of witnesses and collaborators of justice, as well as of their effective implementation. However, to date, the CDPC does not see the benefit of undertaking a feasibility study on whether the topic of the protection and support of witnesses could be the subject of a future Council of Europe Convention. The CDPC is of the opinion that the required improvements relate to the implementation level.

Appendix 1:

Provisional edition

The protection of witnesses as a cornerstone for justice and reconciliation in the Balkans

Recommendation 1952 (2011)¹

1. Referring to its [Resolution 1784](#) (2011) on the protection of witnesses as a cornerstone for justice and reconciliation in the Balkans, the Parliamentary Assembly fully shares the Committee of Ministers' position, expressed in its Recommendation Rec(2005)9 on the protection of witnesses and collaborators of justice, according to which "the scope and the effective and rapid implementation of international co-operation in matters related to the protection of witnesses and collaborators of justice, including with relevant international jurisdictions, should be improved".

2. The Assembly, while underlining the urgency of protecting witnesses effectively, stresses the need to ensure full implementation of Committee of Ministers Recommendations R(97)13 on intimidation of witnesses and rights of the defence and Rec(2005)9 on the protection of witnesses and collaborators of justice.

3. The Assembly therefore calls upon the Committee of Ministers to:

3.1. instruct its relevant committees to prepare an evaluation report on the level of implementation of Recommendations Rec(2005)9 and R(97)13, to be submitted to the Parliamentary Assembly;

3.2. instruct the European Committee on Crime Problems (CDPC) to undertake a feasibility study on whether the protection and support of witnesses could be the subject of a future Council of Europe convention.

¹ *Assembly debate* on 26 January 2011 (5th and 6th Sitzings) (see [Doc. 12440](#) rev., report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Gardetto). *Text adopted by the Assembly* on 26 January 2011 (6th Sitting).