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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

Abridged report of the 55th Plenary Session

(30th meeting as a Steering Committee)

(Strasbourg, 3-7 April 2006)

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¹ The detailed report of the meeting is contained in Document CDPC (2006)17

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EXPLANATORY MEMORANDUM TO

THE RECOMMENDATION ON ASSISTANCE TO CRIME VICTIMS

The following abbreviations are used in referring to Committees

CDPC	EUROPEAN COMMITTEE ON CRIME PROBLEMS
PC-CP	COUNCIL FOR PENOLOGICAL CO-OPERATION
PC-PM	COUNCIL FOR POLICE MATTERS
PC-CSC	CRIMINOLOGICAL SCIENTIFIC COUNCIL
PC-S-AV	GROUP OF SPECIALISTS ON ASSISTANCE TO VICTIMS AND PREVENTION OF VICTIMISATION
T-CY	CYBERCRIME CONVENTION COMMITTEE
PC-OC	COMMITTEE OF EXPERTS ON THE OPERATION OF EUROPEAN CONVENTIONS IN THE PENAL FIELD
CPGE	CONFERENCE OF EUROPEAN PROSECUTORS GENERAL
CCPE	CONSULTATIVE COUNCIL OF EUROPEAN PROSECUTORS
PC-ES	COMMITTEE OF EXPERTS ON THE PROTECTION OF CHILDREN AGAINST SEXUAL EXPLOITATION AND ABUSE
MONEYVAL	COMMITTEE OF EXPERTS ON THE EVALUATION OF ANTI-MONEY LAUNDERING MEASURES

BRIEF FOREWORD

1. The European Committee on Crime Problems (CDPC) met in Strasbourg from 3 to 7 April 2006. The agenda appears in Appendix I.

ITEMS SUBMITTED TO THE COMMITTEE OF MINISTERS FOR DECISION

2. The CDPC invited the Committee of Ministers:
 - a. to adopt the text of the draft Recommendation on Assistance to Crime Victims (Appendix II) and take note of its Explanatory Memorandum (Addendum);
 - b. to approve the terms of reference, revised in accordance with the provisions of Resolution (2005) 47, of the PC-CP (Appendix III), the PC-PM (Appendix IV) and the PC-OC (Appendix V), and also:
 - i. as regards the PC-CP, in particular, to approve the increase in membership from 7 to 9 members and the PC-CP mandate to undertake regular re-examination of the European Prison Rules;
 - ii. as regards the PC-PM in particular, to approve the re-election of some of its members for an additional mandate of two years and the proposed Rules for the PC-PM;
 - iii. as regards the PC-OC, in particular to approve the specific mandate to make proposals for the improvement of judicial co-operation in criminal matters.

ITEMS SUBMITTED TO THE COMMITTEE OF MINISTERS FOR INFORMATION

3. The CDPC invited the Committee of Ministers to note:
 - a. the admission by the CDPC of:
 - MEDEL as an observer to the CDPC;
 - the « Conférence Permanente Européenne de la Probation » (CEP) as an observer to the PC-CP;
 - the Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG) as an observer to MONEYVAL;
 - b. its report (in conformity with the Committee of Ministers' request as contained in document CM(2005) 145 revised) indicating its completed and proposed actions to implement the Action Plan adopted by the Heads of State and Government in Warsaw 16 and 17 May 2005 (Appendix VI);
 - c. its decision to appoint an expert in criminal law and procedure to draw up a feasibility study on the drafting of a Convention on counterfeit medicines/pharmaceutical crime, with assistance from experts in the areas of public health and quality control. Subject to a favourable opinion of the CDPC, the Committee of Ministers will be invited to approve terms of reference for an ad hoc multidisciplinary group of experts in the various fields concerned to draft the Convention, their work to begin in 2007;
 - d. that a significant number of States had already taken or planned measures to ensure the implementation of the revised European Prison Rules (EPR) (cf Recommendation rec (2006)2), including legislative reforms, training, translation and distribution of the text of the EPR (see also paragraph 15.c below);

- e. its opinion that a binding instrument, in the form of a European Prison Charter, was not a feasible proposition and its consequent proposals to strengthen penitentiary reform inter alia through the elaboration of a Compendium of Council of Europe recommendations in the penitentiary field (see also paragraph 16 below);
- f. its decision to hold, at its next meeting, a short joint meeting with the T-CY, in order to conduct the review of the Convention as required by paragraph 3 of Article 46 of the Convention;
- g. its approval of the proposed Draft Overall Action Plan which will be examined at the first meeting of the CCPE on 6 July 2006 and its agreement to delegate to the CDPC Bureau the final approval of such an action plan for transmission to the Committee of Ministers for adoption, along with the terms of reference of the CCPE (see paragraphs 4i and j below),
- h. its decision, as concerns the participation of Eurojust and the European Judicial Network in plenary meetings of the CDPC, to accept the proposal of the representative of the Secretariat General of the Council of the European Union that the European Commission and/or the Council of the European Union invite them to form part of their delegation when they consider it appropriate.

4. The CDPC took note of:

- a. the work carried out by its subordinated committees (MONEYVAL, the PC-CP, the PC-OC, the PC-PM, the PC-TJ, and the PC-S-AV) and underlined the importance of this work;
- b. the work to be carried out by the PC-ES, first to evaluate the need for an additional international instrument and/or amendments to the existing instruments, and, subsequently, subject to the approval of the CDPC, to prepare such an instrument (see also paragraph 14.c below). In this regard, it noted that, should the PC-ES be required to prepare a binding instrument, an extension of its terms of reference beyond the end of 2006 would probably be necessary;
- c. the priorities of the European Union under the presidencies of Austria and Finland (respectively ending and starting in June 2006) as well as those of the Russian Chairmanship of both the Committee of Ministers of the Council of Europe and the G8;
- d. the admission of Israel as an observer to MONEYVAL;
- e. Resolution (2005)47 of the Committee of Ministers, calling for changes in terms of reference of all committees as well as providing for a certain streamlining in procedural matters regarding working methods, including convocations and reports of committees (see paragraphs 2b above and 14e below);
- f. the adoption by the Committee of Ministers of new working methods, intended to rationalise their work by ensuring that items are dealt with by rapporteur groups before being submitted to the Committee as a whole;
- g. the preparation of the 27th Conference of European Ministers of Justice (Yerevan 12 – 14 October 2006), which would be devoted to the theme of 'Victims – place, rights and assistance', including the issues of particularly vulnerable victims, the establishment of bodies, institutions or ombudsmen in the member states and compensation and the role of the insurance industry. In this context it also took note of the opinion of the PC-S-AV as to priority areas of work in the field of victims;
- h. the Conclusions of the 6th Conference of Prosecutors General of Europe (Budapest 29 to 31 May 2005), and, in particular, the Budapest Guidelines;

- i. the preparation of the 7th CPGE (Moscow, 5 – 6 July 2006), to be followed by the inaugural meeting of the CCPE;
 - j. the proposed revised terms of reference of the CCPE, including the proposal to extend its mandate to the end of 2008. These draft terms of reference will be proposed to the Committee of Ministers for approval once the first meeting of the CCPE will have taken place (July 2006);
 - k. the Conclusions of the Conference on Probation and Aftercare (Istanbul, 14 - 16 November 2005);
 - l. the Conclusions of the International Conference on “Cybercrime: A Global Challenge, A Global Response” (Madrid, 12-13 December 2005) and that all States present in the CDPC intended to become Parties to the Convention on Cybercrime as soon as their legislative and other procedures could be completed.
5. The CDPC re-elected Mr Brano BOHÁČIK (Slovakia) as Vice-Chair for a period of one year. It elected Ms Valerie FALLON (Ireland) and Mr Eric RUELLE (France) as members of the Bureau for a period of four years (see item 3.1 of the agenda).
 6. The CDPC elected Ms Natalya KHUTORSKAYA (Russian Federation), Ms Marta FERRER PUIG (Spain), Mr Antanas JATKEVIČIUS (Lithuania) as members of the PC-CP for a period of five years and, subject to the decision of the Committee of Ministers under 2.b.i above, it further elected Mr Riccardo TURRINI VITA (Italy) and Mr Roger MCGARVA (United Kingdom) for a period of five years.
 7. The CDPC re-elected Mr Tor Jervell BACKE-HANSEN (Norway), Mr Neil CLOWES (United Kingdom), Mr Jaime FERNANDES (Portugal), Mr Peter ONDRUSKO (Slovakia), and Mr Alvydas ŠAKOČIUS (Lithuania) as members of the PC-PM for a period of two years and it elected Ms Ann-Marie ORLER (Sweden) and Ms Jasmina SAHINOVIC (Serbia and Montenegro) as members of the PC-PM for a period of three years.
 8. The CDPC confirmed the appointment of Mr Branislav BOHÁČIK (Slovakia) as its representative at the future meetings of the T-CY and that of Ms Antonella SAMPO (Monaco) to the PC-ES.
 9. The CDPC appointed Mr Damir VEJO (Bosnia and Herzegovina) as its representative to GRECO, Mr Eugenio SELVAGGI (Italy) as its representative to the CCPE and Mr Nikola MATOVSKI (“The Former Yugoslav Republic of Macedonia”) as its representative to the Group of Specialists on Human Rights and the fight against terrorism (DH-S-TER).
 10. The CDPC approved the opinion prepared by the PC-OC on the additional protocol to the Convention on transfer of sentenced prisoners, with a slight modification (see Appendix VII).
 11. The CDPC approved the opinion prepared by the PC-OC on the question of witness protection (application of Art 23 of the 2nd additional Protocol to the European Convention on Mutual Assistance in Criminal Matters) and agreed that there was no need at this stage to proceed to the drafting of a binding instrument in this regard.
 12. The CDPC approved the opinion and proposals of the PC-PM as to the need and the means to promote the European Code on Police Ethics.
 13. The CDPC, referring to its Working Methods as adopted at its plenary in 2005, confirmed that when normative texts are under consideration the plenary committee should always be consulted, but agreed that this could be in the form of an “enlarged Bureau” where reasons of urgency so dictated. It nevertheless charged its Bureau with the responsibility of ensuring early and appropriate consultation of the CDPC plenary, including by written consultation procedure.

14. The CDPC requested its Bureau, at its next meeting to:
- a. finalise, in the light of written and oral comments made by CDPC delegations, the texts of the draft recommendation on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse and its Explanatory Memorandum. The Bureau is instructed, after finalising the texts, to forward them to the Committee of Ministers for adoption (see paragraph 15a below);
 - b. prepare an opinion on the request, received from the Turkish delegation, on the interpretation of Article 1 paragraph (e) of the 1977 European Convention on the Suppression of Terrorism (ETS N° 90);
 - c. approve, further to a consultation of its members by means of a written consultation procedure, any proposal by the PC-ES to prepare a new international legal instrument;
 - d. make a proposal, in light of the suspension of the PC-CSC meetings, for ensuring the necessary criminological scientific expertise for the CDPC;
 - e. finalise draft terms of reference for the CDPC and forward them to the Committee of Ministers for approval.

The Bureau will be enlarged to enable those delegations, which so wish, to participate (at their own expense) in this meeting of the Bureau (28-30 June 2006).

15. The CDPC requested delegations to the CDPC:
- a. to send the Secretariat by e-mail (dgi.cdpc@coe.int) by 19 May 2006, any comments they wish to make concerning the texts of the draft recommendation on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse and its Explanatory Memorandum. Such comments should contain, in particular, any proposed textual amendments (see paragraph 14.a above);
 - b. to send the Secretariat by e-mail (dgi.cdpc@coe.int) by 31 May 2006, any comments they wish to make concerning the interpretation of Article 1 paragraph (e) of the 1977 European Convention on the Suppression of Terrorism (ETS N° 90), as well as information on their States' possible intentions to ratify the Additional Protocol to that Convention (ETS N° 190);
 - c. to ensure that any translations of the European Prison Rules into their national languages be forwarded to the Secretariat for inclusion in the Council of Europe's prisons website.
16. The CDPC requested the PC-CP to present to the next CDPC plenary a proposal for working methods to establish a compendium consolidating all Council of Europe recommendations relating to penitentiary questions together with an indication as to which recommendations should be revised and/or updated.
17. The CDPC requested the PC-CP, in light of the results of the Conference in Turkey in November 2005, and, in consultation with the Conférence Permanente Européenne de la Probation (CEP) to propose draft specific terms of reference to address the issues of probation and aftercare, particularly the role and place of probation services, and to submit them to the next plenary of the CDPC.
18. The CDPC decided to hold its next meeting during the week beginning 11 June or the week beginning 18 June 2007. The Bureau decided to hold its next meeting from 28 to 30 June 2006.
19. The CDPC invited the Committee of Ministers to take note of this report as a whole.

A P P E N D I X I

Agenda

1. OPENING OF THE MEETING

2. ADOPTION OF THE DRAFT AGENDA

3. ELECTIONS / APPOINTMENTS

- 3.1 Bureau - Election of two members of the Bureau + Vice-chair
- 3.2 Election of five members of the Council for Penological Co-operation (PC-CP)
- 3.3 Election of the members of the Council for Police Matters (PC-PM)
- 3.4 Appointment of the representatives of the CDPC to GRECO, to the Group of Specialists on Human Rights and the fight against terrorism (DH-S-TER), to the meetings of the Cybercrime Convention Committee (T-CY), to the Committee of Experts on the Protection of Children against Sexual Exploitation and Abuse (PC-ES) and to the Consultative Council of European Prosecutors (CCPE)
- 3.5 Role of representatives to other Committees – instructions from the CDPC

4. REVISED TERMS OF REFERENCE

Revision of the terms of reference of the CDPC, the PC-CP, PC-PM, PC-OC and PC-CSC into line with the Committee of Ministers' Resolution (2005)47 and, in addition:

- 4.1 PC-CP - Approval of increase of the PC-CP to nine members; role of the PC-CP in updating the European Prison Rules
- 4.2 PC-PM - Approval of modification regarding elections and adoption of rules of procedure for the PC-PM
- 4.3 PC-OC - Approval of new terms of reference for the PC-OC to improve judicial co-operation in criminal matters.
- 4.4 Admission of Observers to the CDPC (MEDEL), to the PC-CP (Conférence Permanente Européenne de la Probation (CEP)) and to MONEYVAL (Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG))

5. GROUP OF SPECIALISTS ON ASSISTANCE TO VICTIMS AND PREVENTION OF VICTIMISATION (PC-S-AV)

- 5.1 Approval of the draft recommendation (updating Recommendation Rec (87)21 on Assistance to Crime Victims and Crime Prevention) and authorise the publication of its explanatory memorandum
- 5.2 Consideration of the final activity report of the PC-S-AV on issues that should be addressed further

6. MONEYVAL

7. FUTURE WORK OF THE CDPC

7.1 Workplan 2006 / 2007

Exchange of views with delegations representing presidencies EU [Austria and Finland] and of G8 [Russia].

7.2 Co-operation in the criminal justice field

- ❖ Follow up to the reports prepared by the PC-OC and the PC-TJ in response to the New Start Report

- ❖ Follow up to the Resolutions of the 26th conference of European Ministers of Justice

Proposal to the Committee of Ministers to adopt new terms of reference for the PC-OC to improve the efficiency of international co-operation in criminal matters.

7.3 Replies to questions asked by CDPC to PC-OC regarding

- i. additional protocol to the Convention on transfer of sentenced prisoners
- ii. witness protection (application of Art 23 of the 2nd additional Protocol to the European Convention on Mutual Assistance in Criminal Matters)

7.4 Counterfeiting

Proposal to the Committee of Ministers to authorise the drawing up of a feasibility study on the drafting of a Convention on counterfeit medicines/pharmaceutical crime. Such a study would be carried out by three experts (one in the area of criminal law and procedure, one in the area of public health and one in the area of quality control) under the authority of the CDPC. In case of a favourable opinion concerning the need for such a Convention, the CDPC would invite the CM to approve terms of reference for an ad hoc multidisciplinary group of experts in the various fields concerned to draft the Convention, their work to begin in 2007.

7.5 Sexual exploitation of children – proposals for procedure

7.6 Cybercrime

Examination of any proposals from the T-CY to prepare protocol(s) to the Cybercrime Convention

Report of the Vice-chair representing the CDPC in the T-CY

8. PRISONS

8.1 European Prison Charter Feasibility – “tour de table”

8.2 European Prison Rules

Implementation « tour de table »

8.3 Remand in custody

Approval of the draft recommendation on remand in custody and its explanatory memorandum

8.4 European Rules on juveniles – progress report

9. OTHER WORK IN THE PENOLOGICAL FIELD

9.1 Organisation of future work in the penological field – probation

9.2 PC-CSC – criminological expertise for the CDPC

10. PROSECUTORS

10.1 Adoption of an opinion and comments on the draft framework overall action plan for the Consultative Council of European Prosecutors (CCPE) and delegation to the CDPC Bureau of the final approval (through a written consultation procedure) after the CCPE will have adopted it.

10.2 Extension of the terms of reference of the CCPE to 31 December 2008

10.3 Other information

- 6th Conference of Prosecutors General of Europe: conclusions
- 7th Conference of Prosecutors General of Europe: preparation

11. COUNCIL FOR POLICE MATTERS (PC-PM)

Presentation of the study of the findings regarding the implementation of the European Code of Police Ethics in the member states

12. WORKING METHODS

12.1 Resolution (2005)47 of the Committee of Ministers

12.2 Committee of Ministers' new working methods

12.3 Interface between specialised committees and the CDPC Plenary

12.4 Composition of subordinate committees with limited membership

13. - 27th CONFERENCE OF EUROPEAN MINISTERS OF JUSTICE, YEREVAN 11-12-13 OCTOBER 2006

- 28th CONFERENCE OF EUROPEAN MINISTERS OF JUSTICE - LANZAROTE

- 4th CONSULTATION regarding ICC

14. Requests for opinions

15. OTHER ACTIVITIES/INFORMATION

GRECO/MONEYVAL/CDCJ/CODEXTER/CDDH-DS-TER, ETC

Report of the CDPC's representative to CDDH-DS-TER

16. BUREAU OF THE CDPC

17. AGENDA OF THE NEXT MEETING OF THE CDPC

18. CALENDAR OF FUTURE MEETINGS

19. DATES OF THE NEXT MEETINGS OF THE BUREAU AND THE CDPC

20. ANY OTHER BUSINESS

Question raised by the delegation of Turkey- interpretation of article 1e of the 1977 convention on the suppression of terrorism

APPENDIX II

DRAFT RECOMMENDATION ON ASSISTANCE TO CRIME VICTIMS

Preamble

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

Aware of the fact that criminal victimisation is a daily phenomenon affecting the lives of citizens throughout Europe;

Having regard to Recommendation No. R (87) 21 on the assistance to victims and the prevention of victimisation, intended to complement the European Convention on the Compensation of Victims of Violent Crime (ETS No. 116, 1983) and Recommendation No. R (85) 11 on the position of the victim in the framework of criminal law and procedure;

Noting that, since the adoption of Recommendation No. R (87) 21, several recommendations have been adopted by the Committee of Ministers and significant developments have occurred in the field of assistance to victims including developments in national legislation and practice, a better understanding of the victims' needs and new research;

Bearing in mind the European Convention on the Protection of Human Rights and Fundamental Freedoms (ETS No. 5, 1950), the European Convention on the Compensation of Victims of Violent crimes (see above), the Council of Europe Convention on the Prevention of Terrorism (ETS No. 196, 2005) and the Council of Europe Convention on Action against trafficking in Human Beings (ETS No. 197, 2005);

Recalling the resolutions of the conferences of the European ministers of justice in 2003 and 2005, inviting the Committee of Ministers to adopt new rules concerning the support of victims of terrorist acts and their families;

Noting the work of the Committee of Experts on Terrorism (CODEXTER), with regard to victims of terrorism;

Having considered the Guidelines on human rights and the fight against terrorism adopted by the Committee of Ministers on 11 July 2002 and the Guidelines on the protection of victims of terrorist acts, adopted on 2 March 2005;

Taking account of the standards developed by the European Union and by the United Nations with regard to victims;

Noting with appreciation the achievements of non-governmental organisations in assisting victims;

Aware of the need for co-operation between states particularly to assist victims of terrorism and other forms of transnational crimes;

Aware of the need to prevent repeat victimisation, in particular for victims belonging to vulnerable groups;

Convinced that it is as much the responsibility of the state to ensure that victims are assisted as it is to deal with offenders,

Recommends that the governments of member states disseminate and be guided in their internal legislation and practice by the principles set out in the appendix to this recommendation which replaces Recommendation No. R (87) 21.

Appendix to Recommendation ...

1. Definitions

For the purpose of this recommendation,

1.1. Victim means a natural person who has suffered harm, including physical or mental injury, emotional suffering or economic loss, caused by acts or omissions that are in violation of the criminal law of a member state. The term victim also includes, where appropriate, the immediate family or dependants of the direct victim.

1.2. Repeat victimisation means a situation when the same person suffers from more than one criminal incident over a specific period of time.

1.3. Secondary victimisation means the victimisation that occurs not as a direct result of the criminal act but through the response of institutions and individuals to the victim.

2. Principles

2.1. States should ensure the effective recognition of, and respect for, the rights of victims with regard to their human rights; they should, in particular, respect the security, dignity, private and family life of victims and recognise the negative effects of crime on victims.

2.2. States should ensure that the measures set forth in this recommendation are made available to victims without discrimination.

2.3. The granting of these services and measures should not depend on the identification, arrest, prosecution or conviction of the perpetrator of the criminal act.

3. Assistance

3.1. States should identify and support measures to alleviate the negative effects of crime and to undertake that victims are assisted in all aspects of their rehabilitation, in the community, at home and in the workplace.

3.2. The assistance available should include the provision of medical care, material support and psychological health services as well as social care and counselling. These services should be provided free of charge at least in the immediate aftermath of the crime.

3.3. Victims should be protected as far as possible from secondary victimisation.

3.4. States should ensure that victims who are particularly vulnerable, either through their personal characteristics or through the circumstances of the crime, can benefit from special measures best suited to their situation.

3.5. Wherever possible, the assistance should be provided in a language understood by the victim.

4. Role of the public services

4.1. States should identify and support measures to encourage respect and recognition of victims and understanding of the negative effects of crime amongst all personnel and organisations coming into contact with victims.

Criminal justice agencies

4.2. The police and other criminal justice agencies should identify the needs of victims to ensure that appropriate information, protection and support is made available.

4.3. In particular, states should facilitate the referral of victims by the police to assistance services so that the appropriate services may be offered.

4.4. Victims should be provided with explanations of decisions made with regard to their case and have the opportunity to provide relevant information to the criminal justice personnel responsible for making these decisions.

4.5. Legal advice should be made available where appropriate.

Agencies in the community

4.6. States should promote the provision of special measures for the support or protection of victims by organisations providing, for example, health services, social security, housing, education and employment.

Role of embassies and consulates

4.7. Embassies and consulates should provide their nationals who become victims of crime with appropriate information and assistance.

5. Victim support services

5.1. States should provide or promote dedicated services for the support of victims and encourage the work of non governmental organisations in assisting victims.

Minimum standards

5.2. Such services should:

- be easily accessible;
- provide victims with free emotional, social and material support before, during and after the investigation and legal proceedings;
- be fully competent to deal with the problems faced by the victims they serve;
- provide victims with information on their rights and on the services available;
- refer victims to other services when necessary;
- respect confidentiality when providing services.

Specialised centres

5.3. States are encouraged to support the setting up or the maintenance of specialised centres for victims of crimes such as sexual and domestic violence and to facilitate access to these centres.

5.4. States may also consider it necessary to encourage the establishment or maintenance of specialised centres for victims of crimes of mass victimisation, including terrorism.

National help lines

5.5. States are encouraged to set up or to support free national telephone help lines for victims.

Co-ordination of services for victims

5.6. States should take steps to ensure that the work of services offering assistance to victims is co-ordinated and that:

- a comprehensive range of services is available and accessible;
- standards of good practice for services offering help to victims are prepared and maintained;
- appropriate training is provided and co-ordinated;
- services are accessible to government for consultation on proposed policies and legislation;

This co-ordination could be provided by a single national organisation or by some other means.

6. Information

Provision of information:

6.1. States should ensure that victims have access to information of relevance to their case and necessary for the protection of their interests and the exercise of their rights.

6.2. This information should be provided as soon as the victim comes into contact with law enforcement or criminal justice agencies or with social or health care services. It should be communicated orally as well as in writing, and as far as possible in a language understood by the victim.

Content of the information

6.3. All victims should be informed of the services or organisations which can provide support and the type and, where relevant, the costs of the support.

6.4. When an offence has been reported to law enforcement or criminal justice agencies, the information provided to the victim should also include as a minimum:

- i. the procedures which will follow and the victims' role in these procedures;
- ii. how and in what circumstances the victim can obtain protection;
- iii. how and in what circumstances the victim can obtain compensation from the offender;
- iv. the availability and, where relevant, the cost of:
 - legal advice,
 - legal aid, or
 - any other sort of advice,
- v. how to apply for state compensation, if eligible;
- vi. if the victim is resident in another state, any existing arrangements which will help to protect his or her interests.

Information on legal proceedings

6.5. States should ensure in an appropriate way that victims are kept informed and understand:

- the outcome of their complaint;
- relevant stages in the progress of criminal proceedings;
- the verdict of the competent court and, where relevant, the sentence.

Victims should be given the opportunity to indicate that they do not wish to receive such information.

7. Right to effective access to other remedies

7.1. Victims may need to seek civil remedies to protect their rights following a crime. States should therefore take the necessary steps to ensure that victims have effective access to all civil remedies, and within a reasonable time, through:

- the right of access to competent courts; and
- legal aid in appropriate cases.

7.2. States should institute procedures for victims to claim compensation from the offender in the context of criminal proceedings. Advice and support should also be provided to victims in making these claims and in enforcing any payments awarded.

8. State compensation

Beneficiaries

8.1. Compensation should be provided by the state for:

- victims of serious, intentional, violent crimes, including sexual violence;
- the immediate family and dependants of victims who have died as a result of such crime.

Compensation scheme

8.2. States should adopt a compensation scheme for the victims of crimes committed on their territory, irrespective of the victim's nationality.

8.3. The compensation awarded to victims should be based on the principle of social solidarity.

8.4. The compensation should be granted without undue delay, at a fair and appropriate level.

8.5. Since many persons are victimised in European states other than their own, states are encouraged to co-operate to enable victims to claim compensation from the state in which the crime occurred by applying to a competent agency in their own country.

Damages requiring compensation

8.6. Compensation should be provided for treatment and rehabilitation for physical and psychological injuries.

8.7. States should consider compensation for loss of income, funeral expenses and loss of maintenance for dependants. States may also consider compensation for pain and suffering.

8.8. States may consider means to compensate damage resulting from crimes against property.

Subsidiarity

8.9. State compensation should be awarded to the extent that the damage is not covered by other sources such as the offender, insurance or state funded health and social provisions.

9. Insurance

9.1. States should evaluate the extent of cover available under public or private insurance schemes for the various categories of criminal victimisation. The aim should be to promote equal access to insurance for all residents.

9.2. States should encourage the principle that insurance be made available to as many people as possible. Insurance should be available to cover the person's belongings, as well as their physical integrity.

9.3. States are encouraged to promote the principle that insurance policies do not exclude damages caused by acts of terrorism unless other applicable provisions exist.

10. Protection

Protection of physical and psychological integrity

10.1. States should ensure, at all stages of the procedure, the protection of the victim's physical and psychological integrity. Particular protection may be necessary for victims who could be required to provide testimony.

10.2. Specific protection measures should be taken for victims at risk of intimidation, reprisals or repeat victimisation.

10.3. States should take the necessary measures to ensure that, at least in cases where there might be danger to the victims, when the person prosecuted or sentenced for an offence is released, a decision may be taken to notify the victims if necessary.

10.4. In so far as a state forwards on its own initiative the information referred to in paragraph 10.3, it should ensure that victims have the right to choose not to receive it, unless communication thereof is compulsory under the terms of the relevant criminal proceedings.

Protection against repeat victimisation

10.5. States should develop policies to identify and combat repeat victimisation. The prevention of repeat victimisation should be an essential element in all strategies for victim assistance and crime prevention.

10.6. All personnel in contact with victims should receive adequate training on the risks of repeat victimisation and on ways to reduce such risks.

10.7. Victims should be advised on the risk of repeat victimisation and of the means of reducing these risks as well as assistance in implementing the measures proposed.

Protection of privacy

10.8. States should take appropriate steps to avoid as far as possible impinging on the private and family life of victims as well as to protect the personal data of victims, in particular during the investigation and prosecution of the crime.

10.9. States should encourage the media to adopt and respect self regulation measures in order to protect victims' privacy.

11. Confidentiality

11.1. States should require all agencies, whether statutory or non-governmental, in contact with victims, to adopt clear standards by which they may only disclose to a third party information received from or relating to a victim under the condition that:

- the victim has explicitly consented to such disclosure;
- there is a legal requirement or authorisation to do so; or
- there is an overriding ethical consideration.

11.2. In these three cases of exception, clear rules should govern the disclosure procedures. Complaints procedures should be published for dealing with alleged breaches to the rules.

12. Selection and training of personnel

12.1. States should assist and support victim support services to:

- develop appropriate standards for the selection of all paid and voluntary staff providing direct assistance to victims;
- organise training and support for all paid and voluntary staff to ensure that such assistance is delivered according to professional standards.

Training

12.4. Training should as a minimum include:

- awareness of the negative effects of crime on victims;
- skills and knowledge required to assist victims;
- awareness of the risk of causing secondary victimisation and the skills to prevent this.

Specialised training

12.3. Specialised training should be provided to all personnel working with child victims and victims of special categories of crime, for example, domestic or sexual violence, terrorism, crimes motivated by racial, religious or other prejudice, as well as to families of murder victims.

Training of personnel in other services

12.4. Member states should ensure that appropriate training is provided for:

- the police and personnel involved in the administration of justice;
- the emergency services and others attending the scene of a major incident;
- relevant staff in health, housing, social security, education and employment services.

12.5. Such personnel should be trained to a level which is appropriate to their contact with victims. Training should include, as a minimum:

- general awareness of the effects of crime on a victim's attitudes and behaviour, including verbal behaviour;
- the risk of causing secondary victimisation and the skills required to minimise this risk;
- the availability of services providing information and support specific to the needs of victims and the means of accessing these services.

13. Mediation

13.1. Taking into account the potential benefits of mediation for victims, statutory agencies should, when dealing with victims, consider, where appropriate and available, the possibilities offered for mediation between the victim and the offender, in conformity with Committee of Ministers Recommendation R(99)19 on mediation in criminal matters.

13.2. The interests of victims should be fully and carefully considered when deciding upon and during a mediation process. Due consideration should be given not only to the potential benefits but also to the potential risks for the victim.

13.3. Where mediation is envisaged, states should support the adoption of clear standards to protect the interests of victims. These should include the ability of the parties to give free consent, issues of confidentiality, access to independent advice, the possibility to withdraw from the process at any stage and the competence of mediators.

14. Co-ordination and co-operation

14.1. Each state should develop and maintain co-ordinated strategies to promote and protect the rights and interests of victims.

14.2. To this end, each state should ensure, both nationally and locally, that:

- all agencies involved in criminal justice, social provision and health care, in the statutory, private and voluntary sectors, work together to ensure a co-ordinated response to victims;
- additional procedures are elaborated to deal with large scale victimisation situations, together with comprehensive implementation plans including the identification of lead agencies.

15. International co-operation

Preparation of states' responses

15.1. States should co-operate in preparing an efficient and co-ordinated response for transnational crimes. They should ensure that a comprehensive response is available to victims and that services co-operate in providing assistance.

Co-operation with the state of residence

15.2. In cases where the victim does not normally reside in the state where the crime occurred, that state and the state of residence should co-operate to provide protection to the victim and to assist the victim in reporting the crime as well as in the judicial process.

16. Raising public awareness of the effects of crime

16.1. States should contribute to raising public awareness of the needs of victims, encouraging understanding and recognition of the effects of crime in order to prevent secondary victimisation and to facilitate the rehabilitation of victims.

16.2. This should be achieved through government funding and publicity campaigns, using all available media.

16.3. The role of the non governmental sector in focusing public attention on the situation of victims should be recognised, promoted and supported.

17. Research

17.1. States should promote, support, and, to the extent possible, fund or facilitate fund-raising for victimological research, including comparative research by researchers from within or outside their own territory.

Research should include:

- criminal victimisation and its impact on victims;
- prevalence and risks of criminal victimisation including factors affecting risk;
- the effectiveness of legislative and other measures for the support and protection of victims of crime – both in criminal justice and in the community;
- the effectiveness of intervention by criminal justice agencies and victim services.

17.2. States should take into consideration the latest state of victimological research available in developing consistent and evidence-based policies towards victims.

17.3. States should encourage all governmental and non-governmental agencies dealing with victims of crime to share their expertise with other agencies and institutions nationally and internationally.

* * *

APPENDIX III

DRAFT TERMS OF REFERENCE OF THE COUNCIL FOR
PENOLOGICAL CO-OPERATION (PC-CP)¹

1. **Name of committee:** Council for Penological Co-operation (PC-CP)
2. **Type of committee:** Ad hoc Advisory Group
3. **Source of terms of reference:** European Committee for Crime Problems (CDPC)
4. **Terms of reference:**

Having regard to:

- the Council of Europe conventions and their protocols as well as to the recommendations of the Committee of Ministers in the penal field²;
- the relevant case-law of the European Court of Human Rights;
- the standards developed by the Committee for the Prevention of Torture and Inhuman and Degrading Treatment and Punishment (CPT);
- the relevant recommendations of the Parliamentary Assembly³.

Under the authority of the CDPC and in relation with the implementation of Project **2004/DG1/164 “Criminal law and policy development, police, prison systems and alternatives to imprisonment” of the Programme of Activities**, the PC-CP is instructed to:

- i. follow the development of European prison systems and of the services concerned with the implementation of community sanctions and measures;
- ii. examine the functioning and implementation of the European Prison Rules and the European Rules on community sanctions and measures, and make proposals for improving their practical application;
- iii. make proposals to the CDPC for revision of existing legal instruments and other legal acts in the penal field with a view to achieving coherence and comprehensiveness of the standards in the area;
- iv. re-examine on a regular basis the European Prison Rules and to propose to the CDPC their updating if necessary, as detailed in its rules of procedure;

¹ Adopted: see CM/Del/Concl(87)410/35(10) and CM(87)167, Addendum V
Revised: see CM(91)118, item I.B.9 and CM/Del/Concl(91)461/20a(9)
see CM/Del/Dec(94)516/10.4& and CM(94)112, item 3
see CM/Del/Dec(94)523, item 11.3
see CM/Del/Dec(95)551, item 11.2 (first part) concl10
see also CM/Del/Dec(96)572, item 10.1 and CM(96)99, Appendix VII
see CM/Del/Dec(97)600, item 10.2a and Appendix 18 (Appendix 19 for the revised rules of procedure)

²European Treaty Series of the relevant conventions: 24, 30, 51, 82, 86, 98, 99, 112, 126, 167, and 182. Reference number of the relevant recommendations: R (80)11; R (82) 16; R (82) 17; R (84) 10; Rec. R (84) 11 ; R (84) 12; R (86) 13; Rec. R (87) 20; R (88) 6 ; R (88) 13; R (89) 12 ; R (91) 1; R (92) 16; R (97) 12; R (98) 7; R (99) 19; R (99) 22 ; Rec (2000) 22; Rec (2003) 22; Rec(2003) 23 and Rec(2006)2.

³ *Inter alia* Rec 1656 (2004) and Rec 1257 (1995)

- v. prepare new draft legal instruments and reports on penological matters on the basis of ad-hoc terms of reference;
- vi. formulate opinions on penological matters at the request of the CDPC and of member states;
- vii. prepare the Conferences of Directors of Prison Administration (CDAP) and choose rapporteurs;
- viii. provide guidance with regard to the publication of the Penological Information Bulletin.

5. Composition of the Committee:

5.A. Members

The PC-CP shall be composed of 9 members, elected by the CDPC, with the following desirable qualifications: high-level representatives of prison administrations and/or of services entrusted with the implementation of community sanctions and measures; researchers or other experts having a thorough knowledge of penological questions.

The Council of Europe budget will bear their travel and subsistence expenses.

5.B. Participants

- i. The following Committees may each send a representative to meetings of the PC-CP, without the right to vote and at the charge of the corresponding CoE budget sub-heads:
 - European Committee on Crime Problems (CDPC)
 - European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

5.C Other participants

- i. The European Commission and the Council of the European Union may send representatives to meetings of the PC-CP without the right to vote or defrayal of expenses.
- ii. The following intergovernmental organisations may send representatives to meetings of the Committee without the right to vote or defrayal of expenses:
 - United Nations Committee against Torture (CAT)
 - United Nations Children's Fund (UNICEF)

5.D. Observers

The following non-governmental organisations may send a representative to meetings of the PC-CP without the right to vote or defrayal of expenses:

- Conférence Permanente Européenne de la Probation (CEP);
- International Association of Juvenile and Family Court Magistrates (IAJFCM)

6. Working Methods and Structures

The term of office of the Chair of the PC-CP is three years, as specified in its own rules of procedure¹.

In its work the PC-CP shall be assisted by three scientific experts and three ad hoc consultants with specific knowledge of relevant legislation and legal practice, of international norms and conventions relating to penitentiary issues and community sanctions and measures, as well as of the European Convention on Human Rights and its case law and of recent developments in research and practice in the different European member states.

The Council of Europe budget will bear the travel and subsistence expenses of the scientific experts and the ad hoc consultants.

The PC-CP may organise hearings or written exchange of views with external experts.

The PC-CP may appoint one or more drafting committees, and may entrust specific tasks to a limited number of members of the committee.

7. Duration

These terms of reference will expire on 31 December 2008.

¹ As adopted by the Committee of Ministers at their 335th meeting (June 1981) and revised at the 600th meeting of their Deputies (September 1997), and 9xth meeting (June? 2006)? which constitutes a dispensation from Article 12.e of Appendix 1 of Resolution Res(2005)47

RULES OF THE PROCEDURE OF COUNCIL FOR PENOLOGICAL CO-OPERATION

(PC-CP)

proposals for amendment

Article 1

1. The Council for Penological Co-operation (PC-CP), hereafter referred to as "the Penological Council", set up by the Committee of Ministers of the Council of Europe at the 321st meeting of their Deputies in June 1980¹, acts as an advisory body to the European Committee on Crime Problems (CDPC).
2. The Penological Council gives advice, collects information, prepares draft legal instruments and reports on the basis of ad-hoc terms of reference or other instructions and makes suggestions with a view to preparing and implementing the penological work programme of the CDPC.
3. The PC-CP makes proposals to the CDPC for revision of existing legal instruments and other legal acts in the penal field with a view of achieving coherence and comprehensiveness of the standards in the area. It has a special responsibility to re-examine the European Prison Rules every five years, or more frequently if ECHR case law or CPT reports so require. When necessary it will update the European Prison Rules taking into account the instructions of the CDPC.
4. The Chairperson of the Penological Council shall attend plenary sessions of the CDPC and CDPC Bureau meetings when the work programme and matters of penological interest are discussed.

Article 2

1. The Penological Council shall be composed of nine members, who shall be high-level representatives of prison administrations and of services entrusted with the implementation of community sanctions and measures and/or researchers or other experts having a thorough knowledge of penological questions.
2. Candidates for membership of the Penological Council shall be proposed by national delegations to the CDPC, the Secretary General and members of the Penological Council.
3. The members of the Penological Council shall be elected for a term of 5 years by the CDPC at its plenary sessions from a list of candidates drawn up in accordance with paragraph 2 above. When electing these members, the CDPC shall take into account their qualifications and the desirability of giving preference to candidates whose professional obligations and linguistic abilities permit them to take a full and active part in the work of the Penological Council.
4. No two members may be nationals of the same State.
5. A newly elected member shall not be of the same nationality as one of the outgoing members.
6. Any member who fails to attend three consecutive meetings shall be regarded as having resigned and shall be replaced in accordance with paragraphs 2-5 of this article.

¹ Then called "Committee for Co-operation in Prison Affairs (PC-R-CP)".

Article 3

1. The Penological Council shall elect its Chairperson, by majority ballot, for a three-year term of office.
2. The provisions of Article 2 paragraph 3 shall not apply to the Chairperson during his/her three-year term.
3. If the Chairperson is temporarily prevented from carrying out his/her duties he/she shall be replaced by the most senior member according to the date of his/her election or, if there are more than one, according to age.
4. If the Chairperson resigns, the most senior member according to election shall perform the duties of Chairperson until the Penological Council, at the meeting following the resignation, elects a new Chairperson for a three-year term of office.

Article 4

1. Meetings of the Penological Council shall be convened by the Secretary General of the Council of Europe.
2. The draft agenda of each meeting shall be drawn up by the Secretary General and shall be transmitted to the members together with the letter of convocation.
3. The agenda shall be adopted by the Penological Council at the beginning of the meeting.

Article 5

The present Rules may be amended by the Committee of Ministers at the request of the CDPC.

APPENDIX IV

DRAFT TERMS OF REFERENCE
OF THE COUNCIL FOR POLICE MATTERS
(PC-PM)

1. **Name of committee:** Council for Police Matters (PC-PM)
2. **Type of committee:** Ad hoc Advisory Group
3. **Source of terms of reference:** European Committee on Crime Problems (CDPC)
4. **Terms of reference:**

Having regard to:

- The Conclusions of the Conference of Ministers of the Interior on “Police of the XX1st century” held in Bucharest on 22-23 June 2000;
- Recommendation Rec(2001)10 on the European Code on Police Ethics and other relevant instruments of the Council of Europe.

Under the authority of the European Committee on Crime Problems (CDPC), and in relation with the implementation of Project 2004/DG1/164 “Criminal law and policy development, police, prison systems and alternatives to imprisonment” of the Programme of Activities, the Group is instructed:

- i. to follow the development of European police systems (national and international);
- ii. to assist the CDPC in reviewing the implementation of Recommendation Rec(2001)10 on the European Code of Police Ethics and other relevant instruments of the Council of Europe
- iii. to propose to the CDPC the establishment of standards or guidelines for dealing with police matters including as regards their role in fighting specific types of crime (such as cybercrime, organised crime, terrorism, domestic violence, sexual exploitation and trafficking) as well as with crime prevention in general;
- iv. to prepare, to prepare, at the request of the Committee of Ministers or the CDPC, draft legal instruments and reports on police matters, as noted above, on the basis of ad hoc terms of reference;
- v. to formulate opinions at the request of the CDPC;
- vi. to prepare conferences and high-level meetings on police matters;
- vii. to collect and disseminate documentation on police matters;
- viii. to promote research on police matters.

5. Composition of the Committee:

5.A. Members

The Group shall be composed of seven members elected in their personal capacity by the CDPC (representatives of ministries responsible for the police, high-level representatives of national police administrations, scientific police researchers, high-level representatives of the judiciary involved in supervising the police, ombudsmen specialised in the police, etc).

The Council of Europe budget will bear their travel and subsistence expenses.

5.B. Observers

The CDPC may authorise the admission of observers to the Council for Police Matters without the right to vote or defrayal of expenses:

6. Working Methods and Structures

Two scientific experts will be appointed by the Secretary General to assist the Council in carrying out its duties. The Council of Europe budget will bear their travel and subsistence expenses.

The PC-PM has furthermore the possibility to hear consultants.

The working methods of the PC-PM are regulated by its rules of procedure. The term of office of the Chairperson is three years¹. Members are elected for three years and can be re-elected once for a period of two years.

7. Duration

These terms of reference will expire on 31 December 2008

¹ In dispensation from Article 12.e of Appendix 1 of Resolution Res(2005)47.

DRAFT RULES OF PROCEDURE OF THE COUNCIL FOR POLICE MATTERS
(PC-PM)

Article 1

1. The Council for Police Matters (PC-PM), hereafter referred to as "the Police Council", set up by the Committee of Ministers of the Council of Europe at the 808th meeting of their Deputies on 18 September 2002, acts as an advisory body to the European Committee on Crime Problems (CDPC).
2. The Chair of the Police Council shall attend plenary sessions of the CDPC when the work programme and matters of interest to the police are discussed.

Article 2

1. The Police Council shall be composed of seven members, who shall be representatives of ministries responsible for the police, high-level representatives of national police administrations, scientific police researchers, high-level representatives of the judiciary involved in supervising the police, ombudsmen specialised in the police, etc.
2. Candidates for membership of the Police Council shall be proposed by national delegations to the CDPC, the Secretary General and members of the Police Council.
3. The members of the Police Council shall be elected for a term of three years by the CDPC at its plenary sessions from a list of candidates drawn up in accordance with paragraph 2 above. When electing these members, the CDPC shall take into account their qualifications and the desirability of giving preference to candidates whose professional obligations and linguistic abilities permit them to take a full and active part in the work of the Police Council.
4. Members can be re-elected once for a period of two years.
5. No two members may be nationals of the same State.
6. A newly elected member shall not be of the same nationality as one of the outgoing members.
7. Any member who fails to attend three consecutive meetings shall be regarded as having resigned and shall be replaced in accordance with paragraphs 2,3, 5 and 6 of this article.

Article 3

1. The Police Council shall elect its Chairperson, by majority ballot, for a three-year term of office.
2. If the Chairperson is temporarily prevented from carrying out his/her duties he/she shall be replaced by the most senior member according to the date of his/her election or, if there are more than one, according to age.
3. If the Chairperson resigns, the most senior member according to election shall perform the duties of Chairperson until the Police Council, at the meeting following the resignation, elects a new Chairperson for a three-year term of office.
4. The provisions of Article 2 paragraph 3 shall not apply to the Chairperson during his/her three-year term.

Article 4

1. The Police Council meetings are summoned by the Secretary General from Council of Europe after consultation with the Chairperson from CDPC and the Police Council.
2. The draft agenda of each meeting is established by the Secretary General and sent to all members with the convocation letter.
3. The agenda is adopted by the Police Council at the beginning of the meeting.

Article 5

1. The present Rules may be amended by the Committee of Ministers at the request of the CDPC.

APPENDIX V

DRAFT TERMS OF REFERENCE
OF THE COMMITTEE OF EXPERTS ON THE OPERATION
OF EUROPEAN CONVENTIONS IN THE PENAL FIELD
(PC-OC)

1. **Name of committee:** COMMITTEE OF EXPERTS ON THE OPERATION OF EUROPEAN CONVENTIONS ON CO-OPERATION IN CRIMINAL MATTERS (PC-OC)
2. **Type of committee:** Committee of Experts
3. **Source of terms of reference:** European Committee of Crime Problems (CDPC)

4. **Terms of reference:**

Under the authority of the European Committee of Crime Problems (CDPC), and in relation with the implementation of Project [2004/DG1/199](#) "Monitoring the operation of Conventions on Co-operation in the criminal field" of the Programme of Activities, the Committee is instructed to:

- i. monitor the operation of the Conventions on international co-operation in criminal matters with a view to facilitating their practical implementation¹;
- ii. consider various steps and initiatives to improve the efficiency of international co-operation in criminal matters This would be carried out in particular through various measures to improve practical co-operation and, in conformity with instructions given by the CDPC², through the development of normative texts;
- iii. follow developments in other international frameworks (e.g. United Nations, European Union) in the fields covered by these conventions and, where appropriate, propose measures likely to ensure their conformity with such developments;
- iv. follow the application of the European Convention on Human Rights with regard to international co-operation in criminal matters.

5. **Composition of the Committee:**

5.A. **Members**

Governments of member states are entitled to appoint representatives in the field of criminal law and with the following qualifications: experience and/or expertise in the field of international co-operation in criminal matters.

¹ These Conventions include ETS no 24 (extradition, and Protocols ETS no 86, 98), 30 (mutual legal assistance and Protocols ETS no 99, 182), 51 (supervision of sentence), 52 (road traffic offence), 70 (validity of criminal judgments), 73 (transfer of criminal proceedings), 88 (deprivation of right to drive), 97 (information of foreign law), 101 (possession of firearms), 112 (transfer of sentenced persons and its Protocol ETS no 1657), 116 (compensation of crime victims), 156 (illicit traffic by sea).

² On the basis of the elements presented in the following documents: Report to the CDPC- follow-up to the "new start report" (PC-OC(2006)10); Note on modernisation of the European Conventions on international co-operation in the criminal field (PC-OC(2006)9) and the final report of the PC-TJ (PC-TJ(2005)10).

The Council of Europe budget will bear the travel and subsistence expenses of one representative from each member state (two in the case of the state whose representative has been elected Chair).

5.B. Participants

- i. The following Committees may each send a representative to meetings of the Committee, without the right to vote and at the charge of the corresponding CoE budget sub-heads:
 - the Steering Committee for Human Rights (CDDH)
 - the Consultative Council of European Prosecutors (CCPE)
 - the European Commission for the Efficiency of Justice (CEPEJ)

5.C Other participants

- i. The European Commission and the Council of the European Union may send representatives to meetings of the Committee without the right to vote or defrayal of expenses.
- ii. The states with observer status with the Council of Europe (Canada, Holy See, Japan, Mexico, United States of America) may send representatives to meetings of the Committee without the right to vote or defrayal of expenses.
- iii. The following intergovernmental organisations may send representatives to meetings of the Committee without the right to vote or defrayal of expenses:
 - United Nations Office for Drugs and Crime (UNODC)
 - United Nations Interregional Crime and Justice Research Institute (UNICRI)
 - Office of the United Nations High Commissioner for Human Rights (OHCHR)
 - International Criminal Court (ICC)
 - International Criminal Tribunal for former-Yugoslavia (ICTY)

5.D. Observers

The following non-member state may send representatives to meetings of the Committee without the right to vote or defrayal of expenses:

Israel

6. Working Methods and Structures

The Committee may have recourse to consultants or scientific experts. It can organise hearings or exchanges of views with external experts/personalities.

The Bureau of the Committee is composed of the Chair and the Vice-Chair. The Chair and the Vice-Chair are elected for a term of 1 year. The terms of the Chair and of the Vice-Chair are renewable once.

The Committee may entrust a limited group of members to elaborate steps and initiatives to improve the efficiency of international co-operation in criminal matters mentioned under 4.ii. above. It would be composed of a maximum of 9 members.

7. Duration

These terms of reference will expire on 31 December 2008.

APPENDIX VI

CDPC – REPORT TO THE COMMITTEE OF MINISTERS ON ACTIONS TO IMPLEMENT THE WARSAW ACTION PLAN

CDPC ACTIVITIES

This table reviews the work of the CDPC in light of the Warsaw Declaration and Action Plan adopted at the Third Summit (16 – 17 May 2005) and the subsequent Road Map adopted by the Committee of Ministers on 28 September 2005 (CM (2005)145 revised). Subsequent to the CDPC plenary meeting from 3 -7 April 2006, it has been updated and revised by the Secretariat in light of the decisions taken with a view to presentation to the Committee of Ministers in response to their request for regular reporting on this question.

It also links the tasks of the CDPC as mandated further to:

- decisions taken at the 924th meeting of the Committee of Ministers – 20 April 2005 – i.e. further to CDPC plenary meeting 7 – 11 March 2005
- decisions taken at the 925th meeting of the Committee of Ministers – 3-4 May 2005 reflecting the Resolutions of the Conference of Ministers of Justice (7-8 April 2005);
- the decisions of the CDPC at its plenary meeting in March 2005 (CDPC (2005)12

The table will be updated a regular basis and, in particular, once the Bureau will have approved the Framework Overall Action Plan to be adopted by the CCPE at its first meeting in Moscow, 6 July 2006, the priority fields of action for the CCPE will be added.

The following abbreviations are used in referring to Committees

CDPC	EUROPEAN COMMITTEE ON CRIME PROBLEMS
PC-CP	COUNCIL FOR PENOLOGICAL CO-OPERATION
PC-PM	COUNCIL FOR POLICE MATTERS
PC-CSC	CRIMINOLOGICAL SCIENTIFIC COUNCIL
PC-S-AV	GROUP OF SPECIALISTS ON ASSISTANCE TO VICTIMS AND PREVENTION OF VICTIMISATION
T-CY	CYBERCRIME CONVENTION COMMITTEE
PC-OC	COMMITTEE OF EXPERTS ON THE OPERATION OF EUROPEAN CONVENTIONS IN THE PENAL FIELD
CPGE	CONFERENCE OF EUROPEAN PROSECUTORS GENERAL
CCPE	CONSULTATIVE COUNCIL OF EUROPEAN PROSECUTORS
PC-ES	COMMITTEE OF EXPERTS ON THE PROTECTION OF CHILDREN AGAINST SEXUAL EXPLOITATION AND ABUSE
MONEYVAL	COMMITTEE OF EXPERTS ON THE EVALUATION OF ANTI-MONEY LAUNDERING MEASURES

Item of the Action Plan

I - PROMOTING COMMON FUNDAMENTAL VALUES: HUMAN RIGHTS, RULE OF LAW AND DEMOCRACY

2. Protecting and promoting human rights through the other Council of Europe institutions and mechanisms

"We also ask for regular updates of the European prison rules as the basis for the setting-up of standards in prisons. The Council of Europe will assist member states to ensure their implementation."

	Task	Source	Sub committee responsible	Deadline	Comments
1.	Recommendation revising the European Prison Rules(EPR) and the commentary	Resolution 4, Helsinki Para. 11 CM Decisions 925th meeting	PC-CP	Completed January 2006	The CM approved the EPR and took note of their commentary on 11 January 2006 (CM Recommendation Rec (2006)02) Task achieved at least six months ahead of schedule
2.	Consider feasibility and added value of a possible European Prison Charter (EPC)	Resolution 4, Helsinki Para. 11 CM Decisions 925th meeting	PC-CP	Completed April 2006	The CDPC considered that a binding instrument, in the form of a European Prison Charter, was not a feasible proposition and it consequently proposed to strengthen penitentiary reform inter alia through the elaboration of a Compendium of Council of Europe recommendations in the penitentiary field
3.	Compendium of Council of Europe recommendations in the penitentiary field		PC-CP	CDPC plenary meeting June 2007	PC-CP to present to the next CDPC plenary a proposal for working methods to establish a compendium consolidating all Council of Europe recommendations relating to penitentiary questions together with an indication as to which recommendations should be revised and/or updated
4.	Consider feasibility and potential added value of a mechanism, in EPR or EPC, to allow for consistency and regular updating of relevant texts	Resolution 4, Helsinki Para. 11 CM Decisions 925th meeting; Action Plan	PC-CP	Completed April 2006	The CDPC proposed that the PC-CP be entrusted with this task in its new mandate (see Appendix II to the abridged report)
5.	Draft recommendation on remand in custody and its explanatory memorandum		PC-DP/ PC-CP	Enlarged Bureau meeting June 2006	Proposed decision (draft Recommendation) presented to CDPC April 2006. To be reviewed again by PC-CP in light of written comments from CDPC delegations and then by CDPC Enlarged Bureau 28 – 30 June 2006

	Task	Source	Sub committee responsible	Deadline	Comments
6.	European Rules for juvenile offenders deprived of their liberty or subject to community sanctions and measures	Resolution 2, Helsinki Para. 4 CM Decisions 925th meeting	PC-CP		
6a	Finalise the ad hoc terms of reference			Completed December 2005	CDPC-BU (2005) 14 - Draft Ad Hoc Terms of Reference Terms of Reference approved by Committee of Ministers December 2005 after written approval procedure with the full membership of the CDPC,
6b	Draft Recommendation			CDPC plenary meeting 2008	PC-CP started work February 2006
7.	Prepare and present to Bureau and then to plenary proposals for terms of reference to examine the question of the role of probation and aftercare services and their development	Resolution 2, Helsinki – para. 5 CM Decisions 925th meeting	PC-CP	CDPC plenary meeting June 2007	Will be carried out, following the conference in Turkey and in consultation with the Conférence Permanente Européenne de la Probation (CEP). Discussions began at PC-CP meeting February 2006. Proposals for terms of reference will be finalised in 2006.
8.	Proposals to modify the Terms of Reference and the Rules of the PC-CP in order to reflect new tasks being assigned to it, and its consequent need for an enlarged membership and increased recourse to scientific experts			Completed April 2006	Proposed new terms of reference for the PC-CP (as set out in Appendix III to the meeting report) increasing membership from 7 to 9 and entrusting the PC-CP with the overview of the recommendations in the penitentiary area, including proposals for updating when necessary.

Item of the Action Plan

I - PROMOTING COMMON FUNDAMENTAL VALUES: HUMAN RIGHTS, RULE OF LAW AND DEMOCRACY

3. Strengthening democracy, good governance and the rule of law in member states

We will make full use of the Council of Europe's standard-setting potential and promote implementation and further development of the Organisation's legal instruments and mechanisms of legal cooperation, keeping in mind the conclusions of the 26th Conference of European Ministers of Justice (Helsinki, 7-8 April 2005).

	Task	Source	Sub committee responsible	Deadline	Comments
1.	The PC-OC continues its monitoring of the functioning of the Council of Europe conventions in criminal matters.	Resolution 5, Helsinki Para. 13 CM Decisions 925th meeting	PC-OC	ongoing	
2.	Further to the work of the PC-OC and the PC-TJ on the follow-up to New Start report, the results of which were presented to the CDPC in April 2006, proposals were made for action regarding visibility and consistency as well as for normative initiatives		PC-OC/PC-TJ	Completed April 2006	The outcome is reflected in the report of the CDPC plenary and in the new proposed terms of reference of the PC-OC (as set out in Appendix V to the meeting Report)
2a	Practical measures to improve legal co-operation (including enhancement of visibility and consistency)	Resolution 5, Helsinki Para. 13 CM Decisions 925th meeting	PC-OC	CDPC plenary meeting June 2007	The CDPC plenary decided that the work on the proposals linked to the visibility of the European norms should be considered as a priority; this relates to the preparation of a compendium, a database, networking and an office of specialists.
2b	Proposals for normative measures to address difficulties and possible improvements to international co-operation	Resolution 5, Helsinki Para. 13 CM Decisions 925th meeting	PC-OC	CDPC plenary meeting June 2007	The CDPC plenary decided that work on modernisation of existing instruments could be initiated; the PC-OC should endeavour to identify the norms which would facilitate and improve the efficiency of judicial co-operation and should therefore consider, where applicable, to amend existing Conventions, e.g. through Protocol(s), or propose new non binding instruments, but should not work from the outset, on a new comprehensive Convention

	Task	Source	Sub committee responsible	Deadline	Comments
3.	Ratification of the Additional Protocol to the Convention on the Transfer of Sentenced Persons (reasons for limited number of ratifications)	CDPC Bureau request (CDPC-BU (2005) 5, paras 46-47)	PC-OC	Completed April 2006	<p>The CDPC agreed with the PC-OC's opinion that, when dealing with cases of escape of prisoners, the Additional Protocol ensures that the prisoner does not escape justice and, when dealing with prisoners subject to an expulsion or a deportation order, it ensures the start of the re-socialisation process at an early stage; but that States parties should seek the <i>opinion</i> of the sentenced person, as required by the Art 3.2 of the Protocol (although <i>consent</i> of the person is not required)</p> <p>The PC-OC has taken note of the existing case law of the European Court of Human rights and will continue to follow closely the application of this Protocol, especially with regard to the development of the case law of the European Court of Human Rights.</p> <p>See the opinion as set out in Appendix VII to the CDPC meeting report.</p>
4.	Transfer of mentally ill offenders		PC-OC	Completed April 2006	<p>The CDPC took note of the opinion prepared by the PC-OC (see document PC-OC (2006) 08) and decided that no action need be taken at present.</p>
5.	Witness protection – need for a convention?	CDPC plenary 2005- see CDPC (2005)12, para 39	PC-OC	Completed April 2006	<p>The CDPC agreed with the opinion prepared of the PC-OC on the question of witness protection (application of Art 23 of the 2nd additional Protocol to the European Convention on Mutual Assistance in Criminal Matters) and that there was no need to proceed to the drafting of a binding instrument in this regard.</p> <p>See also document PC-OC (2006) 11</p>
6.	Preparation of draft terms of reference and a framework overall action plan for the new Consultative Council of Prosecutors		CCPE	September 2006	<p>The CDPC approved a draft, but final adoption will only be possible once the CCPE will have held its first meeting (Moscow, 6 July 2006)</p>

Item of the Action Plan
II - STRENGTHENING THE SECURITY OF EUROPEAN CITIZENS
1. Combating terrorism

“We strongly condemn terrorism, which constitutes a threat and major challenge to our societies. It requires a firm, united response from Europe, as an integral part of the worldwide anti-terrorist efforts under the leadership of the United Nations. We welcome the new Council of Europe Convention on the Prevention of Terrorism opened for signature during the Summit and draw attention to other instruments and documents that the Council of Europe has drawn up so far to combat terrorism. We call on all member states to respect human rights and to protect victims when combating this scourge, in accordance with the guidelines drawn up by the Council of Europe in 2002 and 2005 respectively.”

“We will identify other targeted measures to combat terrorism and ensure close cooperation and coordination of common anti-terrorist efforts with other international organisations, in particular the United Nations.”

	Task	Source	Sub committee responsible	Deadline	Comments
1.	PC-S-AV to report both to the CDPC and to the CODEXTER, keeping the CDDH informed, on proposals regarding assistance to the victims of terrorism		PC-S-AV	Completed June 2005	Report sent to CODEXTER and CDPC as requested.
2.	PC-S-AV to make proposals to the CDPC on the wider aspects of assistance to victims		PC-S-AV	Completed April 2006	<p>a. Draft recommendation (updating Recommendation rec (87) 21) and explanatory report approved by CDPC and sent to Committee of Ministers</p> <p>b. proposals for priority work: Compensation for crime victims, restorative justice and mediation, visibility and dissemination of existing CoE norms in the field of victims; the place of the victims in criminal law and criminal procedure as well as crime prevention/reduction.</p>
3.	Reflections on the possibility of preparing one or more instruments to address the needs of groups of vulnerable victims and/or offenders	Resolution 2, Helsinki – para. 6 CM Decisions 925th meeting			CDPC plenary 2006 proposed possible topics for the 27 th Ministers of Justice Conference in Yerevan October 2006 – see plenary meeting report, April 2006

	Task	Source	Sub committee responsible	Deadline	Comments
4.	Examine means of enhancing crime prevention policies	(ties in to Resolution 2 of Helsinki re prevention of crime) also reflects request of CDPC plenary 2005 to examine the role of the PC-CSC		Enlarged Bureau – June 2006	Due to lack of time this question was not discussed at the CDPC plenary- it will be discussed at the Enlarged Bureau meeting (28 – 30 June 2006)
5.	Study of the regulation of private security services	(ties in to Resolution 2 of Helsinki re prevention of crime)	PC-PM	CDPC plenary meeting 2007	Study in progress
6.	Counterfeiting of medicines		CDPC	CDPC plenary meeting 2007	At its plenary in April 2006, The CDPC agreed that a feasibility study on the drafting of a Convention on counterfeit medicines/ pharmaceutical crime, should be drawn up and, subject to a favourable opinion of the CDPC, it would then invite the Committee of Ministers to approve terms of reference for an ad hoc multidisciplinary group of experts in the various fields concerned to draft the Convention, their work to begin in 2007.

Item of the Action Plan
II - STRENGTHENING THE SECURITY OF EUROPEAN CITIZENS

2. Combating corruption and organised crime

“We also commend the work undertaken by MONEYVAL for monitoring anti-money-laundering measures, including the financing of terrorism. MONEYVAL should continue to strengthen its ties with the Financial Action Task Force on Money Laundering (FATF) under the aegis of the OECD.”

“We welcome the revision of the 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and the opening for signature of the revised Convention at the Summit. We call for its signature and ratification.”

“The Council of Europe will continue to implement its technical assistance programmes for interested member states. It will also support strengthened international co-operation in the fight against transnational organised crime and drug trafficking.”

	Task	Source	Sub committee responsible	Deadline	Comments
1.	Continue the evaluation process of anti-money laundering and counter-terrorism financing measures	(ties in to Resolution 2 of Helsinki re prevention of crime)	MONEYVAL	ongoing	
2.	Strengthen ties with FATF		MONEYVAL	ongoing	The CDPC agreed that the Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG) be granted requested observer status with MONEYVAL. This application by EAG to the Council of Europe will serve to intensify co-operation and co-ordination overall within the global network of the FATF.

Item of the Action Plan
II - STRENGTHENING THE SECURITY OF EUROPEAN CITIZENS

5. Combating cybercrime and strengthening human rights in the information society

“We condemn all forms of ICT use in furthering criminal activity. We therefore urge all member states to sign and ratify the Convention on Cybercrime and to consider signature of its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, the first binding international instruments on the subject.”

	Task	Source	Sub committee responsible	Deadline	Comments
1.	Cybercrime convention	(ties in to Resolution 2 of Helsinki re prevention of crime)	CPC in co-operation with the T-CY	ongoing	First meeting of the Parties (T-CY) took place in Strasbourg on 20 and 21 March 2006. CDPC took note of the report of this meeting and agreed to hold, at its next meeting, a joint meeting with the T-CY, in order to conduct the review of the Convention as required by paragraph 3 of Article 46 of the Convention.

Item of the Action Plan
III - BUILDING A MORE HUMANE AND INCLUSIVE EUROPE
2. Building a Europe for children

“We will take specific action to eradicate all forms of violence against children. We therefore decide to launch a three year programme of action to address social, legal, health and educational dimensions of the various forms of violence against children. We shall also elaborate measures to stop sexual exploitation of children, including legal instruments if appropriate, and involve civil society in this process. Coordination with the United Nations in this field is essential, particularly in connection with follow-up to the optional protocol to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography.”

	Task	Source	Sub committee responsible	Deadline	Comments
1.	The PC-ES will have as a first task to study the need for the drafting of a legal instrument in the field of sexual exploitation of children		PC-ES	End 2006	Terms of Reference were adopted by the Committee of Ministers on 22 March 2006. The PC-ES will hold its first meeting on 22 – 24 May 2006. The CDPC mandated its Bureau, to approve, further to a consultation of its members by means of a written consultation procedure, any proposal by the PC-ES to prepare a new international legal instrument

Tasks regarding the internal procedures of the CDPC					
	Task	Source	Sub committee responsible	Deadline	Comments
1.	Requests for observer status – policy paper	CDPC plenary 2005- see CDPC (2005)12, para 120	Bureau	Completed April 2006	See annotated agenda and full meeting report, plenary 2006 Item 4.4
2.	Proposals for possible future activities		Bureau	Completed April 2006	See annotated agenda and full meeting report, plenary 2006 Item 7.1
3.	Adoption of a Working method to ensure wider consultation for texts prepared by specialist or limited number committees	CDPC plenary 2005- see CDPC (2005)12, para 57	Bureau	Completed April 2006	See annotated agenda and full meeting report, plenary 2006 Item 12.3
4.	Adoption Policy re the designation of states as members or substitute members of restricted subordinate committees of the CDPC	CDPC plenary 2005- see CDPC (2005)12, para 94	Bureau	Completed April 2006	See annotated agenda and full meeting report, plenary 2006 Item 12.4

APPENDIX VII

OPINION ON THE ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON THE TRANSFER OF SENTENCED PERSONS (ETS 167)

1. At its meeting on 17-19 January 2005, the Bureau of the CDPC had asked the PC-OC to prepare a document on the difficulties posed by the Additional Protocol to the European Convention on the Transfer of Sentenced Persons (ETS 167).
2. The PC-OC discussed the matter at its 50th meeting (27-29 June 2005) and decided to complete its information by a questionnaire addressed to all its members.
3. The replies to the questionnaire are collected in the document PC-OC (2005)21rev1.
4. Following a preliminary discussion on this issue in the Bureau (October 2005), the PC-OC adopted this Opinion at its 51st meeting (1-3 March 2006) and decided to send it to the CDPC.

General considerations on the additional Protocol

5. The PC-OC underlines the fact that the application of Convention ETS 112 and of its protocol (ETS 167) is left to states' discretion. Since the Convention was designed to serve prisoners' interests by encouraging their re-socialisation, States have to obtain their consent for any transfer.
6. However, the Protocol provides for two particular circumstances in which the consent of the sentenced person is not required, namely:
 - where the prisoner has escaped from prison to his or her country of origin;
 - where the prisoner is the subject of an expulsion or a deportation order to his or her country of origin.
7. Certain countries found it difficult to reconcile this absence of consent with the goal of reintegrating prisoners into their environment of origin.
8. This therefore made it difficult for them to ratify the Protocol. They believed that this primary objective, perhaps even *raison d'être*, of the parent convention, the social reintegration of prisoners, was not reflected in the Protocol.
9. Other countries did not consider the lack of individual consent in the cases specified in the Protocol to be incompatible with the objectives of prisoners' reintegration and resocialisation. They believed that in the majority of cases, it was easier to secure these objectives in prisoners' countries of origin.
10. The PC-OC further observes that:
 - the application of the Protocol, in cases where sentences were accompanied by an expulsion order, has some similarities with extradition;
 - some Member States consider that the European Convention on the transfer of proceedings in criminal matters (ETS 73) may offer a useful alternative;

Cases before the European Court of Human Rights (ECHR).

11. The Committee examined two cases brought before the European Court of Human Rights. They concerned Estonian citizens convicted in Finland. Finland was seeking their transfer to their country of origin, mainly on the basis of the Additional Protocol. The matters referred to before the Court related mainly to the execution of the sentence in the executing State, where the possibilities for conditional release were less advantageous for the prisoner than in the sentencing/requesting State.

12. In the first case, Altosaar v. Finland, on 15 June 2004 the Court had ruled the application inadmissible. Mr Altosaar had been granted a conditional release in Finland and was residing in Estonia, at liberty. He could not therefore claim to be suffering a violation of his rights under the Convention (Article 5 – deprivation of liberty).
13. The Court had ruled that a second case, Veermaä v. Finland, was inadmissible. The applicant had alleged violations of articles 5 (deprivation of liberty), 6 (right to a fair trial) and 14 (discriminatory treatment), because the sentence he would have to serve in Estonia after his transfer would be longer than the one he would normally have expected in Finland (same arguments as those raised in the Altosaar case). Finnish law authorised conditional release after half the sentence has been served. Under Estonian law, such release is only possible, subject to certain conditions, after two-thirds had been served.
14. In response to the points raised under article 5 of the Convention, the Court considered that:
 - even if, as a result of the application for a transfer, the applicant would spend longer in prison this did not, as such, constitute an increase in his sentence;
 - there was a causal link between the sentence handed down (in Finland) and carried out (in Estonia);
 - there was nothing arbitrary about the detention, since the sentence served would not exceed the length of sentence handed down by the convicting court;
 - nor was there a flagrant difference or disproportion between the periods of imprisonment in the two countries.

Conclusion

15. The PC-OC is of the opinion that, when dealing with cases of escape of prisoners, the Protocol ensures that the prisoner does not escape justice and, when dealing with prisoners subject to an expulsion or a deportation order, it ensures the start of the re-socialisation process at an early stage.
16. It further underlines that, when applying the Protocol, States parties should seek the *opinion* of the sentenced person, as required by the Art 3.2 of the Protocol, and the competent authorities should take particular account of this in deciding whether or not a transfer was appropriate, although *consent* of the person is not required.
17. The PC-OC has taken note of the existing case law of the European Court of Human rights and will continue to follow closely the application of this Protocol, especially with regard to the development of the case law of the European Court of Human Rights.

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