



Strasbourg, 25 May 2011
cdpc/docs 2011/cdpc (2011) 6

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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

**DISCUSSION PAPER ON THE FOLLOW-UP TO BE GIVEN TO RESOLUTION N°2 ON PRISON
POLICY IN TODAY'S EUROPE ADOPTED AT THE 30TH COUNCIL OF EUROPE
CONFERENCE OF MINISTERS OF JUSTICE**

Prepared by the Secretariat of the Criminal Law Division

I) Source of the CDPC mandate

1. The 30th Council of Europe Conference of Ministers of Justice (*Istanbul, 24-26 November 2010*) adopted three Resolutions. Resolution n° 2 “Prison Policy in Today’s Europe” requests the Committee of Ministers to entrust the CDPC with a number of tasks related to the Council of Europe work in the prison field. It was considered by the Ministers’ Deputies at their 1107th Meeting in March 2011 (Ref. CM(2022)18 of 2 March 2011, item 10.1). The Ministers’ Deputies took the following decisions:

b. Concerning Resolution No. 2 on prison policy in today’s Europe

7. transmitted the resolution to the European Committee on Crime Problems (CDPC), the Steering Committee for Human Rights (CDDH) and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), for them to bear it in mind in their future work;

8. entrusted the CDPC, in co-operation with the CDDH and the CPT, to:

a) evaluate the measures taken by member states to follow the European Prison Rules, the European Rules for juvenile offenders subject to sanctions and measures, the Council of Europe Probation Rules and the other relevant Council of Europe standards in the area;

b) take stock of problems faced by prison administrations, more particularly prison overcrowding, remand in custody, treatment of foreign nationals in prison, as well as other topics which may require additional guidance through standard-setting;

c) consider, in the light of the outcome of such an assessment and stocktaking, the necessity to reinforce the legal framework in this field, including the feasibility and advisability of a legally binding instrument regulating certain aspects of detention conditions, prison management and the treatment of prisoners, or undertaking other measures to achieve this aim, including the identification and dissemination of best practices;

9. invited member states to continue to provide accurate and timely data and to support by all means Council of Europe Annual Penal Statistics (SPACE) as a valuable tool in guiding the member states’ penal policies;

10. entrusted the CDPC, in the light of the conclusions of the 15th Conference of Directors of Prison Administration (CDAP) (Edinburgh, 9-11 September 2009), to consider ways of involving judges, prosecutors, prison and probation services, in a joint discussion concerning imprisonment, as well as community sanctions and measures, with a view to avoiding prison overcrowding and improving social reintegration of offenders whilst protecting public safety;

11. urged the CPT to pursue its monitoring activity with a view to strengthening the protection of persons deprived of their liberty, thereby contributing to any further standard-setting work in this field and assisting member states in implementing such standards;

2. At its meeting in April 2011, the CDPC Bureau considered Doc. CM(2022)18 of 2 March 2011 and took the following decisions relating to the follow-up to be given to Resolution n°2:

“ 3. Council for Penological Co-operation (PC-CP)

d. Follow-up to the 30th Council of Europe Conference of Ministers of Justice, “Modernising Justice in the Third Millennium: transparent and efficient justice; prisons in today’s Europe” (Istanbul, Turkey, 24 – 26 November 2010)

- instruct the Secretariat, on the basis of an inter-secretarial consultation with the relevant CoE bodies, to prepare for the CDPC meeting in June a discussion paper regarding the implementation of Resolution No 2 adopted at the Conference (see document “Decisions of the Committee of Ministers concerning the Resolutions adopted in Istanbul”, paragraph 8), and in particular means to evaluate the measures taken by the Council of Europe member states to follow the relevant Committee of Ministers recommendations in the prison field and to take stock of the major problems faced by national prison administrations in this regard;
- with regard to paragraph 10 of the decision of the Committee of Ministers, instruct the Secretariat to examine the feasibility of holding a multi-disciplinary conference in 2012 involving representatives of Ministries of Justice, judges, prosecutors, prison and probation services to discuss penal policies, sentencing and the use of imprisonment;
- instruct the Secretariat to prepare a discussion paper regarding topics for the multi-disciplinary conference for the CDPC plenary in June;
- take note of the decision of the Committee of Ministers concerning Resolution no. 1 and of the fact that the T-CY is already dealing with the issue of jurisdiction and related matters on the Internet.”

3. In addition, the Council of Europe Programme “Building a Europe for and with Children” and its future strategy 2012-2015 will address the issue of protection of children against violence in detention.

II) Possible working methods and deadlines to implement the above-mentioned follow-up tasks:

1. Draft a short questionnaire, in consultation with the CDDH and the CPT, and send it out to all CoE member states requesting them to provide information on the measures already taken as well as on measures envisaged in the near future to implement the three most recent Committee of Ministers, i.e. the European Prison Rules, the European Rules for juvenile offenders subject to sanctions and measures, the Council of Europe Probation Rules and the other relevant Council of Europe standards in the area.
2. Prepare a compendium of the replies and analyse, in cooperation with the CPT and the CDDH, the conclusions from the survey deriving from the received replies.
3. Present Resolution n° 2 and the outcome of the above survey at the next CDAP (to be held in Strasbourg between 10 and 14 October 2011) and use these documents as the bases for ensuing discussions regarding the possible problems encountered in this respect by the prison and probation services. Organise the work of the Conference in three workshops where the main issues to be discussed will relate to remand in custody, foreign nationals, overuse of prisons and possible ways of reducing negative trends in overcrowded prisons. Each group will also discuss whether new standard-setting work is needed, whether a binding instrument is feasible, whether this should be coupled with practical measures and exchange of best practices or whether the latter two will suffice and what exactly would need to be done.
4. 16th CDAP to adopt conclusions and recommendations in relation to the above issues which will be reported back to the CDPC with a view to adopting and presenting them to the CM as a follow-up to the decisions contained in Doc. CM(2022)18 of 2 March 2011, item 10.1.
5. Present a detailed overview of the outcome of the 16th CDAP at an International Conference to be organised in 2012 (as provided for by Doc. CM(2022)18 of 2 March 2011, item 10.1 and further

developed in the CDPC Bureau decisions, see above under item 3d of the list of decisions). The Conference shall aim at involving Ministries of Justice, judges, prosecutors, representatives of prison and probation services, and possibly representatives of the national preventive mechanisms.¹

6. On the basis of the outcome of these activities, the CDPC would proceed with a feasibility study to assess the necessity and suitability of reinforcing the existing legal framework in this field with the development of a legally binding instrument as mentioned in item 1.c) of the above-mentioned Resolution n°2.

¹ The Conference may base its discussions on the implementation by the different authorities represented at it of CM Recommendation No, R (99) 22 concerning prison overcrowding and prison population inflation and CM Recommendation R(92)17 concerning consistency in sentencing.