

ADDENDUM I



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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

**DRAFT TERMS OF REFERENCE OF
THE EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)**

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

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Terms of reference of the European Committee on Crime Problems (CDPC)

Committee Name:	European Committee for Crime Problems (CDPC)
Compliance with Resolution Res(2005)47:	<p>No</p> <p>The term of office of the Chair is two years, as adopted by the Ministers' Deputies at their 350th meeting (September 1982), which constitutes a dispensation from Article 12.e of Appendix 1 of Resolution Res(2005)47.</p> <p>The term of office of Bureau members is four years, non renewable, as adopted by the Ministers' Deputies at their 350 428th meeting (September 1982), which constitutes a dispensation from Article 13.c of Appendix 1 of Resolution Res(2005)47.</p>
Programme of Activities:	<p><i>Programme of Activities for 2011 as reflected in document CM(2010)42rev of 30 April 2010, Appendix 1</i></p> <p>Pillar: RULE OF LAW</p> <p>Sector: Strengthening the Rule of Law and Developing common standards - Development of common standards and policies</p> <p>Sector: Ensuring Justice - Prisons and Police</p> <p>Sector: Countering Threats to the Rule of Law - Internet Security and Cybercrime</p> <p>Pillar: HUMAN RIGHTS</p> <p>Sector: Equality, Diversity and Protecting the Rights of the vulnerable - Rights of children (juvenile delinquency and fight against sexual abuse and exploitation of children)</p>
Project relevance:	<ol style="list-style-type: none"> 1. Chapter I of the Action Plan of the Third Summit: Promoting common fundamental values (p.I.2, p.I.3. and I. 4) and Chapter II of the Third Summit Action Plan: Strengthening the security of European citizens (p.II.5). 2. Contribution to core values, namely the development of the rule of law. 3. CM Decisions: decisions taken at the 924th and 925th meetings of the Committee of Ministers. 4. Political justification/framework: the CDPC plays a key role in the definition, elaboration and setting up of European common standards in different important legal issues. 5. Resolutions 1, 2 and 3 of the 28th Council of Europe Conference of Ministers of Justice (17-19 June, Tromsø, Norway).
Project added value:	<p>The CDPC is the only Council of Europe body responsible for crime problems which, assisted by its subordinate bodies, carries out standard setting and follow-up activities to fight organised crimes, improve criminal justice as well as of penitentiary systems. It also promotes co-operation between states, particularly with regard to the numerous conventions for which it is responsible, and serves as a forum for the development of international legal co-operation, as well as facilitating networking and co-operation.</p> <p>To date, standard setting work focuses primarily on matters such as foreign prisoners, the Convention on counterfeiting of medical products and similar crimes involving threats to public health as well as the Convention on preventing and combating violence against women and domestic violence..</p> <p>Furthermore the CDPC promotes the implementation of the many conventions for which it is responsible (in matters such as mutual assistance, extradition and the</p>

	<p>transfer of prisoners) and has specific tasks enumerated in numerous conventions to facilitate co-operation and settle any differences. The CDPC also plays an important role in the updating of these treaties.</p> <p>The value and importance of the CDPC was assessed by the GT-REF INST through a questionnaire which was addressed to its members. In their opinion, the latter considered that the role of the CDPC in the criminal law field is indispensable and cannot be replaced by other working methods and forms.</p>
<p>Financial information:</p>	<p>The Committee meets in plenary once per year (this is rarely sufficient and an additional meeting of the “Enlarged” Bureau may be necessary in the course of the year at no extra costs). The Bureau of 9 members meets 3 times per year (once on the occasion of the Conference of Ministers of Justice).</p> <p>Annual budget : € 140 000, including :</p> <p>Travelling and subsistence expenses: € 98 000 Translation: € 20 000 Production and printing of documents: € 10 000 Fees for consultants: € 6 000 Participation to the work of other committees: € 6 000</p>

1. **Name of Committee:** European Committee for Crime Problems (CDPC)
2. **Type of Committee:** Steering Committee
3. **Source of terms of reference:** Committee of Ministers
4. **Terms of reference:**

Having regard to:

Resolution Res(2005) 47 concerning committees and their subordinate bodies, their terms of reference and working methods;

The Declaration and the Action Plan adopted by the Heads of State and Government of Member States of the Council of Europe, at the Third Summit (Warsaw on 16 and 17 May 2005), in particular **Chapters I and II of the Action Plan of the Third Summit**: Promoting common fundamental values (p. I.2.; p. I.3 and I.4) and Strengthening the security of European citizens (p.II.5).;

Within the framework of the Programme of Activities for 2011, as reflected in document CM(2010)42rev of 30 April 2010, Appendix I, Pillar: RULE OF LAW, Sector: Strengthening the Rule of Law and Developing Common Standards, Programme: Development of common standards and policies; Sector: Ensuring justice, Programme: Prisons and Police ; Sector: Countering Threats to the Rule of Law, Programme: Internet Security and Cybercrime and Pillar: HUMAN RIGHTS, Sector: Equality, Diversity and Protecting the vulnerable, Programme: Rights of children(juvenile delinquency and fight against sexual abuse and exploitation of children)

the Committee is instructed to:

- i. promote the implementation and the harmonisation of national policies as well as the development of policies common to member states with regard to criminal law, criminal procedure, crime prevention and the treatment of offenders;
- ii. promote criminological research and review crime policy in Europe, *inter alia* by means of conferences, colloquia and Groups of Specialists, with a view to identifying areas of future action, taking into account, in particular, the context of the enlarged Europe;
- iii. promote international co-operation in the penological field, in particular, by furthering the implementation of the European Prison Rules and of the European Rules on community sanctions and measures and by encouraging meetings of specialists in this matter;
- iv. examine the functioning and implementation of Council of Europe conventions and agreements in the penal field with a view to adapting them and improving their practical applications where necessary; to follow developments in co-operation among member states and within other international fora in the penal field in order to promote co-ordination;
- v. prepare, jointly with the European Committee on Legal Co-operation (CDCJ) and the Committee for Human Rights (CDDH), the Council of Europe Conferences of Ministers of Justice and to ensure the follow-up thereto, having regard to the relevant decisions of the Committee of Ministers;

- vi. having regard to the Secretary General's co-ordinating role, co-operate with other Steering or Ad hoc Committees or with other bodies set up by the Committee of Ministers in the implementation of projects involving several fields of activity;
- vii. perform the tasks derived from the following conventions:
 - a. European Convention on the Punishment of Road Traffic Offences (ETS No. 52), Article 28;
 - b. European Convention on the International Validity of Criminal judgments (ETS No. 70), Article 65;
 - c. European Convention on the Repatriation of Minors (ETS No. 71), Article 28;
 - d. European Convention on the Transfer of Proceedings in Criminal Matters (ETS No. 73), Article 44;
 - e. European Convention on the Suppression of Terrorism (ETS No. 90), Article 9;
 - f. Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (ETS No. 99), Article 10
 - g. European Convention on the Control of the Acquisition and Possession of Firearms by Individuals (ETS No. 101), Article 17;
 - h. Convention on the Transfer of Sentenced Persons (ETS No. 112), Article 23;
 - i. European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116), Article 13;
 - j. European Convention on offences relating to cultural property (ETS No. 119), Article 31;
 - k. Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime (ETS No. 141), Articles 41, 42;
 - l. Agreement on illicit traffic by sea, implementing Article 17 of the United Nations Convention against illicit traffic in narcotic drugs and psychotropic substances (ETS No. 156, Articles 33, 34);
 - m. Convention on the Protection of Environment through Criminal Law (ETS No. 172, Articles 18,19) ;
 - n. Criminal Law Convention on Corruption (ETS No. 173, Articles 39,40);
 - o. Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (ETS No. 182, Article 29);
 - p. Convention on Cybercrime (ETS No.185, Articles 45,46);
 - q. Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS No. 189, Article 8);
 - r. Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No.198, Article 54);
 - s. Council of Europe Convention for the protection of children against sexual exploitation and sexual abuse (CETS N°201, Article s 40, 41 and 44);
- viii. after their entry into force, the Committee will also perform the tasks derived from the following Conventions:
 - t. Protocol amending the European Convention on the Suppression of Terrorism (ETS No. 190, Articles 6,13);

The text of above-mentioned provisions appears in the Appendix to these terms of reference;
- ix. while taking account of the progress of this work, prepare, under its responsibility, proposals for the Programme of Activities for the coming years.

5. Composition of the Committee:

5.A. Members

The governments of member states are entitled to appoint representatives of the highest possible rank with the following desirable qualifications: senior officials and experts in the fields of criminal law and criminal procedure, penology or criminology.

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 Chair of the Council for Penological Co-operation (PC-CP), the Chair of the Committee of Experts on the Operation of European Conventions in the Penal Field (PC-OC) and the Chairs of other subordinate bodies presenting their final report to the CDPC may participate in meetings of the Committee without the right to vote. The Council of Europe budget will bear their travel and subsistence expenses.
- ii. The following committees may send representatives to meetings of the Committee, without the right to vote and at the charge of the corresponding Council of Europe budget sub-heads:
 - The Consultative Council of European Prosecutors (CCPE);
 - The European Commission for the Efficiency of Justice (CEPEJ);
 - The Steering Committee for Human Rights (CDDH);
 - The European Committee on Legal Co-operation (CDCJ).
- iii. The Parliamentary Assembly may send a representative to meetings of the Committee, without the right to vote and at the charge of its administrative budget.
- iv. The Congress of Local and Regional Authorities of the Council of Europe may send a representative to meetings of the Committee, without the right to vote and at the charge of its administrative budget.
- v. The Council of Europe Commissioner for Human Rights may send a representative to meetings of the Committee, without the right to vote and at the charge of his/her administrative budget.
- vi. The Conference of INGOs of the Council of Europe may send a representative to meetings of the Committee, without the right to vote and at the charge of the sending body.

5.C. Other participants

- i. 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 a representatives to meetings of the Committee, without the right to vote or defrayal of expenses:
 - United Nations including:
 - United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI);

- United Nations Interregional Crime and Justice Research Institute (UNICRI);
- United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD);
- United Nations Office on Drugs and Crime (UNODC);
- ICPO – Interpol.

5.D. Observers

The following non-governmental organisations may send (a) representative(s) to meetings of the Committee, without the right to vote or defrayal of expenses:

- European Institute for Crime Prevention and Control (HEUNI);
- International Association of Penal Law (IAPL);
- International Centre of Sociological, Penal and Penitentiary Research and Studies (Messina);
- International Penal and Penitentiary Foundation (IPPF);
- International Society for Criminology (ISC);
- International Society of Social Defense (ISSD);
- Permanent European Conference on Probation and Aftercare (CEP);
- Penal Reform International (PRI);
- Society for the Reform of Criminal Law (SRCL);
- World Society of Victimology;
- International Bar Association;
- Council of Bars and Law Societies of the European Community;
- European Forum for Victim-Offender Mediation and Restorative Justice.

6. Working methods and structures:

The term of office of the Chair of the CDPC is two years, non renewable.¹
 The term of office of Bureau members is four years, non renewable.²
 The Bureau is composed of nine members.³

To the extent of the available budget, the CDPC may have recourse, if necessary, to the assistance and participation of experts and consultants and may proceed to the hearing of experts and of personalities such as the representatives of other organs of the Council of Europe.

7. Duration:

These terms of reference will enter into force on 01 January 2011 and will expire on 31 December 2013 .

¹ As adopted by the Ministers' Deputies at their 350th meeting (September 1982), which constitutes a dispensation from Article 12.e of Appendix 1 of Resolution Res(2005)47.

² As adopted by the Ministers' Deputies at their 428th meeting (September 1989), which constitutes a dispensation from Article 13.c of Appendix 1 of Resolution Res(2005)4.

³ As adopted by the Ministers' Deputies at their 924th meeting (April 2005).

Appendix to the terms of reference

Article 28 of the European Convention on the Punishment of Road Traffic Offences

The European Committee on Crime Problems of the Council of Europe shall be kept informed regarding the application of this Convention and shall do whatever is needful to facilitate a friendly settlement of any difficulty which may arise out of its execution.

Article 65 of the European Convention on the International Validity of Criminal Judgments

The European Committee on Crime Problems of the Council of Europe shall be kept informed regarding the application of this Convention and shall do whatever is needful to facilitate a friendly settlement of any difficulty which may arise out of its execution.

Article 28 of the European Convention on the Repatriation of Minors

The Council of Europe shall keep itself informed concerning the application of this Convention and shall do whatever is needful to facilitate a friendly settlement of any difficulty which may arise out of its execution.

Article 44 of the European Convention on the Transfer of Proceedings in Criminal Matters

The European Committee on Crime Problems of the Council of Europe shall be kept informed regarding the application of this Convention and shall do whatever is needful to facilitate a friendly settlement of any difficulty which may arise out of its execution.

Article 9 of the European Convention on the Suppression of Terrorism

1. The European Committee on Crime Problems of the Council of Europe shall be kept informed regarding the application of this Convention.

2. It shall do whatever is needful to facilitate a friendly settlement of any difficulty which may arise out of its execution.

Article 10 of the Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters

The European Committee on Crime Problems of the Council of Europe shall be kept informed regarding the application of this Protocol and shall do whatever is needful to facilitate a friendly settlement of any difficulty which may arise out of its execution.

Article 17 of the European Convention on the Control of the Acquisition and Possession of Firearms by Individuals

1. The European Committee on Crime Problems of the Council of Europe shall be kept informed regarding the application of this Convention and shall do whatever is needful to facilitate a friendly settlement of any difficulty which may arise out of its execution.

2. The European Committee on Crime Problems may, in the light of future technical, social and economic developments, formulate and submit to the Committee of Ministers of the Council of Europe proposals designed to amend or supplement the provisions of this Convention and in particular to alter the contents of Appendix I.

Article 23 of the Convention on the Transfer of Sentenced Persons

Friendly settlement

The European Committee on Crime Problems of the Council of Europe shall be kept informed regarding the application of this Convention and shall do whatever is necessary to facilitate a friendly settlement of any difficulty which may arise out of its application.

Article 13 of the European Convention on the Compensation of Victims of Violent Crimes

1. The European Committee on Crime Problems (CDPC) of the Council of Europe shall be kept informed regarding the application of the Convention.

2. To this end, each Party shall transmit to the Secretary General of the Council of Europe any relevant information about its legislative or regulatory provisions concerning the matters covered by the Convention.

Article 31 of the European Convention on Offences relating to Cultural Property

The European Committee on Crime Problems of the Council of Europe shall follow the application of this Convention and shall do whatever is needed to facilitate a friendly settlement of any difficulty which may arise out of its execution.

Article 41 of the European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime

1. Amendments to this Convention may be proposed by any Party, and shall be communicated by the Secretary General of the Council of Europe to the member states of the Council of Europe and to every non-member State which has acceded to or has been invited to accede to this Convention in accordance with the provisions of Article 37.

2. Any amendment proposed by a Party shall be communicated to the European Committee on Crime Problems which shall submit to the Committee of Ministers its opinion on that proposed amendment.

3. The Committee of Ministers shall consider the proposed amendment and the opinion submitted by the European Committee on Crime Problems and may adopt the amendment.

4. The text of any amendment adopted by the Committee of Ministers in accordance with paragraph 3 of this article shall be forwarded to the Parties for acceptance.

5. Any amendment adopted in accordance with paragraph 3 of this article shall come into force on the thirtieth day after all Parties have informed the Secretary General of their acceptance thereof.

Article 42 of the European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime

1. The European Committee on Crime Problems of the Council of Europe shall be kept informed regarding the interpretation and application of this Convention.

2. In case of a dispute between Parties as to the interpretation or application of this Convention, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their choice, including submission of the dispute to the European Committee on Crime Problems, to an Arbitral Tribunal whose decisions shall be binding upon the Parties or to the International Court of Justice, as agreed upon by the Parties concerned.

Article 33 of the Agreement on illicit traffic by sea, implementing Article 17 of the United Nations Convention against illicit traffic in narcotic drugs and psychotropic substances

1. Amendments to this Agreement may be proposed by any Party, and shall be communicated by the Secretary General of the Council of Europe to the member states of the Council of Europe and to every non-member State which has acceded to or has been invited to accede to the Agreement in accordance with the provisions of Article 28.
2. Any amendment proposed by a Party shall be communicated to the European Committee on Crime Problems, which shall submit to the Committee of Ministers its opinion on the proposed amendment.
3. The Committee of Ministers shall consider the proposed amendment and the opinion submitted by the European Committee on Crime Problems, and may adopt the amendment.
4. The text of any amendment adopted by the Committee of Ministers in accordance with paragraph 3 of this article shall be forwarded to the Parties for acceptance.
5. Any amendment adopted in accordance with paragraph 3 of this article shall come into force on the thirtieth day after all the Parties have informed the Secretary General of their acceptance thereof

Article 34 of the Agreement on illicit traffic by sea, implementing Article 17 of the United Nations Convention against illicit traffic in narcotic drugs and psychotropic substances

1. The European Committee on Crime Problems of the Council of Europe shall be kept informed of the interpretation and application of this Agreement.
2. In case of a dispute between Parties as to the interpretation or application of this Agreement, the Parties shall seek a settlement of the dispute through negotiation or any other peaceful means of their choice, including submission of the dispute to the European Committee on Crime Problems, to an arbitral tribunal whose decisions shall be binding upon the Parties, mediation, conciliation or judicial process, as agreed upon by the Parties concerned.

Article 18 of the Convention on the Protection of Environment through Criminal Law

1. Amendments to this Convention may be proposed by any Party, and shall be communicated by the Secretary General of the Council of Europe to the member states of the Council of Europe and to every non-member State which has acceded to or has been invited to accede to this Convention in accordance with the provisions of Article 14.
2. Any amendment proposed by a Party shall be communicated to the European Committee on Crime Problems which shall submit to the Committee of Ministers its opinion on that proposed amendment.
3. The Committee of Ministers shall consider the proposed amendment and the opinion submitted by the European Committee on Crime Problems and may adopt the amendment.
4. The text of any amendment adopted by the Committee of Ministers in accordance with paragraph 3 of this article shall be forwarded to the Parties for acceptance.
5. Any amendment adopted in accordance with paragraph 3 of this article shall come into force on the thirtieth day after all Parties have informed the Secretary General of their acceptance thereof.

Article 19 of the Convention on the Protection of Environment through Criminal Law

1. The European Committee on Crime Problems of the Council of Europe shall be kept informed regarding the interpretation and application of this Convention.
2. In case of a dispute between Parties as to the interpretation or application of this Convention, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their choice, including submission of the dispute to the European Committee on Crime Problems, to an arbitral tribunal whose decisions shall be binding upon the Parties, or to the International Court of Justice, as agreed upon by the Parties concerned.

Article 39 of the Criminal Law Convention on Corruption

1. Amendments to this Convention may be proposed by any Party, and shall be communicated by the Secretary General of the Council of Europe to the member states of the Council of Europe and to every non-member State which has acceded to, or has been invited to accede to, this Convention in accordance with the provisions of Article 33.
2. Any amendment proposed by a Party shall be communicated to the European Committee on Crime Problems (CDPC), which shall submit to the Committee of Ministers its opinion on that proposed amendment.
3. The Committee of Ministers shall consider the proposed amendment and the opinion submitted by the CDPC and, following consultation of the non-member states Parties to this Convention, may adopt the amendment.
4. The text of any amendment adopted by the Committee of Ministers in accordance with paragraph 3 of this article shall be forwarded to the Parties for acceptance.
5. Any amendment adopted in accordance with paragraph 3 of this article shall come into force on the thirtieth day after all Parties have informed the Secretary General of their acceptance thereof.

Article 40 of the Criminal Law Convention on Corruption

1. The European Committee on Crime Problems of the Council of Europe shall be kept informed regarding the interpretation and application of this Convention.
2. In case of a dispute between Parties as to the interpretation or application of this Convention, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their choice, including submission of the dispute to the European Committee on Crime Problems, to an arbitral tribunal whose decisions shall be binding upon the Parties, or to the International Court of Justice, as agreed upon by the Parties concerned.

Article 29 of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters

The European Committee on Crime Problems shall be kept informed regarding the interpretation and application of the Convention and its Protocols, and shall do whatever is necessary to facilitate a friendly settlement of any difficulty which may arise out of their application.

Article 45 of the Convention on Cybercrime

1. The European Committee on Crime Problems (CDPC) shall be kept informed regarding the interpretation and application of this Convention.

2. In case of a dispute between Parties as to the interpretation or application of this Convention, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their choice, including submission of the dispute to the CDPC, to an arbitral tribunal whose decisions shall be binding upon the Parties, or to the International Court of Justice, as agreed upon by the Parties concerned.

Article 46 of the Convention on Cybercrime

1. The Parties shall, as appropriate, consult periodically with a view to facilitating:
 - a. the effective use and implementation of this Convention, including the identification of any problems thereof, as well as the effects of any declaration or reservation made under this Convention;
 - b. the exchange of information on significant legal, policy or technological developments pertaining to cybercrime and the collection of evidence in electronic form;
 - c. consideration of possible supplementation or amendment of the Convention.
2. The European Committee on Crime Problems (CDPC) shall be kept periodically informed regarding the result of consultations referred to in paragraph 1.

3. The CDPC shall, as appropriate, facilitate the consultations referred to in paragraph 1 and take the measures necessary to assist the Parties in their efforts to supplement or amend the Convention. At the latest three years after the present Convention enters into force, the European Committee on Crime Problems (CDPC) shall, in co-operation with the Parties, conduct a review of all of the Convention's provisions and, if necessary, recommend any appropriate amendments.

Article 8 of the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems

1. Articles 1, 12, 13, 22, 41, 44, 45 and 46 of the Convention shall apply, *mutatis mutandis*, to this Protocol.

Article 54 of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism

1. Amendments to the Convention may be proposed by any Party, and shall be communicated by the Secretary General of the Council of Europe to the member states of the Council of Europe, to the European Community and to every non member state which has acceded to or has been invited to accede to this Convention in accordance with the provisions of Article 50.
2. Any amendment proposed by a Party shall be communicated to the European Committee on Crime Problems (CDPC) which shall submit to the Committee of Ministers its opinion on that proposed amendment.
3. The Committee of Ministers shall consider the proposed amendment and the opinion submitted by the CDPC and may adopt the amendment by the majority provided for in Article 20.d of the Statute of the Council of Europe.
4. The text of any amendment adopted by the Committee of Ministers in accordance with paragraph 3 of this article shall be forwarded to the Parties for acceptance.

5. Any amendment adopted in accordance with paragraph 3 of this article shall come into force on the thirtieth day after all Parties have informed the Secretary General of their acceptance thereof.

6. In order to update the categories of offences contained in the appendix, as well as amend Article 13, amendments may be proposed by any Party or by the Committee of Ministers. They shall be communicated by the Secretary General of the Council of Europe to the Parties.

7. After having consulted the Parties which are not members of the Council of Europe and, if necessary the CDPC, the Committee of Ministers may adopt an amendment proposed in accordance with paragraph 6 by the majority provided for in Article 20.d of the Statute of the Council of Europe. The amendment shall enter into force following the expiry of a period of one year after the date on which it has been forwarded to the Parties. During this period, any Party may notify the Secretary General of any objection to the entry into force of the amendment in its respect.

8. If one-third of the Parties notifies the Secretary General of an objection to the entry into force of the amendment, the amendment shall not enter into force.

9. If less than one-third of the Parties notifies an objection, the amendment shall enter into force for those Parties which have not notified an objection.

10. Once an amendment has entered into force in accordance with paragraphs 6 to 9 of this article and a Party has notified an objection to it, this amendment shall come into force in respect of the Party concerned on the first day of the month following the date on which it has notified the Secretary General of the Council of Europe of its acceptance. A Party which has made an objection may withdraw it at any time by notifying it to the Secretary General of the Council of Europe.

11. If an amendment has been adopted by the Committee of Ministers, a State or the European Community may not express their consent to be bound by the Convention, without accepting at the same time the amendment.

Article 40 of the Council of Europe Convention for the protection of children against sexual exploitation and sexual abuse

1 The Parliamentary Assembly of the Council of Europe, the Commissioner for Human Rights, the European Committee on Crime Problems (CDPC), as well as other relevant Council of Europe intergovernmental committees, shall each appoint a representative to the Committee of the Parties.

2 The Committee of Ministers may invite other Council of Europe bodies to appoint a representative to the Committee of the Parties after consulting the latter.

3 Representatives of civil society, and in particular non-governmental organisations, may be admitted as observers to the Committee of the Parties following the procedure established by the relevant rules of the Council of Europe.

4 Representatives appointed under paragraphs 1 to 3 above shall participate in meetings of the Committee of the Parties without the right to vote.

Article 41 of the Council of Europe Convention for the protection of children against sexual exploitation and sexual abuse

1 The Committee of the Parties shall monitor the implementation of this Convention. The rules of procedure of the Committee of the Parties shall determine the procedure for evaluating the implementation of this Convention.

2 The Committee of the Parties shall facilitate the collection, analysis and exchange of information, experience and good practice between States to improve their capacity to prevent and combat sexual exploitation and sexual abuse of children.

3 The Committee of the Parties shall also, where appropriate:

a facilitate the effective use and implementation of this Convention, including the identification of any problems and the effects of any declaration or reservation made under this Convention;

b express an opinion on any question concerning the application of this Convention and facilitate the exchange of information on significant legal, policy or technological developments.

4 The Committee of the Parties shall be assisted by the Secretariat of the Council of Europe in carrying out its functions pursuant to this article.

5 The European Committee on Crime Problems (CDPC) shall be kept periodically informed regarding the activities mentioned in paragraphs 1, 2 and 3 of this article.

Article 44 of the Council of Europe Convention for the protection of children against sexual exploitation and sexual abuse

1 Any proposal for an amendment to this Convention presented by a Party shall be communicated to the Secretary General of the Council of Europe and forwarded by him or her to the member States of the Council of Europe, any signatory, any State Party, the European Community, any State invited to sign this Convention in accordance with the provisions of Article 45, paragraph 1, and any State invited to accede to this Convention in accordance with the provisions of Article 46, paragraph 1.

2 Any amendment proposed by a Party shall be communicated to the European Committee on Crime Problems (CDPC), which shall submit to the Committee of Ministers its opinion on that proposed amendment.

3 The Committee of Ministers shall consider the proposed amendment and the opinion submitted by the CDPC and, following consultation with the non-member States Parties to this Convention, may adopt the amendment.

4 The text of any amendment adopted by the Committee of Ministers in accordance with paragraph 3 of this article shall be forwarded to the Parties for acceptance.

5 Any amendment adopted in accordance with paragraph 3 of this article shall enter into force on the first day of the month following the expiration of a period of one month after the date on which all Parties have informed the Secretary General that they have accepted it.

Article 6 of the Protocol amending the European Convention on the Suppression of Terrorism

1. Article 9 of the Convention shall become Article 10.

2. Paragraph 1 of new Article 10 shall be amended to read as follows:

“The European Committee on Crime Problems (CDPC) is responsible for following the application of the Convention. The CDPC:

- a. shall be kept informed regarding the application of the Convention;
- b. shall make proposals with a view to facilitating or improving the application of the Convention;
- c. shall make recommendations to the Committee of Ministers concerning the proposals for amendments to the Convention, and shall give its opinion on any proposals for amendments to the Convention submitted by a Contracting State in accordance with Articles 12 and 13;
- d. shall, at the request of a Contracting State, express an opinion on any question concerning the application of the Convention;
- e. shall do whatever is necessary to facilitate a friendly settlement of any difficulty which may arise out of the execution of the Convention;

Article 13 of the Protocol amending the European Convention on the Suppression of Terrorism

A new article shall be introduced after new Article 16 of the Convention, and shall read as follows:

“Article 17

1. Without prejudice to the application of Article 10, there shall be a Conference of States Parties against Terrorism (hereinafter referred to as the “COSTER”) responsible for ensuring:
 - a. the effective use and operation of this Convention including the identification of any problems therein, in close contact with the CDPC;
 - b. the examination of reservations made in accordance with Article 16 and in particular the procedure provided in Article 16, paragraph 8;
 - c. the exchange of information on significant legal and policy developments pertaining to the fight against terrorism;
 - d. the examination, at the request of the Committee of Ministers, of measures adopted within the Council of Europe in the field of the fight against terrorism and, where appropriate, the elaboration of proposals for additional measures necessary to improve international co-operation in the area of the fight against terrorism and, where co-operation in criminal matters is concerned, in consultation with the CDPC;
 - e. the preparation of opinions in the area of the fight against terrorism and the execution of the terms of reference given by the Committee of Ministers.
2. The COSTER shall be composed of one expert appointed by each of the Contracting States. It will meet once a year on a regular basis, and on an extraordinary basis at the request of the Secretary General of the Council of Europe or of at least one-third of the Contracting States.
3. The COSTER will adopt its own Rules of Procedure. The expenses for the participation of Contracting States which are member states of the Council of Europe shall be borne by the Council of Europe. The Secretariat of the Council of Europe will assist the COSTER in carrying out its functions pursuant to this article.
4. The CDPC shall be kept periodically informed about the work of the COSTER.”.

ADDENDUM II



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 10 June 2010
pc-cp/docs 2010/pc-cp (2010) 13rev2 – e

PC-CP (2010) 13rev2

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

**Council for Penological Co-operation
(PC-CP)**

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

Draft terms of reference of the Council for Penological Co-operation (PC-CP)

Fact sheet

Name of Committee:	Council for Penological Co-operation (PC-CP)
Compliance with Resolution Res(2005)47:	No The term of office of the Chair is three years 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 967th meeting (14 June 2006) which constitutes a dispensation from Article 12.e of Appendix 1 of Resolution Res(2005)47.
Programme of Activities: project(s)	Doc CM(2010)42rev, 30 April 2010, Appendix I Programme of Activities for 2011: Pillar: RULE OF LAW, Sector: Strengthening the Rule of Law and Developing Common Standards, Programme: Development of common standards and policies; Sector: Ensuring Justice, Programme: Prisons and police.
Project relevance:	Implementation of: the Declaration and the Action Plan adopted at the Third Summit of the Heads of State and Government of the Council of Europe (16-17 May 2005, Warsaw) in particular chapters I.2 and 1.4. Resolution No. 1 of the 29 th Council of Europe Conference of Ministers of Justice (18 -19 June 2009, Tromsø, Norway); the Conclusions of the 15 th Conference of Directors of Prison Administration (CDAP) (9-11 September 2009, Edinburgh, UK).
Project added value:	The Council of Europe is the leading European organisation in the field of penitentiary questions and community sanctions and measures. Four very important texts have been adopted recently in this area, namely Recommendation No. R (92) 16 on the European Rules on community sanctions and measures, Recommendation Rec(2006)2 on the European Prison Rules (EPR), Recommendation Rec(2008)11 on the European Rules for juvenile offenders subject to sanctions or measures and Recommendation CM/Rec(2010)1 on the Council of Europe Probation Rules. The PC-CP has the task to re-examine on a regular basis the EPR and the European Rules for juvenile offenders subject to sanctions or measures; to prepare the Conferences of Directors of Prison Administration (CDAP) and to provide guidance with regard to the collection and publication of the annual penal statistics of the Council of Europe SPACE I and SPACE II. The PC-CP is currently drafting one standard-setting instrument (a recommendation on foreign nationals in prison) and a European Code on prison staff ethics and is carrying out a study on dangerous offenders.
Financial information:	4 meetings per year of 9 members, 4 scientific experts (1 meeting during the Conference of Directors of Prison Administration). 1 enlarged meeting per year attended by 47 CoE member states in addition to the 9 members and 4 scientific experts. The PC-CP has an annual budget of € 112 000 of which: - 4 X €13 000 per meeting for the reimbursement of the travel and per diem costs of 9 members and of the 4 scientific experts - 1 X (€47 000 + € 13 000) for the enlarged meeting for the reimbursement of the travel and per diem costs of one representative per 47 member states and of the 9 members and of the 4 scientific experts. A separate budget is provided for: - € 22 500 for interpretation; - € 10 000 for translation;

	- € 19 000 for consultancy fees and for document production (including SPACE I and SPACE II).
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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:** Committee of Ministers, on the suggestion of the European Committee on Crime Problems (CDPC)

4. **Terms of reference:**

Having regard to:

- Resolution Res(2005)47 on committees and subordinate bodies, their terms of reference and working methods;
- the Declaration and Action Plan adopted by the Third Summit of Heads of State and Government of the Council of Europe (Warsaw, 16-17 May 2005), in particular in particular chapters I.2 and 1.4.;
the Council of Europe conventions and their protocols as well as to the recommendations of the Committee of Ministers in the penal field;²
- 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 work of the Commissioner for Human Rights; and
- the relevant recommendations of the Parliamentary Assembly.³

Under the authority of the CDPC and in relation with the implementation of the Programme of Activities for 2011 (**Doc CM(2010)42rev, 30 April 2010, Appendix I) Pillar : RULE OF LAW, Sector : Strengthening the Rule of Law and Developing Common Standards, Programme - Development of common standards and policies; Sector : Ensuring Justice, Programme - Prisons and police, 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;

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)
see CM/Del/Dec(2006)967, item 10.3.

² European 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 (82) 16; R (82) 17; R (84) 11; R (84) 12; R (88) 13; R (89) 12; R (92) 16; R (93) 6; R (97) 12; R (98) 7; R (99) 19; R (99) 22; Rec(2000)22; Rec(2003)22; Rec(2003)23; Rec(2006)2 and Rec(2006)13.

³ Inter alia Rec 1257 (1995); Rec 1469 (2000); Rec 1656 (2004) and Rec 1747 (2006).

- ii. examine the functioning and implementation of the European Prison Rules, the European Rules on community sanctions and measures, the European Rules for juvenile offenders subject to sanctions or measures, the Council of Europe Probation Rules as well as of other relevant Committee of Ministers recommendations, and make proposals for improving their practical application and if necessary for their updating;
- 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. prepare new draft legal instruments and reports on penological matters on the basis of ad hoc terms of reference;
- v. formulate opinions on penological matters at the request of the CDPC and of member states;
- vi. while taking account of the progress of its ongoing work, prepare, under its responsibility and within its field of competence, proposals to the CDPC for the Programme of Activities for the coming years;
- vii. prepare the Conferences of Directors of Prison Administration (CDAP) and choose rapporteurs;
- viii. provide guidance with regard to the collection and publication of the annual penal statistics of the Council of Europe SPACE I and SPACE II.

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. Member states

- i. The member states of the Council of Europe may send their representatives to an enlarged annual meeting of the Group.

The Council of Europe budget will bear the travel and subsistence expenses of one representative per member state of the Council of Europe participating in the enlarged annual meeting of the Group.

The member states of the Council of Europe may send (a) representative(s) to other meetings of the Group, without the right to vote or defrayal of expenses.

Participants

5.C.

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

- ii. The Parliamentary Assembly may send a representative/representatives to meetings of the Group, without the right to vote and at the charge of its administrative budget.
- iii. The Council of Europe Commissioner for Human Rights may send a representative/representatives to meetings of the Group, without the right to vote and at the charge of its administrative budget.

5.D. Other participants

- i. The European Union may send representatives to meetings of the Group, without the right to vote or defrayal of expenses.
- ii. The following intergovernmental organisations may send representatives to meetings of the Group, without the right to vote or defrayal of expenses:
 - United Nations Subcommittee on Prevention of Torture (SPT);
 - United Nations Children's Fund (UNICEF).

5.E. Observers

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

- the European Organisation for Probation (CEP);
- International Centre for Prison Studies ;
- Penal Reform International (PRI)
- International Association of Juvenile and Family Court Magistrates (IAJFCM).

6. Working methods and structures:

In its work, the PC-CP shall be assisted, within the limits of budgetary appropriations, by four scientific experts 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 the ensuing case law and of recent developments in research and practice in the different European member states.

7. Duration:

These terms of reference will begin on 1 January 2011 and will expire on 31 December 2013.

ADDENDUM III



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 20 May 2010
PC-OC/docs 2010/PC-OC (2010) 12 - e

PC-OC (2010) 12

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

COMMITTEE OF EXPERTS
ON THE OPERATION OF EUROPEAN CONVENTIONS
ON CO-OPERATION IN CRIMINAL MATTERS
PC-OC

REVISED TERMS OF REFERENCE
OF THE
COMMITTEE OF EXPERTS ON THE OPERATION OF EUROPEAN
CONVENTIONS ON CO-OPERATION IN CRIMINAL MATTERS
(PC-OC)

PC-OC website: www.coe.int/tcj

Fact sheet

Name of Committee:	Committee of Experts on the operation of European conventions on co-operation in criminal matters (PC-OC)
Compliance with Resolution Res(2005)47:	YES
Programme of Activities:	Pillar: Rule of Law, Sector: Strengthening the Rule of Law and Developing Common Standards, Development of common standards and policies.
Project relevance:	Implementation of: the Declaration and the Action Plan adopted at the Third Summit of the Heads of State and Government of the Council of Europe (<i>Warsaw, 16-17 May 2005</i>), in particular chapters I (Promoting common fundamental values: Human Rights, rule of law and democracy) and II (Strengthening the security of European citizens); the Conclusions of the High level Conference of the Ministries of Justice and of the Interior (<i>Moscow, 9-10 November 2006</i>); Resolution No. 2 on mutual assistance in criminal matters, adopted by the 29th Council of Europe Conference of the Ministers of Justice (<i>Tromsø, 18-19 June 2009</i>).
Project added value:	Since 1982, the PC-OC has been following-up the operation of the Council of Europe conventions in the criminal field, and in particular the conventions on extradition, mutual legal assistance and transfer of sentenced persons, with a view to facilitating their implementation and keeping them up-to-date. Its activities fall in three categories: a) Normative measures: Under the authority of the CDPC, the PC-OC elaborates binding and non-binding legal instruments, as well as other tools, such as explanatory notes or guides on national procedures. The PC-OC has prepared a draft protocol on simplified extradition in 2009 and is currently working on the modernisation of the Extradition Convention of 1957. b) Practical measures: The PC-OC develops practical tools to assist practitioners applying the conventions. In 2008, it launched a database on national procedures relating to extradition, mutual legal assistance and transfer of sentenced persons and a network of single points of contact dealing with the conventions. c) Solutions to concrete problems: Members of the PC-OC, who apply the conventions on a daily basis, bring practical problems to the attention of the PC-OC plenary with a view to finding solutions, notably by sharing their experience in similar cases. The forum that the PC-OC provides has been instrumental in identifying problems at an early stage and avoiding conflicts between member states. The added value and “the essential role of the PC-OC in monitoring the application of the Council of Europe conventions on international co-operation in criminal matters in order to find solutions to concrete problems, accelerate procedures and prevent disputes between states” has notably been recognised by the High-level Conference of the Ministries of Justice and the Interior (<i>Moscow, 2006</i>) and the 29th Council of Europe Conference of the Ministers of Justice (<i>Tromsø, 2009</i>).
Financial information:	Two plenary meetings and two meetings of a limited number of members (9 members) per year. The annual budget for the PC-OC is

	<p>€118 000, of which: €50 000 per plenary meeting for the reimbursement of travel and subsistence expenses of the 47 members + the Chair €9 000 per meeting of a limited number of members for the reimbursement of travel and subsistence expenses of 9 members.</p> <p>A separate budget is provided for: €23 400 for interpretation; €15 000 for translation.</p>
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Revised 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:** Committee of Ministers, on the suggestion of the European Committee of Crime Problems (CDPC)

4. **Terms of reference:**

Having regard to:

- Resolution Res(2005)47 on committees and subordinate bodies, their terms of reference and working methods;
- the Declaration and the Action Plan adopted at the Third Summit of the Heads of State and Government of the Council of Europe (*Warsaw, 16-17 May 2005*), in particular chapters I (Promoting common fundamental values: Human Rights, rule of law and democracy) and II (Strengthening the security of European citizens);
- the Conclusions of the High level Conference of the Ministries of Justice and of the Interior (*Moscow, 9-10 November 2006*);
- Resolution No. 2 on mutual assistance in criminal matters, adopted by the 29th Council of Europe Conference of the Ministers of Justice (*Tromsø, 18-19 June 2009*).

Under the authority of the European Committee of Crime Problems (CDPC), and in relation with the implementation of the Programme “Development of common standards and policies” (Rule of Law, Strengthening the Rule of Law and Developing Common Standards) 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 implementation;¹
- ii. discuss practical difficulties encountered by States Parties to the European conventions on international co-operation in criminal matters and express non-binding opinions concerning the interpretation of the provisions of these Conventions;

¹ These Conventions include ETS No. 24 (extradition, and Protocols ETS Nos 86 and 98), 30 (mutual legal assistance and Protocols ETS Nos 99 and 182), 51 (supervision of sentence), 52 (road traffic offences), 70 (validity of criminal judgments), 73 (transfer of criminal proceedings), 88 (deprivation of right to drive), 97 (information on foreign law), 101 (possession of firearms), 112 (transfer of sentenced persons and its Protocol ETS No. 167), 116 (compensation of crime victims), 156 (illicit traffic by sea).

- iii. 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 CDPC,² through the development of normative texts;
- iv. 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;
- v. 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.

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

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 Council of Europe 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 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);
 - International Criminal Police Organisation – INTERPOL;
 - United Nations Interregional Crime and Justice Research Institute (UNICRI);
 - Office of the United Nations High Commissioner for Human Rights (OHCHR);

² On the basis of the elements presented, notably, in the following documents: Proposals of the PC-OC concerning normative and practical measures to improve the operation of relevant conventions (PC-OC (2008) 05 and 06), approved by the CDPC at its 56th plenary session (CDPC (2007) 23).

- International Criminal Court (ICC);
- International Criminal Tribunal for the 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, within its available budgetary resources, 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 one year. The terms of the Chair and of the Vice-Chair are renewable once.

In order to expedite the progress of its work, the Committee may entrust a limited number of Committee members (maximum nine) with a specific task.³

7. Duration:

These terms of reference will begin on 1 January 2011 and will expire on 31 December 2013.

³ Article 14b of the Resolution Res(2005)47.

ADDENDUM IV



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 10 June 2010
cdpc/docs 2010/cdpc (2010) 05 - e

CDPC (2010) 05

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

OPINION OF THE EUROPEAN COMMITTEE
ON CRIME PROBLEMS (CDPC)

on

the recommendations made in “the Council of Europe – united nations study on trafficking in organs, tissues and cells (otc) and trafficking in human beings for the purpose of removal of organs”, in particular to elaborate an international legal instrument setting out a definition of trafficking in organs, tissues and cells and the measures to prevent such trafficking and protect the victims, as well as the criminal-law measures to punish the crime

CDPC website: www.coe.int/cdpc
CDPC e-mail: dgi.cdpc@coe.int

At its meeting of 14 January 2010, the Deputy Secretary General, Mrs Maud de Boer Buquicchio informed the Rapporteur Group on Legal Co-operation (GR-J) of the Ministers' Deputies of the Council of Europe about the Council of Europe – United Nations study on trafficking in organs, tissues and cells (OTC) and trafficking in human beings for the purpose of the removal of organs.

The Deputy Secretary General proposed that the GR-J recommend to the Deputies to invite the relevant steering and expert committees to give an opinion on the recommendations made in the aforesaid study.

The Deputies at their 1075th meeting (20 February 2010), agreed on the following decision:

“The Deputies

1. welcomed the Council of Europe – United Nations study on trafficking in organs, tissues and cells (OTC) and trafficking in human beings for the purpose of the removal of organs;
2. invited the Steering Committee on Bioethics (CDBI), the European Committee on Crime Problems (CDPC), the European Committee (partial agreement) on Transplantation of Organs (CD-P-TO) and the Group of Experts on Action against Trafficking in Human Beings (GRETA) to give an opinion, by 30 June 2010, on the recommendations made in the study, in particular to elaborate an "international legal instrument setting out a definition of trafficking in organs, tissues and cells and the measures to prevent such trafficking and protect the victims, as well as the criminal-law measures to punish the crime;
3. in doing so, invited these bodies to take into consideration the work carried out in this field by other international or regional organisations;
4. agreed to transmit the above-mentioned study to the Steering Committee for Human Rights (CDDH) and the Steering Committee on Equality between Women and Men (CDEG), for information and possible comments.”

At its meeting in February 2010, the Bureau of the European Committee on Crime Problems (CDPC) instructed the Secretariat to send out a questionnaire to all CDPC delegations on the question of trafficking in organs, tissues and cells. The questionnaire focused on the criminalisation of trafficking in organs, tissues and cells at national level, possible gaps in current applicable international law on the subject, and whether there would be a need for an international criminal law instrument, and if so, which should be the main focus of such an instrument.

Twenty-eight CDPC delegations replied to the questionnaire. On the basis of these replies and further discussions in the Plenary meeting of the CDPC on 7 – 10 June 2010, the CDPC has adopted the following opinion:

“The CDPC welcomes the study which draws attention to an important problem of organised crime.

The CDPC is of the opinion that the elaboration of a binding international legal instrument on this subject in the framework of the Council of Europe on the basis of available reliable data and in close co-operation with experts in this field could present an added value.

However, the Committee notes that two international legal instruments already exist which deal with trafficking in human beings, including for the purpose of removal of organs, namely the Council of Europe Convention on Action Against Trafficking in Human Beings (CETS No. 197), and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime (“Palermo Convention”).

Hence, the CDPC strongly underlines the need to avoid overlapping with, or duplication of, other existing international criminal law instruments and consequently recommends that a new binding legal instrument makes reference to existing international law on trafficking in human beings for the purpose of the removal of organs, but does not contain additional criminalisation thereof.

Whereas in some cases the criminalisation of trafficking in organs, tissues and cells and related conducts may be appropriate, the CDPC recognizes that other, non-criminal, measures could be equally or even more efficient in dealing with this complex problem. The CDPC recommends that an ad hoc multi-disciplinary expert group, composed of experts on bioethics, on transplantation of organs and on criminal law, be set up under the aegis of the CDPC with a view to examining the feasibility of drawing up a binding legal instrument and proposing the possible scope thereof.

ADDENDUM V



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 15 June 2010
cdpc/docs 2010/cdpc (2010) 03rev - e

CDPC (2010) 03rev

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

**OPINION OF THE EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)
ON PARLIAMENTARY ASSEMBLY RECOMMENDATION 1905 (2010) ON
“CHILDREN WHO WITNESS DOMESTIC VIOLENCE”**

CDPC website: www.coe.int/cdpc
CDPC e-mail: dgi.cdpc@coe.int

1. Following the adoption by the Parliamentary Assembly of Recommendation 1905 (2010) on children who witness domestic violence, the Committee of Ministers decided to communicate it to the European Committee on Crime Problems (CDPC), for information and possible comments. The CDPC examined the above Recommendation and decided to contribute to the response of the Committee of Ministers by providing the following comments concerning matters within its fields of competence.
2. The CDPC welcomed the initiative of the Parliamentary Assembly to reinforce multi-disciplinary actions to recognise and address appropriately the situation of children witnessing domestic violence which has potentially severe consequences on the child who is still too often neglected in such cases where adults are at the forefront.
3. The CDPC fully supported the Assembly's invitation to the Committee of Ministers to call on the Ad Hoc Committee on Preventing and Combating Violence against Women and Domestic Violence (CAHVIO) to include in its future Council of Europe convention provisions:
 - 3.1. addressing the consequences at all levels on children who witness domestic violence, in particular, the recognition of their specific needs and interests throughout criminal proceedings in accordance with the best interests of the child.
 - 3.2. on the importance of making available to children who witness domestic violence comprehensive social services to ensure, notably, that authorities assess the detrimental effects of domestic violence on the child while recognising and protecting fully his or her interests and needs.
 - 3.3. insisting on the need to develop educational strategies and specific measures to prevent the intergenerational transfer of domestic violence.
4. The CDPC also confirmed the importance of protecting children having witnessed domestic violence from any additional burden of criminal proceedings by including adequate measures in respect of the taking of evidence during criminal proceedings in the Council of Europe guidelines on child-friendly justice which already addresses interviewing mechanisms for children which should be used and considered valid whenever possible.
5. The CDPC stressed the utmost importance of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS. 201, opened for signature in November 2007 and so far ratified by five Council of Europe member States) which contains important and relevant measures, including preventive measures, which could serve as a strong basis when developing strategies to protect children effectively from domestic violence.
6. Moreover, as a follow-up to Resolution No. 1 adopted at the 29th Council of Europe Conference of Ministers of Justice (18-19 June 2009, Tromso, Norway), the CDPC wished to inform the Assembly that it is currently examining possible Council of Europe actions regarding the status and rights of victims in criminal proceedings.

7. Finally, the CDPC recalled that children's rights is a priority topic of the Council of Europe and it further agrees that Council of Europe activities in this area should be better coordinated and promoted to assist in an appropriate manner member States to implement European standards to improve all children's lives.