

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

Council for Penological Co-operation
(PC-CP)

66th meeting

Strasbourg, 8-10 December 2010

SUMMARY MEETING REPORT

prepared by the Directorate General of Human Rights and Legal Affairs

BRIEF FOREWORD

The PC-CP:

- Considered the text of a draft recommendation on foreign prisoners as prepared at a working meeting of the scientific experts and the secretariat and made specific proposals in this respect;
- Finalised the draft report of on the sentencing, management and treatment of 'dangerous' offenders in the light of the proposals made by some national delegations and the discussions held;
- Considered the draft terms of reference regarding the work on dangerous offenders and made specific proposals to the CDPC in this regard;
- Postponed the examination of a draft European Code on prison staff ethics for its meeting in March 2011;
- Considered the outcome of the 30th Council of Europe Conference of Ministers of Justice and its own future work ensuing from it;
- Discussed some specific issues related to foreign prisoners, which were presented by two external consultants.

1. The Council for Penological Co-operation (PC-CP) held its 66th meeting in Strasbourg on 8-10 December 2010 with Ms Sonja Snacken in the Chair. The list of participants is appended to this report (Appendix II).

I. Opening of the meeting and adoption of the agenda

2. The agenda was adopted (see Appendix I).

II. Summary report of the 65th meeting [Doc. PC-CP (2010) 19]

3. The PC-CP considered the summary meeting report of its 65th meeting and had no comments to make.

III. Items for information

4. Mr Jan Kleijssen, Director of Standard-Setting, informed of the recent staff changes and confirmed that following the new budgetary decisions taken by the Committee of Ministers the terms of reference of all standard-setting bodies have been voted until the end of 2011 after which the budget will be adopted on a biennial basis.
5. He also informed of the outcome of the 30th Council of Europe Conference of Ministers of justice (24-26 November 2010, Istanbul) and more specifically of Resolution n° 2 on prison policy in today's Europe. He then informed of the issues related to the PC-CP work, which had been recently discussed at the CATS meeting in Brussels. It has been reiterated at that meeting that any activity carried out by the European Union and the Council of Europe in the prison field will be coordinated in order to ensure coherence and to build on the extensive Council of Europe experience in this area.
6. Mr Chiaromonte informed of the last CDPC Bureau meeting and of the decision to bring back to the attention of the PC-CP the question of the follow-up to be given to the report on dangerous offenders.
7. The secretariat informed of the state of preparation of a seminar "Improving Detention Conditions through Effective Monitoring and Standard-Setting" (17-18 March 2011, Antalya), organised in the framework of the Turkish Chairmanship of the Committee of Ministers. It was decided who would represent the PC-CP at this meeting and under which topics will be delivered the presentations.

IV. Foreign prisoners [Docs. PC-CP (2010) 14 rev 2 and PC-CP (2010) 21]

8. The PC-CP examined the draft recommendation on foreign prisoners as revised by the scientific experts and made specific drafting proposals. It was decided that definitions of "judicial authority", "offender" and "prison" would be needed and that the scope and definitions should be put at the very beginning of the text. Amendments were introduced to the remainder of the text, including the basic principles but there had not been sufficient time left to add in new rules and develop the parts which still needed drafting. It was therefore agreed that the scientific experts would meet again in March and would continue to draft the text and also elements of the explanatory memorandum in order to have a complete draft for discussion at the PC-CP meeting in May.
9. The PC-CP had also the opportunity to listen to two presentations made by external consultants, namely latest statistical data on foreign prisoners in the EU and trends and conclusions and recommendations made in this respect, as well as a presentation on prisoner's consent for international transfer and possible risks and safeguards in this respect. It was decided to come back to these presentations when discussing the draft recommendation at the meeting in May in order to consider whether some recommendations may be included in the draft text.

V. Dangerous offenders [Doc. PC-CP (2010) 10 rev 2] and draft terms of reference of PC-R-DO [CDPC-BU (2010) 30]

10. The PC-CP examined the revised draft report on dangerous offenders and took note of the fact that very few countries replied to the request made by the Secretariat to send their possible comments on the text. The few that had done so had either confirmed that the information contained reflected correctly the situation in their country or had made minor editing suggestions. The participants thanked Ms Padfield for

the extremely valuable and substantive work done by her in the course of the last few months. It was agreed that Ms Padfield will send the final version of the report by the end of 2010.

11. The PC-CP then considered the follow-up to be given to this report, namely to review Recommendation n°R(82)17 on the custody and treatment of dangerous offenders. In relation to that the PC-CP expressed dissatisfaction with the proposal to set up a separate intergovernmental committee of a restricted composition to draft a recommendation on dangerous offenders. It underlined that this task would fall under the PC-CP mandate which would see to not departing from the standards set by the European Prison Rules, which are covering all types of prisoners, or from the Council of Europe Probation Rules.
12. The participants examined once again the text of the draft terms of reference to set up a new expert committee to work on dangerous offenders ([Doc. CDPC-BU (2010) 30, which was sent back to them by the CDPC Bureau for further consideration). The PC-CP was of the opinion that a lot of the preparatory work to examine the situation in Europe with the treatment of dangerous offenders has already been done by the PC-CP itself which has dedicated its last four meetings to this issue and has gained sufficient comparative view of the situation. The discussions showed that there is an evident need to replace Recommendation n°R (82)17 by a new text in line with the latest Council of Europe standards regarding the treatment of offenders in custody and in the community and in the first place the European Prison Rules. Therefore and in view of the budgetary constraints this work should not be delegated to a new committee but should be continued by the PC-CP itself, the final draft of a new recommendation to be adopted at an enlarged meeting attended by the national experts of all member States.
13. It was underlined in this respect that the text of the new recommendation should build upon and further broaden the scope of Recommendation n°R (82)17 and should aim at giving practical advice and policy guidance to the national authorities on the main rules to follow in dealing with dangerous offenders in order to ensure as much as possible the right balance between the protection of the public and of the rights of specific offenders. Ms Padfield's report should accompany the future recommendation because it depicts in a very precise manner the current situation in Europe and helps understand possible risks and dangers in case of misbalance between the public interest and ensuring safeguards against abuse of individual rights.
14. It was also considered necessary to suggest to the CDPC to keep Ms Padfield as scientific expert for the work on a draft recommendation and to propose two more scientific experts possibly with other backgrounds than law and with substantive practical knowledge in the field who represent other European systems in order to be able to draft a text which could be usefully implemented by all Council of Europe member States. Ms Padfield suggested that meanwhile until a decision is taken regarding the follow-up to the report and its time schedule, she could have a first draft of principles to be included in a future recommendation ready for discussion at the next PC-CP meeting.

VI. Follow-up to be given to the 30th Council of Europe Conference of Ministers of Justice

15. The PC-CP examined resolution n° 2 adopted by the Ministers of Justice in Istanbul and more particularly para. 17 thereof. The three step approach, namely evaluating the measures taken by the CoE member States to follow the relevant Committee of Ministers recommendations in the prison field; taking stocks of the major problems faced by the national prison administrations; and considering in the light of the first two steps whether it is necessary to draft a legally binding instrument or to take other measures, require all the attention and time of the CDPC and the PC-CP, as well as the CDDH and the CPT in the next years. Therefore it would be important to set a time-schedule as soon as possible and to decide how to best implement Resolution n°2.

VII. Draft European Code of Prison Staff Ethics

16. Mr Andrew Coyle could not attend the present meeting due to other commitments and therefore the PC-CP took note of his proposal to come to the PC-CP meeting in March with a developed draft text for consideration.

VII. Dates of the next meetings

17. The next meetings were scheduled as follows: 21-23 March and 16-18 May 2011. The scientific experts working on foreign offenders will meet at the end of March 2011.

APPENDIX I

AGENDA / ORDRE DU JOUR

- 1) **Adoption of the agenda / Adoption de l'ordre du jour**

PC-CP (2010) OJ 4
Bilingue
- 2) **Summary report of the last meeting / Rapport sommaire de la dernière réunion**

PC-CP (2010) 19
English / Français
- 3) **Information / Informations**
- 4) **Follow-up to be given to the 30th Council of Europe Conference of Ministers of Justice / Suites à donner à la 30^e Conférence du Conseil de l'Europe des Ministres de la Justice**

Resolution n°2
English / Français
- 5) **Dangerous offenders / Délinquants dangereux**

PC-CP (2010) 10 rev 4
English / Français
CDPC-BU (2010) 30
English / Français
- 6) **Foreign prisoners / Détenus étrangers**

PC-CP (2010) 14 rev 2
English only
PC-CP (2010) 21
English only
- 7) **Draft European Code of Prison Staff Ethics / Projet de Code d'éthique européen à l'usage du personnel pénitentiaire**

PC-CP (2010) 20
English only
- 8) **Seminar on “Improving Detention Conditions through Effective Monitoring and Standard-Setting” (17-18 March 2011 / Antalya, Turkey) / Séminaire « Améliorer les conditions de détention par un monitoring et un travail normatif efficaces » (17-18 mars 2011 / Antalya, Turquie)**
- 9) **Any other business / Questions diverses**
- 10) **Dates of the next meetings / Dates des prochaines réunions**

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APPENDIX II

MEMBERS / MEMBRES

Ms Marta FERRER PUIG

(Apologised/Excusée)

Head of the Department of Social and Criminological Research and Training, Centre for Legal Studies and Specialized Training (CEJFE), BARCELONA
(Spanish / Espagnol)

Mr Antanas JATKEVICIUS

Head of Penal and Administrative Law Unit, Legal Department, Office of the Parliament, VILNIUS (Lithuanian / Lituaniën)

Ms Natalya KHUTORSKAYA

Researcher at the Laboratory, Research Institute, Federal Service of the Execution of Sentences, MOSCOW
(Russian / Russe)

Ms Irene KOECK

Director in the Austrian Prison Administration, Federal Ministry of Justice, VIENNA (Austrian / Autrichienne)

Mr Roger McGARVA

Former Head of Regions and Performance, National Probation Directorate, Honorary Senior Research Fellow at the University of De Montfort, Leicester, NOTTINGHAM (British / Britannique)

Ms Sonja SNACKEN Chair of the PC-CP / Présidente du PC-CP

Research fellow, Straus Institute for the Advanced Study of Law & Justice, NYU Institutes on the Park, NYU School of Law, NEW YORK, United States of America (Belgian / Belge)

Mr Pavel STERN

Director of the Czech Probation and Mediation Service, Ministry of Justice, Headquarters of Probation and Mediation Service (Probacni a mediacni sluzba), PRAGUE (Czech / tchèque)

Mr Peter LINDSTRÖM

Associate Professor in Criminology
Polismyndigheten i Stockholms län, STOCKHOLM (Swede / Suédois)

Mr André VALLOTTON

Ancien Délégué du Conseil d'Etat aux Affaires pénitentiaires, Département de la Sécurité et de l'Environnement du canton de Vaud, LAUSANNE (Swiss / Suisse)

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SCIENTIFIC EXPERTS / EXPERTS SCIENTIFIQUES

Ms Nicky PADFIELD

Senior Lecturer, Law Faculty, University of Cambridge, United Kingdom

Mr Dirk van Zyl SMIT

Professor of Comparative and International Penal Law, School of Law, University of Nottingham, United Kingdom

Ms Martine HERZOG-EVANS

PhD, Law faculty, Reims, France

CONSULTANTS

Ms Femke HOFSTEE VAN DER MEULEN

Inspectie voor Sanctietoepassingen, Ministry of Justice, The Netherlands

Ms Róisín Mary MULGREW

School of Law, University of Nottingham, United Kingdom

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PARLIAMENTARY ASSEMBLY

Mr Roland KLAGES

Committee on Legal Affairs & Human Rights/Commission des questions juridiques & des droits de l'homme (AS/Jur), Parliamentary Assembly/Assemblée parlementaire, Council of Europe/Conseil de l'Europe

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EUROPEAN COMMUNITY / COMMUNAUTÉ EUROPÉENNE

COMMISSION

(Apologised/Excusé)

Mr Thomas LJUNGQUIST

Administrator, Justice and Home Affairs, External Relations OSCE and the Council of Europe

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**INTERNATIONAL NON-GOVERNMENTAL ORGANISATIONS /
ORGANISATIONS INTERNATIONALES NON-GOUVERNEMENTALES**

**EUROPEAN ORGANISATION FOR PROBATION / ORGANISATION EUROPÉENNE DE LA PROBATION
(CEP)**

Mr Daniel BIANCALANA

Service Central d'Assistance Sociale (SCAS)/ Parquet Général – Service de Probation, LUXEMBOURG

UNITED NATIONS CHILDREN'S FUND (UNICEF)

(Apologised/Excusé)

INTERNATIONAL CENTRE FOR PRISON STUDIES

(Apologised/Excusé)

PENAL REFORM INTERNATIONAL (PRI)

(Apologised/Excusé)

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SECRETARIAT/SECRETARIAT

Directorate General of Human Rights and Legal Affairs / Direction Générale des droits de l'Homme et des affaires juridiques (DG-HL)

Mr Jan KLEIJSEN

Director of Standard-Setting / Directeur des Activités Normatives

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Mr Carlo CHIAROMONTE

Head of the Criminal Law Division / Chef de la Division du droit pénal
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