

Strasbourg, 31 July 2006

CDPC-BU (2006) 16

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

**Enlarged Bureau
(CDPC-BU)**

Strasbourg, 29 - 30 June 2006

Summary report

BRIEF FOREWORD

1. The enlarged Bureau of the CDPC approved a draft recommendation on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse. It reviewed the explanatory memorandum which it agreed would be finalised by the Secretariat, once any further comments from CDPC delegations had been received.
2. The enlarged Bureau also approved an amendment to the terms of reference of the Committee of experts on the protection of children against sexual exploitation and abuse (PC-ES), which it submitted to the Committee of Ministers for adoption. It agreed that the PC-ES should prepare one or more instruments, including a binding instrument and it established guidelines for the work of the PC-ES. In this regard, guidelines will be submitted to CDPC delegations for approval and then to the Committee of Ministers for information. It also gave its agreement, in anticipation, to a possible extension of the terms of reference of the PC-ES to the end of 2007
3. The enlarged Bureau approved the terms of reference of the CDPC, to be forwarded to the Committee of Ministers for adoption.
4. It took note of the report, prepared under the authority of the Bureau and presented to the Committee of Ministers and to CODEXTER, on the actions taken or envisaged to implement the priorities identified by the CODEXTER progress report.
5. The enlarged Bureau also took note of the preliminary report on the feasibility of a convention on counterfeiting of medicines and indicated a number of questions which should be addressed in the final report.
6. The enlarged Bureau was informed about the 4th consultation on the implications of the ratification of the Rome Statute on the International Criminal Court to take place in Athens and on the 27th Conference of Ministers of Justice, Armenia, October 2006, which will be focused on victims, particularly vulnerable 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

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1. **Opening of the meeting**

1. The meeting was opened by Mr Claude DEBRULLE (Belgium), Chair.
2. The list of participants is set out in Appendix I.

2. **Adoption of the draft agenda**

3. The CDPC enlarged Bureau adopted the agenda as set out in Appendix II. The final list of working documents of the meeting appears in Appendix III.

3. **Approval of the draft recommendation on remand in custody the conditions in which it takes place and the provision of safeguards against abuse and its explanatory memorandum**

4. The enlarged Bureau discussed the draft recommendation as had been revised by the PC-CP at its 52nd meeting (19 – 21 June) in light of comments received from CDPC delegations under a written procedure.' comments. It agreed on a number of amendments, further to which it adopted the draft as set out in Appendix IV and instructed the Secretariat to forward it to the Committee of Ministers for adoption. It agreed that the Secretariat would finalise the explanatory memorandum, subject to any comments received from delegations and forwarded to the Committee of Ministers at the same time as the draft recommendation.
5. The Chair informed the meeting of the discussions held by the Bureau regarding interventions at the level of the Committee of Ministers pertaining to decisions approved by the CDPC. It had noted that, where a delegation has clearly indicated at a plenary or enlarged Bureau meeting that it has difficulties or reservations on particular point in a legal instrument, then should the delegation's point not be taken into account, the question might be raised again when the text is put before the Committee of Ministers. However, the Bureau considered that no new points should be raised at the level of the Committee of Ministers unless the CDPC delegation concerned has informed the other members of the CDPC, preferably with an explanatory note as to the reasons for raising such a new point. The Bureau has requested the Secretariat to prepare a paper on this question, to be approved by the Bureau and then submitted to the plenary for its agreement to abide by such a procedure.

4. **Proposal by the Committee of experts on the protection of children against sexual exploitation and abuse (PC-ES) to prepare a new international legal instrument on the sexual exploitation of children /proposal to modify the terms of reference of the PC-ES**

6. The enlarged Bureau approved the proposal that the PC-ES draft one or more new instrument(s) on the protection of children against sexual exploitation and abuse, including a binding instrument, taking into account the limits of the existing international instruments due to their non-binding nature. It also agreed on guidelines for this exercise, as set out in Appendix V. These guidelines, submitted to all CDPC delegations for approval through the written consultation procedure will then be submitted, duly modified to take into account comments of the delegations, to the Committee of Ministers for information. The enlarged Bureau, in the decision adopting these guidelines, also gave an anticipated agreement, in principle, to any proposal by the PC-ES to extend its terms of reference to the end of 2007.
7. The Netherlands' delegation expressed a reserve as to the first bullet point under "elements to be examined on a priority basis". They would like to see what is envisaged by the expert group by aspects of criminal procedure, in particular "investigation and enquiry methods", before giving consent to include such issues in a legally binding instrument.

8. The enlarged Bureau also approved the amendment to the terms of reference of the PC-ES as it appears in the document PC-ES (2006) 1E rev (point 5.A), in order to add the Chair of the Committee as a person whose travel and subsistence expenses are covered by the Council of Europe, and asked the Secretariat to submit this proposal to the Committee of Ministers for adoption.

5. Criminological expertise for the CDPC (PC-CSC)

9. A number of delegations regretted that the meetings of the PC-CSC had been cancelled without consulting the CDPC and that it was not possible to find the necessary financing for this committee, particularly in light of other committees which had been created.
10. Others, however, recognised that there were difficult budgetary decisions and choices to be made. All the delegations which took the floor agreed that the CDPC needs criminological expertise in order to carry out its work effectively and they would like to know if any possible alternatives were available for ensuring such expertise for the CDPC and its sub committees.
11. The enlarged Bureau therefore unanimously regretted the situation and asked the Bureau to prepare a document which would both sum up the indications of delegations as to what is represented by the loss of the PC-CSC and as to what could possibly be re-introduced, perhaps in another way, to ensure the necessary scientific expertise for the future. The Bureau was asked to present this paper to the plenary in June 2007.
12. Furthermore the enlarged Bureau agreed that the Bureau should indicate to the Committee of Ministers that, while aware that there is a budgetary problem with regard to the PC-CSC, the CDPC intends to address this question in depth in 2007 to try to find a solution to ensure criminological scientific expertise essential to the important work of the CDPC. In order to do so the enlarged Bureau would hope that sufficient funds could be found to allow for the members of the PC-CSC to attend the 2007 plenary meeting of the CDPC, as is provided for in the draft terms of reference of the CDPC (see paragraph 18 below).

Approval of terms of reference of the CDPC

13. The enlarged Bureau recalled the need, resulting from the Committee of Ministers' Resolution (2005) 47 on Committees and subordinate bodies, their terms of reference and working methods, to revise the terms of reference of all committees in line with the provisions of the Resolution. To this end, the CDPC had already adopted revised terms of reference for the PC-CP, PC-PM and PC-OC, (which were approved by the Committee of Ministers at their 967th meeting on 14 June).
14. In part due to lack of time, the plenary meeting had decided to postpone consideration of the CDPC's own terms of reference until this meeting of the enlarged Bureau.
15. The enlarged Bureau recalled that the Resolution specifies that terms of reference of Steering Committees must be limited in time, but it does not specify a time limit. It therefore proposed that the CDPC mandate be extended to 31 December 2010 (five year mandate) so as to allow for the steering committee to deal with any questions arising from the work of the subordinated committees (whose mandates all expire on 31 December 2008).
16. The enlarged Bureau approved the terms of reference of the CDPC as are set out in Appendix VI and requested the Secretariat to forward them to the Committee of Ministers for adoption. The issue regarding the participation of the PC-CSC is discussed under Item 5 above. Thus the enlarged Bureau agreed that their continuing participation should be proposed to the Committee of Ministers.

7. Request of the Turkish delegation on the interpretation of Article 1 paragraph (e) of the 1977 European Convention on the Suppression of Terrorism

17. As requested by the plenary meeting in April, the enlarged Bureau was called upon to resume the discussions on this question on the basis of:
 - information provided by the delegations;
 - information on the “travaux préparatoires” provided by the Secretariat.
18. The enlarged Bureau took note of the research on the “travaux préparatoires” and the documents (CDPC-BU (2006) 11) which had been made available to it.
19. The enlarged Bureau noted that only a limited number of delegations had responded to the invitation to provide comments. It decided that all delegations should be asked to reply to two questions:
 - a. what (if they have not already responded) is their country’s interpretation of the meaning of Article 1 para. e of the Convention?
 - b. whether their country intends to sign/ratify the Protocol to the Convention. If there is no such intention, they will be asked to indicate their reasons.
20. The Secretariat was instructed to send these questions to all delegations who will have until the end of September to reply to the Secretariat. On the basis of these replies the Bureau, meeting in January 2007, is mandated to adopt a reply to the Turkish delegation on behalf of the CDPC

8. Report to Committee of Ministers on CODEXTER progress report

21. At the plenary meeting, in part due to a very heavy agenda, the CDPC did not have time to discuss its response to a progress report, presented by CODEXTER to the Committee of Ministers at the beginning of this year, further to which the Committee of Ministers asked the CDPC (and other steering committees) to report back to them on the actions taken or envisaged to implement the priorities identified by the CODEXTER report.
22. In consultation with the Chair of the CDPC, the Secretariat had prepared a draft reply, consisting of a summary of the actions decided on by the plenary meeting. The Chair and the members of the Bureau approved the content of this note, so that it could be presented in good time to the Committee of Ministers and the CODEXTER (at their 10th meeting, 19-21 June 2006).
23. The Bureau, in its enlarged form, took note of this reply.

9. Interim Report on Counterfeit Medicines and Pharmaceutical Crimes

24. The enlarged Bureau took note of the interim report of the feasibility study as well as of the oral presentation made by the expert, Mr. Hugo Bonar, Enforcement Officer in the Irish Medicines Board. It held an exchange of views on the report and its findings. The enlarged Bureau indicated the following issues which should be dealt with in the final report of the feasibility study:
 - it would be useful to have an indication of the proposed content of a possible legal instrument in the field;
 - it would be necessary to indicate the reasons why it is necessary or desirable to start such work on a regional rather than global level – including an illustration of why and how the needs of regions of the world differ;

- the final report should indicate the reasons why the WHO has not succeeded in achieving a global convention on this issue;
- the question of generic medicines should be dealt with;
- an inventory should be included on existing legislation and practice in the field – this would help to define a road map for the future work;
- this inventory should also indicate where there are gaps in the law which need to be filled and thus lead to a clearer idea of the overall problem;
- the report should clearly indicate the qualitative and quantitative dangers which are represented by counterfeit medicines and medical products;
- it should also indicate the expertise which would be necessary in any committee drawing up such an instrument – particularly in view of the necessarily multidisciplinary nature of the work.

25. The Russian delegation reminded the meeting of the Conference on this issue to be held in Moscow on 23 and 24 October to which CDPC delegations had been invited.

26. It was agreed that this report should be completed in time for the Bureau meeting in January 2007.

10. Conventions ETS 90, 190, CETS 196, 197, 198 – update on the state of signatures and ratifications

27. To date, the European Convention on the Suppression of Terrorism (ETS No. 090) has been ratified by 44 States and signed by 1 and its Amending Protocol (ETS 190) has been ratified by 21 and signed by 23.

28. The Amending Protocol will enter into force once all the Parties to the European Convention have become Parties to the Protocol.

29. The enlarged Bureau took note of this information.

11. Information

The enlarged Bureau also took note of the following information:

a. Committee of Ministers

30. At their 967th meeting, the Ministers' Deputies:

- adopted Recommendation Rec(2006)08 of the Committee of Ministers to member states on assistance to crime victims, as proposed by the CDPC, with some minor modifications and took note of the Explanatory Memorandum to the recommendation.
- adopted the terms of reference of the PC-CP as proposed by the CDPC, i.e. including the increase of the membership from 7 to 9;
- adopted the terms of reference of the PC-PM as proposed by the CDPC, i.e. including the possibility for some members to be re-elected
- adopted the terms of reference of the Committee of experts on the operation of European conventions in the legal field (PC-OC), as proposed by the CDPC
- welcomed the reply, prepared by the CDPC in accordance with the message from the Committee of Ministers (CM(2005)145 rev) to all committees involved in intergovernmental co-operation, concerning the CDPC's contribution to the implementation of the Action Plan of the Third Summit of the Heads of State and Government of the Council of Europe (Warsaw, 16-17 May 2005) and, in particular, its future priorities, as it appeared in Appendix VI to the plenary report.

b. Preparation of the 27th Conference of Ministers of Justice – Armenia, October 2006

31. The Armenian Minister of Justice is preparing a report on the themes of the conference: vulnerable victims, young people who are both victim and offender at the same time, compensation for victims and restorative justice; national delegations are also invited to address personal contributions (for example giving information as to their own country's experience and practice in the field. Any such contribution received by the Secretariat by the beginning of September can be translated by the Council's service.
32. The Chair, in his capacity as Belgian delegate, indicated that Belgium would be making a proposal for a resolution concerning victims of domestic violence, in particular, violence against a domestic partner, and had also prepared a reflection paper on transitional justice in post conflict societies. These texts were made available to the enlarged Bureau.

c. 4th Multilateral Consultation on the implications of the ratification of the Rome Statute of the ICC in the co-operation agreements between the Court and the member States of the Council of Europe

33. CDPC delegations have received the convocation letter for this meeting, which will be held in Athens on 14 and 15 September (just after the 32nd CAHDI meeting). The draft programme can be found in document CDPC-BU (2006)12 and it was noted that the Bureau's proposals for the topics of bilateral agreements on witnesses and on the execution of the Court's decisions and the application of the principle of complementarity had been welcomed.

APPENDIX I

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS (*)

MEMBER STATES / ETATS MEMBRES

ALBANIA / ALBANIE

ANDORRA / ANDORRE

ARMENIA / ARMÉNIE

AUSTRIA / AUTRICHE

- * Mr Roland MIKLAU, Director General, Criminal Law, Ministry of Justice,

AZERBAIJAN / AZERBAÏDJAN

BELGIUM / BELGIQUE

- * M. Claude DEBRULLE, Directeur Général, Direction Générale de la Législation, des Libertés, et Droits fondamentaux, Ministère de la Justice,

Madame Claire HUBERTS, Service des Principes de droit pénal et de la procédure pénale, Service public fédéral Justice,

Madame Stéphanie BOSLY, Service de Coordination en Droit européen et international, Service public fédéral Justice,

BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE

BULGARIA / BULGARIE

* States are listed in alphabetical order by their English names. The names of participants are also in alphabetical order, the names of the Heads of Delegation being preceded by an asterisk.
Les Etats sont mentionnés par ordre alphabétique anglais. Les noms des participants sont également indiqués par ordre alphabétique, les noms des Chefs de délégation étant précédés d'un astérisque.

CROATIA / CROATIE

CYPRUS / CHYPRE

CZECH REPUBLIC / RÉPUBLIQUE TCHÈQUE

Mr Miroslav KUBICEK, Legal Officer, Ministry of Justice, International Treaties and Mutual Legal Assistance Unit, International Department,

DENMARK / DANEMARK

- * Mr Jesper HJORTENBERG, Deputy Director of Public Prosecution, Office of the Director of Public Prosecution,
- Ms Annette ESDORF, Deputy Director-General, Ministry of Justice, Department of Prisons and Probation,

ESTONIA / ESTONIE

FINLAND / FINLANDE

Apologised / Excusé

FRANCE

*M. Eric RUELLE, Magistrat, Chargé de Mission pour les Négociations Pénales, Ministère de la Justice, Direction des Affaires Criminelles et des Grâces,

GEORGIA / GÉORGIE

GERMANY / ALLEMAGNE

- * Mr Richard BLATH, Ministerialrat, Bundesministerium der Justiz,
- * Dr. Hans-Holger HERRNFELD, Regierungsdirektor, Head of International Criminal Law and European and Multilateral Criminal Law Cooperation Division, Bundesministerium der Justiz,

GREECE / GRÈCE

Apologised / Excusé

HUNGARY / HONGRIE

ICELAND / ISLANDE

IRELAND / IRLANDE

- * Ms Valerie FALLON, Principal Officer, International Policy Division, Department of Justice, Equality & Law Reform,

ITALY / ITALIE

LATVIA / LETTONIE

LIECHTENSTEIN

LITHUANIA / LITUANIE

LUXEMBOURG

- * M. Jean-Pierre KLOPP, Procureur Général d'Etat,

MALTA / MALTE

MOLDOVA

MONACO

Mlle Antonella SAMPO, Administrateur à la Direction des Services Judiciaires,

NETHERLANDS / PAYS-BAS

- * Ms Marjorie BONN, Senior Legal Adviser, Legislation Department, Ministry of Justice,

NORWAY / NORVÈGE

- * Mr Kristian JARLAND, Higher Executive Officer, Ministry of Justice, Legal Department

POLAND / POLOGNE

PORTUGAL

Ms Luisa MAIA GONCALVES, Head of Department, Bureau of International Relations
Ministry of Justice,

ROMANIA / ROUMANIE

RUSSIAN FEDERATION / FÉDÉRATION DE RUSSIE

Ms Irina SILKINA, Third Secretary, Department for new challenges and threats, Ministry of Foreign Affairs,

Mr Oleg FILIMONOV, Deputy Head, Ministry of Justice,

SAN MARINO / SAINT-MARIN

SERBIA / SERBIE

SLOVAKIA / SLOVAQUIE

- * Mr Branislav BOHÁČIK, Director, Division for Judicial Co-operation in Criminal Matters, Ministry of Justice,

SLOVENIA / SLOVÉNIÉ

- * Ms Andreja LANG, Head of the Department for Criminal Legislation, Directorate for the Preparation of Legislation, Ministry of Justice,
Apologised / Excusé

SPAIN / ESPAGNE

SWEDEN / SUÈDE

Mrs Eva Melander TELL, Legal Adviser, Division for Prosecution Issues, Ministry of Justice,

Ms Gunilla BERGEREN, Desk Officer, Division for Crime Policy, Ministry of Justice,

Mr Mattias Wahlstedt, Deputy Director, Division for Procedural Law and Court Issues, Ministry of Justice,

SWITZERLAND / SUISSE

Apologised / Excusé

“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA” /

Dr Nikola MATOVSKI, Professeur, Faculté de Droit de l'Université « S-ts CYRILLE ET METHODE »

TURKEY / TURQUIE

Mme KALAY Jale, Magistrat, Direction Générale du Droit International et des Relations Extérieures du Ministère de la Justice,

Mr ORAL Togan, Premier Secrétaire à la Représentation Permanente de Turquie auprès du Conseil de l'Europe,

UKRAINE

UNITED KINGDOM / ROYAUME-UNI

- * Mr Richard BRADLEY, Head of SC3 (Judicial Co-operation),

Ms Linda WARD, Member of the International Policy Team, Judicial Co-operation Unit,

Mr Matthew PYNE, Member of the International Policy Team, Judicial Co-operation Unit,

* * * * *

CDPC BUREAU / BUREAU DU CDPC
(CDPC-BU)

AUSTRIA / AUTRICHE

- * Mr Roland MIKLAU, Director General, Criminal Law, Ministry of Justice,

BELGIUM / BELGIQUE

- * M. Claude DEBRULLE, Directeur Général, Direction Générale de la Législation, des Libertés, et Droits fondamentaux, Ministère de la Justice,

DENMARK / DANEMARK

- * Mr Jesper HJORTENBERG, Deputy Director of Public Prosecution, Office of the Director of Public Prosecution,

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- * M. Eric RUELLE, Magistrat, Chef de Bureau des Négociations Pénales, Ministère de la Justice,

IRELAND / IRLANDE

- * Ms Valerie FALLON, Principal Officer, International Policy Division, Department of Justice, Equality & Law Reform,

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- * Mr Alexander ZMEYEVSKIY, Director, Department on the Issues of New Challenges and Threats, Ministry of Foreign Affairs,
Apologised / Excusé

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- * Mr Richard BRADLEY, Head of the Judicial Co-operation Unit,

* * * * *

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CONSEIL DE COOPERATION PENOLOGIQUE
PC-CP

Mr Xavier RONSIN,

Avocat Général près la Cour d'Appel de Rennes, Ministère de la Justice, Parquet Général de la Cour d'Appel de Rennes,

* * * * *

SCIENTIFIC EXPERTS /
EXPERTS SCIENTIFIQUES

Mr Jeremy MCBRIDE

School of Law, University of Birmingham, Edgbaston,

Mr Hugo BONAR, CO-CHAIR, Enforcement Officer in the Irish Medicines Board

Co-Chair « ad hoc Group on counterfeit medicines » of the Council of Europe, Partial agreement Division in the Social and Public Health field,

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M. Carlo CHIAROMONTE	Administrator / <u>Secretary to the PC-ES</u> Administrateur / <u>Secrétaire du PC-ES</u>
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Mr Thorsten AFFLERBACH Head of the Partial Agreement Division in the Social and Public Health
field / Chef de la Division de l'Accord Partiel dans le domaine social et de
la santé publique

Mme Sabine WALSER Administrative Officer /
Administratrice

INTERPRETERS / INTERPRÈTES

Mme Isabelle MARCHINI

Mr Philippe QUAINÉ

Mr Didier JUNGLING

APPENDIX II

AGENDA

1. Opening of the meeting
2. Adoption of the draft agenda
3. Approval of the draft recommendation on remand in custody and its explanatory memorandum
4. Proposal by the Committee of experts on the protection of children against sexual exploitation and abuse (PC-ES) to prepare a new international legal instrument on the sexual exploitation of children proposal to modify the terms of reference of the PC-ES
5. Criminological expertise for the CDPC (PC-CSC)
6. Approval of terms of reference of the CDPC
7. Request of the Turkish delegation on the interpretation of Article 1 paragraph (e) of the 1977 European Convention on the Suppression of Terrorism
8. Report to Committee of Ministers on CODEXTER progress report
9. Interim Report on Counterfeit Medicines and Pharmaceutical Crimes
10. Conventions ETS 90, 190, CETS 196, 197, 198 – update on the status of signatures and ratifications
11. Information
12. Any other business

APPENDIX III

LIST OF WORKING DOCUMENTS

Agenda item	Document title
	CDPC-BU (enlarged) - List of participants
	Summary report of the Bureau Meeting (30.01 – 01.02.2006)
	Report of the 55th Plenary Meeting of the CDPC (3 – 7 April 2006)
	Memorandum concerning the elections for the CDPC and subordinate committees
2.	Draft agenda (see also item 16 of Plenary Report CDPC (2006) 17)
	Draft annotated agenda
3.	Draft Recommendation on Remand in Custody – as revised by the PC-CP at their 52nd meeting (19-21 June 2006)

	Explanatory Memorandum - as revised by the PC-CP at their 52nd meeting
4.	PC-ES – report of the first meeting (22–24 May 2006) (see also item 7.5 of Plenary Report CDPC (2006) 17)
5.	CRIMINOLOGICAL SCIENTIFIC EXPERTISE (see also item 9.2 of Plenary Report CDPC (2006) 17)
6.	Draft Terms of Reference CDPC (see also item 4 of Plenary Report CDPC (2006) 17)
7.	Comments from National Delegations to the CDPC on the

	Application of Article 1 of the 1977 European Convention on the Suppression of Terrorism (ETS 090)
7.	Comments from the Turkish delegation to the CDPC on the application of Article 1 of the 1977 European Convention on the Suppression of Terrorism (ETS 090)
7.	Research on the preparatory work for the 1977 European Convention on the Suppression of Terrorism, ETS 090 ; Interpretation of Article 1
8.	Report to Committee of Ministers on CODEXTER progress report

8.	Progress report of the CODEXTER on future priority areas for the work of the Council of Europe in the fight against terrorism
9.	Pre-report to the feasibility study on a Council of Europe Legal Instrument (see also item 7.4 of Plenary Report CDPC (2006) 17)
11.	Committee of Ministers - 967th meeting, 14 June 2006 Decisions adopted
11.	Recommendation Rec (2006) 8 of the Committee of Ministers to member states on assistance to crime victims
11.	Parliamentary Assembly - Recommendation 1747 (2006) – European prisons charter
11.	Draft Programm for the Fourth Consultation on the implications for CoE member states of the ratification of the Rome Statute of the International Criminal Court

A P P E N D I X I V

Draft Recommendation on

THE USE OF REMAND IN CUSTODY, THE CONDITIONS IN WHICH IT TAKES PLACE AND THE PROVISION OF SAFEGUARDS AGAINST ABUSE

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

Considering the fundamental importance of the presumption of innocence and the right to the liberty of the person;

Aware of the irreversible damage that remand in custody may cause to persons ultimately found to be innocent or discharged and of the detrimental impact that remand in custody may have on the maintenance of family relationships;

Taking into consideration the financial consequences of remand in custody for the State, the individuals affected and the economy generally;

Noting the considerable number of persons remanded in custody and the problems posed by prison overcrowding;

Having regard to the case law of the European Court of Human Rights, the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the views of United Nations human rights treaty bodies;

Taking into consideration Recommendation Rec(2006) 2 of the Committee of Ministers on the European Prison Rules and Recommendation N° R(99)22 of the Committee of Ministers concerning prison overcrowding and prison population inflation;

Considering the need to ensure that the use of remand in custody is always exceptional and is always justified;

Bearing in mind the human rights and fundamental freedoms of all persons deprived of their liberty and the particular need to ensure that not only are persons remanded in custody able to prepare their defence and to maintain their family relationships but they are also not held in conditions incompatible with their legal status, which is based on the presumption of innocence;

Considering the importance attaching to the development of international norms regarding the circumstances in which the use of remand in custody is justified, the procedures whereby it is imposed or continued and the conditions in which persons remanded in custody are held, as well as of mechanisms for the effective implementation of such norms;

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 Resolution 65(11) on Remand in Custody and Recommendation No. R (80) 11 of the Committee of Ministers to Member States Concerning Custody Pending Trial.

APPENDIX

RULES ON THE USE OF REMAND IN CUSTODY, THE CONDITIONS IN WHICH IT TAKES PLACE AND THE PROVISION OF SAFEGUARDS AGAINST ABUSE

PREAMBLE

The present rules are intended:

- a. to set strict limits on the use of remand in custody;
- b. to encourage the use of alternative measures wherever possible;
- c. to require judicial authority for the imposition and continued use of remand in custody and alternative measures;
- d. to ensure that persons remanded in custody are held in conditions and subject to a regime appropriate to their legal status, which is based on the presumption of innocence;
- e. to require the provision of suitable facilities and appropriate management for the holding of persons remanded in custody;
- f. to ensure the establishment of effective safeguards against possible breaches of the rules.

The present rules reflect the human rights and fundamental freedoms of all persons but particularly the prohibition of torture and inhuman and degrading treatment, the right to a fair trial and the rights to liberty and security and to respect for private and family life.

The present rules are applicable to all persons suspected of having committed an offence but include particular requirements for juveniles and other especially vulnerable persons.

I GENERAL PRINCIPLES AND DEFINITIONS

General principles

1. [1] In view of both the presumption of innocence and the presumption in favour of liberty, the remand in custody of persons suspected of an offence shall be the exception rather than the norm.
[2] There shall not be a mandatory requirement that persons suspected of an offence (or particular classes of such persons) be remanded in custody.
[3] In individual cases, remand in custody shall only be used when strictly necessary and as a measure of last resort; it shall not be used for punitive reasons.
2. In order to avoid inappropriate use of remand in custody the widest possible range of alternative, less restrictive measures relating to the conduct of a suspected offender shall be made available.
3. Remand prisoners shall be subject to conditions appropriate to their legal status; this entails the absence of restrictions other than those necessary for the administration of justice, the security of the institution, the safety of prisoners and staff and the protection of the rights of others and in particular the fulfilment of the requirements of the European Prison Rules and the other rules set out in Part III.

Definitions

4. [1] ‘Remand in custody’ is any period of detention of a suspected offender prior to conviction which has been ordered by a judicial authority. It also includes any period of detention pursuant to rules relating to international judicial co-operation and extradition, subject to their specific requirements. It does not include the initial deprivation of liberty by a police or a law enforcement officer (or by anyone else so authorised to act) for the purposes of questioning before charge.

[2] Remand in custody also includes any period of detention after conviction whenever persons awaiting either sentence or the confirmation of conviction or sentence continue to be treated as unconvicted persons.

[3] ‘Remand prisoners’ are persons who have been remanded in custody and who are not already serving a prison sentence or are detained under any other instrument.

5. [1] ‘Alternative measures’ to remand in custody may include, for example: undertakings to appear before a court as and when required, not to interfere with the course of justice and not to engage in particular conduct, including that involved in a profession or particular employment; requirements to report on a daily or periodic basis to a court, the police or other authority; requirements to accept supervision by an agency appointed by the court; requirements to submit to electronic monitoring; requirements to reside at a specified address, with or without conditions as to the hours to be spent there; requirements not to leave or enter specified places or districts without authorisation; requirements not to meet specified persons without authorisation; requirements to surrender passports or other identification papers; and requirements to provide or secure financial or other forms of security as to conduct pending trial.

[2] Wherever practicable, alternative measures shall be applied in the State where a suspected offender is normally resident if this is not the State in which the offence was allegedly committed.

II THE USE OF REMAND IN CUSTODY

Justification

6. Remand in custody shall generally be available only in respect of persons suspected of committing offences that are imprisonable.
7. A person may only be remanded in custody where all of the following four conditions are satisfied:
- (a) there is reasonable suspicion that he or she committed an offence; and
 - (b) there are substantial reasons for believing that, if released, he or she would either (i) abscond or (ii) commit a serious offence or (iii) interfere with the course of justice or (iv) pose a serious threat to public order; and
 - (c) there is no possibility of using alternative measures to address the concerns referred to in (b); and
 - (d) this is a step taken as part of the criminal justice process.

8. [1] In order to establish whether the concerns referred to in Rule 7(b) exist, or continue to do so, as well as whether they could be satisfactorily allayed through the use of alternative measures, objective criteria shall be applied by the judicial authorities responsible for determining whether suspected offenders shall be remanded in custody or, where this has already happened, whether such remand shall be extended.

[2] The burden of establishing that a substantial risk exists and that it cannot be allayed shall lie on the prosecution or investigating judge.

9. [1] The determination of any risk shall be based on the individual circumstances of the case but particular consideration shall be given to: (a) the nature and seriousness of the alleged offence; (b) the penalty likely to be incurred in the event of conviction; (c) the age, health, character, antecedents and personal and social circumstances of the person concerned, and in particular his or her community ties; and (d) the

conduct of the person concerned, especially how he or she has fulfilled any obligations that may have been imposed on him or her in the course of previous criminal proceedings.

[2] The fact that the person concerned is not a national of, or has no other links with, the State where the offence is supposed to have been committed shall not in itself be sufficient to conclude that there is a risk of flight.

10. Wherever possible remand in custody should be avoided in the case of suspected offenders who have the primary responsibility for the care of infants.
11. In deciding whether remand in custody shall be continued, it shall be borne in mind that particular evidence which may once have made the use of such a measure seem appropriate, or the use of alternative measures seem inappropriate, may have been rendered less compelling through the passage of time.
12. A breach of alternative measures may be subject to a sanction but shall not automatically justify subjecting someone to remand in custody. In such cases the replacement of alternative measures by remand in custody shall require specific motivation.

Judicial authorisation

13. The responsibility for remanding someone in custody, authorising its continuation and imposing alternative measures shall be discharged by a judicial authority.
14. [1] After his or her initial deprivation of liberty by a law enforcement officer (or by anyone else so authorised to act), someone suspected of having committed an offence shall be brought promptly before a judicial authority for the purpose of determining whether or not this deprivation of liberty is justified, whether or not it requires prolongation or whether or not he or she shall be remanded in custody or subjected to alternative measures.

[2] The interval between the initial deprivation of liberty and this appearance before such an authority should preferably be no more than forty-eight hours and in many cases a much shorter interval may be sufficient.
15. The existence of an emergency in accordance with Article 15 of the European Convention on Human Rights shall not lead to an interval between the initial deprivation of liberty and the appearance before a judicial authority with a view to remanding in custody greater than seven days unless it is absolutely impossible to hold a hearing.
16. The judicial authority responsible for remanding someone in custody or authorising its continuation, as well as for imposing alternative measures, shall hear and determine the matter without delay.
17. [1] The existence of a continued justification for remanding someone in custody shall be periodically reviewed by a judicial authority, which shall order the release of the suspected offender where it finds that one or more of the conditions in Rules 6 and 7 (a), (b), (c) and (d) are no longer fulfilled.

[2] The interval between reviews shall normally be no longer than a month unless the person concerned has the right to submit and have examined, at any time, an application for release.

[3] The responsibility for ensuring that such reviews take place shall rest with the prosecuting authority or investigating judge, and in the event of no application being made by the prosecuting authority or investigating judge to continue a remand in custody, any person subject to such a measure shall automatically be released.

18. Any person remanded in custody, as well as anyone subjected to an extension of such remand or to alternative measures, shall have a right of appeal against such a ruling and shall be informed of this right when this ruling is made.
19. [1] A remand prisoner shall have a separate right to a speedy challenge before a court with respect to the lawfulness of his or her detention.
- [2] This right may be satisfied through the periodic review of remand in custody where this allows all the issues relevant to such a challenge to be raised.
20. The existence of an emergency in accordance with Article 15 of the European Convention on Human Rights shall not affect the right of a remand prisoner to challenge the lawfulness of his or her detention.
21. [1] Every ruling by a judicial authority to remand someone in custody, to continue such remand or to impose alternative measures shall be reasoned and the person affected shall be provided with a copy of the reasons.
- [2] Only in exceptional circumstances shall reasons not be notified on the same day as the ruling.

Duration

22. [1] Remand in custody shall only ever be continued so long as all the conditions in Rules 6 and 7 are fulfilled.
- [2] In any case its duration shall not exceed, nor normally be disproportionate to, the penalty that may be imposed for the offence concerned.
- [3] In no case shall remand in custody breach the right of a detained person to be tried within a reasonable time.
23. Any specification of a maximum period of remand in custody shall not lead to a failure to consider at regular intervals the actual need for its continuation in the particular circumstances of a given case.
24. [1] It is the responsibility of the prosecuting authority or the investigating judge to act with due diligence in the conduct of an investigation and to ensure that the existence of matters supporting remand in custody is kept under continuous review.
- [2] Priority shall be given to cases involving a person who has been remanded in custody.

Assistance by a lawyer, presence and interpretation

25. [1] The intention to seek remand in custody and the reasons for so doing shall be promptly communicated to the person concerned in a language which he or she understands.

[2] The person whose remand in custody will be sought shall have the right to assistance from a lawyer in the remand proceedings and to have an adequate opportunity to consult with his or her lawyer in order to prepare for them. The person concerned shall be advised of these rights in sufficient time and in a language which he or she understands so that their exercise is practicable.

[3] Such assistance from a lawyer shall be provided at public expense where the person whose remand in custody is being sought cannot afford it.

[4] The existence of an emergency in accordance with Article 15 of the European Convention on Human Rights should not normally affect the right of access to and consultation with a lawyer in the context of remand proceedings.

26. A person at risk of being remanded in custody and his or her lawyer shall have access to documentation relevant to such a decision in good time.

27. [1] A person who is the national of another country and is at risk of being remanded in custody shall have the right to have the consul of this country notified of this possibility in sufficient time to obtain advice and assistance from him or her.

[2] This right should, wherever possible, also be extended to persons holding the nationality both of the country where they are at risk of being remanded in custody and of another country.

28. A person at risk of being remanded in custody shall have the right to appear at remand proceedings. Under certain conditions this requirement may be satisfied through the use of appropriate video-links.

29. Adequate interpretation services before the judicial authority considering whether to remand someone in custody shall be made available at public expense, where the person concerned does not understand and speak the language normally used in those proceedings.

30. Persons appearing at remand proceedings shall be given an opportunity to wash and, in the case of male prisoners, to shave unless there is a risk of this resulting in a fundamental alteration of their normal appearance.

31. The foregoing rules in this section shall also apply to the continuation of the remand in custody.

Informing the family

32. [1] A person at risk of being remanded in custody (or of having this continued) shall have the right to have the members of his or her family informed in good time, about the date and the place of remand proceedings unless this would result in a serious risk of prejudice for the administration of justice or for national security.

[2] The decision in any event about contacting family members shall be a matter for the person at risk of being remanded (or of having this continued) unless he or she is not legally competent to make such a decision or there is some other compelling justification.

Deduction of pre-conviction custody from sentence

33. [1] The period of remand in custody prior to conviction, wherever spent, shall be deducted from the length of any sentence of imprisonment subsequently imposed.

[2] Any period of remand in custody could be taken into account in establishing the penalty imposed where it is not one of imprisonment.

[3] The nature and duration of alternative measures previously imposed could equally be taken into account in determining the sentence.

Compensation

34. [1] Consideration shall be given to the provision of compensation to persons remanded in custody who are not subsequently convicted of the offence in respect of which they were so remanded; this compensation might cover loss of income, loss of opportunities and moral damage.

[2] Compensation shall not be required where it is established that either the person remanded had, by his or her behaviour, actively contributed to the reasonableness of the suspicion that he or she had committed an offence or he or she had deliberately obstructed the investigation of the alleged offence.

III CONDITIONS OF REMAND IN CUSTODY

General

35. The conditions of remand in custody shall, subject to the rules set out below, be governed by the European Prison Rules.

Absence from remand institution

36. [1] A remand prisoner shall only leave the remand institution for further investigation if this is authorised by a judge or prosecutor or with the express consent of the remand prisoner and for a limited period.

[2] On return to the remand institution the remand prisoner shall undergo, at his or her request, a thorough physical examination by a medical doctor or, exceptionally by qualified nurse as soon as possible.

Continuing medical treatment

37. [1] Arrangements shall be made to enable remand prisoners to continue with necessary medical or dental treatment that they were receiving before they were detained, if so decided by the remand institution's doctor or dentist where possible in consultation with the remand prisoner's doctor or dentist.

[2] Remand prisoners shall be given the opportunity to consult and be treated by their own doctor or dentist if a medical or dental necessity so requires.

[3] Reasons shall be given if an application by a remand prisoner to consult his or her own doctor or dentist is refused.

[4] Such costs as are incurred shall not be the responsibility of the administration of the remand institution.

Letters

38. There shall normally be no restriction on the number of letters sent and received by remand prisoners.

Voting

39. Remand prisoners shall be able to vote in public elections and referenda that occur during the period of remand in custody.

Education

40. Remand in custody shall not unduly disrupt the education of children or young persons or unduly interfere with access to more advanced education.

Discipline and punishment

41. No disciplinary punishment imposed on a remand prisoner shall have the effect of extending the length of the remand in custody, or interfering with the preparation of his or her defence.
42. The punishment of solitary confinement shall not affect the access to a lawyer and shall allow minimum contact with family outside. It should not affect the conditions of a remand prisoner's detention in respect of bedding, physical exercise, hygiene, access to reading material and approved religious representatives.

Staff

43. Staff who work in a remand institution with remand prisoners shall be selected and trained so as to be able to take full account of the particular status and needs of remand prisoners.

Complaints

44. [1] Remand prisoners shall have avenues of complaint open to them, both within and outside the remand institution, and be entitled to confidential access to an appropriate authority mandated to address their grievances.
- [2] These avenues shall be in addition to any right to bring legal proceedings.
- [3] Complaints shall be dealt with as speedily as possible.

APPENDIX V

EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC) DECISION ON FUTURE WORK OF THE COMMITTEE OF EXPERTS ON THE PROTECTION OF CHILDREN AGAINST SEXUAL EXPLOITATION AND ABUSE (PC-ES)

At its meeting on 29 and 30 June, 2006, the Enlarged Bureau of the CDPC, further to item 4 of its agenda, examined the report of the first meeting of the Committee of Experts on the Protection of Children against Sexual Exploitation and Abuse (PC-ES) (document PC-ES (2006) 06). In particular, it noted paragraph 33 of that report, whereby “the PC-ES invited the European Committee on Crime Problems (CDPC) to allow the PC-ES to draft a new instrument on the protection of children against sexual exploitation and abuse, taking into account the limits of the existing international instruments due to their non-binding nature”.

After an exchange of views on the future work of the PC-ES, and further to a written consultation procedure, the CPDC approved the preparation by the PC-ES of a binding legal instrument.

As regards the substantive content of such an instrument, it invited the Committee of Experts to observe the following guidelines:

Elements to be examined on a priority basis:

- a. criminal procedure measures: investigation and enquiry methods, ways of hearing children, adaptation of criminal procedures to children, statute of limitations;
- b. treatment of sexual offenders and means to prohibit them from exercising certain professional occupations;
- c. prevention of recidivism;

Elements to be examined as a second priority:

- a. treatment of victims (the PC-ES is invited to await the conclusion of the 27th Conference of European Ministers of Justice, to be held in Yerevan in October 2006);
- b. judicial co-operation in the criminal field (the PC-ES is invited to limit its work to those provisions which would be specific to the fight against sexual exploitation and abuse of children, for example with regard to combating “sexual tourism”).
- c. definition of a monitoring mechanism.
- d. diversification of sanctions, and to a lesser extent, definition of new crimes;
- e. ways to ensure exchanges of information on sexual offenders.

Elements which should be excluded: questions dealt with in instruments covering civil matters, in particular those concerning compensation of victims.

The CDPC requested the PC-ES to bear in mind the possibility of including, in a complementary non binding instrument, provisions which cannot be included in the draft binding instrument.

The CDPC invited the PC-ES to consider the advisability of widening the field of expertise brought to the Committee by its scientific experts, citing for example the possible need for expertise in the fields of psychology, psychotherapy and criminology.

While leaving it to the PC-ES to define its work programme, the CDPC gave its agreement, in an anticipated manner, to a possible proposition of the Committee of Experts to extend its terms of reference to the end of 2007.

APPENDIX VI

DRAFT SPECIFIC TERMS OF REFERENCE OF THE THE EUROPEAN COMMITTEE ON CRIME PROBLEMS

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:	
-		the Declaration and the Action Plan adopted by the Heads of State and Government of the Council of Europe member states, meeting in Warsaw on 16 and 17 May 2005;
-		the Road Map for the implementation of the Action Plan, adopted by the Committee of Ministers and revised as at 28 September 2005 (document CM(2005) 145 revised);
	Within the framework of the Programme of Activities, under Programmes “MONEYVAL”, ”3 “Monitoring by other Conventional Committees”, “European standards for crime control”, “Functioning of justice” and “Private law and “Protection of Children”, the European Committee on Crime Problems 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), the Conferences of European 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.	<p>perform the tasks derived from the following Conventions:</p> <ul style="list-style-type: none"> 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) ;

	<p>n. Criminal Law Convention on Corruption (ETS No. 173, Articles 39,40);</p> <p>o. Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (ETS No. 182, Article 29);</p> <p>p. Convention on Cybercrime (ETS No.185, Articles 45,46);</p> <p>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);</p>
viii.	<p>After their entry into force, the Committee will also perform the tasks derived from the following Conventions:</p> <p>r. Protocol amending the European Convention on the Suppression of Terrorism (ETS No. 190, Articles 6,13);</p> <p>s. 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).</p> <p>The text of above-mentioned provisions appears in Appendix to these terms of reference.</p>
5.	Composition of the Committee:
5.A.	Members
	<p>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.</p> <p>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),</p>
5.B.	Participants
i.	<p>[The 7 members of the Criminological Scientific Council], 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 Committee may participate in meetings of the Committee without the right to vote. The Council of Europe budget will bear their travel and subsistence expenses.</p>
ii.	<p>The following Committees may send representatives to meetings of the Committee, without the right to vote and at the charge of the corresponding CoE budget sub-heads:</p> <p>The Consultative Council of European Prosecutors (CCPE) the European Commission for the Efficiency of Justice (CEPEJ) the Steering Committee for Human Rights (CDDH)</p>
iii.	<p>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.</p>

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 its 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 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 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 or 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 Defence (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

	<p>The term of office of the Chair of the CDPC is two years, non renewable¹.</p> <p>The term of office of Bureau members is four years, non renewable².</p> <p>The Bureau is composed of nine members³.</p> <p>The CDPC may have recourse 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.</p>
7.	Duration
	These terms of reference will expire on 31 December 2010.

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

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 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.”.

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.
12. 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.