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EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

REMARKS OF THE CDPC BUREAU ON THE DRAFT RECOMMENDATION
OF THE COMMITTEE OF MINISTERS TO MEMBER STATES CONCERNING
CHILDREN OF IMPRISONED PARENTS

Document prepared by the CDPC Secretariat
Directorate General I – Human Rights and Rule of Law

www.coe.int/cdpc - dgi-cdpc@coe.int

The CDPC Bureau, during its last meeting in Prague on 24-25 April 2017, made some comments on the Draft Recommendation concerning children of imprisoned parents (PC-CP(2017)7rev). The Bureau made a first general remark according to which the draft recommendation should be more concentrated on the subject treated instead of repeating rules that already exist in other texts, because this makes the text confusing and extremely long. The second general remark is that the draft recommendation should always take into account the best interests of the child. The Bureau also formulated the following specific remarks:

- The document recites the European Prison Rules in several places. This should be avoided. Moreover, par.51-52 and rule number 2 in Part II- *Basic Principles* (“*parents shall be remanded in custody or sentenced to custodial sanctions only as a measure of last resort*”) which contain rules applicable to any prisoner, not only to imprisoned parents, or par.66-67, for instance, also copy other existing rules. The draft recommendation should focus on the rules applicable to this specific subject, the imprisoned parents.
- As for the definitions provided in Part I:
 - *Definition A*: The Bureau invites the PC-CP to consider the appropriateness of having all provisions of the recommendation apply to all children below the age of 18 without differentiation. Children of a certain age may, notwithstanding their legal status, be quite mature and there may be less specific needs to be taken into account.
 - *Definition B*: This is considered to be too wide, above all, when it includes “*a person holding parental responsibilities or other persons entitled to exercise some or all parental responsibilities*”. It should be considered to differentiate between provisions of the recommendation that apply (only) to imprisoned parents who exercise parental responsibilities and have real links with their children and others that may apply to all persons who are parents. Yet other provisions may need to apply also to other persons exercising parental responsibilities. It could also be considered to have certain rules only apply where a child is considered to be dependent on the imprisoned parent (c.f. for example, rule number 5 in Part II).
 - *Definition C*: This should be clarified as regards the element “*allegations of having committed an offence*”, because this element refers to pre-trial detention prisoners. While this would be appropriate in many cases, there are provisions on the draft recommendation where, the strict application of the rules also in case of pre-trial detention could go too far.

- Concerning the contact between children and imprisoned parents, foreseen in par.17, the best interests of the child should be taken into account, as well as their willingness to maintain any links with their parents. Perhaps, a sentence "*depending on the best interests of the child*" could be added after "*...maintain regular and meaningful contact with their children...*".
- Changes should be made in Part entitled *Telephones and other forms of electronically assisted communication* and, in particular, par.19 because these rules imply the use of certain means of communication that are not allowed by the legislation of many member States (such as e.g. in case of pre-trial detention).
- In par.33, concerning prison leave, the fact that in some member States it is not only the prison administration that is competent to decide on the visits of prisoners to their families, but also the judiciary should be taken into account.
- Another term which needs to be clarified is the word "infant" used in par. 46, third point.
- Last but not least, Part VII entitled *Persons who work with imprisoned parents and their children* and, particularly, the provision for special training of staff should be reconsidered taking into account where specific training may really be needed.