



Strasbourg, 18 December 2014
cdpc/docs 2014/cdpc (2014) 29 - e final

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

Drafting Committee on prison overcrowding

1st MEETING

**Strasbourg, 8-9 December 2014
9.30 am - 5.00 pm
Agora building, Room G04**

EXECUTIVE SUMMARY

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

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The Drafting Committee on prison overcrowding:

- Approved its agenda and its order of business and elected Mr Mauro PALMA, as its Chair (Ref. Agenda in Appendix I; list of participants in Appendix II);
- Took into account the information provided by Mr Carlo Chiaromonte, Secretary to the European Committee on Crime Problems (CDPC) regarding the reasons for the setting up of this Committee, namely the persistent problem of prison overcrowding faced by more than half of the prison administrations in the Council of Europe member States. He also reminded that the initiative to start a dialogue at European level between prison and probation services and judges and prosecutors was launched at the 17th Council of Europe Conference of Directors of Prison Administration (Rome, 2012) and the idea to set up a working group was put forward at the 19th Conference of Directors of Prison and Probation Services (Helsinki, 2014);
- Held a debate regarding the current situation in Europe related to penal policy and court practices as well as regarding the existing Council of Europe legal texts in this field and reached the conclusion that there is a sufficient number of recommendations, and guidelines related to the reduction of the use of imprisonment and to the use of alternative sanctions and measures. Further concluded that a survey on the reasons why these texts are not fully implemented by the member States should be carried out and following the outcome of this survey to draft practical guidelines and suggest good practices to the national authorities;
- Was of the opinion that general public and policy makers need to understand that prison is often not the best and most efficient solution to reduce criminality and that reintegration and rehabilitation are very important for public safety. A variety of measures need to be taken into account other than imprisonment to reduce recidivism and to allow dealing with offenders differently. In this connection it was underlined that there is a need to resort as far as possible to non-punitive solutions in order to redress the harm done (restorative justice and administrative law measures, for example) and that by doing so imprisonment will decrease as well;
- Was of the opinion that among the measures to be suggested to the national authorities should be the decriminalisation and/or revision of the sanctioning policy related to certain types of crimes, like petty drug and alcohol related crimes, white-collar crimes (where heavy financial sanctions could be much more dissuasive), traffic offences. Other measures should involve reduction of the length of prison sentences; reduction of the use of pre-trial detention by excluding groups and types of crime for which it may be an option and by reducing its overall length provided by law. The need to promote and raise the public understanding of the efficiency and cost-effectiveness of community sanctions and measures and inciting the courts to make more use of these was also underlined;
- Agreed that a White paper on prison overcrowding should be drafted and that it should contain also a political message to the national authorities which would incite reflection and joint efforts at national level by all relevant bodies competent to take decisions and to carry out policies and practices in this area;
- Approved the general contents and key issues to be dealt with in the future White Paper (Ref. Appendix III);
- Decided to include additional sources of information among its reference documents, namely Recommendation CM/Rec(2010)3 of the Committee of Ministers to member states on effective remedies for excessive length of proceedings and a PACE Report on promoting alternatives to imprisonment and PACE Resolution 1938 (2013), Recommendation 2018 (2013) and report on promoting alternatives to imprisonment;

- Appointed Mr Jesper HJORTENBERG as its General Rapporteur, agreed to continue in the coming months its work on the document by mail and decided to hold its next meeting on 30-31 March 2015.

APPENDIX I

Agenda

1. **Opening of the meeting** (8 December 2014, 9.30 am)
2. **Election of the Chair of the Committee**
3. **Adoption of the draft agenda**
4. **Information provided by the Secretariat**
5. **Prison overcrowding: a realistic overview of the current situation in Europe**
6. **Main reasons for prison overcrowding:**
 - a) length of pre-trial custody (length of criminal proceedings)
 - b) long-term prison sentences and lifers
 - c) lack of opportunities for conditional release
 - d) lack of alternative sanctions and measures
 - e) foreign prisoners
7. **(New) tools to reduce overcrowding**
8. **Objectives and outcomes of the Committee's work - White Paper on prison overcrowding?**
9. **Any other business**
10. **Dates of next meetings**
11. **End of the meeting** (9 December 2014, 5.00 pm)

APPENDIX II

LIST OF MEMBERS / LISTE DES MEMBRES

Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters (PC-OC) / Comité d'experts sur le fonctionnement des conventions européennes sur la coopération dans le domaine pénal (PC-OC)

Barbara GOETH-FLEMMICH

Director, Head of Division for International Penal Law, Ministry of Justice (Austria) / Présidente de la Commission des questions juridiques et des droits de l'homme (AS/Jur) de l'APCE

Imbi MARKUS

Legal Counselor, International Judicial Co-operation Unit, Estonian Ministry of Justice (Estonia) / Conseiller juridique, unité de la coopération judiciaire internationale, Ministère de la justice (Estonie)

Consultative Council of European Judges (CCJE) / Le Conseil consultatif de juges européens (CCJE)

Bart VAN LIEROP

President of the CCJE (The Netherlands) / Président du CCJE (Pays-Bas)

Richard AIKENS (Apologised/Excusé)

Vice-President of the CCJE (United Kingdom) / Vice-Président du CCJE (Royaume-Uni)

Consultative Council of European Prosecutors (CCPE) / Le Conseil consultatif de procureurs européens (CCPE)

Cedric VISART DE BOCARME

Member of the CCPE Bureau (Belgium) / membre du bureau du CCPE (Belgique)

Council for Penological Co-operation (PC-CP) / Conseil de coopération pénologique (PC-CP)

Mauro PALMA

PC-CP Chair (Italy), Advisor to the Minister of Justice / Président du PC-CP, Conseiller auprès du Ministère de la justice (Italie)

Alina BARBU

PC-CP Vice-Chair (Romania), Directorate of Drafting Legislation, Ministry of Justice / Vice-présidente du PC-CP, Direction pour la rédaction des lois, Ministère de la justice (Roumanie)

European Committee on Crime Problems (CDPC) / Comité européen pour les problèmes criminels (CDPC)

Jesper HJORTENBERG

CDPC Chair (Denmark) / Président du CDPC (Danemark)

Hans KROGH HARESTAD

Senior Adviser in the Correctional Service department (Norway) / Conseiller principal du Service correctionnel de l'administration pénitentiaire (Norvège)

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) / Convention européenne pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT)

Francesca GORDON

Administrator, Division III / Administrateur, Division III

Jim MCMANUS
CPT member (United Kingdom) / membre du CPT (Royaume-Uni)

European Court of Human Rights (ECtHR) / Cour Européenne des Droit de l'Homme (CEDH)

Hasan BAKIRCI
Member of the Secretariat / membre du Secrétariat

Office of the Commissioner for Human Rights / Bureau du Commissaire aux droits de l'homme

Hasan BERMEK
Adviser / Conseiller

Parliamentary Assembly (PACE) / Assemblée parlementaire (APCE)

Meritxell MATEU PI ALDE
Chairperson of the AS/Jur's Human Rights Sub-Committee (Andorra) / Présidente de la Commission des questions juridiques et des droits de l'homme (AS/Jur) de l'APCE (Andorre)

Günter SCHIRMER
Deputy to the Head of Secretariat, AS/Jur's Human Rights Sub-Committee / Adjoint au Chef du Secrétariat, Commission des questions juridiques et des droits de l'homme (AS/Jur) de l'APCE

DIRECTORATE GENERAL I / DIRECTION GÉNÉRALE I

HUMAN RIGHTS AND RULE OF LAW / INFORMATION SOCIETY AND ACTION AGAINST CRIME

DIRECTORATE / DROITS DE L'HOMME ET ETAT DE DROIT / DIRECTION DE LA SOCIÉTÉ DE

L'INFORMATION ET DE LA LUTTE CONTRE LA CRIMINALITÉ

Action against Crime Department / Service de la Lutte contre la Criminalité

Criminal Law Division / Division du droit pénal

Carlo CHIAROMONTE
Head of Division / Chef de Division
Secretary to the European Committee on Crime Problems (CDPC) / Secrétaire du Comité Européen pour les Problèmes Criminels (CDPC)

Irina TANEVA
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Christine COLEUR
Assistant / Assistante

Giorgia SPADA
Assistant / Assistante

INTERPRETERS / INTERPRÈTES

Grégoire DEVICTOR
Derrick WORSDALE
Maryline NEUSCHWANDER

APPENDIX III

WHITE PAPER ON PRISON OVERCROWDING IN EUROPE AND SUGGESTED MEASURES TO DEAL WITH THIS PROBLEM

- I. Preface**
- II. Executive summary**
- III. Introduction**
- IV. Penal policy**
 - Penal responses should be used only if other measures fail
 - Use of penal law because it is just and efficient not because of its symbolic punitive role
 - Decriminalisation
 - Prison is not a panacea for crime – overuse of prison should stop
 - Role of the prosecutor
 - Role of the judge
 - Role of the police
 - Work with the media and the public opinion
 - Early conditional release (parole)
- V. Development of alternatives to custody:**
 - good and bad experiences
 - economic sanctions
 - financial investment compared to cost of imprisonment
- VI. Reduction of the use of remand in custody**
- VII. Sentenced prisoners**
- VIII. Foreign national prisoners**
- IX. Tackling recidivism**
- X. Recommendations and conclusions**
- XI. Reference documents**