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

**Drafting Committee on prison overcrowding**

**2<sup>nd</sup> MEETING**

**Strasbourg, 20-21 May 2015**  
**9.30 am - 5.00 pm**  
**Palais, Room 14**

**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:**

- Took note of the opening address of Mr Jan Kleijssen, Director, Information Society and Action against Crime Directorate, DG Human Rights and Rule of Law. It took more specifically note of the reasons for postponing its second meeting, namely the drafting of an additional Protocol to the Convention for the prevention of terrorism regarding foreign terrorist fighters, which needed to be done in a very short time frame and which was approved on 19 May 2015 by the Committee of Ministers at their session in Brussels. They also took note of the forthcoming 20<sup>th</sup> Conference of Directors of Prison and Probation Services (9-10 June 2015, Bucharest) as well as of the current work on draft Guidelines for the prison and probation services facing radicalisation and violent extremism. They noted in this respect that prison overcrowding can be one of the factors contributing to radicalisation;
- Thanked Mr Jesper Hjortenberg for drafting the preliminary text of the White Paper on prison overcrowding despite his heavy involvement in the drafting of the additional protocol and for having taken into account the proposals and comments made at the first meeting;
- Noted that the representative of Penal Reform International (PRI) could not attend the meeting and took into consideration the “Ten Point Plan to Reduce Prison Overcrowding” and “Global Prison Trends”, documents prepared by PRI which discussed issues related to prison overcrowding. It noted in this respect that most of the recommendations and conclusions contained in these two documents were already reflected in the draft White Paper and agreed which of the remaining points could be usefully added and further developed in the text;
- Agreed that effective monitoring system can help the authorities in carrying out penal and penitentiary reform which should be based on valid and comprehensive data regarding the real situation;
- Agreed that it should be recommended that the training of judges and prosecutors includes providing insight into imprisonment as sanction and into prisons as dynamic institutions;
- Further agreed that social inquiry reports should be used more often by the courts in order to take into consideration not only the type of crime committed but also the specific circumstances of the case;
- Noted that there are significant differences in the methods for calculating prison places used by the Council of Europe member states and therefore the data related to prison capacity should be evaluated against the real space/square meters available to each prisoner as well as against time spent in the cells. Decided in this respect to reflect in the text in more details the latest standards set by the CPT;
- Agreed that prison overcrowding should raise concerns and would need taking action not only when seen through the prism of possible violation of Article 3, ECHR but also because of its general negative effect on detention conditions, staff work and preparation for release;
- Discussed the issue of decriminalisation of certain crimes and the meaning of the terms “minor” and “serious” crime and decided to continue this discussion at its next meeting;
- Discussed the problems posed by the definition of “pre-trial” which varies from country to country and which leads to different statistical data regarding the ratio between sentenced and non-sentenced prisoners;
- In relation to pre-trial detention discussed the issue of mandatory pre-trial detention for certain catalogues of crimes and was of the opinion that such lists should be avoided. It further agreed that over time the risk of flight, tampering with evidence and interfering with witnesses is significantly reduced;

- Discussed the issue of legislative revision of the length of prison sentences, reduction in the course of execution of the prison sentence, conversion of prison sentences and the effective use of conditional early release (parole);
- Considered the issue of imprisonment of offenders with mental health problems and those having substance abuse problems and decided to deal with these two issues separately;
- Decided to express opinion in the text also regarding the case of irregular migrants who in some countries are held in prison;
- Considered the draft structure of the White Paper and agreed to introduce some changes to it;
- Considered the text of the White Paper and made some proposals for re-structuring, changes and additions. It was namely decided to add in the preamble a short overview of the societal changes which took place since the adoption of Recommendation n° R (99)22 in order to explain why this valid and very well drafted text was still not implemented sufficiently by all member states;
- Agreed that in view of the fact that each country has its own specificity and the combination of root causes for prison overcrowding may differ due to this, the White Paper will not contain specific recommendations. Moreover Recommendation n° R (99)22 already contains a set of measures to be taken by the national authorities. Instead The White paper will aim to incite the member states to open the debate at national level regarding their penal system and to take respective decisions based on their needs and objectives. In this respect the subsidiary role of the European Court should be underlined so that the states are reminded of their primary responsibility to take measures as a matter of urgency and thus reduce significantly the number of cases pending before the Court;
- Decided that Mr Mauro Palma, Chair of the Committee, Mr Jesper Hjortenberg, general rapporteur and the Secretariat will meet on 8 July 2015 in order to re-draft the White paper and that the Committee itself will meet on 26-27 October 2015 to consider the revised text.

**AGENDA / ORDRE DU JOUR**

**1. Opening of the meeting / Ouverture de la réunion**

**2. Adoption of the draft agenda / Adoption du projet d'ordre du jour**

**3. Information provided by the Secretariat / Informations fournies par le Secrétariat**

**4. Presentation of the Prison Reform International's Ten-Point Plan to Reduce Prison Overcrowding / Présentation du Plan de dix-point sur la réforme pénitentiaire en vue de réduire la surpopulation carcérale élaboré par Prison Reform International**

['Global Prison Trends' report](#)  
[10 point plan to address overcrowding](#)

**5. Consideration of the draft White Paper on prison overcrowding / Examen du Projet de Livre Blanc sur la surpopulation carcérale**

**6. Any other business / Questions diverses**

**7. Dates of the next meetings / Dates des prochaines réunions**

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

LIST OF MEMBERS / LISTE DES MEMBRES

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Structure of the White Paper

Preface

I. Prison overcrowding and prison population growth

II. Prison overcrowding - the present situation

III. The Council of Europe's position on the issue of prison overcrowding and prison population growth

IV. Crime rates and their co-relation to the use of prison

V. Reasons for prison overcrowding

VI. Penal policy and practice

1. Deprivation of liberty as a sanction or measure of last resort. Analysing prison overcrowding at national level and implementing solutions. Coping with the shortage of prison places and improving detention conditions.
2. The role of the different actors in the criminal justice system and the need of coherence in their actions.
3. Decriminalisation, revision of the length of prison sentences in the criminal legislation, reduction in the course of execution of the prison sentence, conversion of prison sentences. Diversion
4. Individualisation of the sentence (social inquiry reports, personal circumstances, victim impact statement) in order to be able to aim at shorter prison sentences and use alternatives as (alarming) tendency to pass longer prison sentences
5. Alternatives to pre-trial detention
6. Alternatives to prison in form of other types of sanctions and measures
7. Post-trial measures - Early conditional release - tackling recidivism – Recommendation on conditional release, prison is not for preventive detention and public security safe based on court judgement?

VII. Need for national monitoring mechanisms/consultative bodies – data, analysis, strategy, action plan, advice

VIII. Media questions – work with the public opinion, using the media to explain and get support for policy decisions and penal reform

IX. Conclusions

XI. Annexes

Rec (99)22; tables