

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

Council for Penological Co-operation
(PC-CP)

2nd Plenary Meeting

Strasbourg, 28-30 March 2012

SUMMARY MEETING REPORT

**Document prepared by the Directorate General
Human Rights and Rule of Law**

BRIEF FOREWORD

The PC-CP plenary:

- welcomed Ms Khatuna Kalmakhelidze, Minister of Corrections and Legal Assistance, Georgia, and took note of the state of Georgian prison reform;
- considered Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods, and discussed its own working methods and rules of procedure;
- appointed Ms Alina Barbu as its gender equality rapporteur;
- revised and finalised the draft CM recommendation concerning foreign prisoners and its commentary in the light of the comments made by the CDPC delegations at their plenary meeting in December 2011 and sent the text to the CDPC for approval;
- in the light of the follow-up to be given to the conclusions of the 16th Conference of Directors of Prison Administration with the participation of Directors of Probation Services (13-14 October 2011) considered the issue of electronic monitoring;
- approved the theme and discussed the agenda and the organisation of the 17th Conference of Directors of Prison Administration;
- considered SPACE I and SPACE II for 2010 and made some proposals in this respect;
- took note of the state of preparation and the draft agenda of the 31st Conference of the Ministers of Justice (19-21 September 2012, Vienna).

1. The Council for Penological Co-operation (PC-CP) held its 2nd plenary meeting in Strasbourg on 28-30 March 2012 with Ms Sonja Snacken in the Chair. The list of participants is appended to this report (Appendix II).

I. Opening of the meeting and adoption of the agenda

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

II. Summary report of the 68th meeting [Doc. PC-CP (2011) 11]

3. The PC-CP considered the summary meeting report of its 68th meeting and had no comments to make.

III. Items for information

4. Ms Khatuna Kalmakhelidze, Minister of Corrections and Legal Assistance, Georgia, welcomed the PC-CP work in the prison and probation field and informed the experts of the state of the on-going prison and probation reform in her country. This information was met with the great interest by the PC-CP members as an example of the tangible efforts made by the national authorities to implement the Council of Europe standards in this area.
5. Mr Ivan Koedjikov, Head of the Action Against Crime Department, welcomed the representatives of the national prison services and underlined that after 30 years of existence of the PC-CP as a restricted advisory council to the CDPC it has now become a committee in which all Council of Europe member states can take part. This is a real sign of the importance of its work. He then gave information on the current work in the criminal law field and more specifically on the forthcoming adoption by the Committee of Ministers of a recommendation containing a model European Code of ethics for prison staff. The participants also noted that the CDPC Bureau was currently having its meeting and that in case of any comments and observations on the text of the draft recommendation concerning foreign prisoners these would be communicated to the PC-CP over the course of the present meeting.
6. The PC-CP discussed Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods and the ensuing rules regulating the PC-CP's procedures regarding its working methods, the election of its Chair and Vice Chair, taking decisions, etc. It agreed that the current Chair's term of office will expire at the next CDPC plenary meeting (29 May - 1 June 2012) at which Ms Snacken would present the draft recommendation on foreign prisoners. At the same meeting a new member of the PC-CP needs to be elected to fill in the vacant seat. Therefore the new Chair and Vice-Chair of the PC-CP will be elected at the meeting of the PC-CP Working Group in June 2012.

IV. Draft recommendation concerning foreign prisoners and its commentary [Docs. PC-CP (2011) 5 rev 6 and PC-CP (2011) 6 rev 2]

7. The PC-CP considered the two texts which were revised by the scientific experts in February 2012 in the light of the comments and observations made by the CDPC at their last plenary session in December 2011.
8. They noted that the definitions and scope had been thoroughly revised and that on most occasions the term "suspects and offenders" has been replaced by "prisoners". The part related to the tasks of consular representatives has been deleted as well as the rules related to international transfers. The rules related to the use of remand in custody have been revised in order to underline the fact that foreign suspects should be treated as other suspects and should therefore be considered for the same range of alternatives to custody. The term "be considered for" was clarified in that it does not oblige states to automatically release foreign suspects and replace custody with other measures but it draws the attention of the national authorities to the fact that the existing laws should be applicable to all suspects in the same non-discriminatory manner and that all individual circumstances of a given case should be taken into consideration before a decision is taken whether to remand a suspect or not. The rules on preparation for release were also revised.
9. The PC-CP continued with its consideration of the text of the draft recommendation and of its commentary. The scope was revised further as well as several of the basic principles. Rules 13 and 14 were further clarified. Rule 16.2 was also revised as it was considered that while family visits are

important for every prisoner the contacts with consular representatives should not be an allocation consideration. The rule on exercise and recreation (Rule 28.1) was widely debated and revised as well Rule 29.1 related to education in order to accommodate concerns regarding costs and utility of educational activities. Rule 30.2 was revised in order to accommodate national practices related to allowing access to prison for representatives of different religions. Rule 31.3 related to healthcare was debated at length and revised as was the part dealing with infant children (Rule 34).

10. The commentary to the draft recommendation was also revised accordingly in order to reflect the amendments introduced in the text of the recommendation itself and to provide further comments and examples to clarify in greater detail the text of the draft recommendation.

V. Follow-up to the 16th Conference of Directors of Prison Administration with the participation of Directors of Probation Services (13-14 October 2011) [Doc. PC-CP (2011) 21]

11. The PC-CP took note of the presentations on electronic monitoring (EM) made by Mr. Robert (Mike) Nellis and Mr. Dominik Lehner, scientific experts. The discussions which followed showed that there is a general agreement in the committee regarding the need for setting ethical guidelines for the use of new tracking technologies in the work with offenders. The field is rapidly expanding and today EM is replacing detention in some countries at all stages of the penal process, namely during remand, during the execution of prison sentences and also after release. There is no clear definition at European level of the term EM. More in-depth knowledge is needed regarding its effects on offenders, families, victims and society in terms of supervision and control, at which stage of the penal process it should be put in place and its proportionality, length and intensity. The PC-CP agreed that the degree of intrusion needs to be carefully evaluated from a human rights perspective. The role of probation services in this respect needs also to be considered as the part played by them in the use of EM varies significantly from country to country.
12. The PC-CP plenary participants shared their practical experiences and the results of research related to the use of EM in their own countries. They agreed that while EM may facilitate supervision and contribute to desistance, it cannot have a lasting effect on offending behaviour as a stand-alone measure. It is only one of the means for dealing with offenders and should be used as part of a set of interventions tailored to different offenders in order to effectively reintegrate them and help them lead law-abiding lives.
13. The PC-CP plenary concluded that there is an evident and urgent need at Council of Europe level to set legal, ethical and procedural guidelines and safeguards for the use of EM and requested the CDPC to take a decision on this matter at its next plenary meeting.

VI. SPACE statistics [Docs. PC-CP (2012) 1 and PC-CP (2012) 3]

14. The PC-CP considered the provisional editions of the SPACE I and SPACE II data for 2010. It took note of the new categories of data included in the survey following the request of several national prison administrations. The delegations attending the meeting made some observations and corrections and answered requests for clarifications of the national data sent. Professor Marcelo Aebi, scientific expert, explained that systems differ significantly which necessitates on some occasions lengthy verifications with the respective correspondents before publishing the surveys. It was agreed that the next edition of the survey would contain a glossary of the terms used in English and French and the national correspondents would be requested to add the terms in their national languages in order to facilitate the comprehension and comparability of data in Europe and help maintain the quality of data collected in case of a subsequent change in the national correspondents.
15. Professor Aebi suggested that the Council of Europe hold a multinational meeting with the national correspondents for SPACE I and II in order to discuss and clarify issues related to the methodology of the collection and processing of data in the different countries. The same way of unification of data collection is used by Eurostat.

VII. 17th Conference of Directors of Prison Administration (2012) [Doc. PC-CP (2012) 3]

16. The PC-CP considered the topic of the next CDAP, namely foreign prisoners, and agreed that this is a priority for many European countries and it will be important to promote the forthcoming Committee of Ministers recommendation concerning foreign prisoners and to discuss their treatment and ways of reducing the numbers in custody. The main categories of interest are foreign prisoners who remain in the country after release and those who leave the country. The treatment of women and juvenile

foreign prisoners is also of interest, as well as the co-operation between prison and probation services inside the country and between countries to ensure continuity of treatment. The dialogue and interaction between prison and probation services and the judiciary was considered an important element in the way countries deal with foreign prisoners.

VIII. 31st Council of Europe Conference of Ministers of Justice (Vienna, 19-21 September 2012)

17. Mr Ivan Koedjikov informed the PC-CP about the state of preparation of the 31st Council of Europe Conference of Ministers of Justice (19-21 September 2012, Vienna) and its topic "Responses of Justice to Urban Violence" (divided into two sub-topics "Organised groups and their new ways of communicating" and "Juveniles as perpetrators and victims"). He added that, unlike in previous years, the draft resolutions of the Conference will be validated/approved before the start of the Conference by the Committee of Ministers.
18. The PC-CP took note that the sub-topic related to juvenile offenders might require future work on its part in so far as it relates to the execution of sanctions and measures.

IX. Other business

19. The PC-CP appointed Ms Alina Barbu as its gender equality rapporteur. Ms Barbu noted that in terms of statistics, 30% of the participants in the PC-CP were women. Moreover, from the 9 elected members of the PC-CP working group, 3 were also women, including the Chair of the group and the rapporteur on gender equality. The PC-CP plenary meeting was opened by the Georgian Ministry of Justice, who is also a woman. Women participants in the meeting, both representing the member states as well as independent experts and members of the Secretariat, were actively involved in all the discussions. The issue of women and their particular needs was also discussed when considering the draft recommendation on foreign prisoners which contains a separate section on foreign women prisoners. A specific mention of women prison staff was also added to the text of the commentary.

X. Dates of the next meetings

20. The next meetings of the PC-CP working group were scheduled as follows: 11-13 June and 1-3 October 2012. The next PC-CP plenary meeting was scheduled for 6-8 March 2013.

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APPENDIX I

AGENDA / ORDRE DU JOUR

1) Adoption of the agenda / Adoption de l'ordre du jour	PC-CP (2012) OJ 1 <i>Bilingual / Bilingue</i>
2) Summary report of the last meeting / Rapport sommaire de la dernière réunion	PC-CP (2011) 18 <i>English / Français</i>
3) Information / Informations	CDPC (2011) 31 <i>English / Français</i>
4) Foreign nationals in prison / Détenus étrangers	
▪ Draft recommendation concerning foreign prisoners / Projet de Recommandation relative aux détenus étrangers	PC-CP (2011) 5 rev 6 <i>English / Français</i>
▪ Draft Commentary on the Recommendation concerning foreign prisoners / Projet de commentaire sur la Recommandation relative aux détenus étrangers	PC-CP (2011) 6 rev 2 <i>English / Français</i>
▪ Ad Hoc Terms of Reference of the Council for Penological Co-operation (PC-CP) relating to detained foreign nationals / Mandat occasionnel du Conseil de coopération pénologique (PC-CP) relatif à la détention de ressortissants étrangers	PC-CP (2010) 01 rev 2 <i>English / Français</i>
5) SPACE statistics / Statistiques SPACE	PC-CP (2012)1 PC-CP (2012)2
6) Follow-up to the 16th Conference of Directors of Prison Administration - electronic monitoring / Suivi de la 16 ^e Conférence des directeurs d'administration pénitentiaire - surveillance électronique	PC-CP (2011) 21
7) 17th Conference of Directors of Prison Administration (2012) / 17 ^e Conférence des directeurs d'administration pénitentiaire (2012)	PC-CP (2012)3
8) 31st Council of Europe Conference of Ministers of Justice (Vienna, 19-21 September 2012) / 31 ^e Conférence du Conseil de l'Europe des ministres de la justice (Vienne, 19-21 septembre 2012)	
9) Any other business / Questions diverses	CM/Res(2011)24
10) Dates of the next meetings / Dates des prochaines réunions	

APPENDIX II

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

MEMBER STATES / ETATS MEMBRES

ALBANIA / ALBANIE

Apologised/Excusé

ANDORRA / ANDORRE

Apologised/Excusé

ARMENIA / ARMÉNIE

Vahe DEMIRTSHYAN, Head of the International Legal Relations Department, Ministry of Justice, Yerevan

AUSTRIA / AUTRICHE

Apologised/Excusé

AZERBAIJAN / AZERBAÏDJAN

Imran TAGHIZADA, Head, Operative-regime Department, Penitentiary Service, Ministry of Justice, Baku

BELGIUM / BELGIQUE

Alexis DOUFFET, Attaché-Directeur, Service public fédéral Justice, Prison de Forest

Lamy AMRANI, Attachée, Centre national de surveillance électronique, Bruxelles

BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE

Radoje BADNJAR, Inspector for monitoring the implementation of rights of persons deprived of liberty, Department for execution of criminal sanctions, Ministry of Justice, Sarajevo

BULGARIA / BULGARIE

Mitko DIMITROV, General Director, General Directorate "Execution of Sentences" - Ministry of Justice, Sofia

Nadya RADKOVSKA, Head of the Department for International Relations and Training of Staff, General Directorate Execution of Sentences, Ministry of Justice, Sofia

CROATIA / CROATIE

Apologised/Excusé

CYPRUS / CHYPRE

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CZECH REPUBLIC / RÉPUBLIQUE TCHÈQUE

Apologised/Excusé

DENMARK / DANEMARK

Ina ELIASSEN, Department of Prisons & Probation, Ministry of Justice, Copenhagen

ESTONIA / ESTONIE

Apologised/Excusé

FINLAND / FINLANDE

Ulla MOHELL, Senior Adviser, Counsellor of Legislation, Government

FRANCE

Martine BIRLING, Directrice pénitentiaire d'insertion et de probation, Responsable du pôle des relations internationales, Direction de l'administration pénitentiaire - DAP/SCERI, Ministère de la Justice et des Libertés, Paris

GEORGIA / GÉORGIE

Anton KELBAKIANI, Assistant of the Chairman of Department of Prisons, Ministry of Corrections and Legal Assistance, Tbilisi

Khatuna KHALMAKHELIDZE, Minister, Ministry of Corrections and Legal Assistance, Tbilisi, Georgia

Giorgi KHOJEVANISHVILI, Head of division of relation with international organisations, Ministry of Corrections and Legal Assistance, Tbilisi

GERMANY / ALLEMAGNE

Gudrun TOLZMANN, Ministerialrätin, Head of Division II B 2, Prison and Probation Service, Federal Ministry of Justice, Berlin

GREECE / GRÈCE

Apologised/Excusé

HUNGARY / HONGRIE

Attila JUHÁSZ, Prison Director, Senior member, Heves County Remand Prison, Heves County Remand Prison, Eger

ICELAND / ISLANDE

Apologised/Excusé

IRELAND / IRLANDE

Gerry McDONAGH, Principal Officer, Prisons & Probation Policy Division, Department of Justice and Equality, Dublin

ITALY / ITALIE

Apologised/Excusé

LATVIA / LETTONIE

Kristine KIPENA, Head of Unit of Punishment Execution Policy, Ministry of Justice, Riga

LIECHTENSTEIN

Apologised/Excusé

LITHUANIA / LITUANIE

Antanas JATKEVICIUS, Research Fellow, Institute of Law, Vilnius

LUXEMBOURG

Apologised/Excusé

MALTA / MALTE

Apologised/Excusé

MOLDOVA

Vladimir POPA, Deputy Head, Central Probation Office, Chisinau

MONACO

Apologised/Excusé

MONTENEGRO

Apologised/Excusé

NETHERLANDS / PAYS-BAS

Apologised/Excusé

NORWAY / NORVÈGE

Anne-Li N. FERGUSON, Senior Adviser, Ministry of Justice and Public Security, Prison and Probation Department, Oslo

POLAND / POLOGNE

Stanislaw CHMIELEWSKI, Secretary of the State, Ministry of Justice, Warszawa

Dariusz LUBOWSKI, Judge of the Circuit Court Warsaw - senior expert, Ministry of Justice, Warszawa

PORTUGAL

Apologised/Excusé

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Florin-Răzvan RADU, Director, Directorate of European Affairs, International Relations and Programs, Superior Council of Magistracy, Bucharest

RUSSIAN FEDERATION / FÉDÉRATION DE RUSSIE

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Alexandra KOMOVA, Inspector of the section of analytical and methodological support for protocol events and organisation of international cooperation, Federal Service of Execution of Sentences of the Russian Federation, Ministry of Justice, Moscow

Konstantin KOSORUKOV, Deputy to the Permanent Representative, Permanent Representation of the Russian Federation, Strasbourg, France

SAN MARINO / SAINT-MARIN

Apologised/Excusé

SERBIA / SERBIE

Damir JOKA, Director of the Prison Staff Training Center, Prison Administration, Ministry of Justice, Belgrade

SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE

Apologised/Excusé

SLOVENIA / SLOVÉNIE

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SPAIN / ESPAGNE

Apologised/Excusé

SWEDEN / SUÈDE

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“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA” / “L'EX-REPUBLIQUE YOUGOSLAVE DE MACEDOINE”

Apologised/Excusé

TURKEY / TURQUIE

Apologised/Excusé

UKRAINE

Apologised/Excusé

UNITED KINGDOM / ROYAUME-UNI

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**WORKING GROUP OF THE COUNCIL FOR PENOLOGICAL CO-OPERATION / GROUPE DE TRAVAIL
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(PC-CP)**

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* * * * *

OBSERVERS WITH THE COUNCIL OF EUROPE / OBSERVATEURS AUPRES DU CONSEIL DE L'EUROPE

HOLY SEE / SAINT-SIÈGE

Apologised/Excusé

UNITED STATES OF AMERICA / ÉTATS-UNIS D'AMÉRIQUE

Apologised/Excusé

CANADA

Apologised/Excusé

JAPAN / JAPON

Apologised/Excusé

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UNITED NATIONS CHILDREN'S FUND (UNICEF)

Apologised/Excusé

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Apologised/Excusé

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PENAL REFORM INTERNATIONAL (PRI)

Apologised/Excusé

EUROPEAN UNION / UNION EUROPÉENNE

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Apologised/Excusé

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PARLIAMENTARY ASSEMBLY

Apologised/Excusé

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