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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

Council for Penological Co-operation
(PC-CP)

14th meeting of the Working Group

Strasbourg, 30 January - 1 February 2017

SUMMARY MEETING REPORT

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

EXECUTIVE SUMMARY

The PC-CP Working Group (WG):

- Took note of the opening address made by Mr Jan Kleijssen, Director, Information Society and Action against Crime Directorate, DG Human Rights and Rule of Law who welcomed the newly elected member of the WG, Martina Barič from Croatia, as well as the rest of the participants;
- Took note of the information provided by Mr Carlo Chiaromonte, Head of the Criminal Law Division, Information Society and Action against Crime Directorate, DG Human Rights and Rule of Law and more specifically regarding the state of work on a draft Council of Europe Convention on Offences relating to Cultural Property;
- Took note of the presentations made by Ms Kate Philbrick and Ms Maria Wolleswinkel, scientific experts regarding the situation with children of imprisoned parents, considered a draft preliminary text of a Committee of Ministers recommendation on the subject and a questionnaire and took decisions regarding its future work on it;
- Took note of the information provided by one of its members, Mr Nikolaos Koulouris, as well as by Mr Dirk Van Zyl Smit, scientific expert (via a Skype session) concerning the scope and time line related to the revision of the commentary to the European Prison Rules, considered the report on the subject drafted by Nikolaos Koulouris and took related to this work decisions;
- Took note of the information provided by Mr Harald Føsker from the Norwegian Correctional Service and discussed in details the format, contents of the programme and possible speakers at the 22nd Council of Europe Conference of Directors of Prison and Probation Services (CDPPS) in Norway (20-21 June 2017). It further approved the preliminary draft programme of the latter;
- Took note of the presentation made by Ms Melanie Tiago, University of Lausanne regarding the 2015 SPACE I data, discussed some issues related to some of the collected data and considered the contents and draft programme of a meeting of the SPACE national correspondents, funded by the European Commission and planned to be held in Strasbourg on 20-21 March 2017;
- Took note of the presentation made by Mr Ian Marder, scientific expert regarding restorative justice, discussed what possible work could be carried out in this field by the PC-CP, agreed that the principles and standards contained in Recommendation No.R (99)19 on mediation in penal matters are valid and need to be upheld and that in addition new rules could be drafted which relate more closely to the work of prison and probation services;
- Considered its current mandate (expiring at the end of 2017), the internal rules of procedure of intergovernmental committees, contained in an appendix to CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods and took decisions regarding its own rules of procedure which are to be reflected in its next mandate;
- Confirmed its decision to hold its next WG meeting on 10-12 April 2017.

1. The Council for Penological Co-operation WG held its 14th meeting in Strasbourg on 30 January - 1 February 2017 with Mr Vivian Geiran in the Chair and Mr Jörg Jesse as Vice-Chair. The list of participants is appended to this report (Appendix II).

I. Opening of the meeting and adoption of the agenda and the order of business. Information provided by the Secretariat

2. The agenda was adopted (see Appendix I). The order of business and the meeting reports of the last meeting were also approved.
3. The participants took note of the opening address made by Mr Jan Kleijssen, Director, Information Society and Action against Crime Directorate, DG Human Rights and Rule of Law who welcomed the newly elected member of the WG, Martina Barič from Croatia, as well as the rest of the participants. Mr Kleijssen thanked the PC-CP for its work in 2016, in particular for drafting the new European Rules on community sanctions and measures and the Handbook on radicalisation and violent extremism as well as for their active contribution to the multilateral meeting on radicalisation and violent extremism in November 2016. He welcomed the work starting on children of imprisoned parents and on restorative justice. Mr Kleijssen also praised SPACE statistics which meet with a lot of attention and interest from the media and from professionals and researchers worldwide.
4. The participants further took note of the information provided by Mr Carlo Chiaromonte, Head of the Criminal Law division, Information Society and Action against Crime Directorate, DG Human Rights and Rule of Law and more specifically regarding the state of work on a draft Council of Europe Convention on Offences relating to Cultural Property. The text is expected to be finalised and opened for signature at the Committee of Ministers meeting in Nicosia in May 2017 during the Cypriot chairmanship, which means that the next CDPC plenary meeting will be held at the end of March 2017 in order to approve the text before its adoption by the Committee of Ministers. He also informed that the Convention will be opened for signature by non-member states.

II. Children of imprisoned parents

5. The participants took note of the presentations made by Ms Kate Philbrick and Ms Maria Wolleswinkel, scientific experts regarding the situation with children of imprisoned parents. They discussed possible ways to address this question, agreed that a Committee of Ministers recommendation would be the best approach, nevertheless they also agreed that the situation and protection of rights and interests of these children require a multi-agency approach as the prison administrations cannot do more than improving the quality of visits and contacts of such children with their imprisoned parent. They considered a draft preliminary text of a Committee of Ministers recommendation on the subject as drafted by the scientific experts and decided that the issue of children of imprisoned parents should be dealt with from the point of view of protecting the best interests of the child. The notion "child" should coincide with the definition contained in the UN Convention on the rights of the child. It was also decided that infant children living with their parent in prison should also be covered by the recommendation. It was also agreed that the recommendation should suggest practical measures to be implemented, based on good practices existing in different countries. It was also decided that the recommendation will not be accompanied by a commentary but by a report describing the situation in Europe.
6. They further considered and revised a draft questionnaire to be sent to the member states. It was decided that the questionnaire should be sent to the prison administrations only, as COPE already has information regarding the initiatives undertaken by NGOs and other associations. The revised questionnaire should be sent out by 15 February and the replies should be received by the end of March 2017.

III. Revision of the commentary to the European Prison Rules (EPR)

7. The PC-CP WG thanked one of its members, Mr Nikolaos Koulouris, for his report analysing the developments since the adoption of the EPR in 2006. They held a Skype session with Prof Dirk Van Zyl Smit, scientific expert, who can join in the work on the revision of the commentary as of September 2017. It was agreed that any updating or amendments to the commentary should be well targeted and should relate only to specific parts of it. In case there is an evident need to develop further some of the rules themselves (in the light of the case-law of the Court, the CPT standards and the UN Mandela Rules adopted in 2015) this should be put forward for approval before the CDPC and should concern only few rules. Possible areas which are better covered by the UN Rules relate to monitoring, to solitary confinement and to vulnerable prisoners. It was decided that all participants should send not later than 10 March their proposals to the Secretariat regarding possible amendment/updating of the commentary (or also of the EPR).

8. Nikolaos Koulouris will further develop his report and will send it to the Secretariat by 17 February. In view of the fact that Prof Dirk Van Zyl Smit can join in the drafting only in September 2017, it was decided that the work on updating and revising the commentary should continue in also 2018.

IV. 22nd Council of Europe Conference of Directors of Prison and Probation Services (20-21 June 2017, Norway)

9. The PC-CP WG took note of the information provided by Mr Harald Føsker from the Norwegian Correctional Service regarding the venue of the Conference and the suggested accompanying events and noted with satisfaction that not only prison but also probation visits will be proposed on 22 June to the participants. It further discussed in details the format, contents of the programme and possible speakers at the Conference, approved the preliminary draft programme and agreed on the set of questions to be sent to the Directors in good time before the start of the Conference in order to collect more information regarding policies and practices related to recruitment, training and development of staff and chose possible interveners.
10. The PC-CP WG was of the opinion that Conference conclusions could be adopted this time and sent to the Committee of Ministers as the topic is of much importance to the participants who would wish to make their views and concerns known by the Council of Europe member states.

V. SPACE statistics and the work with the national correspondents

11. The PC-CP WG took note of the presentation made by Melanie Tiago, University of Lausanne regarding the latest collection of SPACE (2015), noted that 33% of the countries still face overcrowding despite the fact that there is a decrease in Europe of the number of prisoners by 6.7%. What is more worrying is that 12 of these countries remain the same since several years already. Another worrying trend is the slight increase of women prisoners and of prisoners who are alleged or who have committed drug related offences.
12. The participants suggested to clarify better in the next questionnaire the categories of staff for which data is collected as the current replies indicate that some countries have different categories of staff from the ones suggested in the questionnaire which blurs the picture.
13. The PC-CP WG further took note of planned meetings of the SPACE national correspondents (20-21 March 2017 and 16-17 November 2017) in the framework of a EU 18 months financial contribution to the Council of Europe Annual Penal Statistics (SPACE) and of the expected two research papers related to pre-trial detention and to foreign offenders.

VI. Restorative Justice (RJ)

14. The PC-CP WG took note of the presentation made by Mr Ian Marder, scientific expert regarding restorative justice. The expert made a thorough overview of the different trends in theory as well as in practice in this field. It noted with satisfaction that the definition contained in Recommendation No.R (99)19 on mediation in penal matters was taken up in the Directive 2012/29/EU establishing minimum standards on the rights, support and protection of the victims of crime and discussed what possible work could be carried out in this field by the PC-CP. They thanked Ms Edit Törzs, Executive Director of the European Forum for Restorative Justice (EFRJ) for her participation in this meeting and took note of the information provided by her and for her contribution to the discussions.
15. The participants agreed that there should be a distinction made between penal mediation seen as part of the criminal justice proceedings and restorative justice as used by prison and probation services and the police not only in relation to offenders but also in conflict resolution among offenders, between offenders and staff or among staff and between staff and managers; there should also be a distinction between RJ principles and RJ practices. Some risks and challenges need also to be drawn to the attention of the authorities, namely the risk of net-widening of the criminal justice system and the risk of inefficiency of RJ if there is a bad selection and preparation of the case management.
16. The PC-CP WG agreed that the principles and standards contained in Recommendation No.R (99)19 on mediation in penal matters are valid and need to be upheld and that in addition new rules could be drafted which relate more closely to the work of prison and probation services. This would mean in practice that the suggested way to go is not to draft a new Recommendation but rather to update and broaden the existing one. In relation to this EFRJ will send their suggestions by the end of March 2017.

VII. Terms of reference and internal rules of procedure of the PC-CP

17. The PC-CP WG held a meeting in camera to discuss their current mandate and whether there was a need to adopt their own rules of procedure, based on CM/Res (2011) 24 and were of the opinion that instead some additional sentences could be added to the next mandate of the PC-CP under the heading "Composition".

VIII. Gender mainstreaming

18. The total number of participants was 28 out of whom there were 13 women and there was a balanced participation in the work of women and men both as speakers and as interveners under the different points on the agenda. Issues related to women and gender were discussed under points II, III, V and VI.

IX. Dates of the next plenary meeting

19. The PC-CP WG will hold its next meeting on 10-12 April 2017.

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Appendix I

AGENDA / ORDRE DU JOUR

**14th meeting of the Working Group / 14^e réunion du Groupe de travail
30 January - 1 February / 30 janvier - 1^{er} février 2017 (9h30)
Strasbourg
Agora Building / Bâtiment Agora – Room / Salle G05**

1. Opening of the meeting / Ouverture de la réunion

2. Adoption of the agenda and the order of business / Adoption de l'ordre du jour et de l'ordre des travaux

3. Summary report of the last meeting / Rapport sommaire de la dernière réunion

PC-CP (2016) 11
English / Français

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

CDPC (2016) 21
English / Français

5. Revision of the commentary to the European Prison Rules / Révision du commentaire aux Règles pénitentiaires européennes

PC-CP (2017) 3
English only

6. Restorative justice in prison and probation fields / Justice réparatrice dans le domaine des prisons et de probation

I. Marder Presentation

7. Children of imprisoned parents / Enfants de parents détenus

COPE document
COPE Presentation

8. 22nd Council of Europe Conference of Directors of Prison and Probation Services (20-21 June 2017, Norway) / 22^e Conférence du Conseil de l'Europe des directeurs de services pénitentiaires et de probation (20-21 juin 2017, Norvège)

9. SPACE statistics / Statistiques SPACE

10. Internal rules of procedure of the PC-CP / Règlement interne du PC-CP

CM/Res (2011) 24
English / Français

11. Any other business / Questions diverses

CDPC (2016) 22
English only

PC-CP (2017) 2
English only

12. Dates of the next meetings / Dates des prochaines réunions

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

MEMBER STATES / ETATS MEMBRES

BELGIUM / BELGIQUE

Werner VANHOUT (**Apologised/Excusé**)
Conseiller général de la DG Epi, Bruxelles

NORWAY / NORVÈGE

Harald FØSKER
International Director, Directorate of Norwegian Correctional Service, Lillestrøm, Norway

ROMANIA / ROUMANIE

Radu Florin GEAMANU
Legal advisor, Drafting Legislation Department, Ministry of Justice, Bucharest

RUSSIAN FEDERATION / FÉDÉRATION DE RUSSIE

Ilya ANTONOV
First deputy head of the Legal Department of the Federal Penal Service, Ministry of Justice, Moscow

Vladislav MAKOVSKIY
Officer, International Co-operation Department, Federal Penitentiary Service of the Russian Federation

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

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Dominik LEHNER (Dr.)

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* * * * *

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Kirsten HAWLITSCHKE

Executive Director, The Hague, Netherlands

EUROPEAN FORUM FOR RESTORATIVE JUSTICE (EFRJ)

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Executive Director, Leuven, Belgium

OTHER COUNCIL OF EUROPE BODIES / AUTRES ORGANES DU CONSEIL DE L'EUROPE

EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CPT) / COMITÉ EUROPÉEN POUR LA PRÉVENTION DE LA TORTURE ET DES PEINES OU TRAITEMENTS INHUMAINS OU DÉGRADANTS (CPT)

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EUROPEAN COURT OF HUMAN RIGHTS (ECHR) / COUR EUROPEENNE DES DROITS DE L'HOMME (CEDH)

Kresimir KAMBER

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