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OF EUROPE    DE L'EUROPE

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

**Council for Penological Co-operation**  
**(PC-CP)**

**3<sup>rd</sup> Plenary Meeting**

**Strasbourg, 6-8 March 2013**

**SUMMARY MEETING REPORT**

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

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### Executive summary

#### **The PC-CP plenary:**

- took note of the information provided by the Secretariat regarding the decisions and activities of the CDPC and its subordinate bodies related to the field of its competence;
- took note of the presentation made by Professor Ton Liefwaard on violence in places of detention for juveniles, held a discussion on the issue and decided that there is a need for a more in-depth study of the causes of violence involving juveniles both in society and in closed settings and of ways of dealing with it. It decided to bring the matter to the attention of the CDPC with a view of possible future work on the subject;
- took note of the seminar organised by EPAS with the participation of members of the PC-CP Working Group: "Sport in Prisons" (Strasbourg, 5 March 2013) and of the planned 2014 Conference on the same subject and agreed to continue the cooperation with EPAS in this field;
- following the instructions of the CDPC plenary session in December 2012 the PC-CP and the PC-OC Mod had a joint round table discussion on trans-border issues related to electronic monitoring. The discussions confirmed that there are so far in Europe no bilateral agreements or special regulations regarding trans-border tracking of suspects or offenders under electronic monitoring or regarding sharing of data in relation to this. Both committees concluded that it is premature at this point to regulate at the Council of Europe level such possible situations;
- considered the conclusions of the 17<sup>th</sup> CDAP (Rome, 2012) as well as of the information provided by the Italian delegation regarding the follow-up given at their national level. The committee agreed that overcrowding remains a priority issue. They further agreed that there is a need to continue and enlarge the dialogue and cooperation between the prison and probation services and the judiciary in order to improve the sanctioning and execution policies within the penal framework;
- revised the draft recommendation on electronic monitoring and its draft commentary and forwarded these to the CDPC for consideration and further instructions, if needed;
- considered SPACE I and SPACE II Statistics for 2011, discussed certain replies provided by the national correspondents and decided to provide an additional week for final comments and information to be sent to the scientific experts in order to allow them to finalise the reports in due course;
- took note of the outcome of the first meeting of the ad hoc drafting group on Dangerous Offenders (PC-GR-DD) and was of the opinion that not only offenders but also suspects need to be included in the scope of the work of the committee in conformity with its mandate;
- considered the contents and overall organisation of the 18<sup>th</sup> CDAP (2013) and agreed that one day of the conference would be dedicated to a meeting with judges and prosecutors (see indent 5 above). Several possible themes of the conference were suggested: improving the implementation of the relevant CM recommendations and in the first place Recommendation (99) 22 concerning prison overcrowding; dealing with violence and dangerous offenders in prison and in with such offenders who are under probation. The PC-CP decided to continue the discussions regarding the contents and overall organisation of the 18<sup>th</sup> CDAP at its next meeting;
- due to the lack of sufficient time the PC-CP decided to postpone the point related to the implementation of the Committee of Ministers recommendations in the penitentiary field for its next meeting.

1. The Council for Penological Co-operation (PC-CP) held its 3<sup>rd</sup> plenary meeting in Strasbourg on 6-8 March 2013 with Mr André Vallotton 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 last meeting of the PC-CP Working Group [Doc. PC-CP (2012) 16]**

3. The PC-CP considered the summary meeting report last meeting of the PC-CP Working Group and had no comments to make.

**III. Items for information**

4. Mr Jan Kleijssen, Director of Information Society and Action against Crime Directorate, DG Human Rights and Rule of Law welcomed the participants and underlined that the Council of Europe work in the penitentiary field is constantly growing. He welcomed the dialogue established with judges and prosecutors at the 17<sup>th</sup> CDAP (Rome, 2012) and underlined that this dialogue needs to be maintained in order to reduce prison overcrowding. He also welcomed the cooperation with EPAS in holding the seminar on "Sport in Prisons" (see also item IV below).
5. Mr Carlo Chiaromonte, Head of the Criminal Law Division and Secretary to the European Committee on Crime Problems (CDPC) informed of the latest activities and decisions of the CDPC and more specifically of those related to the PC-CP field of competence. He informed that in connection with the follow-up to be given to the Resolution adopted at the 31<sup>st</sup> Council of Europe Conference of Ministers of Justice (Vienna, 2011) the CDPC decided that no specific action is needed regarding the question of urban violence and the involvement of juveniles as victims and perpetrators in it, apart from collecting data regarding the existing standards and best practices in the Council of Europe member states.
6. Mr Chiaromonte informed also of the start of the work on dangerous offenders (the first meeting of the PC-GR-DD took place in December 2012) and of the fact that in accordance with its mandate the group should come up with a draft recommendation on the subject by the end of 2013 (see also item XII below).

**IV. EPAS seminar organised under the auspices of the Andorran Chairmanship on sport in prisons (5 March 2013)**

7. The members of the PC-CP Working Group who attended the seminar as well as the Secretariat of the European Partial Agreement on Sport (EPAS) which had organised the event informed the participants of its debates and outcome. The EPAS Secretariat thanked the PC-CP representatives for their contribution to the seminar and its outcome and reiterated the invitation to continue the cooperation in view of the preparation and holding of the 2014 Conference on this subject (to which the past seminar was a preparation). The possible outcome of such a Conference could be the preparation and wide diffusion of a Handbook with best practices of the use of sport in prisons.
8. The PC-CP participants underlined that sport is a very important component of the process of normalisation and preparation for release of prisoners and an important factor for improvement of health and prevention of negative effects of imprisonment. It was also underlined in this respect that the (re) socialising effect of sport is very important and that it improves dynamic security and decreases violence in prison. The situation of disabled and elderly prisoners and their need for adapted sport activities was also considered. The need for adapted prison architecture was also raised. The benefits of involving prisoners themselves in taking decisions in relation to sport and other activities were underlined.
9. The EPAS Secretariat informed that in preparation of the Conference a questionnaire will be prepared to be sent out to national sport federations, local clubs and others and that the PC-CP will be sent the draft questionnaire for possible comments.

**V. Electronic monitoring**

10. The PC-CP considered the draft recommendation and its draft commentary as prepared by the scientific experts, the Chair and the Secretariat. The participants approved the definitions as drafted and added the definitions of suspect and offender. They agreed that there are three main risks involving the use of electronic monitoring: its net-widening, i.e. its use for offences or offenders for which or for whom it should not be used; its increasing intrusiveness into the private life of suspects, offenders, their families and third parties; and the increasing role commercial agencies are playing in this field.
11. The PC-CP approved the basic principles with some minor amendments. The part on ethical issues was split into two separate parts: ethical issues and data protection.
12. Debate raised the issue of the use of electronic monitoring as a stand-alone sanction or measure. Some delegations were of the opinion that it is never used as a stand-alone measure as it is a tool for execution of a sanction or measure aimed at restricting the liberty of a suspect or an offender. Others pointed out that it may be efficient as a stand-alone measure, for instance to keep away certain football fans during big football matches. Yet others argued that in order to have long-lasting effect on offending it needs to be combined with other interventions aimed at helping the person desist from crime. It was also pointed out that this principle is already contained in the Council of Europe Probation Rules (Rules 57 and 58). In order to meet all concerns the rule was amended accordingly.
13. Debate also raised the rule on inspection and independent monitoring. Some delegations were of the opinion that governmental inspection is sufficient, others considered that independent monitoring is very important as long as there are also commercial interests and data protection issues at stake.
14. The draft commentary was also reviewed and it was agreed that the scientific experts will expand it further and will reflect some of the issues raised during the meeting.
15. The CEP representative informed the participants of a questionnaire sent out to the CEP members in preparation of a conference held in 2012 and of the outcome of its results. It was decided to send out again the questionnaire to all 47 member states in order to have a more representative data of the situation with electronic monitoring throughout Europe. It was also decided to add two more questions: why a country has chosen not to introduce electronic monitoring (which is the case in some countries) and how the issue of data protection is regulated. Mike Nellis, scientific expert will analyse the replies. The report will be ready by the end of October 2013 and could be added as a supplement to the commentary to the draft recommendation.

**VI. Violence in juvenile institutions**

16. Following concerns expressed at the 16<sup>th</sup> CDAP (Strasbourg, 2011) regarding violence in places of detention for juveniles Professor Ton Liefwaard, UN expert on violence within the juvenile justice system for children made a presentation on this subject. He pointed out that most cases of violence involving juveniles happen when they are deprived of their liberty for different reasons (as a result of administrative, civil or penal law proceedings and decisions). In this respect it is very important to keep personal files for all juveniles and not only medical files as is recommended by the European Rules for juvenile offenders subject to sanctions or measures. The institutions holding juveniles should be as transparent as possible and the children held in them should be visible to society. It is very important to have local inspections and not only inspections organised at national level as the latter may remain formalistic and far away from local realities. The issue of inhuman and degrading treatment of girls (bed-belted for medical reasons far too often) was also discussed and the debate regarding whether physical or chemical restraint is more humane in some extreme situations was raised.
17. In Professor Liefwaard's opinion as well as that of the rest of the participants was that there are sufficient number of standard-setting rules in this field and what is needed is to take practical measures to sharpen the message these rules carry and help reduce such cases.
18. The PC-CP participants pointed out that cases of violence involving juveniles are at a rise and that there is a need for a more in-depth study of the causes of such violence both in society and in closed settings and of ways of dealing with it. The PC-CP decided to bring the matter to the attention of the CDPC with a view of possible future work on the subject.

**VII. Follow-up to the 17<sup>th</sup> Conference of Directors of Prison Administration with the participation of Directors of Probation Services (Rome, 2012)**

19. The Italian delegation informed the PC-CP of the follow-up given to the 17<sup>th</sup> CDAP (Rome, 2012), namely the planned meeting with representatives of the prison administrations of the South Mediterranean countries to deal with the issue of foreign prisoners, as well as the creation of a mixed commission of supervising and other magistrates to seek common solutions to sentencing policies and execution of sanctions. The prison administration has defined in a new manner the prison circuit and has decided to optimise all prison space inside prisons in order to change prison regime and everyday organisation of prison life and thus better prepare prisoners for release.
20. The PC-CP considered the conclusions of the Conference and reiterated the need to maintain close dialogue with judges and prosecutors in order to reduce the use of imprisonment and make more efficient use of community sanctions and measures.

**VIII. SPACE statistics [Docs. PC-CP (2013) 5 prov and PC-CP (2013) 6 prov]**

21. The PC-CP considered the provisional editions of the SPACE I and SPACE II data for 2011. 49 prison administrations had provided replies to the annual survey for 2011. For several consecutive years already the Russian Federation is not providing data and despite some statistical numbers sent some time before to the SPACE team the same could not be used as they referred to the year 2010. Regarding SPACE II, following the amendments to the questionnaire agreed at one of the previous PC-CP meetings in 2012 the number of replies has risen significantly. Professor Aebi also informed of his participation in a Regional Round table with some of the national correspondents for SPACE held in 2012. The meeting was organised by the Czech prison administration and was a useful occasion to discuss some outstanding methodological and other issues. He reiterated the request to hold a bigger meeting of this kind with all national correspondents in order to ensure continuity and common methodology of collection of data in Europe.
22. Professor Aebi discussed some trends in prison population based on the statistical data, namely the stabilisation of the number of prisoners in Europe and also the decrease in the use of probation measures. At the same time the average length of prison sentences continues to increase steadily over the years.
23. The PC-CP participants considered the two documents and some delegations suggested amendments to certain footnotes to the tables which explain the legal and structural situation in their respective countries. Because of the length of the two documents it was decided to give an additional week to all delegations for contacting their national correspondents and sending their comments to Professor Aebi before the final version of the survey is published on the internet. It was also decided that for the next plenary meeting the two surveys will be sent at least 10 days in advance in order enable the participants to finalise the documents at the meeting itself.

**IX. Implementation of Committee of Ministers recommendations in the penitentiary field**

24. The PC-CP in accordance with its terms of reference is entrusted with the task to follow the implementation of the relevant Committee of Ministers recommendations and in the first place the European Prison Rules, the European Rules for juvenile offenders subject to sanctions or measures and the Council of Europe Probation Rules. Several times questionnaires were sent out to the national authorities in this respect, the last one in preparation of the 2011 CDAP. The PC-CP needed to have a debate whether this would be the best manner to receive a feedback from the member states and what measures needed to be taken to improve implementation of these texts further.
25. It was decided to postpone this debate for the next meeting of the PC-CP Working Group.

**X. 18<sup>th</sup> Conference of Directors of Prison Administration (2013)**

26. The PC-CP held a round table discussion regarding possible topics to be considered at the next CDAP (to be held in the autumn of 2013). It was decided that a one-day meeting will be held with European judges and prosecutors in order to continue the dialogue aimed at reducing prison overcrowding and at making more efficient use of probation and of community sanctions and measures. It was also suggested as possible topics to consider the causes of violence in detention and ways of dealing with it, including exchange of good practices in the treatment of dangerous offenders. The implementation of the Council of Europe standards could also be among the topics of the Conference.

27. It was decided to continue the discussions by mail and also at the next meeting of the PC-CP Working Group.

**XI. Joint PC-CP/PC-OC Mod meeting**

28. Following the instructions given at the CDPC plenary session (December 2012) the PC-CP and the PC-OC Mod had a joint debate related to trans-border issues involving electronic monitoring. The discussions confirmed that so far in Europe there are no bilateral agreements or special regulations regarding trans-border tracking of suspects or offenders under electronic monitoring or regarding sharing of data in relation to this. This matter is separate from the issue of joint investigation police teams where trans-border cooperation is regulated by bilateral agreements in several European countries.
29. Therefore both committees concluded that it is premature at this point to regulate at the Council of Europe level such possible situations because of different reasons. Many countries do not use electronic monitoring at all; others use radio frequency equipment which does not allow for tracking outside the place of residence of the suspect or the offender. In case a GPS tracking is used the decision imposing electronic monitoring usually provides for a person to be at a certain place at a certain time and the alarm system starts off only in case this rule is not respected. Otherwise there is no restriction on the movements in most cases. Usually a suspect or an offender is not supposed to leave the territory of a given country if there is a restriction of his/her movements but this condition is achieved by taking possession of the passport or other travel documents of the person in question.

**XII. Dangerous offenders**

30. The PC-CP took note of the information provided by Ms Irene Koeck regarding the first meeting of the PC-DG-DD which took place in December 2012. It noted that the time allocated for the elaboration of a draft recommendation is rather short which might pose difficulties as the subject matter is sensitive and needs consensus from the Council of Europe member states with sometimes different systems and structures for dealing with dangerous offenders. The PC-CP also noted that PC-DG-DD decided not to deal with suspects but only with convicted offenders who are considered to be dangerous. The PC-CP was of the opinion that this decision is not in conformity with the mandate which provides for studying "the risk and threat assessment of dangerous offenders in criminal proceedings which could result in detention due to the danger posed by the offenders". It indicated that this task involves also the consideration of suspects who may potentially pose risk to society. The PC-CP also noted that in all relevant recommendations adopted in the course of the last years the term suspect has been defined and covered as penal sanctions and measures are applicable to this group as well.
31. The PC-CP further decided to appoint Mr André Vallotton as its representative at the next meeting of the PC-DG-DD.

**XIII. Other business**

32. The gender aspect of the work of the PC-CP plenary had been taken care of in relation to the work on a draft recommendation on electronic monitoring and its draft commentary as well as when discussing other points on the agenda like sport in prisons and violence in juvenile institutions. In addition the 8<sup>th</sup> of March, was specifically highlighted by the gender reporter but also by other participants who stressed the need to reflect women's specific needs in the PC-CP work. Moreover, on the topic related to the Council of Europe Annual Penal Statistics – the women's particular needs were underlined while analysing the tables on female prisoners in the member states and the percentage of women in different tables (e.g. table on suicides in penal institutions).
33. There has been a balanced representation and participation of both men and women in the plenary (out of the total of 43 participants in the PC-CP plenary there were 26 men and 17 women).

**XIV. Dates of the next meetings**

34. The next meetings of the PC-CP working group were scheduled as follows: 19-21 June and 25-27 September 2013.

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**APPENDIX I**

**AGENDA / ORDRE DU JOUR**

<b>Adoption of the agenda / Adoption de l'ordre du jour</b>	<b>PC-CP (2013) OJ 1</b> <i>Bilingual / Bilingue</i>  <i>Order of business</i>
<b>2) Information / Informations</b>	
<b>3) Summary report of the last meeting / Rapport sommaire de la dernière réunion</b>	<b>PC-CP (2012) 16</b> <i>English</i> <i>Français</i>
<b>4) Electronic monitoring / Surveillance électronique</b>	<b>PC-CP (2013) 1</b> <i>English</i> <i>Français</i>  <b>PC-CP (2013) 2</b> <i>English</i> <i>Français</i>  <b>CEP questionnaire EM</b> <i>English only</i>  <b>CEP questionnaire guiding notes</b> <i>English only</i>  <b>CEP analysis of replies</b> <i>English only</i>
<b>5) SPACE</b>	<b>PC-CP (2013) 5 prov</b> <b>PC-CP (2013) 6 prov</b>
<b>6) Exchange of views with the PC-OC / Echange de vue avec le PC-OC</b>	<b>Questionnaire</b> <i>Bilingual / Bilingue</i>
<b>7) Follow-up to the conclusions adopted at the 17<sup>th</sup> CDAP / Suites à donner aux conclusions adoptées à la 17<sup>e</sup> CDAP</b>	<b>Conclusions</b> <i>English</i> <i>Français</i>  <b>Conclusions 2<sup>nd</sup> meeting</b> <i>English</i> <i>Français</i>
<b>8) 18<sup>th</sup> Conference of Directors of Prison Administration (2013) / 18<sup>e</sup> Conférence des directeurs d'administration pénitentiaire (2013)</b>	

**9) Violence in juvenile detention institutions /** Violence dans les institutions de détention pour mineurs

**Documents**  
*English only*  
*English only*  
*English only*  
*Presentation Mr Liefwaard*

**10) Sport in prisons /** Sport dans les prisons

**Documents**  
*English*  
*Français*  
  
*English*  
*Français*

**11) Implementation of the CM Recommendations – Round table discussion /** Mise en oeuvre des Recommandations du CM – Tour de table

**Document**  
*English only*

**12) Any other business /** Questions diverses

**PC-GR-DD (2012) 5**  
*English*  
*French*

**13) 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\*\*\*

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**LUXEMBOURG**

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\*\*\*Apologised/Excusé\*\*\*

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\*\*\*Apologised/Excusé\*\*\*

**NETHERLANDS / PAYS-BAS**

\*\*\*Apologised/Excusé\*\*\*

**NORWAY / NORVÈGE**

\*\*\*Apologised/Excusé\*\*\*

**POLAND / POLOGNE**

\*\*\*Apologised/Excusé\*\*\*

**PORTUGAL**

\*\*\*Apologised/Excusé\*\*\*

**ROMANIA / ROUMANIE**

\*\*\*Apologised/Excusé\*\*\*

**RUSSIAN FEDERATION / FÉDÉRATION DE RUSSIE**

\*\*\*Apologised/Excusé\*\*\*

**SAN MARINO / SAINT-MARIN**

\*\*\*Apologised/Excusé\*\*\*

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