COUNCIL OF EUROPE

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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

Council for Penological Co-operation
(PC-CP)

7th Working Group Meeting

Rostock-Warnemünde (Germany)

1-2 September 2014

SUMMARY MEETING REPORT

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

EXECUTIVE SUMMARY

The PC-CP Working Group:

Approved the summary meeting report of its last meeting;

Welcomed the delegations of Germany, the Russian Federation and Mexico and took note of the intervention made by Mr Thomas Dittmann, Director General, German Federal Ministry of Justice and Consumer Protection;

Considered and revised the draft report prepared by Professor Anthony Beech, scientific expert and took decisions regarding its final list of recommendations and conclusions as well as regarding the accompanying attachments. It further decided that no international legal text needs to be drafted at this point of time but that this issue will remain in the remit of the PC-CP attention in case any future action would be deemed necessary;

Considered the draft report on violence in institutions for juvenile offenders prepared by Professor Ton Liefaard, scientific expert, made some comments, approved it and decided to promote its contents among the Council of Europe member states and to raise the authorities' attention to the issue of violence in such institutions;

Took note of the feedback provided by Mr Mauro Palma regarding his participation in his capacity of PC-CP Chair in different meetings and conferences as well as of their conclusions and outcomes;

Considered the draft report on restorative justice in prisons prepared by Professor Gerry Johnstone, scientific expert, discussed some possible options regarding its practical application and made some specific comments regarding the four models described in it;

Discussed the follow-up to be given to the 19th Conference of Directors of Prison and Probation Services (CDPPS) (Helsinki, June 2014), namely the need to create a working group on the issue of prison overcrowding and decided that a possible topic of common concern for all institutions could be the use of pre-trial detention and its alternatives as well as possibilities for pre-trial diversion;

Considered possible topics and contents of the 20th CDPPS (2015);

Considered Doc. PC-CP (2014) 16 and the issue of review, promotion and implementation of the existing Committee of Ministers' Recommendations in the penitentiary field and took decisions in this respect;

Considered the annotated draft agenda and order of business of its plenary meeting in November and made some additions and modifications to these;

Agreed to hold its next Working Group meeting on 4-6 February 2015;

Took part in the Final Conference of the Justice Cooperation Network related to the treatment and transition management of high risk offenders project (3-5 September).

The Council for Penological Co-operation (PC-CP) Working Group held its 7th meeting in Rostock-Warnemünde (Germany) on 1-2 September 2014 with Mr Mauro Palma (Italy) in the Chair and Ms Alina Barbu (Romania) 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 of the order of business

1. The agenda and the order of business were adopted (see Appendix I).

II. Summary report of the last meeting of the PC-CP Working Group [Doc. PC-CP (2014) 10]

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

III. Items for information

3. Mr Palma provided feedback of his participation as PC-CP Chair in the joint WHO/Council of Europe meeting "Prison health in Europe. Missions, roles and responsibilities of international organisations" (May, 2014), in the CDPC plenary meeting, in the 7th Conference of the European Penitentiary Training Academies and in the EPAS Conference "Sports in Prisons" (June 2014) (see Appendices III to IV).

4. Mr Thomas Dittmann, Director General, Criminal Law, German Federal Ministry of Justice and Consumer Protection gave a brief overview of the activities of his Directorate General and underlined the importance of the next days final Conference.

IV. Review of the recommendations and resolutions in prison and probation fields

5. The participants considered doc. PC-CP (2014) 16 drafted on the basis of the comments and proposal made by the PC-CP WG members, took decisions regarding the procedure to follow and instructed the Secretariat to revise the document in due time for the PC-CP plenary in November 2014 with a view to its consideration and approval at it.

V. Follow-up to be given to the 19th Conference of Directors of Prison and Probation Services (Helsinki, 17-18 June 2014)

6. The PC-CP Working Group members considered the conclusions of their Chair at the Conference as well as the proposals made by Mr Philip Boillat, Director General, Human Rights and Rule of Law Directorate in his opening and closing speeches. In relation to the proposal made to convene a working group meeting of representatives of the judiciary, the legislative bodies, the prison and probation services to discuss prison overcrowding and ways to deal with it, it was suggested to invite also representatives of the police and to discuss pre-trial detention, its alternatives and pre-trial diversion (up to the first instance court sentence). It was pointed out that in many countries overcrowding is a serious problem at this stage of the criminal process.

7. The Secretariat confirmed that this proposal will be put forward before the CDPC Bureau and the members will be informed in case any such meeting will be organised by the end of the current year in order to appoint PC-CP representative(s) to take part in it.

VI. Violence in juvenile detention institutions

8. The participants considered the revised draft report as prepared by Professor Ton Liefaard. The same was based on the replies received from 39 member states (58 replies altogether). The conclusions and recommendations it contained were also considered as well as the possible steps to be taken for its promotion among the competent national authorities after its presentation at the PC-CP plenary meeting in November 2014 and at the CDPC plenary meeting in December 2014. It was underlined in this respect that attention to the issue of violence and to the information and conclusions contained in the report needs to be spread also among legislators and the judiciary. It was underlined that it might be of practical use to develop guidelines based on the report on how to deal with violence in institutions for juvenile offenders. It was also proposed to publicise the report at international fora dealing with juvenile justice and also to send it to the national ministries of justice and the prison and probation services and to put it on the PC-CP web site with a separate link.

9. Professor Liefaard was requested to reflect the comments and proposals regarding the text made during the meeting and to send to the Secretariat a revised text not later than 25 September 2014.

VII. Quasi-compulsory measures as alternative to imprisonment

10. The PC-CP WG considered the draft report presented by Professor Anthony Beech and based on the replies to the questionnaire (32 countries replied). It was underlined that the information contained in many of the replies was not sufficient to conclude that separate and specific measures existed that were distinct from those provided to offenders in general. It gave additional indications to Professor Beech regarding the contents, structure and conclusions contained in the report and requested him to send a revised text by 25 September 2014.

11. It further decided that no international legal instrument needs to be drafted at this point and that the final report will be presented at the next PC-CP plenary meeting in November and at the CDPC plenary meeting in December 2014. In case CDPC considers that any future action would be deemed necessary the PC-CP would be ready to keep this point on its agenda.

VIII. Restorative justice in prisons

12. The PC-CP Working Group members considered the draft report on restorative justice in prisons prepared by Professor Gerry Johnstone, scientific expert, held an in-depth discussion of the issue and in particular regarding the possible options for its practical application in prison settings. Some members drew the attention to the need for caution in using restorative justice in order not to make it an obligation and not to victimise again victims who take part in it. Consideration was also given to the issue of whether restorative justice is possible in case of terrorism and organised crime cases.

13. The members furthermore made some specific comments regarding the four models for possible use in prisons described in it and proposed to highlight some of these to a greater extent. Some members requested practical advice regarding concrete step-by-step programme for the use of restorative justice in prisons, others suggested sending to Professor Johnstone some additional information regarding its practical implementation in specific prisons in their own country.

14. Professor Johnstone was requested to send the revised text by 5 September with a view of its discussion at the next PC-CP plenary meeting and at the CDPC plenary meeting in December 2014.

IX. Annotated agenda and order of business of the PC-CP Plenary meeting in November 2014

15. The participants considered once again the annotated agenda and agreed on the order of business of their plenary meeting in November 2014 and sent it to the CDPC Bureau for approval.

X. 20th Conference of Directors of Prison and Probation Services (2015)

16. The participants discussed the overall organisation and suggested some specific topics which might be discussed at the Conference. It was decided to finalise these proposals by mail before the PC-CP plenary meeting with a view to agreeing at it on the final topic of the Conference.

XI. Any other business

17. Ms Alina Barbu, gender rapporteur noted that the gender aspects have been taken into consideration at the current meeting, namely 5 women attended and took part in the work; gender aspects were taken into consideration in the report on violence in institutions for juvenile offenders and specific examples were given in this respect regarding actions taken in Germany for solving the specific needs of young females prisoners; in the discussions related to the review of Committee of Ministers recommendations in the field of execution of penal sanctions and measures gender aspects were also taken into consideration.

18. The PC-CP Working Group thanked one of its members, Mr Jörg Jesse for providing excellent conditions for holding its meeting and for inviting the group to take part in the Final Conference of the Justice Cooperation Network related to the treatment and transition management of high risk offenders project (3-5 September).

XII. Dates of the next meetings

19. The dates scheduled for the next meeting of the PC-CP Working Group are 4-6 February 2015.

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APPENDIX I

AGENDA / ORDRE DU JOUR

1) Adoption of the agenda / Adoption de l'ordre du jour	
2) Summary report of the last meeting / Rapport sommaire de la dernière réunion	**PC-CP (2014) 10** ***English*** / *Français*
3) Review of the recommendations and resolutions in the penitentiary field / Révision des recommendations et résolutions dans le domaine pénitentiaire	**Compendium** ***May 2014*** **/** *mai 2014* **PC-CP (2014) 16**
4) Follow-up to the 19th CDAP (1st CDPPS) (Helsinki, 17-18 June 2014) / Suites à donner à la 19e CDAP (1ère CDPPS) (Helsinki, 17-18 juin 2014)	***Direct link to the website*** **/** *Lien direct au site web*
5) Presentation by Mr Thomas Dittmann, Director General, Criminal Law, German Federal Ministry of Justice / Présentation par M. Thomas Dittmann, Directeur général, Droit pénal, Ministère fédéral de la Justice de l'Allemagne	
6) Treatment measures alternative to imprisonment / Mesures de prise en charge alternatives à l'emprisonnement	**PC-CP (2014) 14** ***English only***
7) Violence in juvenile detention institutions / Violence dans les institutions pour délinquants mineurs	**PC-CP (2014) 13** ***English only***
8) Restorative justice in prison / Justice réparatrice en prison	**PC-CP (2014) 17** ***English only***
9) Any other business / Questions diverses	
10) Dates of the next meetings / Dates des prochaines reunions	

APPENDIX II

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

MEMBER STATES / ETATS MEMBRES

GERMANY / ALLEMAGNE

Thomas DITTMANN
Director General, Criminal Law, Bundesministerium der Justiz und für Verbraucherschutz (Federal Ministry of Justice and Consumer Protection), Berlin

Almuth HAENSCH
Staatsanwältin, Desk Officer, Division for Criminology, Crime prevention, Law governing the Prison Service, Bundesministerium der Justiz und für Verbraucherschutz, (Federal Ministry of Justice and Consumer Protection),
Berlin

RUSSIAN FEDERATION / FEDERATION DE RUSSIE

Leonid KLIMAKOV
Head of the Legal Department of the Federal Penal Service, Ministry of Justice, Moscow

Ivan TARANENKO
Officer of the International Department of the Federal Penal Service, Ministry of Justice, Moscow

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

Alina BARBU
Vice-Chair of the PC-CP, Legal expert, Directorate of Drafting legislation Department, Ministry of Justice, Bucharest, Romania

Harald FØSKER
Director of International Cooperation, Norwegian Correctional Services, Oslo, Norway

Vivian GEIRAN
Director, Probation Service HQ, Dublin, Ireland

Antanas JATKEVIČIUS
Head of Criminal and Administrative Law Unit, Legal Department, Office of the Parliament; Vilnius, Lithuania
Research fellow, Lithuanian Institute of Law, Vilnius, Lithuania

Joerg JESSE
Director General, Prison and Probation Administration, Acts of Clemency, Ministry of Justice,
Mecklenburg - Western Pomerania, Schwerin, Germany

Attila JUHÁSZ
Prison Governor, Senior member, Heves County Remand Prison, Eger, Hungary

Dominik LEHNER (Dr.) ***(Apologised/Excusé)***
Head of Penal Services (Chef d'office d'exécution des peines), Justice and Security Department Basel-City, Basel, Switzerland

Peter LINDSTRÖM
Associate Professor, Stockholm County Police, Stockholm, Sweden

Mauro PALMA
Chair of the PC-CP, Adviser to the Minister of Justice, Roma, Italy

SCIENTIFIC EXPERTS / EXPERTS SCIENTIFIQUES

Anthony BEECH
Professor in Criminological Psychology, University of Birmingham, United Kingdom

Gerry JOHNSTONE
Professor of Law, Law School, University of Hull, United Kingdom

Ton LIEFAARD
Prof. Dr. T. (Ton) LIEFAARD, Professor of Children's Rights (UNICEF Chair), Leiden University, Law School, Leiden, The Netherlands

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

MEXICO / MEXIQUE

Patricia MORALES LUNA
Directora de Area Enla Coordinacion General de Centros Federales, Organo Adminsitrativo Prevencion I Readaptacion Social del Comision Nacional de Segudad. Secretaria De Gobernacion

Beatriz ORTIZ ESPINOSA
Subdirectora de Area Enla Coordinacion General de Centros Federales, Organo Adminsitrativo Des Concentrado De Prevencion I Readaptacion Social del Comision Nacional de Segudad.Secretaria De Gobernacion.

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

Ilina TANEVA
Secretary to the PC-CP / Secrétaire du PC-CP

Christine COLEUR
Assistant / Assistante

APPENDIX III

PRISON HEALTH IN EUROPE: MISSIONS, ROLES AND RESPONSIBILITIES OF INTERNATIONAL ORGANISATIONS
WHO – POMPIDOU GROUP

Strasbourg 27 May 2014

Mauro Palma
Chair
European Council for Penological Co-operation
Former President of CPT
CPT – Council of Europe
Strasbourg

Allow me to thank you very much for this opportunity to exchange views with this distinguished audience on a matter that is of extreme importance for the prevention of ill-treatment in prison and the wellbeing of those who work in prison as well as those who spend there a period of their life – either detained on remand or serving a sentence.

I'm addressing you on behalf of the PC-CP which is a technical body tasked to follow the developments of national policies of the member states of the Council of Europe, in the field of penal sanctions both in the prison systems and probation services.

It works as a subordinate body of the European Committee on Crime Problems. It was set up in 1985 and now, in accordance with Resolution CM/Res (2011)24, its meetings have two different formats: the normal meeting of the Working group (composed of 9 members) and the general assembly of the PC-CP where all the representatives of the 47 governments are invited to attend.

The main tasks of the PC-CP include: a) follow the implementation of the European Prison Rules and the other Recommendations adopted by the Committee of Ministers in this area; b) prepare binding and non-binding instruments, studies and reports on Penological matters; c) develop communication among the authorities responsible for the implementation of penal sanctions by organizing the Annual Conference of Directors of Prison and Probation Services (next conference will be held in Helsinki in June); d) provide assistance and guidance to the member states by supporting the exchange of experiences and positive practices; and e) collect and publish, with the support of a university research group, the Annual Penal Statistics of the Council of Europe.

In this context great interest is given to the standards for the safeguard of prisoners' health and to the commitment of member States to prevent any risk of the inherent ill-treatment that is produced by a lack of care and prompt and effective assistance.

The standards on health care concern several areas (cf. Rules 39 – 48 of EPR). In particular, rules, recommendations and standards cover:

a) the medical treatment, based on the principle of an effective equivalence of care, taking into account the specificity of the composition of the prison population;

b) the information and the preventive action, which is an approach opposite to the frequent tendency to consider the medical service as a service on call, only reactive to a possible urgent need;

c) the respect of medical confidentiality in all the sections or departments of a prison, including those defined as high security sections, where the respect of confidentiality is too often lacking;

d) the psychological support to persons undergoing a difficult experience, in particular to vulnerable inmates;

e) the prevention of "critical events", in particular self-aggressive behaviour and suicides;

f) the psychiatric support both to those who committed the crime in a personal situation of mental illness and those who developed mental sufferance after its commission;

g) the prevention of ill-treatment, even giving technical confirm or disconfirm to the allegations made by the inmates;

h) the control on the hygienic conditions of the prison and in particular to the daily diet provided to the inmates;

i) the independence of the health care staff, which is more difficult to be achieved and to be perceived as achieved whenever the staff is part of the Prison Administration or the Ministry in charge for the execution of sentences;

j) the improvement of health staff professionalism and human rights awareness, which is often difficult to be achieved whenever there is a general deficiency of health care services in the external community of a member State.

As you see, when we examine the supply of health care in a closed environment, as a prison is, the list of attentions to be paid is rather long. The PC-CP doesn't exercise a direct monitoring of the situation, by visiting countries – as, for instance, the CPT does. Its role is to discuss with the governmental authorities the difficulties they are facing and, starting form that discussion, to elaborate possible frameworks to assess the structure of the problems and elaborate new standards. Therefore the PC-CP works as a standard setting body as well as a body supporting the Administrations in implementing the recommendations, making them aware of the solutions found in other countries which faced a similar situation.

Over the last years, despite the problem given by the overcrowding affect almost all the European prison systems, progress has undoubtedly been made, but there are certainly no grounds for complacency. A few long standing problems are still waiting to be resolved.

First, the cramped and unhygienic accommodation as a result of the already mentioned overcrowding.

Second, the lack of an effective preventive approach to health care in prison, based on proper information and screening.

Third, the frequent diminished independence of the prison doctor, in particular belonging to the Prison Administration, whenever disciplinary sanctions (in particular isolation) and allegations of ill-treatment by staff are concerned.

Forth, the patient's consent to medical treatment because every patient capable of discernment should be free to refuse treatment or any other medical intervention.

In the course of its activity the PC-CP tries to get information about these critical points and to examine the solutions adopted by the member States. It covers all the countries members of the Council of Europe, that is the enlarged geographical territory of Europe (the adjective "enlarged" means that the Asian part of the Russian Federation territory is fully part of the Council of Europe interest and overview). These countries have different penal systems, different profiles of the body tasked for the execution of sentences and different approach to the health care services. In some countries they are part of the National/Public Health care Service, in other countries they belong to the Prison administration. The most difficult situation is given by the period of transfer of competences, moving from the second to the first system. In general, the transfer should be encouraged as matter of independence. However the National/Public Health care Service should effectively consider this competence as part of its mission and should develop a specific professionalism in this area, by developing a scientific and professional speciality related to the health care services in prison and encouraging specific training in this area.

The topics that the PC-CP considers as significant are:

- the accessibility to medical care (this includes the medical screening of each detainee on his/her arrival and the access to a doctor by each prisoner irrespective of the detention regime);

- the role of the prison doctor in preventing and combating ill-treatment (by a scrupulous recording of any sign of possible ill-treatment);

- the equivalence of care (appropriate diets, physiotherapy or any other necessary special facility should be provided in conditions comparable to those enjoyed by patients in the outside community);

- the respect of confidentiality and the patient's consent (in particular prisoners should be provided with all relevant information concerning their condition, the course of their treatment and the medication prescribed for them; this information should be kept in a way assuring confidentiality);
- the professional independence (base on the principle that a prison doctor acts as a patient's personal doctor);

- the preventive role of the doctor concerning transmissible diseases and, more in general, well being in prison (by ensuring that information about transmittable diseases is regularly circulated, both to prisoners and to prison staff);

- the systematic monitoring of the detention conditions under the hygienic and sanitary point of view, reporting to the authorities the situations that could evolve into health problems for inmates and staff;

- and, obviously, the professional competence of medical staff.

As you see every list of problems/topics whenever health care in prison is concerned, is very long and never exhaustive. For this reason I'm very grateful to the organizers of this Meeting, indeed I thank Raed Aburabi for introducing our working day and I look forward to listening the interventions of the interlocutors who will examine the issue from a variety of viewpoints.

Thank you very much.

APPENDIX IV

7TH CONFERENCE
European Penitentiary Training Academies
Barcelona 26 - 27 June 2014

Mauro Palma
Chair of the Council for Penological Co-operation (PC-CP)

Distinguished participants, Minister, authorities, It is a pleasure and a honour for me to intervene in the opening session of the 7th Conference of the European Penitentiary Training Academies. Allow me to express my gratitude and that of the Council of Europe – in particular, of the Council for Penological Co-operation that I presently chair – for the opportunity to share views with this audience about a topic which the Council considers at the hearth of any action to be carried out and any theoretical discussion to be developed in prison systems: the role of a proper, positive and meaningful training of those who operate in these Institutions. I thank you very much for that.

Indeed it will be never enough underlined the great importance that is attached by the Council of Europe to the adequate recruitment and training of prison staff. The reason is that there is arguably no better guarantee against ill-treatment than a properly recruited and trained prison officer, who knows how to adopt the appropriate attitude in his relations with prisoners. In this regard, developed interpersonal communication skills are an essential part of the make-up of such staff. Such skills will often enable them to defuse a situation which could otherwise turn into violence. More generally, they will lead to a lowering of tension and raising of the quality of life in the institution concerned, to the benefit of all concerned.

However the importance of good staff training is not limited to the prevention of ill-treatment; it is an essential part in the rehabilitative process that is the core of the execution of a sanction. In the course of such training, considerable emphasis should be placed on the acquisition of interpersonal communication skills because building positive relations with prisoners should be recognised as a key feature of a prison officer's vocation.
Obviously to obtain personnel of the right calibre, the authorities must be prepared to invest adequate resources into the process of recruitment and training and – I add – to offer adequate salaries. This will also attract candidates from a wider pool and enhance the standing of prison staff in the community.

Staff should be enough to correctly supervise the activities of prisoners and support each other in the performance of their duties; further, management must be prepared to support staff fully in the exercise of their authority.

Allow me to stress, once again, the importance of staff professionalism at every level, operational as well as managerial (I wish to recall the importance accorded by the European Prison Rules to the leadership provided by prison management, essential requirements for which are the possession of adequate qualifications, suitable professional training and experience[1]).

The real professionalism of prison staff requires that they should be able to deal with prisoners in a decent and humane manner while paying attention to matters of security and good order. In this regard, prison management should encourage staff to have a reasonable sense of trust and expectation that prisoners are willing to behave themselves properly. The development of constructive and positive relations between prison staff and prisoners will not only reduce the risk of ill-treatment but also enhance control and security. In turn, it will render the work of prison staff far more rewarding.

As you are likely aware, last week the Council of Europe organised the annual meeting of Heads of the Administrations for the execution of sentences in Helsinki. In the past the meeting was called Conference of the Heads of Prison Administrations (CDAP). This time the name of the meeting changed to Conference of Directors of Prison and Probation Services (CDPPS). This change has the symbolic value of delivering a message of equivalence of the two modalities to serve a sentence or in some countries two different types of sentence.

Very often, on occasion of Conferences, symposiums and other meetings it is repeatedly underlined that the deprivation of liberty, the prison, should be a measure of last resort; that imprisonment should be limited to those who really deserve it due to the seriousness of the crime they committed or are suspected to have committed. Nevertheless most of the European prisons are full of individuals who committed minor crimes, very

[1] See, for example, Rule 84.1 of the revised European Prison Rules ("Every prison shall have a director, who shall be adequately qualified for that post by character, administrative ability, suitable professional training and experience") and Rule 84.2 ("Directors shall be appointed on a full-time basis and shall devote their whole time to their official duties").

often a repetitive sequence of the same offence and we register the corresponding sequence of admissions to the prison and subsequent release. The shared characteristic of these frequent clients of prisons is their social weakness: their impossibility to make reference to any network of social support.

So, very often our overcrowded prisons are full of persons who have no house, who have mental disorders, who have committed many petty transgressions, in some countries often related to the irregularity of their presence in the state territory. And the time they spend in prison is rarely useful for avoiding the reiteration of the same misbehaviour once released.

The European panorama is uniform enough as far as the prisons are concerned: high percentages of addicts, strong presence of sick prisoners, high percentages of foreigners in Western European countries, overcrowding. Fifteen years ago the Council of Europe adopted a Recommendation on how to reduce overcrowding in prison. The principles affirmed in that Recommendation go to the direction of limiting the remand in custody, by developing and using a wide range of alternatives; increasing the imposition and implementation of community sanctions and measures; reducing the length of sentences and accompanying a prisoner in his/her reintegration process by resorting to conditional release as one of the most effective and constructive means of preventing re-offending and promoting resettlement.

Therefore emphasising the importance of the probation service means to remind all of us about the necessity to find the best sanction for each person who committed a crime, for his/her possible rehabilitation, so helping the social reintegration and diminishing the risk for the community at large. The best sanction is never the deprivation of liberty in itself without any support, without purposeful activities and education to a fit and healthy style of life. This principle should be taken into account both at the time of the judgment, when the type of the sanction (imprisonment or community sanction) and its duration are set and during its execution, by the so called “management of the sanction” which includes the possibility of release on parole and the perspective of being accompanied during the process of reinsertion into society.

The issue broadens the vision about the role, the content and the aim of penal sanctions that are behind a given penal policy. We should remember that the European concept of penal sanctions is not based on a principle of ‘retribution’ of the harm inflicted to the victim and to society by the offender. This ‘retributive approach’ to penal sanctions – present in other traditions – based on the symmetry between the crime and the sanction is not the paradigm of punishment as developed in the modern European context. On the contrary the sanction should be aimed at a positive result, at a possible utility: converting the harm caused by crime into something useful for the future: first of all the possibility of avoiding, or at least reducing, future offending (the so called deterrent function of the sanction) and second the possibility of future reintegration into the society of the person who caused harm to it. This is the ‘utilitarian approach’ to penal sanctions.

In Europe, we don’t sanction a crime to give pain and suffering, although restriction or deprivation of liberty are themselves a matter of suffering; we sanction a crime and implement the sanction in order to heal the harm that the crime produced, to the victim as well as to the society, by finding ways to rework subjectively and collectively what happened.

In this context the professionalism of staff is crucial. As well as it is crucial the relationship that is established between staff and prisoners. According to Article 50 of the European Prison Rules[2], prisoners should be allowed and encouraged to express their views on matters relating to their conditions of detention. It is important to support this approach; any endeavour to promote dialogue between prisoners and the prison management and/or staff can only foster constructive relations and, more broadly, a healthy environment in prisons.

The Conference we are opening today will offer good elements for a positive indication in such a direction, keeping a good balance between theory and practice, between strategy, implementation and reliable evaluation.

The Council of Europe will continue offering its contribution and support as a monitoring system and a standard setting system, building shared strategies and cultures in facing the difficult task of ensuring security while scrupulously safeguarding the fundamental rights of everybody, including those who committed serious crimes. The Council of Europe’s bodies should be seen as think tanks assisting the member states in such a difficult task.

[2] “Subject to the needs of good order, safety and security, prisoners shall be allowed to discuss matters relating to the general conditions of imprisonment and shall be encouraged to communicate with the prison authorities about these matters.”

APPENDIX V

Pan-European Conference
EPAS- Enlarged Partial Agreement on Sport
Comité National Olympique et Sportif Français

SPORT AND PRISONS
Paris, 16-17 June 2014

Mauro Palma
Chair of the PC-CP, Council of Europe

Thank you very much for your kind invitation. A special thank to Mr Masseglia, President of the French Olympic and Sports Committee and to Ms Kuper, Chair of the EPAS Board (and, obviously to the State Secretary for Sports whose commitment is well known to all the participants).

First of all, I must apologise because I will attend only a very limited part of this Conference as I must leave the building in two hours in order to get my flight to Helsinki. However I see an important continuity between this opening of the discussion on sport and prisons and the meeting I'm going to chair tomorrow morning in Finland. That meeting is the Annual Conference of those who are in charge for the execution of sentences as responsible for their implementation, effectiveness, fairness and utility: the Directors of Prison Administrations and the Directors of Probation Services.

In the past the Council of Europe called this annual meeting "Conference of the Directors of Prison Administrations". For the first time this year the name was changed; now it is called "Conference of the Directors of Prison and Probation Services". This change wants to stress the equivalence of these two modalities to serve a sentence (or in some countries, where the penal code foresees a variety of sanctions and not only the deprivation of liberty, they are two different types of sentences).

Very often, on occasion of Conferences, symposiums and other meetings it is repeatedly underlined that the deprivation of liberty, the prison, should be a measure of last resort; that imprisonment should be limited to those who really deserve it due to the seriousness of the crime they committed or are suspected to have committed. Nevertheless most of the European prisons are full of individuals who committed minor crimes, very often we register a repetitive sequence of the same petty crime and a corresponding sequence of admissions to the prison and subsequent release. The common characteristic of these frequent clients of prisons is their social weakness: their impossibility to make reference to any network of social support. So, very often our overcrowded prisons are full of persons who have no house, who have mental disorders, who have committed many petty transgressions, in some countries often related to the irregularity of their presence in the territory. And the time spent in prison by them is rarely useful to avoiding the reiteration of the same misbehaviour once released.

Therefore emphasising the importance of the Probation service means to remind all of us about the necessity to find the best sanction for each person who committed a crime, for his/her possible rehabilitation, so helping the social reinsertion and diminishing the risk for the community at large. The best sanction is never the deprivation of liberty in itself without any support, without purposeful activities and education to a fit and healthy style of life. This principle should be taken into account both at the time of the judgment, when the type of the sanction (imprisonment or community sanction) and its duration are set and during its execution, by the so called "management of the sanction" which includes the possibility of release on parole and the perspective of being accompanied during the process of reinsertion into the society.

In the context of this perspective, I wanted to attend at least this opening of the meeting because I give much importance to the physical wellbeing of persons serving a sentence. Sport is crucial in the process of elaborating self-control, self-image and self-awareness; a process that is very important in a constrained environment as the prison is. Therefore I believe that the issue you are discussing and most of you are experiencing in their own country is crucial for establishing a different, more active and open model of detention in Europe.

When I had the pleasure to give a speech at the seminar on the "Overview of sport in European prisons" in March 2013, I recalled a Council of Europe standard about activities in prisons. This standard states that the provision of organized activities in a prison is part of the development of individualized programs for prisoners: the aim should be to ensure that all prisoners spend a reasonable part of the day outside their cells (at least 8 hours) engaged in work, education, *sport*, recreation and association. I underlined that sport should be not seen only as a free activity; it should be structured in the context of the treatment programme. In fact, in prison, the time spent in sport, athletic and physical activities has the double characteristic of free time left to individuals and time structured by professionals and linked to the general rehabilitative project.

Professor Theeboom, in his intervention considered sport under more perspectives: sport as a fundamental help in developing the detainee's own opportunities; sport as a mediator, facilitating many difficulties, which are unavoidable in the common life in a closed environment; sport as a practice to keep steady the self-perception of own body, own physical possibilities and self-control; and sport as a structured activity based on discipline. Indeed, I do agree with the significance of all these aspects. I add that for some prisoners, sport is a chance for a positive reinsertion once executed the sentence: I have in my mind an Italian experience that will be illustrated further during the Conference about training courses for instructors and for referees, ending with an evaluation and the subsequent recognised certification.

The core of a proper relationship between sport and prison lies in a view of imprisonment based on the *principle of inclusiveness* – of social inclusion: sport is part of such an idea of prison; otherwise it becomes only a way to use the time.

Inclusiveness is the corner stone of the European model of prison, such as designed by the European Prison Rules. The core idea of the prison systems in Europe is that our response to crime should be guided by and should reflect certain social values. In short, the sort of values associated with inclusiveness and peacemaking should be to the fore; the strictly 'punitive' and 'exclusionary' values which are often to the fore in penal interventions should move to the background.

The consequent principle is that "the punishment is the restriction of liberty: no other rights have to be removed" and no additional pain or reduction of personal skills should be imposed, except those strictly inherent to the detention itself.

Starting from these principles the Council for Penological Co-operation (PC-CP) looks at sport for its positive effects in the context of the prisoner's rehabilitation as part of the improvement of the his self-image. Indeed, the improvement of physical health and fitness – opposite to inherent risk of physical decline due to the restriction of movement – may increase the constructive attitude towards communication, ties with the family, in particular children, cooperative attitude with others and towards a positive development of leadership skills in a context where the risk of a negative leadership is round the corner.

When intervening last time in 2013 I stressed that sport gives the chance to test the capacity of a prisoner to play a positive role in a team and to interact with other inmates. Today I confirm the then statement. Because such an opportunity is evident when sharing a common purpose, for instance in the agonistic context. But it is very important in building awareness of the necessity of discipline and good order in a group and in a community; it is important in order to understand the distinction between the authoritative role of a training leader and the authoritarian role of a gang boss.

Offering positive experiences while helping those who committed crimes to reflect on their misbehaviour is the challenge of a system aimed at healing the harm caused by a crime (material and symbolic harm to the victims and to the society) by converting it into a positive return of the offender to the society, reducing the risk of new crimes. In this process the connection with the community outside the prison is fundamental: sport, as well as other structured activities of self-expression (theatre, cinema, ...) offers this opportunity.

The link between internal life and the involvement of the external community is evident in this meeting. The fact itself that the French Olympic and Sport Committee is here co-organising and hosting this Conference is a clear message affirming that those who are in prison do not cease to be part of our society. In some cases they symbolise the negative aspect of our society, our black corner, in most cases they are simply an aspect of the events of life.

APPENDIX VI

CDPC - 66th Plenary Session
Strasbourg, 11 June 2014

REPORT ON ACTIVITIES OF THE PC-CP
Mauro Palma
Chair of the PC-CP

Distinguished Chairman, Ladies and Gentlemen,

Thank you for your words of welcome. It is a great honour for me to address the Committee on Crime Problems for the first time as Chair of the –PC-CP.

As you all know the Council for Penological Co-operation works under the supervision of your Committee in order to follow the developments of the national policies and practices in the field of execution of penal sanctions and measures as well as the evolving design and profile of the European prison and probation services.

Since your last plenary session in December 2013 the PC-CP Working Group held two meetings (19-21 February and 31 March-2 April 2014). You will find the meeting reports among the working documents of your meeting. It representatives were invited to take part in other important which allowed to promote further the Council of Europe standards in the penitentiary field.

For a second time a press conference was organised in order to publicise the results of the SPACE I and SPACE II surveys and it was a real success (you can find the list of media articles among your files).

The 19th Conference of Directors of Prison and Probation Services will be held next week in Helsinki and as usual the PC-CP Working Group was heavily involved in its preparation and contents and will actively participate in its discussions and ensure its follow-up, in conformity with the instructions given by the CDPC.

The Terms of Reference given to the PC-CP explicitly mention the guidance and assistance to the national authorities in order to improve the conditions of detention and to more efficiently use probation sanctions and measures in line with the European Prison Rules and the Council of Europe Probation Rules. In these times it is not very easy to ensure full compliance with the principles enshrined by these rules. Too many prison systems are affected by overcrowding and too often the consequent material conditions of detention do not allow any credible programme of treatment aimed at a positive return to the society and an effective reduction of risk of recidivism.

However this difficulty is itself the key reason for the necessity of a think tank where different opinions about possible ways to solve problems can be exchanged and at the same time can be supported by studies, managerial considerations and expert contributions. Most of our work should be based on scientific information, on sociological, psychological and criminological researches, before evolving into specific recommendations to be implemented by the national authorities.

The detention panorama in Europe still leaves a great deal to be desired: too often safeguards, rights and rehabilitative plans that exist on paper are not actually fully applied in practice. As the Committee on Legal Affairs and Human Rights observed few years ago “the gap between standards on paper and the actual situation in Europe is striking”. Helping the national authorities to remove this discrepancy is surely one of the greatest challenges facing the Council of Europe today. You can count on the PC – CP to play fully its part in that process. Obviously its role is mainly to define guiding directions and principles at European level which need to be approved by the Committee of Ministers. The possible direct impact of the PC-CP activity is on the development of an open discussion at national level and the wide spreading of good and positive practices internationally.

The PC-CP, as other similar bodies, is presently engaged in a general review of the existing Recommendations in the area of its competence. A few recommendations are rather obsolete because conceived in a different context; some of them need to be updated and some overlaps should be removed as they could lead to misunderstandings and consequently they are de facto not working.

You know that all relevant Committee of Ministers recommendations and resolutions in the penitentiary field were reviewed in 2006 and a number of them were considered either too outdated or covered by more recent texts and were therefore taken out of the Compendium of conventions and recommendations which is regularly updated and put on the web site. The same exercise needs to be done on a regular basis as since then 8 new

recommendations were adopted. We decided to split the Working group into 4 subgroups, each of them is responsible for a set of recommendations[3] and will produce proposals by the end of June. This implies that the Working group will be in the position to present its proposal at the plenary meeting in November.

As you know the PC–CP is presently committed in the preparation of the 19th CDAP. We decided to change the name of this important periodical meeting: the new name is Conference of Directors of Prison and Probation Services (the acronym is CDPPS). This change had the symbolic value of delivering a message of equivalence of the two modalities to serve a sentence – or in some countries two different types of sentences). Very often, on occasion of Conferences, Congresses and other meetings it is repeatedly underlined that the deprivation of liberty, the prison, should be a measure of last resort; that imprisonment should be limited to those who really deserve it due to the seriousness of the crime they committed or are suspected to have committed. Nevertheless most of the European prisons are full of individuals who committed minor crimes, very often a sequence of repetition of the same crime and a corresponding sequence of admissions to the prison and subsequent release: their common characteristics are their social weakness, their impossibility to make reference to any network of social support. So, very often we find in our overcrowded prisons persons who have no house, who have mental disorders, who have committed many petty transgressions, in some countries often related to the irregularity of their presence in a country.

Emphasising the significance of the Probation service in the annual Conference means to remind all of us about the necessity to find the best sanction for each person who committed a crime, both when the type and the duration of the sanction is determined (imprisonment, community sanction, etc) and during its execution (management of the sanction, release on parole, re-insertion into the society).

You have in your files the programme of the Conference.

The Finnish Minister of Justice will speak at the opening session. There is a good mixture of researchers and practitioners, as well as of speakers coming from prison and from probation services. We tried to preserve the balance between theory and practice, between management, execution of penal sanctions and evaluation of the system. We hope that the discussions will be fruitful and will give rise to new ideas and good practices which will be reported back to the PC-CP plenary meeting in November this year and to your next plenary session in December 2014.As mentioned already The PC-CP is revisiting the CM recommendations which fall into its field of competence, has developed country factsheets related to prison and probation services (already on its web site) and is currently considering several new issues: treatment measures alternative to imprisonment (a task give to it by the CDPC); restorative justice in prison; violence in detention institutions for juvenile offenders (a follow-up issue deriving from the 16th CDAP (2011, Strasbourg)).

You have also in your files a preliminary summary of the information and data coming from replies to a questionnaire addressed to the national authorities (Doc. PC-CP(2014) 13), drafted by Prof Ton Liefaard, Leiden Law School and UNICEF Chair in Children's Rights. It is worth underlining in this respect that 59 replies were received from 39 member states, which is quite a high number and shows the concern and the priority given to this subject. The final version of the report will also contain information coming from the children's ombudsmen and will be presented to the PC-CP plenary for further discussion and approval.

The report on treatment measures alternative to imprisonment will be finalised also basing on the replies to a questionnaire (so far we have received replies from 39 member states, which is also an indicator of the importance given to this issue). The PC-CP will consider the draft report at its WG meeting in September with a view of approving it at its plenary meeting in November 2014.

The same procedure will be followed regarding the report on restorative justice in prison but in the latter case the report which will be submitted for discussion and approval by the PC-CP plenary will not be based on information coming from replies to a questionnaire but from comparative research.

It is worthy recalling that restorative justice changes the perspective of analysis of the complex relations between the offence, the offender, the offended and the society that always receives harm when an offence is committed.

On restorative justice there are many discussions but also a clear ambiguity even about the words that are used, the vocabulary. We focussed our discussion on the key concepts of restorative justice,in particular in prison.

[3] The PC –CP decided to organize the recommendations included in the Compendium in 4 different groups (recommendations concerning the basic rules for different categories of detainees; recommendations concerning staff issues and code of ethics; recommendations concerning the management of the various categories of prisoners and the remand custody; recommendations concerning the release from prison, its preparation and the use of new systems of monitoring and control).

Restorative justice is a broad and complex notion that can be seen as based on three key themes. The first core idea is that in the aftermath of an offence our priority should be to identify the harm (material, emotional and symbolic) caused by the offence and to encourage those responsible for causing this harm to make efforts to repair it. Hence, the censure and punishment of offenders, whilst still important, becomes the secondary goal of criminal justice interventions. The primary goal is to heal and repair the damage suffered by victims, the wider society, and indeed offenders themselves. A second key idea of restorative justice is that carefully facilitated personal encounters between those who cause harm by criminal wrongdoing and those who are harmed, focused on developing an action plan to repair harm, can have a range of benefits.

The third core idea is that our response to crime should be guided by and should reflect certain social values. In short, the sort of values associated with inclusiveness and peacemaking should be to the fore; the strictly 'punitive' and 'exclusionary' values which are often to the fore in penal interventions should move to the background.

On these three elements we are collecting the best practices of restorative justice and developing our consideration on the matter.

This brings me to discussion to be developed at the next plenary meeting of the PC-CP (5-7 November 2014) which will have quite a busy agenda (a copy of it is in your files and has been considered by the CDPC Bureau in April this year).

Apart from considering and finalising the above mentioned reports and the revised set of recommendations at the plenary meeting will be discussed the outcome of the 19th Conference of Directors of Prison and Probation Services and its follow-up as well as the possible topic and contents of the next such Conference.

The SPACE statistics will also be among the topics for discussion and verification and for that purpose efforts have been undertaken to collect the data for 2013 in good time for the plenary meeting. As practices and deadlines differ significantly from country to country this test will show whether it is feasible tto publish the data could earlier than currently without deteriorating their quality and reducing the number of replies gathered.

You know that good information is essential for developing policies in any fiels. The necessity of good information for the development of the PC-CP work implies the necessity to support the already highly positive quality of SPACE, through a better cooperation by the national authorities when providing information, more accuracy in the replies and better selection of a person able to act as a contact person with SPACE.

That said, the main importance of a plenary meeting is developing and maintaining of an open discussion on the detention model that is actually implemented in the various countries of the Council of Europe. With the development of new technologies of control and supervision it is time to reconsider the role and place of prison in our societies. In the prison systems of the Council of Europe 47 member states have a sharp distinction between two models: in some countries the main attention is gradually moving from the traditional focus on the prison to the new attention to the probation system; in other countries the focus remains within the prison and the probation service is only an attenuated modality of serving a sentence. This is the first difference. The second is that in some countries a prisoner serving a sentence is rarely engaged in something really challenging because he is not seen by the prison authorities as an actor but as a receiver who is requested to follow rules and regulations and in return obtains the basic elements of the daily life; in other countries he is requested to plan his life even within the limits of a closed environment as the prison is (he is not a receiver, but a person that is requested to take his responsibility even in the prison context)

The discussion on different models of prison system is a discussion that has to be developed in a variety of modalities: a plenary session is a good opportunity to have a direct exchange of views, starting from the presentation of different practices,; the resort to a digital platform to be seen as an "agora", that is an open space of discussion starting from the implementation of our standard is a second tool to be foreseen. As well as we should consider the use of reserved areas of the social utilities in the context of web 2.0.

Present times offer us many difficulties to be faced but also many instruments to be properly used. It is up to us to make the best use of them even in our area of the execution of sentences.