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Mailbox: dgi.cdpc@coe.int
Website: www.coe.int/cdpc

EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

Meeting of the Bureau
(CDPC-BU) (Strasbourg, 12 – 14 October 2005)

SUMMARY REPORT

BRIEF FOREWORD

1. The Bureau of the CDPC approved the text of the draft Recommendation on the European Prison Rules (EPR) and its commentary and forwarded the texts to the Committee of Ministers.
2. It considered that regular updating of the EPR was essential and will propose to the Plenary Meeting that this task be entrusted to the Council for Penological Co-operation (PC-CP). It referred the question of the feasibility of a European Prison Charter to the Plenary Meeting.
3. The Bureau approved draft terms of reference for the PC-CP to draft the European Rules for Juveniles and forwarded them to the Committee of Ministers. It asked the PC-CP to provide an opinion on the draft recommendation on remand in custody.
4. The Bureau of the CDPC took a number of decisions as regards its work plan and possible new activities. This document will again be updated at its meeting in January 2006 and the workplan presented to the plenary in April 2006. The Bureau considered this document as a very useful “living” tool. The Bureau noted in particular potential activities regarding counterfeit goods (especially medicines), extradition and cyberterrorism.
5. The Bureau also discussed a possible 4th consultation on the implications of the ratification of the Rome Statute on the International Criminal Court and, with the Bureau of the European Committee on Legal Co-operation (CDCJ), the theme for the 27th Conference of Ministers of Justice, Armenia, September 2006, which was agreed as: “Victims-Place, rights and assistance”.
6. The Bureau took note of the work being carried out by its subordinate committees and adopted proposals to be made to the Plenary regarding consultations of the CDPC delegations by a number of specialist committees.
7. The Bureau adopted a number of replies to the Committee of Ministers in respect of Parliamentary Assembly Recommendations.

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ADDENDUM TO THE REPORT OF THE CDPC BUREAU MEETING		
from 12 to 14 October 2005 (CDPC-BU (2005) 23 CONTAINING :		
a.	Draft Recommendation Rec(2005)... of the Committee of Ministers to member states on the European Prison Rules	
b.	Commentary	

1. Opening of the meeting

1. The meeting was opened by Mr Claude DEBRULLE (Belgium), Chair.

2. The list of participants is set out in Appendix I.

2. Adoption of the draft agenda

3. The CDPC Bureau adopted the agenda as set out in Appendix II. The revised list of working documents of the meeting appears as Appendix III.

4. A discussion was held regarding the difficulty experienced by the Bureau members due to the late distribution of documents. This was an issue for the Bureau but would be even more important for the plenary, since delegations must have time to undertake any necessary consultations in their capitals in order for the work at meetings to be fully productive. After a full and frank exchange of views it was agreed that:

- the Bureau, at its next meeting would check the progress of the availability of documents for the plenary meeting – this will be a specific item on the agenda;
- the more important deadlines are contained in the working methods as recently adopted, which must be respected since otherwise the whole of the new working methods could be called into question;
- the updating and use of the CDPC website is essential and will help to resolve these issues;
- internal secretariat deadlines should be established to ensure that documents are put on the website within a minimum delay once they are finalised
- also on the agenda of the next Bureau meeting will be an item regarding a possible change in the working methods regarding deadlines for the Bureau itself as well as for subordinate committees and working groups, although some doubt remains as to whether it is appropriate to modify working methods which were only recently adopted. In the meantime the Chairs of such bodies are encouraged to set deadlines.

3. Future activities

a. 2005/2006 work plan for the CDPC and its subordinate committees – establishing priorities

5. The Bureau considered the revised document presented initially in June 2005 and as appeared, updated in Document CDPC-BU (2005) 8 Rev.2. It asked that this document be updated by the Secretariat for each Bureau meeting as it provides a clear view of developments achieved by the various subordinated committees. It would also provide the basis for the plenary meeting in April 2006 when priorities will have to be finalised. The Bureau recalled that it had asked that the document include work of other Committees which is of interest to the CDPC, but agreed that this could 'overload' the document and make it more difficult to maintain as a frequently updated tool. The Secretariat was asked to ensure that information on work of other committees and bodies be monitored and always be included as an item on the agenda and when appropriate the Secretariat should provide written or oral information.

6. As requested by the Bureau in June, the workplan had been completed in light of replies received from the **Council for Penological Co-operation (PC-CP) and the Committee of Experts on the Operation of European Conventions in the Penal Field (PC-OC)** regarding their work, their priorities and their deadlines. The Bureau approved this document with the addition, for the PC-CP, of the task to prepare a proposed revision of its own Terms of Reference and Rules, to reflect the proposed increase in membership as well as the mandate to ensure regular updating of the EPR – see item 9 below. Furthermore, the Bureau, having noted the report of the 50th meeting of the PC-OC, and the likelihood that the PC-OC would, at its next meeting in March 2006, propose that it be mandated to review the Extradition Convention, indicated that it was favourable to this proposition which would be presented to the plenary meeting in April next year (see also under item 13 below).

7. None of the current members of the **Criminological Scientific Council (PC-CSC)** had replied to the letters sent to them individually by the Secretariat requesting proposals for future activities and/or an expression of interest in reviewing their mandate. In this regard, the Bureau was advised that, due to budgetary constraints and the need to prioritise activities in light of the Warsaw Action Plan, the activities of both the **PC-CSC and the Committee of Experts on the treatment of sex offenders in penal institutions and in the community (PC-DS) (as well as the collection of SPACE statistics)** have been suspended for 2006. (see also below under item 7)

8. The Bureau took note of the written and oral information provided regarding the recently held seminar entitled “**Counteract the Counterfeiters**”. It also noted that the issue of counterfeit health care products had been raised as an ever growing problem at the Conference on the fight against economic crime held in Portugal at the end of September. It noted that:

- while counterfeiting of medicine is a crime in many of our member states, there is no clear agreement as to the definitions of either “medicine” or “counterfeiting”;
- penalties for such crime vary widely which can cause fundamental difficulties for international judicial cooperation;
- “medicine” should be widely interpreted to cover also medical devices and surgical tools;
- any work on this issue should be assigned to a multi disciplinary group made up of medical/pharmaceutical specialists and criminal law specialists;
- the emphasis should be on prevention – which goes beyond the purely criminal law aspects;
- two aspects of criminal law were involved – violation of intellectual property rights and putting public health at risk;
- the question of public health is not limited to counterfeited goods, even when a medicine can legally be produced “generically” it can be produced harmfully by criminals;
- the problem is not necessarily limited to health products – counterfeit spare parts for cars or airplanes, counterfeit toys can all pose a risk to public health and security;
- counterfeiting is often linked with organised crime and money laundering activities.

9. The Bureau agreed that this issue merits further serious consideration. A number of members considered that consultation with their capitals was needed before going much further. It also recalled that the question (in the context of the reply (if any) to be given to the Committee of Ministers concerning Parliamentary Assembly Recommendation 1673) was being studied by the PC-OC.

10. The Bureau agreed provisionally that the CDPC should take up this question. However, it agreed to put this question on the agenda of the next Bureau meeting, with a view to taking a final decision as to whether or not to propose it as a future activity to the CDPC plenary. In any event, work could not begin until 2007. In order to assist its discussions, the Bureau asked the Secretariat to prepare draft terms of reference for the specialist group which could be entrusted with this work.

The Bureau noted the written and oral information provided regarding **Sexual exploitation of Children**. Further to the information provided by the Secretariat regarding the Action Plan adopted at the Third Summit of Heads of State and Government of the Council of Europe, Warsaw, 16 - 17 May 2005, which lays down the tasks of the Council of Europe in the coming years, the Bureau agreed that the CDPC should discuss this in the light of the outcome of the Committee of Ministers’ deliberations on the follow-up to be given to the Summit.

b. 27th Conference of European Ministers of Justice

12. The Bureau noted that of the replies to the written consultation on the theme for this conference, all but one were favourable to the proposed theme of victims. The Bureau considered that the objective, in terms of results of the Conference should be left open, but that one issue of importance related to the procedural rights of victims.

13. At the joint meeting of the Bureau and the Bureau of the European Committee on legal Co-operation (CDCJ), the theme of 'Victims – place, rights and assistance' was agreed. In collaboration with the Armenian hosts, the Secretariat would develop the sub themes, which could include dealing with these issues in respect of victims of particular offences or abuse (terrorism, interfamilial violence, sexual offences, etc.), particularly vulnerable victims (children, disabled, women, the elderly) the establishment of bodies, institutions or ombudsmen in the member states (which could lead to the establishment of a network of victim support and protection), compensation and the role of the insurance industry.

c. Future consultation meeting on the Implications of the ratification of the Rome Statute on the International Criminal Court (ICC)

14. The Bureau took note of the fact that a 4th consultation meeting on this issue could be organised in 2006, provided that the budget for such meeting is made available through voluntary contributions.¹

15. The Bureau agreed that the following themes could be proposed:

- bilateral agreements on witnesses and on the execution of the Court's decisions
- the application of the subsidiarity principle.

16. The organisation of the meeting would be done in close consultation with the Committee of Legal Advisers on Public International Law (CAHDI), as it was the case for the previous consultation meetings. The consultation could happen the day before or after the CAHDI meeting, in order to reduce costs.

17. The Bureau asked the Secretariat to report to it at their next meeting on:

- the latest discussions held in the CAHDI on this matter
- possible dates for a 4th consultation meeting.¹

4. Interface between specialised committees and the CDPC Plenary

a. Texts drafted by subordinate committees with limited membership:

18. The Bureau has been mandated by the plenary to "consider the possible means to enable account to be taken of views of all member States on texts drafted by subordinate committees which are composed of a limited number of states or of specialists before these texts are sent for approval by the CDPC"². The Bureau considered, in this respect, that since the tasks which the CDPC assigns to its subordinate specialist committees are very varied, it should be the responsibility of the Bureau, in accordance with Article 5 of the Revised Working Methods, to ensure that decisions of the CDPC are correctly followed up and, in this context, to assess each situation on a case-by-case basis. Thus, the Bureau has decided:

i. As regards the **European Rules for Juveniles** (see also under item 10 below): that it will consult the plenary, as and when needed, if necessary by way of a written procedure, so that full account is taken of possible views expressed by the CDPC delegations on the texts drafted before they are sent for approval by the CDPC.

ii. As regards the Draft Recommendation on **Assistance to Victims** (see also under item 6 below): that a form of "pre" consultation will be conducted – which would probably take the form of a written consultation prior to the Group of Specialists finalising their draft proposal.

iii. As regards the Consultative **Council of European Prosecutors (CCPE)** (see also under item 13 a.iv below): that the CDPC plenary will be called upon to comment on the draft action plan prepared by the

¹ Subsequent to the Bureau meeting the Secretariat was informed that the necessary voluntary contributions have been promised and that the dates would be before or after the 32nd CAHDI meeting in September 2006.

² See report of CDPC Plenary Meeting 7-11 March 2005 (CDPC (2005)12, item 9.1, para.56)

Bureau of the Conference of Prosecutors General of Europe, prior to its adoption by the CCPE at its first meeting in June 2006.

19. In this context, the Bureau noted that some concern had been expressed by CDPC delegations as to the risk of “overusing” the written consultation procedure. It therefore decided that each time the written consultation procedure is used, the reason for urgency should be indicated. The request should also clearly state that it constitutes a CDPC written procedure consultation, as well as the subject matter and the deadline for the reply.

b. Composition of subordinate committees with limited membership:

20. The Bureau has also been mandated by the CDPC Plenary to look into the issue of committees (such as the (PC-TJ) which, for budgetary reasons have a limited membership in that while all member states are entitled to send representative to the meetings of such committees only a specified number will have their costs reimbursed by the Council of Europe. When selecting which member states should have this entitlement, regard is had, *inter alia*, to the need for adequate geographic distribution of the members. This situation can become problematic when one or more of the member states whose costs are covered do not send a representative.

21. However, it would appear that the only committee which currently poses such a problem is indeed the PC-TJ, which will hold its final meeting in December. All CDPC members will be strongly encouraged to attend this meeting at which normative proposals will be adopted for presentation to the CDPC.

22. Thus, it seems somewhat premature to propose a policy on this issue at present. One possibility would be that, in the future, should committees be established with a limited representation of the member states, limited inasmuch as the costs of only a certain number of member states’ representatives attending the meeting are reimbursed by the Council of Europe, the CDPC should nominate, in addition to the countries corresponding to the number provided for in the terms of reference of the committee, a number of additional countries which will be considered as substitute members of the said Committee. The exact modalities of operating such a substitution could be spelled out in the terms of reference.

23. Before making any firm proposals in this regard, the Bureau asked the Secretariat to provide it with information on any precedents which might have been established by other steering committees and decided to revert to this question at its next meeting.

5. Observers to the CDPC

24. As requested by the Bureau, the Secretariat prepared a draft policy paper on this question. After a discussion, it asked the Secretariat to revise this paper – to contain information on the current observers, on the procedures for their admission and to reflect a more proactive attitude to potential observers

25. It also asked the Secretariat to carry out all necessary steps to enable the European Forum for Restorative Justice and Victim offender mediation to have the status of an observer in time for the next plenary meeting.

6. Group of specialists on assistance to victims and prevention of victimisation (PC-S-AV) - Report on the assistance to victims of terrorism to the CODEXTER and the CDPC

26. The Bureau took note of the report and of the information on the future work of the PC-S-AV.

27. It agreed to encourage the PC-S-AV to come up rapidly with a first draft recommendation on the assistance to victims and the prevention of repeat victimisation, which could incorporate many of the

elements contained in the report on the victims of terrorism.

28. The Bureau also agreed with the proposal from the Secretariat that the PC-S-AV be asked to present for "pre" consultation by way of a written procedure to all CDPC Delegations, a first draft of a new Recommendation further to its 3rd meeting (23-25 November 2005). On the basis of the comments made by CDPC Delegations, a final draft recommendation could be elaborated by the PC-S-AV in their 4th meeting and then submitted for adoption to the CDPC plenary in April 2006.

7. Elections

a. Bureau

29. The Bureau asked the Secretariat to inform CDPC delegations that, due to the resignation of Mr Mario AFFENTRANGER (Switzerland) a new member of the Bureau would have to be elected at the next plenary.

b. PC-CP

30. The Bureau noted that Mr Bertel Österdahl resigned on 6 September 2005 as Chairman (and member) of the PC-CP, with effect from the end of their next meeting. Thus the members of the PC-CP would elect a new Chair at their 50th meeting in October 2005.

31. The terms of office of three other PC-CP members (Mr Marianovic, Ms Snacken and Mr Mellett) will expire in June 2006. Should one of these three outgoing members be elected as Chair, his or her term of office would be three years (the maximum mandate of five years does not apply to the Chair of this committee) and three new PC-CP members will need to be elected. Should another (not outgoing) member be elected to the Chair, then four new PC-CP members will need to be elected by the CDPC.

32. The call for candidatures should stipulate that a further two members should be elected in April 2006, subject to the approval by the CDPC plenary and by the Committee of Ministers of the Bureau's proposal to increase the number of members of the Committee from seven to nine (see CDPC-BU (2005) 10, item 6b).

33. A draft letter, to be sent to all CDPC delegations as soon as the PC-CP will have elected its new Chair, was approved by the Bureau, with the addition of an indication of the next two tasks of the PC-CP – the European Rules on Juveniles and work on Probation, and encouraging member States to bear this in mind when nominating candidates.

c. PC-CSC

34. The Bureau recalled that the CDPC had asked it to look into the question of possible work at a future date by the PC-CSC. However, the Bureau noted that current budgetary restraints and lack of staff meant that, owing to other priorities, the PC-CSC had been suspended for the year 2006 and elections had not taken place. Furthermore, at present, there is no lack of activities for the CDPC. Finally, also as noted above, the Secretariat has not received a reply from any of the currently serving PC-CSC members to the request of the Secretariat for proposals regarding future activities, or, indeed, to reviewing its current terms of reference.

35. The Bureau held a long exchange of views on this subject. Whilst all members could agree that the question should be dealt with, some felt there was more urgency than others. It was clear that the issue would be raised at the plenary and the Secretariat was instructed in the light of the decisions taken by the Committee of Ministers concerning future activities, to inform the Bureau at its next meeting regarding the possibilities for financing the attendance at the plenary of one or more members of the PC-CSC. The CDPC would then be able to examine whether to propose, for 2007, a

revision of the terms of reference of the PC-CSC. (The terms of reference of the PC-CSC are appended to this report- Appendix V).

8. European Prison Rules – approval of the draft Recommendation and commentary

36. The Bureau took note of the documents which had been prepared by the Secretariat providing a synthesis of all the proposals received from CDPC delegations for amendments to the draft Recommendation containing the European Prison Rules (EPR) and of its commentary, following the written procedure. The Bureau considered these as well as additional comments sent by the Committee for the Prevention of Torture (CPT) and in the light of all comments and proposals for amendments finalised the two draft texts, approved them and instructed the Secretariat to submit the draft Recommendation to the Committee of Ministers for adoption and to invite them to take note of the commentary. The draft Recommendation and the commentary are contained in the Addendum to this report.

9. European Prisons Charter – Feasibility

37. The CDPC at its plenary meeting in March had requested the Secretariat to conduct a written consultation of the Council for Penological Co-operation (PC-CP) and the Committee for the Prevention of Torture (CPT) as to the feasibility of a European Prison Charter (EPC). They were also asked to comment on the feasibility and possible added value of a mechanism for the regular updating of relevant legal texts in the penal field.

38. The **PC-CP's** response as regards an EPC was that they felt that there was no more to be added to the reports of their 47th meeting in October 2004 and their 48th meeting in January 2005, when a draft text of a possible EPC was tabled for discussion by one of the scientific experts. At that time the PC-CP members, while largely in favour of the ideas contained in that text, considered that in order to take this exercise further they would need a clear mandate from the CDPC.

39. As regards the feasibility and added value of a mechanism for the regular updating of relevant legal texts in the penal field the PC-CP was of the opinion that such a mechanism would be useful as the standards in this area need to be regularly revised following the growing case-law of the European Court of Human Rights and the work of the CPT. This question would also need to be discussed at a CDPC plenary meeting. The PC-CP would be prepared if requested by the CDPC Bureau to propose a first draft of its revised terms of reference and its internal Rules to be discussed at the next CDPC plenary meeting in March 2006.

40. It was not possible to consult the CPT as a whole on these questions. However, the matter had been raised with the **Bureau of the CPT**, which, considering the question in general terms, (not based on the draft of a Charter), was of the opinion that if such a Charter were to have the status of a Convention and thus be binding upon States Parties, it would in principle have some added value. While the European Prison Rules have strong normative force, States are not legally obliged to implement them.

41. Regarding the feasibility and added value of a mechanism for the regular updating of relevant legal texts in the penal field, the CPT's Bureau had been impressed by the PC-CP's approach to the updating of the EPR and the open process of consultation and supported the continuation of this approach since it sees the Council of Europe well placed to take responsibility for the exercise.

42. In light of these responses and further to a discussion, the Bureau agreed that regular updating of the EPR is necessary and would contribute to the elaboration of comprehensive and coherent rules. At the same time it decided to consult all CDPC delegations at the plenary meeting in April 2006 on the following issues:

- whether their countries would sign and ratify a binding European Prison Charter;
- if a binding instrument is considered not to be feasible and/or not to bring added value, whether a Declaration of the Committee of Ministers in which the basic principles are spelled out in line with the

proposals made by Parliamentary Assembly of the Council of Europe and the European Parliament could be adopted instead;

- whether it was feasible, and what added value could be drawn from a mechanism for the regular updating of the EPR in the light of the standards developed by the CPT and the case law of the European Court of Human Rights;
- whether the PC-CP should be entrusted with this task of regular updating of the EPR.

43. In view of these decisions, it requested the Secretariat to prepare a document for approval at the next Bureau meeting, summarising the situation to date and proposing to the CDPC plenary that the PC-CP be entrusted to ensure that the EPR remain a living document and that they are updated on a thorough basis every five years, or more frequently if ECHR case law or CPT reports so require. The proposals should also include the Bureau's suggestion to increase the number of members of the PC-CP from seven to nine (see item 6.b above). The Secretariat was asked to inform the PC-CP of this decision and to prepare the document in collaboration with them.

10. European Rules for Juveniles – Draft Terms of Reference

44. The Bureau finalised draft *ad hoc* terms of reference of the PC-CP relating to the drafting of European Rules for Juvenile offenders deprived of their liberty in the light of the written comments received from CDPC delegations and reflecting the instructions of the CDPC to ensure close consultation with the CDPC and its Bureau (see item 4 a.i above). The Secretariat was instructed to submit to the Committee of Ministers for approval the draft *ad hoc* terms of reference as set out in Appendix V.

11. Remand in Custody – Draft Recommendation

45. The Bureau recalled that the CDPC had decided to postpone its consideration of the draft Recommendation on remand in custody and its explanatory memorandum prepared by the Committee of Experts on remand in custody and its implications for the management of penal institutions (PC-DP) until the draft EPR were finalised. This was due to the fact that rules 35 and onward of the former text were a repetition of some of the rules contained in the draft EPR. Meanwhile the PC-CP had incorporated into the EPR a number of the provisions contained in the PC-DP draft recommendation.

46. In the light of the above, and given that the EPR have now been finalised by the CDPC, but the terms of reference of the PC-DP have expired, the Bureau decided to ask the PC-CP to turn its attention to the draft recommendation on remand in custody and its explanatory memorandum and to give its opinion on this text with a view to presenting the revised draft to the CDPC plenary session in April 2006. In doing so the PC-CP is invited to work together with the Chair of the PC-DP and one of its scientific experts.

12. Requests for opinions

- PACE – Recommendations 1648, 1706, 1709, 1713

47. The Bureau adopted the replies to the Committee of Ministers on behalf of the CDPC, as set out in Appendix VI.

48. As regards Recommendation 1706, the Bureau considered that the question of tackling cyber terrorism merited serious consideration by the CDPC.

13. Information

a. Work of sub committees:

i. Committee of Experts on the Operation of European Conventions in the Penal Field (PC-OC)

49. The Bureau took note of the report of the 50th meeting of the PC-OC (27-29 June 2005).

50. It was satisfied with the way in which the PC-OC deals with the different matters and questions addressed to it by the CDPC. It looked forward to receiving from the PC-OC, by its next plenary meeting, elements concerning:

- dispute settlement mechanisms
- the need to modernise the mechanisms of extradition and possibly of judicial assistance in criminal matters
- the protection of witnesses
- the ratification of the Protocol to the European Convention on the transfer of sentenced persons.

It will also examine the PC-OC's suggestions on the visibility and consistency of the Council of Europe norms in criminal matters, as well as on possible actions to fight counterfeiting.

ii. Committee of Experts on the treatment of sex offenders in penal institutions and in the community (PC-DS)

51. The Bureau discussed the cancellation of PC-DS meetings due to other priority topics, budgetary constraints and staff shortages. The Secretariat explained that the work on the draft recommendation had been halted at a very early stage and that therefore the draft text as it stands now gives only the outline structure of a possible recommendation and some definitions. Furthermore the text had been prepared by a working group, and there had been no occasion for the committee itself to discuss the draft text before the meetings were cancelled. This is a highly specialised area and the work in the committee had shown that it is still a new area for a number of countries, especially in Central and Eastern Europe, so that it did not seem feasible to proceed with the finalisation of the text by way of a written procedure.

52. Similarly, in light of the need for specific knowledge and expertise in the field of risk assessment and treatment interventions targeted at sex offenders the PC-CP would not be competent to work on this issue with the attention it merits.

53. The Bureau asked the Secretariat to present a working document, indicating the extent of the problem, the needs for action in this domain and the work done by other instances (in particular the European Union), etc. for discussion at its meeting in January 2006 in order to prepare for a decision to be taken by the CDPC at their plenary meeting in April 2006 on how to proceed.

iii. Preparation of the Conference on Probation and Aftercare – Istanbul, 14-16 November 2005

54. The Bureau was informed of the state of preparation of the above Conference and of the fact that all PC-CP members will participate with a view to the development of possible future work within the CDPC in the field of probation and aftercare.

iv. Creation of the Consultative Council of European Prosecutors (CCPE)

55. The Bureau noted that the CCPE terms of reference had now been approved by the Committee of Ministers. However, this committee would not be constituted until its first meeting in May or June 2006. The Bureau of the Conference of Prosecutors General of Europe will prepare a draft action plan for adoption by the CCPE at its first meeting. It was proposed that the action plan be submitted to the CDPC Plenary in April for initial discussion, comments and proposals and that the CDPC Plenary would then delegate to the Bureau (with a written consultation procedure if necessary) the mandate to approve this action plan once it would have been adopted by the CCPE. The terms of reference of the CCPE would need to be extended to the end of 2008.

v. Moneyval

56. The Bureau took note of the information provided by the Secretariat regarding Moneyval's current activities. It noted, in particular, the very heavy workload of the Secretariat and that the Secretary General of the Council of Europe had requested Member States to second two officials to the Secretariat to help deal with this important work in the fight against money laundering and the financing of terrorism.

vi. GRECO

57. The Secretariat informed the Bureau that the CDPC needed to nominate a representative to GRECO, since the currently nominated representative, Mr Fontanaud (France), is no longer a member of the CDPC. The Bureau instructed the Secretariat to launch a call for candidatures among the CDPC delegations.

b. Work of other Committees of interest to the CDPC

i. Steering Committee for Human Rights (CDDH) - Diplomatic assurances

58. The Bureau discussed the matter, having considered the relevant extracts from the report of the 60th meeting of the CDDH.

59. The Bureau expressed its interest that the CDPC follow this question, as it relates directly to the application of the criminal Conventions (in particular, the Convention on extradition) and to some recent developments highlighted in the actuality.

60. The CDPC could further assess the need of general guidance to be offered by the Council of Europe to help its member states to deal with diplomatic assurances.

61. The Bureau instructed the Secretariat to communicate the interest of the CDPC in this question to the CDDH, together with a suggestion that both Committees mutually exchange information on the question.

62. It also agreed that the matter should be communicated to the PC-OC, with a cover letter to its president, for consideration in the PC-OC's reflections on the need to review the Conventions on extradition and judicial assistance in criminal matters.

ii. Committee for the Prevention of Torture (CPT)

63. The Bureau took note of the 15th General Report on the CPT's activities and of the proposal to the Committee of Ministers for a pilot project aimed at facilitating the implementation of the CPT's recommendations. (CM (2005)141).

iii. Codexter

64. The Bureau took note of the information provided in the annotated agenda regarding Codexter's activities, as well as the new Council of Europe publications relating to terrorism.

iv. CAHDI

65. The Bureau took note of the information provided in the annotated agenda regarding CAHDI's activities.

v. CEPEJ

66. The Bureau took note of document CEPEJ (2005)1, summarising the CEPEJ's activities in 2004.

c. Conventions ETS 90, 190, CETS 196, 197, 198 – update on the status of signatures and ratifications

67. The Bureau took note of the information provided and reiterated its request that updates be provided at all Bureau and plenary meetings in the future.

14. Any other business

68. The Bureau took note of the Committee of Ministers' document CM(2005)145 revised, concerning a message from the Committee of Ministers to the committees involved in intergovernmental co-operation at the Council of Europe regarding the Third Summit of Heads of State and Government of the Council of Europe (Warsaw, 16 and 17 May 2005) and noted that the Secretariat, in accordance with the instructions from the Committee of Ministers, would be forwarding the text to all CDPC delegations.

15. Dates of the next meeting of the Bureau

69. The Bureau decided to hold its next meeting on 30 January – 1 February 2006. It recalled that the plenary meeting, planned for 3–7 April 2006, will be in the same week as a European Parliament session. It therefore asked the Secretariat to inform all delegations as soon as possible of the planned dates so as to enable them to reserve hotel accommodation.

APPENDIX I

LIST OF PARTICIPANTS / LISTE DE PARTICIPANTS

AUSTRIA / AUTRICHE

Mr Roland MIKLAU, Director General, Criminal Law, Ministry of Justice,

BELGIUM / BELGIQUE

M. Claude DEBRULLE, **Chairman of the CDPC / Président du CDPC**, Directeur Général, Ministère de la Justice, Direction Générale de la Législation, des Libertés et des Droits fondamentaux,

DENMARK / DANEMARK

Mr Jesper HJORTENBERG, Deputy Director of Public Prosecution, Office of the Director of Public Prosecution,

FINLAND / FINLANDE

Mr Esa VESTERBACKA, Head of the Department of Criminal Policy, Ministry of Justice, Uudenmaankatu 37,
Apologized / Excusé

RUSSIAN FEDERATION / FEDERATION DE RUSSIE

Mr Alexander ZMEYEVSKIY, Director, Department on the Issues of New Challenges and Threats, Ministry of Foreign Affairs,

SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE

Mr Branislav BOHÁČIK, **Deputy Chair of the CDPC / Vice-Président du CDPC**, Director – Division for Judicial Co-operation in Criminal Matters, Ministry of Justice,

SLOVENIA / SLOVENIE

Ms Andreja LANG, Head of the Department for Criminal Legislation, Directorate for the Preparation of Legislation, Ministry of Justice,
Apologized / Excusé

UNITED KINGDOM / ROYAUME-UNI

Mr Richard BRADLEY, Head of Judicial Co-operation Unit, Home Office,

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SECRETARIAT OF THE COUNCIL OF EUROPE SECRETARIAT DU CONSEIL DE L'EUROPE

Department of Crime Problems / Service des Problèmes Criminels

Mrs Margaret KILLERBY, Head of the Department of Crime Problems / Chef du Service des Problèmes Criminels

Ms Bridget O'LOUGHLIN, Head of the Criminal Justice Division / Chef de la Division de la justice pénale
Secretary to the CDPC / Secrétaire du CDPC

Mr Gianluca ESPOSITO, Head of Economic Crime Section / Chef de la Section Criminalité Economique

M. Humbert DE BIOLLEY, Head of the Criminal Standards Unit / Chef de l'Unité des standards criminels
Deputy Secretary to the CDPC / Secrétaire adjoint du CDPC

Ms Ilina TANEVA, Head of the Prisons and Probation Unit / Chef de l'Unité des prisons et probation

Mr Jean-Marc SPIESER, Head of Division, European Network of Official Medicines Control Laboratories (OMCL) and biological Standardisation

Ms Sabine WALSER, Administrator / Pharmaceutical questions and Cosmetics

Ms Dominique WULFRAN, Assistant / Assistante

* * * * *

INTERPRETERS / INTERPRETES

Mr Didier JUNGLING

Mr Nicolas GUITTONNEAU

Mme Christine TRAPP



APPENDIX II

Agenda Ordre du jour

1. **Opening of the meeting / Ouverture de la réunion**
2. **Adoption of the draft agenda / Adoption de l'ordre du jour**
CDPC-BU (2005) OJ 5 - draft agenda / projet d'ordre du jour
3. **Future activities / Activités futures**
 - a. **2005/2006 work plan for the CDPC and its subordinate committees – establishing priorities**
2005/2006 organisation du travail du CDPC et ses comités subordonnés – définition des priorités
 - Follow-up to the Seminar « Counteract the Counterfeiters » / Suivi du Séminaire “Combattre la Contrefaçon”
 - Sexual exploitation of Children – UN Conference / Exploitation sexuelle des enfants – Conférence ONU
 - Economic Crime – Results and possible follow-up to the Conference on the fight against economic crime / Criminalité Economique – Résultats et possible suivi de la Conférence sur la lutte contre la criminalité économique
 - b. **27th Conference of Ministers of Justice – Armenia, September 2006**
27^e Conférence des Ministres de la justice – Arménie, septembre 2006

Discussion with the Bureau of the CDCJ / Discussion avec le Bureau du CDCJ
 - c. **4th Multilateral Consultation on the implications of the ratification of the Rome Statute of the ICC in the co-operation agreements between the Court and the member States of the Council of Europe.**
4^e Consultation multilatérale sur les implications de la ratification du Statut de Rome du TPI dans les accords de coopération entre la Cour et les Etats membres du Conseil de l'Europe
4. **Interface between specialised committees and the CDPC Plenary Meeting**
Interface entre les comités spécialisés et la réunion plénière du CDPC
5. **Observers to the CDPC**
Observateurs auprès du CDPC
6. **Group of specialists on assistance to victims and prevention of victimisation (PC-S-AV) - Report on the assistance to victims of terrorism to the CODEXTER and the CDPC**
Groupe de spécialistes sur l'assistance aux victimes et la prévention de la victimisation (PC-S-AV) - rapport au CODEXTER et au CDPC concernant l'assistance aux victimes du terrorisme
7. **Elections / Elections**

Call for candidatures for the Council for Penological Co-operation (PC-CP) and discussions regarding the Criminological Scientific Council (PC-CSC) and the Bureau / Appel aux candidats pour le Conseil de Coopération pénologique (PC-CP) et discussions concernant le Conseil scientifique criminologique (PC-CSC) et le Bureau

8. **European Prison Rules – approval of the draft Recommendation and commentary**
Règles Pénitentiaire Européennes – approbation du projet de la Recommandation et de son commentaire
9. **European Prisons Charter – Feasibility**
Charte Pénitentiaire Européenne – Faisabilité
10. **European Rules for Juveniles – Draft Terms of Reference**
Règles européennes pour les délinquants juvéniles – Projet de mandate
11. **Remand in Custody – Draft Recommendation**
Détenition provisoire – projet de recommandation
12. **Requests for opinions / Demandes d’avis**
- PACE – Recommandations 1648, 1706, 1709, 1713
13. **Information**

Work of sub committees /Travaux de comités subordonnés au CDPC
- PC-OC report of 50th meeting / PC-OC rapport de la 50ème reunion
- PC-DS
Preparation of Conference on Probation and Aftercare – Istanbul, 14-16 November 2005 / Préparation de la Conférence sur la Probation et la Réinsertion – Istanbul, 14-16 novembre 2005

Creation of the CCPE / Création du CCPE

Work of other Committees of interest to the CDPC / travaux d’autres Comités ayant un intérêt pour le CDPC
- Diplomatic assurances / Assurances diplomatiques
14. **Any other business / Autres sujets**
15. **Dates of the next meeting of the Bureau**
Dates de la prochaine réunion du Bureau



APPENDIX III -

WORKING DOCUMENTS / DOCUMENTS DE TRAVAIL

CDPC-BU (2005) 10 REV - Summary report of the Meeting of the Bureau (14 June 2005) and the Enlarged Bureau (15-17 June 2005 / Rapport de synthèse de la Réunion du Bureau (14 juin 2005) et du Bureau Elargi (15-17 juin 2005)

CM Documents CM(2005)145 revised – September 2005

Decisions CM/Del/Dec(2005) 939 – 30 September 2005 – Item 1.5a

2. CDPC-BU (2005) OJ 5 - Draft agenda / Projet d'ordre du jour

3. a. CDPC-BU (2005) 8 REV 2 – Workplan 2005 – 2006 / Programme de travail 2005 – 2006

CM (2005) 80 final - Warsaw Action Plan / Plan d'action de Varsovie

Counterfeit Medicines, Extract – Survey report / Médicaments de contrefaçon, extrait - Rapport d'étude

CDPC-BU (2005) 13 – Seminar on Counteract the Counterfeiters – Memorandum prepared by the Directorate General of Legal Affairs / Séminaire “Contre les Contrefacteurs” – Memorandum préparé par la Direction Générale des Affaires Juridiques

Recommendation 1673 (2004) – Counterfeiting : problems and solutions / La contrefaçon: problèmes et solutions

The Ljubljana final Conclusions to « act now on violence against children » / Les conclusions finales de Ljubljana pour « une action immédiate contre la violence infligée aux enfants »

« Yokohama Review on combating sexual exploitation and abuse of children – Europe and Central Asia (Ljubljana) - Some Conclusions by the Presidency of the final session / Bilan des engagements de Yokohama sur la lutte contre l'exploitation sexuelle des enfants – Europe et Asie centrale (Ljubljana) – Quelques conclusions de la Présidence de la Session finale

Conference on Combating Economic Crime – Summing up of discussions (English only)

b. CDPC-BU (2005) 20 – 27th Conference of the European Ministers of Justice - Written consultation / 27^{ème} Conférence des Ministres Européens de la Justice – Consultation écrite

5. CDPC-BU (2005) 19 – Observers to the CDPC – Policy and Procedures / Observateurs au CDPC – Politique et Procédures

6. PC-S-AV (2005) 6 – Summary Report of the 2nd Meeting of the Group of Specialists on the Assistance to Victims / Rapport de synthèse de la 2^{ème} réunion du Groupe de spécialistes sur l'assistance aux victimes

PC-CP – Rules for the Council of Penological Co-operation / Règlement pour le Conseil de Coopération Pénologique

CDPC-BU (2005) 18 – Circular letter to Heads of Delegation to CDPC / Letter circulaire adressée aux Chefs de Délégation auprès du CDPC

7. CDPC (2005) 3 – Memorandum concerning the elections for the CDPC and subordinate committees / Note concernant les élections au CDPC et à ses Comités subordonnés
8. CDPC-BU (2005) 16 - European Prison Rules / Les Règles pénitentiaires européennes
- CDPC-BU (2005) 17 – Draft Commentary on the text of the European Prison Rules / Projet de commentaire sur le texte des Règles pénitentiaires européennes – Commentaires
- CDPC-BU (2005) misc 2 – Comments by Denmark / Commentaires du Danemark
- CDPC-BU (2005) misc 3 – Comments by Spain / Commentaires de l'Espagne (English only)
- CDPC-BU (2005) 22 – CPT comments on the Revised European Prison Rules and their commentary (English only)
- CPT/INF (2005) 17 – 15th General Report on the CPT's activities / 15^{ème} Rapport general d'activités du CPT
9. PC-CP (2004) 14, Summary Meeting Report of the 47th meeting of the Council for Penological Co-operation (PC-CP) / Rapport sommaire de la 47^{ème} réunion du Conseil de Coopération Pénologique (PC-CP)
- PC-CP (2005) 02, Summary meeting report of the 48th meeting of the Council for Penological Co-operation (PC-CP) / Rapport sommaire de la 48^{ème} réunion du Conseil de Coopération Pénologique (PC-CP)
10. CDPC-BU (2005) 14 – Draft Ad Hoc Terms of Reference relating to the Drafting of European Rules for juvenile offenders deprived of their liberty or subject to community sanctions and measures / Projet de Mandat Occasionnel concernant l'élaboration d'un projet de Règles européennes pour les délinquants juvéniles privés de liberté ou soumis à des sanctions et des mesures appliquées dans la communauté
- CDPC-BU (2005) misc 1 – Proposals made by the French Delegation / Propositions faites par la Délégation française
- CDPC-BU (2005) misc 4 – Comments from Ireland (English only)
11. PC-CP (2005) 02, Summary meeting report of the 48th meeting of the Council for Penological Co-operation (PC-CP) / Rapport sommaire de la 48^{ème} réunion du Conseil de Coopération Pénologique (PC-CP)
- PC-DP (2004) misc 3 rev - The use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse (Committee of Experts on remand in custody and its implications for the management of penal institutions) / L'usage de la détention provisoire, les conditions dans lesquelles elle est exécutée et de la mise en place de garanties contre les abus (Comité d'experts sur la détention provisoire et ses conséquences pour la gestion des établissements pénitentiaires)
- CDPC (2005) 12 - Meeting report of the 54th Plenary Session of the CDPC (Strasbourg, 7–11 March 2005) / Compte rendu de la 54^{ème} session plénière du CDPC (Strasbourg, 7–11 mars 2005)

- 12.** Recommendation 1648 (2004) – Consequences of European Union enlargement for freedom of movement between Council of Europe member States / Conséquences de l'élargissement de l'Union européenne pour la liberté de circulation entre les Etats membres du Conseil de l'Europe
- Recommendation 1706 (2005) – Media and terrorism / Médias et terrorisme
- Recommendation 1709 (2005) – Disappearance and murder of a great number of women and girls in Mexico / Disparition et assassinat de nombreuses femmes et filles au Mexique
- Recommendation 1713 (2005) – Democratic oversight of the security sector in member States / Contrôle démocratique du secteur de la sécurité dans les Etats membres
- CDPC-BU(2005) 15 – Items for inclusion in a reply to Recommendation 1648 of the Parliamentary Assembly / Eléments pour une réponse à la Recommandation 1648 de l'Assemblée Parlementaire
- CDPC-BU (2005) 21 – PACE Recommendations 1706, 1709 and 1713 - Draft Replies / Recommendations 1706, 1709 et 1713 de l'APCE - projet de réponses
- 13.** PC-OC (2005) 16 – Report of the 50th meeting of the Committee of Experts on the Operation of European Conventions in the Penal Field (PC-OC) / Rapport de la 50^{ème} réunion du Comité d'experts sur le fonctionnement des Conventions européennes dans le domaine pénal (PC-OC)
- CM/DEL/DEC (2005) 935 - Specific terms of reference of the Consultative Council of European Prosecutors (CCPE) / Mandat spécifique du Conseil consultatif de procureurs européens (CCPE)
- CPT/INF (2005) 17 – 15th General Report on the CPT's activities / 15^{ème} Rapport general d'activités du CPT
- CM (2005) 141 – CPT proposals for a pilot project / Propositions du CPT pour un projet pilote
- Concluding remarks by the General Rapporteur, Mr Egbert Myjer, Judge at the European Court of Human Rights - Seminar "Protecting Human Rights while fighting terrorism" (Strasbourg, 13-14 June 2005) / Conclusions présentées par le Rapporteur Général, M. Egbert Myjer, Juge à la Cour européenne des Droits de l'Homme – Séminaire « La protection des droits de l'homme dans la lutte contre le terrorisme » (Strasbourg, 13-14 juin 2005)
- PACE – Recommendation 1719 (2005) – Forced Disappearances / Disparitions forcées
- CM (2005) 110 – Curriculum Vitae of Mr Thomas Hammarberg / Curriculum Vitae de M. Thomas Hammarberg
- CEPEJ (2005) 1 – Activity Report 2004 / Rapport d'activités 2004



APPENDIX IV – TERMS OF REFERENCE / CRIMINOLOGICAL SCIENTIFIC COUNCIL (PC-CSC)

Specific terms of reference

1. Name of committee: CRIMINOLOGICAL SCIENTIFIC COUNCIL (PC-CSC)
2. Type of committee: Advisory body
3. Source of terms of reference CDPC and Rules of the Criminological Scientific Council adopted by the Committee of Ministers during the 167th meeting of the Deputies (January 1968) and revised during the 202nd meeting of the Deputies (October 1971)
4. Terms of reference:

The council shall give scientific advice, collect information and make proposals to the CDPC with a view to the preparation and the implementation of the Programme of the Council of Europe in the field of crime problems.

In order to ensure close contacts between the CDPC and the Scientific Council:

- joint meetings shall be held regularly between the Bureau of the CDPC and the Scientific Council;
- the members of the Scientific Council shall attend plenary sessions of the CDPC when the work programme and matters of criminological interest are discussed;
- the Scientific Council shall be invited to be represented at any meeting organised within the framework of CDPC when such representation is considered desirable by the CDPC.

5. Membership of the committee:

The council shall have seven members with the following desirable qualifications: eminent specialists in the criminal sciences. Candidates for the Criminological Scientific Council are nominated by the national delegations to the CDPC. The CDPC appoints the members at its plenary session.

The Council of Europe's budget bears travelling and subsistence expenses for 7 experts.

6. Duration:

The duration of these terms of reference is identical to the duration of the CDPC's terms of reference.

Adopted: Decision CDPC/14/230577, Appendix 3.2 and CM(77)170

APPENDIX V

DRAFT AD HOC TERMS OF REFERENCE Relating to the Drawing up of European Rules for juvenile offenders deprived of their liberty or subject to community sanctions and measures

1. Name of the Committee: Council for Penological Co-operation (PC-CP)
2. Type of Committee: Advisory body to the European Committee on Crime Problems (CDPC)
3. Source of terms of reference: European Committee on Crime Problems (CDPC)
4. Terms of reference: These terms of reference will expire on 31 December 2008.

The European Prison Rules (EPR) play an important role in the treatment of prisoners, as well as in improving the conditions in penal establishments and the management of penal institutions. The EPR acknowledge the principle that juveniles are a category requiring special concern. However the specific provisions relate only to the principle of separate detention from adults and to the adoption of a regime which takes account of the needs peculiar to their age. And they do not extend to those partially deprived of their liberty through, for example, home detention curfews (HDC).

The European Rules on Community Sanctions and Measures (ERCSM), which were first introduced in 1992 – Recommendation N° R (92) 16 – and later amended in 2000 – Recommendation Rec(2000) 22 explicitly state that they do not apply to juveniles. The same applies to Recommendation (98) 7 on Ethical and Organisational Aspects of Health Care in Prison and Recommendation (97) 12 on Staff Concerned with the Implementation of Sanctions and Measures. The latter covers the selection, recruitment, training, management and status of prison, reintegration and probation staff and covers ethical obligations, some of which can be different for juveniles.

Since both sets of rules and related Council of Europe Recommendations are not (or are not sufficiently) juvenile-oriented, Recommendation Rec(2003)20 on New Ways of Dealing with Juvenile Delinquency and the Role of Juvenile Justice suggests the development of European Rules of Juveniles covering both prison institutions designed to accommodate juveniles and community sanctions and measures. Combining these two areas in one set of rules would reflect current trends in some European states towards combining elements of custody, supervision and support in the community in one sentence and assigning to one and the same agency treatment during detention, reintegration and probation. Both of these trends require serious new thinking.

The Council for Penological Co-operation should consider in particular the following aspects:

- a. The European Rules for juvenile offenders should apply to juveniles who, as a result of their involvement in criminal activity, are subject to a deprivation of liberty or to community sanctions or measures.

b. The new rules should take account of current trends in some European states towards combining elements of custody, supervision and support in the community and merging prisons and probation into a new corrections service.

c. The rules must build upon Council of Europe Recommendation NoR (87)20 on Social Reactions to Juvenile Delinquency and Recommendation Rec(2003)20 on New Ways of Dealing with Juvenile Delinquency and the Role of Juvenile Justice. It must reflect the principles contained in the UN Convention on the Rights of the Child and would need to revise and update, as well as address the gaps and shortcomings in, existing international instruments that explicitly apply to juveniles, such as the UN Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), the UN Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the UN Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines). They should also address the issues raised in the 9th General Report (1999), of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) which is specifically devoted to juveniles deprived of their liberty.

Inter alia, the PC-CP should address:

- (i) The legal framework for depriving juvenile offenders of their liberty, taking into account in particular their human rights and the rights and responsibilities of their parents or legal guardians.
- (ii) The design and management of penal and welfare institutions specifically opened for juveniles and the planning and implementation of community sanctions and measures such that they reflect the best interest of the juveniles and current knowledge on best practice, taking account of recent developments in research, policy and practice and addressing the need for good order.
- (iii) The selection, recruitment, training and status of prison, reintegration and probation staff, as well as staff dealing with child protection and their ethical obligations in relation to the education, care and supervision of juveniles in institutional and community settings.
- (iv) The treatment, conditions and services, especially health, education and training, to which juvenile offenders wholly or partially deprived of their liberty or serving community sentences, have access.
- (v) The specific needs of certain categories of juvenile offenders, such as girls, ethnic or linguistic minorities, juveniles who are foreign nationals and disabled juveniles.
- (vi) Young adult offenders

The outcome of the PC-CP's work will comprise one or more draft Recommendations containing European Rules for Juvenile Offenders Deprived of their Liberty or subject to Community Sanctions and Measures with explanatory memoranda. To achieve this, the committee will undertake an assessment of the current situation with regard to the deprivation of liberty of offending juveniles and the use of community sanctions and measures in member states. In determining the prison rules which are specific for detained juvenile offenders the PC-CP will take into account the contents of the EPR in their updated version.

5. Working methods:

a. While drawing up the new rules, the PC-CP will work closely with the CPT and other bodies and organisations as deemed appropriate, such as the International Association of Juvenile and Family Court Magistrates (IAJFCM) and the United Nations Children's Fund (UNICEF).

b. In its work the PC-CP will also need the assistance of three scientific experts and ad hoc consultants with specific knowledge of relevant legislation and legal practice, of international norms and conventions relating to juveniles, as well as the European Convention on Human Rights and its case law and of recent developments in research and practice as regards dealing with juvenile offenders in closed institutions and in the community in the different European member-states.

c. The PC-CP will work in close consultation with the CDPC and its Bureau and will report to the CDPC at its plenary sessions on the state of its work so that full account is taken of possible views expressed by the CDPC delegations on the texts drafted before their approval by the CDPC.

d. The Commission of the European Communities and the Council of the European Union may send representatives to meetings of the PC-CP, without the right to vote or defrayal of expenses.

6. Observers:

a. The following may send a representative to meetings of the PC-CP, without the right to vote or defrayal of expenses: UNICEF, IAJFCM.

b. The Bureau of the CDPC may authorise the admission of other observers to the PC-CP, provided that the Committee of Ministers does not object.



APPENDIX VI -

Replies of the CDPC to the Committee of Ministers regarding PACE Recommendations 1648, 1706, 1709 and 1713

Replies to the Committee of Ministers

The Bureau, having consulted the delegations of the European Committee for Crime Problems (CDPC) through a written procedure on the Parliamentary Assembly Recommendations 1648, 1706, 1709 and 1713, would reply to the Committee of Ministers as follows:

General Remark

The European Committee for Crime Problems (CDPC) recalls that it used to be the practice of the Committee of Ministers to highlight, in its requests for comments on Parliamentary Assembly Recommendations, the aspects of the Recommendation on which comments are requested. It considers that it would be helpful in the future if the Committee of Ministers could revert to this practice.

Recommendation 1648 - Consequences of European Union enlargement for freedom of movement between Council of Europe member states

At its meeting on 15 and 16 November 2004, the European Committee for Crime Problems (CDPC) Bureau took note of Recommendation 1648 and agreed that it should be forwarded to the Committee of Experts on Transnational Criminal Justice (PC-TJ) for consideration. The PC-TJ reply, set out below, was adopted by the Bureau of the CDPC at its meeting of 12 – 14 October 2005, further to a written consultation of all delegations.

1. The, PC-TJ, considered Recommendation 1648 at its 2nd meeting (31 January to 2 February 2005) with a view to adopting an interim report to the CDPC. It will do likewise at its 3rd and final meeting on 12 and 13 December 2005, when it will discuss the final report to be submitted to the CDPC for its next session (April 2006).
2. The PC-TJ is responsible for studying part of the “New Start” report (the chapter entitled “Renewal”), which a committee of experts drew up in 2002, and submitting concrete proposals to the CDPC, in particular with regard to issues concerning individual rights and freedoms in transnational criminal proceedings.
3. Some aspects of the PC-TJ’s work are directly linked to Recommendation 1648: judicial and police co-operation in improving security and public order. The PC-TJ believes that the response to the crime problem, like crime itself, needs to be transnational. Its aim is therefore to help establish a judicial area satisfying common standards – in other words, an effective European transnational judicial system that respects human rights and individual freedoms.
4. To that end the Committee takes particular account of developments which facilitate direct co-operation between the authorities of different countries and help to speed up procedure – for example, video-conferencing, electronic mail and teleconferencing. These modern co-operation methods were already referred to in the 2nd Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters (ETS 182). The Committee also takes an interest in European Union developments, in particular those concerning mutual recognition of judicial decisions (such as the European arrest warrant).

5. The PC-TJ pays special attention to the safeguards protecting the different parties to transnational criminal proceedings. For example it concerns itself with the rights and treatment of persons against whom extradition proceedings have been initiated. It also looks at the rights of, and guarantees afforded to, the accused, victims and witnesses in proceedings involving international co-operation. It considers the different ways of distributing and assigning powers and responsibilities in transnational cases so as to make sure that criminals are effectively prosecuted, the rights of victims respected and the accused protected by the appropriate safeguards. It will suggest specific progress that could be made in these fields.
6. The PC-TJ cannot but endorse the Parliamentary Assembly's recommendation (8.ii) to member states that they should "in so far as they have not already done so, ratify and implement without delay the conventions, agreements and other treaties listed³" [in the Recommendation]. Ratification and implementation of the co-operation arrangements in these instruments are vital to the fight against crime. The PC-TJ notes that, at their 26th Conference in Helsinki (7 and 8 April 2005), the European Ministers of Justice also called on member states to ratify and implement these instruments (see, in particular, the 3rd resolution, on combating terrorism).
7. The PC-TJ is also aware of the work by the Committee of Experts on the Operation of European Conventions in the Penal Field (PC-OC), which examines any difficulties in implementing the Council's criminal law conventions. It discusses appropriate solutions and thus assists implementation. The PC-OC has also discussed what action is needed on the two parts of the "New Start" report for which the PC-TJ is not responsible, those concerning the visibility and consistency of Council of Europe standards.
8. The PC-TJ will forward its final report and its proposals to the CDPC in time for its next session (April 2006). The same apparently applies to the parts of the "New Start" report being dealt with by the PC-OC.
9. The PC-TJ notes the importance of the Council of Europe programmes of assistance to its member states for improving judicial and police anti-crime co-operation. It notes and welcomes in particular the Organisation's efforts to implement the CARDS-Justice and CARDS-Police programmes in the Balkan countries and the programme on judicial co-operation in criminal matters in Ukraine, which is jointly funded by the Council of Europe and the European Commission.

Recommendation 1706 (2005) - Media and terrorism

1. The European Committee for Crime Problems (CDPC) recognised the high importance of the issues raised in the Parliamentary Assembly's Recommendation 1706 and noted, in particular, that the Recommendation asks the Committee of Ministers "to initiate work towards an additional protocol to the Convention on Cybercrime setting up a framework for security co-operation between member and observer states for the prevention of cyber terrorism, in the form of large-scale attacks on and through computer systems which threaten a state's national security, public safety or economic well-being."
2. The CDPC drew attention to the already existing Conventions in the field of judicial co-operation in criminal matters.
3. In particular, the CDPC noted that the Council of Europe Convention on Cybercrime (ETS 185) not only enumerates a certain number of "new" crimes but also provides that any crime committed through the use of computers (e.g. terrorism) can be pursued using the procedural means provided for in the Convention on Cybercrime.

³ The conventions on extradition (ETS 024, 086, 098), mutual assistance in criminal matters (027, 099, 182), the international validity of criminal judgments (070) and terrorism (090 and 190), the two criminal and civil law conventions on corruption (173, 174) and the convention on money laundering (141).

4. The CDPC encouraged the member states to accelerate their processes of ratification of this convention and its additional protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems. It agreed with the Parliamentary Assembly's recommendation to member states to apply this protocol "to terrorist content in so far as the latter advocates, promotes or incites hatred or violence against any individual or group of individuals based on race, colour, descent or national or ethnic origin, as well as religion if used as a pretext for any of these factors".

5. The CDPC also encouraged the member and observer states to ratify as quickly as possible the Convention on the Prevention of Terrorism, in particular with a view to the application of its Article 5 concerning public provocation to commit a terrorist offence, as well as the European Convention on the Suppression of Terrorism and its Protocol.

6. Nevertheless, the CDPC noted that the notion of cyber terrorism is not criminalised as such in either national legislation or international law and it informed the Committee of Ministers that its Bureau therefore agreed to explore this issue further.

Recommendation 1709 (2005) Disappearance and murder of a great number of women and girls in Mexico

The European Committee for Crime Problems (CDPC) has taken note of this Recommendation, as well as of the reply made by the Committee of Ministers to the Parliamentary Assembly (CM/AS(2005)Rec1709 final 3 October 2005)

Recommendation 1713 (2005) Democratic oversight of the security sector in member states

1. The European Committee for Crime Problems (CDPC) notes in general that Recommendation 1713 deals with matters largely outside its scope. The exceptions, which do fall within its competence, are the point dealing with the police (item 10.ii.) and that dealing with private security services (item 10.v.e).
2. The CDPC broadly supports the recommendations concerning the police sector and notes that the European Code of Police Ethics, as adopted by the Committee of Ministers in their Recommendation (2001) 10, deals with some of the issues cited in the Parliamentary Assembly's recommendation. For example, the Code of Ethics includes provisions regarding the need for a legal basis of the police and their operations, for transparency and accountability to the public, for use of force only when strictly necessary and in a proportional manner, and for training of police personnel, which should be based on the fundamental values of democracy, the rule of law and the protection of human rights.
3. Furthermore, the mandate of the Council for Police Matters (PC-PM), an advisory body to the CDPC, includes the duty to assist the CDPC in reviewing the implementation of Recommendation Rec(2001)10, which it does on a regular basis.
4. Finally, the Council's co-operation activities in this domain ensure that numerous activities are carried out every year with a view, inter alia, to disseminating the European Code of Police Ethics and encouraging its application through national legislation and/or codes
5. The CDPC also notes the reference in item 10.v.e to private companies. It considers that the increasing use of private security companies for policing activities merits serious attention. In this regard it recalls that the Committee of Ministers has approved the draft ad hoc terms of reference for the Council for Police Matters (PC-PM) relating to the regulation of private security services whereby the PC-PM is requested to draw up a report identifying recent developments in this field including examples of good practice and ways and means to exchange those good practices.