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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

55th Plenary Session
(30th meeting as a Steering Committee)

Strasbourg, 3 – 7 April 2006

MEETING REPORT

CDPC website: www.coe.int/cdpc
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The following abbreviations are used in referring to Committees

CDPC	EUROPEAN COMMITTEE ON CRIME PROBLEMS
PC-CP	COUNCIL FOR PENOLOGICAL CO-OPERATION
PC-PM	COUNCIL FOR POLICE MATTERS
PC-CSC	CRIMINOLOGICAL SCIENTIFIC COUNCIL
PC-S-AV	GROUP OF SPECIALISTS ON ASSISTANCE TO VICTIMS AND PREVENTION OF VICTIMISATION
T-CY	CYBERCRIME CONVENTION COMMITTEE
PC-OC	COMMITTEE OF EXPERTS ON THE OPERATION OF EUROPEAN CONVENTIONS IN THE PENAL FIELD
CPGE	CONFERENCE OF EUROPEAN PROSECUTORS GENERAL
CCPE	CONSULTATIVE COUNCIL OF EUROPEAN PROSECUTORS
PC-ES	COMMITTEE OF EXPERTS ON THE PROTECTION OF CHILDREN AGAINST SEXUAL EXPLOITATION AND ABUSE
MONEYVAL	COMMITTEE OF EXPERTS ON THE EVALUATION OF ANTI-MONEY LAUNDERING MEASURES

BRIEF FOREWORD

1. The European Committee on Crime Problems (CDPC) met in Strasbourg from 3 to 7 April 2006. The agenda appears in Appendix I.

ITEMS SUBMITTED TO THE COMMITTEE OF MINISTERS FOR DECISION

2. The CDPC invited the Committee of Ministers:
 - a. to adopt the text of the draft Recommendation on Assistance to Crime Victims (Appendix II) and take note of its Explanatory Memorandum (Addendum);
 - b. to approve the terms of reference, revised in accordance with the provisions of Resolution (2005) 47, of the PC-CP (Appendix III), the PC-PM (Appendix IV) and the PC-OC (Appendix V), and also:
 - i. as regards the PC-CP, in particular, to approve the increase in membership from 7 to 9 members and the PC-CP mandate to undertake regular re-examination of the European Prison Rules;
 - ii. as regards the PC-PM in particular, to approve the re-election of some of its members for an additional mandate of two years and the proposed Rules for the PC-PM;
 - iii. as regards the PC-OC, in particular to approve the specific mandate to make proposals for the improvement of judicial co-operation in criminal matters.

ITEMS SUBMITTED TO THE COMMITTEE OF MINISTERS FOR INFORMATION

3. The CDPC invited the Committee of Ministers to note:
 - a. the admission by the CDPC of:
 - MEDEL as an observer to the CDPC;
 - the « Conférence Permanente Européenne de la Probation » (CEP) as an observer to the PC-CP;
 - the Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG) as an observer to MONEYVAL;
 - b. its report (in conformity with the Committee of Ministers' request as contained in document CM(2005) 145 revised) indicating its completed and proposed actions to implement the Action Plan adopted by the Heads of State and Government in Warsaw 16 and 17 May 2005 (Appendix VI);
 - c. its decision to appoint an expert in criminal law and procedure to draw up a feasibility study on the drafting of a Convention on counterfeit medicines/pharmaceutical crime, with assistance from experts in the areas of public health and quality control. Subject to a favourable opinion of the CDPC, the Committee of Ministers will be invited to approve terms of reference for an ad hoc multidisciplinary group of experts in the various fields concerned to draft the Convention, their work to begin in 2007;
 - d. that a significant number of States had already taken or planned measures to ensure the implementation of the revised European Prison Rules (EPR) (cf Recommendation rec (2006)2), including legislative reforms, training, translation and distribution of the text of the EPR (see also paragraph 15.c below);

- e. its opinion that a binding instrument, in the form of a European Prison Charter, was not a feasible proposition and its consequent proposals to strengthen penitentiary reform inter alia through the elaboration of a Compendium of Council of Europe recommendations in the penitentiary field (see also paragraph 16 below);
 - f. its decision to hold, at its next meeting, a short joint meeting with the T-CY, in order to conduct the review of the Convention as required by paragraph 3 of Article 46 of the Convention;
 - g. its approval of the proposed Draft Overall Action Plan which will be examined at the first meeting of the CCPE on 6 July 2006 and its agreement to delegate to the CDPC Bureau the final approval of such an action plan for transmission to the Committee of Ministers for adoption, along with the terms of reference of the CCPE (see paragraphs 4i and j below),
 - h. its decision, as concerns the participation of Eurojust and the European Judicial Network in plenary meetings of the CDPC, to accept the proposal of the representative of the Secretariat General of the Council of the European Union that the European Commission and/or the Council of the European Union invite them to form part of their delegation when they consider it appropriate.
4. The CDPC took note of:
- a. the work carried out by its subordinated committees (MONEYVAL, the PC-CP, the PC-OC, the PC-PM, the PC-TJ, and the PC-S-AV) and underlined the importance of this work;
 - b. the work to be carried out by the PC-ES, first to evaluate the need for an additional international instrument and/or amendments to the existing instruments, and, subsequently, subject to the approval of the CDPC, to prepare such an instrument (see also paragraph 14.c below). In this regard, it noted that, should the PC-ES be required to prepare a binding instrument, an extension of its terms of reference beyond the end of 2006 would probably be necessary;
 - c. the priorities of the European Union under the presidencies of Austria and Finland (respectively ending and starting in June 2006) as well as those of the Russian Chairmanship of both the Committee of Ministers of the Council of Europe and the G8;
 - d. the admission of Israel as an observer to MONEYVAL;
 - e. Resolution (2005)47 of the Committee of Ministers, calling for changes in terms of reference of all committees as well as providing for a certain streamlining in procedural matters regarding working methods, including convocations and reports of committees (see paragraphs 2b above and 14e below);
 - f. the adoption by the Committee of Ministers of new working methods, intended to rationalise their work by ensuring that items are dealt with by rapporteur groups before being submitted to the Committee as a whole;
 - g. the preparation of the 27th Conference of European Ministers of Justice (Yerevan 12 – 14 October 2006), which would be devoted to the theme of ‘Victims – place, rights and assistance’, including the issues of particularly vulnerable victims, the establishment of bodies, institutions or ombudsmen in the member states and compensation and the role of the insurance industry. In this context it also took note of the opinion of the PC-S-AV as to priority areas of work in the field of victims;
 - h. the Conclusions of the 6th Conference of Prosecutors General of Europe (Budapest 29 to 31 May 2005), and, in particular, the Budapest Guidelines;

- i. the preparation of the 7th CPGE (Moscow, 5 – 6 July 2006), to be followed by the inaugural meeting of the CCPE;
 - j. the proposed revised terms of reference of the CCPE, including the proposal to extend its mandate to the end of 2008. These draft terms of reference will be proposed to the Committee of Ministers for approval once the first meeting of the CCPE will have taken place (July 2006);
 - k. the Conclusions of the Conference on Probation and Aftercare (Istanbul, 14 - 16 November 2005);
 - l. the Conclusions of the International Conference on “Cybercrime: A Global Challenge, A Global Response” (Madrid, 12-13 December 2005) and that all States present in the CDPC intended to become Parties to the Convention on Cybercrime as soon as their legislative and other procedures could be completed.
5. The CDPC re-elected Mr Brano BOHÁČIK (Slovakia) as Vice-Chair for a period of one year. It elected Ms Valerie FALLON (Ireland) and Mr Eric RUELLE (France) as members of the Bureau for a period of four years (see item 3.1 of the agenda).
 6. The CDPC elected Ms Natalya KHUTORSKAYA (Russian Federation), Ms Marta FERRER PUIG (Spain), Mr Antanas JATKEVIČIUS (Lithuania) as members of the PC-CP for a period of five years and, subject to the decision of the Committee of Ministers under 2.b.i above, it further elected Mr Riccardo TURRINI VITA (Italy) and Mr Roger MCGARVA (United Kingdom) for a period of five years.
 7. The CDPC re-elected Mr Tor Jervell BACKE-HANSEN (Norway), Mr Neil CLOWES (United Kingdom), Mr Jaime FERNANDES (Portugal), Mr Peter ONDRUSKO (Slovakia), and Mr Alvydas ŠAKOČIUS (Lithuania) as members of the PC-PM for a period of two years and it elected Ms Ann-Marie ORLER (Sweden) and Ms Jasmina SAHINOVIC (Serbia and Montenegro) as members of the PC-PM for a period of three years.
 8. The CDPC confirmed the appointment of Mr Branislav BOHÁČIK (Slovakia) as its representative at the future meetings of the T-CY and that of Ms Antonella SAMPO (Monaco) to the PC-ES.
 9. The CDPC appointed Mr Damir VEJO (Bosnia and Herzegovina) as its representative to GRECO, Mr Eugenio SELVAGGI (Italy) as its representative to the CCPE and Mr Nikola MATOVSKI (“The Former Yugoslav Republic of Macedonia”) as its representative to the Group of Specialists on Human Rights and the fight against terrorism (DH-S-TER).
 10. The CDPC approved the opinion prepared by the PC-OC on the additional protocol to the Convention on transfer of sentenced prisoners, with a slight modification (see Appendix VII).
 11. The CDPC approved the opinion prepared by the PC-OC on the question of witness protection (application of Art 23 of the 2nd additional Protocol to the European Convention on Mutual Assistance in Criminal Matters) and agreed that there was no need at this stage to proceed to the drafting of a binding instrument in this regard.
 12. The CDPC approved the opinion and proposals of the PC-PM as to the need and the means to promote the European Code on Police Ethics.
 13. The CDPC, referring to its Working Methods as adopted at its plenary in 2005, confirmed that when normative texts are under consideration the plenary committee should always be consulted, but agreed that this could be in the form of an “enlarged Bureau” where reasons of urgency so dictated. It nevertheless charged its Bureau with the responsibility of ensuring early and appropriate consultation of the CDPC plenary, including by written consultation procedure.

14. The CDPC requested its Bureau, at its next meeting to:
- a. finalise, in the light of written and oral comments made by CDPC delegations, the texts of the draft recommendation on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse and its Explanatory Memorandum. The Bureau is instructed, after finalising the texts, to forward them to the Committee of Ministers for adoption (see paragraph 15a below);
 - b. prepare an opinion on the request, received from the Turkish delegation, on the interpretation of Article 1 paragraph (e) of the 1977 European Convention on the Suppression of Terrorism (ETS N° 90);
 - c. approve, further to a consultation of its members by means of a written consultation procedure, any proposal by the PC-ES to prepare a new international legal instrument;
 - d. make a proposal, in light of the suspension of the PC-CSC meetings, for ensuring the necessary criminological scientific expertise for the CDPC;
 - e. finalise draft terms of reference for the CDPC and forward them to the Committee of Ministers for approval.

The Bureau will be enlarged to enable those delegations, which so wish, to participate (at their own expense) in this meeting of the Bureau (28-30 June 2006).

15. The CDPC requested delegations to the CDPC:
- a. to send the Secretariat by e-mail (dgi.cdpc@coe.int) by 19 May 2006, any comments they wish to make concerning the texts of the draft recommendation on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse and its Explanatory Memorandum. Such comments should contain, in particular, any proposed textual amendments (see paragraph 14.a above);
 - b. to send the Secretariat by e-mail (dgi.cdpc@coe.int) by 31 May 2006, any comments they wish to make concerning the interpretation of Article 1 paragraph (e) of the 1977 European Convention on the Suppression of Terrorism (ETS N° 90), as well as information on their States' possible intentions to ratify the Additional Protocol to that Convention (ETS N° 190);
 - c. to ensure that any translations of the European Prison Rules into their national languages be forwarded to the Secretariat for inclusion in the Council of Europe's prisons website.
16. The CDPC requested the PC-CP to present to the next CDPC plenary a proposal for working methods to establish a compendium consolidating all Council of Europe recommendations relating to penitentiary questions together with an indication as to which recommendations should be revised and/or updated.
17. The CDPC requested the PC-CP, in light of the results of the Conference in Turkey in November 2005, and, in consultation with the Conférence Permanente Européenne de la Probation (CEP) to propose draft specific terms of reference to address the issues of probation and aftercare, particularly the role and place of probation services, and to submit them to the next plenary of the CDPC.
18. The CDPC decided to hold its next meeting during the week beginning 11 June or the week beginning 18 June 2007. The Bureau decided to hold its next meeting from 28 to 30 June 2006.
19. The CDPC invited the Committee of Ministers to take note of this report as a whole.

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ADDENDUM

EXPLANATORY MEMORANDUM TO
THE RECOMMENDATION ON ASSISTANCE TO CRIME VICTIMS

ITEM 1 OF THE AGENDA: OPENING OF THE MEETING

1. The 55th meeting of the CDPC took place from 3 to 7 April 2006, under the Chairmanship of Mr Claude DEBRULLE (Belgium).
2. It was preceded by a meeting of the Bureau on 3 April 2006 during which the Bureau prepared the meeting and approved the proposed order of business.
3. The list of participants is contained in Appendix Ia.

ITEM 2 OF THE AGENDA: ADOPTION OF THE DRAFT AGENDA

4. The CDPC adopted the agenda as it appears in Appendix Ib.

ITEM 3 OF THE AGENDA: ELECTIONS / APPOINTMENTS**3.1 Election of Vice Chair and two Bureau members**

5. The CDPC re- elected Mr Branislav BOHÁČIK (Slovakia) as its Vice-Chair for a period of one year.
6. The CDPC elected Ms Valerie FALLON (Ireland) and Mr Eric RUELLE (France) as members of the Bureau for a period of four years.
7. The CDPC expressed its gratitude to the outgoing members of its Bureau, Mr Mario AFFENTRANGER (Switzerland) and Mr Esa VESTERBACKA (Finland).

3.2 Election of five members of the PC-CP

8. The CDPC noted that the terms of office of three members of the PC-CP had or would soon expire. This concerned Mr Bertel ÖSTERDAHL (Sweden) who resigned on 6 September 2005 as Chairman (and member) of the PC-CP, with effect from the end of October 2005, as well as Mr George MARJANOVIC (“the former Yugoslav Republic of Macedonia”) and Mr Michael MELLETT (Ireland) whose terms of office will expire in June 2006.
9. It also noted that the members of the PC-CP elected Ms Sonia SNACKEN (Belgium) as the new Chair at their 50th meeting (26 - 28 October 2005).
10. The CDPC had received eleven candidatures from the PC-CP and from member states within the time limit set down. It agreed to accept two further candidatures which had arrived after that time limit.
11. The CDPC elected Ms Natalya KHUTORSKAYA (Russian Federation), Ms Marta FERRER PUIG (Spain) and Mr Antanas JATKEVIČIUS (Lithuania) to replace the three outgoing members of the PC-CP, whom it thanked for their commitment to the important work of the PC-CP. It wished especially to mark the long and dedicated service of the outgoing Chair, Mr ÖSTERDAHL.
12. Furthermore, the CDPC plenary agreed to the proposal of the Bureau to increase the number of members of the Committee from seven to nine (see item 4.1 below). The CDPC elected Mr Riccardo TURRINI VITA (Italy) and Mr Roger MCGARVA (United Kingdom) to the PC-CP, subject to the approval by the Committee of Ministers of this proposed increase.

3.3 Election of the members of the PC-PM

13. The CDPC noted that the terms of office of all seven members of the PC-PM come to an end in 2006.
14. The CDPC agreed to amend the specific terms of reference of the PC-PM so as to allow the re-election of some of its members (see also item 4.2 below).
15. The CDPC (re)-elected Mr Tor Jervell BACKE-HANSEN (Norway), Mr Neil CLOWES (United Kingdom), Mr Jaime FERNANDES (Portugal), Mr Peter ONDRUSKO (Slovakia), and Mr Alvydas ŠAKOČIUS (Lithuania) to the PC-PM, each for a mandate of two years and elected Ms Ann-Marie ORLER (Sweden) and Ms Jasmina SAHINOVIC (Serbia and Montenegro) to the PC-PM, each for a mandate of three years.
16. The CDPC thanked the outgoing members of the PC-PM, Mr Antonino DI MAIO (Italy) and Mr Christakis MAVRIS (Cyprus) for their commitment to the important work of the PC-PM.

3.4 Appointment of the representatives of the CDPC to the meetings of T-CY, to the PC-ES, to GRECO, to the CCPE and to the Group of Specialists on Human Rights and the fight against terrorism (DH-S-TER),

17. The CDPC confirmed the appointment made by the Bureau of Mr Branislav BOHÁČIK (Slovakia) as its representative at the future meetings of the T-CY.
18. As regards the PC-ES, the CDPC agreed with the proposal of its Bureau that, given the nature of the work involved and its necessary links with questions of judicial cooperation in the penal field, it would be appropriate to ask the PC-OC to propose a representative. The PC-OC had proposed that Ms Antonella SAMPO (Monaco) be nominated and to report, as necessary to the PC-OC and/or the CDPC and their Bureaux. The CDPC confirmed this appointment
19. The CDPC appointed Mr Damir VEJO (Bosnia and Herzegovina) as its representative to GRECO, Mr Eugenio SELVAGGI (Italy) as its representative to the CCPE and Mr Nikola MATOVSKI ("The Former Yugoslav Republic of Macedonia") as its representative to the Group of Specialists on Human Rights and the fight against terrorism (DH-S-TER).

3.5 Role of representatives to other Committees – instructions from the CDPC

20. The CDPC asked its representatives to these bodies to ensure that the CDPC plenary and Bureau meetings are provided with reports of the meetings which they attend and, where necessary to seek instructions from the Plenary or the Bureau.

ITEM 4 OF THE AGENDA: REVISED TERMS OF REFERENCE

21. The CDPC took note of Resolution (2005) 47 on Committees and subordinate bodies, their terms of reference and working methods, adopted by the Committee of Ministers on 14 December 2005 and entering into force on 1 January 2006. When adopting the Resolution, the Deputies "invited the Secretary General to inform all committees concerned by the new Resolution". The text of the Resolution had therefore been communicated to the CDPC delegations.
22. The Resolution calls for several changes in the type and composition of committees, their working methods and convening of committee meetings.
23. Among the most significant consequences of the entry into force of the new Resolution, however, was the need to revise the terms of reference of all committees in line with the provisions of the Resolution. To this end, the CDPC adopted revised terms of reference, following consultation of the committees

concerned, for the PC-CP (see Appendix III), PC-PM (see Appendix IV) and PC-OC (see Appendix V), and invited the Committee of Ministers to approve these revised terms of reference. It also took note of the revised terms of reference of the CCPE.

24. The CDPC postponed adoption of its own terms of reference until the Enlarged Bureau meeting to be held 28 – 30 June (see item 16 below).
25. The CDPC noted that, according to the Resolution, terms of reference of subordinate committees should be no longer than three years (renewable) – hence the mandates proposed to the Committee of Ministers for the subordinate committees of the CDPC limit their terms of reference to 31 December 2008.
26. In addition to bringing the terms of reference into line with the new resolution, the revised terms of reference of the PC-CP, the PC-PM and the PC-OC provided for the following amendments.

4.1 PC-CP: approval of increase of the Council to nine members; role of the PC-CP in updating the European Prison Rules

27. The revised terms of reference of the PC-CP include the definition of its role in updating the European Prison Rules. In light of this new task as well as the increased workload of the PC-CP (including the European Prison Rules, the draft European Rules for Juvenile Offenders deprived of their liberty or subject to community sanctions and measures, the draft Recommendation on remand in custody, the conditions in which it takes place and the provision of safeguards against abuse and the planned work on the role of probation and aftercare), the CDPC proposed in the terms of reference to increase the membership of the PC-CP from seven to nine members. It considered that, in addition to reflecting the need to address its increased workload, this would follow the same logic which led to the recent increase of the CDPC Bureau from seven to nine members and would allow for a better geographical distribution of its members as, since 1997 (when its terms of reference were last revised), six new states have become Council of Europe members.

4.2 PC-PM - Approval of Modification regarding elections and adoption of Rules of procedure for the PC-PM

28. In order to ensure some continuity in the functioning of the PC-PM, the CDPC proposed to amend the specific terms of reference of the PC-PM so as to allow the re-election of some of its members for an additional term of office of two years. The re-election of a member should be possible only once.
29. The CDPC furthermore agreed that the PC-PM should be subject to Rules of Procedure similar to those that exist for the PC-CP and approved Rules to be forwarded to the Committee of Ministers for adoption (see Appendix IV).

4.3 PC-OC - Approval of new terms of reference for the PC-OC to improve judicial co-operation in criminal matters

30. In addition to the general ongoing tasks of the PC-OC, the terms of reference proposed include the more specific task to improve the efficiency of international cooperation in the criminal field including through normative proposals (see also item 7.2 below).
31. The CDPC approved the amendments proposed to the terms of reference of the PC-OC and forwarded them to the Committee of Ministers for adoption.

4.4 Admission of Observers to the CDPC (MEDEL), to the PC-CP (the “Conférence Permanente Européenne de la Probation” (CEP)) and to MONEYVAL (Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG))

i. CDPC

32. The CDPC authorised the admission of MEDEL as an observer to the CDPC.

33. The CDPC recalled that at its last plenary meeting in March 2005 it had asked its Bureau to prepare a policy regarding the question of the admission of observers to the plenary sessions. The Bureau, in particular in light of the adoption by the Committee of Ministers of Resolution (2005)47 which allows Steering Committees to appoint observers without having to seek the approval of the Committee of Ministers, considered that it was not necessary to establish a policy, but that it and the Secretariat should be pro-active in seeking to associate to meetings of the CDPC or its subordinated committees organisations which could contribute to their work. The CDPC agreed with this proposal.

ii. PC-CP

34. The “Conférence Permanente Européenne de la Probation” (CEP) had requested to attend the PC-CP meetings as an observer as the latter is currently dealing with matters which are of interest and have direct relation with the competence of the CEP - namely the drafting of European Rules for juvenile offenders deprived of their liberty or subject to community sanctions and measures; further to which the PC-CP will start work on the role and place of probation services in Europe.

35. The CDPC authorised the admission of the the “Conférence Permanente Européenne de la Probation” (CEP) as an observer to the PC-CP (see Appendix III).

iii. MONEYVAL

36. The CDPC noted that the Committee of Ministers had admitted Israel as an observer.

37. The Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG) had also requested observer status with MONEYVAL. The EAG, like MONEYVAL, is an FATF-style regional body (FSRB) and the Council of Europe, represented by MONEYVAL, has enjoyed, since 2005, observer status in EAG. Furthermore, MONEYVAL is already co-operating with this new (and “neighbouring”) FSRB. This application by EAG to the Council of Europe would serve to intensify co-operation and co-ordination overall within the global network of the FATF and FSRBs.

38. The CDPC authorised the admission of EAG as an observer with MONEYVAL.

39. The CDPC also took note of the proposed revised terms of reference of the CCPE, modified in conformity with Resolution (2005) 47 (see also under item 10.2 below).

ITEM 5 OF THE AGENDA: PC-S-AV

5.1 Approval of the draft Recommendation on assistance to crime victims

40. The CDPC heard the Chair of the PC-S-AV, Dame Helen Reeves (United Kingdom), who presented the draft Recommendation and its explanatory memorandum.

41. Dame Reeves underlined the main changes which had occurred since the adoption of former Recommendation R(87)21 on assistance to victims and the prevention of victimisation. Such changes relate to research and practice as well as to new normative instruments adopted by the Council of Europe, the EU and the UN; these had all been considered by the Group of Specialists in drafting the new Recommendation. She emphasised the holistic approach of the Recommendation, aimed at assisting victims of crime in the restoration of various aspects of their lives. The Recommendation also deals with the prevention of repeat victimisation (but not with the wider aspects of crime prevention/reduction, which could be the subject of separate work) as well as with the issue of secondary victimisation. The Recommendation acknowledges that restorative justice also includes the aspect of assistance to victims and devotes a section to mediation.
42. Dame Reeves also explained the way in which the Group of specialists dealt with victims of terrorism. The Group firstly adopted, in June 2005, a report to CODEXTER and to the CDPC on assistance to victims of terrorism, in accordance with its terms of reference. As to the drafting of the Recommendation, the Group considered that, in terms of services and assistance to victims of terrorism, the needs of such victims were quite similar to the needs of victims of other serious crime. In terms of policy, it was the view of the Group that giving too much importance to victims of terrorism, as a separate category of victims, could aggravate the distress of many other victims, with the risk of secondary victimisation for the latter. The Recommendation provides however for specific provisions for victims of terrorism, notably in the field of specialised centres, insurance policies, compensation for property damage and specialised training.
43. Following the discussion on the preliminary draft Recommendation and its explanatory report submitted by the PC-S-AV, the CDPC approved the draft Recommendation on Assistance to Crime Victims and authorised the publication of its explanatory memorandum. The CDPC invited the Committee of Ministers to adopt the text of the draft Recommendation on Assistance to Crime Victims and to take note of its explanatory report (see Appendix II and the Addendum to this report).
44. In addition, the CDPC took note of the opinions of the PC-S-AV on :
- the Parliamentary Assembly Recommendation 1673 (2004) on Counterfeiting : problems and solutions and
 - the Parliamentary Assembly Recommendation 1681 (2004) on the “Campaign to combat domestic violence against women in Europe”

5.2 Consideration of the final activity report of the PC-S-AV on issues that should be addressed further.

45. The CDPC considered the following priority proposals which the Group identified:
- compensation for crime victims: survey and research on implementation, best practices, difficulties;
 - restorative justice and mediation in criminal matters: elaboration of modern European instruments;
 - promotion of the visibility of existing CoE norms in the field of victims, including the new recommendation, through publications, translations, web sites, etc;
 - strengthening of the assistance programmes in the field of victims in order to diffuse the CoE standards and assist in their implementation in member States.
- In addition, further work could be envisaged notably on the place of the victims in criminal law and criminal procedure (update of the Recommendation R(85)11) as well as on crime prevention/reduction.
46. The CDPC considered that such proposals should be discussed at the next Conference of the European Ministers of Justice, in Yerevan (October 2006). It was felt however that it would be useful that any future normative work be preceded by research on the implementation of the existing CoE instruments (Convention and Recommendations) in the field of assistance to victims.

ITEM 6 OF THE AGENDA: MONEYVAL

47. The CDPC took note of the MONEYVAL report covering its MONEYVAL activities in 2005 and up to the last plenary in January/February 2006.

ITEM 7 OF THE AGENDA : FUTURE WORK OF THE CDPC**7.1 Workplan 2006 / 2007****Exchange of views with delegations representing the presidencies of the EU [Austria and Finland] and of the G8 [Russia].**

48. The Austrian delegation, whose country currently holds the Presidency of the EU, referred to the third pillar – in particular as regards judicial and police co-operation in fighting crime. He noted that the European Union is focusing more on mutual recognition of judicial decisions (both provisional and definitive) and less on harmonisation of legislation which had proved difficult both as regards substantive criminal law and, even more so, as regards criminal procedure legislation. He cited as examples both the European Arrest warrant and the European Evidence Warrant. The former had a recognised success in reducing significantly the time for the execution of surrender procedures, and consensus was expected to be achieved soon on the European Evidence Warrant.
49. As regards execution of sanctions, the implementation by March 2007 is expected for the mutual recognition of financial sanctions, while the question of the mutual recognition of the execution of prison sentences is under negotiation, taking into account the Council of Europe's additional protocol on the transfer of sentenced prisoners (see also under item 7.3 below). The problems encountered at the European Union level are similar to those raised with regard to the Council of Europe's instruments in this field – the extent to which the need for the consent of the person concerned should be waived and the question of whether the principle of double criminality should be removed (as for the European Arrest Warrant) or kept.
50. The European Union, under the Austrian Presidency, is also working on the question of criminal records – with two main aims. The first is to ensure that information on criminal records can be shared amongst member states but that it should be concentrated in the home country of the person concerned – this raises still an issue as regards information from non European Union countries. The second is to make it an obligation for states to treat previous convictions for offences in their own or another member state as an aggravating factor when sentencing an offender.
51. As regards the fight against organised crime – it was hoped that measures would soon be finalised to replace the 1998 Joint Action procedures. There remains one issue which is causing difficulties for harmonisation – that of the conflict between the continental legal systems which make membership of certain organisations an offence versus the common law legal systems which would treat such a situation within the concept of conspiracy to commit a crime.
52. The topic of intellectual property crimes is also under consideration, but not from the point of view of protection of health (which is the Council of Europe's approach to the issue of counterfeit medicines (see under item 7.4 below)).
53. The most difficult aspect of criminal law to harmonise is, as noted, criminal procedure. The opinions of the member states as to procedural guarantees and fundamental rights are divergent and often seen as countering efforts to improve the efficiency of criminal investigations and prosecutions. In this area, some doubt may be raised as to whether there is any added value to be gained in comparison to the ever evolving case law of the European Court of Human Rights.

54. Negotiations as to police cooperation are at an early stage but have encountered difficulties especially as regards data protection questions.
55. Finally, other work included fighting terrorism (including the financing of terrorism), trafficking in human beings and narcotic drugs.
56. The Finnish delegation, whose country will hold the Presidency of the EU after Austria, indicated that the priorities of the Finnish presidency of the European Union would be focused on the need for co-operation and the role that such co-operation can play in crime prevention and reductions. He cited the need for co-operation at three levels – within each member state co-operation is needed amongst law enforcement agencies (police, customs, border control, etc.) , between member states co-operation should be improved, both at the level of law enforcement agencies and judicial instances and that at the European level co-operation bodies like Eurojust have a significant role to play.
57. The Finnish authorities would also like to see the development of a crime prevention network which would be wide ranging - covering questions such as social prevention (how to help prevent people becoming criminals) and situational prevention – (how to make it technically more difficult to commit a crime). Both of these issues are more adequately dealt with on a local level and would not necessarily require any legislation. The Finnish delegate also noted that the PC-S-AV in their final activity report had highlighted the issue of crime prevention/reduction as one of the areas where work should be pursued.
58. Finally, the Finnish authorities indicated that they are not particularly in favour of increased harmonisation in criminal legislation. Their fear is that harmonisation can often lead to an increase in the level of sanctions which in turn would only aggravate the existing problem of overcrowding of prisons in all our countries. The Finnish authorities would therefore stress the need for increased mutual legal assistance.
59. The discussions highlighted the three main areas of European Union activity - mutual recognition, operational co-operation and harmonisation. Nevertheless, it had to be acknowledged that harmonisation and even co-operation can be difficult since the working methods of the European Union allow only for small steps to be taken, whereas the criminal law and procedure of member states has to be seen as a coherent system, deeply rooted in the history and traditions of each country.
60. While mutual recognition is a cornerstone, the European Union is aware of the need to maintain good external relations as well as to build up institutions which will help to encourage mutual confidence (such as Eurojust, the European Judicial Network, CEPOL, etc.).
61. The Russian delegation informed the CDPC of Russia's priorities both during its presidency of the G8 and during its presidency of the Council of Europe's Committee of Ministers. The summary can be found in Appendix VIII). The main priorities as regards the G8 are in the fields of energy, security, education and infectious diseases, as well as countering terrorism and organised crime.
62. As regards the presidency of the Council of Europe Committee of Ministers, the theme will be "Towards a Europe without dividing lines" and the priorities aim to help to develop a pan-European legal space in the interests of protecting individuals. This includes combating terrorism and other forms of organised crime, supporting the Council as the only pan-European standard setting organisation, improving co-operation and addressing the problems of counterfeit medicine, sexual exploitation of children and cybercrime including cyber-terrorism.

CDPC Activities and Priorities

63. The CDPC noted that the Bureau had elaborated a work plan. The document listed the current and future work of the Committee in light of the source of the work (e.g. Warsaw Summit, May 2005 – Declaration, Action Plan and road map, Resolutions of the European Ministers of Justice, Helsinki, April 2005). It covered the work carried out since the last plenary CDPC in March 2005, the work currently underway or to be finalised at the present plenary and possible future work. On the basis of this document, which the CDPC requested the Secretariat to update and forward to the Committee of

Ministers in accordance with their request (see CM (2005) 145 rev.), the CDPC noted the future priority work of the committee and its sub committees, in particular as set out below.¹

7.2 Co-operation in the criminal justice field

Follow-up to the reports prepared by the PC-OC (PC-OC (2006)10) and the PC-TJ (PC-TJ (2005)10) in response to the New Start Report ; and Follow-up to the Resolutions of the 26th conference of European Ministers of Justice (PC-OC (2006)9 – note on modernisation)

64. **The Chair of PC-TJ**, Ms Maria GAVOUNELI (Greece), presented the final report of the Committee on the follow-up to the “renewal” chapter of the “new start” report. The work was based on the preliminary observation that, since the adoption of the main CoE Conventions on extradition and on mutual legal assistance in the nineteen fifties, the system of international co-operation has matured and several new normative instruments, notably in the EU, closely affect the system put in place. Such evolution has moved the traditional inter-State co-operation towards more direct forms of co-operation where the individual has a central place. The PC-TJ identified a series of concrete proposals aimed at strengthening the protection of rights and guarantees of individuals in transnational criminal procedures and to increase the efficiency of judicial co-operation. Such proposals concern:
- the judicialisation of co-operation procedures,
 - the increased protection of individuals (definition of minimum standards, judicial protection),
 - the revision of some principles of judicial co-operation in order to promote shared responsibility: double criminality, *ne bis in idem*, extradition of nationals,
 - a common platform of response, taking over some proposals made by the PC-OC, i.e.: a data base, promotion of networking and an office of specialists.
65. **The Chair of PC-OC**, Mr Eugenio SELVAGGI (Italy) introduced the report by the PC-OC on the follow-up to the other two chapters of the “new start” report, dealing with “visibility” and the “consistency” of European norms. As to the visibility, a database of existing norms, the promotion of networking and the establishment of an office of specialists should be considered. In terms of consistency, the following suggestions are made: consultation of the PC-OC and avoidance of fragmented future normative provisions on judicial co-operation, a revision of the (old and/or inappropriate) reservations and the possibility for limited (in time) validity of reservations in future Conventions, drafting of model bilateral treaties and updating lists of existing bilateral treaties, elements for a policy on the accession by non member States to CoE criminal Conventions.
66. The CDPC thanked the Chairs for their presentations and welcomed both reports which provide concrete suggestions to improve the efficiency of judicial co-operation in criminal matters and which propose clear follow-up elements to Resolution No 5 of the Helsinki Conference of the European Ministers of Justice (April 2005).
67. As to future developments, the CDPC suggested that a practical approach should be adopted, in order to initiate works which have the most realistic chance to reach a positive result.
68. The Committee held a discussion and underlined the following points in particular:
- the proposals made for practical changes would very much facilitate the work of practitioners in the field of judicial co-operation; to the extent of resources available, the CDPC encouraged such work to be launched quickly;
 - future work aimed at strengthening the protection of individuals in transnational criminal procedure was considered to be a priority; it should fully take into account the existing case law of the European Court of Human Rights; the CDDH could be consulted on possible options for future norms in this regard;

¹ This updated document, as forwarded to the Committee of Ministers, is to be found in Appendix VI to this report

- more concerns were expressed as to other normative works to be initiated. The CDPC felt that it was premature to take any decision at this stage. It would need additional elements on the specific provisions to be modernised, the objective needs for any new norms, and the form that each of such norm (Convention or Recommendation) would take.
 - due consideration should be given to the difficulties met in other national or international (such as the EU) fora when dealing reforms on matters such as double criminality, *ne bis in idem*, procedural guarantees in criminal procedures, extradition of nationals as well as the judicialisation of procedures (and possibly issues related to diplomatic assurances). Future work on these matters should be conceived in a realistic way, i.e. results should be contemplated in a longer term perspective. The difference in nature between CoE and EU norms, the latter being binding for all EU member states, with no option in terms of accession and no possibility of substantial reserves, was however stressed.
69. **The CDPC discussed the draft terms of reference of the PC-OC**, which would enable that Committee to work further on the improvement of international co-operation in criminal matters.
70. The CDPC paid tribute to the work of PC-OC on this matter. As the PC-OC is composed of practitioners of judicial co-operation from all the member States, and as a permanent Committee, the CDPC was confident that the proposals made by the PC-OC corresponded to actual needs of practitioners and that the expertise gathered by that Committee would enable the Committee to give concrete results.
71. The CDPC agreed that the PC-OC should base its work on the proposals presented in the reports mentioned above: follow-up to the New start report by the PC-TJ (PC-TJ (2005)10) and by the PC-OC (PC-OC (2006)10) and the PC-OC note on modernisation (PC-OC (2006)9). Such reports will be specifically mentioned in the terms of reference to this end.
72. The PC-OC work could be conceived taking into account the following decisions by the CDPC:
- the work on the proposals linked to the visibility of the European norms should be considered as a priority; this relates to the compendium, the database, networking and an office of specialists.
 - work on modernisation of existing instruments could be initiated; the Committee should endeavour to identify the norms which would facilitate and improve the efficiency of judicial co-operation and should therefore consider, where applicable, to amend existing Conventions, e.g. through Protocol(s), or propose new non binding instruments, but should not work from the outset, on a new (comprehensive) Convention. The issues to be considered relate *inter alia* to individual rights, grounds for refusals, reservations, trial in absentia, consequences of acquittal, ways and channels of communication.
 - the issues relating to “ne bis in idem”, the extradition of nationals and double criminality, could be discussed in the perspective of longer term results;
 - the development of normative texts is subject to instructions given by the CDPC, on the basis of proposals submitted by the PC-OC;
 - the PC-OC will regularly report to the CDPC and to its Bureau on the results of its work.
73. The CDPC adopted new terms of reference of the PC-OC (see Item 4 above and Appendix V to this report).
- 7.3 Replies to questions asked by CDPC to PC-OC regarding :**
- i. additional protocol to the Convention on transfer of sentenced prisoners
74. The CDPC approved the Opinion adopted by the PC-OC on this question (document CDPC (2006)16 – Appendix VIII to this report).
- ii. witness protection (application of Article 23 of the 2nd additional Protocol to the European Convention on Mutual Assistance in Criminal Matters).

75. The CDPC approved of the Opinion adopted by the PC-OC on this question and decided that no follow-up was needed on this matter at this stage.

7.4 Counterfeiting

76. The CDPC heard Mr Johan SABBE (Belgium), scientific expert, on the status of counterfeit medicine and pharmaceutical crimes in Europe, the specificities of this crime and on the need and possible scope of an international binding instrument on the matter.
77. It took note of the opinion of the PC-OC on that question (document PC-OC (2006)4 rev), proposing that a feasibility study on the drafting of a Convention on counterfeit medicines/pharmaceutical crime be carried out.
78. The CDPC discussed the advisability of drawing up such a feasibility study and raised the following points.
79. Such a study should cover in priority:
- the existing normative instruments in the criminal field but also in other matters (e.g. administrative, commercial, intellectual property);
 - the status and practice of international co-operation in addressing this phenomenon;
 - the status of work in other fora; in particular in the European Union and in the World Health Organisation (WHO).
80. On the basis of elements of such a “global picture”, the study could describe the need, if any, for an internationally binding instrument. It could further identify the possibilities of addressing counterfeiting of medicines/pharmaceutical crimes, notably the preventive and other measures to be envisaged before the intervention of the criminal justice system. It would also assess the added value of such an instrument being elaborated within the Council of Europe.
81. The CDPC considered that such a feasibility study should also consider the various disciplines at stake in addressing counterfeiting; this would notably include aspects of public health and of control of quality of medicines. Such aspects go beyond the scope of competence of the CDPC.
82. In case of a favourable opinion concerning the need for such a Convention, the CDPC would request the Committee of Ministers to approve terms of reference for an ad hoc multidisciplinary group of experts in the various fields concerned to draft such a Convention, their work to begin in 2007.
83. It was also the Committee’s view that any future work, if so decided, should be carried out in close co-operation with other competent International Organisations, mainly the EU and the WHO.
84. As a result, the CDPC authorised the drawing up of a feasibility study on the drafting of a Convention on counterfeit medicines/pharmaceutical crime.
85. The CDPC nevertheless expected an interim report from the feasibility study to cover the status of work in the EU and the WHO. Such report should be submitted to its Bureau at its next meeting (June 2006). The feasibility study could then go ahead and address the main elements which could be enshrined in a future legally binding instrument. Such study could be submitted to the CDPC by early October 2006 and considered by the Bureau and then by the CDPC at its plenary meeting in 2007.

7.5 Sexual exploitation of children

86. The CDPC held a wide ranging discussion concerning the terms of reference of the Committee of Experts on the protection of children against sexual exploitation and abuse (PC-ES) adopted by the

Ministers' Deputies at their 959th meeting (22 March 2006). It noted that, before beginning any work on a new international legal instrument, binding or non-binding, the PC-ES would first have to seek the approval of the CDPC.

87. The CDPC decided to conduct a written consultation procedure of all its members on any proposal by the PC-ES to prepare a new international legal instrument and to instruct its Bureau, at the meeting to be held 28 – 30 June and enlarged to allow participation of all member States, to take the final decision on behalf of the CDPC.
88. The CDPC considered that, should it authorise the PC-ES to prepare a new binding instrument, an extension of the terms of reference of the PC-ES, which expire on 31 December 2006, would probably be necessary.
89. The CDPC considered that it was important for the PC-ES to keep in mind the following issues: substantive criminal law, child friendly judicial procedures and sanctions and treatment of sexual offenders. It reminded the PC-ES that issues of international legal co-operation in the penal field are dealt with, notably, by the PC-OC.

7.6 Cybercrime

90. The CDPC took note of:

- the Conclusions of the Conference on International Conference on “Cybercrime: A Global Challenge, A Global Response” (Madrid, 12-13 December 2005,)
 - the report of the first meeting of the parties to the Convention on Cybercrime (Strasbourg, 20 -21 March 2006)
 - the report of its Vice-Chair on this latter meeting.
91. The CDPC agreed to hold, at its next meeting, short joint meeting with the T-CY in order to conduct the review of the Convention as required by paragraph 3 of Article 46 of the Convention on Cybercrime. The T-CY was invited to indicate any matters which it considered should be raised during this review.
 92. The CDPC invited States to become Parties to the Convention as soon as possible and noted:
 - the widespread international support for this Convention,
 - that all States present in the CDPC intended to become Parties as soon as their legislative and other procedures could be completed,
 - that the number of Parties was expected to rise significantly in 2006 and 2007.

ITEM 8 OF THE AGENDA: PRISONS

8.1 European Prison Charter - Feasibility – “tour de table”

93. The CDPC held a “tour de table” based on a Secretariat memorandum (Doc. CDPC (2006) 5) in which several options were presented and their pros and cons were examined. The CDPC was of the prevailing opinion that a binding European Prison Charter was not a feasible proposition. Among the main reasons mentioned was the fact it would be difficult for the states to reach an consensus in such a case on more than a very limited number of binding legal rules which could impoverish and stigmatise the existing standards and could moreover lead to weakening the importance and the impact of the European Prison Rules (EPR) on the work of the prison administrations in the member States and at the European level in general (see also item. 8.2 below).
94. The CDPC considered it more appropriate and necessary instead to strengthen further the penitentiary standards inter alia by elaborating a Compendium of Council of Europe recommendations in the

penitentiary field. Therefore it requested the PC-CP to present to the next CDPC plenary a proposal for working methods in relation to this proposed consolidation of all Council of Europe recommendations relating to penitentiary questions together with an indication as to which recommendations should be revised and/or updated in the light of the recently adopted new European Prison Rules.

8.2 European Prison Rules - Implementation « tour de table »

95. A significant number of CDPC delegations took the floor to inform the CDPC on the state of implementation of Recommendation (2006) 2 of the Committee of Ministers on the European Prison Rules. In several countries the EPR have influenced recent or envisaged amendments of the legislation and by-laws in the field, in others international or national fora on penitentiary questions have been held or were planned to be held in order to discuss the EPR and disseminate them among a broad audience and a number of countries have already translated the text into their national language.
96. CDPC delegations were requested to send to the Secretariat the translations of the EPR in their national languages in order to enable the Secretariat to include the texts on the Council of Europe web site and thus further facilitate dissemination among professionals, researchers, the media and the general public.

Contextual report on the revision of the EPR

97. The CDPC took note of the contextual report on the revision of the European Prison Rules, prepared by one of the PC-CP scientific experts as required by its *ad hoc* terms of reference (Doc. PC-CP (2005) 17 rev2). The report gives an overview of the current trends in the penitentiary area and the challenges faced by the prison administrations in the Council of Europe member States.

8.3 Remand in custody

98. Ms Sonja SNACKEN, Chair of the PC-CP presented proposals for the amendment of the text of the draft Recommendation on remand in custody, the conditions in which it takes place and the provision of safeguards against abuse and its explanatory memorandum (Docs. PC-CP (2006)2 and PC-CP (2006)3). It was pointed out that the PC-CP had been requested by the CDPC to consider these two draft texts only in the light of their conformity with the EPR. It was also stressed that the texts were revised together with the Chairman of the Expert Committee on remand in custody and its implications for the management of penal institutions (PC-DP) and one of its scientific experts.
99. The CDPC, after having considered the two draft texts and in the light of the number of proposals made by some delegations as to their further amendment, decided to request the PC-CP to work further on the texts at its next meeting (19-21 June 2006). In doing so the PC-CP was invited to take into consideration the oral comments and proposals for amendments made at the current plenary meeting of the CDPC as well as any further written comments and amendments which the CDPC delegations were invited to send to the Secretariat not later than 19 May 2006.
100. The CDPC Bureau was instructed to finalise the two draft texts (at its enlarged meeting from 28 to 30 June 2006) and to send them to the Committee of Ministers for adoption.

8.4 European Rules for juvenile offenders – progress report

101. The CDPC took note of the work started by the PC-CP since its last meeting (February 2006) on draft European Rules for juvenile offenders deprived of their liberty or subject to community sanctions and measures. It took note in this respect that the PC-CP will send out (between its two next meetings in June and in September 2006) a questionnaire on the subject to all CDPC heads of delegations with the request to assist the PC-CP in collecting information and data not only from the national ministries of justice but also from all other national agencies competent in dealing with juvenile delinquents.

ITEM 9 OF THE AGENDA : OTHER WORK IN THE PENOLOGICAL FIELD**9.1. Organisation of future work in the penological field – probation**

102. In the light of the general discussions and the conclusions adopted at the Council of Europe Conference on Probation and Aftercare (Istanbul, 14-16 November 2005) the CDPC requested the PC-CP, in consultation with the “Conférence Permanente Européenne de la Probation” (CEP) to prepare its *ad hoc* draft specific terms of reference to address the issues of probation and aftercare, particularly the role and place of probation services, and to submit them to the next plenary of the CDPC in 2007 for approval.

9.2. PC-CSC – criminological scientific expertise for the CDPC

103. Due to lack of time this item was not discussed in depth – it will be included on the agenda of the Enlarged Bureau to be held 28 – 30 June 2006. The CDPC asked the Secretariat to prepare a paper on this matter, including alternative proposals to ensure that the CDPC is aware of criminological scientific research and developments.

ITEM 10 OF THE AGENDA: PROSECUTORS**10.1 Adoption of an opinion and comments on the draft framework overall action plan for the CCPE and delegation to CDPC Bureau of the final approval (through a written consultation procedure) after the CCPE will have adopted it.**

104. The CDPC considered the draft framework overall action plan for the CCPE, which contained the amendments proposed by the CDPC Bureau during its last meeting as well as those proposed by the members of the CPGE-Bureau.
105. The CDPC after proposing a few additional amendments approved the draft framework overall action plan (see Appendix IX), which will be submitted to the CCPE for approval during its first meeting on 6 July 2006.
106. It was recalled that the terms of reference of the CCPE require the CDPC to approve the draft action plan once this has been adopted by the CCPE, and to submit it to the Committee of Ministers for adoption.
107. In order not to lose any time, the CDPC decided to delegate to its Bureau the final approval of the draft framework overall action plan for transmission to the Committee of Ministers for adoption, along with the revised terms of reference of the CCPE. (see item 10.2 below)

10.2 Revision and extension of the terms of reference of the CCPE to 31 December 2008

108. The CDPC took note of the proposed revised terms of reference of the CCPE, which would be finalised by the CCPE at its first meeting (6 July 2006) and forwarded to the Committee of Ministers for approval. It noted the proposal to extend the terms of reference of the CCPE to 31 December 2008.

10.3 Other information

- 6th Conference of Prosecutors General of Europe: conclusions

109. The CDPC was informed about the results of the 6th Conference of Prosecutors General of Europe (CPGE) which was held in Budapest from 29 to 31 May 2005, at the invitation of the Prosecutor General of Hungary.
110. The CDPC took note of the Conclusions of the CPGE, and in particular the Budapest Guidelines on ethics and conduct for public Prosecutors, and thanked the Prosecutor General of Hungary and his collaborators for an excellently organised and fruitful Conference.
- 7th Conference of Prosecutors General of Europe: preparation
111. The 7th Conference of Prosecutors General of Europe (CPGE) will take place in Moscow from 5-6 July 2006, at the invitation of the Prosecutor General of the Russian Federation.
112. The Conference will concern the role of the public prosecutor in the protection of individuals. In this context, the Conference will address two topics “The duties of the public prosecutor in the criminal field towards victims and witnesses, and in particular towards juveniles” and “The duties of the public prosecutor towards persons deprived of their liberty”. The Conference will end during the morning of 6 July and will be followed by the inaugural meeting of the CCPE (see item 10.1).
113. The CDPC took note of this information.

ITEM 11 OF THE AGENDA: COUNCIL FOR POLICE MATTERS (PC-PM)

Presentation of the findings of the study regarding the implementation of the European Code of Police Ethics in the member states

114. During its third meeting held on 17-19 October, the PC-PM finalised the analysis of the replies by member states on the implementation of the European Code on police ethics (ECPE) and made proposals for its follow-up (Doc PC-PM(2005)7)
115. The CDPC was informed that 26 out of 30 responding States indicated that they implement the ECPE, in particular in the development of legislation (including the development of national codes of ethics) and in the police training curricula. Sixteen States failed to respond to the questionnaire, notwithstanding several reminders.
116. Concerning the follow-up to be given to this study, the PC-PM considered that on the basis of the obtained results, there would be no additional value in continuing the inquiry at this moment. However, there might be room for making further systematic inquiries, e.g. on a thematic basis, in the future. Consideration is presently given to the issue of supervision and accountability of the police.
117. The PC-PM invited the CDPC to take note of:
- the compilation of replies and the analysis by scientific expert Mr Richards with regard to the implementation by member States of the European Code of Police Ethics (Docs PC-PM (2005) 2 rev and PC-PM (2005) 3 rev + addendum)
 - its opinion that priority should be given to the promotion of the ECPE through cooperation programmes in particular on a regional level
 - its recommendation that consideration be given to possibilities of increased co-operation with police organisations and other non-governmental organisations in the organisation of cooperation activities and in the promotion of the ECPE.
118. The CDPC took note of this information.

ITEM 12 OF THE AGENDA: WORKING METHODS

12.1 Resolution (2005)47 of the Committee of Ministers

119. The CDPC took note of this Resolution, calling for changes in terms of reference of all committees as well as providing for a certain streamlining in procedural matters regarding working methods, including convocations and reports of committees.

12.2 Committee of Ministers' new working methods

120. The CDPC took note of the adoption by the Committee of Ministers of new working methods, which should help to rationalise their work but might slow down the adoption of the CDPC's conclusions and texts submitted.

12.3 Interface between specialised committees and the CDPC Plenary

121. The Bureau was mandated by the plenary meeting in March 2005 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”¹. The Bureau considered this question at its meeting in October 2005 and concluded that, since the tasks which the CDPC assigns to its 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 to assess each situation on a case-by-case basis.
122. The CDPC endorsed the proposal that the Bureau be charged with the responsibility of ensuring full and appropriate consultation of the CDPC plenary when necessary, including by written consultation procedure whenever such is considered necessary by the Bureau for reasons of urgency. Nevertheless, referring to its Working Methods as adopted at its plenary in 2005, the CDPC confirmed that when **normative texts** are under consideration the plenary committee should always be consulted, but agreed that this could be in the form of an “enlarged Bureau” where reasons of urgency so dictated. To the extent possible difficult situations should be foreseen and dealt with in the terms of reference given to its subordinate bodies.

12.4 Composition of subordinate committees with limited membership

123. The Bureau had also been mandated by the CDPC Plenary in March 2005 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 representatives 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.
124. The only committee which posed such a problem was the PC-TJ, which had held its final meeting in December 2005.
125. The CDPC noted that the question should be kept in mind should such a committee be established in the future.

¹ See report of CDPC Plenary Meeting 7-11 March 2005 (CDPC (2005)12, item 9.1, para.56)

ITEM 13 OF THE AGENDA: HIGH LEVEL CONFERENCES**13.1 - 27th Conference of European Ministers of Justice, Yerevan 11-13 October 2006**

126. The CDPC noted that the theme of 'Victims – place, rights and assistance' had been agreed at the joint meeting of the Bureau and the Bureau of the European Committee on legal Co-operation (CDCJ) in October 2005. It was further informed of the possible sub-themes proposed by the Secretariat, viz:
- the issue of particularly vulnerable victims, whether their vulnerability arises because of who the victim is (a child, a person with learning disabilities, an elderly person, etc.) or because of the type of crime (sexual violence, racial violence, or organised crime, where the victim may be afraid of reporting an offence or of giving evidence);
 - 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.
127. The CDPC also considered that the final report of the PC-S-AV (see item 5.2 above) should also be taken into consideration. The Belgian delegation indicated that their intention was to submit two proposals for resolutions - one on restorative justice (especially in situations of mass victimisation) and the other on the issue of victims of conjugal violence.
128. Delegations were invited to send to the Secretariat any other themes they would wish to raise - such information would be forwarded to the other delegations for information.
129. The Secretariat was encouraged to prepare a very short summary of themes proposed

13.2 - 28th Conference of European Ministers of Justice - Lanzarote

130. The CDPC welcomed the proposal by the Minister of Justice of Spain to invite the European Ministers of Justice to hold their 28th Conference in Lanzarote.

13.3 - 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

131. The CDPC noted that this consultation will take place 14 – 15 September 2006, in Athens and that the Bureau had proposed the themes of bilateral agreements on witnesses and on the execution of the Court's decisions and the application of the subsidiarity principle.

ITEM 14 OF THE AGENDA: REQUESTS FOR OPINIONS

132. The CDPC recalled that a number of recommendations of the Parliamentary Assembly have been forwarded for observations by the Committee, observations which were provided by the Bureau through the use of the written consultation procedure, due to the deadlines set by the Committee of Ministers for a reply. The CDPC noted that in large part the CDPC's replies have been incorporated into the Committee of Ministers' replies to these recommendations, concerning:

Recommendation 1719 (2005) - Enforced disappearances

Recommendation 1723 (2005) - Forced marriages and child marriages

Recommendations 1648 (2004) - Consequences of European Union enlargement for freedom of movement between Council of Europe member States

Recommendation 1706 (2005) – Media and terrorism

Recommendation 1709 (2005) – Disappearance and murder of a great number of women and girls in Mexico
Recommendation 1713 (2005) – Democratic oversight of the security sector in member States

ITEM 15 OF THE AGENDA: OTHER ACTIVITIES/INFORMATION

GRECO/MONEYVAL/CDCJ/CODEXTER/CDDH-DS-TER, ETC

Report of the CDPC's representative to CDDH-DS-TER

133. This item was not discussed, due to lack of time.

Report of the Executive Secretary of GRECO on ongoing and planned work

134. This item was not discussed, due to lack of time. The CDPC took note of the written report

Report by the Secretariat on assistance activities in the field of economic crime

135. This item was not discussed in detail, due to lack of time. The CDPC took note of the written report

Conventions ETS 90, 185, 189, 190, CETS 196, 197, 198 – update on the status of signatures and ratifications

136. To date, the European Convention on the Suppression of Terrorism (ETS No. 090) has been ratified by 44 States and signed by 1 and its Amending Protocol (ETS 190) has been ratified by 21 and signed by 23.

137. The Amending Protocol will enter into force once all the Parties to the European Convention have become Parties to the Protocol.

138. The CDPC took note of the information on the status of signatures and ratifications

139. The activities of CODEXTER and the CDCJ were not discussed, due to lack of time. The information on MONEYVAL is indicated under item 6 above.

ITEM 16 OF THE AGENDA: BUREAU OF THE CDPC

140. The CDPC requested its Bureau, at its next meeting to:

- finalise, in the light of written and oral comments made by CDPC delegations, the texts of the draft recommendation on remand in custody, the conditions in which it takes place and the provision of safeguards against abuse and its Explanatory Memorandum. The Bureau is instructed, after finalising the texts, to forward them to the Committee of Ministers for adoption;
- prepare an opinion on the request, received from the Turkish delegation, on the interpretation of Article 1 paragraph (e) of the 1977 European Convention on the Suppression of Terrorism;
- approve, further to a consultation of its members by means of a written consultation procedure, any proposal by the PC-ES to prepare a new international legal instrument;

- make a proposal, in light of the suspension of the PC-CSC, for ensuring the necessary criminological expertise for the CDPC;
 - approve draft terms of reference for the CDPC (see item 4.4i above).
141. The Bureau will be enlarged to enable those delegations, which so wish, to participate (at their own expense) in this meeting of the Bureau.
142. In light of the above, the CDPC requested delegations to the CDPC:
- a. to send the Secretariat by e-mail (dgi.cdpc@coe.int) by 19 May 2006, any comments they wish to make concerning the texts of the draft Recommendation on remand in custody, the conditions in which it takes place and the provision of safeguards against abuse and its Explanatory Memorandum. Such comments should contain, in particular, any proposed textual amendments;
 - b. to send the Secretariat by e-mail (dgi.cdpc@coe.int) by 31 May 2006, any comments they wish to make concerning the interpretation of Article 1 paragraph (e) of the 1977 European Convention on the Suppression of Terrorism, as well as information on their States' intentions to ratify the Additional Protocol to that Convention;
143. CDPC delegates agreed that the Bureau will limit its discussions and will amend the draft texts referred to under the first two items only on the basis of oral proposals made by the CDPC delegations at the plenary meeting or written proposals made by the CDPC delegations and sent to the Secretariat before the respective deadlines of 19 and 31 May.
144. The CDPC decided that any questions not previously raised but put for the first time orally during the enlarged Bureau meeting will not be taken into consideration.

ITEM 17 OF THE AGENDA: AGENDA OF THE NEXT MEETING OF THE CDPC

145. The CDPC asked its Bureau, in the light of the decisions taken and the mandates given, to establish the agenda of the next plenary meeting, in good time before the meeting. It also considered that a discussion on Future Activities should be a standing item for all plenary and bureau meetings
146. Other items to be included in the agenda of the next plenary meeting are:
- Any normative texts arising from the work of the PC-ES;
 - The review, in a joint meeting with the T-CY, of the Convention on Cybercrime;
 - The follow-up to be given to resolutions of the Ministers of Justice in Yerevan on the question of victims;
 - The adoption of terms of reference for the PC-CP regarding probation and aftercare;
 - The question of counterfeiting of medicines;
 - The proposals of the PC-CP regarding a compendium of texts on prison issues.

ITEM 18 OF THE AGENDA: CALENDAR OF FUTURE MEETINGS

147. The Calendar of future meetings of interest to the CDPC is contained in Appendix X to this report.

ITEM 19 OF THE AGENDA: DATES OF THE NEXT MEETINGS OF THE BUREAU AND THE CDPC

148. The CDPC decided to hold its next meeting during the week beginning 12 June or the week beginning 19 June 2007. The Bureau decided to hold its next meeting from 28 to 30 June 2006.

ITEM 20 OF THE AGENDA: ANY OTHER BUSINESS

Question raised by the delegation of Turkey- interpretation of Article 1e of the 1977 Convention on the Suppression of Terrorism

149. This point was discussed under the Chairmanship of Mr Branislav BOHÁČIK (Slovakia), Vice-Chair of the Committee.
150. Further to its request the Turkish delegation made a presentation on this issue and asked the CDPC to interpret the meaning of Article 1 e of the 1977 Convention on the Suppression of Terrorism.
151. The Turkish delegation's view was that the explanatory memorandum indicates that the Article in question refers to all weapons which kill indiscriminately and that this would include both semi-automatic and fully automatic weapons.
152. The Committee did not consider that the necessary expertise was available to answer this question during the meeting. It agreed to examine the question at its enlarged Bureau meeting at the end of June, on the basis of:
 - information provided by the delegations in writing (before 31 May);
 - information on the "travaux préparatoires" which the Secretariat was asked to research and which may shed some light on the intention of the drafters of the convention.
153. The delegations were also asked to send, by the same deadline, information as to their intentions to ratify the Additional Protocol to the 1977 Convention.

APPENDIX Ia

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS (*)

MEMBER STATES / ETATS MEMBRES

ALBANIA / ALBANIE

M. Gjin GJONI, Judge, Tirana District Court

ANDORRA / ANDORRE

- * M. André PIGOT, Magistrat honoraire, Ancien membre du Conseil Supérieur de la Justice

ARMENIA / ARMÉNIE

- * Mr Hovhannes POGHOSYAN, Head of the International Co-operation Division
Police Headquarters,

AUSTRIA / AUTRICHE

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

AZERBAIJAN / AZERBAÏDJAN

Ms Gulnara ASKAROVA, Attache, Department of International Law and Treaties, Ministry of Foreign Affairs

BELGIUM / BELGIQUE

M. Serge DE BIOLLEY, Chef de Service, Service de Coordination en droit européen et international DG
Législation, libertés et droits fondamentaux, Service public fédéral JUSTICE

- * M. Claude DEBRULLE, Directeur Général, Direction Générale de la Législation, des Libertés, et Droits
fondamentaux, Ministère de la Justice

Chairman of the CDPC / Président du CDPC

BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE

Mr Damir VEJO, Chef du Service pour le crime organisé et la corruption, Ministère de la Sécurité de la Bosnie-
Herzégovine

BULGARIA / BULGARIE

- * Mr Petar RASHKOV, Director, International Legal Assistance, European Integration and International Legal Co-
operation, Ministry of Justice

CROATIA / CROATIE

- * Mr Tihomir KRALJ, Head of the Department for Special Criminal Investigations, Ministry of the Interior

CYPRUS / CHYPRE

Apologised / Excusé

CZECH REPUBLIC / RÉPUBLIQUE TCHÈQUE

Ms Kateřina KUČEROVÁ, Legal Officer, Ministry of Justice of the Czech Republic, International Department,
International Treaties and Mutual Legal Assistance in Criminal Matters Unit

* States are listed in alphabetical order by their English names. The names of participants are also in alphabetical order, the names of the
Heads of Delegation being preceded by an asterisk.

**Les Etats sont mentionnés par ordre alphabétique anglais. Les noms des participants sont également indiqués
par ordre alphabétique, les noms des Chefs de délégation étant précédés d'un astérisque.**

DENMARK / DANEMARK

Ms Barbara BERTELSEN, Head of Section, Law Department, Ministry of Justice

Ms Annette ESDORF, Deputy Director-general, Department of Prisons and Probation, Ministry of Justice

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

ESTONIA / ESTONIE

Mr Martin HIRVOJA, Undersecretary of Criminal policy, Ministry of Justice

FINLAND / FINLANDE

- * Mr Jarmo LITTUNEN, Chief Director, Head of Department, Ministry of Justice, Department of Criminal Policy

Mr Jari LOHI, Deputy Head of Department, Ministry of Justice, Department of Criminal Policy

Ms Ulla MOHELL, Senior Adviser, Legislative Affairs, Ministry of Justice, Department of Criminal Policy

Mr Esa VESTERBACKA, Head of the Department of Criminal Policy, Ministry of Justice

Apologised / Excusé

FRANCE

- * M. Eric RUELLE, Chargé de Mission pour les négociations pénales internationales, Ministère de la Justice, D.A.C.G

GEORGIA / GÉORGIE

Mr Tinatin GOLETIANI, Deputy Head of the Analytical Service, Office of the Prosecutor General of Georgia

GERMANY / ALLEMAGNE

Mr Richard BLATH, Ministerialrat, Bundesministerium der Justiz

- * Mr. Hans-Holger HERRNFELD, Regierungsdirektor, Head of International Criminal Law and European and Multilateral Criminal Law Cooperation Division, Bundesministerium der Justiz

GREECE / GRČCE

Mr Giorgios DOUVAS, Deputy Prosecutor at the Court of First Instance in Athens, Ministry of Justice

HUNGARY / HONGRIE

Mme Klara NÉMETH-BOKOR, Directrice Général du Département au Ministère de la Justice

ICELAND / ISLANDE

Mr Thorsteinn A. JÓNSSON, Secretary General, The Supreme Court of Iceland

IRELAND / IRLANDE

Ms Sinéad COPELAND, Administrative Officer, International Policy Division, Department of Justice, Equality & Law Reform,

- * Ms Valerie FALLON, Principal Officer, International Policy Division, Department of Justice, Equality & Law Reform

Mr Paul NEMERY, Représentation permanente de l'Irlande

Ms Sarah O'HALLORAN, Higher Executive Officer, International Policy Division, Department of Justice, Equality & Law Reform

Mr Ben RYAN, Assistant Principal Officer, Department of Justice, Equality & Law Reform, International Policy Division

ITALY / ITALIE

M. Federico BISCEGLIA, Magistrat, Ministère Public, Tribunal de Nola (NAPOLI)

- * Mr Eugenio SELVAGGI, Deputy District Attorney General, Procura Generale presso la Corte di Appello

LATVIA / LETTONIE

Ms Dagmara FOKINA, Prosecutor of the Division for International Co-operation, Prosecutor General's Office of the Republic of Latvia

LIECHTENSTEIN

- * Mr Lothar HAGEN, Judge, President of the Criminal Court, Fürstliches Landgericht

LITHUANIA / LITUANIE

Mr. Mindaugas SILKAUSKAS, Deputy Director of the Department of International Law of the Ministry of Justice

LUXEMBOURG

- * M. Jean-Pierre KLOPP, Procureur Général d'Etat

MALTA / MALTE

- * Mr Silvio CAMILLERI, Attorney General, Attorney General's Chambers, Ministry for Justice and the Arts

MOLDOVA

M. Anatol ZLOTEA, Chef Adjoint de la Direction Coopération Juridique Internationale de la Direction Générale Relations Internationales et Intégration Européenne

MONACO

M. Rémi MORTIER, Représentant Permanent adjoint, Représentation Permanente de la Principauté de Monaco auprès du Conseil de l'Europe

- * M. Philippe NARMINO, Directeur des Services Judiciaires, Palais de Justice

NETHERLANDS / PAYS-BAS

- * Ms Marjorie BONN, Senior Legal Adviser, Legislation Department, Ministry of Justice

M. Gerard DE BOER, Conseiller des Affaires Juridiques, Représentation Permanente des Pays-Bas auprès du Conseil de l'Europe

NORWAY / NORVÈGE

- * Mr Kristian JARLAND, Higher Executive Officer, Ministry of Justice, Legal Department

POLAND / POLOGNE

- * Mr Cezary MICHALCZUK, Prosecutor, Ministry of Justice

PORTUGAL

Ms Luisa MAIA GONCALVES, Head of Department, Bureau of International Relations Ministry of Justice

ROMANIA / ROUMANIE

RUSSIAN FEDERATION / FÉDÉRATION DE RUSSIE

Mr Oleg FILIMONOV, Deputy Head, Ministry of Justice

Mr German GONSO, Prosecutor, Office of the Prosecutor General

Ms Natalya KHUTORSKAYA, Research Institute of the Federal Service of the Execution of Sentences

Ms Irina SILKINA, Third Secretary, Department for new challenges and threats, Ministry of Foreign Affairs

Mr Vladimir ZIMIN, Deputy Head, Ministry of Justice, Department of International Law and Co-operation

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

SAN MARINO / SAINT-MARIN

Apologised / Excusé

SERBIA AND MONTENEGRO / SERBIE-MONTENEGRO

- * Ms Jasmina SAHINOVIC, Chief Inspector, Criminal Police Department, Ministry of the Interior of the Republic of Serbia

SLOVAKIA / SLOVAQUIE

- * Mr Branislav BOHÁČIK, Director, Division for Judicial Co-operation in Criminal Matters, Ministry of Justice

SLOVENIA / SLOVÉNIE

- * Ms Andreja LANG, Head of the Department for Criminal Legislation, Directorate for the Preparation of Legislation, Ministry of Justice

SPAIN / ESPAGNE

- * Mr Alfredo PASCUAL, Sous-Directeur de la Sous-Direction Générale des Affaires de Justice pour l'Union Européenne et les Organismes Internationaux, Direction Générale de la Politique Législative et de la Coopération Internationale, Ministère de la Justice

SWEDEN / SUÈDE

Ms Magdalena SIVALL, Legal Advisor, Ministry of Justice, Division for Criminal Law,

- * Mr Niklas WÄGNERT, Deputy Director, Criminal Law Division, Ministry of Justice

SWITZERLAND / SUISSE

Mme Anita MARFURT, Division principale du Droit pénal, Service du Droit pénal international, Office Fédéral de la Justice, Département Fédéral de Justice et Police

- * M. Bernardo STADELMANN, Vice-directeur, Division principal du Droit pénal et recours Office Fédéral de la Justice, Département Fédéral de Justice et Police

“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA” /

Dr Nikola MATOVSKI, Professeur, Faculté de Droit de l'Université « S-ts CYRILLE ET METHODE »

TURKEY / TURQUIE

- * Mr Aykut KILIÇ, General Director, Department of International Law and Foreign Affairs, Ministry of Justice

Mr Gökhan Övünç, Turkish Ministry of Interior

UKRAINE

- * Ms Kateryna SHEVCHENKO, Head of the International Legal Assistance Department, Deputy Director, Directorate for International Legal Co-operation, Ministry of Justice

UNITED KINGDOM / ROYAUME-UNI

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

* * * * *

CDPC BUREAU / BUREAU DU CDPC
(CDPC-BU)

AUSTRIA / AUTRICHE

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

BELGIUM / BELGIQUE

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

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,
Apologised / Excusé

SLOVAKIA / SLOVAQUIE

- * Mr Branislav BOHÁČIK, Director, Division for Judicial Co-operation in Criminal Matters, Ministry of Justice

SLOVENIA / SLOVÉNIE

- * Ms Andreja LANG, Head of the Department for Criminal Legislation, Directorate for the Preparation of Legislation, Ministry of Justice

RUSSIAN FEDERATION / FÉDÉRATION DE RUSSIE

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

UNITED KINGDOM / ROYAUME-UNI

- * Mr Richard BRADLEY, Head of the Judicial Co-operation Unit

* * * * *

**GROUP OF SPECIALISTS ON ASSISTANCE TO VICTIMS AND PREVENTION OF VICTIMISATION /
GROUPE DE SPECIALISTES SUR L'ASSISTANCE AUX VICTIMES ET LA PREVENTION DE LA
VICTIMISATION (PC-S-AV)**

Dame Helen REEVES, **Chair of the PC-S-AV**

**COMMITTEE OF EXPERTS ON TRANSNATIONAL CRIMINAL JUSTICE /
COMITÉ D'EXPERTS SUR LA JUSTICE TRANSNATIONALE (PC-TJ)**

Ms Maria GAVOUNELI, Legal Advisor, Ministry of Justice, **Chair of the PC-TJ / Présidente du PC-TJ**

**COMMITTEE OF EXPERTS ON THE OPERATION OF EUROPEAN CONVENTIONS IN THE PENAL FIELD /
COMITE D'EXPERTS SUR LE FONCTIONNEMENT DES CONVENTIONS EUROPEENNES
DANS LE DOMAINE PENAL (PC-OC)**

Mr Eugenio SELVAGGI, Deputy District Attorney General, **Chair of the PC-OC / President du PC-OC**

**COUNCIL FOR PENOLOGICAL CO-OPERATION / CONSEIL DE COOPERATION PENOLOGIQUE
(PC-CP)**

Ms Sonja SNACKEN, Professor, Department of Criminology, Faculty of Law, Vrije Universiteit Brussel
Chair of the PC-CP / Présidente du PC-CP

* * * * *

Mr Johan SABBE, Deputy Prosecutor General, Court of Appeal – Ghent Belgium

* * * * *

**PARLIAMENTARY ASSEMBLY - COMMITTEE ON LEGAL AFFAIRS AND HUMAN RIGHTS /
ASSEMBLÉE PARLEMENTAIRE - COMMISSION DES QUESTIONS JURIDIQUES ET DES DROITS DE
L'HOMME**

Mr Vojtech TKAC, Membre de la Commission des questions juridiques et des droits de l'homme auprès de l'APCE / Member of the Committee on Legal Affairs and Human Rights to the PACE

**CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF EUROPE /
CONGRÈS DES POUVOIRS LOCAUX ET RÉGIONAUX DE L'EUROPE**
Apologised / Excusé

* * * * *

EUROPEAN COMMUNITY / COMMUNAUTÉ EUROPÉENNE

COMMISSION

Mr Peter CSONKA, Head of Unit, Commission of the European Communities, Directorate General JLS/D3

GENERAL SECRETARIAT OF THE COUNCIL OF THE EUROPEAN UNION

SECRETARIAT GENERAL DU CONSEIL DE L'UNION EUROPEENNE

Mr Hans G. NILSSON, General Secretariat, SG H III (Cooperation in Criminal Matters)

* * * * *

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

HOLY SEE / SAINT-SIÈGE

Mme Odile GANGHOFER, Docteur en Droit, Mission Permanente du Saint-Siège auprès du Conseil de l'Europe

UNITED STATES OF AMERICA / ÉTATS-UNIS D'AMÉRIQUE

Apologised / Excusé

CANADA

Apologised / Excusé

JAPAN / JAPON

Mr Yasushi FUKU, Consul (Attorney) Consulate-General of Japan

MEXICO / Mexique

Apologised / Excusé

* * * * *

**INTERNATIONAL INTERGOVERNMENTAL ORGANISATIONS /
Organisations Internationales Intergouvernementales**

UNITED NATIONS / NATIONS UNIES (UNODC)

Apologised / Excusé

INTERNATIONAL CRIMINAL COURT (ICC) / COUR PENALE INTERNATIONALE (CPI)

Apologised / Excusé

**EUROPEAN INSTITUTE FOR CRIME PREVENTION AND CONTROL
AFFILIATED WITH THE UNITED NATIONS (HEUNI)**

Apologised / Excusé

UNITED NATIONS ASIA AND FAR EAST INSTITUTE FOR THE PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS (UNAFEI)

Apologised / Excusé

UNITED NATIONS INTERREGIONAL CRIME AND JUSTICE RESEARCH INSTITUTE (UNICRI)

Apologised / Excusé

UNITED NATIONS LATIN AMERICAN INSTITUTE FOR THE PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS (ILANUD)

Apologised / Excusé

I.C.P.O. INTERPOL / O.I.P.C. INTERPOL

Apologised / Excusé

**INTERNATIONAL NON-GOVERNMENTAL ORGANISATIONS /
Organisations Internationales Non-gouvernementales**

COUNCIL OF THE BARS AND LAW SOCIETIES OF THE EUROPEAN COMMUNITY / CONSEIL DES BARREAUX DE LA COMMUNAUTE EUROPEENNE (CCBE)

Apologised / Excusé

EUROPEAN FORUM FOR VICTIM-OFFENDER MEDIATION AND RESTORATIVE JUSTICE

Apologised / Excusé

**INTERNATIONAL ASSOCIATION OF PENAL LAW (IAPL)
ASSOCIATION INTERNATIONALE DE DROIT PÉNAL (AIDP)**

Mlle Aglaia TSITSOURA, Chargée de Cours à l'Université "Panteios", Faculté de Droit

INTERNATIONAL BAR ASSOCIATION

Mr Monty RAPHAEL, Chairman Anti-Corruption Working Group

INTERNATIONAL CENTRE FOR CRIMINAL LAW REFORM AND CRIMINAL JUSTICE POLICY

Apologised / Excusé

INTERNATIONAL CENTRE OF SOCIOLOGICAL PENAL AND PENITENTIARY RESEARCH AND STUDIES (INTERCENTER) / CENTRE INTERNATIONAL DE RECHERCHES ET D'ÉTUDES SOCIOLOGIQUES, PÉNALES ET PÉNITENTIAIRES (INTERCENTER)

Apologised / Excusé

**INTERNATIONAL PENAL AND PENITENTIARY FOUNDATION (IPPF)
FONDATION INTERNATIONALE PÉNALE ET PÉNITENTIAIRE (FIPP)**

**INTERNATIONAL SOCIETY FOR CRIMINOLOGY (ISC) /
SOCIÉTÉ INTERNATIONALE DE CRIMINOLOGIE (SIC)**

Prof. George PICCA, Secrétaire Général, SIC, Ministère de la Justice

**INTERNATIONAL SOCIETY OF SOCIAL DEFENCE (ISSD)
SOCIÉTÉ INTERNATIONALE DE DÉFENSE SOCIALE (SIDS)**

Apologised / Excusé

PENAL REFORM INTERNATIONAL (PRI)

Apologised / Excusé

PERMANENT EUROPEAN CONFERENCE ON PROBATION AND AFTERCARE
CONFÉRENCE PERMANENTE EUROPÉENNE DE LA PROBATION (CEP)

Apologised / Excusé

WORLD SOCIETY OF VICTIMOLOGY / SOCIÉTÉ MONDIALE DE VICTIMOLOGIE

Mlle Aglaia TSITSOURA, Chargée de Cours à l'Université "Panteios", Faculté de Droit

* * * * *

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

Directorate General I – Legal Affairs / Direction Générale I – Affaires Juridiques

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Ms Bridget O'LOUGHLIN	Head of the Criminal Justice Division / <u>Secretary to the CDPC</u> Chef de la Division de justice pénale / <u>Secrétaire au CDPC</u>
M. Humbert de BIOLLEY	Head of the Criminal Standards Unit / <u>Deputy Secretary to the CDPC</u> Chef de l'Unité des standards criminels / <u>Secrétaire adjoint au CDPC</u>
Mr Alexander SEGER	Head of the Technical Co-operation Section / Chef de la Section de la Coopération Technique
M. Denis BRIBOSIA	Administrative Officer / Administrateur
Ms Iliana TANEVA	Head of the Prisons and Probation Unit / Chef de l'Unité des prisons et probation
Ms Anita VAN DE KAR	Head of the Prosecutors and Police Unit / Chef de l'Unité des Procureurs et de la Police
Mme Christiane WELTZER Mme Dominique WULFRAN	Assistant / Assistante

Department of Legal Advice and Treaty Office / Service du Conseil Juridique et Bureau des Traités

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M. Patrick TITIUN	Deputy Head / Chef Adjoint
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**European Directorate for the Quality of Medicines (EDQM) /
Direction Européenne de la Qualité du médicament (DEQM) (Item 7.4 of the agenda)**

Tel +33 3 88 41 38 82

Ms Agnes ARTIGES Director - EDQM /
Directrice - DEQM

M. Jean-Marc SPIESER Head of Division of the European Network of Official Medicines Control
Laboratories (OMCL) and Biological Standardisation/
Chef de Division du Réseau Européen des Laboratoires Officiels de
Contrôle des Médicaments (OMCL) et Standardisation Biologique

Directorate General III – Social Cohesion / Direction Générale III – Cohésion Sociale (Item 7.4 of the agenda)

Mr Thorsten AFFLERBACH Head of the Partial Agreement Division in the Social and Public Health
field / Chef de la Division de l'Accord Partiel dans le domaine social et
de la santé publique

Mme Sabine WALSER Administrative Officer /
Administratrice

Interpreters / Interprètes

Mme Barbara GRUT M. Marianne HUMMEL
M. Didier JUNGLING M. Philippe QUAINÉ

A P P E N D I X I b

AGENDA

1. OPENING OF THE MEETING

2. ADOPTION OF THE DRAFT AGENDA

3. ELECTIONS / APPOINTMENTS

- 3.4 Bureau - Election of two members of the Bureau + Vice-chair
- 3.5 Election of five members of the Council for Penological Co-operation (PC-CP)
- 3.6 Election of the members of the Council for Police Matters (PC-PM)
- 3.7 Appointment of the representatives of the CDPC to GRECO, to the Group of Specialists on Human Rights and the fight against terrorism (DH-S-TER), to the meetings of the Cybercrime Convention Committee (T-CY), to the Committee of Experts on the Protection of Children against Sexual Exploitation and Abuse (PC-ES) and to the Consultative Council of European Prosecutors (CCPE)
- 3.5 Role of representatives to other Committees – instructions from the CDPC

4. REVISED TERMS OF REFERENCE

Revision of the terms of reference of the CDPC, the PC-CP, PC-PM, PC-OC and PC-CSC into line with the Committee of Ministers' Resolution (2005)47 and, in addition:

- 4.1 PC-CP - Approval of increase of the PC-CP to nine members; role of the PC-CP in updating the European Prison Rules
- 4.2 PC-PM - Approval of modification regarding elections and adoption of rules of procedure for the PC-PM
- 4.3 PC-OC - Approval of new terms of reference for the PC-OC to improve judicial co-operation in criminal matters.
- 4.4 Admission of Observers to the CDPC (MEDEL), to the PC-CP (Conférence Permanente Européenne de la Probation (CEP)) and to MONEYVAL (Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG))

5. GROUP OF SPECIALISTS ON ASSISTANCE TO VICTIMS AND PREVENTION OF VICTIMISATION (PC-S-AV)

- 5.1 Approval of the draft Recommendation (updating Recommendation Rec (87)21 on Assistance to Crime Victims and Crime Prevention) and authorise the publication of its explanatory memorandum
- 5.2 Consideration of the final activity report of the PC-S-AV on issues that should be addressed further

6. MONEYVAL

7. FUTURE WORK OF THE CDPC

7.1 Workplan 2006 / 2007 – CDPC Activities and Priorities

Exchange of views with delegations representing presidencies EU [Austria and Finland] and of G8 [Russia].

7.2 Co-operation in the criminal justice field

- ❖ Follow up to the reports prepared by the PC-OC and the PC-TJ in response to the New Start Report

- ❖ Follow up to the Resolutions of the 26th Conference of European Ministers of Justice

Proposal to the Committee of Ministers to adopt new terms of reference for the PC-OC to improve the efficiency of international co-operation in criminal matters.

7.3 Replies to questions asked by CDPC to PC-OC regarding

- i. additional protocol to the Convention on transfer of sentenced prisoners
- ii. witness protection (application of Art 23 of the 2nd additional Protocol to the European Convention on Mutual Assistance in Criminal Matters)

7.4 Counterfeiting

Proposal to the Committee of Ministers to authorise the drawing up of a feasibility study on the drafting of a Convention on counterfeit medicines/pharmaceutical crime. Such a study would be carried out by three experts (one in the area of criminal law and procedure, one in the area of public health and one in the area of quality control) under the authority of the CDPC. In case of a favourable opinion concerning the need for such a Convention, the CDPC would invite the CM to approve terms of reference for an ad hoc multidisciplinary group of experts in the various fields concerned to draft the Convention, their work to begin in 2007.

7.5 Sexual exploitation of children – proposals for procedure

7.6 Cybercrime

8. PRISONS

8.1 European Prison Charter Feasibility – “tour de table”

8.2 European Prison Rules

Implementation « tour de table »

8.3 Remand in custody

Approval of the draft Recommendation on remand in custody and its explanatory memorandum

8.4 European Rules on juveniles – progress report

9. OTHER WORK IN THE PENOLOGICAL FIELD

- 9.1 Organisation of future work in the penological field – probation
- 9.2 PC-CSC – criminological expertise for the CDPC

10. PROSECUTORS

- 10.1 Adoption of an opinion and comments on the draft framework overall action plan for the Consultative Council of European Prosecutors (CCPE) and delegation to the CDPC Bureau of the final approval (through a written consultation procedure) after the CCPE will have adopted it.
- 10.2 Extension of the terms of reference of the CCPE to 31 December 2008
- 10.3 Other information
 - 6th Conference of Prosecutors General of Europe: conclusions
 - 7th Conference of Prosecutors General of Europe: preparation

11. COUNCIL FOR POLICE MATTERS (PC-PM)

Presentation of the findings of the study regarding the implementation of the European Code of Police Ethics in the member states

12. WORKING METHODS

- 12.1 Resolution (2005)47 of the Committee of Ministers
- 12.2 Committee of Ministers' new working methods
- 12.3 Interface between specialised committees and the CDPC Plenary
- 12.4 Composition of subordinate committees with limited membership

13. HIGH LEVEL CONFERENCES

- 13.1 - 27th Conference of European Ministers of Justice, Yerevan 11-13 October 2006
- 13.2 - 28th - Conference of European Ministers of Justice, Lanzarote
- 13.3 - 4th Consultation regarding ICC

14. REQUESTS FOR OPINIONS

15. OTHER ACTIVITIES/INFORMATION

GRECO/MONEYVAL/CDCJ/CODEXTER/CDDH-DS-TER, ETC

Report of the CDPC's representative to CDDH-DS-TER

16. BUREAU OF THE CDPC

17. AGENDA OF THE NEXT MEETING OF THE CDPC

18. CALENDAR OF FUTURE MEETINGS

19. DATES OF THE NEXT MEETINGS OF THE BUREAU AND THE CDPC

20. ANY OTHER BUSINESS

Question raised by the delegation of Turkey- interpretation of article 1e of the 1977 Convention on the suppression of terrorism

APPENDIX II

DRAFT RECOMMENDATION ON ASSISTANCE TO CRIME VICTIMS

Preamble

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Aware of the fact that criminal victimisation is a daily phenomenon affecting the lives of citizens throughout Europe;

Having regard to Recommendation No. R (87) 21 on the assistance to victims and the prevention of victimisation, intended to complement the European Convention on the Compensation of Victims of Violent Crime (ETS No. 116, 1983) and Recommendation No. R (85) 11 on the position of the victim in the framework of criminal law and procedure;

Noting that, since the adoption of Recommendation No. R (87) 21, several recommendations have been adopted by the Committee of Ministers and significant developments have occurred in the field of assistance to victims including developments in national legislation and practice, a better understanding of the victims' needs and new research;

Bearing in mind the European Convention on the Protection of Human Rights and Fundamental Freedoms (ETS No. 5, 1950), the European Convention on the Compensation of Victims of Violent crimes (see above), the Council of Europe Convention on the Prevention of Terrorism (ETS No. 196, 2005) and the Council of Europe Convention on Action against trafficking in Human Beings (ETS No. 197, 2005);

Recalling the resolutions of the conferences of the European ministers of justice in 2003 and 2005, inviting the Committee of Ministers to adopt new rules concerning the support of victims of terrorist acts and their families;

Noting the work of the Committee of Experts on Terrorism (CODEXTER), with regard to victims of terrorism;

Having considered the Guidelines on human rights and the fight against terrorism adopted by the Committee of Ministers on 11 July 2002 and the Guidelines on the protection of victims of terrorist acts, adopted on 2 March 2005;

Taking account of the standards developed by the European Union and by the United Nations with regard to victims;

Noting with appreciation the achievements of non-governmental organisations in assisting victims;

Aware of the need for co-operation between states particularly to assist victims of terrorism and other forms of transnational crimes;

Aware of the need to prevent repeat victimisation, in particular for victims belonging to vulnerable groups;

Convinced that it is as much the responsibility of the state to ensure that victims are assisted as it is to deal with offenders,

Recommends that the governments of member states disseminate and be guided in their internal legislation and practice by the principles set out in the appendix to this recommendation which replaces Recommendation No. R (87) 21.

Appendix to Recommendation ...

1. Definitions

For the purpose of this recommendation,

1.1. Victim means a natural person who has suffered harm, including physical or mental injury, emotional suffering or economic loss, caused by acts or omissions that are in violation of the criminal law of a member state. The term victim also includes, where appropriate, the immediate family or dependants of the direct victim.

1.2. Repeat victimisation means a situation when the same person suffers from more than one criminal incident over a specific period of time.

1.3. Secondary victimisation means the victimisation that occurs not as a direct result of the criminal act but through the response of institutions and individuals to the victim.

2. Principles

2.1. States should ensure the effective recognition of, and respect for, the rights of victims with regard to their human rights; they should, in particular, respect the security, dignity, private and family life of victims and recognise the negative effects of crime on victims.

2.2. States should ensure that the measures set forth in this recommendation are made available to victims without discrimination.

2.3. The granting of these services and measures should not depend on the identification, arrest, prosecution or conviction of the perpetrator of the criminal act.

3. Assistance

3.1. States should identify and support measures to alleviate the negative effects of crime and to undertake that victims are assisted in all aspects of their rehabilitation, in the community, at home and in the workplace.

3.2. The assistance available should include the provision of medical care, material support and psychological health services as well as social care and counselling. These services should be provided free of charge at least in the immediate aftermath of the crime.

3.3. Victims should be protected as far as possible from secondary victimisation.

3.4. States should ensure that victims who are particularly vulnerable, either through their personal characteristics or through the circumstances of the crime, can benefit from special measures best suited to their situation.

3.5. Wherever possible, the assistance should be provided in a language understood by the victim.

4. Role of the public services

4.1. States should identify and support measures to encourage respect and recognition of victims and understanding of the negative effects of crime amongst all personnel and organisations coming into contact with victims.

Criminal justice agencies

4.2. The police and other criminal justice agencies should identify the needs of victims to ensure that appropriate information, protection and support is made available.

4.3. In particular, states should facilitate the referral of victims by the police to assistance services so that the appropriate services may be offered.

4.4. Victims should be provided with explanations of decisions made with regard to their case and have the opportunity to provide relevant information to the criminal justice personnel responsible for making these decisions.

4.5. Legal advice should be made available where appropriate.

Agencies in the community

4.6. States should promote the provision of special measures for the support or protection of victims by organisations providing, for example, health services, social security, housing, education and employment.

Role of embassies and consulates

4.7. Embassies and consulates should provide their nationals who become victims of crime with appropriate information and assistance.

5. Victim support services

5.1. States should provide or promote dedicated services for the support of victims and encourage the work of non governmental organisations in assisting victims.

Minimum standards

5.2. Such services should:

- be easily accessible;
- provide victims with free emotional, social and material support before, during and after the investigation and legal proceedings;
- be fully competent to deal with the problems faced by the victims they serve;
- provide victims with information on their rights and on the services available;
- refer victims to other services when necessary;
- respect confidentiality when providing services.

Specialised centres

5.3. States are encouraged to support the setting up or the maintenance of specialised centres for victims of crimes such as sexual and domestic violence and to facilitate access to these centres.

5.4. States may also consider it necessary to encourage the establishment or maintenance of specialised centres for victims of crimes of mass victimisation, including terrorism.

National help lines

5.5. States are encouraged to set up or to support free national telephone help lines for victims.

Co-ordination of services for victims

5.6. States should take steps to ensure that the work of services offering assistance to victims is co-ordinated and that:

- a comprehensive range of services is available and accessible;
- standards of good practice for services offering help to victims are prepared and maintained;
- appropriate training is provided and co-ordinated;
- services are accessible to government for consultation on proposed policies and legislation;

This co-ordination could be provided by a single national organisation or by some other means.

6. Information*Provision of information:*

6.1. States should ensure that victims have access to information of relevance to their case and necessary for the protection of their interests and the exercise of their rights.

6.2. This information should be provided as soon as the victim comes into contact with law enforcement or criminal justice agencies or with social or health care services. It should be communicated orally as well as in writing, and as far as possible in a language understood by the victim.

Content of the information

6.3. All victims should be informed of the services or organisations which can provide support and the type and, where relevant, the costs of the support.

6.4. When an offence has been reported to law enforcement or criminal justice agencies, the information provided to the victim should also include as a minimum:

- i. the procedures which will follow and the victims' role in these procedures;
- ii. how and in what circumstances the victim can obtain protection;
- iii. how and in what circumstances the victim can obtain compensation from the offender;
- iv. the availability and, where relevant, the cost of:
 - legal advice,
 - legal aid, or
 - any other sort of advice,
- v. how to apply for state compensation, if eligible;
- vi. if the victim is resident in another state, any existing arrangements which will help to protect his or her interests.

Information on legal proceedings

6.5. States should ensure in an appropriate way that victims are kept informed and understand:

- the outcome of their complaint;
- relevant stages in the progress of criminal proceedings;
- the verdict of the competent court and, where relevant, the sentence.

Victims should be given the opportunity to indicate that they do not wish to receive such information.

7. Right to effective access to other remedies

7.1. Victims may need to seek civil remedies to protect their rights following a crime. States should therefore take the necessary steps to ensure that victims have effective access to all civil remedies, and within a reasonable time, through:

- the right of access to competent courts; and
- legal aid in appropriate cases.

7.2. States should institute procedures for victims to claim compensation from the offender in the context of criminal proceedings. Advice and support should also be provided to victims in making these claims and in enforcing any payments awarded.

8. State compensation

Beneficiaries

8.1. Compensation should be provided by the state for:

- victims of serious, intentional, violent crimes, including sexual violence;
- the immediate family and dependants of victims who have died as a result of such crime.

Compensation scheme

8.2. States should adopt a compensation scheme for the victims of crimes committed on their territory, irrespective of the victim's nationality.

8.3. The compensation awarded to victims should be based on the principle of social solidarity.

8.4. The compensation should be granted without undue delay, at a fair and appropriate level.

8.5. Since many persons are victimised in European states other than their own, states are encouraged to co-operate to enable victims to claim compensation from the state in which the crime occurred by applying to a competent agency in their own country.

Damages requiring compensation

8.6. Compensation should be provided for treatment and rehabilitation for physical and psychological injuries.

8.7. States should consider compensation for loss of income, funeral expenses and loss of maintenance for dependants. States may also consider compensation for pain and suffering.

8.8. States may consider means to compensate damage resulting from crimes against property.

Subsidiarity

8.9. State compensation should be awarded to the extent that the damage is not covered by other sources such as the offender, insurance or state funded health and social provisions.

9. Insurance

9.1. States should evaluate the extent of cover available under public or private insurance schemes for the various categories of criminal victimisation. The aim should be to promote equal access to insurance for all residents.

9.2. States should encourage the principle that insurance be made available to as many people as possible. Insurance should be available to cover the person's belongings, as well as their physical integrity.

9.3. States are encouraged to promote the principle that insurance policies do not exclude damages caused by acts of terrorism unless other applicable provisions exist.

10. Protection

Protection of physical and psychological integrity

10.1. States should ensure, at all stages of the procedure, the protection of the victim's physical and psychological integrity. Particular protection may be necessary for victims who could be required to provide testimony.

10.2. Specific protection measures should be taken for victims at risk of intimidation, reprisals or repeat victimisation.

10.3. States should take the necessary measures to ensure that, at least in cases where there might be danger to the victims, when the person prosecuted or sentenced for an offence is released, a decision may be taken to notify the victims if necessary.

10.4. In so far as a state forwards on its own initiative the information referred to in paragraph 10.3, it should ensure that victims have the right to choose not to receive it, unless communication thereof is compulsory under the terms of the relevant criminal proceedings.

Protection against repeat victimisation

10.5. States should develop policies to identify and combat repeat victimisation. The prevention of repeat victimisation should be an essential element in all strategies for victim assistance and crime prevention.

10.6. All personnel in contact with victims should receive adequate training on the risks of repeat victimisation and on ways to reduce such risks.

10.7. Victims should be advised on the risk of repeat victimisation and of the means of reducing these risks as well as assistance in implementing the measures proposed.

Protection of privacy

10.8. States should take appropriate steps to avoid as far as possible impinging on the private and family life of victims as well as to protect the personal data of victims, in particular during the investigation and prosecution of the crime.

10.9. States should encourage the media to adopt and respect self regulation measures in order to protect victims' privacy.

11. Confidentiality

11.1. States should require all agencies, whether statutory or non-governmental, in contact with victims, to adopt clear standards by which they may only disclose to a third party information received from or relating to a victim under the condition that:

- the victim has explicitly consented to such disclosure;
- there is a legal requirement or authorisation to do so; or
- there is an overriding ethical consideration.

11.2. In these three cases of exception, clear rules should govern the disclosure procedures. Complaints procedures should be published for dealing with alleged breaches to the rules.

12. Selection and training of personnel

12.1. States should assist and support victim support services to:

- develop appropriate standards for the selection of all paid and voluntary staff providing direct assistance to victims;
- organise training and support for all paid and voluntary staff to ensure that such assistance is delivered according to professional standards.

Training

12.4. Training should as a minimum include:

- awareness of the negative effects of crime on victims;
- skills and knowledge required to assist victims;
- awareness of the risk of causing secondary victimisation and the skills to prevent this.

Specialised training

12.3. Specialised training should be provided to all personnel working with child victims and victims of special categories of crime, for example, domestic or sexual violence, terrorism, crimes motivated by racial, religious or other prejudice, as well as to families of murder victims.

Training of personnel in other services

12.4. Member states should ensure that appropriate training is provided for:

- the police and personnel involved in the administration of justice;
- the emergency services and others attending the scene of a major incident;
- relevant staff in health, housing, social security, education and employment services.

12.5. Such personnel should be trained to a level which is appropriate to their contact with victims. Training should include, as a minimum:

- general awareness of the effects of crime on a victim's attitudes and behaviour, including verbal behaviour;
- the risk of causing secondary victimisation and the skills required to minimise this risk;
- the availability of services providing information and support specific to the needs of victims and the means of accessing these services.

13. Mediation

13.1. Taking into account the potential benefits of mediation for victims, statutory agencies should, when dealing with victims, consider, where appropriate and available, the possibilities offered for mediation between the victim and the offender, in conformity with Committee of Ministers Recommendation R(99)19 on mediation in criminal matters.

13.2. The interests of victims should be fully and carefully considered when deciding upon and during a mediation process. Due consideration should be given not only to the potential benefits but also to the potential risks for the victim.

13.3. Where mediation is envisaged, states should support the adoption of clear standards to protect the interests of victims. These should include the ability of the parties to give free consent, issues of confidentiality, access to independent advice, the possibility to withdraw from the process at any stage and the competence of mediators.

14. Co-ordination and co-operation

14.1. Each state should develop and maintain co-ordinated strategies to promote and protect the rights and interests of victims.

14.2. To this end, each state should ensure, both nationally and locally, that:

- all agencies involved in criminal justice, social provision and health care, in the statutory, private and voluntary sectors, work together to ensure a co-ordinated response to victims;
- additional procedures are elaborated to deal with large scale victimisation situations, together with comprehensive implementation plans including the identification of lead agencies.

15. International co-operation

Preparation of states' responses

15.1. States should co-operate in preparing an efficient and co-ordinated response for transnational crimes. They should ensure that a comprehensive response is available to victims and that services co-operate in providing assistance.

Co-operation with the state of residence

15.2. In cases where the victim does not normally reside in the state where the crime occurred, that state and the state of residence should co-operate to provide protection to the victim and to assist the victim in reporting the crime as well as in the judicial process.

16. Raising public awareness of the effects of crime

16.1. States should contribute to raising public awareness of the needs of victims, encouraging understanding and recognition of the effects of crime in order to prevent secondary victimisation and to facilitate the rehabilitation of victims.

16.2. This should be achieved through government funding and publicity campaigns, using all available media.

16.3. The role of the non governmental sector in focusing public attention on the situation of victims should be recognised, promoted and supported.

17. Research

17.1. States should promote, support, and, to the extent possible, fund or facilitate fund-raising for victimological research, including comparative research by researchers from within or outside their own territory.

Research should include:

- criminal victimisation and its impact on victims;
- prevalence and risks of criminal victimisation including factors affecting risk;
- the effectiveness of legislative and other measures for the support and protection of victims of crime – both in criminal justice and in the community;
- the effectiveness of intervention by criminal justice agencies and victim services.

17.2. States should take into consideration the latest state of victimological research available in developing consistent and evidence-based policies towards victims.

17.3. States should encourage all governmental and non-governmental agencies dealing with victims of crime to share their expertise with other agencies and institutions nationally and internationally.

* * *

APPENDIX III

DRAFT TERMS OF REFERENCE OF THE COUNCIL FOR
PENOLOGICAL CO-OPERATION (PC-CP)¹

1. **Name of committee:** Council for Penological Co-operation (PC-CP)
2. **Type of committee:** Ad hoc Advisory Group
3. **Source of terms of reference:** European Committee for Crime Problems (CDPC)
4. **Terms of reference:**

Having regard to:

- the Council of Europe conventions and their protocols as well as to the recommendations of the Committee of Ministers in the penal field²;
- the relevant case-law of the European Court of Human Rights;
- the standards developed by the Committee for the Prevention of Torture and Inhuman and Degrading Treatment and Punishment (CPT);
- the relevant recommendations of the Parliamentary Assembly³.

Under the authority of the CDPC and in relation with the implementation of Project **2004/DG1/164 “Criminal law and policy development, police, prison systems and alternatives to imprisonment” of the Programme of Activities**, the PC-CP is instructed to:

- i. follow the development of European prison systems and of the services concerned with the implementation of community sanctions and measures;
- ii. examine the functioning and implementation of the European Prison Rules and the European Rules on community sanctions and measures, and make proposals for improving their practical application;
- iii. make proposals to the CDPC for revision of existing legal instruments and other legal acts in the penal field with a view to achieving coherence and comprehensiveness of the standards in the area;
- iv. re-examine on a regular basis the European Prison Rules and to propose to the CDPC their updating if

¹ Adopted: see CM/Del/Concl(87)410/35(10) and CM(87)167, Addendum V
Revised: see CM(91)118, item I.B.9 and CM/Del/Concl(91)461/20a(9)
see CM/Del/Dec(94)516/10.4& and CM(94)112, item 3
see CM/Del/Dec(94)523, item 11.3
see CM/Del/Dec(95)551, item 11.2 (first part) concl10
see also CM/Del/Dec(96)572, item 10.1 and CM(96)99, Appendix VII
see CM/Del/Dec(97)600, item 10.2a and Appendix 18 (Appendix 19 for the revised rules of procedure)

²European Treaty Series of the relevant conventions: 24, 30, 51, 82, 86, 98, 99, 112, 126, 167, and 182. Reference number of the relevant recommendations: R (80)11; R (82) 16; R (82) 17; R (84) 10; Rec. R (84) 11 ; R (84) 12; R (86) 13; Rec. R (87) 20; R (88) 6 ; R (88) 13; R (89) 12 ; R (91) 1; R (92) 16; R (97) 12; R (98) 7; R (99) 19; R (99) 22 ; Rec (2000) 22; Rec (2003) 22; Rec(2003) 23 and Rec(2006)2.

³ *Inter alia* Rec 1656 (2004) and Rec 1257 (1995)

necessary, as detailed in its rules of procedure;

- v. prepare new draft legal instruments and reports on penological matters on the basis of ad-hoc terms of reference;
- vi. formulate opinions on penological matters at the request of the CDPC and of member states;
- vii. prepare the Conferences of Directors of Prison Administration (CDAP) and choose rapporteurs;
- viii. provide guidance with regard to the publication of the Penological Information Bulletin.

5. Composition of the Committee:

5.A. Members

The PC-CP shall be composed of 9 members, elected by the CDPC, with the following desirable qualifications: high-level representatives of prison administrations and/or of services entrusted with the implementation of community sanctions and measures; researchers or other experts having a thorough knowledge of penological questions.

The Council of Europe budget will bear their travel and subsistence expenses.

5.B. Participants

- i. The following Committees may each send a representative to meetings of the PC-CP, without the right to vote and at the charge of the corresponding CoE budget sub-heads:
 - European Committee on Crime Problems (CDPC)
 - European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

5.C Other participants

- i. The European Commission 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.
- ii. The following intergovernmental organisations may send representatives to meetings of the Committee without the right to vote or defrayal of expenses:
 - United Nations Committee against Torture (CAT)
 - United Nations Children's Fund (UNICEF)

5.D. Observers

The following non-governmental organisations may send a representative to meetings of the PC-CP without the right to vote or defrayal of expenses:

- Conférence Permanente Européenne de la Probation (CEP);
- International Association of Juvenile and Family Court Magistrates (IAJFCM)

6. Working Methods and Structures

The term of office of the Chair of the PC-CP is three years, as specified in its own rules of procedure¹.

In its work the PC-CP shall be assisted by three scientific experts and three ad hoc consultants with specific knowledge of relevant legislation and legal practice, of international norms and conventions relating to penitentiary issues and community sanctions and measures, as well as of the European Convention on Human Rights and its case law and of recent developments in research and practice in the different European member states.

The Council of Europe budget will bear the travel and subsistence expenses of the scientific experts and the ad hoc consultants.

The PC-CP may organise hearings or written exchange of views with external experts.

The PC-CP may appoint one or more drafting committees, and may entrust specific tasks to a limited number of members of the committee.

7. Duration

These terms of reference will expire on 31 December 2008.

¹ As adopted by the Committee of Ministers at their 335th meeting (June 1981) and revised at the 600th meeting of their Deputies (September 1997), and 9xxth meeting (June? 2006)? which constitutes a dispensation from Article 12.e of Appendix 1 of Resolution Res(2005)47

RULES OF THE PROCEDURE OF COUNCIL FOR PENOLOGICAL CO-OPERATION

(PC-CP)

proposals for amendment

Article 1

1. The Council for Penological Co-operation (PC-CP), hereafter referred to as "the Penological Council", set up by the Committee of Ministers of the Council of Europe at the 321st meeting of their Deputies in June 1980¹, acts as an advisory body to the European Committee on Crime Problems (CDPC).
2. The Penological Council gives advice, collects information, prepares draft legal instruments and reports on the basis of ad-hoc terms of reference or other instructions and makes suggestions with a view to preparing and implementing the penological work programme of the CDPC.
3. The PC-CP makes proposals to the CDPC for revision of existing legal instruments and other legal acts in the penal field with a view of achieving coherence and comprehensiveness of the standards in the area. It has a special responsibility to re-examine the European Prison Rules every five years, or more frequently if ECHR case law or CPT reports so require. When necessary it will update the European Prison Rules taking into account the instructions of the CDPC.
4. The Chairperson of the Penological Council shall attend plenary sessions of the CDPC and CDPC Bureau meetings when the work programme and matters of penological interest are discussed.

Article 2

1. The Penological Council shall be composed of nine members, who shall be high-level representatives of prison administrations and of services entrusted with the implementation of community sanctions and measures and/or researchers or other experts having a thorough knowledge of penological questions.
2. Candidates for membership of the Penological Council shall be proposed by national delegations to the CDPC, the Secretary General and members of the Penological Council.
3. The members of the Penological Council shall be elected for a term of 5 years by the CDPC at its plenary sessions from a list of candidates drawn up in accordance with paragraph 2 above. When electing these members, the CDPC shall take into account their qualifications and the desirability of giving preference to candidates whose professional obligations and linguistic abilities permit them to take a full and active part in the work of the Penological Council.
4. No two members may be nationals of the same State.
5. A newly elected member shall not be of the same nationality as one of the outgoing members.
6. Any member who fails to attend three consecutive meetings shall be regarded as having resigned and shall be replaced in accordance with paragraphs 2-5 of this article.

¹ Then called "Committee for Co-operation in Prison Affairs (PC-R-CP)".

Article 3

1. The Penological Council shall elect its Chairperson, by majority ballot, for a three-year term of office.
2. The provisions of Article 2 paragraph 3 shall not apply to the Chairperson during his/her three-year term.
3. If the Chairperson is temporarily prevented from carrying out his/her duties he/she shall be replaced by the most senior member according to the date of his/her election or, if there are more than one, according to age.
4. If the Chairperson resigns, the most senior member according to election shall perform the duties of Chairperson until the Penological Council, at the meeting following the resignation, elects a new Chairperson for a three-year term of office.

Article 4

1. Meetings of the Penological Council shall be convened by the Secretary General of the Council of Europe.
2. The draft agenda of each meeting shall be drawn up by the Secretary General and shall be transmitted to the members together with the letter of convocation.
3. The agenda shall be adopted by the Penological Council at the beginning of the meeting.

Article 5

The present Rules may be amended by the Committee of Ministers at the request of the CDPC.

APPENDIX IV

DRAFT TERMS OF REFERENCE OF THE COUNCIL FOR POLICE MATTERS

(PC-PM)

1. **Name of committee:** Council for Police Matters (PC-PM)
2. **Type of committee:** Ad hoc Advisory Group
3. **Source of terms of reference:** European Committee on Crime Problems (CDPC)
4. **Terms of reference:**

Having regard to:

- The Conclusions of the Conference of Ministers of the Interior on “Police of the XXIst century” held in Bucharest on 22-23 June 2000;
- Recommendation Rec(2001)10 on the European Code on Police Ethics and other relevant instruments of the Council of Europe.

Under the authority of the European Committee on Crime Problems (CDPC), and in relation with the implementation of Project 2004/DG1/164 “Criminal law and policy development, police, prison systems and alternatives to imprisonment” of the Programme of Activities, the Group is instructed:

- i. to follow the development of European police systems (national and international);
 - ii. to assist the CDPC in reviewing the implementation of Recommendation Rec(2001)10 on the European Code of Police Ethics and other relevant instruments of the Council of Europe
 - iii. to propose to the CDPC the establishment of standards or guidelines for dealing with police matters including as regards their role in fighting specific types of crime (such as cybercrime, organised crime, terrorism, domestic violence, sexual exploitation and trafficking) as well as with crime prevention in general;
 - iv. to prepare, to prepare, at the request of the Committee of Ministers or the CDPC, draft legal instruments and reports on police matters, as noted above, on the basis of ad hoc terms of reference;
 - v. reference;
 - vi. to formulate opinions at the request of the CDPC;
 - vii. to prepare conferences and high-level meetings on police matters;
 - viii. to collect and disseminate documentation on police matters;
- to promote research on police matters.

5. Composition of the Committee:

5.A. Members

The Group shall be composed of seven members elected in their personal capacity by the CDPC (representatives of ministries responsible for the police, high-level representatives of national police administrations, scientific police researchers, high-level representatives of the judiciary involved in supervising the police, ombudsmen specialised in the police, etc).

The Council of Europe budget will bear their travel and subsistence expenses.

5.B. Observers

The CDPC may authorise the admission of observers to the Council for Police Matters without the right to vote or defrayal of expenses:

6. Working Methods and Structures

Two scientific experts will be appointed by the Secretary General to assist the Council in carrying out its duties. The Council of Europe budget will bear their travel and subsistence expenses.

The PC-PM has furthermore the possibility to hear consultants.

The working methods of the PC-PM are regulated by its rules of procedure. The term of office of the Chairperson is three years¹. Members are elected for three years and can be re-elected once for a period of two years.

7. Duration

These terms of reference will expire on 31 December 2008

¹ In dispensation from Article 12.e of Appendix 1 of Resolution Res(2005)47.

**DRAFT RULES OF PROCEDURE OF THE COUNCIL FOR POLICE MATTERS
(PC-PM)**

Article 1

1. The Council for Police Matters (PC-PM), hereafter referred to as "the Police Council", set up by the Committee of Ministers of the Council of Europe at the 808th meeting of their Deputies on 18 September 2002, acts as an advisory body to the European Committee on Crime Problems (CDPC).
2. The Chair of the Police Council shall attend plenary sessions of the CDPC when the work programme and matters of interest to the police are discussed.

Article 2

1. The Police Council shall be composed of seven members, who shall be representatives of ministries responsible for the police, high-level representatives of national police administrations, scientific police researchers, high-level representatives of the judiciary involved in supervising the police, ombudsmen specialised in the police, etc.
2. Candidates for membership of the Police Council shall be proposed by national delegations to the CDPC, the Secretary General and members of the Police Council.
3. The members of the Police Council shall be elected for a term of three years by the CDPC at its plenary sessions from a list of candidates drawn up in accordance with paragraph 2 above. When electing these members, the CDPC shall take into account their qualifications and the desirability of giving preference to candidates whose professional obligations and linguistic abilities permit them to take a full and active part in the work of the Police Council.
4. Members can be re-elected once for a period of two years.
5. No two members may be nationals of the same State.
6. A newly elected member shall not be of the same nationality as one of the outgoing members.
7. Any member who fails to attend three consecutive meetings shall be regarded as having resigned and shall be replaced in accordance with paragraphs 2,3, 5 and 6 of this article.

Article 3

1. The Police Council shall elect its Chairperson, by majority ballot, for a three-year term of office.
2. If the Chairperson is temporarily prevented from carrying out his/her duties he/she shall be replaced by the most senior member according to the date of his/her election or, if there are more than one, according to age.
3. If the Chairperson resigns, the most senior member according to election shall perform the duties of Chairperson until the Police Council, at the meeting following the resignation, elects a new Chairperson for a three-year term of office.
4. The provisions of Article 2 paragraph 3 shall not apply to the Chairperson during his/her three-year term.

Article 4

1. The Police Council meetings are summoned by the Secretary General from Council of Europe after consultation with the Chairperson from CDPC and the Police Council.
2. The draft agenda of each meeting is established by the Secretary General and sent to all members with the convocation letter.
3. The agenda is adopted by the Police Council at the beginning of the meeting.

Article 5

1. The present Rules may be amended by the Committee of Ministers at the request of the CDPC.

APPENDIX V

DRAFT TERMS OF REFERENCE OF THE COMMITTEE OF EXPERTS ON THE OPERATION OF EUROPEAN CONVENTIONS IN THE PENAL FIELD

(PC-OC)

1. **Name of committee:** COMMITTEE OF EXPERTS ON THE OPERATION OF EUROPEAN CONVENTIONS ON CO-OPERATION IN CRIMINAL MATTERS (PC-OC)
2. **Type of committee:** Committee of Experts
3. **Source of terms of reference:** European Committee of Crime Problems (CDPC)
4. **Terms of reference:**

Under the authority of the European Committee of Crime Problems (CDPC), and in relation with the implementation of Project [2004/DG1/199](#) “Monitoring the operation of Conventions on Co-operation in the criminal field” of the Programme of Activities, the Committee is instructed to:

- i. monitor the operation of the Conventions on international co-operation in criminal matters with a view to facilitating their practical implementation¹;
- ii. consider various steps and initiatives to improve the efficiency of international co-operation in criminal matters This would be carried out in particular through various measures to improve practical co-operation and, in conformity with instructions given by the CDPC², through the development of normative texts;
- iii. follow developments in other international frameworks (e.g. United Nations, European Union) in the fields covered by these conventions and, where appropriate, propose measures likely to ensure their conformity with such developments;
- iv. follow the application of the European Convention on Human Rights with regard to international co-operation in criminal matters.

5. **Composition of the Committee:**

5.A. **Members**

Governments of member states are entitled to appoint representatives in the field of criminal law and with the following qualifications: experience and/or expertise in the field of international co-operation in criminal matters.

¹ These Conventions include ETS no 24 (extradition, and Protocols ETS no 86, 98), 30 (mutual legal assistance and Protocols ETS no 99, 182), 51 (supervision of sentence), 52 (road traffic offence), 70 (validity of criminal judgments), 73 (transfer of criminal proceedings), 88 (deprivation of right to drive), 97 (information of foreign law), 101 (possession of firearms), 112 (transfer of sentenced persons and its Protocol ETS no 1657), 116 (compensation of crime victims), 156 (illicit traffic by sea).

² On the basis of the elements presented in the following documents: Report to the CDPC- follow-up to the “new start report” (PC-OC(2006)10); Note on modernisation of the European Conventions on international co-operation in the criminal field (PC-OC(2006)9) and the final report of the PC-TJ (PC-TJ(2005)10).

The Council of Europe budget will bear the travel and subsistence expenses of one representative from each member state (two in the case of the state whose representative has been elected Chair).

5.B. Participants

- i. The following Committees may each send a representative to meetings of the Committee, without the right to vote and at the charge of the corresponding CoE budget sub-heads:
 - the Steering Committee for Human Rights (CDDH)
 - the Consultative Council of European Prosecutors (CCPE)
 - the European Commission for the Efficiency of Justice (CEPEJ)

5.C Other participants

- i. The European Commission and the Council of the European Union may send representatives to meetings of the Committee without the right to vote or defrayal of expenses.
- ii. The states with observer status with the Council of Europe (Canada, Holy See, Japan, Mexico, United States of America) may send representatives to meetings of the Committee without the right to vote or defrayal of expenses.
- iii. The following intergovernmental organisations may send representatives to meetings of the Committee without the right to vote or defrayal of expenses:
 - United Nations Office for Drugs and Crime (UNODC)
 - United Nations Interregional Crime and Justice Research Institute (UNICRI)
 - Office of the United Nations High Commissioner for Human Rights (OHCHR)
 - International Criminal Court (ICC)
 - International Criminal Tribunal for former-Yugoslavia (ICTY)

5.D. Observers

The following non-member state may send representatives to meetings of the Committee without the right to vote or defrayal of expenses:

Israel

6. Working Methods and Structures

The Committee may have recourse to consultants or scientific experts. It can organise hearings or exchanges of views with external experts/personalities.

The Bureau of the Committee is composed of the Chair and the Vice-Chair. The Chair and the Vice-Chair are elected for a term of 1 year. The terms of the Chair and of the Vice-Chair are renewable once.

The Committee may entrust a limited group of members to elaborate steps and initiatives to improve the efficiency of international co-operation in criminal matters mentioned under 4.ii. above. It would be composed of a maximum of 9 members.

7. Duration

These terms of reference will expire on 31 December 2008.

APPENDIX VI

CDPC – REPORT TO THE COMMITTEE OF MINISTERS ON ACTIONS

TO IMPLEMENT THE WARSAW ACTION PLAN

CDPC ACTIVITIES

This table reviews the work of the CDPC in light of the Warsaw Declaration and Action Plan adopted at the Third Summit (16 – 17 May 2005) and the subsequent Road Map adopted by the Committee of Ministers on 28 September 2005 (CM (2005)145 revised). Subsequent to the CDPC plenary meeting from 3 -7 April 2006, it has been updated and revised by the Secretariat in light of the decisions taken with a view to presentation to the Committee of Ministers in response to their request for regular reporting on this question.

It also links the tasks of the CDPC as mandated further to:

- • decisions taken at the 924th meeting of the Committee of Ministers – 20 April 2005 – i.e. further to CDPC plenary meeting 7 – 11 March 2005
- • decisions taken at the 925th meeting of the Committee of Ministers – 3-4 May 2005 reflecting the Resolutions of the Conference of Ministers of Justice (7-8 April 2005);
- • the decisions of the CDPC at its plenary meeting in March 2005 (CDPC (2005)12

The table will be updated a regular basis and, in particular, once the Bureau will have approved the Framework Overall Action Plan to be adopted by the CCPE at its first meeting in Moscow, 6 July 2006, the priority fields of action for the CCPE will be added.

The following abbreviations are used in referring to Committees

CDPC	EUROPEAN COMMITTEE ON CRIME PROBLEMS
PC-CP	COUNCIL FOR PENOLOGICAL CO-OPERATION
PC-PM	COUNCIL FOR POLICE MATTERS
PC-CSC	CRIMINOLOGICAL SCIENTIFIC COUNCIL
PC-S-AV	GROUP OF SPECIALISTS ON ASSISTANCE TO VICTIMS AND PREVENTION OF VICTIMISATION
T-CY	CYBERCRIME CONVENTION COMMITTEE
PC-OC	COMMITTEE OF EXPERTS ON THE OPERATION OF EUROPEAN CONVENTIONS IN THE PENAL FIELD
CPGE	CONFERENCE OF EUROPEAN PROSECUTORS GENERAL
CCPE	CONSULTATIVE COUNCIL OF EUROPEAN PROSECUTORS
PC-ES	COMMITTEE OF EXPERTS ON THE PROTECTION OF CHILDREN AGAINST SEXUAL EXPLOITATION AND ABUSE
MONEYVAL	COMMITTEE OF EXPERTS ON THE EVALUATION OF ANTI-MONEY LAUNDERING MEASURES

Item of the Action Plan

I - PROMOTING COMMON FUNDAMENTAL VALUES: HUMAN RIGHTS, RULE OF LAW AND DEMOCRACY

2. Protecting and promoting human rights through the other Council of Europe institutions and mechanisms

“We also ask for regular updates of the European prison rules as the basis for the setting-up of standards in prisons. The Council of Europe will assist member states to ensure their implementation.”

	Task	Source	Sub committee responsible	Deadline	Comments
1.	Recommendation revising the European Prison Rules(EPR) and the commentary	Resolution 4, Helsinki Para. 11 CM Decisions 925th meeting	PC-CP	Completed January 2006	The CM approved the EPR and took note of their commentary on 11 January 2006 (CM Recommendation Rec (2006)02) Task achieved at least six months ahead of schedule
2.	Consider feasibility and added value of a possible European Prison Charter (EPC)	Resolution 4, Helsinki Para. 11 CM Decisions 925th meeting	PC-CP	Completed April 2006	The CDPC considered that a binding instrument, in the form of a European Prison Charter, was not a feasible proposition and it consequently proposed to strengthen penitentiary reform inter alia through the elaboration of a Compendium of Council of Europe recommendations in the penitentiary field
3.	Compendium of Council of Europe recommendations in the penitentiary field		PC-CP	CDPC plenary meeting June 2007	PC-CP to present to the next CDPC plenary a proposal for working methods to establish a compendium consolidating all Council of Europe recommendations relating to penitentiary questions together with an indication as to which recommendations should be revised and/or updated
4.	Consider feasibility and potential added value of a mechanism, in EPR or EPC, to allow for consistency and regular updating of relevant texts	Resolution 4, Helsinki Para. 11 CM Decisions 925th meeting; Action Plan	PC-CP	Completed April 2006	The CDPC proposed that the PC-CP be entrusted with this task in its new mandate (see Appendix II to the meeting report)
5.	Draft recommendation on remand in custody and its explanatory memorandum		PC-DP/ PC-CP	Enlarged Bureau meeting June 2006	Proposed decision (draft Recommendation) presented to CDPC April 2006. To be reviewed again by PC-CP in light of written comments from CDPC delegations and then by CDPC Enlarged Bureau 28 – 30 June 2006

	Task	Source	Sub committee responsible	Deadline	Comments
6.	European Rules for juvenile offenders deprived of their liberty or subject to community sanctions and measures	Resolution 2, Heisinki Para. 4 CM Decisions 925th meeting	PC-CP		
6a	Finalise the ad hoc terms of reference			Completed December 2005	CDPC-BU (2005) 14 - Draft Ad Hoc Terms of Reference approved by Committee of Ministers December 2005 after written approval procedure with the full membership of the CDPC,
6b	Draft Recommendation			CDPC plenary meeting 2008	PC-CP started work February 2006
7.	Prepare and present to Bureau and then to plenary proposals for terms of reference to examine the question of the role of probation and aftercare services and their development	Resolution 2, Heisinki – para. 5 CM Decisions 925th meeting	PC-CP	CDPC plenary meeting June 2007	Will be carried out, following the conference in Turkey and in consultation with the Conférence Permanente Européenne de la Probation (CEP). Discussions began at PC-CP meeting February 2006. Proposals for terms of reference will be finalised in 2006.
8.	Proposals to modify the Terms of Reference and the Rules of the PC-CP in order to reflect new tasks being assigned to it, and its consequent need for an enlarged membership and increased recourse to scientific experts			Completed April 2006	Proposed new terms of reference for the PC-CP (as set out in Appendix III to the meeting report) increasing membership from 7 to 9 and entrusting the PC-CP with the overview of the recommendations in the penitentiary area, including proposals for updating when necessary.

Item of the Action Plan

I - PROMOTING COMMON FUNDAMENTAL VALUES: HUMAN RIGHTS, RULE OF LAW AND DEMOCRACY

3. Strengthening democracy, good governance and the rule of law in member states

We will make full use of the Council of Europe's standard-setting potential and promote implementation and further development of the Organisation's legal instruments and mechanisms of legal cooperation, keeping in mind the conclusions of the 26th Conference of European Ministers of Justice (Helsinki, 7-8 April 2005).

	Task	Source	Sub committee responsible	Deadline	Comments
1.	The PC-OC continues its monitoring of the functioning of the Council of Europe conventions in criminal matters.	Resolution 5, Helsinki Para. 13 CM Decisions 925th meeting	PC-OC	ongoing	
2.	Further to the work of the PC-OC and the PC-TJ on the follow-up to New Start report, the results of which were presented to the CDPC in April 2006, proposals were made for action regarding visibility and consistency as well as for normative initiatives		PC-OC/PC-TJ	Completed April 2006	The outcome is reflected in the report of the CDPC plenary and in the new proposed terms of reference of the PC-OC (as set out in Appendix V to the meeting Report)
2a	Practical measures to improve legal co-operation (including enhancement of visibility and consistency)	Resolution 5, Helsinki Para. 13 CM Decisions 925th meeting	PC-OC	CDPC plenary meeting June 2007	The CDPC plenary decided that the work on the proposals linked to the visibility of the European norms should be considered as a priority; this relates to the preparation of a compendium, a database, networking and an office of specialists.
2b	Proposals for normative measures to address difficulties and possible improvements to international co-operation	Resolution 5, Helsinki Para. 13 CM Decisions 925th meeting	PC-OC	CDPC plenary meeting June 2007	The CDPC plenary decided that work on modernisation of existing instruments could be initiated; the PC-OC should endeavour to identify the norms which would facilitate and improve the efficiency of judicial co-operation and should therefore consider, where applicable, to amend existing Conventions, e.g. through Protocol(s), or propose new non binding instruments, but should not work from the outset, on a new comprehensive Convention

	Task	Source	Sub committee responsible	Deadline	Comments
3.	Ratification of the Additional Protocol to the Convention on the Transfer of Sentenced Persons (reasons for limited number of ratifications)	CDPC Bureau request (CDPC-BU (2005) 5, paras 46-47)	PC-OC	Completed April 2006	<p>The CDPC agreed with the PC-OC's opinion that, when dealing with cases of escape of prisoners, the Additional Protocol ensures that the prisoner does not escape justice and, when dealing with prisoners subject to an expulsion or a deportation order, it ensures the start of the re-socialisation process at an early stage; but that States parties should seek the <i>opinion</i> of the sentenced person, as required by the Art 3.2 of the Protocol (although <i>consent</i> of the person is not required)</p> <p>The PC-OC has taken note of the existing case law of the European Court of Human rights and will continue to follow closely the application of this Protocol, especially with regard to the development of the case law of the European Court of Human Rights.</p>
4.	Transfer of mentally ill offenders		PC-OC	Completed April 2006	See the opinion as set out in Appendix VII to the CDPC meeting report.
5.	Witness protection – need for a convention?	CDPC plenary 2005- see CDPC (2005)12, para 39	PC-OC	Completed April 2006	<p>The CDPC took note of the opinion prepared by the PC-OC (see document PC-OC (2006) 08) and decided that no action need be taken at present.</p> <p>The CDPC agreed with the opinion prepared of the PC-OC on the question of witness protection (application of Art 23 of the 2nd additional Protocol to the European Convention on Mutual Assistance in Criminal Matters) and that there was no need to proceed to the drafting of a binding instrument in this regard.</p>
6.	Preparation of draft terms of reference and a framework overall action plan for the new Consultative Council of Prosecutors		CCPE	September 2006	<p>See also document PC-OC (2006) 11</p> <p>The CDPC approved a draft, but final adoption will only be possible once the CCPE will have held its first meeting (Moscow, 6 July 2006)</p>

Item of the Action Plan
II - STRENGTHENING THE SECURITY OF EUROPEAN CITIZENS
1. Combating terrorism

“We strongly condemn terrorism, which constitutes a threat and major challenge to our societies. It requires a firm, united response from Europe, as an integral part of the worldwide anti-terrorist efforts under the leadership of the United Nations. We welcome the new Council of Europe Convention on the Prevention of Terrorism opened for signature during the Summit and draw attention to other instruments and documents that the Council of Europe has drawn up so far to combat terrorism. We call on all member states to respect human rights and to protect victims when combating this scourge, in accordance with the guidelines drawn up by the Council of Europe in 2002 and 2005 respectively.”

“We will identify other targeted measures to combat terrorism and ensure close cooperation and coordination of common anti-terrorist efforts with other international organisations, in particular the United Nations.”

	Task	Source	Sub committee responsible	Deadline	Comments
1.	PC-S-AV to report both to the CDPC and to the CODEXTER, keeping the CDDH informed, on proposals regarding assistance to the victims of terrorism		PC-S-AV	Completed June 2005	Report sent to CODEXTER and CDPC as requested.
2.	PC-S-AV to make proposals to the CDPC on the wider aspects of assistance to victims		PC-S-AV	Completed April 2006	<p>a. Draft recommendation (updating Recommendation rec (87) 21) and explanatory report approved by CDPC and sent to Committee of Ministers</p> <p>b. proposals for priority work: Compensation for crime victims, restorative justice and mediation, visibility and dissemination of existing CoE norms in the field of victims; the place of the victims in criminal law and criminal procedure as well as crime prevention/reduction.</p>
3.	Reflections on the possibility of preparing one or more instruments to address the needs of groups of vulnerable victims and/or offenders	Resolution 2, Helsinki – para. 6 CM Decisions 925th meeting			CDPC plenary 2006 proposed possible topics for the 27 th Ministers of Justice Conference in Yerevan October 2006 – see plenary meeting report, April 2006

	Task	Source	Sub committee responsible	Deadline	Comments
4.	Examine means of enhancing crime prevention policies	(ties in to Resolution 2 of Helsinki re prevention of crime) also reflects request of CDPC plenary 2005 to examine the role of the PC-CSC		Enlarged Bureau – June 2006	Due to lack of time this question was not discussed at the CDPC plenary- it will be discussed at the Enlarged Bureau meeting (28 – 30 June 2006)
5.	Study of the regulation of private security services	(ties in to Resolution 2 of Helsinki re prevention of crime)	PC-PM	CDPC plenary meeting 2007	Study in progress
6.	Counterfeiting of medicines		CDPC	CDPC plenary meeting 2007	At its plenary in April 2006, The CDPC agreed that a feasibility study on the drafting of a Convention on counterfeit medicines/ pharmaceutical crime, should be drawn up and, subject to a favourable opinion of the CDPC, it would then invite the Committee of Ministers to approve terms of reference for an ad hoc multidisciplinary group of experts in the various fields concerned to draft the Convention, their work to begin in 2007.

Item of the Action Plan
II - STRENGTHENING THE SECURITY OF EUROPEAN CITIZENS

2. Combating corruption and organised crime

“We also commend the work undertaken by MONEYVAL for monitoring anti-money-laundering measures, including the financing of terrorism. MONEYVAL should continue to strengthen its ties with the Financial Action Task Force on Money Laundering (FATF) under the aegis of the OECD.”

“We welcome the revision of the 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and the opening for signature of the revised Convention at the Summit. We call for its signature and ratification.”

“The Council of Europe will continue to implement its technical assistance programmes for interested member states. It will also support strengthened international co-operation in the fight against transnational organised crime and drug trafficking.”

	Task	Source	Sub committee responsible	Deadline	Comments
1.	Continue the evaluation process of anti-money laundering and counter-terrorism financing measures	(ties in to Resolution 2 of Helsinki re prevention of crime)	MONEYVAL	ongoing	
2.	Strengthen ties with FATF		MONEYVAL	ongoing	The CDPC agreed that the Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG) be granted requested observer status with MONEYVAL. This application by EAG to the Council of Europe will serve to intensify co-operation and co-ordination overall within the global network of the FATF.

Item of the Action Plan
II - STRENGTHENING THE SECURITY OF EUROPEAN CITIZENS

5. Combating cybercrime and strengthening human rights in the information society

“We condemn all forms of ICT use in furthering criminal activity. We therefore urge all member states to sign and ratify the Convention on Cybercrime and to consider signature of its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, the first binding international instruments on the subject.”

	Task	Source	Sub committee responsible	Deadline	Comments
1.	Cybercrime convention	(ties in to Resolution 2 of Helsinki re prevention of crime)	CPC in co-operation with the T-CY	ongoing	First meeting of the Parties (T-CY) took place in Strasbourg on 20 and 21 March 2006. CDPC took note of the report of this meeting and agreed to hold, at its next meeting, a joint meeting with the T-CY, in order to conduct the review of the Convention as required by paragraph 3 of Article 46 of the Convention.

Item of the Action Plan
III - BUILDING A MORE HUMANE AND INCLUSIVE EUROPE
2. Building a Europe for children

“We will take specific action to eradicate all forms of violence against children. We therefore decide to launch a three year programme of action to address social, legal, health and educational dimensions of the various forms of violence against children. We shall also elaborate measures to stop sexual exploitation of children, including legal instruments if appropriate, and involve civil society in this process. Coordination with the United Nations in this field is essential, particularly in connection with follow-up to the optional protocol to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography.”

	Task	Source	Sub committee responsible	Deadline	Comments
1.	The PC-ES will have as a first task to study the need for the drafting of a legal instrument in the field of sexual exploitation of children		PC-ES	End 2006	Terms of Reference were adopted by the Committee of Ministers on 22 March 2006. The PC-ES will hold its first meeting on 22 – 24 May 2006. The CDPC mandated its Bureau, to approve, further to a consultation of its members by means of a written consultation procedure, any proposal by the PC-ES to prepare a new international legal instrument

Tasks regarding the internal procedures of the CDPC

	Task	Source	Sub committee responsible	Deadline	Comments
1.	Requests for observer status – policy paper	CDPC plenary 2005- see CDPC (2005)12, para 120	Bureau	Completed April 2006	See annotated agenda and full meeting report, plenary 2006 Item 4.4
2.	Proposals for possible future activities		Bureau	Completed April 2006	See annotated agenda and full meeting report, plenary 2006 Item 7.1
3.	Adoption of a Working method to ensure wider consultation for texts prepared by specialist or limited number committees	CDPC plenary 2005- see CDPC (2005)12, para 57	Bureau	Completed April 2006	See annotated agenda and full meeting report, plenary 2006 Item 12.3
4.	Adoption Policy re the designation of states as members or substitute members of restricted subordinate committees of the CDPC	CDPC plenary 2005- see CDPC (2005)12, para 94	Bureau	Completed April 2006	See annotated agenda and full meeting report, plenary 2006 Item 12.4

APPENDIX VII

OPINION ON THE ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON THE TRANSFER OF SENTENCED PERSONS (ETS 167)

1. At its meeting on 17-19 January 2005, the Bureau of the CDPC had asked the PC-OC to prepare a document on the difficulties posed by the Additional Protocol to the European Convention on the Transfer of Sentenced Persons (ETS 167).
2. The PC-OC discussed the matter at its 50th meeting (27-29 June 2005) and decided to complete its information by a questionnaire addressed to all its members.
3. The replies to the questionnaire are collected in the document PC-OC (2005)21rev1.
4. Following a preliminary discussion on this issue in the Bureau (October 2005), the PC-OC adopted this Opinion at its 51st meeting (1-3 March 2006) and decided to send it to the CDPC.

General considerations on the additional Protocol

5. The PC-OC underlines the fact that the application of Convention ETS 112 and of its protocol (ETS 167) is left to states' discretion. Since the Convention was designed to serve prisoners' interests by encouraging their re-socialisation, States have to obtain their consent for any transfer.
6. However, the Protocol provides for two particular circumstances in which the consent of the sentenced person is not required, namely:
 - where the prisoner has escaped from prison to his or her country of origin;
 - where the prisoner is the subject of an expulsion or a deportation order to his or her country of origin.
7. Certain countries found it difficult to reconcile this absence of consent with the goal of reintegrating prisoners into their environment of origin.
8. This therefore made it difficult for them to ratify the Protocol. They believed that this primary objective, perhaps even *raison d'être*, of the parent convention, the social reintegration of prisoners, was not reflected in the Protocol.
9. Other countries did not consider the lack of individual consent in the cases specified in the Protocol to be incompatible with the objectives of prisoners' reintegration and resocialisation. They believed that in the majority of cases, it was easier to secure these objectives in prisoners' countries of origin.
10. The PC-OC further observes that:
 - the application of the Protocol, in cases where sentences were accompanied by an expulsion order, has some similarities with extradition;
 - some Member States consider that the European Convention on the transfer of proceedings in criminal matters (ETS 73) may offer a useful alternative;

Cases before the European Court of Human Rights (ECHR).

11. The Committee examined two cases brought before the European Court of Human Rights. They concerned Estonian citizens convicted in Finland. Finland was seeking their transfer to their country of origin, mainly on the basis of the Additional Protocol. The matters referred to before the Court related mainly to the execution of the sentence in the executing State, where the possibilities for conditional release were less advantageous for the prisoner than in the sentencing/requesting State.

12. In the first case, Altosaar v. Finland, on 15 June 2004 the Court had ruled the application inadmissible. Mr Altosaar had been granted a conditional release in Finland and was residing in Estonia, at liberty. He could not therefore claim to be suffering a violation of his rights under the Convention (Article 5 – deprivation of liberty).
13. The Court had ruled that a second case, Veermaë v. Finland, was inadmissible. The applicant had alleged violations of articles 5 (deprivation of liberty), 6 (right to a fair trial) and 14 (discriminatory treatment), because the sentence he would have to serve in Estonia after his transfer would be longer than the one he would normally have expected in Finland (same arguments as those raised in the Altosaar case). Finnish law authorised conditional release after half the sentence has been served. Under Estonian law, such release is only possible, subject to certain conditions, after two-thirds had been served.
14. In response to the points raised under article 5 of the Convention, the Court considered that:
 - even if, as a result of the application for a transfer, the applicant would spend longer in prison this did not, as such, constitute an increase in his sentence;
 - there was a causal link between the sentence handed down (in Finland) and carried out (in Estonia);
 - there was nothing arbitrary about the detention, since the sentence served would not exceed the length of sentence handed down by the convicting court;
 - nor was there a flagrant difference or disproportion between the periods of imprisonment in the two countries.

Conclusion

15. The PC-OC is of the opinion that, when dealing with cases of escape of prisoners, the Protocol ensures that the prisoner does not escape justice and, when dealing with prisoners subject to an expulsion or a deportation order, it ensures the start of the re-socialisation process at an early stage.
16. It further underlines that, when applying the Protocol, States parties should seek the *opinion* of the sentenced person, as required by the Art 3.2 of the Protocol, and the competent authorities should take particular account of this in deciding whether or not a transfer was appropriate, although *consent* of the person is not required.
17. The PC-OC has taken note of the existing case law of the European Court of Human rights and will continue to follow closely the application of this Protocol, especially with regard to the development of the case law of the European Court of Human Rights.

* * *

APPENDIX VIII

RUSSIAN PRIORITIES DOCUMENT

G8

1. As many of you are aware, **energy security, education and infectious diseases** are the main issues of the Russian presidency in the G8 in 2006. Nevertheless, countering terrorism and transnational organised crime remains among the Russian presidency's priorities. Decisions of previous summits, including those under the UK presidency, have created a solid basis for many long-term actions, which we will continue through the year 2006. As usual, we plan three sessions of the Roma/Lyon Group: the first one took place in February, the other two are scheduled for April and November.

A joined Home Affairs and Justice Ministers meeting is planned for the 15-16th of June.

2. I would like to inform you that under the Russian presidency in the G8 and on the initiative of the Russian Ministry of Interior the **International Cybercrime and Cyberterrorism Practical Conference** will be held in Moscow, April 19-20.

The aim of this forum will be harmonization of various states' approaches and development of joint practical measures such as:

- critical information infrastructure protection and cyberterrorism;
- combating illegal use of the Internet for the purposes of propaganda of interfaith and interreligious discord, extremist ideology, racial discrimination, terrorist recruitment and financing, human trafficking, drug and arms trafficking);
- suppression of electronic payment fraud;
- combating computer viruses dissemination and identity theft;
- combating child pornography in the Internet;
- combating breach of copyright and allied rights in the IT sphere;
- enhanced efficiency of the 24/7 national contact points network.

Bearing in mind the scale and possible damage from current and potential threats in cyberspace we try to promote the elaboration of joint practical measures in fighting cybercrime.

We believe the Conference could help to develop a closer cooperation between states in their fight against cybercrime and cyberterrorism.¹

¹The Ministry of Interior plans to invite decision-makers, practical experts and scientists from not only G8 countries but also from Council of Europe, CIS, EU, OSCE and ASEAN (2-3 representatives from each country).

The contact telephones and fax numbers for further information about the Conference:

3. We also plan together with Italy to organize a second 24/7 training conference to be hosted in Rome in October. This conference would have a significant training element.

4. Apart from these “traditional” activities we would suggest an ambitious project – the International Forum of antiterrorist partnership of States and business society. We suggest to convene it in Moscow from the 27th to 29th of November. The idea is to bring together the elite of governments and businesses as leaders and natural allies in countering the terrorist threat. One of the possible outcomes of the Forum would be to adopt a final document which would lay down a strategy of partnership between States and businesses in their fight against terrorism. The Forum could give start to a new process in the counter-terrorism field under the G8 leadership.

To better prepare the Moscow Forum we intend to hold a series of events. In Brussels, on the 21st-23rd February, the Ministry of Foreign Affairs in cooperation with the International East-West Institute organised a discussion on this initiative. The Brussels event was scheduled in the framework of the World Conference on Security Issues annually organised by the East-West Institute. We are also discussing a possibility to organise further preparatory meetings. All the preparatory events as well as the Moscow Forum are to be organised under the G8 auspices with an active participation of governmental experts and in close cooperation with the business society and world think tanks. The results of these preparatory events would be brought to the attention of the Roma/Lyon Group. At G-8 summit we intend to get a political blessing for the Moscow Forum in November.

5. We also would like to continue the so-called “Paris process” launched during French presidency in the G8, devoted to the Drug Routes from Afghanistan to Europe. We are not only planning to review “Paris-1” implementation but to work out a kind of a Programme of Action aimed at developing political understandings and arrangements reached in Paris two years ago. Like the French presidency, we are planning to organise Paris-2 conference in close cooperation with Vienna UN Office (UNODC). We intend to submit shortly its preliminary agenda and the general scheme for the consideration to the countries affected by illegal narcotics emanating from Afghanistan. The Russian Federation intends to hold Ministerial Counter-narcotics conference “Paris II” from the 27th to 29th of June right on the eve of the G8 Foreign Ministers meeting on the 29th of June. It would give an opportunity to our Ministers not only to participate in the conference but to approve its results and submit them to the St.-Petersburg Summit.

tel./fax: 007 495 239 79 67,
007 495 239 68 46;
tel.: 007 495 239 06 32.

Working languages of the Conference – English and Russian.

COUNCIL OF EUROPE

The Russian Federation will assume the presidency of the Committee of Ministers of the Council of Europe on 19 May 2006, taking it from Romania and handing it to San Marino in November. The motto of the presidency will be “Towards a Europe without dividing lines”, thus stressing the need to develop the organisation’s activities in all areas of its competence in order to fulfil the aim of achieving a greater unity between its members enshrined in the Statute.

One of the priorities of the Russian presidency is “building a pan-European legal space in the interests of protecting individuals from modern challenges”. This is a clear reference to the Council of Europe’s potential in the legal field, including combating terrorism and other forms of crime. We will support and promote the role of the Council of Europe as the only pan-European standard-setting organisation.

We will therefore extend our full support to the projects enlisted in our draft workplan for the coming years. The issues of improving cooperation in the criminal justice field, combating counterfeit medicines, sexual exploitation of children, combating cybercrime including cyberterrorism, are of direct relevance for all European countries.

The presidency will organise several major events in the criminal field.

On 5-6 July the 7th Conference of Prosecutors General of Europe will take place in Moscow, focusing on the subject of “The role of the public prosecutor in the protection of individuals”. More specifically, the event will address the duties of prosecutors towards victims and witnesses, in particular juveniles, as well as towards persons deprived of their liberty. The conference will be followed by the inaugural meeting of the Consultative Council of European Prosecutors, whose preliminary draft work programme we are to approve later this week.

Secondly, a high-level conference of ministries of justice and interior is planned for early November to discuss ways to improve European cooperation in the field of criminal justice. This will be an occasion to address in detail the issues which have arisen as a result of deliberations of PC-TJ and PC-OC following the “New Start” report.

In the context of the ongoing efforts to increase cooperation between the Council of Europe and the OSCE, Russia and Germany are also considering a possibility to hold a joint seminar on prevention of incitement to terrorism, recruitment and training of terrorists. Such an event would provide an opportunity to assess the implementation, at the European level, of the UN Security Council Resolution 1624, as well as the state of affairs as regards signatures and ratifications of the Council of Europe Convention on the Prevention of Terrorism adopted at the Warsaw Summit in May 2005. As of today, the details of the seminar are under discussion.

In October, a conference on “Europe against counterfeit medicines” is planned to be organised by the Ministry of Health of the Russian Federation.

Certainly, the Russian presidency will attach importance to the Conference of European Ministers of Justice to be held in Armenia in October. The Committee of Ministers' Recommendation on assistance to crime victims and prevention of repeat victimisation that we are to approve later this week, will provide a useful basis for discussion at the conference. In our opinion, a special attention is to be paid to the problem of victims of terrorism, both in terms of criminal and civil law. Of particular interest for Russia are questions of compensations and insurance against terrorist attacks. The organisers of the conference may rely on full cooperation of the Russian Ministry of Justice.

Finally, let me thank you again for this opportunity to introduce, on a preliminary basis, the priorities of the Russian presidency in the criminal field, which will be officially presented at the Ministerial session of the Committee of Ministers in May. The legal sector of the Council of Europe has proved its relevance by ensuring the success of the Third Summit, where three important anti-criminal conventions were opened for signature. Russia will strive to build on these achievements, and we count on your support and active participation in the presidency events.

to approve its results and submit them to the St.-Petersburg Summit.

A P P E N D I X I X

FRAMEWORK OVERALL ACTION PLAN FOR THE CONSULTATIVE COUNCIL OF EUROPEAN PROSECUTORS (CCPE)

BACKGROUND AND PRELIMINARY DRAFT PROPOSAL

A. INTRODUCTION

The Consultative Council of European Prosecutors (CCPE), a consultative body to the Committee of Ministers of the Council of Europe, was created by decision of the Committee of Ministers' Deputies on 13 July 2005, with the intention to institutionalise the yearly Conference of Prosecutors General of Europe (CPGE). The CPGE was launched in Strasbourg on the occasion of the finalisation of the Recommendation Rec (2000)19 on the role of public prosecution in the criminal justice system and has met every year until 2006.

Through the institutionalisation of the previous informal forum of the CPGE, the Committee of Ministers as well as its European Committee on Crime Problems, recognises the importance of closely involving Public Prosecution services of its member States in its work aimed at the development of common policies and legal instruments related to their functioning and professional activities.

The CCPE, composed of high level prosecutors of all member States, has been given the following terms of reference (the full text of the specific terms of reference is set out in Appendix 1):

- a. to prepare a framework overall action plan for the work of the CCPE to be approved by the European Committee on Crime Problems (CDPC) and the Committee of Ministers;
- b. to prepare opinions for the attention of the CDPC on difficulties concerning the implementation of Recommendation Rec(2000)19 on the role of public prosecution in the criminal justice system;
- c. following a specific request from the Committee of Ministers, the CDPC or any other Council of Europe body, to prepare opinions concerning issues related to the prosecution service;
- d. to promote the implementation of Recommendation Rec(2000)19, in particular by the organisation of conferences on topics of common concern to the profession;
- e. to collect information about the functioning of prosecution services in Europe.

On the basis of the above terms of reference, Recommendation Rec (2000)19 on the role of public prosecution in the criminal justice system, the conclusions of the previous CPGE and the proposals made by the Co-ordinating Bureau of the CPGE during its meeting on 7-8 November 2005, a preliminary draft framework overall action plan is proposed for discussion and comments by the Bureau of the CDPC, during its meeting in January 2006. The comments by the Bureau of the CDPC will be considered by the Bureau of the CPGE who will be invited to review the draft framework overall action plan in light of those comments before its consideration by the CDPC during its plenary meeting on 3-6

April 2006. A consolidated draft framework overall action plan will consequently be examined and approved by the CCPE during its first meeting on 20 June 2006.

According to the procedure resulting from the specific terms of reference of the CCPE, the draft framework overall action plan adopted by the CCPE, will need to be approved by the CDPC (which is planned to be done through the written consultation procedure) and by the Committee of Ministers in order to become effective.

B. OBJECTIVE

The objective of the overall framework action plan for the work of the CCPE is to provide this body with a non-exhaustive and dynamic list of possible action areas.

C. FRAMEWORK OVERALL ACTION PLAN

The implementation and the promotion of Recommendation Rec (2000)19 on the role of public prosecution in the criminal justice system constitute the heart of the specific terms of reference of the CCPE. The proposed action plan therefore adopts the structure and incorporates the contents of the Recommendation. However, since the terms of reference do not limit the work of the CCPE to the contents of Rec (2000)19, the action plan also encompasses areas which are not covered by the Recommendation but are nevertheless closely linked to the tasks and functions of prosecution services in Europe.

I. Functions of the public prosecutor

The functions of the public prosecutors in Europe vary considerably due to differences in their status and role in the justice systems of Council of Europe member states. Although some functions, such as those concerning criminal prosecution, are common to prosecutors in all member States, other functions, including those outside the criminal sector are not found in all legal systems. The following possible functions of public prosecutors could be addressed, either by undertaking a study on or an enquiry into their exercise (powers and limits in law and practice) in Council of Europe member States, or by the drafting of an opinion (e.g. on the need to elaborate guidelines or standards on their exercise)

Functions in the criminal justice system with regard to:

- decision-making regarding the initiation, continuation or discontinuation of prosecution or regarding alternatives to prosecution (e.g. mediation):
 - o advantages and disadvantages of discretionary powers of this decision making;
 - o implementation of crime policy priorities;
- the conduct of prosecutions before the court and the conduct of appeals;
- the conduct and co-ordination of criminal investigations ;
- the supervision of the execution of court decisions in penal matters;
- the protection of witnesses in danger;
- the protection of/ assistance to victims;
- juvenile delinquents, juvenile victims and witnesses;
- prisoners /persons deprived of their liberty;

Functions, including court procedures, outside the criminal sector related to, inter alia:

- civil law,
- family law,
- labour law,
- commercial law,
- social law,
- public law (including administrative and constitutional law),

and also, functions related to:

- the administration and management of the justice system;
- advisory functions to the judiciary, executive and legislative powers;
- communication with the general public and the media

II Safeguards provided to public prosecutors for carrying out their functions

The CCPE could also undertake an assessment of the safeguards provided to public prosecutors in member States for carrying out their functions in accordance with the principles contained in Recommendation (2000)19. These safeguards concerning their functioning, their status and professional career include the adequacy and effectiveness of measures to guarantee:

- that public prosecutors are able to fulfil their professional duties under adequate legal and organisational conditions, including by ensuring sufficient budgetary means;
- fair and impartial procedures for recruitment, promotion and transfer of public prosecutors;
- that the careers, promotions and mobility of public prosecutors are governed by known and objective criteria;
- reasonable conditions of service such as remuneration, tenure, pension, age of retirement and that these conditions are governed by law;
- that disciplinary proceedings against public prosecutors are governed by law and guarantee a fair and objective evaluation and decision, subject to independent and impartial review;
- that public prosecutors have access to a satisfactory grievance procedure, including where appropriate access to a tribunal if their legal status is affected;
- that public prosecutors, together with their families are physically protected by the authorities when their personal safety is threatened;
- that public prosecutors have an effective right to freedom of expression, belief, association and assembly under the conditions mentioned in §6 of Recommendation (2000)19;
- that public prosecutors receive appropriate and sufficient training both before and after their appointment;
- the development of specialisation to respond to different forms of criminality, in particular organised crime, trafficking in human beings, terrorism, corruption, cybercrime, counterfeiting, domestic violence, sexual exploitation of children and money laundering, and the recourse to teams of specialists, including multi-disciplinary teams to assist public prosecutors in carrying out their functions;
- that the assignment of cases meet the requirements of impartiality and independence and take due account of the level of legal qualification and specialisation required for each case;
- that individual public prosecutors can request that instructions addressed to him or her be put in writing and that he or she be provided with an adequate internal procedure against instructions which he or she believes to be either illegal or running against his or her conscience.

III Relationship between public prosecutors and the executive and legislative powers

Prosecution services in European States represent widespread differences with respect to their institutional relationship with the executive and legislative powers. While in some legal systems the public prosecutor enjoys complete independence from parliament and government, in others he or she is subordinate to one or another while still enjoying some degree of scope for independent action. Although possibilities for harmonisation on this issue seemed premature, at least when Recommendation (2000)19 was adopted, current internal reforms in various member States of the Council of Europe might justify a need to assess the effective implementation of the safety nets enshrined in the Recommendation to avoid possible weaknesses of both models.

The principles and safety nets contained in Recommendation (2000)19 aim to guarantee, in all systems, the fundamental principle of the separation of powers between the legislative, the executive and the judiciary while ensuring, on the one hand, a sufficient level of operational autonomy of public prosecutors to perform their duties without unjustified interference and, on the other hand, a sufficient level of

democratic accountability for the activities of the prosecution services and liability for individual shortcomings at disciplinary, administrative, civil and criminal levels.

In the above context, the following issues might be addressed:

In all systems:

- capacity of public prosecutors to perform their duties without unjustified interference or obstruction, including their duty to prosecute public officials for offences committed by them;
- accountability of the prosecution service for its activities as a whole;
- personal liability of public prosecutors (civil, penal or other).

In systems where the public prosecution is part of or subordinate to the government:

- nature and scope of the powers of the government as established by law;
- the exercise of these powers, in particular with regard to instructions;
- consultation of public prosecutors with regard to instructions;
- possibility for public prosecutors to submit to the court any legal argument of their choice, even when they are under a duty to reflect in writing the instructions received.

In systems where the public prosecution is independent of the government:

- nature and scope of the independence of the public prosecution as established by law;
- relationship between the public prosecution service and government agencies and institutions

IV Relationship between public prosecutors and court judges

Although prosecutors and judges are part of the same legal system, there can be no equivocation between the two professions and appropriate measures should be taken so as to fully ensure that the legal status, the competencies and the procedural role of public prosecutors are established by law in a way that there can be no doubt about the independence and impartiality of court judges. An assessment of measures taken to this effect could be conducted, including the following aspects:

- the guarantee that a person cannot at the same time perform duties as a public prosecutor and as a judge;
- the strict respect by public prosecutors of the independence and impartiality of court judges, in particular by refraining from casting doubts on judicial decisions or from hindering their execution (save where exercising their right of appeal);
- where judges are involved in criminal investigations (investigating judges), attention should be given to the functional co-operation of public prosecutors with these judges, within the respect of the latter's independence;
- the need for public prosecutors to be fair, impartial and objective, in particular by providing the court with all relevant facts and legal arguments necessary for the fair administration of justice;
- where public prosecutors are empowered to take measures which affect the fundamental rights and freedoms of individuals, these should be subject to judicial review.

V Relationship between public prosecutors and the police¹

With regard to the institutional link between public prosecutors and the police a distinction is to be made between States in which the police service is independent of the public prosecution, and enjoys considerable discretion not only in the conduct of investigations but also often in deciding whether to prosecute, and those in which policing is supervised, or indeed directed, by the public prosecutor.

¹ For the purpose of this action plan “police” comprises all law enforcement agencies or bodies involved in criminal investigation.

In countries where the police are placed under the authority of the public prosecutor, the following issues are to be considered:

- instructions by the public prosecutor to the police with a view to an adequate implementation of crime policy priorities, including in particular:
 - o cases to be dealt with as a priority;
 - o means used to search for evidence;
 - o staff used;
 - o duration of investigation;
 - o information to be given to the public prosecutor;
- where different police agencies are available, allocation of individual cases to the agency that deems best suited to deal with it;
- evaluations and control necessary to monitor compliance with the instructions of the public prosecutor and with the law;
- sanctioning of violations.

Where the police are independent of the public prosecution, attention should be given to the availability of effective and functional co-operation between the public prosecution and the police.

In general, the possible role of public prosecutors in:

- scrutinising the lawfulness of police investigations before any decision to proceed with public prosecution can be taken;
- monitoring the observance of human rights by the police.

could be further considered.

VI Duties of the public prosecutor towards individuals

As a corollary to the safeguards enjoyed by public prosecutors in the performance of their functions, these functions entail certain duties and responsibilities towards those who come into contact with the legal system, whether as suspects, witnesses or victims of crime or any other persons whose rights are violated. Public prosecutors should, as a main responsibility, ensure that they carry out their functions in a way that is fair, impartial and objective, respectful of human rights and as expeditious as possible.

The effective fulfilment of these duties by public prosecutors, and the obstacles encountered in fulfilling them should be considered, including in particular the following requirements:

- non-discrimination and equality before the law;
- consideration of all circumstances of a case including those affecting a suspect;
- no prosecution when charge seems unfounded;
- no prosecution when evidence is obtained illegally;
- safeguarding the principle of equality of arms, disclosure of information;
- respecting the presumption of innocence, confidentiality of information;
- taking account of the interests and the protection of the life, safety and privacy of witnesses and collaborators of justice;
- taking account of the views and concerns of victims and providing them with appropriate information on their rights and the procedure;
- taking adequate measures for the protection of the rights and interests of persons claiming that their rights or interests are violated.

Consideration should also be given to the requirements made to States to promote fair, consistent, impartial and efficient activity of public prosecutors in this respect, and in particular by:

- providing a possibility to victims and other interested parties of recognised or identifiable status to challenge decisions of the public prosecutor not to prosecute;

- the development of national “codes of conduct” for public prosecutors¹;
- ensuring well designed hierarchical methods of organisation which do not lead to ineffective or obstructive bureaucratic structures;
- defining general guidelines on the implementation of the crime policy, setting out priorities and means of pursuing them, and making them accessible to the public;
- defining general criteria to guide decision-making in individual cases and making them accessible to the public;
- ensuring an adequate control on the observance by public prosecutors of general criteria, instructions and general guidelines .

VII International co-operation

Given the important role played by the public prosecutor in international judicial co-operation in criminal matters and the growing importance of strengthening international co-operation in order to combat crime, consideration could be given to:

- ways to promote direct contacts between public prosecutors in the context of international judicial co-operation, within the framework of international agreements where they exist or on the basis of practical arrangements, e.g. by:
 - disseminating documentation;
 - compiling a list of contacts and addresses giving the names of the relevant persons in the different prosecuting authorities, as well as their specialist fields, etc.;
 - organising regular meetings between public prosecutors of different countries on questions regarding mutual assistance and shared crime issues;
 - organising training and awareness-enhancing sessions;
 - introducing and developing the function of liaison law officers based in a foreign country;
- ways to improve rationalisation and active co-ordination of mutual assistance procedures by promoting
 - the awareness of all public prosecutors of the need for active participation in international co-operation;
 - the specialisation of some public prosecutors in the field of international co-operation;
 - the possibility that the public prosecutor of the requesting state, where he or she is in charge of international co-operation, may address requests for mutual legal assistance directly to the authority of the requested state that is competent to carry out the requested action, and that the latter authority may return directly to him or her the evidence obtained;
 - the conduct of joint investigation procedures.
- ways to improve the role played by public prosecution services, including by the recourse to teams of specialists and multi-disciplinary teams, in strengthening international co-operation in the fight against specific forms of serious crime, such as:
 - organised crime;
 - trafficking in human beings;
 - terrorism;
 - corruption;
 - cybercrime;

¹ *During the 6th Conference of Prosecutors General of Europe held in Budapest, May 2005, the participants adopted “European Guidelines on ethics and conduct of prosecutors” (the “Budapest Guidelines”) which are largely inspired by the above principles.*

- counterfeiting;
- sexual exploitation of children; and
- money laundering.

D. IMPLEMENTATION

Priority issues to be addressed will be defined by the CCPE in consultation with the CDPC or will result from specific requests by the Committee of Ministers, the CDPC or any other Council of Europe body.

The action areas identified as a priority will be addressed, as appropriate, by the preparation of an opinion, a proposal to undertake a study or a proposal to elaborate draft legal instruments on certain aspects linked to the action plan.

The subjects might also lead to proposals to organise seminars or conferences on specific topics where large consultation or awareness raising is indicated.

Some suggestions for priority actions proposed by the Co-ordinating Bureau of the CPGE are appended to this framework overall action plan (Appendix II).

**Specific terms of reference of the Consultative Council
of European Prosecutors (CCPE)¹**

1. Name of Committee:

Consultative Council of European Prosecutors (CCPE)

2. Type of Committee:

Consultative body

3. Source of terms of reference:

Committee of Ministers

4. Terms of reference:

- a. To prepare a framework overall action plan for the work of the CCPE to be approved by the European Committee on Crime Problems (CDPC) and the Committee of Ministers;
- b. to prepare opinions for the attention of the CDPC on difficulties concerning the implementation of Recommendation Rec(2000)19 on the role of public prosecution in the criminal justice system;
- c. following a specific request from the Committee of Ministers, the CDPC or any other Council of Europe body, to prepare opinions concerning issues related to the prosecution service;
- d. to promote the implementation of Recommendation Rec(2000)19, in particular by the organisation of conferences on topics of common concern to the profession;
- e. to collect information about the functioning of prosecution services in Europe.

5. Membership of the Committee:

a. All member states may be represented on the CCPE. Members should be chosen in contact, where such authorities exist, with the national authorities responsible for prosecutors and with the national administration responsible for managing the prosecution service, from among serving prosecutors having a thorough knowledge of questions relating to the functioning of the prosecution system combined with utmost personal integrity.

The travel and subsistence of members shall be at the expenses of their states.

b. The European Union may take part in the work of the CCPE, without the right to vote or defrayal of expenses.

c. The following Council of Europe observers may send a representative to meetings of the CCPE, without the right to vote or defrayal of expenses:

- Canada;
- Holy See;

¹ Adopted by the Committee of Ministers on 13 July 2005 during the 935th meeting of its Deputies (CM/Del/Dec(2005)935, Item 10.2, Appendix 13)

- Japan;
- Mexico;
- United States of America.

d. The following observers with the CCPE may attend the meetings of the CCPE, without the right to vote or defrayal of expenses:

- the International Association of Prosecutors;
- the Association “Magistrats européens pour la démocratie et les libertés” (MEDEL).

e. The CCPE may appoint one representative to attend meetings of the CDPC and one representative to attend meetings of the Consultative Council of European Judges (CCJE) and the CDPC and the CCJE may each appoint one representative to attend meetings of the CCPE. The Council of Europe will cover the travel and subsistence expenses of these representatives.

6. Structures and working methods:

The CCPE is an advisory body of the Committee of Ministers. The Consultative Council works in co-operation, in particular, with the CDPC and the CCJE and also, depending on the subjects dealt with, other committees or bodies. The CCPE reports on its activities to the Committee of Ministers and to the CDPC and all texts for the Committee of Ministers will be forwarded through the CDPC to ensure proper coordination and consistency on matters relating to criminal justice policy.

In order to discharge its terms of reference, the CCPE will be assisted by a Bureau of eleven members appointed by the CCPE. The Bureau shall provide assistance as requested by the CCPE and to this end, the Bureau may seek the advice of external experts and have recourse to studies by consultants.

The travel and subsistence expenses of the Bureau members will be paid by the Council of Europe.

7. Duration:

These terms of reference expire on 31 December 2006 and may be renewed.

**CCPE PRIORITY ACTIONS PROPOSED BY
THE CO-ORDINATING BUREAU OF THE CPGE**

1. Study ways and means to improve international co-operation between public prosecutors in Europe, on the basis of articles 37-39 of Rec (2000) 19, and in co-operation with the Committee of Experts on the Operation of Conventions in the Penal Field (PC-OC) [Reference to Chapter VII]
2. Further to the preliminary study and conclusions of the Budapest Conference of Prosecutors General of Europe with regard to the public prosecutor's competencies outside the criminal field, undertake further inquiries on the subject in view of the preparation of an opinion [] [Reference to Chapter I]
3. In the light of the recent updating of the European Prison Rules, study the relationship between public prosecution services and prison administrations including the role of public prosecutors in ensuring the respect of human rights of persons deprived of their liberty. [Reference to Chapter I]
4. Taking into account the conclusions of the 2nd European conference of Judges, held in Cracow in April 2005, on Justice and media, the possibility of defining guidelines on the relationship between prosecution services and the media should be considered. [Reference to Chapter I]
5. With reference to Recommendation (2000) 19 (articles 8,9,11,36) and the conclusions of the Conference of Ministers of Justice (Helsinki 2005) on the issue of restorative justice, undertake a study on the contribution by the public prosecution service to the establishment of the criminal justice policy. In particular, inquiries should be made with regard to possibilities of developing discretionary powers to decide on alternatives to prosecution and measures of restorative justice. [Reference to Chapters I and III]
6. With reference to the Council of Europe's programme of action "Children and violence", undertake a study on the public prosecutor's role with regard to children and juveniles, taking into account the work and conclusions of the CPGE in Bratislava on juvenile delinquency and to the various instruments of the Council of Europe of relevance to this issue. [Reference to Chapter I]
7. In co-operation with the European Commission for the efficiency of justice (CEPEJ), and with reference to Rec (2000)19 and other relevant instruments of the Council of Europe, the contribution of public prosecution services to improving the administration and management of justice should be examined. [Reference to Chapter I and IV]
8. Referring to Recommendation (2000)19, and in particular art. 35, consider ways and means of promoting the "European Guidelines on ethics and conduct of prosecutors" (the "Budapest Guidelines"). [Reference to Chapter VI]
9. Follow the work and activities undertaken in the Council of Europe that are of relevance to the public prosecution services.

APPENDIX X**CALENDAR OF ACTIVITIES****2006**

ECONOMIC CRIME / CRIMINAL JUSTICE / GRECO

(Activities concerning technical co-operation are contained in a separate table)

JANUARY		
	16 – 19 January	European Parliament
PC S-AV	18 – 20 January	Group of specialists on assistance to victims and prevention of victimisation
	23 – 27 January	Parliamentary Assembly
CDPC-BU	30 January – 01 February	Bureau of the European Committee on crime problems

FEBRUARY		
	01 – 02 Feb.	European Parliament
PC-CP	06 – 08 Feb.	Council for penological co-operation
	13 – 16 Feb.	European Parliament

MARCH		
PC-OC	01 – 03 March	Committee of experts on the operation of European Conventions in the penal field
CPGE - BU	06 – 08 March	Conference of Prosecutors General of Europe
GRECO	06 - 10 March	GRECO 27
	13 – 16 March	European Parliament
	21 – 22 March	European Parliament

APRIL		
CDPC PLENARY	03 – 07 April	European Committee on crime problems
	03 – 06 April	European Parliament
	10 – 13 April	Parliamentary Assembly
GRECO	13 April	GRECO – Bureau
	26 – 27 April	European Parliament

MAY		
GRECO	9 - 12 May	GRECO 28
	15 – 18 May	European Parliament
PC-ES	22-24 May	First meeting of the Committee PC-ES
	31 May – 01 June	European Parliament

JUNE		
	12 – 15 June	European Parliament
PC-CP	19 - 21 June	Council for penological co-operation
GRECO	19 - 23 June	GRECO 29
	26 - 30 June	Parliamentary Assembly
CDPC	28 - 30 June	Enlarged Bureau

JULY		
	03 – 06 July	European Parliament
CCPE / CPGE	05 – 06 July	7 th Conference of Prosecutors General of Europe / First meeting of the Consultative Council of European Prosecutors

SEPTEMBER		
	04 – 07 Sept.	European Parliament
	08 Sept.	Parliamentary Assembly
PC-CP	18 - 20 Sept.	Council for penological co-operation
PC-OC	21 - 22 Sept.	Restricted meeting
	25 – 28 Sept.	European Parliament

OCTOBER		
	02 – 06 October	Parliamentary Assembly
	11 – 12 October	European Parliament
GRECO	09 - 13 October	GRECO 30
PC-OC	16 - 17 October	Restricted meeting
PC-OC	18 – 20 October	Plenary meeting
	23 – 26 October	European Parliament

NOVEMBER		
	13 – 16 Nov.	European Parliament
	29 – 30 Nov.	European Parliament

DECEMBER		
GRECO	05 - 09 Dec.	GRECO 31
	11 – 14 Dec.	European Parliament

CALENDAR OF ACTIVITIES**2007**

ECONOMIC CRIME / CRIMINAL JUSTICE / GRECO

JANUARY	22 – 26 January	Parliamentary Assembly
APRIL	23 – 27 April	Parliamentary Assembly
JUNE	25 – 29 June	Parliamentary Assembly
OCTOBER	01 – 05 October	Parliamentary Assembly