



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

58th Plenary Session
(33rd meeting as a Steering Committee)

MEETING REPORT

(Strasbourg, 12-16 October 2009)

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ITEM 1 - OPENING OF THE MEETING

1. The meeting was opened by Mr Jörg Polakiewicz, Head of the Law Reform Department. Mr Polakiewicz provided the CDPC with information about recent developments in the Council of Europe, notably the election of a new Secretary General and the 60th anniversary of the Organisation.
2. Mr Carlo Chiaromonte, Secretary to the CDPC, informed the CDPC about the activities of its subordinate bodies and about the three meetings of the Bureau since the last CDPC plenary in June 2008.

ITEM 2 - ADOPTION OF THE AGENDA

3. The Agenda was adopted as it appears in Appendix II to this report and lists the documents relevant to each agenda item. Appendix I contains the list of participants.

ITEM 3 - APPROVAL OF THE DRAFT THIRD ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON EXTRADITION

4. At its last meeting on 12-14 May 2009, the PC-OC finalised the draft Third Additional Protocol to the European Convention on Extradition and its Explanatory Report.
5. Mr Eric Verbert, Chair of the PC-OC, introduced the draft Protocol and explained that it complements the Convention on Extradition of 1957 by simplifying extradition procedures where the person concerned consents to her/his extradition. The draft Protocol also establishes a series of time limits, reducing to a minimum the delays in criminal proceedings in extradition cases when the persons concerned do not intend to oppose their surrender.
6. The CDPC examined the provisions of the draft Protocol and its Explanatory Report and agreed certain amendments to the texts.
7. The CDPC congratulated the PC-OC, its Chair and the Secretariat for their excellent work.
8. The CDPC approved by consensus the draft Third Additional Protocol to the European Convention on Extradition (see Addendum 1) and its Explanatory Report (see Addendum II) and sent the draft Protocol to the Committee of Ministers for adoption and invited the Committee of Ministers to take note of the Explanatory Report.

ITEM 4- APPROVAL OF THE DRAFT COUNCIL OF EUROPE CONVENTION ON THE COUNTERFEITING OF MEDICAL PRODUCTS AND SIMILAR CRIMES INVOLVING THREATS TO PUBLIC HEALTH

9. At its last meeting on 1-4 September 2009, the PC-ISP finalised the draft Council of Europe Convention on the Counterfeiting of Medical Products and Similar Crimes involving Threats to Public Health and its Explanatory Report.
10. The Chair of PC-ISP, Mr Fritz Zeder, gave an introduction to the draft Convention. The CDPC congratulated him, the PC-ISP and the Secretariat for their hard work and excellent achievement.
11. The CDPC examined the provisions of the draft Convention and substantial discussions took place in particular on Articles 10 (Jurisdiction), 17 (National measures of co-operation and information exchange), and Article 29 (Accession to the Convention).

12. In respect of Article 29, the delegation of the Russian Federation proposed to re-word the provision in order to make the procedure for accession of non-Member States of the Council of Europe to the Convention easier and better reflect the aim of the Convention as a global instrument (see Appendix III). The CDPC invited the Committee of Ministers to decide on the wording of this article.
13. With regard to the provisions of the draft Convention which specifically mention the CDPC (Articles 24, 25, 27, 32), Mr Jan Kleijssen, Director of Standard-Setting, drew the attention of the CDPC to the fact that the terms of reference of Council of Europe committees are renewable annually and that the Committee of Ministers has in the past changed the names of its subordinate committees. As a result, he pointed out that it might be more appropriate to refer in the draft Convention to “an appropriate Council of Europe committee in criminal matters” instead of making explicit reference to the CDPC.
14. The CDPC felt that as it was mentioned in many other Council of Europe conventions in the criminal field, this practice should continue. The text of the draft Convention, therefore, for the time being, continues to contain references to the CDPC. It will then be up to the Committee of Ministers to decide on the proposal to replace the references to the CDPC with less specific references to the appropriate subordinate bodies of the Committee of Ministers.
15. The CDPC approved by consensus the draft Council of Europe Convention on the Counterfeiting of Medical Products and Similar Crimes involving Threats to Public Health (see Addendum III) and its Explanatory Report (see Addendum IV) and sent the draft Convention to the Committee of Ministers for adoption and invited the Committee of Ministers to take note of the Explanatory Report.

ITEM 5 - APPROVAL OF THE DRAFT RECOMMENDATION ON THE COUNCIL OF EUROPE PROBATION RULES

16. At its last meeting on 21-23 September 2009, the PC-CP finalised the text of the draft Recommendation and its draft Commentary. Ms Sonja Snacken, Chair of the PC-CP, informed the CDPC of the main aspects of the discussions held within the PC-CP regarding the scope of the term “probation” and also regarding the structure and contents of the draft Recommendation as a whole. It was underlined that this text complements and is to be read together with Recommendation n°R(92) 16 on the European Rules on community sanctions and measures.
17. The CDPC revised and approved by consensus the draft Recommendation on the Council of Europe Probation Rules (see Addendum V) and sent it to the Committee of Ministers for adoption. It also revised the draft Commentary (see Addendum VI), approved it by consensus and invited the Committee of Ministers to take note of it.

ITEM 6 - PENITENTIARY ISSUES

6a Recent and forthcoming work of the Council of Europe related to penitentiary issues

18. The CDPC approved the current and future priorities and activities of the PC-CP, and considered the work related to foreign nationals in prisons to be a major priority activity in the penitentiary field (see Appendix V).
19. The Secretariat provided information about the 15th CDAP held on 9-11 September in Edinburgh. The theme of the Conference was *Overcrowded Prisons: Looking for Solutions*. One of the key messages of the conference was that one cannot consider any prison system in a vacuum or in isolation from other parts of the criminal justice system and that prison reform must be one part of a wider package of reforms involving all key players, such as the government, the legislative bodies and the judiciary. The Conference affirmed that misuse and overuse of prison can weaken

public safety instead of contributing to raising it. It also discussed pre-trial detention, life and other long-term sentences, foreign prisoners and reintegration/re-entry/resettlement.

20. The CDPC took note of the conclusions of the 15th CDAP and instructed the PC-CP to ensure an effective follow-up (see Appendix VI).

6b Dangerous prisoners/offenders

21. The CDPC approved the PC-CP's proposal to extend its planned work to look also at issues related to the prevention of re-offending and the treatment of dangerous offenders in the light of Resolution No. 1 adopted at the 29th Council of Europe Conference of Ministers of Justice (Norway, June 2009).

6c SPACE I and II

22. Mr Marcelo Aebi (*Vice-directeur, Ecole des sciences criminelles, Université de Lausanne*) gave a presentation of the SPACE I and II surveys and the CDPC expressed its gratitude for these very important and useful statistics not only for prison administrations but also for policy makers, judges and prosecutors.

ITEM 7 - INTERNATIONAL COOPERATION IN CRIMINAL MATTERS

7a Jurisdiction

23. The CDPC held a discussion on jurisdiction questions which frequently arise when preparing criminal law conventions, including the problem of the application or non-application of the double criminality principle, and instructed the PC-OC to look into these issues to the extent to which they affect international co-operation in criminal matters.

7b Compensation of persons in extradition procedures

24. The CDPC was informed of the results of the PC-OC's stock-taking exercise on the issue of compensation in extradition procedures. The CDPC instructed the Secretariat to prepare a report on issues relating to compensation based on the replies to its questionnaire and to put this on the Council of Europe's website and distribute it to practitioners.

7c Follow-up to the 28th Conference of European Ministers of Justice: the relationship between asylum procedures and extradition procedures

25. As regards Resolution No. 1 on access to justice for migrants and asylum seekers adopted by the Ministers of Justice in Lanzarote in October 2007, the CDPC took note of the summary of Member States' replies to the PC-OC's questionnaire on the subject. The CDPC instructed the Secretariat to prepare a report promoting this important work which, with the exception of the last question of the questionnaire on future work in the field, should be published on the PC-OC's website (see Appendix VII).

26. The CDPC considered the question of the relationship between asylum procedures and extradition procedures to be of great importance to the Council of Europe and noted the absence of a specialised intergovernmental committee dealing with issues related to asylum seekers.

7d Project on "Effective practical tools to facilitate judicial cooperation in criminal matters"

27. The CDPC was informed that the Council of Europe had initiated a project to develop effective practical tools to facilitate judicial cooperation in criminal matters, involving the creation of model request forms to be used in connection with the conventions of the Council of Europe on

international cooperation in the criminal law field. The aim of the project is to define a general framework for such forms, which will then be individualised by each state party according to its domestic requirements. The forms will be made available to practitioners through a database set up on the Council of Europe's website (see Appendix VIII).

28. The preparatory stages of the project are being funded by a voluntary contribution from Germany and the CDPC was informed that further voluntary contributions from Member States were required for the project to continue in 2010.

ITEM 8 - SCIENTIFIC PROOF IN CRIMINAL MATTERS

29. The CDPC took note of the report prepared by the Secretariat on scientific proof in criminal matters and held a discussion on this topic. There was broad consensus that the proposals contained in the report were good and that there was scope for the Council of Europe to be active in this field.
30. The CDPC instructed its Bureau to look further into the issues highlighted in the report prepared by the Secretariat, in particular the question of ethical norms, equality of arms, admissibility of evidence and fundamental rights in relation to scientific proof, with a view to a feasibility study for possible future work in this area (see Appendix IX).

ITEM 9 - VIOLENCE AGAINST WOMEN / DOMESTIC VIOLENCE

31. Mr Carlo Chiaromonte, Secretary of CAHVIO, provided information on the progress made by the newly established Committee of experts of the Council of Europe (CAHVIO) in its work and of the decision of the Committee of Ministers concerning its future work.
32. In particular, he mentioned the fact that CAHVIO is currently drafting a comprehensive convention, which will cover the three "P" principles: Prevention, Protection of victims and Prosecution of perpetrators and which will be framed in comprehensive, integrated and coordinated policies put in place by every state to concretely tackle violence against women.
33. Mr Chiaromonte said that the convention will contain provisions aimed at preventing and combating the widest possible range of forms of violence perpetrated against women: psychological and physical violence, sexual violence and rape, stalking and sexual harassment, traditional practices harmful to women, including, in particular, forced marriage and female genital mutilation.

ITEM 10 - COUNCIL OF EUROPE CONFERENCES OF MINISTERS OF JUSTICE

10a Follow-up to the 29th Conference (18-19 June 2009, Tromsø, Norway)

34. The CDPC took note of the information provided by Mr Jörg Polakiewicz on the 29th Council of Europe Conference of Ministers of Justice and in particular the three resolutions adopted by the Ministers on preventing and responding to domestic violence, on mutual legal assistance in criminal matters and on Council of Europe action to promote the rule of law (see Appendices X, XI and XII).
35. The CDPC noted the 50th anniversary of the European Convention on Mutual Legal Assistance in Criminal Matters and welcomed its ratification by all Member States and by Israel.
36. The CDPC instructed the Secretariat to engage an expert to carry out a preliminary report/study on the subject of victims as a follow-up to Resolution No. 1 (see Appendix X).
37. The CDPC instructed the PC-OC to examine Resolution No. 2 on mutual legal assistance in criminal matters (see Appendix XI).

10b 30th Council of Europe Conference of Ministers of Justice (2011, Istanbul, Turkey)

38. The CDPC had a preliminary discussion on the possible themes of the 30th Council of Europe Conference of Ministers of Justice, which will be held in Istanbul in 2011. Delegations were invited to send proposals for possible themes to the Secretariat in writing.

ITEM 11 - CYBERCRIME

39. The CDPC took note of the draft questionnaire of the T-CY on transborder access to data.

ITEM 12 - ELECTION OF THE CHAIR, VICE-CHAIR AND MEMBERS OF THE BUREAU

40. The CDPC elected Mr Hans-Holger Herrnfeld (Germany) as Chair of the CDPC, Mr Roland Miklau (Austria) as Vice-Chair, and Mr Vincent Jamin (France), Mr Tihomir Kralj (Croatia), Ms Helena Lisuchova (Czech Republic), Mr Ilya Rogachev (Russia) and Mr Lorenzo Salazar (Italy) as members of the CDPC Bureau. The CDPC thanked its outgoing Chair, Mr Branislav Boháčic (Slovak Republic), for his excellent work.

41. As a result of these elections the following are now members of the Bureau:

Mr Hans-Holger Herrnfeld (Germany)	elected Chair	2009-2011
Mr Roland Miklau (Austria)	elected Vice-Chair	2009-2010
Mr Florin Razvan Radu (Romania)	elected	2007-2011
Ms Maria Gavouneli (Greece)	elected	2007-2011
Mr Vincent Jamin (France)	elected	2009-2013
Mr Tihomir Kralj (Croatia)	elected	2009-2013
Ms Helena Lisuchova (Czech Republic)	elected	2009-2013
Mr Ilya Rogachev (Russia)	elected	2009-2013
Mr Lorenzo Salazar (Italy)	elected	2009-2013

ITEM 13 - ANY OTHER BUSINESS**13a Former Council for Police Matters (PC-PM)**

42. The CDPC held a discussion on the possibility of setting up a committee dealing with police questions, following its decision at the 2007 plenary to “freeze” the work of the Council for Police Matters (PC-PM), due to the difficult staff and budgetary situation, until 2009. Many delegations supported this idea and they were invited to send written proposals to the Secretariat for topics which could be dealt with by such a committee. The CDPC instructed its Bureau to examine the issue further on the basis of the proposals.

13c Parliamentary Assembly (PACE) recommendations

43. The CDPC examined Parliamentary Assembly Recommendation 1881 (2009) on the urgent need to combat so-called “honour crimes” and invited the Committee of Ministers to take note of its Opinion (see Appendix XIII).

13d Approval of the revised draft terms of reference of the Group of Specialists on Child-friendly Justice (CJ-S-CH)

44. The CDPC took note of the information provided by the Secretariat of the CJ-S-CH concerning the first two meetings of the group in April and September. In line with its terms of reference, the Group is organising a hearing with representatives of NGOs and of national institutions for the promotion

and protection of human rights (NHRIs) on 7 December 2009 in Strasbourg, with a view to ensuring the indirect participation of children through the NGOs representing them.

45. The terms of reference of the Group also required, as far as possible, the involvement of children in the drafting process. However, this needed to be organised with care and professionalism, requiring time and budgetary resources. For this reason the terms of reference of the CJ-S-CH and corresponding budget have been revised, so as to include two more meetings of the CJ-S-CH in 2010, involving the direct participation of children, and in order to complete the draft guidelines on child-friendly justice.
46. The CDPC examined and approved the revised draft terms of reference of the CJ-S-CH (see Appendix IV).

ITEM 14 - DATE OF THE NEXT MEETING OF THE CDPC

47. The CDPC decided to hold its next meeting in June 2010.