

31st Council of Europe
Conference of
Ministers of Justice



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31st Council of Europe Conference of Ministers of Justice

Vienna, 19 – 21 September 2012

RESPONSES OF JUSTICE TO URBAN VIOLENCE

- Organised groups and their new ways of communicating
- Juveniles as perpetrators and victims

FOLLOW-UP TO RESOLUTIONS ADOPTED AT PREVIOUS COUNCIL OF EUROPE CONFERENCES OF MINISTERS OF JUSTICE

**Report presented by the Secretary General
of the Council of Europe**

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EXECUTIVE SUMMARY

At its 1073rd (9 December 2009) and 1107th (2 March 2011) meetings, the Committee of Ministers adopted decisions entrusting the relevant bodies of the Council of Europe to give the necessary follow-up to the Resolutions of the Ministers of Justice as approved respectively at their 29th and 30th Conferences.

This outlines the action taken to put into practice the:

1. Resolutions adopted at the 30th Council of Europe Conference of Ministers of Justice (Istanbul, Turkey, 24–26 November 2010), as they appear in Appendices I to III:
 - No. 1 on a modern, transparent and efficient justice;
 - No. 2 on prison policy in today's Europe;
 - No. 3 on data protection and privacy in the third millennium.
2. Resolutions adopted at the 29th Council of Europe Conference of Ministers of Justice (Tromsø, Norway, 18-19 June 2009), as they appear in Appendices I to III:
 - No. 1 on preventing and responding to domestic violence;
 - No. 2 on mutual assistance in criminal matters;
 - No. 3 on Council of Europe action to promote the rule of law.

The initiatives formulated at the Council of Europe conferences of Ministers of Justice give direction to the Organisation's work on key issues of human rights and the rule of law. The follow-up given to resolutions through standard-setting, cooperation, monitoring and awareness-raising activities contributes to the Council of Europe statutory aim of achieving a greater unity between its members by agreements and common action in the maintenance and further realisation of human rights and fundamental freedoms and in particular in legal and administrative matters.

The Convention on preventing and combating violence against women and domestic violence, the Medicrime Convention, the 3rd and 4th Protocols to the Extradition Convention, the two Recommendations on Code of Ethics for Prison Staff and on Foreign Prisoners are all concrete examples of important contributions further to the 29th and 30th Council of Europe conferences of Ministers of Justice.

Building the all-European legal area, rooted in shared basic values and common constitutional and legal heritage brings Europe without dividing lines closer to the everyday life of Europeans.

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30th Conference Follow-up to Resolution No. 1 on a modern, transparent and efficient justice

Modernisation of justice systems

As a follow-up to Paragraph 18 of Resolution No. 1, the European Committee on Legal Co-operation (CDCJ) requested technical guidelines from the European Commission for the Efficiency of Justice (CEPEJ) on the necessary revisions to be made to the recommendations indicated in Resolution No. 1¹ and to Recommendation No. R (86) 12 concerning measures to prevent and reduce the excessive workload in the courts.

CEPEJ agreed to provide technical guidelines on the revision of the Recommendations on court management and e-justice in the light of CEPEJ's work. The CEPEJ's contribution is due by the end of 2012.

The Committee of Ministers *"entrusted the CEPEJ to build on the work of its SATURN centre, further developing its capacity to acquire better knowledge of the time required for judicial proceedings in the member states, with a view to developing tools to enable the member states to better meet their obligations under Article 6 of the European Convention on Human Rights regarding the right to a fair trial within a reasonable time"*.

In light of the above, CEPEJ has adopted a strategic plan for the SATURN Centre (the European Observatory of timeframes for court proceedings set up by and managed within CEPEJ). The Centre's objective is to contribute to preventing violations of European Convention of Human Rights (ECHR) Article 6 - excessive length of proceedings, and to help reduce the resulting workload of the European Court of Human Rights (ECtHR). The Centre seeks to obtain a global view of the situation in the Council of Europe member states with regard to excessive length of proceedings in order to identify the underlying causes, propose methodologies and tools to optimise timeframes, and help member states to implement remedies.

The Centre has adopted both a quantitative and qualitative approach: a court coaching programme, with a specific methodology and an accompanying guide, has been made available to volunteer courts wishing to implement CEPEJ tools to improve their day-to day-management and achieve more optimal and predictable judicial timeframes (13 courts in 12 member states have already been visited by CEPEJ experts for implementing this programme). Specific duration benchmarks are due to be defined later in 2012.

Judicial co-operation in criminal matters

As a follow-up to Paragraph 19 of Resolution No. 1, when finalising the Third and Fourth Additional Protocols to the European Convention on Extradition (in 2010 and 2011 respectively), the CDPC took into account the use of modern information and communication techniques to accelerate transmission of information in the context of extradition request and relevant provisions were therefore drafted in this respect. Its subordinate Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters (PC-OC) regularly discusses the application of these new channels of communication between Parties.

¹ Namely Recommendations:

- No. R (95) 11 on the selection, processing, presentation and archiving of court decisions in legal information retrieval systems;
- Rec(2001)2 concerning the design and re-design of court systems and legal information systems in a cost-effective manner;
- Rec(2001)3 on the delivery of court and other legal services to the citizen through the use of new technologies;
- Rec(2003)14 on the interoperability of information systems in the justice sector; and
- Rec(2003)15 on archiving of electronic documents in the legal sector.

Cybercrime

As a follow-up to Paragraph 20 of Resolution No. 1, the Cybercrime Convention Committee (T-CY) in November 2011 established an ad-hoc Group tasked with the preparation of a report presenting – by the end of 2012 – options for an instrument either in the form of an additional protocol to the Budapest Convention on Cybercrime or a soft-law guideline (Recommendation). The ad-hoc Group started its work in January 2012 and provided an update to the T-CY Plenary on 4-5 July 2012.

In addition, the 2012 Octopus Conference (Strasbourg, 6-8 June 2012) focused on this question and permitted public and private sector stakeholders to express their views. The ad-hoc Group is to submit its proposals to the T-CY Plenary in December 2012. The CDPC follows regularly the T-CY's work in this field.

Exchange of information

The CDCJ was seized of the question of establishing a Digital Legal Information Library and a Platform for the Exchange of Information on Information and Communication Technologies Projects in member States, as proposed in Paragraph 21 of Resolution No. 1. The CDCJ advised the Committee of Ministers that, in its opinion, such a project would be too ambitious for the Council of Europe in the current circumstances, of which the Committee of Ministers took note.

"E-justice" portal of the European Union

In Paragraph 22 of Resolution No. 1, the European Union was invited to include in its e-justice portal links to the relevant Council of Europe standards and to enable the Council of Europe to contribute to the "Multi-annual European e-justice Action plan 2009-2013". This is partially the case at present.

Guidelines on Child-friendly Justice

In November 2010, the Committee of Ministers adopted the Council of Europe Guidelines on child-friendly justice (see Paragraph 14 of Resolution No. 1). The Guidelines have become a widely referenced tool for member States, non-member States as well as for other international organisations. The promotion of child-friendly justice on their basis is one of the priorities of the Council of Europe Strategy for the Rights of the Child, adopted by the Committee of Ministers on 15 February 2012, as well as of the European Commission communication on the EU Agenda on the Rights of the Child².

Both the European Commission and the EU Fundamental Rights Agency will collect data on the implementation of these guidelines, also illustrating the constructive cooperation between the three organisations. Based on a pilot training course delivered to staff members of the European Commission, a training tool on child-friendly justice is being developed.

² European Commission, COM(2011) 60 final, 15 February 2011.

30th Conference - Follow-up to Resolution No. 2 on prison policy in today's Europe

Criminal Law

As a follow-up to Paragraph 17 of Resolution No. 2 and in particular in response to the invitation to address prison overcrowding, remand in custody, treatment of foreign nationals in prison as well as other topics which may require additional guidance through standard-setting, in June 2012 the CDPC approved a new important non-binding instrument in the field of prisons, i. e. a draft Committee of Ministers Recommendation concerning foreign prisoners. It is expected that the Committee of Ministers adopts the said recommendation in September 2012. The recommendation which is based on the European Prison Rules contains a set of guiding principles and standards addressing specifically the conditions of detention, treatment and preparation for release of foreign prisoners who are not residents of the country in which they are detained.

In May 2011, a questionnaire was sent to the Council of Europe member states to evaluate the measures taken to implement the European Prison Rules, the European Rules for juvenile offenders subject to sanctions and measures and the Council of Europe Probation Rules. A compendium of the replies was prepared and the conclusions from the survey deriving from the received replies were discussed at the 16th Conference of Directors of Prison Administration (CDAP) (Strasbourg, 13-14 October 2011). In the conclusions of the conference, it was underlined, between other things, that "there was not sufficient support at this moment for a legally binding instrument on prisons". At its plenary meeting in December 2011, the CDPC endorsed this conclusion. The CDPC also decided that a conference involving ministries of justice, judges, prosecutors, representatives of prison and probation services in order to discuss ways of combating prison overcrowding and of improving social reintegration of prisoners should be held in 2012 (see paragraph below on the 17th CDAP).

In 2011 the Committee of Ministers decided that CDAP should take place each year in order to discuss regularly priority topics related to prison management, treatment of prisoners and preparation for release. The 16th CDAP on "Working together to promote the social reintegration of prisoners", with the participation of Directors of Probation Services was held in Strasbourg on 13-14 October 2011. The 17th CDAP will be held in Rome on 22-24 November 2012 and will address the topic of foreign prisoners. An interdisciplinary discussion between directors of prison and probation services and judges and prosecutors will examine prison overcrowding in general and possible measures to combat it effectively.

Following the conclusions adopted at the 15th CDAP, on 12 April 2012 the Committee of Ministers adopted Recommendation CM/Rec(2012)5 on the European Code of Ethics for Prison Staff, which aims at recommending a model code of ethics to be used in the everyday work of prison staff at all levels and to be incorporated into national codes of ethics.

The 2010 editions of SPACE I³ and SPACE II⁴ statistics were published for the use of the national authorities, the prison and probation services and the judiciary, but also professionals and researchers.

With a view to make better use of alternatives to custody as an efficient way for re-socialising offenders and for reducing imprisonment rates, the CDPC is currently discussing the possible standard-setting work in the field of electronic monitoring. This practice, based on new technologies is expanding rapidly and thus creating a need for ethical and procedural framework defining the tasks of probation services and setting up safeguards.

³ **Populations of penal institutions** - Created by the Council of Europe, the SPACE I project exists since 1983. Its goal is to present comparable data on the populations of penal institutions within all the Member States of the Council of Europe.

⁴ **Non-custodial sanctions and measures** - The SPACE II project, created by the Council of Europe in 1992, collects information on persons serving **non-custodial and semi-custodial sanctions and measures**. These sanctions and measures are frequently referred to as alternatives to imprisonment.

Cooperation activities in the prisons field focus mainly on capacity-building in the form of training, expert assistance and advice. As part of the training activities, programmes and projects, support has also been provided to increase the capacity building of the Training Centres for Prison Staff through integrating the CoE standards in the training curricula and by supporting train-the-trainers sessions and cascade training sessions.

In a number of member States the CoE is implementing bilateral prison reform co-operation activities (the Chechen programme), multilateral activities (meetings on different topics such as detention conditions, probation, health care) Joint Programmes between the Council of Europe and European Union (JP Prison reform in Turkey, Enhancement of the prison management in Bosnia and Herzegovina) and also projects financed by Voluntary Contributions (Swedish International Development Agency SIDA in Ukraine, a project on prison management and probation, the USA project on the State prison staff in Bosnia and Herzegovina, Danish International Development Agency DANIDA in Georgia on capacity building for performing prison reform). In projects implemented under Norway Grants the Council of Europe acts as a donor programme partner in Bulgaria and Czech Republic and as an observer in Latvia aiming to improve their prison systems in compliance with international standards and especially to overcome challenges connected to growing prison populations and prison overcrowding.

Children's rights

The Council of Europe Strategy for the Rights of the Child, adopted by the Committee of Ministers on 15 February 2012, refers to "the promotion and evaluation of the implementation of Recommendation CM/Rec(2008)11 on the European Rules for juvenile offenders subject to sanctions or measures, the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice and relevant standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)". Particular attention is paid to developing alternatives to detention, access to legal aid and legal representation, and protecting children in detention from violence, as well as to the rights of children with parents in prison.

A report on children's rights, prepared within the Council of Europe's transversal programme "Building a Europe for and with children", will be published in 2012. The report considers the work of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from a children's rights perspective by examining the way in which CPT already promotes the rights of children deprived of their liberty and identifies potential avenues for enhancing the effectiveness of CPT in this area. Based on an analysis of existing CPT work, the report highlights major deficiencies in member states as regard the use of detention, separation of children from adults, police custody and material conditions and treatment in detention centres identified by CPT. The report concludes by making several recommendations for how CPT can contribute further to improving the protection of children deprived of their liberty.

Committee for the Prevention of Torture

Paragraph 17 of Resolution No.2 invited the Committee of Ministers to entrust CPT, to help evaluate the measures taken by member States to follow the Council of Europe standards in the area and to take stock of topics which may require additional guidance through standard-setting.

CPT was closely involved in the organisation of a seminar on "Improving Detention Conditions through Effective Monitoring and Standard Setting", held in Antalya from 17-18 March 2011 within the framework of the Turkish Chairmanship of the Committee of Ministers, where many of the issues referred to in Resolution N° 2 were explored in depth CPT members participated in the seminar and chaired the four workshops and the closing session.

CPT pursued its monitoring activities, as required by the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ECPT), thus contributing to strengthening the protection of persons deprived of their liberty, assisting

member states in implementing the existing standards and providing a baseline for further standard-setting work in this field. Thus for example, the 21st General Report (November 2011) examines in depth the issue of solitary confinement of prisoners.

30th Conference - Follow-up to Resolution No. 3 on data protection and privacy in the third millennium

The data protection work of the Council of Europe is, in accordance with the request and guidance of the Ministers of Justice, a clear priority area of work of the Organisation. This work is also clearly reflected in the third action line of the Council of Europe Internet Governance Strategy for 2012-2015 (document CM(2011)175 final).

The Council of Europe has been a key contributor to the promotion of privacy and data protection and has continued to engage actively in the celebration of the data protection day (28 January) established by the Committee of Ministers in 2006 to mark the importance of this right. In 2011, a high-level Conference was organised jointly with the European Union to mark the day and the 30th anniversary of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108). For the 2012 data protection day, the Council of Europe organised a special event in the framework of an international conference held every year in Brussels, the 'Computers, Privacy and Data Protection' International Conference.

The modernisation of Convention 108 called for by the Ministers of Justice is underway. It focuses on the introduction of new safeguards and principles as well as on enhancing the follow-up of the implementation of such principles by the Parties. To secure the inclusive and open nature of the modernisation process, a public consultation was launched in 2011 which gathered the views of all stakeholders on modernisation; they have since been kept informed of progress and called to provide further comments on the draft proposals of the Consultative Committee (T-PD) of Convention 108. The T-PD Plenary (19-22 June 2012) held a second reading of the proposed amendments, also in the light of the proposals of the European Commission (issued in January 2012) for a Regulation and Directive. The text will be further examined at the next T-PD Plenary which is to be held in November 2012.

The Convention 108 was promoted through the participation of representatives of its Consultative Committee in various high level events such as the 33rd International Conference of data protection and privacy commissioners (Mexico, 2-3 November 2011). A first non-European country, Uruguay, was invited to accede to Convention 108 by the Committee of Ministers. It is expected that the accession will be effective later this year. In May 2012, Armenia ratified Convention 108 and its additional protocol, bringing the number of parties to the Convention to 44.

APPENDIX I

Resolution No. 1 on a modern, transparent and efficient justice

*30th Council of Europe Conference of Ministers of Justice
(Istanbul, Turkey, 24-26 September 2010)*

THE MINISTERS participating in the 30th Council of Europe Conference of Ministers of Justice (Istanbul, Turkey, 24 - 26 November 2010),

1. Welcoming the report of the Minister of Justice of Turkey on "Modernising Justice in the Third Millennium: - transparent and efficient justice; - prisons in today's Europe" and the contributions made by other delegations;
2. Recalling that it is the aim of the Council of Europe to preserve, strengthen and promote democracy, human rights and the rule of law;
3. Having regard to Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereafter "ECHR") which guarantees the right to a fair trial within a reasonable time, to the relevant case-law of the European Court of Human Rights as well as to the relevant international legal instruments;
4. Recognising that the use of information and communication technologies (hereafter "ICTs") has become indispensable to the modernisation of justice in view of the delivery of a fair, efficient and accessible justice - an essential element of the rule of law - thereby facilitating the access to courts, reducing delays, improving the quality of service delivery and bringing citizens closer to justice systems which they trust;
5. Recognising that the use of information and communication technologies plays an increasing role in international co-operation between judicial authorities and may facilitate a more timely response to requests for mutual legal assistance, thereby avoiding unnecessary delays in investigation and prosecution of crimes;
6. Noting that many judgments and pending cases at the European Court of Human Rights are the result of undue delay of judicial proceedings (Article 6 § 1 of the ECHR);
7. Emphasising that a modern, transparent and efficient justice should be a justice in which courts have the duty and ability to address the management of judicial timeframes as one of their priorities;
8. Highlighting that modernising justice contributes to strengthening member States' mutual trust in their judicial systems, which is essential to the development of a European judicial area;
9. Highlighting that the modernisation of justice and the use of ICTs may imply an increased collection and processing of personal data, which must be done in compliance with the right to respect for private and family life (Article 8 of the ECHR and the relevant case-law of the European Court of Human Rights) and, where applicable, the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108, hereafter "Convention 108") and its additional Protocol (ETS No. 181);
10. Aware of the need to prevent threats to human rights resulting from breaches of data security and the misuse of data collected by justice systems and law enforcement agencies and the need for adequate training to prevent such breaches and misuse;

11. Highlighting that the criminal justice system of the third millennium will increasingly need to address issues of cross border and virtual relationships in ICTs (e.g. cloud-computing tools), which may require a fresher look at the traditional methods of international criminal law co-operation;
12. Recognising the importance of the Council of Europe's Convention on Cybercrime (ETS No. 185) which is increasingly recognised as the legal framework of reference for fighting cybercrime at the global level;
13. Acknowledging the importance of fostering the development of the information society and of the Internet to secure the exercise of human rights and fundamental freedoms in the context of the use of ICTs, and noting the results of Euro DIG (European dialogue on Internet governance) and the Internet Governance Forum (IGF);
14. Welcoming the adoption by the Committee of Ministers on 17 November 2010 of Recommendation CM/Rec(2010)12 on judges: independence, efficiency and responsibilities as well as of the Guidelines on child-friendly justice;
15. Welcoming the report of the European Commission for the Efficiency of Justice (CEPEJ) on "European judicial systems: efficiency and quality of justice" as a public policy tool allowing for a better understanding of the daily operation of the justice system and, thereby, improving the efficiency and transparency of justice in Europe, for the benefit of court users;
16. Noting the work of the SATURN centre, within CEPEJ, in collecting information necessary for the better understanding of the time required for judicial proceedings in the member States;
17. Welcoming the close co-operation between the Council of Europe and the European Union based on common standards and the 2007 Memorandum of Understanding between the two organisations and having in particular regard to the "Multi-annual European e-justice Action plan 2009-2013";

* * *

18. INVITE the Committee of Ministers to entrust the European Committee on Legal Co-operation (CDCJ), in co-operation with other competent bodies of the Council of Europe, to provide guidance to member States in the modernisation of their justice systems and to revise in particular the Committee of Ministers' recommendations:
 - CM/Rec(95)11 on "the selection, processing, presentation and archiving of court decisions in legal information retrieval systems";
 - CM/Rec(2001)2 "concerning the design and re-design of court systems and legal information systems in a cost-effective manner";
 - CM/Rec(2001)3 on "the delivery of court and other legal services to the citizen through the use of new technologies";
 - CM/Rec(2003)14 on "the interoperability of information systems in the justice sector"; and
 - CM/Rec(2003)15 on "archiving of electronic documents in the legal sector";
19. INVITE the Committee of Ministers to entrust the European Committee on Crime Problems (CDPC) to examine how the use of ICTs can make judicial co-operation in criminal matters more effective;
20. INVITE the Committee of Ministers to entrust the European Committee on Crime Problems (CDPC) to examine issues arising from the use of ICTs, in particular the competence of law enforcement authorities to investigate and prosecute crimes beyond national jurisdiction, in co-operation with the Convention Committee on Cybercrime (T-CY), while expressing their support for the on-going work of the latter Committee on a possible standard-setting text

on the use of transborder investigative measures, including transborder access to data and data flows;

21. INVITE the Committee of Ministers of the Council of Europe to consider the feasibility of implementing a Digital Legal Information Library and a Platform for the Exchange of Information on ICT Projects in member States;
22. INVITE the European Union to include in its e-justice portal links to the relevant Council of Europe standards and to enable the Council of Europe to contribute to the "Multi-annual European e-justice Action plan 2009-2013";
23. INVITE the Committee of Ministers to build on the work of the SATURN centre within CEPEJ, further developing its capacity to acquire better knowledge of the time required for judicial proceedings in the member States, with a view to developing tools to enable the member States to better meet their obligations under Article 6 of the ECHR regarding the right to a fair trial within a reasonable time;
24. ASK the Secretary General of the Council of Europe to present a report on the steps taken to give effect to this Resolution on the occasion of their next Conference.

APPENDIX II

Resolution No. 2 on prison policy in today's Europe

*30th Council of Europe Conference of Ministers of Justice
(Istanbul, Turkey, 24-26 September 2010)*

THE MINISTERS participating in the 30th Council of Europe Conference of Ministers of Justice (Istanbul, Turkey, 24 - 26 November 2010),

1. Welcoming the report of the Minister of Justice of Turkey "Modernising Justice in the Third Millennium: - transparent and efficient justice; - prisons in today's Europe" and the contributions made by the delegations attending the Conference;
2. Recalling the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5) and its Protocols and the case-law of the European Court of Human Rights related to prison conditions and the treatment of prisoners;
3. Recalling furthermore the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126) and the ensuing work of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in monitoring the treatment and strengthening the protection of persons deprived of their liberty;
4. Recalling also the Convention on the Transfer of Sentenced Persons (ETS No. 112) and its additional protocol (ETS No. 167);
5. Endorsing the standards contained in the European Prison Rules (Recommendation Rec(2006)2 of the Committee of Ministers to member States) and the other relevant Committee of Ministers' recommendations;
6. Noting the pertinent findings and recommendations issued by the Council of Europe Commissioner for Human Rights following his country monitoring visits;
7. Bearing in mind the United Nations Standard Minimum Rules for the Treatment of Prisoners;
8. Noting the relevant work and in particular the existing Framework Decisions of the European Union in the field;
9. Recognising that prison conditions in general and treatment of prisoners in particular are an important indicator of the level of protection of human rights and fundamental freedoms in a country;
10. Underlining that public confidence as well as international co-operation in criminal matters depend on the quality of national justice systems including the enforcement of sentences;
11. Noting that a number of Council of Europe member States currently struggle with rising prison overcrowding which results in deteriorating prison environments and working conditions for prison staff;
12. Recalling that deprivation of liberty is to be executed in full respect of personal dignity and integrity and that preparation for release and reintegration of each offender is to begin from the outset;

13. Recalling, moreover, that in line with Recommendation No. R (92) 16 on the European Rules on community sanctions and measures and with Recommendation CM/Rec(2010)1 on the Council of Europe Probation Rules, alternatives to custody are to be developed and widely used in order to reduce the use of imprisonment, improve public safety and better assist offenders in maintaining a crime-free life;
14. Mindful of the need to enhance international co-operation in order to enable foreign nationals to serve their sentences in their country with a view to improving their social reintegration;
15. Mindful of the need to ensure both satisfactory standards of treatment of prisoners and adequate status and working conditions for prison staff in all Council of Europe member States;

* * *

16. REAFFIRM that it is necessary to guarantee the humane and efficient execution of sanctions in all member States, particularly when it involves the deprivation of liberty;
17. INVITE the Committee of Ministers to entrust the European Committee on Crime Problems (CDPC), in co-operation with the Steering Committee for Human Rights (CDDH) and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), to:
 - a) evaluate the measures taken by member States to follow the European Prison Rules, the European Rules for juvenile offenders subject to sanctions and measures, the Council of Europe Probation Rules and the other relevant Council of Europe standards in the area;
 - b) take stock of problems faced by prison administrations, more particularly prison overcrowding, remand in custody, treatment of foreign nationals in prison as well as other topics which may require additional guidance through standard-setting;
 - c) consider, in the light of the outcome of such an assessment and stock-taking, the necessity to reinforce the legal framework in that field, including the feasibility and advisability of a legally binding instrument regulating certain aspects of detention conditions, prison management and the treatment of prisoners or undertaking other measures to achieve this aim, including the identification and dissemination of best practices;

* * *

18. WELCOME the compilation and publication of the Council of Europe Annual Penal Statistics (SPACE), which have been collected for more than 25 years;
19. CALL UPON, in this respect, national authorities to continue to provide accurate and timely data and to support by all means SPACE as a valuable tool in guiding the member States' penal policies;
20. WELCOME the Council of Europe Conferences of Directors of Prison Administration (CDAP) which should meet annually as an important forum bringing together Directors General of national prison administrations, prison professionals, internationally renowned experts and international governmental and non-governmental organisations in order to discuss priority issues of common interest and to agree on future activities in the penitentiary field;
21. INVITE the Committee of Ministers to entrust the European Committee on Crime Problems (CDPC), in the light of the conclusions of the 15th CDAP (Edinburgh, 9-11 September 2009), to consider ways of involving judges, prosecutors, prison and probation services in a joint discussion concerning imprisonment, as well as community sanctions and measures with a view to avoiding prison overcrowding and improving social reintegration of offenders whilst protecting public safety;

22. URGE the CPT to pursue its monitoring activity with a view to strengthening the protection of persons deprived of their liberty, thereby contributing to any further standard-setting work in this field and assisting member States in implementing such standards;
23. INVITE the competent bodies of the European Union to take due account of the Council of Europe's experience in the area of setting standards in the prison field and with mechanisms for monitoring their implementation, in order to ensure coherence and avoid duplication;
24. ASK the Secretary General of the Council of Europe to present a report on the steps taken to give effect to this Resolution on the occasion of their next Conference.

APPENDIX III

Resolution No. 3 on data protection and privacy in the third millennium

*30th Council of Europe Conference of Ministers of Justice
(Istanbul, Turkey, 24-26 September 2010)*

THE MINISTERS participating in the 30th Council of Europe Conference of Ministers of Justice (Istanbul, Turkey, 24 - 26 November 2010),

25. Recalling that it is the aim of the Council of Europe to preserve, strengthen and promote democracy, human rights and the rule of law;
26. Having regard to Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereafter "ECHR") on the right to respect for private and family life and to the relevant case-law of the European Court of Human Rights;
27. Having regard to the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108, hereafter "Convention 108") and to its additional Protocol (ETS No. 181) and acknowledging their unique potential as global instruments;
28. Noting that modern information and communication technologies (hereafter "ICTs") enable observation, storage and analysis of most day-to-day human activities, more easily, rapidly and invisibly than ever before, thereby potentially creating a feeling of being permanently watched, which may impair the free exercise of human rights and fundamental freedoms unless robust standards of data protection are effectively enforced worldwide;
29. Noting with concern the challenges presented by the use of ICTs to the application of data protection principles, in particular with regard to transparency and the effective exercise and protection of rights;
30. Noting with concern the challenges to the enforcement of data protection principles resulting from unresolved issues of jurisdiction and applicable law in respect of virtual and transborder relationships (e.g. cloud-computing tools, social networks);
31. Acknowledging the need to adapt to new challenges the existing safeguards for data and privacy protection and to complement them, in particular through the use of "privacy enhancing technologies" and having regard to the concept of "privacy by design";
32. Convinced that it is essential to establish an efficient system for transborder data flows and access to data over the Internet, for private, commercial and law enforcement purposes, which fully complies to the right to respect for private and family life and data protection principles, and provides appropriate safeguards;
33. Noting the resolutions of the 27th and 30th International Conferences of Data Protection and Privacy Commissioners calling in particular for the development of a universal binding instrument for the protection of individuals with regard to the processing of personal data, and referring to the resolution of the 31st International Conference of Data Protection and Privacy Commissioners on International Standards on Privacy;
34. Recalling that Convention 108 and its additional Protocol are currently the only potentially universally binding legal instruments in the field of data protection and that these instruments provide for basic data protection principles which are embodied in other international instruments, notably the United Nations Guidelines for the regulation of computerised personal data files and the Organisation for Economic Co-operation and

Development (OECD) Guidelines on the Protection of Privacy and Transborder Flows of Personal Data;

35. Recalling the Ministers' Deputies decision (1079th meeting, 10 March 2010) to encourage the Consultative Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (hereafter "T-PD") "to start preparing [...] a draft additional protocol" to Convention 108;
36. Welcoming the initiative by the Secretary General of the Council of Europe and the European Commission for the joint celebration of the forthcoming Data Protection Day on 28 January 2011, which will coincide with the 30th anniversary of Convention 108 and thus constitute an ideal opportunity to raise awareness among citizens, public officials, the business community and civil society about the importance and necessity of the protection of personal data;
37. Acknowledging the importance of fostering the development of the information society and of the Internet to secure the exercise of human rights and fundamental freedoms in the context of the use of ICTs, and noting the results of Euro DIG (European dialogue on Internet governance) and the Internet Governance Forum (IGF);
38. Welcoming the adoption by the Committee of Ministers on 23 November 2010 of Recommendation CM/Rec(2010)13 on the protection of individuals with regard to automatic processing of personal data in the context of profiling;

* * *

39. SUPPORT the modernisation of Convention 108 in order to find appropriate solutions to the new challenges posed by technology and globalisation of information to guarantee effective protection of human rights and fundamental freedoms as well as the exercise of these rights, in particular the right to respect for private and family life while processing personal data, and the enforcement of basic data protection principles, in particular to resolve issues of transparency, data security breaches, jurisdiction, applicable law and liability arising from the use of ICTs;
40. ENCOURAGE the observer States to the Council of Europe, other interested non-member States, the European Union, international organisations, NGOs and the private sector to participate actively in this process;
41. URGE the Council of Europe member States that have not yet ratified Convention 108 and/or its additional Protocol to do so as expeditiously as possible;
42. ENCOURAGE other States having data protection legislation in compliance with Convention 108 and its additional Protocol to accede to these instruments;
43. INVITE the Committee of Ministers of the Council of Europe to consider data protection as a priority for the Council of Europe's future work;
44. ASK the Secretary General of the Council of Europe to present a report on the steps taken to give effect to this Resolution on the occasion of their next Conference.

29th Conference - Follow-up to Resolution No. 1 on preventing and responding to domestic violence

Status and rights of victims of crime

In 2010 the European Committee on Crime Problems (CDPC) of the Council of Europe prepared a report on the status and rights of victims in criminal proceedings with the aim to provide guidance on possible activities of the Council of Europe to address possible existing legal gaps. In light of existing Council of Europe legal instruments and standards, CDPC also developed a compilation of standard model provisions regarding the rights of victims to facilitate the drafting of future rules related to the status of victims in possible future soft law or legally binding instruments of the Council of Europe.

In May 2010, the CDPC finalised a comparative study on "Scientific evidence in Europe admissibility, appraisal and equality of arms". The purpose of this report was to assess the use of scientific evidence in criminal proceedings in Europe, to describe how it is currently interpreted and appraised, and to study the impact of this evidence in terms of equality of arms in criminal proceedings.

Dangerous offenders

Since the adoption of Resolution No. 1 of the 29th Council of Europe Conference of Ministers of Justice, the treatment of long-term and 'dangerous' offenders continued to attract growing attention in many Council of Europe member states, with concerns raised from different perspectives. To provide an accurate follow-up to the Resolution, the CDPC decided in 2010 to carry out a study of the concept of dangerous offenders and of their supervision and treatment.

A report on "The Sentencing, Management and Treatment of "Dangerous" Offenders" was presented to CDPC in December 2010. On the basis of the discussion on this report, in 2011 the CDPC decided to propose to the Committee of Ministers to establish a restricted Group of Experts on Dangerous Offenders (PC-DD). Subject to the Committee of Ministers' approval, PC-DD should draft a non-binding legal instrument addressing risk and threat assessment of dangerous offenders, treatment and conditions of detention of such offenders and measures for the prevention of re-offending, to the extent that such measures are covered by the criminal justice. This orientation was set by Resolution No.1, which recalled the need to respect the rights of victims and of alleged offenders in full respect of the European Convention.

PC-DD will focus its work on offenders deemed to represent a threat to society, notably because of their personality, the violent character of the criminal offence(s), which they have committed, and the risk of re-offending. A draft recommendation concerning dangerous offenders should be submitted to the Committee of Ministers in 2013, after approval by the CDPC.

Convention on preventing and combating violence against women and domestic violence

In 2010, the Ad Hoc Committee on Preventing and Combating Violence against Women and Domestic Violence (CAHVIO) finalised its negotiations on a draft convention and its explanatory report. In January 2011, CAHVIO adopted the final draft of the Convention on preventing and combating violence against women and domestic violence and transmitted it to the Committee of Ministers. Following its adoption by the Committee of Minister on 7 April 2011, the Convention was opened for signature on 11 May 2011 on the occasion of the 121st Session of the Committee of Ministers in Istanbul. To date, 20 member states have signed and 1 has ratified the Istanbul Convention. It will enter into force following 10 ratifications.

The purpose of the Istanbul Convention is to prevent the different forms of violence against women and domestic violence, protect its victims and prosecute the perpetrators. It also calls on all members of society, in particular men and boys, to change attitudes. In essence, it is a renewed call for greater equality between women and men, because violence against women is deeply rooted in the inequality between women and men in society and is perpetuated by a culture of tolerance and denial.

The focus of the Istanbul Convention is on all forms of domestic violence, which mainly affects women and children. The drafters considered it important to emphasise that the majority of victims of domestic violence are women. As provided by the text of Resolution No 1 of the Tromsø conference, states parties to the Convention are encouraged to apply it to all victims of domestic violence, and especially the particularly vulnerable categories of victims such as children and the elderly. The Convention specifies legal and administrative remedies aimed at preventing domestic violence and responding to it.

29th Conference - Follow-up to Resolution No. 2 on mutual assistance in criminal matters

Further to the call on member States in Paragraph 13 of Resolution No. 2 to sign and ratify the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (CETS No 182) as a matter of priority, six member States have ratified this instrument. CETS No 182 is now in force for 25 member States. 11 States have not yet ratified and another 11 have neither signed nor ratified CETS No 182.

17 member States have made a total of 23 reservations to the Protocol at the time of ratification. None of the reservations has been withdrawn as a result of the call on member States made in Tromsø to review their reservations with a view to withdrawing them if possible, in order to remove all obstacles to international co-operation

The 25 member States for which the Protocol is in force have made a total of 147 declarations to this instrument.

As regards, Paragraphs 14 and 15 of Resolution No. 2, the Committee of Experts on the Operation of European Conventions on Co-Operation in Criminal Matters (PC-OC) undertook a range of actions to respond to the invitation made to the Council of Europe to strengthen its activities aimed at developing practical measures to increase the effectiveness of international cooperation in criminal matters. These include in particular, the adoption of "practical measures to facilitate the application of conventions on international cooperation in criminal matters" consisting of new working methods focussing on practical problems and concrete cases concerning the implementation of conventions, the development of an informative website for the use of practitioners as well as an online discussion forum on issues of common interest. During this process the PC-OC Secretariat has continued its fruitful cooperation with the European Judicial network and Eurojust. At present, the PC-OC is involved in the development of practical guidelines to improve cooperation in respect of transfer of proceedings.

In addition to the above, the PC-OC prepared the Third and the Fourth Additional Protocol to the European Convention on Extradition. The Third Additional Protocol was opened for signature on 10 November 2010 and entered into force on 1 May 2012, further to its ratification by three member states. Fourteen other member states signed this protocol. The Fourth Additional Protocol will be opened for signature on 20 September 2012, at the occasion of the 31st Council of Europe Conference of Ministers of Justice.

29th Conference - Follow-up to Resolution No. 3 on Council of Europe action to promote the rule of law

Strengthening of the Rule of law and promoting international cooperation in administrative matters

The Protocol (CETS No. 208) **amending the 1988 Convention on Mutual Administrative Assistance in Tax Matters** (ETS No. 127) was adopted on 24 March 2010 by the Committee of Ministers, and was opened for signature on the occasion of the OECD Ministerial meeting in Paris on 27 May 2010. The Protocol entered into force on 1 June 2011. It has been signed by 19 member States; 15 States have also ratified the Protocol.

An expert report has been prepared **assessing the implementation of Recommendation CM/Rec(2007)7 on good administration in the field of civil registration**, Resolution No.3 having insisted on the need for regular review in member States. This report is entitled "The Council of Europe and the Rule of Law: Implementation of the Recommendation CM/Rec(2007)7 on good administration, in the field of civil registration". It was found that the principles contained in the 2007 Recommendation had been formally implemented by all member States, taking into account their respective administrative traditions. The enacted principles will be interpreted differently and have different effects in the Council of Europe member States. However, as regards the substantive implementation of these principles, other evaluation measures are required to draw definitive conclusions. It also appears that additional implementation measures are required.

Further to an **evaluation of the Council of Europe's instruments on mutual assistance in administrative matters** as called for by Resolution No.3, in particular the European Convention on the Service Abroad of Documents relating to Administrative Matters (ETS No. 94) and the European Convention on the Obtaining Abroad of Information and Evidence in Administrative Matters (ETS No. 100), a report has been prepared by the Istituto Di Ricerche Sulla Pubblica Amministrazione (IRPA), entitled "Council of Europe's instruments on mutual assistance in administrative matters: techniques, shortcomings and possible improvements". It evaluates the Council of Europe's existing instruments in that field, in particular the European Convention on the Service Abroad of Documents relating to Administrative Matters (ETS No. 94) and the European Convention on the Obtaining Abroad of Information and Evidence in Administrative Matters (ETS No. 100)

The finalisation of the revised version of the Handbook "The administration and you" is underway.

With regard to the **functioning of European judicial systems**, the European Commission for the Efficiency of Justice (CEPEJ) has completed its 4th cycle for evaluating the functioning of judicial systems in 46 member states, which is considered as a reference tool for orienting public policies of justice in Europe and beyond. The CEPEJ report will be presented during the Conference of Ministers of Justice in Vienna.

Other CEPEJ tools have been designed and made available to policy makers and justice professionals to improve the efficiency and quality of justice systems. Two coaching programmes for improving court case flow management and promoting court user satisfaction surveys have been developed. A CEPEJ "Road Show" has been launched in order to promote CEPEJ tools among justice practitioners. This work is the basis for, and closely coordinated with, targeted CoE assistance and cooperation with several member states in Eastern and South-eastern European states, as well as with Mediterranean states within the framework of the CoE's neighbourhood policy.

Since 2010, the Consultative Council of European Judges (CCJE) has adopted new **Opinions on "the role of Judges in the enforcement of judicial decisions" and "justice and**

information technologies", as well as a report on the situation of the judiciary and judges in the different member states. It is finalising an Opinion on "the specialisation of judges".

The Consultative Council of European Prosecutors (CCPE) has adopted new **Opinions on the "Role of public prosecution and juvenile justice" and on "the relations between prosecutors and the prison administration"**, and is finalising an **Opinion on "the management of prosecution offices"**.

The independence and efficiency of the judicial systems have been strengthened in several member states: **six bilateral large-scale projects** have been implemented or are underway in Armenia, Georgia, Moldova, Turkey and Ukraine, including legislative assistance and capacity-building for judicial self-governing bodies, training schools for legal professionals, Ministries of Justice, as well as work on court management, mediation and legal aid issues. Recommendations have been addressed to policy makers as regards the implementation of European standards on the independence of the judiciary through a multilateral project targeting the Eastern Partnership countries.

Paragraph 19 of Resolution no 3 recommended that *"the Council of Europe pursue its work of promoting the rule of law worldwide by developing co-operation with the United Nations, the OSCE/ODIHR and other international institutions working in this field and by increasing the global reach of relevant Council of Europe conventions."*⁵

The Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS 108) was promoted through the development of closer cooperation with international organisations such as the Organisation of American States (OAS), UNESCO and the Economic Community of West African States (ECOWAS) as well as with specialised regional networks of data protection authorities (the francophone network and the Ibero-american network). The existing close links with various instances of the European Union, the Organisation for Economic Co-operation and Development (OECD) and Interpol have been further developed in the field of data protection during the reporting period.

With regard to the **Convention on Cybercrime** (ETS 185), outreach to countries in all regions of the world has been achieved through the Global Project on Cybercrime. During Phase 2 of this project (March 2009 to December 2011), the Council of Europe cooperated with more than 100 countries in Africa, Asia, Europe, Latin America and the Pacific.⁶

In addition to European countries and Canada, Japan, South Africa and the USA that are either parties or signatories, eight countries have been invited to accede to the Convention on Cybercrime (Argentina, Australia, Chile, Costa Rica, Dominican Republic, Mexico, Philippines and Senegal). In November 2011, the Cybercrime Convention Committee (T-CY) adopted a two-year workplan, including in particular the active promotion of the Budapest Convention on Cybercrime in view of enlarging the number of Parties.

⁵ Such as: the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (CETS No. 108, 1981) and its Additional Protocol regarding supervisory authorities and transborder data flows (CETS No. 181, 2001);

the Convention on Cybercrime (CETS No. 185, 2001) and its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (CETS No. 189, 2003);

the Convention on Action against Trafficking in Human Beings (CETS No. 197, 2005), and

the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201, 2007).

⁶ http://www.coe.int/t/DGHL/cooperation/economiccrime/cybercrime/Documents/Reports-Presentations/2079_adm_finalreport_V12_9apr12.pdf

APPENDIX I

Resolution No. 1 on preventing and responding to domestic violence

*29th Council of Europe Conference of Ministers of Justice
(Tromsø, Norway, 18-19 June 2009)*

THE MINISTERS participating in the 29th Conference of the Council of Europe Ministers of Justice (Tromsø, Norway, 18 -19 June 2009),

1. Welcoming the report of the Minister of Justice of Norway on "Breaking the silence - united against domestic violence" and the contributions made by other delegations;
2. Recalling the Committee of Ministers' recommendations Rec (2002) 5 on the protection of women against violence and Rec (2006) 8 on assistance to crime victims;
3. Having discussed the problems and possible solutions related to domestic violence;
4. Recognising that domestic violence is still widespread in European societies and that there is an urgent need to combat this phenomenon and its negative consequences for all victims, in particular women and children;
5. Recognising that domestic violence mainly affects women and deserves integral and efficient answers including the promotion of de jure and de facto equality between women and men;
6. Recognising that domestic violence seriously violates and impairs the enjoyment of human rights and fundamental freedoms;
7. Recalling that states have a positive obligation to secure the enjoyment of human rights, in particular to protect the life and the physical and psychological integrity of every person, including in the sphere of the relations of individuals between themselves, while ensuring respect for private and family life as guaranteed by Article 8 of the European Convention on Human Rights;
8. Recognising the continuing necessity to take adequate preventive measures and provide effective remedies to potential victims of domestic violence;
9. Recognising that there exist forms of domestic violence, in particular against children and the elderly, which are insufficiently known and considered;
10. Recognising the need for increased protection and support for particularly vulnerable categories of victims of domestic violence;
11. Welcoming the Council of Europe Campaign to Combat Violence Against Women Including Domestic Violence;
12. Expressing their support for the work of the Ad Hoc Committee on preventing and combating violence against women and domestic violence (CAHVIO);
13. Recalling Resolution No.1 on victims of crime adopted at the 27th Conference of European Ministers of Justice in Yerevan (12-13 October 2006) and its follow up;
14. Mindful of the need to respect both the rights of victims and those of alleged offenders in the investigation and the criminal proceedings, in full respect of the European Convention on Human Rights;

15. Emphasising that special attention should be paid to the status and the rights of victims in criminal proceedings when preparing relevant future Council of Europe criminal law conventions:

* * *

16. AGREE that there is a need to secure a safe environment for victims who have suffered domestic violence and to ensure appropriate assistance and remedies for them;

17. RECOGNISE that there is an urgent need not only to prosecute and punish perpetrators of domestic violence, but also to ensure that in particular those responsible for serious and repeated acts of domestic violence are offered treatment aiming at preventing re-offending;

18. UNDERLINE the importance of providing an appropriate legal framework, not limited to criminal law, and practical measures for assisting and protecting victims of domestic violence;

19. AGREE that state authorities should pay particular attention to the prevention of secondary victimisation;

20. UNDERLINE the importance of ensuring special training for professionals dealing with domestic violence, in particular judges and prosecutors, members of the police and the medical and social services;

21. INVITE the Committee of Ministers to promote existing standards and work of the Council of Europe by informing victims of domestic violence not only of the available criminal but also the civil and administrative remedies, to ensure that they receive sufficient protection;

22. INVITE the Committee of Ministers to entrust the European Committee on Crime Problems (CDPC), in cooperation with the European Committee on Legal Co-operation (CDCJ) and the Steering Committee for Human Rights (CDDH), to examine the following objectives to be taken into account for inclusion in common rules related to the status and rights of victims in criminal proceedings:

- a. ensuring, throughout the criminal justice process, respect for the personal situation, rights and dignity of victims and protection against any intimidation, harassment or abuse;
- b. recognising and improving the status of victims in the investigation and the criminal proceedings;
- c. ensuring effective access to justice by the provision of information, legal advice and, where appropriate, legal aid;
- d. ensuring specific assistance and protection to the most vulnerable victims;
- e. in cases where it is decided not to prosecute an alleged offender, considering ways for victims to have the decision re-examined;
- f. providing for compensation schemes, including expenses incurred in relation to criminal proceedings;

23. INVITE the Committee of Ministers to entrust the European Committee on Crime Problems (CDPC), in co-operation with other competent bodies of the Council of Europe,

to examine existing best practices in member states, in full respect of human rights, related to:

- a. the assessment of the risk of re-offending and the danger to victims and society posed by perpetrators of acts of domestic violence;
- b. the supervision and treatment of such perpetrators in serious and repeated cases, in closed settings and in the community, including surveillance techniques;
- c. programmes and measures aimed at helping perpetrators improve self-control and behaviour-management and, where possible, repairing the harm done to victims;

24. INVITE the Committee of Ministers to entrust the European Committee on Legal Co-operation (CDCJ), in co-operation with the European Committee on Crime Problems (CDPC), the Steering Committee for Human Rights (CDDH) and the Steering Committee for Equality between Women and Men (CDEG), in the light of the results of the work by the *Ad Hoc* Committee on preventing and combating violence against women and domestic violence (CAHVIO), to examine, taking into account the need to protect both the rights of victims and those of perpetrators:

- a. forms of domestic violence directed in particular against children and the elderly, and propose responses to them;
- b. challenges faced by victims of domestic violence and propose targeted solutions to increase their protection and reduce their vulnerability;
- c. the effectiveness of existing civil and administrative legal remedies and measures and propose further ones aimed at preventing domestic violence or responding to it;

25. ASK the Secretary General of the Council of Europe to present a report on the steps taken to give effect to this Resolution on the occasion of their next Conference.

APPENDIX II

Resolution No. 2 on mutual assistance in criminal matters

*29th Council of Europe Conference of Ministers of Justice
(Tromsø, Norway, 18-19 June 2009)*

THE MINISTERS participating in the 29th Council of Europe Conference of the Ministers of Justice (Tromsø, Norway, 18 -19 June 2009),

1. Recalling Resolution No. 5 on the functioning of the Council of Europe Conventions on judicial co-operation in criminal matters adopted in Helsinki (7-8 April 2005);
2. Having regard to the Conclusions adopted at the High Level Conference of the Ministries of Justice and of the Interior in Moscow (9-10 November 2006);
3. Convinced that one of the key roles of the Council of Europe is to assist its member States in strengthening their individual and collective ability to prevent and respond to crime, while respecting human rights;
4. Recognising the value of the existing 31 treaties of the Council of Europe dealing with various aspects of co-operation in criminal matters;
5. Welcoming the close co-operation between the Council of Europe and the European Union based on common standards as embodied in these treaties and the Memorandum of Understanding between the two organisations, and as recently expressed in the Conclusions of the Council of the European Union on supporting the Council of Europe's legislative work in the area of criminal justice (26-27 February 2009);
6. Marking the 50th anniversary of the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 and welcoming the fact that this Convention has been ratified by all member States of the Council of Europe and by Israel;
7. Bearing in mind that this convention has been of particular relevance in setting up Europe-wide co-operation mechanisms and thus establishing the preconditions for prosecuting different forms of trans-border criminality;
8. Noting that the evolution of criminality towards a growing trans-border phenomenon has led to the need to update the existing instruments and to the adoption of the two additional protocols to the European Convention on Assistance in Criminal Matters in 1978 and 2001;
9. Considering that the 2nd Additional Protocol of 8 November 2001 in particular adapts the European Convention on Mutual Assistance in Criminal Matters to today's needs, by providing for novel channels and means of co-operation, by facilitating assistance and making it quicker and more flexible;
10. Welcoming the steady stream of ratifications of the convention and its additional protocols which attests to the fact that they remain a living document, continuing to be applied on a daily basis and providing a legal basis for effective co-operation between their Parties;
11. Noting with appreciation the work of the European Committee on Crime Problems (CDPC) and its subordinate committees in the adoption and updating of the relevant Council of Europe instruments, as well as in maintaining a continued scrutiny on the effective operation of the conventions on co-operation in criminal matters;

12. Welcoming in particular the recent implementation by the Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters (PC-OC) of measures to facilitate the practical application of the Council of Europe conventions on co-operation in criminal matters;
13. CALL ON member States:
 - a. if they have not already done so, to sign and ratify the 2nd Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters as a matter of priority;
 - b. to review their reservations to the European Convention on Mutual Assistance in Criminal Matters and its Additional Protocols, with a view to withdrawing them if possible, in order to remove all obstacles to international co-operation;
14. AGREE on the need to further develop practical measures in order to render international co-operation in criminal matters more effective all over Europe;
15. INVITE the Council of Europe to strengthen its activities aimed at developing and enhancing such measures, in particular by intensifying the co-operation between the relevant bodies of the Council of Europe and the European Union, and in particular the PC-OC and the European Judicial Network;
16. INVITE member States to support initiatives in this field and offer their co-operation in order to make them effective.

APPENDIX III

Resolution No. 3 on Council of Europe action to promote the rule of law

*29th Council of Europe Conference of Ministers of Justice
(Tromsø, Norway, 18-19 June 2009)*

THE MINISTERS participating in the 29th Council of Europe Conference of Ministers of Justice (Tromsø, Norway, 18-19 June 2009),

1. Reaffirming the importance of the rule of law as a basis of genuine democracy;
2. Recalling that it is the core objective of the Council of Europe to preserve, strengthen and promote the rule of law, human rights and democracy;
3. Referring to the three Declarations of the Heads of State and Government of the member states of the Council of Europe made on the occasions of the Council of Europe Summits of Vienna (1993), Strasbourg (1997) and Warsaw (2005) expressing their attachment and commitment to the rule of law;
4. Recognising that fair, efficient and accessible judicial systems are essential elements of the rule of law;
5. Acknowledging with appreciation the initiative taken in 2008 by the Swedish Chairmanship of the Committee of Ministers of the Council of Europe to make better use of the Council of Europe's potential in enhancing the rule of law, and referring to the document "The Council of Europe and the rule of law" (CM (2008) 170 of 21 November 2008) which has been prepared in this context;
6. Recognising the outstanding and essential contribution of the European Convention on Human Rights, the European Court of Human Rights and the Committee of Ministers, as supervisor of the execution of the Court's judgments, to developing and upholding common European rule of law standards and principles in all member states;
7. Noting that the rule of law should be ensured in international relations as well as within states;
8. Recognising also the role of the other Council of Europe mechanisms in the human rights and legal fields in monitoring and reinforcing the rule of law in the member states;
9. Convinced of the need to propose concrete steps in order to enhance the Council of Europe's capacity to actively promote the rule of law in all member states through existing as well as new standards and their effective implementation, as well as to develop needs assessment based co-operation programmes;
10. Recognising that the variety of rule of law-related activities of the Council of Europe, both in nature and topic, call for closer coordination between its different sectors as well as the use of synergies with other international organisations;
11. Stressing the importance of assessing, on a more comprehensive and regular basis, the state of the rule of law in the member states in order to adopt or develop Council of Europe standards and/or assist member states in addressing specific issues through targeted technical cooperation;
12. Underlining the importance of the Memorandum of Understanding between the Council of Europe and the European Union of 11 May 2007, which called for closer cooperation, in particular regarding the promotion and protection of the rule of law with a view to establishing common standards and promoting a Europe without dividing lines;

13. Convinced of the need to effectively implement legal standards of the Council of Europe and to further strengthen the Council of Europe's potential as the only pan-European standard-setting organisation:

* * *

14. REITERATE their support for action, at all levels and in all sectors of the Council of Europe, in pursuance of the core objective of the Organisation: the preservation, strengthening and promotion of the rule of law in all member states;

15. INVITE the Committee of Ministers:

- a. to instruct the Secretary General to enhance coordination of the Council of Europe's activities regarding the rule of law;
- b. to make better use of the existing bodies, while avoiding duplication with existing evaluation mechanisms, with a view to permitting a regular review in member states of the different aspects defining a state governed by the rule of law, as identified in the above-mentioned document "The Council of Europe and the rule of Law - an overview", notably on the basis of the case law of the European Court of Human Rights, the execution of its judgments, contributions by the relevant steering committees and advisory bodies as well as the findings of monitoring bodies;
- c. on this basis, to target better technical co-operation and the development of standards;

16. INVITE the Committee of Ministers to consider measures to strengthen international co-operation between states in administrative matters, while providing adequate safeguards for the rights of individuals and their privacy, including an examination of existing Council of Europe conventions in this field with a view to reviewing them if necessary;

17. INVITE the Committee of Ministers to give high priority and adequate resources to rule of law-related activities in the civil, penal and administrative fields within the Council of Europe;

18. CALL ON the Council of Europe to intensify its rule of law-related activities and invite the European Union to cooperate with it in this work, with a view to ensuring coherence, synergies and the best possible use of available resources, notably in the context of existing or possible future rule of law assessment activities;

19. RECOMMEND that the Council of Europe pursues its work of promoting the rule of law worldwide by developing co-operation with the United Nations, the OSCE/ODIHR and other international institutions working in this field and by increasing the global reach of relevant Council of Europe conventions, such as:

- the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (CETS No. 108, 1981) and its Additional Protocol regarding supervisory authorities and transborder data flows (CETS No. 181, 2001);
- the Convention on Cybercrime (CETS No. 185, 2001) and its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (CETS No. 189, 2003);
- the Convention on Action against Trafficking in Human Beings (CETS No. 197, 2005), and
- the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201, 2007).