



30th Council of Europe Conference of
Ministers of Justice
Istanbul 2010



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

MJU-30(2010)02 E

30th Council of Europe Conference of Ministers of Justice

Istanbul, 24 - 26 November 2010

Modernising Justice in the Third Millennium:

- transparent and efficient justice;**
- prisons in today's Europe.**

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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FOREWORD

At its 1074th meeting on 12-13 January 2010, the Committee of Ministers of the Council of Europe noted that the 30th Council of Europe Conference of Ministers of Justice would be held from 24 to 26 November 2010 in Turkey, and noted, at its meeting of 10 March 2010 (1079th) and 9 June 2010 (1087th), the theme of this Conference and the participants to be invited to attend.

This report has been drafted on the basis of the Report presented by the Secretary General of the Council of Europe at the 29th Council of Europe Conference of Ministers of Justice (Tromsø, Norway, 18-19 June 2009). It contains developments concerning the follow-up to the resolutions adopted at previous Council of Europe Conferences of Ministers of Justice, namely:

1. 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.
2. Resolutions adopted at the 28th Conference of European Ministers of Justice (Lanzarote, Spain, 25-26 October 2007), as it appears in Appendix IV and V:
 - No. 1 on access to justice for migrants and asylum seekers;
 - No. 2 on child-friendly justice.

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

Status and rights of victims of crime

As a follow-up to point 22 of Resolution No.1 adopted at the 29th Council of Europe Conference of Ministers of Justice (Tromsø, June 2009), the Council of Europe decided to enhance and harmonise the recognition and respect of the status and rights of victims in criminal proceedings.

A report on this subject has been prepared by an expert ("Report on the standing and rights of victims in criminal proceedings") under the aegis of the European Committee on Crime Problems (CDPC) to provide guidance on possible activities of the Council of Europe and ultimately the type of appropriate legal instrument to address existing legal gaps while completing, notably, the work of the European Union in this area.

In light of existing Council of Europe legal instruments and to facilitate the drafting of future common rules, the CDPC decided to develop a compilation of standard model provisions regarding the rights of victims. In addition, it was agreed that such rights should be addressed also in the context of international co-operation.

Moreover, to ensure coherence and synergies with the work of the European Union, the Council of Europe – while continuing developing ongoing activities in this field -postponed any possible decision with respect to the development of a future legal instrument in this area. The results, in 2011, of the ongoing review of European Union legislation and policy options to improve the situation of victims of crime will certainly influence Council of Europe future work in this regard.

Domestic violence

During 2010, the Ad Hoc Committee on Preventing and Combating Violence against Women and Domestic Violence (CAHVIO), composed of representatives of all member states and various observers, completed its first reading of the draft Convention and entered the final phase of negotiations.

The CAHVIO began the second reading of the draft Convention at the occasion of its 5th meeting (29 June - 2 July 2010). It held a further two meetings (September and November) and is determined to finalise its work within the set time schedule (31 December 2010).

The draft Convention contains provisions aimed at preventing and combating the widest possible range of forms of violence perpetrated against women: psychological and physical violence (including when committed for the purpose of protecting the perceived honour of the family or community), sexual violence and rape, stalking and sexual harassment, traditional practices harmful to women including in particular forced marriage and female genital mutilation.

Provisions of the future Convention should also apply to other victims of domestic violence, including children.

On its side, the European Committee on Legal Co-operation (CDCJ), at its 84th Plenary meeting (6-9 October 2009), took note of Resolution n°1 and decided to focus on the prevention and response to domestic violence relating to children and the elderly. It notably participated actively in the work of the CAHVIO and will, where necessary, complete its work once CAHVIO has finalised the Convention.

Dangerous offenders

The treatment of long-term and 'dangerous' offenders has become an important question in many Council of Europe member states, with concerns raised from a number of different perspectives. To provide an accurate follow-up to the Resolution No. 1 of the 29th Council of Europe Conference of Ministers of Justice and to the conclusions of the 14th Conference of Directors of Prison Administration (CDAP), organised jointly with the Austrian Ministry of Justice (Vienna, 19-21 November 2007), the CDPC decided to carry out a study of the concept of dangerous offenders and of their supervision and treatment.

An expert in this field was invited to prepare a document on that subject. A first preliminary report was presented to the CDPC Plenary in June 2010. The draft report will be circulated afterwards to all CDPC delegations for possible comments regarding the situation in their respective country and will be finalised in December 2010.

It is expected that the conclusions of the report will focus on:

- the variety of ways in which criminal justice systems currently seek to protect the rights of both victims and of 'dangerous' offenders, and the inevitable dilemmas confronted;
- the risks associated with the use of the label 'dangerous'; and with public expectations of 'safety' in the current European political context;
- examples of good practice in the management and treatment of 'dangerous' offenders.

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

Facilitate judicial co-operation in criminal matters

In order to improve the practical implementation of the European Convention on Mutual Assistance in Criminal Matters, the Council of Europe launched a voluntary contribution project entitled "effective practical tools to facilitate judicial co-operation in criminal matters". This project involves the creation of model standard request forms for mutual assistance in criminal matters, which will be customised by member States in accordance with their domestic requirements, as well as the development of guidance material for practitioners (prosecutors, judges, central authorities, etc.) drafting these requests. This project will contribute to a speedy execution of mutual assistance requests, to the shortening of criminal proceedings with transnational elements and to the improvement of international judicial co-operation in criminal matters in general.

The first phase of this project was concluded in April 2010, thanks to a voluntary contribution from Germany, and involved the drawing up of model forms and guidance for practitioners by independent experts. Later stages of the project will include the approval of these draft forms by a conference and assistance to member States in adapting them to their domestic requirements. The finalised material will be made available to practitioners on the Council of Europe website.

This project is supported by the European Union. The European Judicial Network (EJN) will also be involved in its implementation. The continuation of this project depends on further voluntary contributions.

Following the adoption of the Resolution, the working relationship between the EJN and the Council of Europe's Committee of experts on the operation of European conventions on co-operation in criminal matters (PC-OC) has been intensified. As of 2010, the Secretariats of the EJN and the PC-OC are regularly invited to attend the plenary meetings of each other. A number of subjects for further development have been identified, including an extension of the European Judicial Atlas to non-member States of the European Union having ratified the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters.

Opinions of the Consultative Council of European Prosecutors (CCPE)

Opinion N° (2007) 1 of the Consultative Council of European Prosecutors (CCPE) on "Ways of international co-operation in the criminal justice field" is being promoted among prosecution services in the member states. Moreover, the joint Consultative Council of European Judges (CCJE) and CCPE's Opinion on "relations between judges and prosecutors"¹, adopted in Ljubljana in November 2009, includes specific provisions on the role of judges and prosecutors in international cooperation.

¹ Opinion No.12 (2009) of the Consultative Council of European Judges (CCJE) and Opinion No.4 (2009) of the Consultative Council of European Prosecutors (CCPE) on judges and prosecutors in a democratic society.

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

Rule of law and administrative matters

On 24 March 2010, the Committee of Ministers adopted a Protocol amending the 1988 Convention on Mutual Administrative Assistance in Tax Matters (CETS No 208). This joint Council of Europe-OECD Convention provides for a broad range of administrative assistance, including information exchange on request, simultaneous tax audits, and optionally automatic exchange of information, assistance in tax collection and service of documents.

The Protocol has been opened for signature on the occasion of the OECD Ministerial meeting which took place in Paris on 27 May 2010. It has been signed on that occasion by 15 states, 10 of them being Council of Europe member States.

The European Committee on Legal Co-operation (CDCJ) decided at its 84th Plenary meeting (6-9 October 2009) to carry out an evaluation of the European Convention on the Service Abroad of Documents relating to Administrative Matters (CETS No. 94) and the European Convention on the Obtaining Abroad of Information and Evidence in Administrative Matters (CETS No. 100). Other work in the field of administrative law includes the revision of the Handbook "the administration and you" published in 1996, as well as the evaluation of the implementation of Recommendation CM/Rec(2007)7 on good administration as regards the specific field of civil registration.

Further work in this field has, for the time being, been suspended in the light of the current budgetary situation and the process of internal reform launched by the Secretary General.

Functioning of European judicial systems

The European Commission for the Efficiency of Justice (CEPEJ) has completed its 3rd cycle for evaluating the functioning of judicial systems in 45 member states. Its report "European judicial systems – Edition 2010" was made public on 20 October 2010. This unique evaluation mechanism is as an essential tool for policy makers and justice practitioners for in-depth analysis in order to orientate public policies of justice and strengthen mutual confidence between European justice systems. Furthermore, CEPEJ is setting up, through its SATURN Centre, a permanent European Observatory of timeframes of judicial proceedings, to contribute to limiting violations of Article 6 of the European Convention on Human Rights (which represent more than 40 % of the pending cases at the European Court of Human Rights). CEPEJ is also designing practical tools for promoting the quality in courts and assessing the level of satisfaction of European court users.

**28th Conference - Follow-up to Resolution No. 1
on access to justice for migrants and asylum seekers**

Access to justice for migrants and asylum seekers

The European Committee on Legal Co-operation (CDCJ) commissioned in 2008 an expert to prepare a feasibility study on access to justice for migrants and asylum seekers.

This study, which identifies obstacles in accessing justice and effective remedies in current systems, concludes that additional Council of Europe action in this field would be both necessary and feasible, more precisely a Council of Europe instrument focused on the specific issue of access to justice for migrants and asylum-seekers, with particular attention to unaccompanied minors and separated children.

The CDCJ proposed to the Committee of Ministers that a Group of Specialists entrusted with the task of preparing a draft legal instrument on the issue be set up. However, the Committee of Ministers has so far put on hold this work, awaiting the outcome of the current revision of the legal framework at European Union level.

28th Conference - Follow-up to Resolution No. 2 on child-friendly justice

Council of Europe guidelines on child-friendly justice

In 2008, three major inter-governmental committees of the Council of Europe – the European Committee on Legal Cooperation (CDCJ), the European Committee on Crime Problems (CDPC) and the Steering Committee for Human Rights (CDDH) – commissioned experts to write assessment reports dealing with child-friendly justice in all spheres of justice – civil, administrative, criminal – and human rights, to launch the initial reflection on child-friendly justice.

These reports were presented and used as a sound basis for discussions in the two high level conferences which were organised under the respectively Swedish (Stockholm, 8-10 September 2008, "Building a Europe for and with Children: towards a strategy for 2009-2011") and Spanish (Toledo, 12-13 March 2009, "The protection of children in European justice systems") Chairmanship of the Council of Europe's Committee of Ministers.

The findings of the experts' reports and the seminar's discussions provided important and valuable material for the Group of Specialists on child-friendly justice (CJ-S-CH) set up in February 2009 and entrusted with the task of drafting European guidelines on child-friendly justice.

The CJ-S-CH, a multidisciplinary group, included judges, prosecutors, psychologists, police officers, social workers, as well as representatives of the member states.

In 2009, the Group held three meetings and a hearing with leading international children's rights NGOs in Strasbourg. The consultation of various stakeholders – international organisations (notably the European Commission and Unicef), international NGOs, member states and national focal points for children – has been ensured throughout the drafting process of the guidelines, notably through the repeated invitation to present examples of good practices, a permanent consultation through the website and the sending of draft texts for concerted comments at the national level from January until May 2010.

In 2010, the Council of Europe also organised the first consultation of children and young people on justice in the framework of its standard-setting activities. Around 30 partners throughout Europe have been associated to this consultation, contributing to the drafting and dissemination of a questionnaire issued to this end as well as the organisation of focused discussions, both at individual and collective level. Over 4000 replies have been received from 25 countries and taken into account in the drafting of the guidelines at the last meeting of the CJ-S-CH held in Strasbourg from 25 to 28 May 2010.

The final version of the draft instrument containing guidelines was presented to the CDCJ for approval at its annual Plenary meeting (11-14 October 2010) and subsequently to the Committee of Ministers for adoption in November 2010.

The guidelines aim at enhancing children's access to and treatment in justice. They reflect principles on child-friendly justice based on the case-law of the European Court of Human Rights and on the existing universal, European and national standards. They will apply to all ways in which children are likely to be, for whichever reason and in whichever capacity, brought into contact with civil, administrative or criminal justice. Furthermore, the guidelines will consider the issue of the place and the voice of the child in judicial proceedings as well as extrajudicial proceedings and will ensure that the rights of children to information, to representation and to participation are fully respected. As a concrete tool, the guidelines will present examples of good practices and propose practical solutions to remedy possible legal lacunae.

To obtain more detailed information about the Council of Europe's work on child-friendly justice, visit the website: www.coe.int/childjustice.

Opinion of the Consultative Council of European Prosecutors (CCPE)

The Consultative Council of European Prosecutors (CCPE) is preparing an Opinion on public prosecution as regards juvenile justice, to be adopted in Yerevan on 26 November 2010.

Conclusions

The initiatives taken during past Council of Europe conferences of Ministers of Justice have given a clear direction to the Council of Europe's work on legal affairs and human rights and have yielded concrete results. Appropriate follow-up has been given to all resolutions through standard-setting, cooperation and awareness-raising activities. The European Rules for juvenile offenders, the Guidelines on human rights protection in the context of accelerated asylum procedures, the European guidelines on child-friendly justice and the Convention on preventing and combating violence against women and domestic violence are all important contributions to the common legal area of the Council of Europe.

This pan-European legal area is in the interests of all Europeans. Rooted in common basic values and a shared constitutional and legal heritage, it holds the promise of a Europe without dividing lines.

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).

APPENDIX IV

RESOLUTION No. 1 on access to justice for migrants and asylum seekers

*28th Conference of European Ministers of Justice
(Lanzarote, Spain, 25-26 October 2007)*

THE MINISTERS participating in the 28th Conference of the European Ministers of Justice (Lanzarote, 25-26 October 2007),

1. Having regard to the report of the Minister of Justice of Spain on "Emerging issues of access to justice for vulnerable groups, in particular: migrants and asylum seekers, children, including children perpetrators of crime" and welcoming the contributions made by other delegations;
2. Having discussed "Emerging issues of access to justice for migrants and asylum seekers";
3. Recognising that immigration is posing a major challenge for Europe;
4. Having regard to the extensive standards developed by the Council of Europe in this field and underlining that these standards should be widely disseminated, promoted and fully implemented;
5. Having regard also to international standards and national rules and procedures on immigration and asylum;
6. Being aware of the difficulties migrants and asylum seekers often have in accessing justice and observing that other persons such as refugees, stateless persons and internally displaced persons (IDPs) may be in similar situations;
7. Taking due account of the rights enshrined in the European Convention on Human Rights and the case-law of the European Court of Human Rights; the on-going work of the Council of Europe Human Rights Commissioner, the Steering Committee for Human Rights (CDDH) and the European Committee on Migration (CDMG);
8. Underlining that the Memorandum of Understanding is now a new basis for cooperation between the Council of Europe and the European Union for any activity undertaken in this matter;
9. Convinced of the need to ensure and facilitate the full exercise and protection of the rights of migrants and asylum seekers;
10. Underlining also the need to ensure and facilitate access to appropriate information on the rights of migrants and asylum seekers;
11. Recognising the importance of providing proper conditions for such vulnerable persons in case of deprivation or limitation of liberty;
12. Underlining the particular vulnerability of children in the situations described in this resolution;
13. Referring to the Declaration and Action Plan adopted during the Third Summit of Heads of State and government of the Council of Europe and in particular its Chapters on

Strengthening democracy, good governance and the rule of law in member states and on managing migration.

14. AGREE on the importance of securing the fundamental rights of, and facilitating their exercise by, migrants and asylum seekers, through access to information, to an effective remedy, to a fair trial and, where appropriate, to representation, interpretation and assistance;
15. RECOGNISE the necessity to take into account the situation of children specifically regardless of the legal status of their parents;
16. 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 other competent bodies of the Council of Europe, to examine:
 - a. access to justice for migrants and asylum seekers by identifying means and measures with a view to facilitating and ensuring this access, including the provision of legal aid and assistance;
 - b. the specific issue of access to justice, legal representation, age assessment and deprivation or limitation of liberty of unaccompanied and separated children with a view to determining the feasibility of and the need for additional Council of Europe action in this field;
 - c. the relationship of asylum procedures with extradition procedure;
17. INVITE the Committee of Ministers to promote the Council of Europe's standards in this field and support and develop cooperation activities dedicated to the training of judges, prosecutors, civil servants and any other persons dealing with requests for asylum, granting residence, managing complaints lodged or in the enforcement of the right to *non-refoulement*;
18. RECOMMEND that the Secretary General of the Council of Europe pursues co-operation with the European Commission, the United Nations High Commissioner for Refugees and other competent bodies;
19. 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 V

Resolution No. 2 on child-friendly justice

*28th Conference of European Ministers of Justice
(Lanzarote, Spain, 25-26 October 2007)*

THE MINISTERS participating in the 28th Conference of the European Ministers of Justice (Lanzarote, 25-26 October 2007),

1. Having regard to the report of the Minister of Justice of Spain on "Emerging issues of access to justice for vulnerable groups, in particular: migrants and asylum seekers, children, including children perpetrators of crime", and welcoming the contributions made by other delegations;
2. Having discussed access to justice for children, including children perpetrators of crime;
3. Having regard in particular to the European Convention on Human Rights, the United Nations Convention on the rights of the child and its optional protocols, the European Convention on the exercise of children's rights and the Council of Europe Recommendations concerning juvenile delinquency;
4. Welcoming the results achieved so far by the Council of Europe programme "Building a Europe for and with children" and encouraging the Council of Europe to continue with this important work and noting in particular the results of the Conference on "International Justice for Children" (Strasbourg, 17 and 18 September 2007);
5. Underlining the importance of the recent Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse;
6. Welcoming the drafting of European Rules for juvenile offenders subject to community sanctions or measures or deprived of their liberty;
7. Recognising that the best interests of children are a primary consideration;
8. Acknowledging the need to provide and facilitate children's access to effective remedies, to mediation and to court proceedings, in order for their rights to be fully respected and promoted including through the enforcement of decisions and judgments;
9. Convinced that children's participation, as appropriate in judicial proceedings in which they are involved, is an important element of a modern and fair justice system where children's views, needs and concerns should effectively be taken into account;
10. Aware of the necessity to establish measures and safeguards to reduce the negative impact of, and to protect children from suffering harm when encountering the justice system;
11. Noting that special attention and guarantees are required for child victims or witnesses of crime to protect their welfare and prevent them from repeat victimisation by inappropriate judicial procedures;

12. Aware that the development of a secure and friendly environment for children involved with the justice system, with specially trained persons and efficient procedures, reduces the harm suffered by children and enhances the efficiency of justice;
13. Underlining that alternatives to custody should be developed for children perpetrators of crime and that, where deprivation of liberty is absolutely necessary as a measure of last resort, the conditions and regime of detention should take into account their specific needs as children;
14. Underlining in particular that children should be detained separately from adults, including in cases of preventive detention, unless this is considered to be against the best interests of the child;
15. Underlining that the Memorandum of Understanding is now a new basis for co-operation between the Council of Europe and the European Union for any activity undertaken in this matter;
16. Referring to the Declaration and Action Plan adopted during the Third Summit of Heads of State and Government of the Council of Europe, in particular Chapter III.2 on "Building a Europe for children".

17. RECALL the particular vulnerability of children and the necessity to ensure respect for their rights and attention to their specific needs and concerns in all aspects of the justice system;
18. CALL UPON member states to respect the principle, in all justice matters involving children, that the best interests of children shall be a primary consideration;
19. CALL UPON states to become parties to the Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse, and those states which have not yet done so to become parties to the Council of Europe Convention on action against trafficking in human beings, the European Convention on the exercise of children's rights and the Convention on cybercrime;
20. INVITE the Committee of Ministers to promote and encourage the implementation of the above-mentioned instruments and to appoint a thematic co-ordinator on children;
21. ENCOURAGE the relevant Council of Europe bodies to finalise as soon as possible the European Rules for juvenile offenders subject to community sanctions or measures or deprived of their liberty;
22. AGREE on the importance of taking measures to develop child-friendly justice;
23. INVITE the Committee of Ministers to entrust the European Committee on Crime Problems (CDPC), the European Committee on Legal Co-operation (CDCJ), the Steering Committee for Human Rights (CDDH) as well as the European Commission for the efficiency of justice (CEPEJ) in co-operation with other competent bodies of the Council of Europe, to:
 - a. examine the access and the place children have prior to, during and after judicial proceedings;

- b. examine the way in which the views of children can be taken into account during such proceedings;
 - c. examine ways of improving the manner in which authorities provide information to children on their rights and access to justice, including to the European Court of Human Rights;
 - d. gather information on child-friendly procedures implemented in member states;
 - e. prepare elements for European guidelines for child-friendly justice;
24. ASK the Secretary General of the Council of Europe to report on the steps taken to give effect to this Resolution, on the occasion of their next Conference.

