



MJU-28(2007)02 E

28th CONFERENCE OF EUROPEAN MINISTERS OF JUSTICE

Lanzarote (25-26 October 2007)

**“Emerging issues of access to justice for
vulnerable groups, in particular:
- migrants and asylum seekers;
- children, including children perpetrators of crime”**

**FOLLOW-UP TO RELEVANT RESOLUTIONS
ADOPTED AT PREVIOUS CONFERENCES OF
EUROPEAN MINISTERS OF JUSTICE**

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

www.coe.int/minjust

FOREWORD

At its 971st meeting on 12 July 2006, the Committee of Ministers of the Council of Europe took note of the invitation from the Minister of Justice of Spain to host the 28th Conference of European Ministers of Justice in Lanzarote (Spain) and noted at its 986th meeting on 7 February 2007 that this conference would be held on 25-26 October 2007.

This report is elaborated on the basis of the Report presented by the Secretary General of the Council of Europe at the 27th Conference of the European Ministers of Justice (Yerevan, Armenia, 12-13 October 2006). It contains developments concerning the follow-up to relevant resolutions adopted at previous Conferences of European Ministers of Justice, namely:

1. Resolution adopted at the 27th Conference of the European Ministers of Justice (Yerevan, Armenia, 12-13 October 2006), as it appears in Appendix I:

- No. 1 on victims of crime.

2. Resolutions adopted at the 26th Conference of European Ministers of Justice (Helsinki, Finland, 7-8 April 2005), as they appear in Appendices II to VI:

- No. 1 on seeking legal solutions to debt problems in a credit society;
- No. 2 on the social mission of the criminal justice system – restorative justice;
- No. 3 on combating terrorism;
- No. 4 on updating the European Prison Rules and on the possibility of a European Prison Charter;
- No. 5 on the functioning of the Council of Europe conventions on judicial cooperation in criminal matters.

TABLE OF CONTENTS

27 TH CONFERENCE - Follow-up to Resolution No. 1 on victims of crime	5
26 TH CONFERENCE - Follow-up to Resolution No. 1 on seeking legal solutions to debt problems in a credit society	9
26 TH CONFERENCE - Follow-up to Resolution No. 2 on the social mission of the criminal justice system -restorative justice.....	10
26 TH CONFERENCE - Follow-up to Resolution No. 3 on combating terrorism	16
26 TH CONFERENCE - Follow-up to Resolution No. 4 on updating the European Prison Rules and on the possibility of a European Prisons Charter	22
26 TH CONFERENCE - Follow-up to Resolution No. 5 on the Functioning of the Council of Europe Conventions on Judicial Co-operation in Criminal Matters.....	25

APPENDICES

27th Conference of European Ministers of Justice

APPENDIX I - Resolution No. 1 on victims of crime	28
---	----

26th Conference of European Ministers of Justice

APPENDIX II - Resolution No. 1 on seeking legal solutions to debt problems in a credit society.....	31
APPENDIX III - Resolution No. 2 on the social mission of the criminal justice system - restorative justice.....	33
APPENDIX IV - Resolution No. 3 on combating terrorism	35
APPENDIX V - Resolution No. 4 on updating the European Prison Rules and on the possibility of a European Prisons Charter	38
APPENDIX VI - Resolution No. 5 on the functioning of the Council of Europe Conventions on judicial co-operation in criminal matters	39
APPENDIX VII – CETS No.: 196.....	40
APPENDIX VIII - Recommendation CM/Rec(2007)1 of the Committee of Ministers.....	43

27TH CONFERENCE - Follow-up to Resolution No. 1 on victims of crime

INTRODUCTION

1. At their 27th Conference, held in Yerevan (Armenia) on 12-13 October 2006, the European Ministers of Justice adopted Resolution No. 1 on victims of crime, in which they highlighted, *inter alia*, the importance of promoting measures at national and international level to improve assistance to victims and their protection from repeat and secondary victimisation, and of ensuring, as far as possible, their psychological, social and physical rehabilitation, as well as adequate compensation for any damage suffered.
2. In this respect, the Resolution referred to the extensive standards developed by the Council of Europe in this field, underlining that these standards should be widely disseminated, promoted and concretely implemented.
3. The Resolution recommends in particular that the Secretary General of the Council of Europe should ensure that the Council of Europe's activities on the training of police and personnel involved in the administration of justice include the question of appropriate ways in which to deal with vulnerable persons, particularly victims.
4. The Ministers also called on the Committee of Ministers to promote further the standards developed by the Council of Europe concerning victims by taking them into account in its work, in particular concerning persons and bodies having contact with victims, such as judicial and law enforcement agencies.
5. The Committee of Ministers was furthermore invited to entrust the European Committee on Legal Co-operation (CDCJ), in co-operation with other competent Council of Europe bodies, to study the question of civil, administrative and other remedies to be made available to victims of crime with a view to reducing the risk of secondary victimisation and contributing to their rehabilitation from crime suffered and adequate compensation for damage sustained. To this end, the CDCJ was instructed to identify and analyse the existing best practices with a view to making proposals to the Committee of Ministers for possible follow-up action. The following areas were identified:
 - civil, administrative or other remedies, designed to protect the interests of victims, in particular the provision of information on procedures, simplified procedures, legal aid and advice before, during and after the completion of criminal, civil administrative or other procedures, bearing in mind the needs of categories of particularly vulnerable victims (for example, children, the elderly, disabled persons);
 - the role of publicly or privately financed insurance schemes in ensuring compensation for damage sustained by victims;
 - the role of the authorities, organisations and persons dealing with and representing victims, particularly with respect to vulnerable victims.
6. Aware of the importance of Recommendation Rec(2006)8 on assistance to crime victims, which provides for extensive and effective assistance measures for victims of all types of crime, including victims of terrorism, and in particular for the most vulnerable victims, the Ministers invited the Committee of Ministers to entrust the European Committee on Crime Problems (CDPC) with the task of examining and promoting the Recommendation's implementation, in co-operation with other competent Council of Europe bodies.

7. Concerning the issue of domestic violence, in particular violence against the partner, the Ministers invited the Committee of Ministers to instruct the CDPC to:
 - examine, in co-operation with other competent bodies of the Council of Europe, the measures concerning violence against the partner contained notably in the appendix to Recommendation Rec(2002)5 on the protection of women against violence in order to determine the feasibility of and the need for an additional Council of Europe legal instrument on violence against the partner;
 - report back to the Committee of Ministers on the results of this examination so that it can decide whether there is a need for the Council of Europe to carry out work in this field.
8. Concerning the issue of crime prevention, restorative justice and mediation, the Ministers invited the Committee of Ministers to entrust the CDPC with the task of envisaging further activities dealing with the technical and legal aspects of the prevention of crime, in particular crime which targets vulnerable victims, as well as with restorative justice, including mediation (with a view in particular to examining the implementation of Recommendation No. R (99) 19 on mediation in criminal matters).
9. Finally, the Ministers expressed their support for the work of the Council of Europe Committee of Experts on Terrorism (CODEXTER) and welcomed, in particular, its progress report on future areas for the work of the Council of Europe in the fight against terrorism, as well as the decisions of the Committee of Ministers on the basis thereof.

FOLLOW-UP AND RECENT DEVELOPMENTS

Remedies available to victims

10. The Committee of Ministers decided, on 31 January 2007, to create, further to the adoption of Resolution No. 1 on victims of crime, and on the basis of the “progress report of the CODEXTER on future priority areas for the work of the Council of Europe in the fight against terrorism” (document CM(2005)172 Addendum), a Group of Specialists on remedies for crime victims (CJ-S-VICT). This Group of Specialists is entrusted with the task of :
 - analysing the legislation and best practices in the member states concerning civil, administrative and other remedies available to victims; and
 - examining the role of publicly or privately financed insurance schemes in ensuring compensation for damages sustained by victims, and in particular victims of terrorism.
11. The work will focus on the following issues in particular: the reduction of the risk of secondary victimisation, the rehabilitation from crime suffered, the provision of information on procedures available, the existence of simplified procedures and legal aid and advice, the role of authorities, organisations and persons dealing with and representing victims, the needs of categories of particularly vulnerable victims such as children, the elderly, and disabled persons.
12. In so doing, it will work in close co-operation with the competent bodies of the Council of Europe, namely the CDPC, the CODEXTER, the Steering Committee for Human Rights (CDDH) and the Steering Committee for Equality between Women and Men (CDEG).

13. The Group of Specialists met in May 2007 and will meet on two further occasions during its mandate which will expire at the end of 2007 and will focus on the production of a report, *inter alia* based on the analysis of replies to a questionnaire sent to the national delegations of the CDCJ.
14. The exchange of information and best practice on compensation and insurance schemes for victims of terrorism is also one of the current priorities of the CODEXTER. Furthermore, the protection of victims of terrorism was also identified by the Committee as the focus of further action by the Council of Europe. By continuing to pay particular attention to its activities concerning the victims of terrorism, the CODEXTER ensures the follow-up of this Resolution as well as of Resolution No. 3 on combating terrorism, adopted at the 26th Conference of European Ministers of Justice.¹
15. One year after the adoption of Recommendation (2006)8, the Secretariat carried out a survey among the CDPC delegations regarding its translation and implementation in the Council of Europe member States. In half of the countries which replied the recommendation had already been translated into the national languages and in the majority of the countries legislative and/or practical measures were taken in order to comply with the standards set by the recommendation.

Administrative means of appeal available to victims

16. Concerning the necessity to make administrative means of appeal available to victims and on the basis of the relevant recommendations of the Committee of Ministers (R (76) 5 on legal aid in civil, commercial and administrative matters, R (78) 8 on legal aid and advice, R (81) 7 on measures facilitating access to justice, R (86) 12 concerning measures to prevent and reduce the excessive workload in the courts), the Project Group on Administrative Law (CJ-DA) is carrying out a study on the law and practice of the member states regarding:
 - a) effective administrative review available to individuals in particular those claiming a breach of the European Convention on Human Rights by an administrative authority, taking into consideration how administrative review operates and when;
 - b) access for deprived persons, including vulnerable victims, to justice through internal administrative proceedings. Examine, within this framework, if and to what extent the provision of legal aid in respect of legal costs incurred by persons with insufficient resources should exist in the case of administrative review.
17. On the basis of this study and taking into account the relevant case law of the European Court of Human Rights, the CJ-DA will examine the desirability of preparing a recommendation on administrative review as a means of protecting human rights and on ways of access to justice. The report will be available by the end of 2007.

¹ Further information on the Council of Europe's activities on victims of terrorism is presented in the chapter on the follow-up of Resolution No. 3 on combating terrorism.

Domestic violence

18. Having regard to Resolution No. 1 on victims of crime, in particular related to the question of domestic violence and, in particular, violence against the partner², a study on the feasibility of a Council of Europe convention on this subject was carried out by an independent expert for the CDPC. The study concluded that a Council of Europe convention as a binding international instrument would be an important step in the fight against this form of violence.
19. At its plenary meeting in June 2007, the CDPC took note of this feasibility study and agreed that a legally binding instrument would be necessary on combating violence against the partner. It took the view that this work should be carried out in co-operation with the Steering Committee for Equality between Women and Men (CDEG) and with the Council of Europe Task Force to Combat Violence against Women, including Domestic Violence (EG-TFV).
20. The CDEG pointed out that any possible future international legally binding instrument on violence against women, in particular on domestic violence or violence against the partner should be a comprehensive instrument covering three areas of action: prevention of violence against women, protection of victims and prosecution of the perpetrators. It also stressed that this instrument should reflect a holistic approach to this issue. The *Task Force to Combat Violence against Women, including Domestic Violence* was in favour of a new legally binding instrument and underlined the need for a multidisciplinary approach in preparing such an instrument. Furthermore, the assessment of the currently ongoing *Council of Europe Campaign to Combat Violence against Women, including Domestic Violence* by the Task Force should be taken into account when adopting a decision concerning the preparation of a Convention in this field. The Campaign, launched during a high-level conference in Madrid on 26 November 2006, is being carried out following a decision taken by the Heads of State and Government of the Council of Europe member states taken at the Third Summit of the Organisation (May 2005). Consisting of an intergovernmental, parliamentary and local and regional dimension, it aims at raising awareness of and improving efforts in preventing and combating violence against women.
21. Taking into account these factors and in particular the fact that the Final Activity Report of the Task Force will be submitted to the Committee of Ministers in 2008, the CDPC concluded that it would discuss the issue of the preparation of a possible Convention on combating domestic violence at its next plenary meeting in June 2008.

Evaluation of specific procedures in the European legal systems

22. Specific questions enabling the evaluation of procedures dedicated to victims by the Council of Europe's member States have been included in the Scheme for evaluating European judicial systems of the European Commission for the Efficiency of Justice (CEPEJ), within the framework of its regular process for evaluating judicial systems.

² See Appendix 1, paragraph 23 No. 2 a. to this Report.

26TH CONFERENCE - Follow-up to Resolution No. 1 on seeking legal solutions to debt problems in a credit society

INTRODUCTION

23. In this Resolution the Ministers expressed their concern about the problems arising in today's credit society due to, *inter alia*, the easy access to credit that can, in some cases, result in the over-indebtedness of households, creating social exclusion of individuals and families. The Ministers further stressed that over-indebtedness has become an increasingly widespread problem in their respective countries and decided to invite the Committee of Ministers of the Council of Europe to entrust the European Committee on Legal Co-operation (CDCJ) with the task of :
- analysing the existing legislation and good practices, as well as identifying the difficulties met in finding solutions to debt problems;
 - preparing an appropriate instrument defining legislative and administrative measures as well as considering remedies to prevent and solve debt problems;
 - considering the role and co-operation of competent bodies at international, national, regional and local level, such as courts, administrative authorities, non-governmental organisations involved as well as financial and lending institutions;
 - considering ways of providing assistance to member states in the application of the above mentioned instrument and, when necessary, make appropriate proposals to the Committee of Ministers.

FOLLOW-UP AND RECENT DEVELOPMENTS

24. The Bureau of the CDCJ approved the draft terms of reference of the Group of Specialists on Seeking Legal Solutions to Debt Problems (CJ-S-DEBT) which were adopted by the Committee of Ministers giving it the main task of preparing a draft Recommendation on legal solutions to debt problems.
25. At the end of 2006, the Group of Specialists finalised the draft Recommendation on legal solutions to debt problems and its Explanatory Memorandum, which were approved by the CDCJ early in 2007. The objective of the Recommendation is three-fold: preventing over-indebtedness of individuals and families, adjusting recovery of debts from the over-indebted in a manner that avoids their social and financial exclusion and facilitating rehabilitation of the over-indebted with due regard to their human dignity.
26. The Recommendation was adopted by the Committee of Ministers on 20 June 2007. Its effective implementation throughout member states is of utmost importance as it should pave the way for assisting the member states of the Council of Europe in tackling over-indebtedness and allowing them to take effective control of the problem.

26TH CONFERENCE - Follow-up to Resolution No. 2 on the social mission of the criminal justice system -restorative justice

INTRODUCTION

27. This Resolution states that it is of great importance for social peace to promote a criminal policy which focuses also on the prevention of anti-social and criminal behaviour, the development of community sanctions and measures, the victim's needs and offender reintegration.
28. The Resolution furthermore underlined that by a restorative justice approach the interests of crime victims may often be better served, the possibilities for offenders to achieve a successful integration into society may be increased and public confidence in the criminal justice system may thereby be enhanced.
29. Considering therefore that the restorative justice approach should be developed both in the framework of community measures as well as in all stages of criminal justice procedure, including restorative justice measures applied during and after imprisonment, the Ministers agreed on the importance of promoting a restorative justice approach in the criminal justice systems of the member states of the Council of Europe.
30. In the context of the above, the Ministers encouraged the continuing work of the European Committee on Crime Problems (CDPC) in:
 - updating the European Prison Rules;
 - addressing the needs of victims of crime, including victims of terrorism and of serious violations of international humanitarian law;
 - examining means of enhancing crime prevention policies.
31. The Ministers furthermore encouraged the work of the Council of Europe in conducting a multidisciplinary project on violence and children.
32. The CDPC was invited to prepare, in accordance with Recommendation Rec(2003)20, an instrument with a view to developing comprehensive standards governing sanctions and measures for dealing with juvenile offenders.
33. The Committee of Ministers was further invited to entrust the CDPC to examine the issue of probation and post prison assistance with a view to addressing the need to develop the role of probation services.
34. Aware of the need to design particular strategies to address the specific needs of groups of vulnerable victims and/or offenders, the Ministers of Justice also invited the Committee of Ministers to ask the CDPC to give further consideration to the possibility of preparing one or more instruments to address these needs.
35. Considering the particular situation in some countries where the criminal justice system is undergoing substantial reforms, and that these countries may be in special need of technical assistance, the Committee of Ministers was invited to support and develop co-operation programmes put in place to promote the widespread application of restorative justice in the member states, on the basis of the Council of Europe's recommendations in this field.

FOLLOW-UP AND RECENT DEVELOPMENTS

European Prison Rules

36. The CDPC examined the draft recommendation updating the European Prison Rules and the draft was finalised and approved during a meeting of the CDPC Bureau in October 2005. The Committee of Ministers adopted the updated European Prison Rules (EPR), contained in Recommendation Rec(2006)2 on 11 January 2006.
37. There are many differences of style and substance between the old and the new EPR. The latter have a reorganised and simplified layout. Some very important rules are spelled out at the very beginning in Part I called "Basic principles". The scope and application of the EPR are defined very clearly in Rules 10 to 13. There are separate and well organised chapters dealing with conditions of imprisonment, health, good order, management and staff, inspection and monitoring, untried and sentenced prisoners. The revised Rules apply in the large majority to all prisoners with only relatively brief sections towards the end dealing in particular with the special situation of untried and sentenced prisoners.
38. The focus is not only on prisoners. It has now been recognised as a key general principle that "Prison staff carry out an important public service and shall have conditions of work that enable them to maintain high standards in their care of prisoners." Much prominence has been given to the running of prisons with good order and management. Staffing matters are thus dealt with comprehensively in separate parts.
39. Lastly, the final Rule 108 provides for the regular updating of the EPR. The aim is not to re-write the whole text of the EPR but to update those rules which need revision in order to follow the case-law of the European Court of Human Rights (ECHR) or the findings of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).

Remand in custody

40. Parallel to the drafting of the new European Prison Rules, work was carried out under the auspices of the CDPC on the provision of safeguards to persons remanded in custody, initiated by the Committee of Experts on remand in custody and its implications for the management of penal institutions (PC-DP). It was then continued by the PC-CP (in order to ensure conformity with the new EPR) and finalised by the CDPC itself. On 27 September 2006, the Committee of Ministers adopted Recommendation Rec(2006)13 on remand in custody, the conditions in which it takes place and the provision of safeguards against abuse. The Recommendation contains some additional rules complementing the EPR and also rules relating to legal safeguards, the position of remanded persons in criminal proceedings, and rules relating to international cooperation in the area.

Victims of crime

41. In April 2006, the CDPC examined and approved the draft Recommendation on assistance to crime victims, prepared by the Group of Specialists on Assistance to Victims and Prevention of Victimisation (PC-S-AV).
42. Recommendation Rec(2006)8 on assistance to crime victims was adopted by the Committee of Ministers on 14 June 2006. In its preamble, the recommendation refers to the resolutions of the Conferences of the European Ministers of Justice in 2003 and 2005, inviting the Committee of Ministers to adopt new rules concerning the support of victims of terrorist acts and their families.

43. The recommendation, which replaces former Recommendation R (87) 21 on assistance to victims and the prevention of victimisation, takes into account the changes related to research and practice as well as new normative instruments adopted by the Council of Europe, the European Union and the United Nations. The new recommendation adopts a holistic approach aimed at assisting victims of crime in the restoration of various aspects of their lives. It also deals with the prevention of repeat victimisation (but not with the wider aspects of crime prevention/reduction, which could be the subject of separate work) as well as with the issue of secondary victimisation. The recommendation acknowledges that restorative justice also includes the aspect of assistance to victims and devotes a section to mediation.
44. With regard to victims of terrorism, the PC-S-AV adopted, in June 2005, a report to the Committee of Experts on Terrorism (CODEXTER) and to the CDPC on assistance to victims of terrorism, in accordance with its terms of reference. As to the drafting of the recommendation, the Group considered that, in terms of services and assistance to victims of terrorism, the needs of such victims were quite similar to the needs of victims of other serious crime. In terms of policy, it was the view of the Group that giving too much importance to victims of terrorism, as a separate category of victims, could aggravate the distress of many other victims, with the risk of secondary victimisation for the latter. The recommendation provides however for specific provisions for victims of terrorism, notably in the field of specialised centres, insurance policies, compensation for property damage and specialised training.

Crime prevention policies

45. Crime prevention, in its widest sense, has been a long-standing issue on the agenda of the CDPC as well as of the Conference of European Ministers of Justice.
46. Many recommendations and studies have been carried out to assist member States in devising policies to address both the social factors associated with criminal behaviour (social prevention) as well as measures to reduce opportunities for the commission of offences and to increase the risk of being detected (situational prevention). In this context it is worthwhile to recall Recommendation R (87) 19 on the organisation of crime prevention, which is still of relevance today.
47. Among the more recent norms mention should be made of Recommendation Rec(2000)20 on the role of early psychosocial intervention in the prevention of criminality, which is a good example of a recommendation focusing on measures of social prevention.
48. The most recent Recommendation Rec(2003)21 concerning partnership in crime prevention reiterates the importance of crime prevention strategies involving the community and local authorities and states that “these should involve the establishment of partnerships among the relevant key actors at all levels – national, regional and local – in order to tackle in the short, medium and long term the causes and opportunities for crime, the risks for potential victims and, consequently, to contribute to quality of life through increased community safety”.

Multidisciplinary project on children and violence

49. Since January 2006, the programme “Building a Europe for and with children” is being implemented further to the Third Summit of Heads of State and Government of the Council of Europe (Warsaw, May 2005). It is a response both to the mandate assigned to the Organisation to guarantee an integrated approach to promoting children's rights and to the decision to launch a three-year action programme covering the social, legal, educational and health dimensions of the various forms of violence against children.

50. The objective of this programme is to help decision makers and all players concerned to design and implement, including through the meaningful participation of children, national strategies for the protection of children's rights and the prevention of violence against children. Most of the activities within the programme concern all member States. Country-specific projects will be developed in particular to analyse and assess practices, develop pilot projects, provide technical assistance and evaluate the impact of the programme in a specific country.
51. The programme comprises two closely linked strands: the promotion of children's rights and the action programme "Children and violence" (2006-2008).
52. This action programme aims at eliminating violence against children. The relevant instruments of the Council of Europe (as well as the United Nations Convention on the Rights of the Child) require states to prohibit and fight all forms of violence and ill treatment of children. The programme will assist states in implementing their obligations under such treaties. In particular, by implementing integrated prevention policies and alerting professional circles and the general public to the problem. It is based on four principles (the "four Ps"): protection of children, prevention of violence, prosecution of criminals and participation by children. The programme will ensure appropriate follow-up at pan-European level to the recommendations included in the United Nations Secretary General's study on violence against children.
53. In pursuing the objectives of this action programme, the Council of Europe will formulate instruments and methodologies adapted to the different places where violence takes place (family, school, resident institutions, the community, media and cyberspace). The main priority will be to draw up models for national and local integrated prevention policies and strategies.
54. The programme will integrate the gender perspective and particular attention will be paid to vulnerable children, including children with disabilities. It will also focus on very specific types of violence against children, namely violence that remains concealed behind a wall of silence or taboos (notably sexual abuse and corporal punishment) and the new forms of violence stemming from the use of the new information technologies: pornography and solicitation ("grooming") on the Internet and harassment via the Internet and mobile phones.

Sanctions and measures for juvenile offenders

55. Further to the standards contained in Recommendation Rec(2003)20 concerning new ways of dealing with juvenile delinquency and the role of juvenile justice, ad hoc terms of reference were given to the Council for Penological Co-operation (PC-CP) in November 2005 to prepare a draft recommendation containing "European Rules for juvenile offenders subject to community sanctions and measures or deprived of their liberty". The PC-CP started its work on the text in September 2006 and should finalise the draft recommendation before the end of 2008. Parallel to that, a detailed questionnaire was sent out to all CDPC delegations requesting information regarding their legal systems, structures and practices in dealing with juvenile offenders. A separate report analysing the current situation in the Council of Europe member States will be prepared by the PC-CP based on the replies received.

Probation services

56. In November 2005, the Council of Europe organised, in Istanbul, a pan-European Conference on Probation and Aftercare. In the light of the general discussions and the conclusions adopted, the CDPC requested the PC-CP during its last plenary meeting in April 2006 to prepare in consultation with the "Conférence Permanente Européenne de la Probation" (CEP) its *ad hoc* draft specific terms of reference to address the issues of probation and aftercare, particularly the role and place of probation services. The CDPC approved the said terms of reference at its plenary

session in June 2007 and sent them to the Committee of Ministers for adoption. It is expected that the PC-CP will start its work on the subject at the beginning of 2008. A draft recommendation related to probation and aftercare should be finalised by the end of 2009.

Vulnerable groups of victims and/or offenders

57. Referring to the needs of vulnerable groups of victims and/or offenders, reference can be made to the above mentioned work of the PC-CP in the preparation of a draft Recommendation containing “European Rules for juvenile offenders deprived of their liberty or subject to community sanctions and measures”.
58. In conformity with the Action Plan adopted at the Third Summit of Heads of State and Government, the Council of Europe is mandated to continue to work to protect children against sexual exploitation, including developing legal instruments, if appropriate. Based on this decision, an independent expert was contracted to produce a feasibility report on the added value of a new binding instrument in the field of sexual exploitation and abuse of children.
59. On 22 March 2006 the Committee of Ministers adopted terms of reference for a Committee of Experts on the protection of children against sexual exploitation and abuse (PC-ES). The Committee was instructed to:
 - i. conduct a review of the implementation of the existing international instruments on the protection of children against sexual exploitation and, if necessary, instruments on legal co-operation, with a view to evaluate the need for an additional international legally binding instrument, containing a follow-up mechanism, or a non-binding instrument, and/or amendments to the existing instruments;
 - ii. if the need for an additional instrument is established, subject to the approval of the CDPC, prepare such an instrument.”
60. The Committee started its work in May 2006 by reviewing the provisions and the implementation of existing international instruments in this field. The review highlighted many difficulties and identified important lacunae in these instruments. As a result, the PC-ES agreed that there was a need for a new international binding instrument to protect children against sexual exploitation and sexual abuse.
61. In September 2006, the PC-ES began the drafting procedure for a new Council of Europe convention on this subject and in March 2007 the Committee of Experts finalised the text of the draft Convention and its Explanatory Report.
62. In April 2007 the Parliamentary Assembly of the Council of Europe (PACE) adopted its Opinion No. 263 (2007) concerning the draft Convention. In particular, the PACE welcomed the speedy preparation of the draft Convention and considered it to be a major step forward in the protection of children against this particularly repugnant kind of abuse. It also recommended all member States to accede to this Convention without making any reservations.
63. The European Committee on Crime Problems (CDPC) examined the draft Convention and its Explanatory Report at its plenary meeting in June 2007, approved both texts and forwarded them to the Committee of Ministers. On 12 July 2007, the Committee of Ministers adopted the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, took note of its Explanatory Report and decided to open it for signature during the 28th Conference of the European Ministers of Justice (25 and 26 October 2007) in Lanzarote, Spain.
64. The Convention contains the following main elements:

- comprehensive definitions and incrimination of various forms of sexual exploitation and sexual abuse, including the sexual abuse of children in the home and in the family;
 - incrimination of offences involving the use of new technologies, in particular the Internet, such as the solicitation of children for sexual purposes (“grooming”);
 - preventive measures, including criteria for the recruitment and training of professionals working in contact with children;
 - protective measures, such as the reporting of suspicion of sexual exploitation or abuse;
 - child-friendly investigative and judicial procedures adapted to the needs of children and respecting the rights of children and their families;
 - the limitation period for starting criminal proceedings to run from when the child victim reaches the age of majority;
 - extra-territorial jurisdiction, without the requirement for double criminality, so that offenders who commit crimes abroad can be prosecuted;
 - intervention programmes and measures aimed at preventing repeated sexual offences against children;
 - an effective monitoring mechanism.
65. Reference should furthermore be made to the 7th Conference of Prosecutors General of Europe (CPGE) which took place in Moscow from 5 to 6 July 2006, and which addressed “the role of the public prosecutor in the protection of individuals”. In this context, the Conference addressed two topics: “The duties of the public prosecutor in the criminal field towards victims and witnesses, and in particular towards juveniles” and “The duties of the public prosecutor towards persons deprived of their liberty”.

Mediation and restorative justice

66. The CDPC entrusted the PC-CP with the task of examining the implementation and pertinence of Recommendation No. R (99) 19 of the Committee of Ministers on mediation in criminal matters with a view of proposing its updating if necessary. The work will be carried out taking into account the current work done by the European Commission for the Efficiency of Justice (CEPEJ) on the same issues. Its aim is also to envisage further activities dealing with the technical and legal aspects of the prevention of crime, in particular crime which targets vulnerable victims.

Co-operation programmes

67. As has been the case for many years, the Council of Europe continues to be very active in conducting co-operation activities to assist countries in reforming their criminal justice systems. A large number of these activities concern prison reform, the development of alternative sanctions and measures, including the creation of probation services, training of police and prosecutors (including on dealing with victims and more specifically with vulnerable victims) and the reform of national legislation in compliance with Council of Europe standards developed in this field. It should be underlined, however, that although restorative justice elements are present in the above fields of assistance, much remains to be done to promote restorative justice in the member States requesting technical assistance in the reform of their criminal justice system.

INTRODUCTION

68. In this Resolution the Ministers expressed their concern at the threat posed by terrorism to the core values on which Europe is based, namely pluralist democracy, the rule of law and the protection of fundamental rights and freedoms. The Ministers underlined the importance of the international instruments against terrorism, co-operation between international organisations and institutions, and the action they have taken in the fight against terrorism.
69. The Ministers of Justice recalled the impressive number of texts adopted in this field by the different entities of the Council of Europe and welcomed the elaboration of two new conventions, dealing with the prevention of terrorism and with money laundering and terrorist financing, as well as two recommendations of the Committee of Ministers relating to special investigation techniques and protection of witnesses and collaborators of justice. The adoption by the Committee of Ministers of Recommendation Rec(2005)7 on the use of identity and travel documents in connection with terrorism and the Guidelines on the Protection of Victims of Terrorist Acts was also welcomed.
70. The Ministers of Justice also expressed their support for the work of the Committee of Experts on Terrorism (CODEXTER) which coordinates the Council of Europe's work against terrorism in the legal field. They further welcomed the contributions of the European Committee on Crime Problems (CDPC) and of the European Committee on Legal Co-operation (CDCJ) to the implementation of the Council of Europe's priority activities against terrorism in their respective fields of competence. The work of MONEYVAL regarding the evaluation of member states' compliance with the Special Recommendations on Terrorist Financing of the Financial Action Task Force (FATF) was also underlined.
71. The Resolution called upon the Committee of Ministers to adopt the remaining recommendations and the two conventions relating to terrorism mentioned above and to encourage the early signature and ratification of the conventions.
72. The Council of Europe's member states were invited to become Parties to other treaties relating to the fight against terrorism, in particular the Protocol amending the European Convention on the Suppression of Terrorism, and to other Council of Europe instruments which facilitate measures against terrorism, as well as to international treaties on terrorism.
73. The Committee of Ministers was invited, *inter alia*, to instruct the CODEXTER to identify additional priority activities against terrorism; to provide support, within the framework of its co-operation programmes, to the Council of Europe's member states in upgrading their legislative and institutional capacities against terrorism, and to pursue effective co-ordination with other international bodies.
74. Finally, the Council of Europe was called upon to continue its work against terrorism, including the development of country profiles on counter-terrorism capacity and activities concerning victims of terrorism and international co-operation.

FOLLOW-UP AND RECENT DEVELOPMENTS

Legal instruments against terrorism

Conventions

75. The Council of Europe Convention on the Prevention of Terrorism (CETS No. 196) and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198) were opened for signature on 16 May 2005 during the Third Summit of Heads of State and Government of the Council of Europe.
76. To date the Council of Europe Convention on the Prevention of Terrorism has been signed by 39 countries. At the beginning of 2007, the Convention on the Prevention of Terrorism reached the ratification threshold for entry into force and it will enter into force on 1 June 2007 for Albania, Bulgaria, Romania, Russia, Slovakia and Ukraine.³
77. It should furthermore be noted that the adoption of the Council of Europe Convention on the Prevention of Terrorism was followed by the adoption of United Nations Security Council Resolution 1624 which drew on the Convention for inspiration.
78. The Council of Europe Convention on the Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism has been signed by 27 states and ratified by one. It will enter into force once it has been ratified by six countries.
79. The Committee of Ministers and the CODEXTER both monitor the state of signatures and ratifications of the Council of Europe's conventions against terrorism, in particular those adopted in 2005. At its 10th meeting in June 2006, the CODEXTER conducted a Thematic Review on the implementation of Council of Europe conventions against terrorism. This Review proved to be a useful means for facilitating contacts between delegations, sharing experiences and assessing the progress achieved thus far. During the Review, 11 states indicated that their procedures for the ratification of the Council of Europe Convention on the Prevention of Terrorism were well advanced and two states informed the committee that they were preparing to ratify the Council of Europe Convention on the Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism in the near future.
80. Furthermore, to date 25 states have ratified the Protocol amending the European Convention on the Suppression of Terrorism and a further six states indicated that their ratification procedures were well advanced.

Guidelines

81. As a complement to the Guidelines on Human Rights and the Fight against Terrorism (11 July 2002) the Committee of Ministers adopted Guidelines on the Protection of Victims of Terrorist Acts (2 March 2005).

Recommendations

82. On 20 April 2005, the Committee of Ministers adopted Recommendations Rec(2005)9 to member states on the protection of witnesses and collaborators of justice and Rec(2005)10 to member states on "special investigation techniques" in relation to serious crimes including acts of terrorism.

³ The list of signatures and ratifications of the Council of Europe Convention on the Prevention of Terrorism is set out in Appendix VII to the present report.

83. Furthermore, on 14 June 2006, the Committee of Ministers adopted Recommendation Rec(2006)8 to member states on assistance to crime victims.
84. On 18 January 2007, the Committee of Ministers adopted Recommendation Rec(2007)1 to member states regarding co-operation against terrorism between the Council of Europe and its member states, and the International Criminal Police Organization (ICPO – Interpol).⁴

Coordination and pursuance of the identification of gaps

85. The CODEXTER pursues its work aimed, on the one hand, at the overall coordination of the Council of Europe's activities against terrorism, particularly in the legal field, and, on the other hand, at identifying gaps in international law and action against terrorism and proposing ways and means to fill them. At its 9th meeting in November 2005, it adopted a Progress Report identifying a set of possible priority areas for further action, namely:
- young persons as terrorist offenders and the target of terrorist propaganda,
 - cyberterrorism,
 - insurance schemes to cover terrorism-related damages,
 - denial of residence to foreign terrorists,
 - enhancing international co-operation regarding law enforcement authorities in the field of terrorism,
 - victims of terrorism,
 - combating terrorism through culture.
86. The Report was submitted to the Committee of Ministers, which took note and decided to transmit it to the European Committee on Legal Co-operation (CDCJ), the European Committee on Crime Problems (CDPC), the Steering Committee for Human Rights (CDDH), the Committee of Legal Advisers on Public International Law (CAHDI), the European Committee for Social Cohesion (CDCS), the Steering Committee for Education (CDED) and the Steering Committee for Culture (CDCULT) asking them to take it into account in their work and to report back. It also agreed to return to the report at a later stage on the basis of additional information, in particular the reports requested from the relevant committees and on the basis of proposals, including draft terms of reference that their Rapporteur Group on Legal Co-operation (GR-J) is invited to make on the basis of drafts prepared by the Secretariat.
87. Meanwhile, the CODEXTER is pursuing its work in some of the above-mentioned areas, in particular the use of the Internet for terrorist purposes and cyberterrorism, and on further areas which it has identified, such as false identity information as a challenge to immigration authorities.
88. In April 2007, the first ad hoc meeting of Chairs of Council of Europe committees on terrorism was convened with the aim of taking stock of the Council of Europe's current work against terrorism and of discussing follow-up, with a particular focus on building synergies and identifying ways and means of increasing co-operation between the relevant committees.

⁴ The text of the Recommendation is set out in Appendix V to the present report.

89. As for the on-going activities of the CODEXTER, the Committee continues the preparation of *Country profiles on counter-terrorism capacity*. 34 profiles have been published so far.⁵ It should be noted that these profiles have gained significant relevance and are used, *inter alia*, as a basis for the United Nations Security Council Counter-Terrorism Committee's (CTC) assessment of compliance with Resolution 1373.
90. Notwithstanding the adoption of Recommendation Rec(2006)8 of the Committee of Ministers to member states on assistance to crime victims, the CODEXTER continues to pay particular attention to the victims of terrorism and pursues exchanges of information on best practice, including the examination of states' general legal framework for the protection of victims of terrorism and the key elements of their compensation systems.
91. The CODEXTER provided considerable input to the discussion of the draft terms of the reference of the Group of Specialists on Remedies for Crime Victims (CJ-S-VICT) which were adopted by the Committee of Ministers on 31 January 2007. It has also elected a representative of the CODEXTER to the CJ-S-VICT.
92. Finally, a number of co-operation activities have been set up in member states, in some cases in coordination with other international organisations, in order to provide assistance in improving the counter-terrorism capacity of these states or of particular regions. In this context, the Council of Europe also continues to provide its member states, at their request, with expert appraisals of their legislation relevant to the fight against terrorism.

Addressing the causes of terrorism

93. Addressing the causes of terrorism is one of the cornerstones of the Council of Europe's activities in the fight against terrorism. Thus, reflection on the root causes of terrorism and the promotion of inter-cultural and inter-religious dialogue have been mainstreamed into all of the Council of Europe's activities.
94. On 25-26 April 2007, the Council of Europe organised an international conference "Why terrorism? Addressing the conditions conducive to the spread of terrorism". The conference was an initiative of the CODEXTER and it brought together experts from member and observer states of the Council of Europe and included the participation of NGOs and academia, as well as other international organisations.
95. The conference was a discussion-oriented forum for exchanging information, experience and ideas with a view to understanding the root causes and finding ways and means to prevent individuals from turning to terrorism. It resulted in conclusions which should be translated into concrete actions.

Terrorist Financing

96. In addition to the adoption of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, the Council of Europe continues its activities in this field through its Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL). MONEYVAL has fully endorsed a new evaluation methodology based on the FATF 40 Recommendations on money laundering and 9 Special Recommendations on Terrorist Financing and continues to pursue its on site evaluations.

⁵ Albania, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Finland, France, Ireland, Georgia, Germany, Greece, Latvia, Lithuania, Luxembourg, Moldova, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, "the former Yugoslav Republic of Macedonia", Turkey, Ukraine and the United Kingdom.

Co-operation with other international bodies

97. In pursuance of United Nations Security Council Resolution 1373, the Council of Europe co-operates actively with other international organisations, in particular, the United Nations, the European Union and the OSCE. The fight against terrorism was the subject of this year's High-level meeting between the Council of Europe, the OSCE and the United Nation (Vienna, 13-14 February 2007).

United Nations

98. Council of Europe experts participate in the CTC's onsite evaluation visits to member states of the Council of Europe, with particular attention being paid to the Council of Europe's legal instruments in this context.
99. Moreover, the Council of Europe participates as an observer in the work of the Ad Hoc Committee established by General Assembly Resolution 51/210 of 17 December 1996 "Measures to eliminate international terrorism", as well as in the work of the Working Group of the Sixth Committee of the General Assembly.
100. The Council of Europe has also deployed significant efforts aimed at improving the implementation of UN sanctions and the respect of human rights. The work of the Council of Europe's Committee of Legal Advisers on Public International Law (CAHDI) in this respect can be seen as instrumental to the adoption by the UN Security Council of Resolutions 1730(2006) and 1735(2006), which has brought about improvements in the UN sanctions system from the human rights perspective.
101. The CAHDI has also set up a restricted database on National Implementation Measures of UN Sanctions and Respect for Human Rights. In March 2007, the CAHDI considered the request of the UN Security Council Committee established by Resolution 1267 (1999) for access to the information contained in this database and agreed to release the information to the members of the Security Council on a restricted basis.
102. Moreover, the CAHDI works as a European Observatory of Reservations to international treaties and in this capacity elaborates and reviews periodically a list of possibly problematic reservations to international treaties applicable to the fight against terrorism.

European Union

103. The Council of Europe meets regularly with relevant EU bodies, in particular with the EU Troika of the Article 36 Committee of the European Union and European Commission (EC) and the Secretariat General of the EU Council to exchange information and discuss issues of common interest.

OSCE

104. There is ever-increasing co-operation between the Council of Europe and the OSCE, including regular coordination meetings, the pursuance of joint activities and on the delivery of technical assistance, with the aim of facilitating member states' ratification of international instruments and their effective implementation, and upgrading states' capacity in the following areas:

- human rights in the fight against terrorism;
- enhancing legal co-operation in criminal matters related to terrorism;
- countering the financing of terrorism;
- solidarity with and protection of victims of terrorism;
- incitement, recruitment and training for terrorism;
- the use of the Internet for terrorist purposes;

- law enforcement: special investigation techniques and the protection of witnesses and collaborators of justice.
105. The OSCE (Action against Terrorism Unit – ATU and Office for Democratic Institutions and Human Rights - ODIHR) actively participates in the work of the CODEXTER. There is a specific scheme for co-operation between the Council of Europe and OSCE/ODIHR with regard to the Country Profiles on Counter-Terrorism Capacity drawn up under the aegis of the CODEXTER and the ODIHR's online database Legislationline.
 106. 2006 marked a new stage in the co-operation between the OSCE and the Council of Europe in the fight against terrorism in the form of the first major joint event organised by the two organisations on the important topic of countering incitement to terrorism and related offences. The joint OSCE – Council of Europe *Expert Workshop on Preventing Terrorism: Fighting Incitement and Related Terrorist Activities* was held in Vienna on 19 and 20 October 2006 and was attended by 180 participants representing judicial, law enforcement, security and counter-terrorism authorities from 47 OSCE/Council of Europe States and OSCE Partner for Co-operation States, as well as 14 International Organisations.

26TH CONFERENCE - Follow-up to Resolution No. 4 on updating the European Prison Rules and on the possibility of a European Prisons Charter

INTRODUCTION

107. Resolution No. 4 stated that it is in the interests of the Council of Europe member States to establish common principles and standards of crime policy, and in particular that for those in custody all appropriate measures should be taken to counter the negative aspects of incarceration, so as to facilitate a greater likelihood for the full reintegration of the prisoner into society after his or her release.
108. The resolution referred to the proposals contained in Recommendation 1656 (2004) of the Parliamentary Assembly recommending the revision of the EPR and the drawing up, in conjunction with the European Union, of a European Prisons Charter.
109. It also noted Recommendation 2003/2188 of the European Parliament to the Council of the European Union, encouraging the Council of Europe to revise its EPR, and to draft a European Prisons Charter covering all the Council of Europe's member states, which would include specific rules on a list of topics.
110. The Ministers of Justice furthermore considered the decision of the Committee of Ministers to transmit Recommendation 1656 (2004) of the Parliamentary Assembly to the European Committee on Crime Problems (CDPC) and the Council for Penological Co-operation (PC-CP) to pursue, as scheduled, the work of updating the EPR, drawing their members' attention to the proposals made by the Parliamentary Assembly and, in particular, to the proposal to prepare a European Prisons Charter, at the same time encouraging the European Union to become actively involved in the work under way in the Council of Europe to update the EPR, as a means of achieving common standards in this area.
111. The Ministers expressed their support for the CDPC, once it had approved the updated EPR, to examine the feasibility and possible added value of a European Prisons Charter.
112. The CDPC was furthermore supported in its examination of the feasibility and the possible added value of a mechanism which could be incorporated either into the updated EPR or into a possible European Prisons Charter providing for a means to achieve consistency in penitentiary standards and ensuring the regular updating of the relevant texts.
113. Finally, the Committee of Ministers was invited to adopt the updated EPR without delay once they were approved by the CDPC, and to examine, based on the feasibility study, the appropriateness of elaborating a European Prisons Charter.

FOLLOW-UP AND RECENT DEVELOPMENTS

European Prison Rules (EPR)

114. Reference is made to the adoption by the Committee of Ministers on 11 January 2006 of the updated European Prison Rules (EPR), contained in Recommendation Rec(2006)2 and its contents as noted above in the context of the follow-up to Resolution No. 2.
115. In order to ensure the continued adequacy of the norms contained in the EPR, the CDPC proposed a modification of the terms of reference of the PC-CP, entrusting it with the task to "re-examine on a regular basis the EPR and to propose to the CDPC their updating if necessary". The Committee of Ministers agreed with this proposal and adopted the revised terms of reference of the PC-CP on 14 June 2006.

116. Furthermore on the occasion of its plenary meetings in April 2006 and June 2007, the CDPC collected information regarding the state of implementation of Recommendation Rec(2006)2 of the Committee of Ministers on the EPR. In a number of member States the EPR have influenced recent amendments of the legislation and by-laws in the field, while in others national or international fora on penitentiary questions have been held or planned in order to discuss the EPR and disseminate them among a broad audience. The majority of member states have already translated the text of the EPR into their national languages and these have been put on the Council of Europe website to facilitate consultation and dissemination among professionals, researchers, the media and the general public.
117. The CDPC also took note of the contextual report on the revision of the EPR, prepared by one of the PC-CP scientific experts as required by its *ad hoc* terms of reference. The report gives an overview of the current trends in the penitentiary area and the challenges faced by the prison administrations in the Council of Europe member states.
118. In addition, on 27 September 2006 the Committee of Ministers adopted Recommendation Rec(2006)13 on remand in custody, the conditions in which it takes place and the provision of safeguards against abuse, and its explanatory memorandum.

European Prison Charter – Feasibility

119. During its plenary meeting in April 2006, the CDPC also held a “tour de table” based on a Secretariat memorandum in which several options were presented and their pros and cons were examined. The CDPC was of the prevailing opinion that a binding European Prison Charter was not a feasible proposition. Among the main reasons mentioned was the fact it would be difficult for states to reach a consensus on more than a very limited number of binding legal rules which could have the result of impoverishing and stigmatising existing standards and could moreover lead to weakening the importance and the impact of the EPR on the work of the prison administrations in the member states and at the European level in general.
120. The CDPC considered it more appropriate and necessary instead to strengthen further the penitentiary standards, *inter alia*, by elaborating a Compendium of Council of Europe recommendations in the penitentiary field. Therefore it requested the PC-CP to present to the next CDPC plenary a proposal for working methods in relation to this consolidation of all Council of Europe recommendations relating to penitentiary matters, together with an indication as to which recommendations should be revised and/or updated in the light of the recently adopted new EPR. In June 2007 the CDPC approved the proposed structure and contents as well as the list of recommendations and resolutions considered to be outdated or replaced by newer texts. The compendium is expected to be published by the end of 2007.

Parliamentary Assembly Recommendation 1747 (2006) on the European Prisons Charter

121. On 29 May 2006, the Parliamentary Assembly adopted Recommendation 1747 (2006) on the European Prisons Charter. In this recommendation, the Assembly welcomed the adoption of the updated EPR as contained in Recommendation Rec(2006)2 of the Committee of Ministers, while reiterating its earlier proposal of a European Prisons Charter (contained in Recommendation 1656 (2004)). With a view to promoting the effective implementation of Recommendation Rec(2006)2 in member States, the Assembly therefore recommended that the Committee of Ministers:

“9.1. draw up without delay a new convention setting out detailed and binding rules for the contracting parties on the treatment of prisoners, on the basis of the

European prisons charter appended to the report which led to the present Recommendation (Document 10922);

- 9.2. involve the European Union in drawing up the charter at intergovernmental level through the European Parliament and the European Commission;
 - 9.3. strengthen the role of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, in particular by giving it a general mandate to oversee the situation of prisons and detention centres and the respect of the rights of detained persons;
 - 9.4. consider the Assembly's proposal to set up, in conjunction with the European Union, a European prisons observatory tasked with monitoring the situation in Europe's prisons, which would build on the existing Council of Europe structure, the CPT, reinforcing the latter's missions.
10. It urges the Committee of Ministers actively to promote the ratification of the Convention for the Prevention of Torture by non-member States."
122. The Committee of Ministers replied to Recommendation 1747 (2006) of the Parliamentary Assembly on 27 September 2006 (CM/AS(2006)Rec1747). It recalled that the question regarding the European Prisons Charter was raised already in Parliamentary Assembly Recommendation 1656 (2004) on the situation of European prisons and pre-trial detention centres, which was transmitted by the Committee of Ministers to the CDPC and the PC-CP and was also added to the list of reference documents needed for the work of the PC-CP in up-dating the European Prison Rules.
 123. The Committee of Ministers then recalled that Recommendation Rec(2006)2 to member States on the European Prison Rules had been taken into consideration by a significant number of member State in their relevant legislation and practices. It also noted the opinion of the CDPC that a binding instrument, in the form of a European Prisons Charter, was not a feasible proposition.
 124. On the other hand it was recalled that the PC-CP has the task of re-examining the European Prison Rules every five years, or more frequently if the case law of the European Court of Human Rights or the Committee for the Prevention of Torture (CPT) reports so require, thus making the EPR a living instrument.
 125. With respect to the Assembly's proposals relating to the mandate of the CPT and the possible setting up of a European prisons observatory tasked with monitoring the situation in Europe's prisons, the Committee of Ministers was of the opinion that the mandate of the CPT is sufficiently strong and broad thus playing *de facto* the role of a European prisons observatory.
 126. The Committee of Ministers further encouraged the Council of Europe member States which have not yet done so to ratify the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, by virtue of which was established an international monitoring body – a Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture (CAT) and to create their independent national monitoring bodies.

26TH CONFERENCE - Follow-up to Resolution No. 5 on the functioning of the Council of Europe Conventions on judicial co-operation in criminal matters

INTRODUCTION

127. Resolution No. 5 deals with the functioning of the Council of Europe Conventions on judicial co-operation in criminal matters.
128. This resolution recalled that one of the roles of the Council of Europe is to define appropriate instruments to promote co-operation between member States to prevent and fight criminality, while preserving human rights guarantees.
129. Bearing in mind the 28 European treaties dealing with the various aspects of co-operation in criminal matters, it considered the particular relevance of the European Convention on Extradition (1957) and the European Convention on Mutual Assistance in Criminal Matters (1959) in setting up co-operation mechanisms between the member States.
130. The Resolution furthermore noted that the evolution of criminality towards a growing trans-border phenomenon has led to the need to update the existing instruments and notably to the adoption of the two Protocols to the European Convention on Extradition (in 1975 and 1978) and of the two Protocols to the European Convention on Assistance in Criminal Matters (in 1978 and 2001).
131. Taking into consideration the role of the European Committee on Crime Problems (CDPC) in the adoption and updating of such instruments, as well as its role and the role of its subordinated committees in developing a continued reflection on the effective operation of the criminal conventions, the Ministers of Justice invited the Committee of Ministers to entrust the CDPC to examine, taking into account best practices developed by member States and the work already being carried out by the Council of Europe in this area, the effective implementation of co-operation mechanisms provided for by the Council of Europe conventions in criminal matters, any difficulties resulting there from, as well as possible improvements that could be made, and to make any necessary proposals in this regard.

FOLLOW-UP AND RECENT DEVELOPMENTS

Initiatives to improve the efficiency of international co-operation in criminal matters: proposals for practical and normative measures

132. In June 2007, the CDPC examined the proposals of the Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters (PC-OC) concerning practical and normative measures aiming at improving the efficiency of international co-operation in criminal matters. It underlined the fundamental role of the PC-OC in international co-operation in criminal matters between the Council of Europe member States.
133. The CDPC agreed that, while improving the operation of existing legal instruments and elaborating new legal instruments were the two equally important spheres of activity of the PC-OC, at this stage it should put greater emphasis on increasing the efficiency of implementing the existing instruments.
134. In relation to proposals for practical measures to improve the operation of relevant conventions, the CDPC decided to invite the Committee of Ministers to take note and support the proposal to set up a network of national single points of contact on co-operation in the criminal field, the proposal to set up a database on information on national procedures on judicial co-operation in the criminal field, and the development

of practical measures aimed at strengthening the efficiency of international co-operation through better visibility.

135. In relation to proposals for normative measures to improve the operation of relevant conventions, the CDPC decided to mandate the PC-OC:

- to draft the necessary legal instruments to give a treaty basis to simplified forms of extradition when the person sought consents. It could take the form of a new legal instrument complementary to the European Convention on Extradition (ETS No. 024), supplemented by (a) non-binding instrument(s), assisting States in implementing this mechanism;
- to draft the necessary legal instruments – binding and/or non binding - outlining conditions and modalities of application of the specialty rule and of the renunciation to the rule, with reference to Article 14 of ETS No. 024;
- to consider possible ways of improving the wording of the relevant provisions (Article 12 of ETS No. 024 and Article 5 of its Second Additional Protocol) notably by bringing the texts up-to-date;
- to consider first of all drafting of non-binding measures addressing a set of principles so as to reduce time limits and avoid long extradition procedures (and long detention before extradition). These measures could also address issues of co-operation such as languages and translation, sending of documents/information etc;
- to propose solutions to practical problems relating to the use of languages for a simpler, less expensive and more rapid extradition procedure and to identify best practices to be followed by States. These proposals could include indications as to which documents or which information should be transmitted and translated, with reference to Article 12 of ETS No. 024;
- to take note of the issue of compensation and return of the person, which will be examined by the PC-OC through a detailed questionnaire to all its members. The PC-OC will elaborate specific proposals on the basis of the summary of the responses to the questionnaire and will submit them to the CDPC for decision;
- to draft the necessary binding legal instruments dealing with lapse of time, possibly complemented by a non-binding instrument.

High Level Conference of European Ministries of Justice and of the Interior on “Improving European co-operation in the criminal field”

136. In the framework of the Russian Presidency of the Committee of Ministers, a High Level Conference of European Ministries of Justice and of the Interior on “Improving European co-operation in the criminal field” was organised in Moscow on 9-10 November 2006.

137. At the end of their discussions the Ministers of Justice and the Interior of the 46 Council of Europe member states called on the Organisation to modernise and simplify the workings of the main European Conventions regulating international co-operation in criminal matters, particularly those relating to extradition and mutual legal assistance, and to take a number of practical steps.

138. The Ministers inter alia expressed support for the development of a network of national contact points to facilitate relations between those responsible for international co-operation relating to the fight against terrorism, corruption and organised crime, the trafficking of human beings and cybercrime. They also backed

the creation of a database making it easier to access information about the forms that co-operation takes between member states.

139. In addition, the Ministers stated, in their conclusions⁶, that they “Call on the PC-OC to continue facilitating the transfer of sentenced persons in application of the Council of Europe instruments and to follow closely the developments in the case-law of the European Court of Human Rights as well as in the European Union in this matter, and to analyse the feasibility of an extension in the Council of Europe context of any provisions which may be adopted by the European Union; they also support the Council of Europe’s actions under way in the penitentiary field, which aim at improving the standards of detention and which thus facilitate international co-operation in this field.”
140. Following proposal of a member State to the Secretary General of the Council of Europe to draft a Second Additional Protocol to the European Convention on the Transfer of Sentenced Persons (ETS No.112), the PC-OC held preliminary discussions at its enlarged meeting in May 2007 and addressed a questionnaire to its members relating to the desirability of the proposed new instrument.
141. At the end of August 2007, 22 States responded to this questionnaire. Opinions of the responding states differed as to the urgency of preparing a Second Additional Protocol to the Convention ETS No. 112. Some States were not in favour of amending the systems established under the Convention at all.
142. During the discussions at the CDPC, some delegations expressed the view that it would be premature to start preparing a Second Additional Protocol before the draft Framework Decision on the application of the principle of mutual recognition of judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union has not been finalised. However, the CDPC agreed in general that the proposal merited further consideration within the CDPC and the PC-OC, with due regard to other priorities of the two committees.
143. On the basis of all the replies received, a detailed working document would be prepared, examining to what extent the principles established in the Convention ETS No. 112 (in particular, consent of the person concerned and of the requested state) could be amended by a new possible Additional Protocol in order to enable the PC-OC to have a meaningful discussion on this subject at its next meeting in November 2007. The PC-OC was instructed to report the results of this discussion first to the CDPC Bureau and then to the CDPC plenary in 2008.

⁶ See Appendix IX for the Conclusions adopted at the High level Conference of the Ministries of Justice and of the Interior (9-10 November 2006, Moscow, Russian Federation)

APPENDIX I - Resolution No. 1 on victims of crime

27th Conference of European Ministers of Justice (Yerevan, 12-13 October 2006)

1. The Ministers participating in the 27th Conference of the European Ministers of Justice,
2. Having discussed the topic of “Victims – place, rights and assistance” and, in particular, assistance to categories of vulnerable victims;
3. Having regard to the extensive standards⁷ developed by the Council of Europe in this field and underlining that these standards should be widely disseminated, promoted and concretely implemented;
4. Welcoming in particular Recommendation Rec(2006)8 on assistance to crime victims, which provides for extensive and effective assistance measures for victims of all types of crime, including victims of terrorism and the most vulnerable victims;
5. Having regard to the progress report on future areas for the work of the Council of Europe in the fight against terrorism, prepared by the Committee of Experts on Terrorism (CODEXTER) and the decisions of the Committee of Ministers on the basis thereof;
6. Realising the growing public concern for victims of crime who are in a precarious situation, whether it be from a psychological, social, economic or physical point of view, so that their needs should be more fully taken into account;
7. Recognising that, in order to receive assistance or to assert their rights victims are obliged to undertake a number of procedures, which, if inappropriate or complex, can contribute to the phenomenon of secondary victimisation;
8. Convinced of the need to reduce the risk of secondary victimisation, in particular through simplifying procedures and facilitating access to the competent institutions which can help victims to obtain assistance;
9. Considering that, in addition to the measures provided under criminal procedure, civil and, where necessary, administrative or other remedies should be made available;
10. Underlining that the person committing the crime is the person primarily responsible for its consequences and for compensating the victim;
11. Underlining further that insurance cover can be provided by both public and private schemes and that subscribing to appropriate optional insurance cover is the responsibility of the individual;
12. Aware of the important role of compensation schemes in expressing social solidarity towards victims and of the actual and potential role and impact of the insurance industry in covering damage to crime victims and the wide variety of

⁷ Notably, the European Convention on the Protection of Human Rights and Fundamental Freedoms (CETS No. 5), the European Convention on the Compensation of Victims of Violent crimes (CETS No. 116), the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196) and the Council of Europe Convention on Action against trafficking in Human Beings (CETS No. 197); the Resolutions and Recommendations of the Committee of Ministers to member states (on various forms of caring of victims as well as on legal aid in civil, commercial and administrative matters) and the Guidelines of the Committee of Ministers on the protection of victims of terrorist acts.

ways in which compensation can be legally and institutionally structured and funded;

13. Conscious of the need to prevent and treat violence and welcoming the work currently underway to draft a convention against the sexual exploitation of children as well as the launching, in November 2006, of a new Council of Europe campaign to combat violence against women, including domestic violence;
14. Expressing particular concern about the extent of domestic violence, in particular violence against the partner, as well as concern for members of the family who witness such violence and determined to carry on with the action started by the Council of Europe in order to combat domestic violence, as demonstrated by Recommendation Rec(2002)5;
15. Concerned to increase the attention paid to the phenomenon of violence against the partner and aware that such violence can be based on discriminating prejudices in terms of inequalities resulting from gender, origins and economic dependency;
16. Referring to the Declaration and the Action Plan adopted during the Third Summit of Heads of State and Government of the Council of Europe;
17. Welcoming the national contributions and noting the proposals contained in these contributions;
18. AGREE that an effective and comprehensive protection of victims, in their role as witnesses, requires a multidisciplinary approach;
19. DECIDE to promote measures at a national and international level to improve assistance to victims and their protection from repeat and secondary victimisation as well as to ensure, as far as possible, their psychological, social and physical rehabilitation as well as adequate compensation for damage suffered;
20. RECOMMEND in particular that the Secretary General of the Council of Europe ensures that the activities of the Council of Europe in the field of training of police and personnel involved in the administration of justice include the question of the appropriate ways in which to deal with vulnerable persons, particularly victims;
21. INVITE the Committee of Ministers to promote further the standards developed by the Council of Europe concerning victims by taking them into account in Council of Europe work, in particular concerning persons and bodies having contact with victims such as judicial and law enforcement agencies;
22. 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 study the question of civil, administrative and other remedies to be made available to victims of crime with a view to reducing the risk of secondary victimisation and contributing to their rehabilitation from crime suffered and adequate compensation for damage sustained, and to this end identify and analyse the existing best practices:
 - i) concerning civil and administrative or other remedies, designed to protect the interests of victims, in particular provision of information on procedures, simplified procedures, legal aid and advice before, during and after the completion of criminal, civil administrative or other procedures bearing in mind the needs of categories of particularly vulnerable victims (for example, children, the elderly, disabled persons);
 - ii) concerning the role of publicly or privately financed insurance schemes in ensuring compensation for damages sustained by victims;

- iii) concerning the role of the authorities, organisations and persons dealing with and representing victims, particularly with respect to vulnerable victims;

with a view to making proposals to the Committee of Ministers for possible follow-up action;

- 23. INVITE the Committee of Ministers to entrust the European Committee on Crime Problems (CDPC) to:

1° - Assistance to crime victims

examine and promote, in co-operation with other competent bodies of the Council of Europe, the implementation of Recommendation Rec(2006)8 on assistance to crime victims;

2° - Domestic violence, in particular violence against the partner

- a. examine, in co-operation with other competent bodies of the Council of Europe, the measures concerning violence against the partner contained notably in the appendix to Recommendation Rec(2002)5 on the protection of women against violence in order to determine the feasibility of and the need for an additional Council of Europe legal instrument on violence against the partner taking into account the discussions of this Conference;
- b. report back to the Committee of Ministers on the results of this examination so that it can decide whether there is a need for the Council of Europe to carry out work in this field, possibly in the form of an international normative instrument to combat domestic violence, in particular violence against the partner;

3° - Crime prevention, restorative justice and mediation

taking into account the discussions of this Conference, envisage further activities dealing with the technical and legal aspects of the prevention of crime, in particular crime which targets vulnerable victims, as well as with restorative justice, including mediation (with a view notably to examining the implementation of the 1999 Recommendation on mediation in criminal matters No. R (99) 19);

- 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.

APPENDIX II - Resolution No. 1 on seeking legal solutions to debt problems in a credit society

***26th Conference of European Ministers of Justice
(Helsinki, 7-8 April 2005)***

THE MINISTERS participating in the 26th Conference of European Ministers of Justice (Helsinki, 7 and 8 April 2005);

1. Having examined the Report of the Minister of Justice of Finland on seeking legal solutions to debt problems in a credit society as well as the contributions made by a number of delegations;
2. Underlining that a sufficient consumer credit market and effective lending promotes economic growth and that it is important to strike a balance between the interests of the debtor and the creditor in a credit relationship;
3. Concerned about the problems arising in today's credit society due *inter alia* to the easy access to credit that can in some cases result in the over-indebtedness of households creating social exclusion of individuals and their families;
4. Underlining the importance of preventing problems arising from over-indebtedness and, where necessary, seeking solutions to enhance the proper prevention and management of debt problems, as well as the sense of responsibility of creditors and the individual debtors;
5. Convinced that the Council of Europe has an important role to play in this context, and a responsibility to assist all member states to find alternative solutions to avoid overindebtedness through various means such as financial advice and education, as well as management of debt;
6. Being aware of the various legal means, institutions and good-practices that already exist in certain Council of Europe member states, aiming at avoiding over-indebtedness and providing alternative means of dispute resolution, and of debt enforcement measures;
7. Bearing in mind the European Convention on Human Rights and Fundamental Freedoms and the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No.108);
8. Recalling Resolution No. 3 on "The general approach and means of achieving effective enforcement of judicial decisions", adopted at their 24th Conference in Moscow in October 2001 and the Committee of Ministers Recommendations Rec(2003)16 and Rec(2003)17 on this subject;
9. Recalling the increasing attention paid in the European Union to the principle of responsible lending in the consumer credit market and to the other minimum harmonisation of consumer credit provisions (COM (2004) 747);

10. AGREE on the importance to take measures to seek legal and practical solutions to debt problems encountered by citizens in a credit society;
11. RECALL the necessity to pay particular attention to prevention and proper management of debt problems, as well as the role of statutory institutions and non-governmental organisations involved;

12. INVITE the Committee of Ministers to entrust the European Committee on Legal Cooperation (CDCJ), in co-operation with other competent instances of the Council of Europe to:

- analyse existing legislation and good practices;
- identify the difficulties met;
- prepare an appropriate instrument defining legislative and administrative measures, and proposing practical remedies;
- consider, when preparing such an instrument, the role of competent instances in particular courts, administrative authorities, and non-governmental organisations involved;
- consider ways of providing assistance to member States in the application of this instrument and, where necessary, make appropriate proposals to the Committee of Ministers.

APPENDIX III - Resolution No. 2 on the social mission of the criminal justice system - restorative justice

***26th Conference of European Ministers of Justice
(Helsinki, 7-8 April 2005)***

THE MINISTERS participating in the 26th Conference of European Ministers of Justice (Helsinki, 7 and 8 April 2005);

1. Having examined the report of the Minister of Justice of Finland on the social mission of the criminal justice system;
2. Considering that it is of great importance for social peace to promote a criminal policy which focuses also on the prevention of anti-social and criminal behaviour, the development of community sanctions and measures, the victim's needs and offender reintegration;
3. Noting that the use of imprisonment causes a heavy burden on society and causes human suffering;
4. Considering that community sanctions and measures as well as restorative justice measures can have a positive effect on the social costs of crime and crime control;
5. Convinced that by a restorative justice approach the interests of crime victims may often be better served, the possibilities for offenders to achieve a successful integration into society be increased and public confidence in the criminal justice system be thereby enhanced;
6. Bearing in mind that the purpose of restorative justice is also to decrease the number of proceedings before the criminal courts and that alternative non-judicial systems for restorative justice should be developed as far as possible within the national context;
7. Considering that prison sentences cannot always be avoided but that the treatment and management of prisoners can also benefit, inter alia, from the restorative justice approach so as to promote successful reintegration of the offender;
8. Considering that the restorative justice approach should be developed both in the framework of community measures as well as in all stages of criminal justice procedure, including restorative justice measures applied during and after imprisonment;
9. Considering that the prevention of crime, support and compensation for crime victims, and reintegrating sentenced offenders requires a multidisciplinary and/or multi-agency approach;
10. Aware of the need to design particular strategies to address the specific needs of vulnerable groups of victims and offenders;
11. Aware of the particular situation in some countries where the criminal justice system is currently undergoing substantial reforms, and that these countries may be in particular need of technical assistance to carry out these reforms;
12. Bearing in mind the importance of the principles contained in existing relevant international instruments;
13. Recalling the Council of Europe Recommendations of relevance in this field;
14. Recalling the European Convention on Compensation to Victims of Violent Crimes;

15. AGREE on the importance of promoting the restorative justice approach in their criminal justice systems;
16. ENCOURAGE the continuing work of the European Committee for Crime Problems (CDPC) in:
- updating the European Prison Rules;
 - addressing the needs of victims of crime, including victims of terrorism and of serious violations of international humanitarian law;
 - examining means of enhancing crime prevention policies;
17. FURTHER ENCOURAGE the work of the Council of Europe in conducting a multidisciplinary project on violence and children;
18. INVITE the CDPC to prepare, in accordance with Recommendation Rec(2003)20, an instrument with a view to developing comprehensive standards governing sanctions and measures for dealing with juvenile offenders;
19. INVITE the Committee of Ministers to further entrust the CDPC to examine the issue of probation and post prison assistance with a view to addressing the need to develop the role of probation services;
20. INVITE the Committee of Ministers to ask the CDPC to give further consideration to the possibility of preparing one or more instruments to address the needs of groups of vulnerable victims and/or offenders;
21. FURTHER INVITE the Committee of Ministers to support and develop co-operation programmes put in place to promote the widespread application of restorative justice in the member countries, on the basis of the Council of Europe's Recommendations in this field;
22. 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.

APPENDIX IV - Resolution No. 3 on combating terrorism

26th Conference of European Ministers of Justice (Helsinki, 7-8 April 2005)

THE MINISTERS participating in the 26th Conference of European Ministers of Justice (Helsinki, 7 and 8 April 2005);

1. Concerned by the threats posed by terrorism to the core values on which Europe is based, namely pluralist democracy, the rule of law and the protection of fundamental rights and freedoms;
2. Deploping the loss of life and the injuries suffered by thousands of innocent people as a result of terrorism;
3. Condemning all terrorist attacks and reaffirming their determination to combat all forms of terrorism while fully respecting human rights;
4. Aware that concerted international action is vital to success in the fight against the scourge of terrorism, including action aiming, where appropriate, at preventing or remedying situations which may foster terrorism;
5. Recalling the importance of the international instruments against terrorism and, in this respect, welcoming the finalisation within the United Nations at expert level of the draft International Convention for the suppression of acts of nuclear terrorism;
6. Welcoming the efforts of international organisations and institutions to fight against terrorism under the aegis of the United Nations Security Council Counter-Terrorism Committee (CTC);
7. Welcoming the co-operation between the Council of Europe and these organisations and institutions, in particular the European Union, the OSCE and the United Nations;
8. Recalling the relevant texts adopted by the Parliamentary Assembly;
9. Bearing in mind Resolution No. 1 adopted at their 24th Conference (Moscow, 4-5 October 2001) and Resolution No. 1 adopted at their 25th Conference (Sofia, 9-10 October 2003) as well as the report of the Secretary General concerning the follow-up given to this Resolution;
10. Bearing in mind the Resolution adopted at the Third High Level multilateral meeting of Ministries of Interior on the theme of the "Fight against terrorism and organised crime to improve security in Europe" (Warsaw, 17-18 March 2005);
11. Bearing in mind the report prepared under the aegis of the European Commission for the Efficiency of Justice (CEPEJ) on the effectiveness of national judicial systems in their responses to terrorism;
12. Resolved to pursue their efforts to reinforce the fight against terrorism and to increase the security of citizens, in a spirit of solidarity and on the basis of the core values to which the Council of Europe is firmly committed: the rule of law, human rights and pluralist democracy;
13. Recalling the Guidelines on Human Rights and the Fight against Terrorism adopted by the Committee of Ministers in July 2002;
14. Convinced of the need to continue to strengthen international co-operation;
15. Noting the importance in this regard of the Third Summit of the Heads of States and Governments of the Council of Europe, which will be held in Warsaw in May 2005, and of the impetus which it will add to the future work of the Council of Europe in the fight against terrorism;
16. WELCOME the progress achieved by the Council of Europe in the implementation of the priority activities against terrorism, in particular the elaboration of two new conventions respectively on the

Prevention of Terrorism, and on Laundering, Search, Seizure and Confiscation of Proceeds from Crime and on the Financing of Terrorism, as well as three new Recommendations of the Committee of Ministers to member states on Special Investigative Techniques, Protection of Witnesses and Collaborators of Justice, and on Identity and Travel Documents and Terrorism, and in this connection;

17. WELCOME the adoption by the Committee of Ministers of the Recommendation on Identity and Travel Documents and the Fight against Terrorism and CALL UPON the Committee of Ministers to adopt, at an early date, the two above-mentioned Conventions, in order to allow as far as possible their opening for signature at the Third Summit of the Heads of States and Governments of the Council of Europe, as well as to adopt, as soon as possible, the remaining Recommendations ;

18. WELCOME the adoption by the Committee of Ministers of the Guidelines on the Protection of Victims of Terrorist Acts and the Declaration on Media and Terrorism in March 2005;

19. WELCOME the work of the Committee of Experts on Terrorism (CODEXTER) in coordinating the work of the Council of Europe against terrorism in the legal field;

20. WELCOME the contribution of the European Committee on Crime Problems (CDPC) and its subordinated committees the Committee of Experts on the protection of witnesses and collaborators of justice (PC-PW), the Committee of Experts on special investigation techniques (PC-TI) and the Committee of Experts on the revision of the Convention on Laundering, Search, Seizure and Confiscation of the proceeds from crime laundering (PC-RM), as well as of the European Committee on Legal Co-operation (CDCJ) to the implementation of the priority activities of the Council of Europe against terrorism in their respective fields of competence;

21. WELCOME the number of signatures and ratifications to the Protocol Amending the European Convention on the Suppression of Terrorism (ETS No. 190) whilst regretting that this new instrument has not yet entered into force, and therefore,

22. CALL UPON the member states of the Council of Europe to become Parties to this Protocol so as to ensure its entry into force as soon as possible, and INVITE observer states to become Parties to the European Convention on the Suppression of Terrorism, as revised by its amending Protocol, as soon as possible thereafter;

23. INVITE those states which have not yet done so to become Parties to other instruments of the Council of Europe which facilitate measures against terrorism, in particular the Convention on Cybercrime (ETS No. 185), the Conventions on Corruption (ETS No. 173 and ETS No. 174) and the 2nd Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (ETS No. 182);

24. WELCOME the large number of member states of the Council of Europe which have become Parties to international treaties on terrorism, in particular, those concluded in the framework of the United Nations, as well as to the Rome Statute of the International Criminal Court;

25. INVITE those states which have not yet done so to become Parties as soon as possible to these instruments and to ensure their effective implementation in pursuance of United Nations Security Council Resolution 1373 (2001);

26. CALL upon all member states to contribute to resolving the outstanding issues in negotiations within the United Nations on the draft Comprehensive Convention against terrorism;

27. WELCOME the work of MONEYVAL regarding the evaluation of member states compliance with the Special Recommendation on Terrorist Financing of the Financial Action Task Force (FATF);

28. CALL upon the Council of Europe to continue its work against terrorism, including the development of country-profiles on counter-terrorism capacities, activities concerning victims of terrorism and international co-operation;

29. INVITE the Committee of Ministers:

- a. to instruct the CODEXTER to identify additional priority activities against terrorism particularly in the light of the report of the Multidisciplinary Group on International Action against Terrorism (GMT) and the report prepared for the CODEXTER on gaps regarding international law and action;
 - b. to instruct, in particular, the CDPC and the CDCJ, in the framework of their specific terms of reference and as regards the implementation of the activities identified to ensure the coherence of the action of the Council of Europe in their respective fields of competence;
30. INVITE the Committee of Ministers, in the framework of the co-operation programmes with member states of the Council of Europe, to provide support for states in upgrading their counter-terrorism legislative and institutional capacities and to pursue effective co-ordination with other international bodies;
31. EXPRESS THE WISH that the Third Summit of Heads of State and Government of the Council of Europe to support and strengthen the role of the Council of Europe in the prevention and suppression of terrorism, through standard setting, monitoring and technical co-operation, and to give impetus to the early signature and ratification of the new Council of Europe conventions relating to terrorism;
32. INVITE 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.

APPENDIX V - Resolution No. 4 on updating the European Prison Rules and on the possibility of a European Prisons Charter

*26th Conference of European Ministers of Justice
(Helsinki, 7-8 April 2005)*

THE MINISTERS, participating in the 26th Conference of the European Ministers of Justice (Helsinki, 7 and 8 April 2005);

1. Considering that it is in the interests of the Council of Europe member States to establish common principles and standards of crime policy;
2. Bearing in mind that a prison sentence should always be a measure of last resort;
3. Considering that for those in custody all appropriate measures should be taken to counter the negative aspects of incarceration, at the same time ensuring a greater likelihood for the full reintegration of the prisoner into society after his or her release;
4. Aware of the growing case law of the European Court of Human Rights in the penitentiary field as well as the standards established by the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment;
5. Bearing in mind Parliamentary Assembly Recommendation 1656 (2004) and noting the proposals contained therein recommending the revision of the European Prison Rules and the drawing up, in conjunction with the European Union, of a European Prisons Charter;
6. Noting Recommendation 2003/2188 of European Parliament to the Council of the European Union, encouraging the Council of Europe to revise its European Prison Rules, and to draft a European Prisons Charter covering all the Council of Europe's Member States, which would include specific rules on a list of topics;
7. Considering the decision of the Committee of Ministers to transmit Recommendation 1656 (2004) of the Parliamentary Assembly to the Steering Committee on Crime Problems (CDPC) and the Council for Penological Co-operation (PC-CP) to pursue, as scheduled, the work of updating the European Prison Rules, drawing their members' attention to the proposals made now by the Parliamentary Assembly and, in particular, to the proposal to prepare a European Prisons Charter, at the same time, encouraging the European Union to become actively involved in the work under way in the Council of Europe to update the European Prison Rules, as a means of reaching common standards in this area;
8. Noting the Progress Report presented by the CDPC on their work in updating the European Prison Rules;
9. **SUPPORT** the European Committee for Crime Problems (CDPC) in its drafting of the updated European Prison Rules which should be completed as soon as possible;
10. **SUPPORT** the CDPC, once it will have approved the updated European Prison Rules, in its examination of the feasibility and of the possible added value of a European Prisons Charter;
11. **FURTHER SUPPORT** the CDPC in its examination of the feasibility and of the possible added value of a mechanism, which could be incorporated either into the updated European Prison Rules, or into a possible European Prisons Charter, providing for a means to achieve consistency in penitentiary standards and to ensure the regular updating of the relevant texts;
12. **INVITE** the Committee of Ministers to adopt the updated European Prison Rules without delay once they will have been approved by the CDPC, and to examine, based on the feasibility study, the appropriateness of elaborating a European Prisons Charter.

APPENDIX VI - Resolution No. 5 on the functioning of the Council of Europe Conventions on judicial co-operation in criminal matters

*26th Conference of European Ministers of Justice
(Helsinki, 7-8 April 2005)*

THE MINISTERS, participating in the 26th Conference of the European Ministers of Justice (Helsinki, 7 and 8 April 2005):

1. Convinced that one of the roles of the Council of Europe is to define appropriate instruments to promote co-operation between member States to prevent and fight criminality, while preserving human rights guarantees;
2. Bearing in mind the existing 28 European treaties dealing with the various aspects of cooperation in criminal matters;
3. Considering that, among these treaties, the European Convention on Extradition of 1957 and the European Convention on Mutual Assistance in Criminal Matters of 1959, are of particular relevance in setting up co-operation mechanisms between the member States;
4. Noting that the evolution of criminality towards a growing trans-border phenomenon has led to the need to update the existing instruments and notably to the adoption of the two protocols to the European Convention on Extradition (in 1975 and 1978) and of the two protocols to the European Convention on Assistance in Criminal Matters (in 1978 and 2001);
5. Taking into consideration the role of the European Committee on Crime Problems (CDPC) in the adoption and updating of such instruments, as well as its role and the role of its subordinated committees in developing a continued reflection on the effective operation of the criminal conventions;
6. INVITE the Committee of Ministers to entrust the CDPC to examine, taking into account best practices developed by member states and the work already being carried out by the Council of Europe in this area, the effective implementation of co-operation mechanisms provided for by the Council of Europe conventions in criminal matters, any difficulties resulting therefrom, as well as possible improvements that could be made, and to make any necessary proposals in this regard.

APPENDIX VII – CETS No.: 196

Council of Europe Convention on the Prevention of Terrorism CETS No.: 196

Treaty open for signature by the member States, the non-member States which have participated in its elaboration and by the European Community, and for accession by other non-member States

Opening for signature

Place: Warsaw
Date : 16/5/2005

Entry into force

Conditions: 6 Ratifications including 4 Member States
Date : 1/6/2007

Status as of: 24/8/2007

Member States of the Council of Europe

States	Signature	Ratification	Entry into force	Notes	R.	D.	A.	T.	C.	O.
Albania	22/12/2005	6/2/2007	1/6/2007							
Andorra	17/11/2005									
Armenia	17/11/2005									
Austria	16/5/2005									
Azerbaijan	16/5/2005					X				
Belgium	19/1/2006									
Bosnia and Herzegovina	19/1/2006									
Bulgaria	17/11/2005	31/7/2006	1/6/2007							
Croatia	16/5/2005									
Cyprus	16/5/2005									
Czech Republic										
Denmark	16/5/2005	24/4/2007	1/8/2007		X	X				
Estonia	7/9/2005									
Finland	16/5/2005									
France	22/5/2006									
Georgia	14/12/2005									
Germany	24/10/2006									
Greece	17/11/2005									
Hungary										
Iceland	16/5/2005									
Ireland										
Italy	8/6/2005									
Latvia	19/5/2006									

Liechtenstein											
Lithuania											
Luxembourg	16/5/2005										
Malta	16/5/2005										
Moldova	16/5/2005										
Monaco											
Montenegro	16/5/2005				55						
Netherlands	17/11/2005										
Norway											
Poland	16/5/2005										
Portugal	16/5/2005										
Romania	16/5/2005	21/2/2007	1/6/2007								
Russia	17/11/2005	19/5/2006	1/6/2007			X					
San Marino	14/11/2006										
Serbia	16/5/2005				55						
Slovakia	19/5/2006	29/1/2007	1/6/2007								
Slovenia	19/5/2006										
Spain	16/5/2005										
Sweden	16/5/2005										
Switzerland											
the former Yugoslav Republic of Macedonia	21/11/2006										
Turkey	19/1/2006						X				
Ukraine	16/5/2005	21/12/2006	1/6/2007		X	X					
United Kingdom	16/5/2005										

Non-member States of the Council of Europe

States	Signature	Ratification	Entry into force	Notes	R.	D.	A.	T.	C.	O.
Canada										
Holy See										
Japan										
Mexico										
United States										

International Organisations

Organisations	Signature	Ratification	Entry into force	Notes	R.	D.	A.	T.	C.	O.
European Community										

Total number of signatures not followed by ratifications:	32
Total number of ratifications/accessions:	7

Notes: (55) Date of signature by the state union of Serbia and Montenegro.

a: Accession - s: Signature without reservation as to ratification - su: Succession - r: Signature "ad referendum".

R.: Reservations - D.: Declarations - A.: Authorities - T.: Territorial Application - C.: Communication - O.: Objection.

Source : Treaty Office on <http://conventions.coe.int>

APPENDIX VIII - Recommendation CM/Rec(2007)1 of the Committee of Ministers

Recommendation CM/Rec(2007)1 of the Committee of Ministers to member states regarding co-operation against terrorism between the Council of Europe and its member states, and the International Criminal Police Organisation (ICPO-Interpol)

(Adopted by the Committee of Ministers on 18 January 2007 at the 984th meeting of the Ministers' Deputies)

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

Recalling that the aim of the Council of Europe is to achieve a greater unity among its members;

Bearing in mind the resolutions relating to terrorism adopted at the 24th, 25th and 26th Conferences of European Ministers of Justice – held respectively in Moscow (4-5 October 2001); Sofia (9-10 October 2003) and Helsinki (7-8 April 2005) – which stress the need to continue strengthening international co-operation;

Bearing in mind United Nations Security Council Resolution 1373 (2001) calling on states to work together urgently to prevent and suppress terrorist acts, including through increased co-operation, and in particular operative paragraphs 2.g and 3.a and b;

Bearing in mind United Nations Security Council Resolutions 1617 (2005) and 1699 (2006) regarding co-operation between the United Nations and the International Criminal Police Organisation (Interpol);

Bearing in mind United Nations General Assembly Resolution A/RES/60/288 on the United Nations Global Counter-Terrorism Strategy encouraging member states, the United Nations and other appropriate international, regional and sub-regional organisations to support the implementation of the strategy, including through mobilising resources and expertise, and its Action Plan, in particular paragraphs II.4, II.8, II.13, II.15 and II.16 regarding co-operation with Interpol;

Bearing in mind Council of Europe Recommendations [Rec\(2005\)7](#) of the Committee of Ministers to member states concerning identity and travel documents and the fight against terrorism and [Rec\(2005\)10](#) of the Committee of Ministers to member states on “special investigation techniques” in relation to serious crimes, including acts of terrorism, which encourage member states to co-operate with other member states and, where appropriate, with international law-enforcement bodies, such as Interpol;

Bearing in mind Council of Europe Parliamentary Assembly Recommendation 1044 (1986) on International Crime and Recommendation 1426 (1999) on European democracies facing up to terrorism, in particular paragraph 16.viii which recommends that the Committee of Ministers encourage member states to co-operate together more closely within Interpol;

Bearing in mind the “Progress report on future areas for the work of the Council of Europe in the fight against terrorism” prepared by the Committee of Experts on Terrorism (CODEXTER) and the decisions of the Committee of Ministers on the basis thereof;

Bearing in mind the resolution adopted at the 3rd high-level multilateral meeting of the Ministries of the Interior in Warsaw (17-18 March 2005), and in particular paragraph 15 requesting the Council of Europe to ensure that its different bodies contribute as much as possible to the prevention and control of terrorism;

Bearing in mind the Constitution of Interpol, and in particular Article 2, which states that the aims of Interpol are “to ensure and promote the widest possible mutual assistance between all criminal police authorities within the limits of the laws existing in the different countries and in the spirit of the ‘Universal Declaration of Human Rights’” and “to establish and develop all institutions likely to contribute effectively to the prevention and suppression of ordinary law crimes”;

Recalling the agreement between the Council of Europe and Interpol of February 1960;

Acknowledging the important role that Interpol plays in the fight against terrorism;

Convinced that enhanced co-operation between the Council of Europe and its member states and Interpol would strengthen states' anti-terrorism law-enforcement capacity,

Recommends that governments of member states use, in accordance with national law, the tools offered by Interpol against terrorism, namely the global police communications system I-24/7, the relevant databases and the real-time, operational support for police services as set out in the appendix to this recommendation; and

Instructs the Committee of Experts on Terrorism (CODEXTER) to follow-up the implementation of the recommendation in member states in co-operation with Interpol.

* * *

Appendix to Recommendation CM/Rec(2007)1 of the Committee of Ministers to member states regarding co-operation against terrorism between the Council of Europe and its member states, and the International Criminal Police Organisation (ICPO-Interpol)

Interpol offers three types of basic anti-terrorist law-enforcement tools structured around secure communications, access to essential data, and operational assistance and support.

These tools are:

1. A global police communications system: the I-24/7;
2. Databases containing essential police information and analysis tools, presently including:
 - 2.1 The nominal database,
 - 2.2 The stolen vehicle database,
 - 2.3 The stolen travel documents database,
 - 2.4 The DNA database,
 - 2.5 The fingerprint database;
3. Real-time, operational support for police work worldwide, via the Command and Co-ordination Centre at the General Secretariat which operates 24 hours a day, 7 days a week; regional support structures (the Interpol Sub-Regional Bureaus) and national structures (the Interpol National Central Bureaus), including the implementation of operations or targeted projects on priority or specific types of crime and a notice system designed to warn police departments about wanted persons, which also comes within the context of co-operation with other international bodies.

APPENDIX IX

Conclusions adopted at the High level Conference of the Ministries of Justice and of the Interior 9-10 November 2006, Moscow (Russian Federation)

1. The Ministers of Justice and of the Interior and Heads of Delegation taking part in the Conference on "Improving European Co-operation in the Criminal Justice Field" (Moscow, 9-10 November 2006),
2. Referring to the Warsaw Declaration adopted by the Heads of State and Government at their Third Summit in May 2005, which proclaims: "we will further develop legal co-operation within the Council of Europe with a view to better protecting our citizens and to realising on a continental scale the aims enshrined in its Statute";
3. Referring also to the Action Plan adopted by the Summit and which provides for strengthening the security of European citizens notably by combating terrorism, corruption and organised crime, trafficking in human beings and cybercrime as well as to the Resolution adopted by the Third High-level multilateral meeting of the Ministries of the Interior in Warsaw in March 2005 on the fight against terrorism and organised crime to improve security in Europe;
4. Bearing in mind the provision of this same Action Plan whereby "we will make full use of the Council of Europe's standard-setting potential and promote implementation and further development of the Organisation's legal instruments and mechanisms of legal co-operation, keeping in mind the conclusions of the 26th Conference of European Ministers of Justice (Helsinki, 7-8 April 2005)" and also the conclusions adopted at the 7th Session of the Conference of Prosecutors General of Europe (Moscow, 5-6 July 2006);
5. Convinced of the Council of Europe's essential role in developing a common legal area based on respect for human rights and the rule of law;
6. Bearing in mind the significant number of the Council of Europe treaties in the criminal justice field (currently over thirty), in particular the conventions on extradition and mutual assistance in criminal matters and their additional protocols, which have provided the basis for legal co-operation in criminal matters in Europe for almost 50 years;
7. Underline the need to improve the efficiency of international co-operation in criminal matters in order to prevent and effectively combat criminality while ensuring respect of the European Convention on Human Rights, and welcome the significant achievements of the Council of Europe in this domain, in particular through the work of the European Committee on Crime Problems (CDPC);
8. Support the essential role of the Committee of Experts on the operation of European conventions on co-operation in criminal matters (PC-OC) in monitoring the application of the Council of Europe conventions on international co-operation in criminal matters in order to find solutions to concrete problems, accelerate procedures and prevent disputes between States;
9. Encourage the Council of Europe:
 - a. to put in place various practical measures to this end:
 1. in particular, they support the idea that a network of national contact points be developed in order to facilitate contacts between those responsible for international judicial co-operation, notably in the areas of combating terrorism, corruption and organised crime, trafficking in human beings and cybercrime;
 2. they also support the establishment of a database of procedures in force in the member States concerning the various types of co-operation which would allow for easier access to this information;
 3. they furthermore invite the States party to the co-operation conventions to continue their exchanges of good practices;
 - b. to continue the efforts to improve the operation of the main conventions regulating international co-operation in criminal matters, in particular those regarding extradition (as well as mutual legal assistance and transfer of criminal proceedings), in order to identify the difficulties encountered and to consider the need for any new instruments;

10. Agree that the Council of Europe's instruments offer possibilities for the friendly settlement of disputes arising from the application of the conventions. They encourage the PC-OC to strengthen its role in preventing disputes, taking into account, in particular, the nature and content of such disputes and, wherever necessary, to submit proposals to the CDPC, in consultation with the Committee of legal advisers on public international law (CAHDI), to improve the settlement procedures;
11. Call on the PC-OC to continue facilitating the transfer of sentenced persons in application of the Council of Europe instruments and to follow closely the developments in the case-law of the European Court of Human Rights as well as in the European Union in this matter, and to analyse the feasibility of an extension in the Council of Europe context of any provisions which may be adopted by the European Union; they also support the Council of Europe's actions under way in the penitentiary field, which aim at improving the standards of detention and which thus facilitate international co-operation in this field;
12. Consider that for the PC-OC to be able to fulfil adequately its role in this domain, regular meetings of the Committee should be ensured;
13. Call on the Committee of Experts on Terrorism (CODEXTER) to continue its effective work to identify the existing lacunae in international law or action on the fight against terrorism, as well as to pursue ongoing activities, in particular the drawing up of the Country profiles on counter-terrorist capacity covering, inter alia, international co-operation in this area;
14. Call on those States which have not already done so to sign and ratify at the earliest opportunity the relevant Council of Europe conventions, in particular the Protocol amending the European Convention on the suppression of terrorism, the Conventions on the prevention of terrorism, on laundering, search seizure and confiscation of the proceeds from crime and on the financing of terrorism as well as on action against trafficking in human beings, so that they can enter into force without delay;
15. Call on those States which have not already done so to become Parties, in conformity with their national procedures, to the Convention on Cybercrime so as to ensure the broadest possible application of the co-operation machinery it provides for and invite the CODEXTER to continue its examination of the issue of cyberterrorism;
16. Call also for the signature and ratification of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, which provides a legal basis for increased co-operation between States using methods suited to combating modern types of crime;
17. Support the current work on drafting a convention to criminalise the sexual exploitation of children and observe with interest the preparatory work for a possible binding legal instrument on counterfeit medicines and pharmaceutical crimes, in particular following the international conference held on the issue in Moscow on 23 and 24 October 2006; they reiterate the importance of international co-operation to combat these evils;
18. Welcome the positive results of the assistance activities conducted by the Council of Europe in its member States with a view to promoting, notably through legislative and institutional reforms as well as training programmes, international co-operation and the application of European instruments in this area; they note, in particular, the many activities and co-operation programmes conducted in certain member States and in certain regions; they encourage the Council of Europe to continue and expand, to the extent possible, these activities;
19. Welcome the results achieved by the monitoring bodies in the criminal field such as the Group of States against Corruption (GRECO) and the Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL) and, with the perspective of setting up monitoring mechanisms as provided for in the above-mentioned conventions (in the fields of money-laundering, terrorism and trafficking in human beings), underline their importance for the consistent and effective application of the relevant standards;
20. Express their warmest thanks to the authorities of the Russian Federation for the excellent organisation and success of this Conference in the context of the Chairmanship of the Committee of Ministers of the Council of Europe, and for their generous hospitality.

