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## **27th CONFERENCE OF EUROPEAN MINISTERS OF JUSTICE**

*Yerevan (12-13 October 2006)*

**FOLLOW-UP TO RESOLUTIONS Nos. 1, 2, 3, 4 AND  
5, ADOPTED IN HELSINKI AT THE  
26TH CONFERENCE OF EUROPEAN MINISTERS  
OF JUSTICE**

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

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<p style="text-align: center;"><b>FOLLOW-UP TO RESOLUTION No. 1 ON SEEKING LEGAL SOLUTIONS TO DEBT PROBLEMS</b></p>
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## **INTRODUCTION**

At their 26th Conference, held in Helsinki on 7-8 April 2005, the European Ministers of Justice adopted Resolution No.1 on Seeking Legal Solutions to Debt Problems in a Credit Society in which the Ministers expressed their concern over the problems arising in today's credit society due to the over-indebtedness of individuals and their families. The Ministers underlined the importance of preventing problems arising from over-indebtedness and, where necessary, seeking solutions to improve the prevention and management of debt problems, as well as to enhance the sense of responsibility of creditors and the individual debtors.

The Ministry of Justice of Finland carried out impressive preparatory work as regards the question of over-indebtedness in the Council of Europe member states by sending the relevant authorities a questionnaire designed to provide an illustrative picture as regards the legislative framework and the situation in practice of member states in this particular area.

Taking into account the responses to this questionnaire the Ministers stressed that over-indebtedness has become an increasingly widespread problem in Europe and decided to invite the Committee of Ministers to entrust the European Committee on Legal Cooperation (CDCJ) with the task of:

- analysing existing legislation and good practices, as well as identifying difficulties met in finding solutions to debt problems;
- preparing an appropriate instrument defining legislative and administrative measures as well as to consider practical 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 and non-governmental organisations involved as well as that of financial and lending institutions; and
- considering ways of providing assistance to member states in application of the above mentioned instrument and, when necessary, making appropriate proposals to the Committee of Ministers.

## **FOLLOW-UP AND RECENT DEVELOPMENTS**

Following the decision of the Committee of Ministers, the CDCJ, responding to the first task proposed by the Ministers of Justice, commissioned an expert to prepare a Report on Seeking Legal Solutions to Debt Problems in a Credit Society, incorporating the responses of the member states to the questionnaire sent by the Finnish Ministry of

Justice. This report was submitted to the Council of Europe on 15 September 2005 and was published on the website of the CDCJ.<sup>1</sup>

Furthermore, on 13 January 2006 the Committee of Ministers adopted the Terms of Reference of the Group of Specialists on Seeking Legal Solutions to Debt Problems (CJ-S-DEBT), the major objective of which is to prepare a draft Recommendation on legal solutions to debt problems.

The Group, which will complete its mandate on 31 December 2006, is composed of five experts from Belgium, Finland, France, Moldova and the Netherlands. It is chaired by a member of Dutch delegation to the CDCJ.

The CJ-S-DEBT has already held two of its three meetings and the work on the draft Recommendation on Legal Solutions to Debt Problems and its Explanatory Memorandum is close to completion. The second meeting took place on 12-14 September 2006. The CJ-S-DEBT discussed written comments submitted before the meeting by its members to the texts of the draft Recommendation and its Explanatory Memorandum, and developed these draft texts further. The CJ-S-DEBT will be prepared to approve the draft Recommendation and its Explanatory Memorandum, together with the Final Activity Report, at its last meeting on 13-15 November 2006.

The recommendation will be composed of five main parts. In order to find legal solutions to a problem a legal definition of that problem should be available. While several definitions are proposed in research work and studies<sup>2</sup> at the European level, there is no universally accepted legal definition of over-indebtedness. Therefore, the first part of the recommendation will define over-indebtedness, solely for the purposes of the recommendation, by setting out the relevant criteria.

The recommendation further highlights three major aspects that are important to consider when dealing with over-indebtedness, as suggested in the Report on Seeking Legal Solutions to Debt Problems in a Credit Society – prevention of over-indebtedness, alleviation of debt repayment and rehabilitation of the over-indebted.

The second part of the recommendation will thus provide examples of measures that should be used by member states in order to prevent over-indebtedness of individuals. These will include, inter alia, collecting information and statistics on the debt problems, providing effective access to impartial financial, social and legal advice and providing appropriate regulations to ensure responsible lending practices.

The third part will then deal with the measures necessary for effective alleviation of debt payments and the enforcement of court decisions relating to debt payments. It is intended to stress the need for ensuring an efficient and unbiased enforcement system and introducing enforcement alleviation procedures, such as the protection of the essential

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<sup>1</sup> See document CDCJ-BU(2005)11 rev. available at : <http://www.coe.int/cdcj>, under “CDCJ Bureau documents – 2005”.

<sup>2</sup> See in particular “The Problem of Consumer Indebtedness: Statistical Aspects\Consumer Indebtedness” – ORC Macro International Social Research, October 2001 and “Consumer Overindebtedness and Consumer Law in the European Union” – Institute For Financial Services, Erasmus University Rotterdam, University of Helsinki, September 2003.

assets of the debtor in order to strike a balance between the protection of the basic living standards of the debtor and his or her family and the efficiency of debt repayment.

The fourth part will set out mechanisms necessary to facilitate rehabilitation of already over-indebted individuals and families. In particular, it will stress the need for and the methods of effective social inclusion of over-indebted individuals and their families.

The last part of the recommendation will provide member states with a set of organisational and administrative measures which could facilitate the implementation of the Recommendation. In this context special attention will be paid to the role and co operation of competent bodies (courts, administrative authorities, NGOs and lending institutions) in tackling the problem of over-indebtedness.

After being adopted by the CJ-S-DEBT the draft Recommendation and its Explanatory Memorandum will be submitted to the CDCJ in 2007, inviting the latter to approve the recommendation and to forward it to the Committee of Ministers for adoption.

At its meeting on 3-4 May 2005 the Committee of Ministers decided to transmit Resolution No.1 to the European Committee for Social Cohesion (CDCS) for information. Following the spirit of this decision, the preparation of the draft Recommendation on Legal Solutions to Debt problems is being carried out in co-operation between the CJ-S-DEBT and the CDCS.

The Council of Europe's work in the field of over-indebtedness is not limited to this preparation of an instrument on legal solutions to the problem. The "Dialogue platform on ethical and solidarity-based initiatives", set up under the European Committee for Social Cohesion (CDCS) also deserves special attention.

The objective of this platform is to promote dialogue between public authorities, represented within the Council of Europe by the Committee of Ministers, the Parliamentary Assembly and the Congress of Local and Regional Authorities as well as other intergovernmental bodies and the representatives of citizens' initiatives, on issues relating, in particular, to financing based on solidarity, responsible consumption and other forms of citizen commitment in the economy which contribute to social cohesion.

One of the aspects of the Platform, perhaps particularly interesting to the Ministers of Justice, is the preparation of information and awareness raising instruments to encourage responsible consumption and ethical and solidarity-based savings as one of the ways to combat poverty and social exclusion of over-indebted families.





**FOLLOW-UP TO RESOLUTION No. 2  
ON THE SOCIAL MISSION OF THE CRIMINAL JUSTICE SYSTEM-  
RESTORATIVE JUSTICE**

**INTRODUCTION**

At their 26th Conference, held in Helsinki on 7-8 April 2005, the European Ministers of Justice adopted Resolution No. 2 on the social mission of the criminal justice system-restorative justice, which considered, inter alia, 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.

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 be increased and public confidence in the criminal justice system be thereby enhanced.

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 restorative justice approach in the criminal justice systems of the member states of the Council of Europe.

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.

The Ministers furthermore encouraged the work of the Council of Europe in conducting a multidisciplinary project on violence and children.

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.

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.

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.

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***

The CDPC examined the draft recommendation updating the European Prison Rules, prepared by the Council for Penological Co-operation (PC-CP) during its plenary meeting in March 2005. Following a written consultation procedure of the CDPC and a subsequent meeting of its enlarged Bureau in June 2005, the draft was finalised and approved during a meeting by the CDPC Bureau on 12-14 October 2005. The Committee of Ministers adopted the updated European Prison Rules (EPR), contained in Recommendation Rec (2006) 2 on 11 January 2006 during the 952nd meeting of its Deputies.

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. In the revised rules the large majority apply to all prisoners with only relatively brief sections towards the end dealing in particular with the special situation of untried and sentenced prisoners.

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.

And 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).

### ***Victims of crime***

During its plenary meeting 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).

Recommendation Rec (2006) 8 on assistance to crime victims was adopted by the Committee of Ministers on 14 June 2006 at the 967th meeting of the Ministers' Deputies. 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.

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. The recommendation also deals with the prevention of repeat victimisation (but not with the wider aspects of crime prevention/reduction, which could be the subject of separate work) as well as with the issue of secondary victimisation. The recommendation acknowledges that restorative justice also includes the aspect of assistance to victims and devotes a section to mediation.

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***

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.

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.

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 focussing on measures of social prevention.

The 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”.

Further consideration should be given to the contribution of the community at large to the prevention of criminality. The increasing role of private security services, which make an important contribution to crime prevention in all European States, and their regulation in

member states are presently the object of a study conducted by the Council for Police Matters (PC-PM). The terms of reference given by the CDPC require the work of the PC-PM to lead to a report identifying recent developments in this field including examples of good practice and ways and means to exchange those good practices.

Consideration will also be given to the need for adopting common principles to guide member states in the development of national regulations on their functioning. The report, which will be finalised by the end of 2006, will be examined by the CDPC during its plenary session in 2007.

### ***Multidisciplinary project on violence and children***

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.

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.

The programme comprises two closely linked strands: the promotion of children’s rights and the action programme “Children and violence” (2006-2008).

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 paneuropean level to the recommendations included in the United Nations Secretary General’s study on violence against children.

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.

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***

Further to the standards contained in Recommendation Rec (2003) 20 concerning new ways of dealing with juvenile delinquency and the role of juvenile justice and the recent adoption of the updated European Prison Rules (EPR), 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 deprived of their liberty or subject to community sanctions and measures”. The PC-CP should finalise the draft recommendation before the end of 2008.

### ***Probation services***

From 14 to 16 November 2005, the Council of Europe organised, in Istanbul, a paneuropean Conference on Probation and Aftercare. In the light of the general discussions and the conclusions adopted at this Conference, 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, and to submit them to the next plenary of the CDPC in 2007 for approval.

### ***Vulnerable groups of victims and/or offenders***

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”.

In conformity with the Action Plan adopted at the Third Summit of Heads of States and Governments, 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.

On 22 March 2006 the Committee of Ministers, at the 959th meeting of its Deputies, adopted terms of reference for a Committee of Experts on the protection of children against sexual exploitation and abuse (PC-ES). The Committee is 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.

The PC-ES should finalise its work before the end of 2006, on the basis of a comprehensive set of guidelines addressed to them by the CDPC.

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”.

### ***Co-operation programmes***

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 and the reform of national legislation in compliance with Council of Europe norms 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.

## FOLLOW-UP TO RESOLUTION No. 3 ON COMBATING TERRORISM

### INTRODUCTION

At their 26th Conference (Helsinki, 7-8 April 2005), the European Ministers of Justice adopted Resolution No. 3 on Combating Terrorism in which they 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.

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.

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.

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.

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.

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.

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*

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. 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.

To date these two conventions have been signed by 35 countries and 22 countries respectively. Moreover, the Council of Europe Convention on the Prevention of Terrorism has been ratified by two countries. Both conventions will enter into force once they have been ratified by six countries.

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 last 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, the sharing of experiences and the assessment of the progress achieved so far. Eleven states expressed their intention to ratify the Council of Europe Convention on the Prevention of Terrorism before the end of the year - thus reaching the ratification threshold for its entry into force - and two states intend 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.

Furthermore, since the 26th Conference of European Ministers of Justice, 8 states have ratified the Protocol amending the European Convention on the Suppression of Terrorism, which has brought the number of ratifications to 22, and a further 6 states intend to ratify this instrument by the end of 2006.

#### *Recommendations*

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. Furthermore, in June 2006, the Committee of Ministers adopted Recommendation Rec (2006) 8 to member states on assistance to crime victims.



### *Coordination and pursuance of the identification of gaps*

The CODEXTER pursues its work aimed, on the one hand, at the overall coordination of Council of Europe 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.

The Report was submitted to the Committee of Ministers, which took note and transmitted it to the relevant committees for follow-up. The Committee of Ministers will take further decisions on its follow-up in the last quarter of 2006. 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 on which it has commissioned an independent study.

The CODEXTER is also continuing the preparation of *Country profiles on counter-terrorism capacity*. 23 profiles have been published so far.<sup>3</sup> A further ten profiles will be released before the end of the year.<sup>4</sup> 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.

The CODEXTER continues to pay particular attention to activities concerning the victims of terrorism and pursues exchanges of information on best practice, notwithstanding the adoption on 14 June 2006 of Recommendation Rec (2006) 8 of the Committee of Ministers to member states on assistance to crime victims.

Finally, a number of co-operation activities have been set up in member states, in some cases in co-ordination 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.

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<sup>3</sup> Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Finland, France, Germany, Greece, Latvia, Lithuania, Luxembourg, Moldova, the Netherlands, Poland, Portugal, Romania, Slovenia, Spain, Turkey, Ukraine and the United Kingdom

<sup>4</sup> Albania, Armenia, Cyprus, Denmark, Georgia, Italy, the Russian Federation, Slovakia, Sweden and "the former Yugoslav Republic of Macedonia".

### *Co-operation with other international bodies*

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.

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.

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.

Finally, there is ever increasing co-operation between the Council of Europe and the OSCE, including regular coordination meetings, the pursuance of joint activities and 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 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.

**FOLLOW-UP TO RESOLUTION No. 4  
ON UPDATING THE EUROPEAN PRISON RULES AND ON THE  
POSSIBILITY OF A EUROPEAN PRISONS CHARTER**

**INTRODUCTION**

Resolution No. 4 on updating the European Prison Rules (EPR) and on the possibility of a European Prisons Charter considered 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.

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.

It also noted Recommendation 2003/2188 of 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.

The Ministers of Justice furthermore considered the decision of the Committee of Ministers at Deputies level 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 reaching common standards in this area.

The Ministers expressed their support to the CDPC, once it would have approved the updated EPR, in its examination of the feasibility and of the possible added value of a European Prisons Charter.

The CDPC was furthermore supported in its examination of the feasibility and of 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 to ensure the regular updating of the relevant texts.

Finally, the Committee of Ministers was invited to adopt the updated EPR without delay once they would have been 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)*

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.

In order to ensure the continued adequacy of the norms contained in the EPR, the CDPC, during its plenary meeting from 3 to 7 April 2006, 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 during the 967th meeting of the Ministers’ Deputies.

Furthermore, during its plenary meeting in April 2006, the CDPC conducted a “tour de table” on the state of implementation of Recommendation Rec (2006) 2 of the Committee of Ministers on the EPR. In several countries the EPR have influenced recent or envisaged amendments of the legislation and by-laws in the field, in others international or national fora on penitentiary questions have been held or were planned to be held in order to discuss the EPR and disseminate them among a broad audience, and a number of countries have already translated the text into their national language.

CDPC delegations were requested to send to the Secretariat the translations of the EPR in their national languages in order to enable the Secretariat to include the texts on the Council of Europe web site and thus further facilitate dissemination among professionals, researchers, the media and the general public.

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.

In addition, the CDPC considered the text presented by the PC-CP of a *draft Recommendation on remand in custody*, the conditions in which it takes place and the provision of safeguards against abuse and its explanatory memorandum. The CDPC Bureau finalised these draft texts at its enlarged meeting from 28 to 30 June 2006 and which the Committee of Ministers should adopt at one of its next meetings. This item is on the agenda of one of the next meetings of the Ministers’ Deputies.

### ***European Prison Charter - Feasibility***

During its plenary meeting on 3-7 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 the 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.

The CDPC considered it more appropriate and necessary instead to strengthen further the penitentiary standards, *inter alia*, by elaborating a Compendium of Council of Europe recommendations in the penitentiary field. Therefore it requested the PC-CP to present to the next CDPC plenary a proposal for working methods in relation to this proposed consolidation of all Council of Europe recommendations relating to penitentiary matters together with an indication as to which recommendations should be revised and/or updated in the light of the recently adopted new EPR.

The Committee of Ministers took note of these views of the CDPC on 14 June 2006 during the 967th meeting of its Deputies.

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

On 29 May 2006, the Parliamentary Assembly adopted Recommendation 1747 (2006) on the European Prisons Charter. In this recommendation, the Assembly welcomes 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 the 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.”

The Committee of Ministers considered Recommendation 1747 (2006) of the Parliamentary Assembly on European prisons charter on 14 June 2006 during the 967th meeting of its Deputies and:

“a. decided to bring it to the attention of their governments;

b. agreed to communicate it to the European Committee on Crime Problems (CDPC) and to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) for information and possible comments by 1 September 2006;

c. in the light of possible comments, invited their Rapporteur Group on Legal Co-operation (GR-J) to prepare a draft reply for adoption at one of their forthcoming meetings.”

The CDPC adopted its reply to the Committee of Ministers in respect of Recommendation 1747 (2006) and forwarded it to the Rapporteur Group on Legal Co-operation (GR-J).

<p style="text-align:center"><b>FOLLOW-UP TO RESOLUTION No. 5</b> <b>ON THE FUNCTIONING OF THE COUNCIL OF EUROPE CONVENTIONS</b> <b>ON JUDICIAL CO-OPERATION IN CRIMINAL MATTERS</b></p>
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## **INTRODUCTION**

At their previous Conference (Helsinki, 7-8 April 2005), the European Ministers of Justice adopted Resolution No. 5 on the functioning of the Council of Europe Conventions on judicial co-operation in criminal matters.

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.

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 of 1957 and the European Convention on Mutual Assistance in Criminal Matters of 1959, in setting up co-operation mechanisms between the member states.

The Resolution furthermore noted that the evolution of criminality towards a growing trans-border phenomenon had 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).

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**

### ***Implementation of the mechanisms of international co-operation***

The CDPC, at its 55th meeting (Strasbourg, 4-7 April 2006) examined the implementation of the mechanisms of international co-operation provided for in the Council of Europe's Conventions in criminal matters and the proposals on this subject by its Committee of Experts on the Operation of European Conventions in the Penal Field (PC-OC).

As a result, work aiming at improving the co-operation in the criminal field have been initiated in two main ways:

- increasing the visibility and the consistency of the European standards;
- modernising, where needed, the Conventions.

In order to improve the **visibility** of the Conventions as well as the access to their content and their implementation, the following measures have been identified:

- elaboration of a compendium (and in the longer term, a database) of European standards applicable in this field;
- promoting networking among national officials in charge of judicial co-operation;
- in the longer term, widening the possibility for the Secretariat of the Council of Europe to advise practitioners on the concrete application of the co-operation mechanisms in implementing the European Conventions.

As such practical measures would clearly facilitate the work of practitioners in the field of judicial co-operation, to the extent of resources available, the Council of Europe has already embarked on these tasks and is notably about to publish a series of manuals in this field.

In terms of **consistency**, future normative works in criminal matters could ensure clearer references to judicial co-operation mechanisms enshrined in the existing conventions. In addition, the (old and/or inappropriate) reservations could be revised and the possibility for limited (in time) validity of reservations in future Conventions could be envisaged; in terms of bilateral treaties, models of such treaties could be discussed and lists of existing bilateral treaties with member states should be regularly updated.

As to the **modernisation** of the European conventions, future work should aim at strengthening the protection of individuals in transnational criminal procedures. To that effect, it should fully take into account the existing case law of the European Court of Human Rights. In addition, judicial co-operation in the criminal field could be improved through a review of questions such as: the grounds admitted for refusals to co-operation requests, reservations (both in substance in duration), the consequences of trial in absentia in the requesting State, the consequences of acquittal/release of a person subjected to an extradition procedure and ways and channels of communication.

The competent Committee of Experts (PC-OC) has been mandated to propose to the CDPC, in 2007, preliminary elements on the specific provisions which should be modernised, the objective needs for any new standards, and the form that each such standard (convention or recommendation) should take. Due consideration should be given to the work underway and the results achieved in other national or international (such as the European Union) fora.



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

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” will be organised in Moscow, from 9 to 10 November 2006.

The Conference will look at the functioning of the Council of Europe instruments on international co-operation with a view to identifying the best ways to ensure their efficient implementation, where needed by way of modernising some of them. It is expected that the findings of this important event will reinforce judicial co-operation in criminal matters and its conventional capacity to address new forms of criminality across Europe and beyond, such as notably terrorism, cybercrime, and money laundering.



## **APPENDIX**

### **RESOLUTIONS Nos. 1, 2, 3 4 and 5**

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

#### **Resolution No. 1**

##### **on Seeking Legal Solutions to Debt Problems in a Credit Society**

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 promote 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 over-indebtedness 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);

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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 Co-operation (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.

## **Resolution No. 2**

### **on The Social Mission of the Criminal Justice System - Restorative Justice**

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

2. Having examined the report of the Minister of Justice of Finland on the social mission of the criminal justice system;
3. 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;
4. Noting that the use of imprisonment causes a heavy burden on society and causes human suffering;
5. 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;
6. 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;
7. 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;
8. 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;
9. 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;
10. Considering that the prevention of crime, support and compensation for crime victims, and reintegrating sentenced offenders requires a multidisciplinary and/or multi-agency approach;

11. Aware of the need to design particular strategies to address the specific needs of vulnerable groups of victims and offenders;
12. 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;
13. Bearing in mind the importance of the principles contained in existing relevant international instruments;
14. Recalling the Council of Europe Recommendations of relevance in this field;
15. Recalling the European Convention on Compensation to Victims of Violent Crimes;
16. AGREE on the importance of promoting the restorative justice approach in their criminal justice systems;
17. 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;
18. FURTHER ENCOURAGE the work of the Council of Europe in conducting a multidisciplinary project on violence and children;
19. 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;
20. 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;
21. 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;
22. 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;

23. 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.





**Resolution No. 3**  
**on Combating Terrorism**

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. Deploring 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;

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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.

## **Resolution No. 4**

### **on updating the European Prison Rules and on the possibility of a European Prisons Charter**

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 at Deputies level to transmit Recommendation 1656 (2004) of the Parliamentary Assembly to the Steering Committee on Crime Problems (CDPC) and the Council for Penological Cooperation (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.

## **Resolution No. 5**

### **on the functioning of the Council of Europe conventions on judicial co-operation in criminal matters**

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 co-operation 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;

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.





