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# **EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)**

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## **HIGH LEVEL COUNCIL OF EUROPE CONFERENCE ON PRISON OVERCROWDING**

To be held in 2019, exact date and place to be defined

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**Marjorie Bonn, Chair of the CDPC Sub-group on prison  
overcrowding**

## 1. THE NEED TO HOLD SUCH A CONFERENCE

Prison overcrowding is persistent in many Member States and is a phenomenon that requires manifold attention in order to address it effectively. This is the reason that it is on the Council of Europe agenda. In 2016 a White Paper on prison overcrowding was approved by the Committee of Ministers. The White Paper analyses the situation in Europe, discusses different reasons for prison overcrowding as well as steps taken by some member States which have led to decrease of the number of prisoners and contains a number of pertinent advices and suggestions for practical steps to be taken at all stages of the criminal justice process and at all levels – legislative, judicial and executive.

There is an urgent need to discuss in the issue of prison overcrowding with the different stakeholders: judges, prosecutors, ministries of Justice, prison and probation services as prison overcrowding continues to be a persistent problem in a number of European countries as seen from the Council of Europe Annual Penal Statistics (SPACE), from the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), as well as from the rising number of cases dealt with by the European Court of Human Rights (ECtHR). This has led the Court to deliver a rising number of pilot judgements. This has also led the Committee of Ministers (CM) to hold meetings in 2017 and in 2018 dedicated to this matter (on 1 June 2017, related to the 10th Annual Report of the Depart for Execution of judgements of the Court and on 13 March 2018 on conditions of detention). At its latter meeting the CM was informed of the proposal made by the European Committee on Crime Problems (CDPC) to hold in 2019 a High Level Conference on prison overcrowding.

## 2. WHO SHOULD BE INVITED:

- a. From the Council of Europe member States: judges, notably from high-courts, high-level prosecutors, high-ranking representatives from Ministries of Justice, judges responsible for the execution of sentences (in the countries which have such a system), Directors General of prison and probation services;
- b. The relevant Council of Europe bodies: ECtHR, CPT, CDPC, PC-CP, CCJE, CCPE;
- c. EU;
- d. UNODC.

## 3. ORGANISATION OF THE CONFERENCE: TWO FULL DAYS (estimated number of participants about 200; estimated costs: about 70 000 euros covering travel and subsistence of 20 speakers, interpretation costs in E/F, 4 coffee breaks, 2 lunches and 1 official dinner for all participants)

- a. Opening session - 1.5 - 2 hours, opening speeches (SG - CoE, if hosted outside Strasbourg or co-funded by a CoE member State - also opening address of the Minister of Justice of the respective country; keynote speech: the President of the ECtHR).
- b. Six separate sessions on :
  - **DECREASING THE INFLUX: alternatives for PRE-TRIAL DETENTION** by the use of bail, home arrest, EM,) and increasing the replacement of prison sanctions by non-custodial sanctions and measures or early intervention programmes of probation services and establishing certainty that sentences to prison sanctions will be executed;
  - **TRAINING: (a) of police, prosecutors and judges**, to understand the consequences of their decisions on prison numbers and conditions; **(b) training in prison and probation centres** to understand the whole chain of the criminal justice process and to understand the role and co-

- operation tasks of the different stakeholders); (c) **exchange of experiences and best practice**;
- **EXECUTION OF SENTENCES:** (a) establishment of a transparent policy on the execution of prison sanctions. (b) development of a system of calling sentenced persons to come to a specific prison to serve their sentence; (b) diversity in prison regimes (high security to open prisons); (c) development of transparent programs for early release and conditional release; (d) development of a working system for raising complaints including legal remedies;
  - **CORRELATION BETWEEN CRIME RATES AND RATES OF IMPRISONMENT** (how to interpret data related to crime rates and prison rates and use these data to plan and carry out crime policies: (a) **the experience of the Netherlands** in developing forecasts based on data; (b) **the EU/CoE funded project** for comparison of the number of prisoners by types of offences across Europe and comparison of crime trends with prison trends in each country);
  - **INVOLVING THE PUBLIC:** promoting a reality check on crime rates and feeling of insecurity (providing data on crime rates and promoting victim surveys), organising open days to visit prison facilities, involving NGOs and recruiting volunteers to engage with prisoners in sport matches or visiting programs;
  - **LEGISLATIVE REFORM:** decriminalisation of certain offences; more possibilities for use of alternative sanctions and measures where possible; replacing prison sentences for certain types of offences by other sanctions (like drunken driving or drug addiction).
- c. Closing session - 1.5 hours to sum up and adopt the conclusions
4. **FORMAL CONCLUSIONS** - it is proposed that the participants adopt conclusions addressed to the CoE and to the governments of its member States.
5. **FOLLOW-UP** - it is proposed to hold a High Level political meeting (Ministers of Justice) to endorse the outcome of the conference and make a political commitment to combat prison overcrowding.
6. **REFERENCE DOCUMENTS**
- a. **Committee of Ministers texts:** <https://www.coe.int/en/web/cm>
- Recommendation n° R(99)22 of the Committee of Ministers to the member States concerning prison overcrowding and prison population inflation <https://pjp-eu.coe.int/documents/3983922/6970334/CMRec+%2899%29+22+concerning+prison+overcrowding+and+prison+population+inflation.pdf/1d28cea8-31d2-4e2f-911c-870119b189c9>
  - European Prison Rules (Recommendation Rec(2006)2 of the Committee of Ministers to the member States) <https://rm.coe.int/european-prison-rules-978-92-871-5982-3/16806ab9ae>
  - Compendium of conventions, recommendations and resolutions relating to prisons and community sanctions and measures <https://rm.coe.int/compendium-e-2018/16808ae2cf>
  - White paper on prison overcrowding - [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=090000168069cd8e](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=090000168069cd8e)
- b. **ECtHR case law** - <https://www.echr.coe.int/Pages/home.aspx?p=home>
- CASE OF MURŠIĆ v. CROATIA <http://hudoc.echr.coe.int/eng?i=001-167483>
  - CASE OF ANANYEV AND OTHERS v. RUSSIA <http://hudoc.echr.coe.int/eng?i=001-108465>

- AFFAIRE TORREGGIANI ET AUTRES c. Italie <http://hudoc.echr.coe.int/eng?i=001-115860>
- CASE OF NESHKOV AND OTHERS v. BULGARIA <http://hudoc.echr.coe.int/eng?i=001-150771>
- CASE OF VARGA AND OTHERS v. HUNGARY <http://hudoc.echr.coe.int/eng?i=001-152784>
- CASE OF ORCHOWSKI v. POLAND <http://hudoc.echr.coe.int/eng?i=001-95314>
- AFFAIRE REZMIVEŞ ET AUTRES c. ROUMANIE <http://hudoc.echr.coe.int/eng?i=001-173105>

**c. CPT reports - [www.coe.int/cpt](http://www.coe.int/cpt)**

- 26<sup>th</sup> General Report of the CPT <https://rm.coe.int/168070af7a>
- 27<sup>th</sup> General Report of the CPT <https://rm.coe.int/16807bc1cf>
- Living space per prisoner in prison establishments <https://rm.coe.int/16806cc449>

**d. European Union**

- Council Framework Decision 2009/829/JHA <https://rm.coe.int/16806f3dfe>
- Council Framework Decision 2008/909/JHA <https://rm.coe.int/16806f3dfd>
- Council Framework Decision 2008/947/JHA <https://rm.coe.int/16806f3dfc>
- European Parliament resolution of 5 October 2017 on prison systems and conditions [P8\\_TA\(2017\)0385](https://rm.coe.int/16806f3dfe)