

**APPENDIX I**



COUNCIL OF EUROPE    CONSEIL DE L'EUROPE

Strasbourg, 9 December 2011  
[CDPC plenary/2011 plenary\_2/oj lp/cdpc list of participants]

CDPC (2011) LP Fin (Bil)

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

**COMITE EUROPEEN POUR LES PROBLEMES CRIMINELS  
(CDPC)**

**61<sup>st</sup> Plenary Session / 61<sup>ème</sup> Session plénière**

**Strasbourg, 6-9 December / 6-9 décembre 2011**

**Palais de l'Europe**

**Room / Salle 9**

**LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS**

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Apologised/Excusé

**UNITED STATES OF AMERICA / ÉTATS-UNIS D'AMÉRIQUE**

\*\*No nomination / Pas de nomination

**CANADA**

\*\*No nomination / Pas de nomination

**JAPAN / JAPON**

\*\*No nomination / Pas de nomination

**MEXICO / MEXIQUE**

\*\*No nomination / Pas de nomination

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**APPENDIX II**



COUNCIL OF EUROPE    CONSEIL DE L'EUROPE

Strasbourg, 1 December 2011  
CDPC/CDPC 2011plenary\_2/OJ+LP/cdpc (2011) OJ2 – E

CDPC (2011) OJ 2

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

**61st Plenary Session**

**Strasbourg, 6 (2.00pm) - 9 December 2011 (12.00 am)**

**AGENDA**

**Palais de l'Europe  
Room 9**

1. **Opening of the meeting**
2. **Adoption of the draft agenda**  
Working documents  
Draft agenda  
Annotated agenda  
CDPC (2011) 29
3. **Council for Penological Co-operation (PC-CP)**  
Working documents  
Summary report of the meeting of 16-18 May 2011  
Summary report of the meeting of 8-10 November 2011  
PC-CP (2011) 11  
PC-CP (2011) 18
- a. **Foreign nationals in prisons**  
Working documents  
Draft Recommendation concerning foreign prisoners  
Draft commentary on the Recommendation  
PC-CP (2011) 5  
PC-CP (2011) 6
- b. **Draft European Code on Prison Staff Ethics**  
Working documents  
Draft Code of Ethics for Prison Staff  
PC-CP (2011) 7
- c. **Follow-up to the 30<sup>th</sup> Council of Europe Conference of Ministers of Justice, “Modernising Justice in the Third Millennium: transparent and efficient justice; prisons in today’s Europe” (Istanbul, Turkey, 24 – 26 November 2010)**  
Working documents  
Discussion paper on the follow-up to be given to resolution n° 2 on prison policy in today’s Europe adopted at the 30th Council of Europe conference of ministers of justice  
Questionnaire regarding the implementation of the most recent Council of Europe standards related to the treatment of offenders while in custody as well as in the community  
CDPC (2011) 6 rev  
PC-CP (2011) 10
- d. **16<sup>th</sup> Council of Europe Conference of Directors of Prison Administration (CDAP)**  
Information documents  
Programme  
Member states' replies to the Questionnaire regarding the implementation of the most recent Council of Europe standards related to the treatment of offenders while in custody as well as in the community (Please note the document is 124 pages long) ...  
... and its Summary  
Working documents  
Conclusions  
Follow-up to the conclusions:  
- Discussion paper  
- Platform for exchanging good practices between member states  
Programme  
Replies  
Summary of the replies  
Conclusions  
PC-CP (2011) 21  
CDPC (2011) 25
- e. **Elections**  
Working documents  
Election of new members of the PC-CP  
History of the PC-CP  
CDPC (2011) 27  
PC-CP (2011) 14
4. **Committee of experts on the operation of European conventions on co-operation in criminal matters (PC-OC)**

	<u>Working documents</u>	
	List of Decisions of the 60 <sup>th</sup> meeting of the PC-OC (17-19 May 2011)	PC-OC (2011) 13
	List of Decisions of the 61 <sup>st</sup> meeting of the PC-OC (22-24 November 2011)	PC-OC (2011) 27
	Practical measures to facilitate the application of conventions on international cooperation in criminal matters	PC-OC (2011) 4
<b>a.</b>	<b>Exchange of views with the Chairperson</b>	
<b>b.</b>	<b>Consideration of the replies to the questionnaire on jurisdiction and transfer of proceedings and follow-up</b>	
	<u>Working documents</u>	
	Compendium of answers to the questionnaire ( <u>Please note the document is 121 pages long</u> )	PC-OC (2011) 14 rev
	Summary of replies to the questionnaire	PC-OC (2011) 16 rev
<b>5.</b>	<b>Dangerous offenders and preventive detention</b>	
	<u>Working documents</u>	
	The sentencing, management and treatment of “dangerous” offenders Scope and “roadmap”	PC-CP (2010) 10rev5 CDPC-BU (2011) 5
<b>6.</b>	<b>Reform process in the Council of Europe – Future activities and priorities of the CDPC</b>	
	<u>Working documents</u>	
	Letter to the Committee Chairpersons	Lettre
	New set-up for intergovernmental structures	SG/Inf(2011)9
	Priorities for 2012-2013 and their budgetary implications	CM(2011)48 rev
	New organisational chart of DGI (Human Rights and Rule of Law)	Organisational chart
<b>a.</b>	<b>Future activities</b>	
	Discussion paper on the reform process of the Council of Europe - Future activities and priorities of the CDPC	CDPC (2011) 11
<b>b.</b>	<b>New Terms of Reference for the years 2012-2013 (CDPC, PC-OC, PC-CP)</b>	
	<u>Working documents</u>	
	Resolution on intergovernmental committees and subordinate bodies, their terms of reference and working methods	CM/Res(2011)24
	Terms of reference of the CDPC	Terms of reference
	Terms of reference of the PC-CP	Terms of reference
	Terms of reference of the PC-OC	Terms of reference
<b>c.</b>	<b>Elections</b>	
	<u>Working documents</u>	
	Election of the Chairperson, Vice-Chairperson and members of the Bureau (including Gender Equality Rapporteur) of the CDPC	CDPC (2011) 21
	Representatives of the CDPC in other Council of Europe bodies (CEPEJ, CCJE, CCPE, GRECO, CODEXTER, MONEYVAL, CDCJ, T-CY, PC-CP, CDDH)	document
<b>7.</b>	<b>The 31<sup>st</sup> Council of Europe Conference of Ministers of Justice (Vienna, September 2012)</b>	
	<u>Working documents</u>	
	Resolution on Council of Europe conferences of specialised ministers	CM/Res(2011)7
	Proposed theme of the Conference	CDPC (2011) 28
<b>8.</b>	<b>Transnational and Organised crime</b>	
	<u>Working documents</u>	
	Transnational and Organised crime - Possible activities under the aegis of the European Committee on Crime Problems (CDPC)	CDPC (2011) 20

- 9. Recommendations adopted by the Parliamentary Assembly at the October session requesting CDPC opinion**  
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 Opinion on Recommendation on Combating “child abuse images” through committed, transversal and internationally co-ordinated action CDPC (2011) 22  
 Recommendation 1980 (2011)  
 Opinion on Recommendation on Violent and extreme pornography CDPC (2011) 23  
 Recommendation 1981 (2011)  
 Opinion on Recommendation on Abuse of state secrecy and national security as obstacles to parliamentary and judicial scrutiny of human rights violations CDPC (2011) 24  
 Recommendation 1983 (2011)
- 10. Information points**
- a. Promotion of the Integrity of Sport against the Manipulation of Results, notably match-fixing**  
Working documents  
 Recommendation of the Committee of Ministers to member states on promotion of the integrity of sport against manipulation of results notably match-fixing Recommendation CM/Rec(2011)10
- b. Trafficking in organs**  
Working documents  
 Trafficking in organs executive summary Exec summary CDPC/CDBI/CD-P-TO (2011)  
 Additional opinion of the Steering Committee on Bioethics (CDBI), the European Committee on Crime Problems (CDPC), the European Committee on Transplantation of Organs (CD-P-TO) on “Identifying the main elements that could form part of a binding legal instrument against the trafficking in organs, tissues and cells (OTC)”  
 Terms of reference of the Committee of experts on trafficking in human organs (PC-TO) Terms of Reference
- c. Cybercrime**  
Working documents  
 List of decisions of the T-CY Bureau meeting, 20-21 September 2011 T-CY (2011) 6 E  
 List of decisions of the T-CY meeting, 23-24 November 2011 T-CY (2011) 10  
 Draft Opinion of the T-CY on the criteria and procedure to be followed, in conformity with Article 37 of the Convention, as regards accession of non-members of the Council of Europe to the Budapest Convention T-CY (2011) 3
- d. Medicrime**  
Working documents  
 Convention on the counterfeiting of medical products and similar crimes involving threats to public health Convention  
 Explanatory Report Explanatory Report
- e. Lanzarote Convention**  
Information document  
 State of signatures and ratifications document
- f. Opinion of the CDPC on Criteria and procedure to be followed as regards the accession of non-member states to the Council of Europe to the conventions in criminal field**  
Working document

**g. Reinforcing the effectiveness of Council of Europe treaty law**

**h. Activities related to piracy**

Working document

“The necessity to take additional international legal steps to deal with sea piracy” – Parliamentary Assembly Recommendation 1913 (2010): Reply adopted by the Committee of Ministers on 6 July 2011 at the 1118th meeting of the Ministers’ Deputies. Reply

**11. Any other business**

**12. Date of the next CDPC Bureau and Plenary meetings**

**APPENDIX III**



COUNCIL OF EUROPE    CONSEIL DE L'EUROPE

Strasbourg, 7 December 2011  
pc-cp\docs 2011\pc-cp (2011) 7e rev 3

PC-CP (2011) 7 rev 3

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

**Council for Penological Co-operation**  
**(PC-CP)**

**DRAFT EUROPEAN CODE OF ETHICS  
FOR PRISON STAFF**

## **Draft Recommendation CM/Rec (2012)XX of the Committee of Ministers to member states on the European Code of Ethics for Prison Staff**

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 greater unity between its members;

Bearing in mind that it is also the purpose of the Council of Europe to promote the rule of law, which constitutes the basis of all genuine democracies;

Considering that the criminal justice system plays a key role in safeguarding the rule of law and that prison staff have an essential role within that system;

Having regard to the European Convention on Human Rights and the case law of the European Court of Human Rights;

Having regard also to the work carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and in particular the standards it has developed in its general reports;

Reiterating that no one shall be deprived of liberty save as a measure of last resort and in accordance with a procedure prescribed by law;

Stressing that the enforcement of custodial sentences and the treatment of prisoners necessitate taking account of the requirements of safety, security and good order, while also ensuring prison conditions which do not infringe human dignity and which offer meaningful occupational activities and treatment programmes to prisoners, thus preparing them for their reintegration into society;

Considering it important that Council of Europe member states continue to update and observe common principles regarding their prison policies;

Considering, moreover, that the observance of such common principles will enhance international co-operation in this field;

Considering that the achievement of a number of the objectives of the prison service depends on public involvement and cooperation and that the efficiency of the prison service is dependent on public support;

Noting the significant social changes which have influenced important developments in the penal field in Europe in the course of the last two decades;

Endorsing once again the standards contained in the recommendations of the Committee of Ministers of the Council of Europe, which relate to penitentiary policy and practice and in particular:

Recommendation n°R (89) 12 on education in prison;

Recommendation n°R (93) 6 concerning prison and criminological aspects of the control of transmissible diseases including AIDS and related health problems in prison;

Recommendation n°R (97) 12 on staff concerned with the implementation of sanctions and measures;

Recommendation n°R (98) 7 concerning the ethical and organisational aspects of health care in prison;

Recommendation n°R (99) 22 concerning prison overcrowding and prison population inflation

Recommendation Rec(2003)22 on conditional release (parole);

Recommendation Rec(2003)23 on the management by prison administrations of life sentence and other long-term prisoners;

Recommendation Rec(2006)2 on the European Prison Rules;

Recommendation Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse;

Recommendation Rec(2008)11 on the European Rules for juvenile offenders subject to sanctions or measures;

Bearing in mind the United Nations Code of Conduct for Law Enforcement Officials, United Nations Standard Minimum Rules for the Treatment of Prisoners and the United Nations Standard Minimum Rules for the Treatment of Women Prisoners and Non-custodial measures for Women Offenders (Bangkok Rules);



Considering the need to establish common European principles and guidelines for the overall objectives, performance and accountability of prison staff to safeguard security and individual's rights in democratic societies governed by the rule of law,

Recommends that the governments of member states be guided in their internal legislation, practice and codes of conduct of prison staff by the principles set out in the text of the European Code of Ethics for Prison Staff, appended to the present Recommendation, which should be read in conjunction with the European Prison Rules,

Further recommends that governments of member states give the widest possible circulation to this text and codes of ethics based upon it, and oversee their implementation by appropriate bodies

## **I. Definition of the Scope of the Code**

This Code applies to prison staff at all levels.

In this Code the term “prison” is used to describe institutions reserved for holding persons who have been remanded in custody by a judicial authority or who have been deprived of their liberty following conviction.

Nothing in this Code ought to be interpreted as precluding the application of any relevant international human rights instruments and standards, especially the European Prison Rules, as well as other professional Codes of Ethics applicable to specialised groups of staff.

## **II. Objectives of Prison Staff**

1. The main objectives of prison staff in a democratic society governed by the rule of law shall be to:
  - carry out all their duties in accordance with national law and international standards.
  - protect and respect the fundamental rights and freedoms of individuals as enshrined, in particular, in the European Convention on Human Rights;
  - ensure that all prisoners are safe and held in conditions that comply with relevant international standards and in particular the European Prison Rules;<sup>1</sup>
  - respect and protect the right of the public to be safeguarded from criminal activity;
  - work towards the social reintegration of prisoners on release, by providing them with the opportunity to use their time in prison positively.

## **III. Prison Staff and the Criminal Justice System**

2. Prison staff shall have roles and duties different from those of the police, the military, the prosecution and the judiciary in respect of prisoners.
3. Prison staff shall cooperate appropriately with relevant institutions of the criminal justice system, including with probation services, where they exist.

## **IV. Guidelines for Prison Staff Conduct**

### **A. Accountability**

4. Prison staff at all levels shall be personally responsible and accountable for their own actions or omissions or for orders to subordinates; they shall always verify the lawfulness of their intended actions.

### **B. Integrity**

5. Prison staff shall maintain and promote high standards of personal honesty and integrity.
6. Prison staff shall maintain positive professional relationships with prisoners and members of their families.
7. Prison staff shall not allow their private, financial or other interests to conflict with their position. It is the responsibility of all prison staff to avoid such conflicts of interest and to request guidance in case of doubt.
8. Prison staff shall oppose all forms of corruption within the prison service. They shall inform superiors and other appropriate bodies of any corruption within the prison service.

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<sup>1</sup> Recommendation Rec(2006) 2 of the Committee of Ministers to member states on the European Prison Rules (Adopted by the Committee of Ministers on 11 January 2006 at the 952nd meeting of the Ministers' Deputies).

9. Prison staff shall carry out instructions properly issued by their superiors, but they shall have a duty to refrain from carrying out any instructions which are clearly illegal and to report such instructions, without having to fear sanctions.

### ***C. Respect and Protection of Human Dignity***

10. Prison staff shall at all times respect and protect everyone's right to life.

11. In the performance of their daily tasks, prison staff shall respect and protect human dignity and maintain and uphold the human rights of all persons.

12. Prison staff shall not inflict, instigate or tolerate any act of torture or other inhuman or degrading treatment or punishment, under any circumstances, including when ordered by a superior.

13. Prison staff shall respect and protect the physical, sexual and psychological integrity of all prisoners, including against assault by fellow prisoners or any other person.

14. Prison staff shall at all times treat prisoners, colleagues and all other persons entering prison with politeness and respect.

15. Prison staff shall only interfere with individual's right to privacy when strictly necessary and only to obtain a legitimate objective.

16. Prison staff shall not use force against prisoners except in self-defence or in cases of attempted escape or active or passive physical resistance to a lawful order and always as a last resort.

17. Prison staff shall carry out personal searches only when strictly necessary and shall not humiliate prisoners in the process.

18. Prison staff shall use instruments of restraint only as provided for by the European Prison Rules.<sup>2</sup> In particular they shall never use them on women during labour, during birth and immediately after birth.

### ***D. Care and Assistance***

19. Prison staff shall be sensitive to the special needs of individuals, such as juveniles, women, minorities, foreign prisoners, elderly and disabled prisoners, and any prisoner who might be vulnerable for other reasons, and make every effort to provide for their needs.

20. Prison staff shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required.

21. Prison staff shall provide for the safety, hygiene and appropriate nourishment of persons in the course of their custody. They shall make every effort to ensure that conditions in prison comply with the requirements of relevant international standards, in particular the European Prison Rules.

22. Prison staff shall work towards facilitating the social reintegration of prisoners through a programme of constructive activities, individual interactions and assistance.

### ***E. Fairness, Impartiality and Non-Discrimination***

23. Prison staff shall respect plurality and diversity and not discriminate against any prisoner on the basis of sex, age, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status or the type of offence alleged or committed by that prisoner. Prison staff shall pay particular attention to the provisions of Rule 29 of the European Prison Rules.

24. Prison staff shall take full account of the need to challenge and combat racism and xenophobia, as well as to promote gender sensitivity and prevent sexual harassment of any form both in relation to other staff and to prisoners.

25. Prison staff shall carry out their tasks in a fair manner, with objectivity and consistency.

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<sup>2</sup> Rule 68

26. Prison staff shall respect the presumption of innocence of prisoners who have not been convicted or sentenced by a court.

27. Prison staff shall apply objective and fair disciplinary procedures as provided for by the European Prison Rules<sup>3</sup>. Moreover they shall respect the principle that prisoners charged with a disciplinary offence shall be considered innocent until proven guilty.

#### ***F. Cooperation***

28. Prison staff shall ensure that prisoners can exercise their right to have regular and adequate access to their lawyers and families throughout their imprisonment.

29. Prison staff shall facilitate cooperation with governmental or non-governmental organisations and community groups working for the welfare of prisoners.

30. Prison staff shall promote a spirit of cooperation, support, mutual trust and understanding among colleagues.

#### ***G. Confidentiality and Data Protection***

31. Information of a confidential nature in the possession of prison staff shall be kept confidential, unless the performance of duty or the needs of justice strictly require otherwise.

32. Particular attention shall be paid to the obligation to respect principles of medical confidentiality.

33. The collection, storage, and use of personal data by the prison staff shall be carried out in accordance with data protection principles and, in particular, shall be limited to the extent necessary for the performance of lawful, legitimate and specific purposes.

#### ***V. General***

34. Prison staff shall respect the present Code. They shall also, to the best of their capability, prevent and rigorously oppose any violations of it.

35. Prison staff who have reason to believe that a violation of the present Code has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities.

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<sup>3</sup> Rules 56-63

## APPENDIX IV



14.10.2011

**16th Conference**  
of  
**Directors of Prison Administration**  
with the participation of  
**Directors of Probation Services**

**"Working together to promote the social reintegration of prisoners"**

Council of Europe, 13-14 October 2011  
[www.coe.int/prison](http://www.coe.int/prison)

### **CONCLUSIONS**

The 16th Conference of the Directors of Prison Administration (CDAP) with the participation of Directors of Probation Services was organised by the Council of Europe on 13-14 October 2011 in Strasbourg, France. The theme of the Conference was "Working together to promote the social reintegration of prisoners". During the plenary sessions and workshops, the participants discussed the latest Council of Europe standards in the area and their implementation by the member states, problems encountered in this respect and good practices. The forthcoming draft European Code of Ethics for Prison Staff was also presented.

The main focus of the discussions was how to improve co-operation between the prison and probation services both at national and European level in order to improve the treatment of prisoners and their preparation for release.

The Conference:

- **WELCOMED** the standard-setting, monitoring and capacity building work of the Council of Europe in the prison and probation field;
- **EXPRESSED** its adherence to the European Prison Rules, the European Rules for juvenile offenders subject to sanctions or measures and the Council of Europe Probation Rules as valuable sets of standards which help develop relevant national laws and practices;
- **SUPPORTED** the principle promoted by the Council of Europe that prison should be used as a last resort;
- **STRESSED** that offenders remain part of the community even if they are deprived of their liberty and hence have the right to fair access to services. Therefore their preparation for release, social reintegration and aftercare shall not only be the responsibility of prison and probation services but also of other suitable agencies and civil society;
- **UNDERLINED** that the legitimacy of prison and probation services stems from the professional response to the difficulties experienced by offenders to adjust to society.

Working with offenders should rely on mutual respect between staff and offenders and as far as possible on participative decision-taking. Decisions regarding the modalities of offenders' treatment shall be based on their personal strengths and not only on their weaknesses. Rule 50, EPR is a very good example of such an approach.

- **EMPHASIZED** that working together for social reintegration of offenders supposes normalisation of prison regimes as well as providing offenders with adequate opportunities for finding their place in society;
- **RECALLED** that in most countries the number of offenders dealt with in the community exceeds that of prisoners and therefore there should be equal attention to the challenges faced by them and the services dealing with them;
- **NOTED** the increasing use of electronic monitoring and **CALLED UPON** the Council of Europe to help countries set an ethical framework and introduce procedures in this respect;
- **UNDERLINED THE NEED** for the political, legislative and judicial authorities to initiate and maintain cooperation with prison and probation services with a view to reduce the number of detainees, improve the possibilities for conditional and other forms of early release, use community sanctions and measures more appropriately and treat juveniles differently from adults;
- **UNDERLINED** the importance of recruitment, selection and training of staff possessing the necessary professional and personal skills to work with offenders and recalled in relation to this Recommendation (97)12 on staff concerned with the implementation of sanctions and measures;
- **STONGLY ENDORSED** the initiative for an European Code of Ethics for Prison Staff which helps set the deontological frame of everyday work in European prisons and **WELCOMED** the Council of Europe work on the text;
- **CALLED UPON** the Council of Europe to consider drafting a European Code of Ethics for Probation Staff;
- **UNDERLINED** that prison and probation services in Europe wish to share among themselves contemporary good practices and **URGED** in this respect the Council of Europe to serve as a platform for offering regular access to and updates of such information;
- **UNDERLINED** the importance of the collection of the Council of Europe Annual Penal Statistics (SPACE I and II) and underlined in this respect the need for caution in using simple statistics without scientific comments as this may lead to misinterpretations and **CALLED UPON** the national authorities of all member states to provide accurate and timely data;
- **CONCLUDED** that there was not sufficient support at this moment for a legally binding instrument on prisons;
- **EXPRESSED** gratitude to the Council of Europe for the excellent organisation of the present Conference which is an important forum for discussions and exchanges.

**APPENDIX V**



COUNCIL OF EUROPE      CONSEIL DE L'EUROPE

Strasbourg, 9 December 2011  
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**EUROPEAN COMMITTEE ON CRIME PROBLEMS  
(CDPC)**

**DANGEROUS OFFENDERS  
PROPOSED SCOPE OF WORK**

CDPC website: [www.coe.int/cdpc](http://www.coe.int/cdpc)  
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## **Dangerous offenders**

### **Proposed scope of work:**

The Secretariat proposes that the scope of the CDPC's work on dangerous offenders should focus on elaborating a recommendation containing guidelines and best practices as regards **risk and threat assessment** of dangerous offenders, their **treatment** and **conditions of detention**, as well as on how to prevent **re-offending**, to the extent that this regime applies to the criminal justice system.

The work of the CDPC in this regard should take into account the relevant jurisprudence of the ECtHR and best practices in member states. The experts tasked with the work may also wish to consult the report recently commissioned by the CDPC and prepared by Professor Nicola Padfield, entitled "Sentencing, management and treatment of "dangerous" offenders".

### **Roadmap**

1. The CDPC agrees on setting up a restricted group consisting of maximum 10 participants reflecting the various legal systems of the member states of the Council of Europe, the Chair of the PC-CP, a representative of the Registry of the ECtHR, a representative of the CPT and supported by one or two academic experts to prepare a draft recommendation on dangerous offenders – **December 2011**.
2. The restricted group holds a series of maximum 4 meetings, of two days each, to draft the recommendation – **January – September 2012**.
3. The draft recommendation is submitted to the Bureau – **end of 2012**.
4. The recommendation is submitted for adoption by the CDPC Plenary – **2013**.



**APPENDIX VI**



COUNCIL OF EUROPE    CONSEIL DE L'EUROPE

Strasbourg, 9 December 2011  
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**EUROPEAN COMMITTEE ON CRIME PROBLEMS  
(CDPC)**

**TRANSNATIONAL ORGANISED CRIME  
Possible activities under the aegis of  
the European Committee on Crime Problems (CDPC)**

Document prepared by the CDPC Secretariat  
Directorate General I – Human Rights and Rule of Law

CDPC website: [www.coe.int/cdpc](http://www.coe.int/cdpc)  
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## Introduction:

1. Transnational organised crime poses a direct threat to the internal security of all European states. By its very nature, this kind of crime, mostly transnational in character, usually cannot be efficiently suppressed by each state on its own, but requires a targeted and comprehensive approach, including through international co-operation mechanisms.
2. In response to this threat, European states have co-operated in the combat against transnational organised crime using the framework of various international and supranational fora. Many of these frameworks, e.g. the UNODC, Interpol and the EU, have already proven their worth, however, a truly pan-European framework and a common strategic approach by all European states to tackling transnational organised crime are arguably still lacking.
3. On the other hand, criminal organisations and individual criminals, from both within and outside Europe, have been making steady progression demonstrating their ability to forge alliances and operate across borders in all parts of Europe, thus further complicating the detection work and subsequent criminal prosecution in individual member states. As an example, Yakuza (Japanese mafia) gangs are known to have sub-contracted criminals based in the Western Balkans region to plan and execute robberies in London and Paris<sup>4</sup>.
4. The Council of Europe is ideally/uniquely placed to deal with this problem/threat with the European Committee on Crime Problems (CDPC) well-established in the field of criminal law co-operation and capable of addressing the many-faceted issues related to transnational organised crime **in a pan-European context**.
5. Since 1958 the CDPC has contributed to the development of international criminal law, drafting a number of important legal instruments in the fight against transnational organised crime. Moreover, criminal law issues have recently been identified by the Committee of Ministers as one of the top priorities in the work programme of the Council of Europe for the years to come<sup>5</sup>.

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<sup>4</sup> Cf. H. Brady: "The EU and the fight against organised crime", Centre for European Reform, April 2007, p. 31.

<sup>5</sup> • **Threats to the Rule of Law**

(...) The new programme line *Organised Crime, Money Laundering – MONEYVAL – Terrorism, Cybercrime, Trafficking in Human Beings – GRETA – and Counterfeiting of Medical Products* develops an integrated approach and response to major threats to the rule of law building on the significant set of standards and follow-up mechanisms it has developed over the years. In these areas, the Organisation will pursue its active partnerships with other international organisations including UN, UNODC, OECD, FATF, EU, OSCE and OAS.  
(...)

• **Development of Pan-European Common Standards and Policies**

(...) Under the programme line *Development and Implementation of Common Standards and Policies* activities will aim either at updating existing standards or addressing new challenges such as for instance, in the criminal field, trafficking in organs, tissues and cells.

6. In bringing together all the member states of the Council of Europe, the CDPC could lead the fight against transnational organised crime, in close co-ordination with strategic partners, in particular the European Union and its various bodies, the United Nations and Interpol.

**A common objective: a more secure and just European continent**

7. Since its creation in 1949 the Council of Europe has been dedicated to the promotion human rights, democracy and the rule of law among its member states and beyond.
8. As stated above, transnational organised crime constitutes a threat to the internal security of Europe and contributes significantly to undermining the rule of law and compromising the integrity of democratic institutions.
9. It has also a negative impact on national economies, particularly in the current context where states are facing the consequences of a global economic crisis. Significant amounts of money are lost through tax evasion, money laundering and illegal economic markets, not to mention the indirect economic harm caused by organised crime as criminal activity can undermine the credibility and competitiveness of a state's financial and commercial sectors.
10. Furthermore, transnational organised crime can have a direct impact on the lives of ordinary law-abiding citizens and businesses, creating a feeling of insecurity and contributing to social tension. There are thus many important reasons for the Council of Europe, taking into account its core mandate/values, to engage actively in the fight against transnational organised crime with a view to creating a more secure and just Europe for its citizens.
11. Given the fact that some other international and supranational fora are already engaged in combating transnational organised crime, the aim of the Council of Europe should be to identify and carry out activities which are compatible with, and complementary to, those of the aforementioned fora, acting as a bridge-builder, creating synergies and promoting co-operation across Europe.

## **Proposed range of activities**

12. The proposed range of activities is the following:

- the identification of current and relevant transnational organised crime issues;
- the development, in close co-ordination with strategic partners, of pan-European strategies and possible common policies on preventing and combating transnational organised crime;
- the collection, assessment and exchange of best practices in the prevention of, and fight against, transnational organised crime from all Council of Europe member states;
- the preparation and dissemination of a report to the Committee of Ministers on trends and developments in transnational organised crime in the Council of Europe member states with recommendations as to possible action by the Council of Europe (in particular the elaboration of any new legal instruments, revision of existing legal instruments, the organisation of seminars or conferences);
- the preparation and dissemination of special thematic reports focusing on specific types of transnational organised crime;
- the preparation of awareness-raising seminars and conferences on various aspects of transnational organised crime.

13. Although some of these activities may already be carried out by some European states in other fora, in particular the EU, none of them are currently carried out on a comprehensive pan-European level.

## **An ad-hoc committee on transnational organised crime**

14. Taking into account the existing strong political commitment of member states regarding specific issues related to “transnational organised crime”, the CDPC should take a step further by providing a vision of the dimension of organised crime which would strengthen the power of governments to fight the scourge of crime as a universal problem. The regular assessment of the security climate in relation to transnational organised crime, in the European region in particular, would inevitably strengthen and widen the “leading and indispensable steering” role of the CDPC in dealing with specific forms of organised criminal networks involved, for example, in drug trafficking, money laundering, trafficking in human beings, corruption, terrorism, or financial fraud.

15. The challenges and threats posed by the changing nature of transnational organised crime jeopardize the health and future of all countries. Organised crime and its current and future trends in the European region could be analysed on a worldwide/global scale so that concrete strategies could be set up in order to assist member states in tackling this phenomenon.

16. To undertake these activities, the Secretariat proposes to establish a restricted ad-hoc committee of experts on transnational organised crime, reporting directly, as a consultative body, to the CDPC.

17. The restricted ad-hoc committee should be composed of:

- 18 representatives of the member states' governments with practical experience in the fight against transnational organised crime;
- other member states which are not included in the 18 representatives composing the ad hoc committee can anyway attend and participate in the meetings of the ad hoc committee at their own expenses;
- 2 scientific experts appointed by the Secretary General, at least one of whom should be a specialist in criminology;
- representatives of the European Commission, Europol and Eurojust, the United Nations Office on Drugs and Crime (UNODC) and Interpol as observers. In addition, other relevant international organisations may be invited to participate as observers, if needed;
- representatives of other relevant Council of Europe committees and bodies as observers in particular the PC-TO;
- representatives of observer states and states having acceded to the relevant Council of Europe legal instruments as observers.

18. The restricted ad-hoc committee would/should meet two times a year, each meeting lasting for three days. If needed, the ad-hoc committee may decide to invite representatives of academic research institutions with particular expertise in the field to make presentations and participate in debates as observers.

19. The restricted ad-hoc committee must co-ordinate its work with the aforementioned strategic partners (EU, UNODC, Interpol) with a view to assuring compatibility and complementarity of activities and avoid any unnecessary overlaps.

### **Expected benefits and added value for the Council of Europe and its member states**

20. The results of the work of the restricted ad-hoc committee, in particular its annual and thematic reports, should be transmitted to the CDPC for further discussion and finalisation. The finalised reports together with the comments of the CDPC should be submitted to the Committee of Ministers with view to contributing to **the identification of priorities and the formulation of comprehensive policies and strategies by the Organisation in the field of transnational organised crime.**

21. In addition, member states faced with specific challenges from transnational organised crime would benefit from the promotion and **exchange, on a pan-European level, of best practices** and information on prevention, detection and investigation developed by other member states.

22. Moreover, co-operation in the framework of the Council of Europe would very likely act as a **catalyst for trust building and improving everyday co-operation** between the law enforcement and judicial authorities of member states, where such close co-operation does not already exist.

23. Finally, the Council of Europe could provide a **level playing field** for co-operation at a strategic level not only between the EU and non-EU member states of the Council of Europe, but also, and just as significantly, by providing the possibility of **involving key non-European states** in particular observer states and non member states parties to legal instruments of the Council of Europe in the field of criminal law.

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## Appendix

### Roadmap

1. Following the decision taken by the Plenary at its meeting in June 2010, the Bureau examine, at its meeting in October, the document “Transnational organised crime - Possible activities under the aegis of the European Committee on Crime Problems (CDPC)” prepared by the Secretariat and instruct the Secretariat to amend it according to the Bureau’s discussions and comments – **October 2011**.
2. The revised above-mentioned document is presented to the CDPC Plenary in December for examination and approval – **December 2011**
3. A possible preliminary draft terms of reference of a restricted Committee of Experts on Transnational Organised Crime (PC-SOC) is prepared by the Secretariat and presented to the CDPC Bureau for examination – **March 2012**
4. A possible draft terms of reference of a restricted Committee of Experts on Transnational Organised Crime (PC-SOC) is prepared by the Secretariat and presented to the CDPC Plenary for examination and final approval – **June 2012**
5. The draft terms of reference of a restricted Committee of Experts on Transnational Organised Crime (PC-SOC) is presented to the Committee of Ministers, together with the entire CDPC report of the June plenary meeting, for approval – **October/November 2012**
6. The first meeting of the restricted Committee of Experts on Transnational Organised Crime (PC-SOC) takes place – **February/March 2013**.

**APPENDIX VII**



Strasbourg, 9 December 2011  
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**EUROPEAN COMMITTEE ON CRIME PROBLEMS  
(CDPC)**

**OPINION OF THE EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)  
ON PARLIAMENTARY ASSEMBLY RECOMMENDATION 1980 (2011) ON  
COMBATING “CHILD ABUSE IMAGES” THROUGH COMMITTED, TRANSVERSAL AND  
INTERNATIONALLY CO-ORDINATED ACTION**

Document prepared by the CDPC Secretariat  
Directorate General I – Human Rights and Rule of Law

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### **Opinion on Parliamentary Assembly of Recommendation 1980 (2011)**

1. Following the adoption by the Parliamentary Assembly of Recommendation 1980 (2011) on combating “child abuse images” through committed, transversal and internationally co-ordinated action, the Committee of Ministers decided to send it to the European Committee on Crime Problems (CDPC) for information and possible comments. The CDPC examined the above recommendation and decided to contribute to the response of the Committee of Ministers by providing the following comments concerning matters within its field of competence.
2. The CDPC welcomes the initiative of the Parliamentary Assembly to foster greater co-ordinated efforts in order to strengthen the regulation of “child pornography” paying particular attention to child abuse images. In this regard, the CDPC would like to underline that the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention, CETS No. 201) and the Council of Europe Convention on Cybercrime (Budapest Convention, CETS No. 185) are the most comprehensive and advanced standards in this field. Accordingly, the CDPC supports the Parliamentary Assembly’s invitation to urge member and observer states which have not yet done so to sign and ratify these important/relevant Council of Europe treaties without declarations and reservations limiting their applicability.
3. The CDPC would also like to draw attention to the fact that the Directive of the European Parliament and of the Council on combating the sexual abuse and sexual exploitation of children and child pornography, which was adopted in November 2011, contains and focuses on the major features of the aforementioned Council of Europe conventions. In this regard, the CDPC appreciates the initiative of the Parliamentary Assembly to encourage member states to implement these instruments in a co-ordinated manner, so as to ensure maximum impact on national legislation and, finally, the protection of every child.
4. The CDPC takes note that the Parliamentary Assembly has recommended the drafting of an additional protocol to the Lanzarote Convention, on child abuse images and related crimes. To this end, the CDPC expresses its readiness to undertake an assessment of the existing standards of the Council of Europe in this field as well as of the different technical possibilities, including the blocking or removing of pornographic websites containing child abuse images. However, at this time, the CDPC does not consider that an additional protocol on child abuse images would be necessary and is of the opinion, rather, that the required improvements should be related to the implementation of existing above-mentioned conventions.

**APPENDIX VIII**



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

**OPINION OF THE EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)  
ON PARLIAMENTARY ASSEMBLY RECOMMENDATION 1981 (2011) ON  
VIOLENT AND EXTREME PORNOGRAPHY**

Document prepared by the CDPC Secretariat  
Directorate General I – Human Rights and Rule of Law

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### **Opinion on Parliamentary Assembly of Recommendation 1981 (2011)**

5. Following the adoption by the Parliamentary Assembly of Recommendation 1981 (2011) on violent and extreme pornography, the Committee of Ministers decided to send it to the European Committee on Crime Problems (CDPC) for information and possible comments. The CDPC examined the above recommendation with great interest. This recommendation covers many multi-disciplinary aspects of the issue, including several important criminal law issues notably with regard to the public's increased accessibility (especially via the Internet) to violent and extreme pornographic material.
6. The CDPC takes note of the Parliamentary Assembly's concerns on the negative impact of violent and extreme pornography on women's and children's dignity and their right to live free from sexual violence. Accordingly, the CDPC welcomes the call of the Parliamentary Assembly on Council of Europe member and observer states which have not yet done so to sign and ratify the Council of Europe Conventions on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210), on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201), and on Cybercrime (CETS No. 185).
7. The CDPC welcomes the Parliamentary Assembly's initiative to carry out a comparative study on legislation and regulations applying to forms of violent and extreme pornography in member states. In this regard, the CDPC, by reiterating its strong support to the work already carried out by the Council of Europe on preventing and combating any forms of violence and sexual abuse against women and children - namely through the adoption of the three above-mentioned conventions - expressed its readiness to contribute to any future activities on this topic by making available its expertise in the criminal law field.

**APPENDIX IX**



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

**OPINION OF THE EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)  
ON PARLIAMENTARY ASSEMBLY RECOMMENDATION 1983 (2011) ON  
ABUSE OF STATE SECRECY AND NATIONAL SECURITY AS OBSTACLES TO  
PARLIAMENTARY AND JUDICIAL SCRUTINY OF HUMAN RIGHTS VIOLATIONS**

Document prepared by the CDPC Secretariat  
Directorate General I – Human Rights and Rule of Law

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### **Opinion on Parliamentary Assembly of Recommendation 1983 (2011)**

8. Following the adoption by the Parliamentary Assembly of Recommendation 1983 (2011) on abuse of state secrecy and national security as obstacles to parliamentary and judicial scrutiny of human rights violations, the Committee of Ministers decided to send it to the European Committee on Crime Problems (CDPC) for information and possible comments. The CDPC recognises the value of the above recommendation which covers many multi-disciplinary aspects, including criminal law issues on violations of human rights.
9. The CDPC takes note, in particular, of the Parliamentary Assembly's initiative to call for the adoption of a recommendation on the notion of a state secrecy and the use to be made of it. In this regard, the CDPC considers that, given the complexity of the issue, it will require an interdisciplinary approach, in which all aspects are taken into account, including those related to criminal law (both from a substantial and a procedural point of view), and expresses its availability, if requested to do so, to contribute to future activities on this topic by making available its expertise in the criminal law field.