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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

Council for Penological Co-operation
(PC-CP)

15th meeting of the Working Group
Strasbourg, 10-12 April 2017

SUMMARY MEETING REPORT

Document prepared by the
Directorate General Human Rights and Rule of Law

EXECUTIVE SUMMARY

The PC-CP Working Group (WG):

- Took note of the opening address made by Mr Jan Kleijssen, Director, Information Society and Action against Crime Directorate, DG Human Rights and Rule of Law, and in particular regarding the adoption by the Committee of Ministers of Recommendation CM/Rec (2017) 3 on the European Rules on community sanctions and measures and the approval of the Handbook for prison and probation services regarding radicalisation and violent extremism;
- Took note further of Mr Kleijssen's request to promote these texts at national level and of the fact that the translation of the Handbook in German is already available and can be found on the PC-CP website;
- Took also note of the significant media coverage of the publication of the annual SPACE statistics, of the very useful and successful meeting of the SPACE I national correspondents (20-21 March 2017) as well as of the fact that funding from the European Union will be secured for continuing this project in 2018/2019;
- Took note of the information provided by Mr Carlo Chiaromonte, Head of the Criminal Law Division, Information Society and Action against Crime Directorate, DG Human Rights and Rule of Law, and more specifically regarding the state of work on a draft Council of Europe Convention on Offences relating to Cultural Property (expected to be opened for signature in May 2017), as well as of the intention to hold a Conference on the smuggling of migrants (23 June 2017); the planning of a second meeting of the CDPC sub-group on prison overcrowding (7 June 2017); on the work related to crime victims; and of the latest requests from non-European states to adhere to the Convention on the transfer of sentenced persons;
- Took note of the replies to the questionnaire related to children of imprisoned parents (replies from 26 countries were received and in the case of Germany, 7 Länders sent replies, a total of 32 replies so far).
- Considered the text of a draft recommendation related to children of imprisoned parents, document PC-CP (2017) 7, made a number of comments and amendments to the text and thanked the two scientific experts Ms Kate Philbrick and Ms Ria Wolleswinkel for their work. It was decided that a revised draft of the text, together with a report reflecting the current situation in Europe, based on information collected by "Children of Prisoners Europe" (COPE) and extracted from the replies to the questionnaire, as well as describing some good practices, will be sent to the PC-CP WG members by 19 June 2017. The PC-CP WG will send back to the scientific experts their comments and suggestions by 31 July and a revised draft text of the recommendation and of the report will be sent by the two scientific experts not later than 4 September to the Secretariat for consideration at the next PC-CP WG meeting (20-22 September 2017);
- Considered document PC-CP (2017) 6 related to restorative justice, prepared by Mr Ian Marder, scientific expert, and thanked him for his work. Considered also the opinion prepared by the European Forum for Restorative Justice (EFRJ) and thanked their representative Mr Tim Chapman for it. The participants held a discussion regarding the scope of the updating exercise and the terms to be used (whether there is a need to replace "mediation" with "restorative justice" as the latter term could cover the term mediation). It was decided that there is a need to keep "court mediation" or "court ordered mediation" as a more specific term known to the courts and used in many systems and in addition to define all aspects pertaining to the restorative justice process in general. It was suggested also that a separate set of rules should be added which relate to the use of restorative justice in prison and probation settings. It was decided that Mr Ian Marder will send a revised draft text of the recommendation and a preliminary commentary to the rules by 19 June 2017. The PC-CP WG will send back to him their comments and suggestions by 31 July and a revised draft text of the recommendation and of the commentary will be sent by Ian Marder not later than 4 September to the Secretariat for consideration at the next PC-CP WG meeting (20-22 September 2017);
- Agreed on a possible preliminary structure of the new recommendation, which appears as Appendix III to the present report;

- Considered the revised report related to the revision of the European Prison Rules (EPR), document PC-CP (2017) 3 Rev, drafted by Mr Nikolaos Koulouris with an input from the Registry of the European Court of Human Rights (ECtHR) and thanked him for his excellent work. Held a Skype conference with Mr Dirk Van Zyl Smit regarding his expected work in revising the commentary as well as regarding the time line of the revision and discussed that in view of some recent developments of the standards in this area (the adoption of the new UN Standard Minimum Rules for the treatment of prisoners; the case-law of the ECtHR; the latest CPT standards) it might be necessary to examine whether or not there is a need to update also some of the EPR themselves. In Professor Van Zyl Smit's opinion this concerned the rules related to solitary confinement, to good order, to women prisoners, to mental disability, to overcrowding and to monitoring bodies. At the same time there should be a firm understanding and agreement at the level of the PC-CP and the CDPC that in case such a revision is done this should in no case undermine the standards and principles contained in the EPR currently.
- It was therefore decided that Mr Dirk Van Zyl Smit will prepare for the PC-CP meeting in September 2017 updated parts of the commentary related to such possible rules in order to discuss these and prepare a broader document for consideration at the PC-CP plenary and the CDPC plenary meetings in 2017 with a view of obtaining guidelines from the national delegations for the planned revision of the EPR. Therefore it was agreed that the revised draft commentary (and if agreed some of the EPR rules) will be ready for adoption by the CDPC in 2018;
- Considered and approved its draft terms of reference for 2018/2019;
- Took decisions regarding the amendments to be introduced to the draft programme of the 22nd Council of Europe Conference of Directors of Prison and Probation Services (CDPPS) in Norway (20-21 June 2017). It was decided to reduce the number of workshops to 9 by combining some of them and to have, if possible from a logistical point of view, simultaneous interpretation in English/French/Russian in one of the workshops during the three consecutive sessions of workshops. It was also decided who will moderate which workshop and proposals were made as to which national delegation could contribute to which workshop based on the replies to the questionnaire sent to the prison and probation services in preparation for the CDPPS (25 replies have been received so far);
- Approved the draft conclusions of the CDPPS and decided that the same will be forwarded to the national delegations for consideration before the start of the Conference;
- Took note of the presentation made by Ms Anita van de Kar-Bachelet, Secretary to the Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters (PC-OC), regarding some practical aspects related to the implementation of the Council of Europe Convention on the Transfer of Sentenced Persons (ETS No.112) and its Additional Protocol (ETS No. 167), which concern the costs, the need for translation of documents, the co-relation in some cases of transfer decisions with expulsion and deportation decisions regarding the same person, the issue of consent and cases in which it is not obligatory as well as of the current examination of the possibility of using an e-tool and the related data-protection issues;
- Took note of the presentation made by Ms Simona Ghita, Webmaster/Web communication and Collaboration Coordinator, related to the new PC-CP web site and acknowledged its improved quality and accessibility;
- Took note of the information provided by its members and by the Secretariat regarding a number of activities in which members of the PC-CP WG took part or intend to take part in order to further promote the work of the PC-CP, namely: the LIBE Hearing, European Parliament (9 February 2017, Brussels, Belgium); the First meeting on Human Rights in Prisons for specialists from Tbilisi and Sukhumi (1-3 March 2017, Budapest, Hungary); the Press briefings on SPACE (13-14 March 2017, Strasbourg and Brussels); the Seminar on prison overcrowding in Europe (24 March 2017, Aix-en-Provence, France); the ICPA 1st International Correctional Research Symposium to present SPACE (28-29 March 2017, Ghent, Belgium); the Corrections Symposium "Efforts to Address Prison Radicalization Worldwide" organised by the US Justice Department (25-26 April 2017, Zagreb, Croatia); the COPE Conference "Supporting children with imprisoned parents" (19 May 2017, Naples, Italy); the RAN meeting on radicalisation (23-24 May 2017, Dublin, Ireland); the 2017 OSCE Counter-Terrorism Conference "Preventing and Countering Violent Extremism and Radicalization that Lead to Terrorism" (23-24 May 2017, Vienna); Reducing the Use of Imprisonment in Sentencing & Penal Decision-Making (8-9 June 2017, Edinburgh, United Kingdom).

1. The Council for Penological Co-operation WG held its 15th meeting in Strasbourg on 10-12 April 2017 with Mr Vivian Geiran in the Chair and Mr Jörg Jesse as Vice-Chair. The list of participants is appended to this report (Appendix II).

I. Opening of the meeting and adoption of the agenda and the order of business. Information provided by the Secretariat

2. The agenda was adopted (see Appendix I). The order of business and the meeting reports of the last meeting were also approved.
3. The participants took note of the opening address made by Mr Jan Kleijssen, Director, Information Society and Action against Crime Directorate, DG Human Rights and Rule of Law who thanked the PC-CP for its work in 2016, in particular for drafting the new European Rules on community sanctions and measures (Recommendation CM/Rec (2017) 3 adopted by the Committee of Ministers on 22 March 2017) and the Handbook for prison and probation services on radicalisation and violent extremism (approved by the Committee of Ministers on the same date). He welcomed the work starting on children of imprisoned parents and on restorative justice. Mr Kleijssen also praised SPACE statistics which meet with a lot of attention and interest from the media and from professionals and researchers worldwide.
4. The participants further noted the need underlined by Mr Kleijssen to translate in their national languages and to promote these texts at national level and of the fact that the translation of the Handbook in German made by the German authorities is already available and can be found on the PC-CP website.
5. The PC-CP WG also took also note of the significant media coverage of the publication of the annual SPACE statistics (two press briefings held in Strasbourg and in Brussels on 13 and 14 March 2017) and of the very useful and successful meeting of the SPACE I national correspondents (20-21 March 2017, Strasbourg). It also noted that funding from the European Union is intended to be secured for continuing this project in 2018/2019.
6. Took note of the information provided by Mr Carlo Chiaromonte, Head of the Criminal Law Division, Information Society and Action against Crime Directorate, DG Human Rights and Rule of Law, and more specifically regarding the state of work on a draft Council of Europe Convention on Offences relating to Cultural Property (expected to be opened for signature in May 2017). They also noted the intention to hold a Conference on the smuggling of migrants (23 June 2017); the planning of a second meeting of the CDPC sub-group on prison overcrowding (7 June 2017); the work related to crime victims; and of the latest requests from non-European states to adhere to the Convention on the transfer of sentenced persons.

II. Children of imprisoned parents

7. The participants took note of the replies to the questionnaire related to children of imprisoned parents (replies from 26 countries were received and in the case of Germany, 7 Länders sent replies, a total of 32 replies so far). They also took note of the summary of the replies made by the scientific experts Ms Kate Philbrick and Ms Ria Wolleswinkel.
8. The PC-CP WG considered the text of the draft recommendation related to children of imprisoned parents, document PC CP (2017) 7, made a number of comments and amendments to the text and thanked the two scientific experts for their work. It was decided that a revised draft of the text, together with a report reflecting the current situation in Europe, based on information collected by "Children of Prisoners Europe" (COPE) and extracted from the replies to the questionnaire, as well as describing some good practices, will be sent to the PC-CP WG members not later than 19 June 2017. The PC-CP WG will in return send to the scientific experts their comments and suggestions not later than 31 July and a revised draft text of the recommendation and of the report will be sent by the two scientific experts not later than 4 September to the Secretariat for consideration at the next PC CP WG meeting (20-22 September 2017).

III. Revision of the commentary to the European Prison Rules (EPR)

9. The PC-CP WG considered the revised report reflecting the developments in penitentiary standards on the international scene since the adoption of the European Prison Rules (EPR) in 2006. More specifically the related judgements of the European Court of Human Rights, the CPT standards and the developments in the UN system (the adoption of the new Standard Minimum Rules for the Treatment of Prisoners, the so called Mandela Rules in 2015) [document PC-CP (2017) 3 Rev drafted by Mr Nikolaos Koulouris with an input from the Registry of the European Court of Human Rights (ECtHR)]. They thanked Mr for his excellent work.
10. The participants held a Skype conference with Mr Dirk Van Zyl Smit regarding his expected work related to the revision of the EPR commentary as well as regarding the time line of the revision and discussed that in view of the

above developments of the standards in this area it might be necessary to examine whether some of the EPR themselves should also be revised. In Professor Van Zyl Smit's opinion this concerned more specifically the rules related to solitary confinement, to good order, to women prisoners, to mental disability, to overcrowding and to monitoring bodies. At the same time there should be a firm understanding and agreement since the very start of this exercise at the level of the PC CP and the CDPC that in case such a revision of the EPR themselves is done this should in no case undermine the standards and principles contained in the EPR currently.

11. It was therefore decided that Mr Dirk Van Zyl Smit will prepare for the PC CP meeting in September 2017 updated parts of the commentary related to such possible rules in order to discuss these and prepare a broader document for consideration at the PC CP plenary and the CDPC plenary meetings in 2017 with a view of obtaining guidelines from the national delegations for the planned revision of the EPR. Therefore it was agreed that the revised draft commentary (and if agreed some of the EPR rules) will be ready for adoption by the CDPC in 2018.

IV. Restorative Justice (RJ)

12. The participants considered document PC-CP (2017) 6 related to restorative justice, prepared by Mr Ian Marder, scientific expert, and thanked him for his work. The opinion prepared by the European Forum for Restorative Justice (EFRJ) was also taken into consideration and they welcomed the presence of their representative Mr Tim Chapman.
13. Bearing in mind that Directive 2012/29/EU of the European Parliament and of the Council on establishing minimum standards on the rights, support and protection of victims of crime contains a definition of restorative justice which is identical to the one defining mediation in CM Recommendation (99) 19, a discussion was held regarding the scope of the updating exercise and the terms to be used (whether there is a need to replace "mediation" with "restorative justice" as the latter term could cover the term mediation). It was decided that despite changing the title of the Recommendation to RJ there is a need to keep in it "court mediation" or "court ordered mediation" as a more specific term known to the courts and used in many systems and in addition to define all aspects pertaining to the restorative justice process in general. It was suggested also that a separate set of rules should be added which relate to the use of restorative justice in prison and probation settings. A preliminary draft structure of the revised recommendation was agreed (Appendix III).
14. It was decided that Mr Ian Marder will send a revised draft text of the recommendation and a preliminary commentary to the rules by 19 June 2017. The PC-CP WG will send back to him their comments and suggestions by 31 July and a revised draft text of the recommendation and of the commentary will be sent by Mr Ian Marder not later than 4 September to the Secretariat for consideration at the next PC-CP WG meeting (20-22 September 2017).

V. 22nd Council of Europe Conference of Directors of Prison and Probation Services (20-21 June 2017, Norway)

15. The PC-CP WG took decisions regarding the amendments to be introduced to the draft programme of the 22nd Council of Europe Conference of Directors of Prison and Probation Services (CDPPS) in Norway (20-21 June 2017), namely to reduce the number of workshops to 9 by combining some of them and to have, if possible from a logistical point of view, simultaneous interpretation in English/French/Russian in one of the workshops during the three consecutive sessions of workshops in order to allow participants presenting in a language different from English to be able to share their knowledge and experience.
16. It was also decided which member of the PC-CP WG will moderate which workshop and proposals were made as to which national delegations could contribute to which workshop based on the replies to the questionnaire sent to the prison and probation services in preparation for the CDPPS (25 replies have been received so far).
17. The draft conclusions of the Conference were also approved and it was decided to forward them to the delegations in good time before the Conference for final consideration before their adoption.

VI. Extradition proceedings

18. The participants took note of the presentation made by Ms Anita van de Kar-Bachelet, Secretary to the Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters (PC-OC), regarding some practical aspects related to the implementation of the Council of Europe Convention on the Transfer of Sentenced Persons (ETS No.112) and its Additional Protocol (ETS No. 167), which concern the costs, the need for translation of documents, the co-relation in some cases of transfer decisions with expulsion and deportation decisions regarding the same person, the issue of consent and cases in which it is not obligatory as well as of the current examination of the possibility of using an e tool and the related data protection issues.

VII. SPACE statistics and the work with the national correspondents

19. The participants took note of the significant media coverage of the publication of the annual SPACE statistics (two press briefings held on 13 and 14 March 2017 in Strasbourg and Brussels) (links to the articles are provided on the PC-CP website).
20. They also took note of the information provided by Mr Koulouris and the Secretariat regarding the very useful and successful meeting of the SPACE I national correspondents (20-21 March 2017), of the ensuing from it expected longitudinal analysis of the situation in European prisons for the period 2005-2015, as well as of the fact that funding from the European Union will be secured for continuing this project in 2018/2019.

VIII. Presentation of the new website and visibility issues

21. The PC-CP WG took note of the presentation made by Ms Simona Ghita, Webmaster/Web communication and Collaboration Coordinator, related to the new PC-CP website and welcomed its improved quality and accessibility. It was decided that information and links to it will be put on the web sites of the national administrations of the members.

IX. Terms of reference of the PC-CP for 2018/2019

22. The PC-CP WG approved PC-CP draft terms of reference with the additions related to the election of the PC-CP WG members, their professional and linguistic capacities, gender and geographical based on CM/Res (2011) 24 and forwarded these to approval by the CDPC.

X. Gender mainstreaming

23. The total number of participants was 31 out of whom there were 13 women and there was a balanced participation in the work of women and men both as speakers and as interveners under the different points on the agenda. Issues related to women and gender were discussed under points II, III, V and VI.

XI. Other business

24. The Secretariat and the members of the PC-CP WG informed about different meetings in which they had taken part since the last PC-CP WG meeting or in which they will take part in the near future. More specifically information was provided regarding: the LIBE Hearing, European Parliament (9 February 2017, Brussels, Belgium); the First meeting on Human Rights in Prisons for specialists from Tbilisi and Sukhumi (1-3 March 2017, Budapest, Hungary); the Press briefings on SPACE (13-14 March 2017, Strasbourg and Brussels); the Seminar on prison overcrowding in Europe (24 March 2017, Aix-en-Provence, France); the ICPA 1st International Correctional Research Symposium to present SPACE (28-29 March 2017, Ghent, Belgium); the Corrections Symposium "Efforts to Address Prison Radicalization Worldwide" organised by the US Justice Department (25-26 April 2017, Zagreb, Croatia); the COPE Conference "Supporting children with imprisoned parents" (19 May 2017, Naples, Italy); the RAN meeting on radicalisation (23-24 May 2017, Dublin, Ireland); the 2017 OSCE Counter Terrorism Conference "Preventing and Countering Violent Extremism and Radicalization that Lead to Terrorism" (23-24 May 2017, Vienna); Reducing the Use of Imprisonment in Sentencing & Penal Decision Making (8-9 June 2017, Edinburgh, United Kingdom).

XII. Dates of the next plenary meeting

25. The PC-CP WG will hold its next meeting on 20-22 September 2017.

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AGENDA / ORDRE DU JOUR

1. Opening of the meeting / Ouverture de la réunion	
2. Adoption of the agenda and the order of business / Adoption de l'ordre du jour et de l'ordre des travaux	
3. Summary report of the last meeting / Rapport sommaire de la dernière réunion	PC-CP (2017) 4 English / Français
4. Information provided by the Secretariat / Informations fournies par le Secrétariat	
5. Revision of the commentary to the European Prison Rules / Révision du commentaire aux Règles pénitentiaires européennes	PC-CP (2017) 3 rev English only
6. Restorative justice in prison and probation fields / Justice réparatrice dans le domaine des prisons et de probation	PC-CP (2017) 6 English only EU Directive on crime victims / Directive UE sur les victimes de la criminalité CEPEJ Guidelines / Lignes directrices CEPEJ EFRJ Review
7. Children of imprisoned parents / Enfants de parents détenus	PC-CP (2017) 7 English only
8. 22nd Council of Europe Conference of Directors of Prison and Probation Services (20-21 June 2017, Norway) / 22^e Conférence du Conseil de l'Europe des directeurs de services pénitentiaires et de probation (20-21 juin 2017, Norvège)	Draft Programme
9. Extradition proceedings, information provided by the PC-OC Secretariat / Procédures d'extradition, informations fournies par le secrétariat du PC-OC	
10. SPACE Project / Projet	PC-CP (2017) 5 English only
11. Presentation of the new website and visibility issues / Présentation du nouveau site web et questions liées à la visibilité	
12. Any other business / Questions diverses	
13. Dates of the next meetings / Dates des prochaines réunions	

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

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Draft preliminary structure of a recommendation on restorative justice

1. Scope
2. Definitions (RJ; PM; offender; victim)
3. Basic principles (including non-discrimination; children rights; ...)
4. Stages in the CJ process where RJ can be used
 - a) Police stage RJ
 - b) Diversionary RJ
 - c) Court ordered mediation and other RJ processes
 - d) Post-court RJ
5. Standards in RJ processes
 - a) Confidentiality, voluntary participation, cultural aspects...
 - b) Rights of victims (children special attention)
 - c) Training of staff and volunteers
6. Development of RJ principles and processes in prison and probation settings
7. Research, evaluation, promotion