

**Opening words by the State Secretary at the 28th
Council of Europe Conference of Directors of Prison
and Probation Services
on 6 June 2023 in Berlin**

**(Berlin-Brandenburg Academy of Sciences and
Humanities)**

Deputy Secretary General Berge,

[Optional: Ms Radkowska [Chair of the Council for Penological Co-Operation]]¹

Ladies and Gentlemen, Colleagues,

It is a great pleasure to join Mr Berge in opening the **28th Council of Europe Conference of Directors of Prison and Probation Services** here in Berlin today. I am delighted that you chose Germany as your host country, and the Federal Ministry of Justice as co-organiser, for this year's event.

The Council of Europe's most important task is to promote human rights and the rule of law. Respect for human rights; self-imposed constraints and checks on state power, above all where the impact of that power on the individual is greatest: these are hallmarks of European democracy.

¹ The PC-CP is the Council of Europe committee that is organising the conference.

The Council of Europe has achieved great things since its establishment in 1949 through its institutions, conventions and recommendations.

The 1950 European Convention on Human Rights defines fundamental human rights that still shape our understanding of criminal justice today.

Since 1959, the European Court of Human Rights (ECHR) has acted as a guardian of fundamental rights and freedoms. The ECHR's influence has increased enormously since the right of individual application was introduced in 1998. Applications allow each and every inhabitant of a Council of Europe Member State to apply to the ECHR directly if they believe that their fundamental rights or freedoms as guaranteed by the Convention have been violated. This international court system for human rights was a global first when it was set up in 1959.

Of particular importance to criminal justice is the 1987 European Convention for the Prevention of Torture. It established the world's first mechanism for visiting and

inspecting places where persons are deprived of their liberty. I am therefore particularly pleased that the President of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Mr Allen Mitchell, is taking part in the conference and will be giving a closing statement tomorrow.

The Council of Europe has adopted many key recommendations on criminal justice and on prison and probation services. One of the most important is the European Prison Rules. Other recommendations concern the work of probation services, community sanctions, and restorative justice. Council of Europe recommendations provide guidance – they set the framework for a modern criminal justice system rooted in human rights.

Recommendations are prepared by the Council for Penological Co-Operation. I would like to thank Ms Radkowska, Ms Devos² and the members present today for your immense commitment and for this ongoing and excellent work.

² Annie Devos is Ms Radkowska's predecessor and the current vice-chair, and will also be in attendance.

I am sure that discussions with representatives from the justice ministries and professional associations as part of the CDPPS have been of considerable value to the Council's work. I would therefore also like to express my thanks to you for your participation and your input.

This year's conference is exploring new challenges and innovative responses³ that affect our criminal justice system as a whole and our probation and prison services in particular.

We recently emerged from the coronavirus pandemic. During that period, too, we saw just how important it is to share information and experiences.

Since February of last year, we have been facing a new and fundamental challenge to a free Europe after Russia launched its war of aggression against Ukraine in violation of international law. I am grateful, Mr Berge,

³ "Management of Prisons and Probation: New Challenges and Innovative Responses"

that the Council of Europe has taken such a clear stance on the war.

Putin's invasion of Ukraine is a sharp illustration that we are living in an era of a new struggle between liberal democracy on the one hand, and autocracy or authoritarianism on the other; in an era of an undisguised and unambiguous challenge to the very principles of liberal democracy. One of those fundamental principles is a system of criminal law that is rational, rooted in fundamental rights and subject to the rule of law. Without that grounding and without those constraints, criminal law loses its legitimacy and becomes a tool for the exercise of power. Again and again, we have seen this happen in authoritarian states.

Our liberal understanding of criminal law and criminal justice is being challenged from within our own societies, too. Populist and authoritarian attitudes are gaining ground; we are seeing the vilification of individuals or entire groups and the promotion of hate. This development has major implications for the criminal justice system in particular.

Firstly, such actions can themselves constitute or lead to criminal offences. Law enforcement agencies, the courts, the prison service and the probation service must examine the underlying causes of offender radicalisation. They need to find ways to work on democratic reintegration, and where possible to prevent reoffending.

Secondly, populists instrumentalise criminal law for their own purposes. Rationality, proportionality, the rule of law and respect for fundamental rights are perceived as inconvenient restraints from which criminal law must be freed in the fight against supposed enemies – of what populists stand for. Populists seek to misuse criminal law as an instrument of exclusion and stigmatisation – where it should instead serve social reintegration.

We must respond through education and information.

To finish, I would like to mention another challenge that is perhaps less dramatic, but could nonetheless have a major and long-lasting impact. The digital transformation and staggering developments in artificial intelligence are

affecting the prison and probation service, just as they are affecting all other areas of society. This offers significant opportunities, but also raises some fundamental questions.

Is it legally and ethically acceptable for AI-based machines to decide on what is right or wrong, to assess risks or to allocate support services?

What value will be placed in future on human interaction and on personal, individual assessment – as opposed to algorithmic applications based on data analysis and statistical processes?

The Council of Europe's decision to explore these developments, the questions they raise and their potential implications for probation and prison services therefore could not have come at a better time.

The programme for the next two days is a full and fascinating one⁴, covering medical care; restorative justice; responses to gender-based violence; drug abuse; and approaches to social reintegration.

I am also very pleased that you will have the opportunity to find out about projects and programmes in our probation and prison service in Germany.

I am sure this year's CDPP will once again provide a platform for fascinating and productive debate and discussion. Thank you.

⁴ Workshops on the programme:

1. MEDICAL CARE IN PRISON AND PROBATION SERVICES
2. THE ULTIMA RATIO PRINCIPLE OR HOW TO DECREASE THE PENAL RESPONSE TO OFFENDING
3. RESTORATIVE JUSTICE
4. PARTICULAR CHALLENGES IN DEALING WITH SEX OFFENDERS AND WITH GENDER-BASED VIOLENCE
5. DRUG USE BY PRISONERS AND PROBATIONERS
6. SOCIAL REINTEGRATION - POSSIBLE SOLUTIONS