

Doc. 11041

2 October 2006

European Prisons Charter

Recommendation 1747 (2006)

Reply from the Committee of Ministers

adopted at the 974th meeting of the Ministers' Deputies (27 September 2006)

1. The Committee of Ministers takes note of Parliamentary Assembly Recommendation 1747 (2006) on a European prisons charter, which it has communicated to the governments of its member states. It has transmitted 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.
2. The Committee of Ministers recalls that in its reply to Parliamentary Assembly Recommendation 1656 (2004) on the situation of European prisons and pre-trial detention centres, it informed the Assembly about its decision to transmit that recommendation to the CDPC and the PC-CP which were updating the European Prison Rules, drawing these committees' attention to the proposals made by the Parliamentary Assembly and, in particular, to the proposal to prepare a European prisons charter. The Committee of Ministers also agreed to add the recommendation to the list of reference documents contained in the ad hoc terms of reference given to the PC-CP for up-dating the European Prison Rules.
3. The Committee of Ministers adopted Recommendation Rec(2006)2 to member states on the European Prison Rules on 11 January 2006. In June 2006, it took note of the abridged report of the plenary meeting held by the CDPC in April 2006. It noted in particular that a significant number of states had already taken or planned measures to ensure the implementation of the revised European Prison Rules, including legislative reforms, training, translation and distribution. It also noted the opinion of the CDPC that a binding instrument, in the form of a European prison charter, was not a feasible proposition. The Committee of Ministers observes that its expert body considered that it would be difficult for the states to reach a consensus on more than a very limited number of binding legal rules, which could impoverish and stigmatise existing standards and could, moreover, lead to weakening the importance and the impact of the European Prison Rules on the work of the prison administrations in the member states and at the European level in general.
4. The Committee of Ministers agrees with these considerations, but has entrusted the PC-CP with the task of re-examining the European Prison Rules every five years, or more frequently, if the case law of the European Court of Human Rights or CPT reports so require. When necessary, the Committee of Ministers will thus take measures for up-dating the European Prison Rules.
5. The Committee of Ministers has also noted the CDPC's proposal to strengthen penitentiary reform *inter alia* through the elaboration of a Compendium of Council of Europe recommendations in the penitentiary field. It observes that the CDPC will be examining working methods for the elaboration of the compendium and for identifying recommendations that need to be revised and/or up-dated, at its next plenary meeting.
6. The Committee of Ministers wishes to inform the Assembly that, further to an initiative of the Spanish authorities, with the support of the Council of Europe, an international penitentiary congress with 1 200 participants was organised in Barcelona in March 2006. This event provided an excellent platform for promoting and publicising the newly adopted European Prison Rules.

Doc.

7. With respect to the Assembly's proposals relating to the mandate of the CPT and the possible setting up of a European prisons observatory tasked with monitoring the situation in Europe's prisons (paragraphs 9.3 and 9.4 of the recommendation), the Committee of Ministers considers that the mandate of the CPT is sufficiently strong and broad. It recalls that under Article 1 of the Convention for the Prevention of Torture and Inhuman and Degrading Treatment and Punishment it "shall, by means of visits, examine the treatment of persons deprived of their liberty with a view to strengthening, if necessary, the protection of such persons from torture and from inhuman or degrading treatment or punishment". The CPT has unlimited access to all places of detention (and not only those where prisoners are being kept) and the national authorities of the Council of Europe member states make all possible efforts to follow the recommendations made by the CPT in its reports. The Committee of Ministers considers that the CPT *de facto* plays the role of a European prisons observatory.

8. The Committee of Ministers recalls that the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol provides for similar obligations for the Parties to that instrument. The system includes an international monitoring body – a Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture (CAT) and all states parties to the Optional Protocol undertake to create at national level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment. The Committee of Ministers notes that the latter instrument has recently entered into force (22 June 2006) and has been ratified by 22 states, including 11 member states of the Council of Europe. It encourages those member states which have not yet done so, to sign and ratify the UN Optional Protocol as soon as possible and to create their independent national monitoring bodies.