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COUNCIL OF EUROPE
ACTIVITIES IN THE FIELD
OF CRIME PROBLEMS

1956 - 1976

European Committee on Crime Problems

STRASBOURG
1977

U.S. Department of Justice
National Institute of Justice

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FOREWORD

Created in 1949, the Council of Europe reflected the will of a number of European states to strengthen their mutual ties by common activities and to promote, in the pursuit of the same ideals and principles, their economic and social progress.

Today the Council of Europe is the meeting place for the liberal democracies in Europe. Its authority and great reputation are derived from the fact that, in spite of many difficulties, it has in an exemplary way achieved results by debating issues of common interest, by elaborating conventions, by joint action in the economic, social, cultural, scientific, legal and administrative fields as well as by protecting and developing human rights and fundamental freedoms.

Many bodies have efficaciously contributed to these results. One of them is the European Committee on Crime Problems which met for the first time in April 1958.

Its primary task is to harmonise the legislations of member states of the Council of Europe relating to penal law, penal procedure and prison administration. The survey of its various activities, as presented by this publication, bears witness to the need for, and the importance and success of, interstate co-operation based on mutual confidence. Today several Council of Europe conventions and resolutions concerning the prevention and punishment of crime and the rehabilitation of offenders are important elements in the relations between the nineteen member states of the Council of Europe. In the light of the great divergences among national legislations, this is an indisputable success.

The first step towards a unified European penal law system has been taken. The European Committee on Crime Problems will pursue this task with undiminished energy.

P.G. Pötz
*Chairman of the
European Committee on Crime Problems*

INTRODUCTION

1. The aim of the Council of Europe is defined as follows in its Statute :
"... to achieve a greater unity between its Members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress".

The Statute goes on to define the methods whereby this aim may be achieved, namely discussion of questions of common concern as well as the conclusion of agreements and the taking of common action in economic, social, cultural, scientific, legal and administrative matters.

Within this framework, the Council of Europe has been concerning itself with crime problems for the last twenty years.

Historical background and organisation

2. On 10 June 1956, the Committee of Ministers of the Council of Europe adopted Resolution (56) 13 on the prevention of crime and the treatment of offenders. The origin of the resolution was a proposal by the Government of Turkey to establish co-operation between the Council of Europe and the UN European Consultative Group dealing with the subject concerned.

The text of Resolution (56) 13 read as follows :

"Having regard to the possibilities of useful action by the Council of Europe in the field of the prevention of crime and the treatment of offenders ;

Having regard to the need for the Council to take such action in conjunction with that of the United Nations in order to avoid duplication ;

Having regard to the correspondence exchanged between the Secretariat General of the United Nations and that of the Council of Europe (see enclosures with the Secretary General's letter D/11.635 of 28 October 1955),

Resolves :

1. To accept the invitation to the Council to be represented as an observer at meetings of the European Consultative Group of the United Nations dealing with the prevention of crime and the treatment of offenders ;
2. To instruct the Secretary General :
 - a. To bring to the notice of member governments of the Council of Europe the conclusions and recommendations of the Consultative Group and to invite the comments of member governments thereon, and to prepare a

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report, in the light of the comments of member governments, for submission to the Committee of Ministers ;

b. To provide facilities for meetings of a working party appointed by the Consultative Group, on the understanding that the travel expenses and subsistence of the members of the working party will be defrayed by their respective governments ;

c. To draw up for the Committee of Ministers, after consultation with the representatives of member governments of the Council of Europe in the European Consultative Group and the Secretariat General of the United Nations, proposals for action which the Council might usefully take in the field of the prevention of crime and the treatment of offenders, it being understood that such action should not overlap that taken by the United Nations. The Secretariat General of the Council would be entrusted with the task of eliminating cases of duplication or overlapping, in particular by means of the machinery proposed in the letter of 3 October 1955, from the Secretariat General of the United Nations."

3. This resolution marked the beginning of Council of Europe activities in the field of crime problems. As a result of a meeting in Geneva under the chairmanship of Sir Lionel Fox, Chairman of H.M. Prison Commissioners in the United Kingdom, a plan of action was drawn up and submitted to the Committee of Ministers of the Council of Europe. At its 52nd meeting, in September 1957, the Committee of Ministers, meeting at Deputy level, approved the plan of action and decided to entrust its implementation to a committee of experts, to be called the European Committee on Crime Problems (ECCP).

4. The ECCP met for the first time from 30 June to 3 July 1958. Sir Lionel Fox was elected its first Chairman, and it was under his guidance that the first part of the proposed programme was embarked upon through the setting up of various sub-committees and working groups to study the following matters :

- the death penalty in European states ;
- the civil and political rights of prisoners ;
- mutual legal assistance in connection with after-care ;
- co-operation between European states in the field of road traffic ;
- juvenile delinquency.

5. Until 1964 the ECCP met twice a year ; since then it has met only once a year. The meetings are attended by experts from each Council of Europe member state, who are either senior officials in national administrations (Ministry of Justice, prison administration, public prosecutor's department) or scientists.

Since its inception the ECCP has been presided over by :

- Sir Lionel Fox, Chairman of H.M. Prison Commissioners (United Kingdom), 1958-60

- Mr Marc Ancel, Judge at the Court of Cassation (France), 1960-62
- Mr Paul Cornil, Secretary General to the Ministry of Justice (Belgium), 1962-65
- Mr Torsten Eriksson, Director General of the National Correctional Administration (Sweden), 1966-68
- Mr L.H.C. Hulsman, Professor at the University of Rotterdam (Netherlands), 1969-71
- Mr Robert Schmelk, *avocat général* at the Court of Cassation and head of the Private Office of the Minister of Justice (France), 1972-74
- Mr Paul-Günter Pötz, Ministerial Counsellor in the Federal Ministry of Justice (Federal Republic of Germany), 1975-

6. For the purpose of carrying out its work programme and other activities entrusted to it by the Committee of Ministers, the ECCP, since its inception, has set up more than fifty sub-committees, generally composed of six to eight experts or smaller working parties. These organs work under the ECCP's supervision and in accordance with its instructions. They submit the results to the ECCP in the form of draft conventions, or of draft resolutions containing whatever recommendations they consider should be addressed to member governments, or of reports describing their studies and setting out their conclusions.

After examining and approving them, the ECCP transmits these texts to the Committee of Ministers, which in turn examines and adopts them.

7. A list of conventions thus adopted, indicating whether they have been signed or ratified, is given in Appendix I ; a list of resolutions is to be found in Appendix II.

8. One of the moving spirits behind the ECCP's activities over the years has been the Consultative Assembly of the Council of Europe : some of the activities originated from the work of the Assembly's Legal Affairs Committee and from Assembly resolutions. However, the work of the ECCP has become increasingly technical and detailed, and recent activities have originated mainly from the committee itself, being chosen according to needs indicated by experts familiar with the day-to-day problems of the administration of justice.

9. The ECCP has always considered it important to have scientific expertise at its disposal. Accordingly in 1962 it obtained from the Committee of Ministers authorisation to set up three types of body for the purpose of assisting it in the field of criminological research, viz. :

- a Criminological Scientific Council,
- Conferences of Directors of Criminological Research Institutes,
- small committees of research workers.

10. The chief task of the Criminological Scientific Council is to collect data in the criminological field, provide technical advice and make suggestions for the preparation and execution of the ECCP's programme, particularly as

regards its scientific aspects ; it is therefore a purely consultative body. It is composed of seven members who are eminent specialists in the criminal sciences.

Since its creation the Scientific Council has been presided over by :

- Professor Sir Leon Radzinowicz (British), 1963-69
- Professor Franco Ferracuti (Italian), 1969-70
- Professor Kurt Pawlik (Austrian), 1971-75
- Mr T.S. Lodge, C.B.E. (British), 1975-

11. The aim of the Conferences of Directors of Criminological Research Institutes—held annually from 1963 to 1972 and since then every other year in alternation with criminological colloquia—is to further European co-operation in the field of criminology. They are attended by a large number of institute Directors as well as representatives of the ECCP and the Scientific Council and observers from other international organisations, who make a joint investigation of scientific problems and try to co-ordinate approaches and methods. The themes of the conferences are often chosen for their topicality and the prospects they offer of a rewarding exchange of views between research workers and administrators ; on the other hand, the subjects of the colloquia tend to relate to questions of methodology and research.

12. Another venture in the field of criminology was the convening of a series of small committees of research workers between 1964 and 1966. The committees enabled research workers interested in similar problems to exchange views and pool their findings. They enquired into a number of very broad and varied subjects, such as the short-term treatment of young offenders, the effects of the mass media on juvenile delinquency and problems concerning criminal statistics. The topics thus examined were sometimes closely connected to those currently being studied by the ECCP. For administrative reasons, however, the series was not continued beyond 1967.

13. In 1972 the ECCP convened for the first time a Conference of Directors of Prison Administrations in member states. The conference arose from a proposal made by the experts who had revised the UN Standard Minimum Rules for the Treatment of Prisoners, its purpose being to facilitate the implementation and application of the rules. Such conferences now meet every two years, enabling directors of prison administrations to discuss in a European context the legal, administrative, scientific and human problems they share. Importance is attached to their being attended by those actually responsible for prison administration, as such persons are fully aware of the problems arising in all prisons and are in a position to put into practice any recommendations adopted.

14. Since 1961 the Council of Europe's activities in the various fields of law—criminal, civil and commercial—have included the convening of a

Conference of European Ministers of Justice every two years at the invitation of a member state, or more frequently if necessary. The first conference was convened as a result of a proposal by the ECCP. The conferences are not an organ of the Council of Europe, although secretariat services are supplied by the Council. The Ministers of Justice of the Council's member states and of Finland are invited to them as full members, while the Minister of Justice of Spain and representatives of the Consultative Assembly are invited as observers.

The conferences serve three purposes :

- they provide the European Ministers of Justice with an opportunity of discussing questions of legal policy ;
- they enable the Ministers to make a joint review of the Council of Europe's legal work ;
- they offer a forum for preparing and discussing suggestions regarding the inclusion of new items in the Council of Europe's Work Programme.

The following Conferences of Ministers of Justice have been held so far :

- in 1961 in Paris
- in 1962 in Rome
- in 1964 in Dublin
- in 1966 in Berlin
- in 1968 in London
- in 1970 in The Hague
- in 1972 in Basle
- in 1973 in Stockholm
- in 1974 in Vienna
- in 1975 in Obernai
- in 1976 in Brussels

The proposals and recommendations of the conferences are forwarded by the Secretary General of the Council of Europe to the Council's Committee of Ministers.

The Ministers' discussions have often led to activities being undertaken by the ECCP on the subjects in question, e.g.

- the criminal law and the environment,
- economic crime.

Achievements

15. These structures, which were designed for a variety of purposes and have been adjusted in the light of experience, have enabled the ECCP to study a large number of questions in the following areas :

- criminal law and criminal procedure,
- prison rules and regulations,
- treatment of offenders,
- criminological science.

Details of the ECCP's activities since 1958 are given in the following chapters.

16. An account of the ECCP's structures gives little idea of the atmosphere of the working meetings upon which the committee's achievements depend. Since the outset, the ECCP has been a forum for European specialists in criminal law, penology and criminological research. More than 200 experts of eighteen different nationalities meet in Strasbourg every year to discuss problems of particular concern to them of which the ECCP and the Committee of Ministers of the Council of Europe have agreed to have a study made.

Apart from being highly qualified in their various fields, the experts have all been imbued with the feeling that they were working not just in a national context, but in a new framework of institutionalised interstate co-operation.

Over the years a spirit of cohesion, understanding and friendship has developed among the experts at all levels, and this has given the ECCP's meetings their specific character. This spirit has helped to foster and strengthen harmonious relations and to consolidate mutual trust among the eighteen national administrations in the field of crime problems.

The achievements of the ECCP as described above are thus supplemented by a steadily improving climate of co-operation among European national administrators, making for ever greater unity between member states, which is the true *raison d'être* of the Council of Europe.

CHAPTER I

ACTIVITIES IN THE SPHERE OF CRIMINAL LAW AND CRIMINAL PROCEDURE

A. INTERSTATE CO-OPERATION

1. Extradition

It is a universally recognised principle of international law that a state's authority ends at its frontiers. This principle is equally applicable to the judicial proceedings against offenders. If the offender succeeds in getting away from the state in which he has committed an offence and where he is to be prosecuted, that state will normally have no means of bringing him to trial. For this reason states have, for many years, contracted bilateral extradition agreements by which Contracting Parties accept on a reciprocal basis to hand over fugitive offenders, either for the purpose of trial, or for the purpose of enforcement of the sentence already pronounced.

When the Council of Europe was set up, a complicated network of such extradition agreements existed already. It was however realised that these treaties differed considerably and that there was consequently a need for uniform rules on the subject.

The Consultative Assembly of the Council of Europe adopted on 8 December 1951 Recommendation (51) 16 relating to the preparatory measures to be taken to achieve such uniform rules.¹

The Committee of Ministers, after studying this recommendation and the governments' replies on the desirability of concluding a European Convention on Extradition and its possible form and content, instructed, in 1953, the Secretary General to convene a committee of government experts to examine the possibility of establishing certain extradition principles acceptable to all Members of the Council of Europe.

This committee, which was chaired first by Mr W. Fay (Ireland) and then by Mr Mamopoulos (Greece), concluded that a considerable measure of agreement would allow the commonly accepted principles to be embodied in an appropriate instrument of a multilateral or bilateral character. This last point gave rise to a discussion in which different views reflected the various attitudes of the experts. Some preferred the states to settle, directly and in the frame of lateral conventions, their particular legal concerns and preoccupations; other experts, on the contrary, saw no objection to the drafting of a multilateral convention laying down the broad principles governing extradition while still other experts were not satisfied with this

¹ Although for reasons of time the European Convention on Extradition cannot be included among the accomplishments of the ECCP, it is by its subject matter so closely linked to the committee's general area of activity that it is natural to mention it here, the more so as the ECCP has in recent years examined various aspects of the functioning of the convention.

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general and common ground and wanted a multilateral convention containing detailed provisions.

It was finally decided to follow the third approach in view of the recognised need to co-ordinate and standardise the rules governing extradition in the various member states. Work on the draft convention was completed during the years 1955 to 1957. During its session in September 1957 the Committee of Ministers, sitting at Deputy level, approved the final text and decided to open the convention for signature by member states.

Under the terms of the convention the Contracting Parties undertake to surrender to each other all persons against whom the competent authorities (i.e. the judicial authorities) of the requesting state are proceeding for an offence or who are wanted for the enforcement of a sanction. Paragraph 1 of Article 2 of the convention specifies what offences are in principle extraditable: namely offences which are punishable under the law of both the requested and the requesting states and for which the maximum penalty is at least one year's imprisonment. In the case of extradition with a view to enforcement, the sanction imposed is at least four months' imprisonment. In these circumstances extradition is compulsory and the requested state has no discretionary power to grant or refuse it.

Parties are allowed by prior declaration to exclude from the field of application of the convention offences for which extradition is not authorised by their own law, although they come within the provisions of Article 1. The rule of compulsory extradition is qualified, however, by subsequent provisions which lay down certain obligatory or optional exceptions.

The obligatory exceptions are:

- extradition relating to political offences or offences for which proceedings appear to have been taken solely on account of the alleged offender's race, religion, nationality or political opinions,
- extradition relating to military offences,
- offences covered by the *ne bis in idem* rule,
- offences covered by statutory limitation.

The optional exceptions are:

- extradition relating to fiscal offences,
- extradition of nationals,
- extradition relating to offences committed in the territory of the requested state,
- extradition relating to offences for which proceedings are already pending in the requested state,
- extradition for offences punishable by the death penalty unless this sanction exists and is enforced under the laws of the requested state or if not unless the requesting state undertakes not to enforce this sanction.

However in respect of the optional exceptions, a state which does not extradite a person claimed on the ground that he is one of its nationals is obliged at the demand of the requesting state to submit the matter to its competent authority for appropriate action.

The other provisions of the convention deal with procedural requirements, the rule of speciality and re-extradition and transit.

The convention entered into force on 18 April 1960 and binds at present (June 1976) Austria, Cyprus, Denmark, Greece, Ireland, Italy, the Netherlands, Norway, Sweden, Switzerland, Turkey and by way of accession Finland, Israel and Liechtenstein. The following states have signed but not yet ratified the convention: Belgium, France, the Federal Republic of Germany and Luxembourg.

The ECCP organised in June 1969 a meeting of persons responsible for the application of the convention at national level. On the basis of three expert reports, the participants discussed the various problems with which they were faced, and they made a number of proposals for its improved functioning.

They agreed that international co-operation in the field of crime problems was in constant progress. Rules which ten years earlier represented the best solution to the problems raised might no longer appear adequate. Generally speaking, legal instruments might therefore have to be revised in the light of the needs for a still closer co-operation. The participants were of the opinion that the convention did not correspond entirely to present-day requirements, but admitted that a revision of the convention was premature. They recommended however that certain questions be examined at national or bilateral level.

Also the ECCP has in subsequent years examined various provisions of the convention in the light of new circumstances such as Article 3 (political offences), 5 (fiscal offences) and 9 (*ne bis in idem*).

As to Article 3, its mandatory character and its application have been dealt with in Resolution (74) 3, on international terrorism, adopted by the Committee of Ministers on 24 January 1974. It is recommended that the political motive alleged by the authors of certain acts of terrorism should not have as a result that they are neither extradited nor punished. Governments of member states should look very carefully, when applying the European Convention on Extradition or their domestic law, into the serious nature of the acts of terrorism. The collective danger to human life, liberty or safety they often create should not find shelter behind a political screen. In application of the principle of *aut dedere aut punire*, it was also recommended that if extradition is refused, the requested state should submit the case to its competent authorities for the purpose of prosecution, and if jurisdiction is lacking it should envisage the possibility of establishing it.¹

1. For further work on this subject, see chapter on international terrorism.

Moreover, a protocol to the convention opened for signature in October 1975 stipulates that war crimes and crimes against humanity shall be excluded from the term "political offences". The result is that extradition shall be granted for this category of offences which are expressly listed in the protocol.

Particular attention is being given at present to Article 5 of the convention concerning fiscal offences, e.g. tax offences and violations of customs regulations. The increase in and international ramifications of these particular infractions call for a full extension of the convention to them. This work is in progress.

As regards Article 9 the above protocol supplements this provision by spelling out in detail the conditions in which extradition shall not or may be granted. These new rules correspond to the rules on *ne bis in idem* in other European conventions elaborated after the Convention on Extradition.

An expert committee has also recently finished work on judgments *in absentia*, in respect of which it is proposed to incorporate rules in a future second protocol to the convention. It will allow Contracting States to refuse extradition if they find that the judgment does not satisfy the minimum rights of defence recognised as due to everyone charged with a criminal offence (see Article 6 of the Human Rights Convention), unless the requesting state assures the person claimed the right to a retrial which safeguards the rights of the defence.

The re-examination of the convention will later be extended to cover :

- a. the question whether an amnesty in the requested or the requesting state should be a ground for refusing extradition,
- b. the desirability of using methods of communication more expeditious than diplomatic channels.

2. Mutual assistance in criminal matters

As stated above, no state shall, according to traditional rules of international law, be allowed to exercise its function in the territory of another state. It follows that procedural acts which are necessary for proceedings in any given state but which must be carried out in another state depend on the agreement of the latter state. The international community has over the years formalised such agreements in a series of bilateral treaties which allow states on a reciprocal basis to request a number of measures to be taken in the field of criminal justice such as the service of writs or documents, the obtaining of evidence and expert opinions.

The multitude of bilateral agreements in Europe which were very different in scope and nature necessitated uniform rules at least among the member states of the Council of Europe if the aims of the organisation in the field of criminal justice were to be furthered. During the examination of the

problems relating to extradition, the experts therefore raised the question of the desirability of pursuing their work by the elaboration of a draft European Convention on Mutual Assistance in Criminal Matters.

During their meeting in September 1956 the Ministers' Deputies decided at the request of the experts to widen their terms of reference, instructing them to prepare a draft Convention on Mutual Assistance in Criminal Matters.

Work on this convention followed on that relating to the preparation of the European Convention on Extradition and was completed during the years 1958 to 1959, Mr de la Fontaine (Luxembourg) being the Chairman of the committee of experts. During its session in April 1959 the Committee of Ministers approved the final text and decided to open the convention for signature by member states.

Under the terms of the convention the Contracting Parties undertake in principle to afford each other the widest measure of mutual assistance in proceedings in respect of offences the punishment of which falls within the competence of the judicial authorities of the requesting state. This provision, which is of a general character, is to be interpreted in a broad sense. It covers not only those forms of mutual assistance specifically mentioned in the convention (letters rogatory, service of writs and records of judicial verdicts, appearance of witnesses, experts and prosecuted persons, communication of extracts from judicial records) but also every other kind of mutual legal assistance. Mutual assistance must also be accorded in cases when the offence comes under the jurisdiction of the requested state.

A number of guiding principles are laid down in the convention. It was decided that mutual assistance should be independent of extradition in that it should be granted even in cases where extradition is refused. For example, it was agreed that assistance should be granted in the case of minor offences, and that as a general rule the offence need not be an offence under the law of both countries.

Mutual assistance in the prosecution of nationals of the requested party was not excluded. A clause setting up a time-limit for the transmission of writs was inserted, however, in order to protect their interests. A rule of automatic communication of information from judicial records related to nationals of other Contracting Parties was also included.

It was considered advisable to set forth a number of obligatory or optional exceptions to the rule of compulsory assistance.

The obligatory exception is :

- assistance relating to cases of military nature.

The optional exceptions are :

- assistance relating to cases of political or fiscal nature,
- assistance relating to cases where the execution of the request is

likely to prejudice the sovereignty, security, *ordre public* or other essential interests of the requested country.

With these exceptions the Contracting Parties are thus obliged to grant assistance to each other, and reasons shall be given for any refusal. Reservations could be made, however, under the terms of Article 23 which is identical with Article 26 of the European Convention on Extradition.

The convention entered into force on 12 June 1962 and binds at present (June 1976) Austria, Denmark, France, Greece, Italy, the Netherlands, Norway, Sweden, Switzerland and Turkey and by way of accession Israel and Liechtenstein. It has been signed, but not yet ratified, by Belgium, the Federal Republic of Germany and Luxembourg.

In 1970 the ECCP organised a meeting of civil servants responsible at national level for implementing the convention. The meeting adopted a number of detailed conclusions likely to facilitate and improve the functioning of the convention. Some of them are now contained in Resolution (71) 43, on the practical application of the convention, adopted by the Committee of Ministers of the Council of Europe. The remaining conclusions will be examined in the near future by a sub-committee which will in particular look into mutual assistance in respect of fiscal offences, *Ordnungswidrigkeiten*, the problems of secrecy, and the restrictions put on the application of the convention by reservations.

During the 1970 meeting a proposal to create a European Judicial Information Centre was examined. Having taken note of the text of Recommendation 584 (1970) from the Consultative Assembly, the participants looked into the various problems which the creation of such a centre would present from technical, linguistic, financial and practical points of view.

It was pointed out that :

a. until such time as the principle of taking the fullest possible account of foreign judgments was accepted and implemented in national legislations, such a centre would be of rather limited value ;

b. it would be necessary to decide whether all kinds of offences and sanctions (from fines to deprivation of liberty) or only some of them (for instance to the exclusion of administrative fines) should be collected by the centre ; if the centre were to store comprehensive information this would add considerably to the tasks of national administrative authorities ;

c. consideration should also be given to whether simple notification of a conviction would suffice or whether other information should also be supplied on the offender's personality ;

d. such a centre could not operate properly unless it was equipped with the latest technical facilities, in particular a computer ; consequently, it might be supposed that the setting up and the operation of such a centre would involve considerable expense ;

e. it might be feared that if such a system were adopted there would to a certain extent be duplication of the exchange of judicial information set up under Article 22.

The participants therefore thought that it was premature to consider the creation of such a centre. On the other hand, they agreed that the present system for exchange of information was not entirely satisfactory and could be improved. It was suggested that all aspects of this matter might usefully be studied, but such study has not been undertaken so far.

3. Transfer of proceedings in criminal matters

European co-operation in the field of criminal justice could not, of course, be confined to dealing with problems relating to extradition and mutual assistance. In 1964 the ECCP accordingly appointed a sub-committee under the chairmanship of Mr H. Grützner (Federal Republic of Germany) to examine problems relating to the settlement of conflicts of jurisdiction in criminal matters. In so doing, it had regard to the discussions which the Legal Committee of the Consultative Assembly had conducted on the draft of the Assembly's Recommendation 420 (adopted in January 1965) as well as to those of the committee of experts responsible for drawing up a draft Convention on the International Validity of Criminal Judgments.

At the end of its deliberations the sub-committee submitted to the ECCP a text which was subsequently approved by the Committee of Ministers in September 1971. This text, the Convention on the Transfer of Proceedings in Criminal Matters, was opened for signature by member states in May 1972.

The object of the convention is to establish a system for the transfer of criminal proceedings and to deal with difficulties concerning the institution of more than one set of such proceedings.

With regard to transfer, Article 2 of the convention confers jurisdiction upon all Contracting States in their capacity as requested states. The jurisdiction is of a subsidiary kind, independent of domestic legislation ; it does not alter or limit any jurisdiction possessed by the states by virtue of such legislation.

The convention stipulates the conditions to which the transfer of proceedings in criminal matters is subject, these include the principle of dual criminal liability and a guarantee of the proper administration of justice, as reflected in the provisions setting out in detail the circumstances in which a request may be made and rejected. The convention also regulates the problems of the applicability of the criminal law, the effects of a request for proceedings in the two states concerned and the significance of investigations and preliminary hearings only carried out in the requesting state.

The chief aim of the provisions relating to plurality of proceedings is to prevent anyone from being tried more than once for the same offence (*ne*

bis in idem). The measures which a state may take in cases of plurality are :

- a. to waive its own proceedings,
- b. to suspend its proceedings pending the outcome of those in another state,
- c. to transfer its proceedings to that other state.

The convention provides for a consultation procedure to determine which of the states concerned is to continue and terminate the single set of proceedings. The decision depends in each case on an evaluation of general criteria, such as the establishment of the truth and the application of appropriate sanctions. If agreement cannot be reached, each state retains its own competence but any judgment rendered must comply with the convention's provisions regarding the principle of *ne bis in idem*.

The convention has so far been signed by Austria, Belgium, Luxembourg, the Netherlands, Norway and Turkey and ratified by Denmark and Sweden, but it has not yet (June 1976) come into force.

4. Enforcement of criminal judgments

Effective co-operation between the member states of the Council of Europe in the field of criminal justice is also intended to ensure that judicial decisions do not remain a dead letter, and that an offender is not able to avoid the consequences of his act by fleeing the country where he committed it and seeking asylum elsewhere. Although extradition is generally the answer in such cases, it sometimes proves ineffectual.

With this in mind, the ECCP decided in 1961 to set up a sub-committee under the chairmanship of Mr H. Grützner (Federal Republic of Germany) to enquire into the "international validity of criminal judgments in relation to recidivism". The scope of these terms of reference was subsequently modified in order to enable the sub-committee to examine all other aspects of the effects of foreign judgments.

In the course of its deliberations the sub-committee studied the following problems in detail :

- judgments *in absentia*,
- effects of *res judicata*,
- enforcement proceedings,
- time-limitation,
- disqualifications.

A draft European Convention on the International Validity of Criminal Judgments was prepared and, after several revisions, submitted to the ECCP in 1969. It was then transmitted to the Committee of Ministers and, after being approved by the latter, was opened for signature in May 1970, at the 6th Conference of European Ministers of Justice, in The Hague.

The fundamental concept underlying the convention is the assimilation of a foreign judgment to a judgment rendered by a domestic court. This concept is applied in three different respects, namely :

- the enforcement of the judgment,
- the *ne bis in idem* effect, and
- the taking into consideration of foreign judgments.

The convention is divided into two main parts :

1. Enforcement of European criminal judgments

In this connection, the following points may be noted :

i. The conditions that must obtain for a judgment to be enforceable include the following :

- the judgment must be the outcome of a trial satisfying basic democratic requirements ;
- the act to which the judgment relates must also be punishable under the legislation of the requested state ;
- the judgment must, with the exception of a judgment *in absentia* and an *ordonnance pénale* be final and enforceable in the state of judgment ;
- the requested state may not refuse enforcement except on one of the grounds exhaustively listed in the convention ;
- the *ne bis in idem* principle as defined in the convention is an obstacle to enforcement.

ii. Judgments *in absentia* present a special problem in so far as they differ from decisions rendered after a hearing of the accused by a court. In respect of such judgments the convention provides for a special common remedy, in the form of the lodging of an "opposition" which gives the person sentenced a guarantee that the judgment *in absentia* will not be enforced without his or her being able to obtain a retrial.

iii. The adaptation of a foreign sanction to the legislation of the state of enforcement gives rise to delicate problems owing to differences between the legal systems of the member states of the Council of Europe. For this reason the Contracting Parties to the convention are required to inform the Secretary General of the Council of Europe of any amendments made to systems of sanctions with a view to corresponding changes being made. Appendix II (list of offences other than offences dealt with under criminal law) and Appendix III (list of *ordonnances pénales*) of the convention will be amended accordingly.

2. International effects of European criminal judgments

This part is divided into two sections—one relating to the *ne bis in idem* principle, the other to the taking into consideration of a foreign judgment.

i. The first section sets out detailed rules governing the international application of the *ne bis in idem* principle. When these rules were being drawn up, account was taken of an opinion expressed by the European

Commission of Human Rights, which pointed out to the Committee of Ministers in 1964 that the principle was not adequately safeguarded in Europe at international level.

ii. The second section provides that the decision of a foreign court may be taken into consideration in cases where, under national law, an identical decision would produce the same effects. This rule is not, however, mandatory.

The convention entered into force on 26 July 1974. It has been ratified by Cyprus, Denmark, Norway and Sweden and signed by Austria, Belgium, the Federal Republic of Germany, Italy, the Netherlands and Turkey.

5. International terrorism

The post-war period has been characterised by an increase in violence, in particular violence for political purposes. Those crimes of violence not only threaten the lives and property of individuals but are a considerable danger to world peace and civilisation for, by their very nature, they are likely to jeopardise simultaneously social order, international public order and the broader interests of humanity.

The member states of the Council of Europe have not escaped this development although the problems which were underlying international terrorism were, in most cases, derived from situations outside the Western European community. It has, in recent years, become one of the major concerns of authorities responsible for the maintenance of public order and safety.

These questions have been discussed on various occasions in recent years by the Consultative Assembly, which passed several resolutions on the subject, inter alia Recommendation 684 (1972).

In reply to this recommendation the Committee of Ministers asked governments of member states to inform the Secretary General of the present state of their domestic legislation on certain rules relating to extradition, the jurisdiction of courts to try persons committing acts of terrorism abroad and the possibility of extending this jurisdiction where appropriate and of imposing heavier penalties for such acts of terrorism as taking hostages and sending letter bombs. The ECCP examined the replies received with a view to harmonising legislation in this field, and its conclusions phrased as basic principles to be observed in this respect are contained in Resolution (74) 3 on international terrorism. In preparing this resolution the ECCP based it partly on the work of an ad hoc Committee of Senior Officials which held an exchange of views on the legal aspects of problems created by international terrorism.

The current action by the ECCP is based on a discussion by the European Ministers of Justice at their informal meeting at Obernai in May 1975. The Ministers were agreed on the need for co-ordinated and

forceful action and that there was, moreover, need for a specifically European action since acts of terrorism were today "indigenous", i.e. committed for specific "political" objectives within the Council of Europe member states often threatening the very existence of the state by paralysing its institutions and striking at the rule of law.

A committee was subsequently established under the auspices of the European Committee on Crime Problems to study the matter further, the Chairman being Mrs S. Oschinsky (Belgium). At its first meeting in October 1975 it examined inter alia :

- a. the intensification of exchanges of views and the improvement of contacts between member states : the committee made a number of suggestions on these points, particularly as regards political offences, but was anxious to avoid any institutionalisation of contacts ;
- b. restrictions on the exercise of national jurisdiction ;
- c. alignment of national legislation to secure equal treatment of acts and authors ;
- d. limitations on the rights of the defence ;
- e. limitations on press publicity ;
- f. specific treatment of convicted offenders.

On all the points *b* to *f*, the committee took the view either that existing practice was adequate or that these were matters better left to ad hoc arrangements in accordance with domestic law and practice.

The greater part of the meeting was devoted to an examination of the feasibility of drafting a European convention against acts of terrorism. There was, in fact, a large measure of agreement that one should go further than the Committee of Ministers' Resolution (74) 3 and that a convention would be a method of achieving this.

Accordingly a drafting group prepared a preliminary draft convention which was adopted by the full committee in February 1976 and approved by the ECCP in May 1976. Full support was given to the text by the 10th Conference of European Ministers of Justice (Brussels, June 1976). The essence of the draft is to eliminate, or at least to reduce the availability of, the plea of "political offence" as a defence to a request for extradition ; if, nevertheless, extradition is refused, the requested state shall have jurisdiction over the offence and shall submit the matter to its authorities for the purposes of considering prosecution. The draft convention contains lists of the offences to which the convention is to apply, i.e. :

- a. any offence within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970,
- b. any offence within the scope of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971,

c. any serious offence involving an attack against the life, physical integrity or liberty of internationally protected persons, including diplomatic agents,

d. any offence involving kidnapping, the taking of a hostage or serious unlawful detention,

e. any offence involving the use of a bomb, grenade, rocket, automatic firearm or letter or parcel bomb if this use endangers persons,

f. any attempt to commit any of the foregoing offences or participation as an accomplice of a person who commits or attempts to commit such an offence.

6. Control of the sale and possession of firearms in order to combat violence

The post-war society in Western Europe has been marked by the progressive opening up of frontiers; while this has had overall beneficial effects in terms of mobility of persons and goods, it has also meant that criminality has become increasingly international in character, in particular crimes involving the use of firearms.

Experience has shown that such firearms are very often of foreign origin and that consequently their existence is unknown to the authorities, even in the states which have the strictest control of firearms. The need is therefore obvious to extend national control beyond the frontiers of any given state so that the movements of firearms will become known both to the authorities in the states where they were originally and to the authorities where they will be found in the future.

A draft convention has accordingly been prepared for this purpose by a sub-committee under the chairmanship of Mr F. Michaelides (Cyprus). It institutes control systems over interstate transactions in firearms by individuals but avoids at the same time the introduction of unworkable frontier controls. It is designed so as not to hamper or distort legitimate trade.

If the convention is adopted in its present formulation, the basic obligation on a state ratifying it would be, in any case in which a firearm in that state is sold or disposed of to a non-resident, to notify his state of residence of the transaction. A ratifying state would, moreover, have the option of undertaking in addition not to authorise a transaction in favour of a non-resident unless and until it were satisfied that the state of residence either had itself authorised the transaction or did not require that transactions of the kind in question be authorised.

The systems of notification and authorisations referred to are intended to apply to all firearms as defined in the convention. However, those states which could not apply the systems in the first instance to all such firearms could initially apply them to the categories of weapons considered to be the most dangerous on an implied undertaking to extend the systems to other

firearms as soon as possible. Whereas the system of notification would apply also to transactions between licensed firearms dealers, a state would be able to exclude such transactions from the system of authorisations; dealers are, in fact, already subject to stringent controls.

The draft convention also contains a general undertaking by ratifying states to grant each other mutual administrative assistance in the suppression of illegal traffic in firearms and in tracing and locating firearms transferred between states.

In addition to its work on the draft convention, the ECCP has also made a preliminary examination of domestic laws on firearms. Whilst it does not appear feasible, at least in the short term, to harmonise these laws, it is expected that the ECCP will suggest certain recommendations which might be made to governments of member states concerning the modification of these laws with a view to more effective crime prevention. This work has not yet been completed.

7. Punishment of road traffic offences

The frequency of road traffic offences has risen throughout Europe in proportion to the general increase in the volume of road traffic, and they are often the cause of accidents which are everywhere regarded as a veritable scourge. The ECCP has set itself the task of combating this new specific form of delinquency by organising European co-operation to ensure that such offences are punished and thereby prevented from spreading.

In the present state of the law, the increasingly numerous violations of road traffic regulations committed in one state by drivers from another state cannot always be punished.

For one thing, extradition procedure which would enable a state where a road traffic offence has been committed to have the offender handed over after his return to his state of origin is subjected by domestic laws and treaties to conditions that are seldom fulfilled. Secondly the principle of territorial jurisdiction, which governs most national systems of criminal law, usually prevents the driver's state of residence from itself prosecuting the offence he committed abroad or helping to enforce in its territory sentences passed by foreign authorities. Consequently proceedings instituted by the state where the offence was committed do not enable an effective sanction to be imposed on the offender after his return to his country of origin. Criminal proceedings are either left in abeyance or concluded by a sentence which is unlikely to be enforced. Furthermore, the justifiable fear of a country's authorities that a foreigner responsible for a road accident will return to his country of origin in order to evade the consequences of his act may induce them to prevent him from leaving the country by taking measures liable to cause him unnecessary unpleasantness simply because of the lack of any international system of punishment.

The purpose of the European Convention on the Punishment of Road Traffic Offences, drawn up from 1959 to 1963 by a committee of experts presided over by Mr A.D. Belinfante (Netherlands) is to remedy these disadvantages by providing for a twofold exception to the principle of territoriality, which by tradition governs both the question of the competent court and that of the applicable criminal law.

First it enables a person who has committed a traffic offence in a foreign European state (state of the offence) to be prosecuted by the European state in whose territory he is ordinarily resident (state of residence), whatever his nationality. Secondly, it empowers the state of residence on certain conditions to enforce sentences passed in the state of the offence. The convention extends the competence of the state of residence and gives the state of the offence the option of either prosecuting the offender itself in the usual way and then requesting the state of residence to enforce the sentence or requesting the state of residence to institute proceedings, whatever the nationality of the offender or of any victim. The state of residence for its part is obliged to act on a request for proceedings or enforcement from the state of the offence, and all possible precautions must be taken to avoid dual prosecution or dual enforcement. The common desire of European states to combat road traffic offences has thus resulted in a European jurisdiction being added to the national one.

The categories of offence to which the convention is applicable are exhaustively listed in a "common schedule of road traffic offences" which forms an integral part of the convention. Such offences must in any event be punishable in both the state of residence and the state of offence.

The convention is limited to the punishment of acts which are infringements of the criminal law. It does not deal with compensation for any damage resulting from such offences.

It entered into force on 18 July 1972 and so far has been ratified by Cyprus, Denmark, France and Sweden and signed by Austria, Belgium, the Federal Republic of Germany, Greece, Italy, Luxembourg, the Netherlands and Turkey.

By organising effective co-operation in this field between European states in the interests of society, the convention, although limited to road traffic, marked an important stage in the development of international criminal law. It also foreshadowed further progress for in January 1976 the Committee of Ministers approved and opened for signature the Convention on the International Effects of the Deprivation of the Right to Drive a Motor Vehicle.

This was a sequel to the Committee's adoption on 15 October 1971 of Resolution (71) 28 on the deprivation of the right to drive a motor vehicle. The effectiveness of the recommendations in this resolution often proved to be impaired by the limits to the international enforcement of deprivations of

the right to drive, particularly where a deprivation had been pronounced against a driver ordinarily resident in a foreign state who was the holder of a driving licence—or equivalent document—issued in that state.

In the absence of a suitable instrument, Resolution (71) 28 often therefore had but little effect on road traffic safety at international level. The Convention on the International Effects of the Deprivation of the Right to Drive a Motor Vehicle is intended to remedy this state of affairs by ensuring that deprivations are effective not only in the states which have imposed them.

The convention, which has not yet entered into force, has been signed by Cyprus, Denmark, France, Greece, Luxembourg, Norway and Sweden.

8. Non-applicability of statutory limitation to crimes against humanity and war crimes

The events of the Second World War have deeply influenced the activities of the Council of Europe, particularly in the sphere of human rights.

They clearly demonstrated the imperative need to ensure the protection of human dignity in times of war as well as in times of peace. They showed that crimes against mankind and grave breaches of the laws and customs of war constituted a serious infringement of such dignity. It is therefore important to ensure that the punishment of those crimes should not be hampered by statutory limitations in respect of prosecution or the enforcement of sanctions.

The European Convention on the Non-applicability of Statutory Limitation to Crimes against Humanity and War Crimes was opened for signature by member states of the Council of Europe in Strasbourg on 25 January 1974.

In acceding to the convention a state undertakes to adopt any necessary measures to secure that statutory limitation shall not apply to the prosecution of the following offences, or to the enforcement of the sentences imposed for such offences, in so far as they are punishable under its domestic law :

— the crimes against humanity specified in the 1948 United Nations Convention on Genocide,

— the violations specified in the relevant articles of the four 1949 Geneva Conventions and any comparable violations of the laws and customs of war prevailing at the time of the European convention's entry into force when such violations are of a particularly grave character, by reason either of their factual and intentional elements or of the extent of their foreseeable consequences,

— any other violation of a rule or custom of international law which the Contracting State considers according to a declaration in writing to that effect as being of a comparable nature to the above-mentioned crimes against humanity and grave war crimes.

In each Contracting State, the convention normally applies to offences committed after its entry into force in respect of the Contracting State ; but it also applies to offences committed before its entry into force in cases where the statutory limitation period had not expired by that time.

The convention, so far signed by France, will enter into force three months after the third instrument of ratification or acceptance has been deposited.

B. SUBSTANTIVE LAW

1. Road traffic offences

After completing work on the European Convention on the Punishment of Road Traffic Offences, the ECCP appointed a sub-committee under the chairmanship of Professor F. Clerc (Switzerland) to examine the harmonisation of sanctions for road traffic offences. This decision was taken chiefly on the recommendation of the European Conference of Ministers of Transport (ECMT). Although concerned with unifying road traffic regulations, the ECMT does not consider it to be within its purview to deal with the penal aspects ; therefore it suggested that the ECCP carry out the task. The sub-committee entrusted with the work was anxious to ensure that its efforts did not suffer the same fate as that met by the European Convention on the Punishment of Road Traffic Offences, which had to wait a long time for ratifications.

Instead of a convention it chose to draw up a set of resolutions, as such texts can be applied quickly and easily and were therefore considered to be on the whole more effective and of greater immediate value than a convention. This choice undoubtedly proved wise, for member states' legislatures soon began to draw on the sub-committee's resolutions in drafting their own texts.

The sub-committee, to which a mandate of indefinite length has been given, decided at the outset to draw up a list of problems and priorities. This list is added to from time to time as a result of suggestions by the ECCP or the sub-committee itself or in the light of current events. The sub-committee is assisted by a working party composed of psychologists, sociologists and road traffic specialists, which keeps it informed of the results of scientific research in its field, so as to provide it with a guide for its work.

Over the years, the following resolutions and conventions have been drawn up :

— Resolution (68) 25 on the setting-up of a simplified procedure relating to minor road traffic offences.

This resolution is based on the premise that the constant increase in minor road traffic offences requires new measures to be adopted including a

simplified procedure to relieve courts of some of their work and ensure the speedy and effective punishment of offences. The resolution accordingly recommends introducing, as an alternative to ordinary procedures, a system whereby offenders may, with their consent, be punished by a fine payable on the spot or within a short period.

— Resolution (71) 28 on the deprivation of the right to drive a motor vehicle.

This resolution, which was subsequently supplemented by the European Convention on the International Effects of the Deprivation of the Right to Drive a Motor Vehicle, proposes to governments a uniform system for the withdrawal of an offender's driving licence. It recommends, *inter alia*, that withdrawal should be for a stated period, that various conditions may be attached thereto and that it may be suspended or limited to certain types of vehicles. It also advocates the introduction of a points system so as to facilitate the identification of drivers guilty of repeated road traffic offences.

— Resolution (73) 7 on the punishment of road traffic offences committed whilst driving a vehicle under the influence of alcohol.

This resolution, which is aimed at reducing the number of accidents caused by drunken drivers, proposes a maximum permissible level of alcohol in a driver's blood. Certain methods of testing for drunkenness are also recommended, as well as various penalties.

An alcohol concentration of 80 mg/100 ml (0.8 %) was chosen as the one beyond which most drivers become a danger to other road users and should be liable to prosecution. Member states are, however, left free to set a lower level if they wish.

As regards testing methods, a breath test, a blood test and, if necessary, a urine test are recommended. For drivers whose alcohol concentration exceeds the permissible limit, the penalties proposed are a fine, deprivation of liberty or withdrawal of driving licence, imposable either separately or cumulatively. The resolution stresses the importance of intensified traffic supervision and of a speedier and simpler procedure for prosecuting road traffic offences.

— Resolution (75) 24 on the punishment of manslaughter and accidental injury on the road.

This resolution recommends that criminal proceedings should not be instituted or, where appropriate, sanctions should not be imposed for manslaughter or accidental bodily injury resulting from a minor traffic offence, i.e. a driving offence which was not such that its author must have been aware of the danger to which he exposed himself or others.

The same should apply, subject to the inexcusable character of the fault committed, in respect of a person who has caused manslaughter or accidental bodily injury if he himself or someone dear to him has been so badly injured that a sanction would be pointless, if not inhuman.

The application of these recommendations should in no way prejudice the rights of victims to obtain compensation.

Unauthorised use of a motor vehicle and "hit-and-run" offences are at present under study and will be made the subject of draft resolutions. Other subjects in the sub-committee's work programme are the punishment of driving without a licence and the feasibility and advisability of drawing up a model law on road traffic.

2. Death penalty

Soon after being set up, the ECCP decided to review the situation regarding the death penalty in the countries of Europe. To this end, it appointed a sub-committee under its then chairman Mr Marc Ancel, judge at the French Court of Cassation, who also acted as Rapporteur. It also requested the French Centre of Comparative Law, as consultant, to carry out a study of the subject.

The centre first of all drew up a list of points to be investigated. From the outset, the ECCP had considered that the question should be approached mainly from the standpoint of substantive law and current practice in the various Council of Europe countries. It was agreed that the problem of the maintenance or abolition of the death penalty should not be examined as such but that attention should be concentrated on the situation resulting from each country's system, whether or not it provided for the death penalty. It was also agreed that the problem should be studied solely in relation to ordinary-law crimes and criminals, to the exclusion of political offences, espionage, collaboration with the enemy and crimes punishable by military law.

The study covered the situation both in the Council of Europe member states and in Finland, Monaco, Portugal and San Marino as well as the particular situation in Spain. From the data assembled a report was compiled and published in 1962. It dealt with the question of capital punishment from four different standpoints :

- legislation,
- judicial and administrative practice,
- sociological and criminological aspects,
- the *lex ferenda* and criminal policy.

In 1964, the ECCP decided to carry out an opinion poll among Nobel Prize winners on the question of the death penalty. The aim was to ascertain the views of persons who were of high standing in their countries in the field of literature, science or philanthropy but were not specialists in penal matters. They were asked the following general questions : "In your view, in the social pattern of today is there a place for the death penalty ? If so, what is that place ? Please give the reasons for the attitude you adopt."

The results of the survey were published in a memorandum at present out of print.

3. Judgments *in absentia*

Although the legislative systems of all member states of the Council of Europe enable proceedings in the absence of the accused, with all their consequences, to be avoided, the various precautions taken, even though they may appear effective with respect to accused persons living in the country, are not invariably so with regard to those who, as is increasingly the case, live abroad. Owing to differences between legal systems in this connection, the question of judgments *in absentia* gave rise to various difficulties during the drafting of the European Convention on the International Validity of Criminal Judgments, with the result that Contracting States had to be allowed to enter reservations concerning the enforcement of such judgments.

It is unanimously agreed that the presence of the accused at his trial is of cardinal importance from the point of view both of his right to be heard and of the need to establish the facts and choose whatever sentence may be appropriate. However exceptions to the rule of the accused's presence are of course allowed where the rule's twofold basis is not affected, such as in the case of simplified proceedings without a hearing in respect of minor offences the facts of which are not in dispute.

In view of these considerations and the requirements of the European Convention on Human Rights, the ECCP endeavoured to work out a number of minimum guarantees for proceedings conducted in the accused's absence. The work was begun in 1970 by a sub-committee under the chairmanship of Mr N. Kunter (Turkey) and resulted in Resolution (75) 11, which contains the principles deemed essential to ensure a fair trial—in other words, a set of minimum rules to be observed by all member states.

Among these rules are the following :

- the accused may not be tried without having first been effectively served with a summons stating the consequences of failure on his part to appear at the trial ;
- the court must order an adjournment if it considers the presence of the accused indispensable or if there is reason to believe that he has been prevented from appearing ;
- the accused should not be tried in his absence if it is possible and desirable to transfer the proceedings to another state or to apply for extradition ;
- where the accused is tried in his absence, evidence must be taken in the usual manner and the defence must have the right to intervene ;
- time-limits for lodging an appeal must not begin to run until the convicted person has had effective knowledge of the judgment ;
- any person tried in his absence must be able to appeal against the judgment by whatever means of recourse would have been open to him had

he been present ; he must, furthermore, have a remedy enabling him to have the judgment annulled if the summons was not served on him in due and proper form ;

– a person tried in his absence on whom a summons was properly served must be entitled to a retrial in the ordinary way, if he can show that his absence and the fact that he could not inform the court thereof were due to factors beyond his control.

4. Drugs

It is generally agreed that, in the last ten years or so, drug abuse has been spreading throughout the world. This phenomenon emerged in Europe at a time when society's structures, institutions, concepts and attitudes were undergoing radical changes.

National and international organisations have endeavoured to study the problem, which has become one of the major concerns of authorities responsible for the welfare of youth in modern society.

Accordingly at its 1968 plenary session the ECCP decided to include in its work programme a study of the penal aspects of drug abuse. A sub-committee appointed for the purpose under the chairmanship of Mr T. Eriksson (Sweden) was authorised by the Committee of Ministers to hold meetings outside Strasbourg in order to hear experts on the subject. The meetings took place in London (November 1969), Stockholm (April 1970) and Istanbul (October 1970).

During its work the sub-committee took into account the recommendations of the European Ministers of Justice (adopted at their 6th Conference in The Hague in 1970), which included the following :

a. The solution of drug misuse problems requires co-ordinated action by government departments, co-operation between medical professions, social welfare agencies and enforcement authorities, and the provision of adequate information to the public. The solution cannot therefore be found through the criminal law alone ;

b. A distinction should be made between less harmful forms of misuse and other activities which tend to encourage misuse and create significant social problems.

The sub-committee also examined the conclusions of a multidisciplinary symposium held under Council of Europe auspices in March 1972, at which the various aspects of a common European strategy for combating drug abuse were considered.

The sub-committee's work resulted in Resolution (73) 6, containing a set of recommendations designed to assist governments in developing and pursuing a coherent policy in the field of drugs. The text emphasises the need to provide for severe penalties for professional drug traffickers.

Together with its accompanying report, it stresses the major contribution which the law can make to pluridisciplinary efforts to control drug abuse, particularly in the following ways :

a. control of drug production, i.e. measures to prevent illicit cultivation, processing and manufacture,

b. control of distribution, i.e. the prevention of illicit trade in drugs,

c. control of custody, i.e. the prevention of illicit possession of drugs,

d. control of the consumption of drugs, i.e. measures, penal or otherwise, against unauthorised drug-taking.

The resolution also includes detailed recommendations concerning general policy, action by police and customs authorities, judicial measures and the treatment of prisoners.

The accompanying report contains :

– information on the extent of drug abuse in the various member states,

– detailed comments on the recommendations in the resolution,

– an appendix comprising statistics and a survey of Council of Europe member states' legislation on narcotics.

The resolution stresses the need to consider the problem of drug abuse from a multidisciplinary standpoint. The general view is that criminal sanctions are but one of several elements of a comprehensive and coherent social policy backed up by adequate powers and resources. Satisfactory results will not be achieved unless a proper balance is struck between preventive, penal and curative measures.

Resolution (73) 6 does not therefore claim to provide on its own a solution to one of the main problems of the 1970s ; it represents the lawyer's contribution to the search for such a solution.

5. Remand in custody

Work by the ECCP on the subject of remand in custody began several years ago and is still in process.

i. The first stage of the work resulted in the drawing up of Resolution (65) 11, which lays down a number of principles to be observed by member governments in regard to remand in custody, including the following : remand in custody should never be compulsory but should be regarded as an exceptional measure ; it should be ordered or continued only where it is strictly necessary, and effective guarantees should be provided in that respect ; any decision on remand in custody should state the subject matter of the charge and the reasons underlying the detention and be promptly communicated to the person remanded in custody, who should be informed of his rights and how they may be exercised ; in some cases other measures might with advantage be substituted for remand in custody.

Paragraph 2 of the resolution invited member governments to report every three years to the Secretary General of the Council of Europe on the steps they have taken to implement these recommendations : in 1967, therefore, the Secretary General called for such reports.

The information supplied showed that the legislation of member states generally conformed with the requirements of the resolution. However, it also revealed a need to investigate how the resolution's principles were applied in practice under domestic legislation, as well as to review the contents of the resolution with an eye to some of its recommendations being updated.

ii. The ECCP, to whom this task was entrusted by the Committee of Ministers in 1970, asked four consultants to collect information on these points. The conclusion arrived at by the experts was that the resolution had lost none of its relevance, although it should be supplemented in various respects. They also found that the legislation of several member states had recently been amended or was being amended so as to conform more closely with the provisions of the resolution ; consequently they did not have enough statistical data to assess the practical application of the provisions in those states.

iii. In the light of the consultants' findings the ECCP set up a new working party in 1972 to determine to what extent the principles in Resolution (65) 11 were being applied in member states. To this end two questionnaires were drawn up and sent to member states in 1973. A summary of the replies received was submitted to the ECCP at its plenary session in May 1975.

iv. The problem of remand in custody was also examined in Vienna in May 1974 by the 9th Conference of European Ministers of Justice. At its request the Committee of Ministers of the Council of Europe subsequently requested the ECCP to :

"i. continue and intensify the search for additional means of reducing the use of remand in custody and the length of periods of remand, this activity being based on the contemporary perspectives on the fight against criminality, in particular on an individualised approach to cases ;

ii. draft a set of European standards ensuring the application and updating of the principles laid down in Resolution (65) 11 and safeguarding the legitimate interests of the community."

v. In May 1975 the ECCP approved fresh terms of reference for the further work on remand in custody and appointed a new sub-committee under the chairmanship of Mr H. Røstad (Norway). Work was resumed in late 1975.

6. Sentencing

Problems of sentencing are, of course, never far removed from any of the various matters examined by the ECCP, for this is a subject that intrudes

at every stage. The ECCP has, moreover, not ignored the actual sentencing process itself which was recently studied by a sub-committee with the general aim of investigating factors which often unwittingly influence the sentencing of offenders.

The sub-committee recommended that a European seminar for judges should be held, which would include in its programme the discussion of various matters of interest to the sub-committee and which would carry out sentencing exercises based on a number of hypothetical cases. This suggestion was implemented in September 1973 when a judge from each of the member states of the Council of Europe participated in a three-day meeting in Strasbourg. The seminar was particularly successful, and it is intended to organise further meetings of this kind in the future.

Some of the findings of the judicial seminar are reflected in the sub-committee's final report, which was published by the Council of Europe in 1974. The report deals with research into discrepancies in sentencing, statistics relating to sentencing, the legal framework of sentencing and length of sentence, pre-trial reports, the investigation of the personality of the accused under the system of undivided trial, the prosecutor's role, the judge's reasons for choice of sentence, the training of judges in regard to sentencing, the judge's role in supervising the sentence and the desirability of giving judges of adult offenders the same powers as judges of minors. It also contains appendices on statistics, the relationship between pre-sentence enquiry recommendations and a court's decision, the *juge de l'application des peines* and similar institutions and sentencing factors working in the judge's minds.

7. Decriminalisation

Many member states have reformed their criminal legislation in the past few years or are at present contemplating such reforms in the light of a fairly recent reappraisal of the role of the criminal law based particularly on the following considerations. First, the justification for systematically punishing types of behaviour that do not represent a real threat to social values is open to question. For instance, recourse should not be had to the criminal law to ensure compliance with moral, religious or ideological principles specific to certain sectors of society. Secondly, it is slowly but surely being realised that individual freedom should not be restricted except in cases of absolute necessity, and where any social reaction is required it may effectively take the form of non-criminal measures. Finally, it is also being realised that existing judicial machinery would be seriously jeopardised if all types of behaviour at present covered by the criminal law were to remain so.

These considerations led to a sub-committee being set up by the ECCP under the chairmanship of Mr L. Hulsman (Netherlands) to examine the question of decriminalisation. This entails a study of the current scope of the criminal law and the drawing up of guidance principles for assessing changes in the reaction of public authorities to certain types of behaviour.

The sub-committee is required to make a comparative study of trends and criteria regarding all forms of decriminalisation in member states. Although these terms of reference do not cover the questions of criminalisation and depenalisation, they do involve a considerable amount of investigation. Consequently the sub-committee has had to hold several meetings away from Strasbourg (in Amsterdam, Copenhagen and Berlin) and draw up a highly detailed list of principal offences for the purpose of identifying and comparing decriminalisation trends in the various Council of Europe member states.

The sub-committee's final conclusions will also have to take into account the proceedings of the 6th Conference of European Ministers of Justice (The Hague, 1970) and of the 9th Conference of Directors of Criminological Research Institutes (Strasbourg, 1971), which was concerned with the subject of deviance.

8. Compensation for the victims of criminal offences

Recent developments reflect a view that the traditional ways for a victim of a crime to obtain compensation for his losses are not adequate and that there is a call for the institution of new methods. They also reflect the view that, whilst it is vital to continue the search for improvements in the treatment of offenders, sight should not be lost of the fate of the victim.

The subject of compensation of victims has been included on the agenda of the Council of Europe for some time, but it was decided to adjourn its study until after the 1974 Conference of the International Association of Penal Law. It is a subject of particular relevance at the present time as is evidenced by the fact that special compensation schemes of various kinds are in force in Austria and Ireland, are in force but being reviewed in Sweden and the United Kingdom, and have been introduced recently in Denmark and France. Other states are in the process of preparing legislation on the subject.

The spate of legislative activities led the ECCP to organise in January 1975 an ad hoc meeting to exchange information on recent or proposed reforms in this field, following which a special publication on the subject was issued by the Council of Europe.

In accordance with the recommendation made at that meeting a new sub-committee has been created with the aim of investigating which methods of providing compensation for victims of crime should and could be instituted as alternatives to traditional methods and of considering the operation and scope of such alternative methods.

It seems clear that there can be no single solution appropriate for all the member states of the Council of Europe. Quite apart from the problems of financing that arise, the subject touches not only on criminal law and policy but also on many other fields of law (such as civil liability, insurance, social

security), the approach to which varies greatly from state to state. It is, however, hoped that the new sub-committee which started its work in 1976, under the chairmanship of M H. Romander (Sweden), will be able to make recommendations setting minimum guidelines or standards for any special compensation scheme that may be instituted and suggesting solutions for cases where an individual is injured whilst outside his own country.

9. The contribution of the criminal law to the protection of the environment

The protection of the environment from the various forms of pollution resulting in particular from industry is a matter of serious concern to many countries. The Council of Europe, whose member states are among those countries, has created a Directorate of the Environment, and is carrying out various activities in this field.

Major legislation designed to prevent water, air or soil pollution and an intolerable increase in noise has been introduced in the Council's member states. Most of its provisions are of a civil or administrative nature, but the measures provided for do not always achieve their purpose. Where this is so, the intervention of the criminal law appears essential.

Aware of this need, the 7th Conference of European Ministers of Justice (Basle, 1972) recommended that the Council of Europe should study the part that might be played by the criminal law in the protection of the environment. The ECCP also stressed the value of such a study. Accordingly in 1972 the Committee of Ministers decided to include the subject in the Council of Europe's Work Programme.

The ECCP's study has comprised two stages :

a. *Survey among governments :*

A questionnaire on legislation and practice pertaining to criminal law protection of the environment was sent to member governments in 1973. The replies were analysed in a report by a consultant, Mr A.J. Beale (United Kingdom).

b. *Creation of a sub-committee :*

A sub-committee composed of seven members, under the chairmanship of Mr A. Droz (Switzerland), was appointed to draw up a set of common principles on the protection of the environment by means of the criminal law and to prepare a draft recommendation to be addressed to member states.

At its meetings in 1974-75, the sub-committee reached the following provisional conclusions :

i. The criminal law's role in the field of environment protection is a secondary one : criminal measures should be applied only where a breach of preventive rules has occurred and where civil and administrative penalties prove inadequate ; the role is nonetheless very important as upon it depend the interests of the whole community.

ii. Among the criminal sanctions that may be applied, in the environmental sphere pecuniary penalties are of particular importance. It is therefore

necessary to consider the various new forms of such sanctions (e.g. "day fines") and increase their severity, so that they may exert a positive influence on firms guilty of pollution.

iii. It is also necessary to review the principles of criminal liability: the concept of strict criminal liability should be introduced if necessary, and the possibility of legal persons being regarded as criminally liable should be considered.

iv. The right balance should be struck between the interests of each country's economy and the need for environment protection.

The work of the sub-committee is still in progress.

10. Economic crime

At the 8th Conference of European Ministers of Justice (Stockholm, 1973), the French and Swedish Ministers of Justice each submitted a report on economic crime. After a general discussion, the Ministers adopted the following proposal:

"The European Ministers of Justice recommend the Committee of Ministers of the Council of Europe to instruct the ECCP to undertake a detailed study of the question of economic crime. This study should take account of the opinions expressed and suggestions put forward by the Ministers of Justice and in particular include certain specific aspects of this type of crime such as fiscal offences and the problems raised by the existence of multinational companies. It should also extend to the questions of extradition and mutual assistance in judicial matters."

The Committee of Ministers decided in September 1973 to transmit this proposal to the ECCP:

After consulting the Criminological Scientific Council the ECCP decided that the sub-committee set up to study the question should consider the methods and penalties currently used by the criminal law systems of member states to deal with economic crimes with a view to any inadequacies being pinpointed. The sub-committee should then consider what remedies might be adopted; in this connection, it should not confine itself to traditional criminal measures, or ignore the need to enlist the active participation and support of the public.

The sub-committee should in particular examine what measures might be taken to improve international co-operation in this field (e.g. mutual assistance in the judicial sphere, assistance between national administrations, transfer of proceedings from one country to another, enforcement of foreign sentences, extradition, co-ordination of sanctions and preventive measures).

The ECCP also decided that the sub-committee, due to meet for the first time in 1977, should liaise with the 12th Conference of Directors of Criminological Research Institutes (1976: "Psychological and sociological aspects of economic and financial criminality").

CHAPTER II

ACTIVITIES REGARDING PRISON REGULATIONS AND THE TREATMENT OF OFFENDERS

A. INTERSTATE CO-OPERATION

1. European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders

Many people travel from one Council of Europe member state to another for various reasons (tourism, business, education). Where an offence is committed by a foreigner, the application of conditional measures gives rise to difficulties.

The courts of the state where the offence was committed will usually avoid such a measure as probation or suspension of sentence for fear that a non-resident will return to his own country and thus evade surveillance by the competent authorities.

To remedy this situation and enable conditional measures to be applied without discrimination, the ECCP, through a sub-committee chaired by Mr Peterson (United Kingdom) and subsequently Mr Dupréel (Belgium), drew up the European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders.

The convention provides for the following possibilities :

a. The state which pronounced the sentence may request the state in whose territory the offender establishes his ordinary residence to ensure the offender's compliance with the conditions imposed upon him and carry out any supervision to which the offender has been subjected.

If it accedes to such a request, the requested state may, if need be, adapt the supervisory measures concerned according to its own laws. The measures it applies may not, however, be severer, as regards their nature or their duration, than those prescribed by the requesting state.

The requesting state retains the right to judge in the light of the information and comments supplied by the requested state, whether or not the offender has satisfied the conditions imposed upon him and, on the basis of such appraisal, to take any further steps provided for by its own legislation.

b. If the requesting state has had to revoke a conditional suspension of the sentence (by reason of the commission of a further offence), it may ask the requested state to enforce the sentence.

The requested state may replace the penalty imposed by the requesting state by a penalty or measure provided for by its own laws for a similar offence. Such penalty or measure may not, however, be longer or severer

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than that imposed by the requesting state, nor may it exceed the maximum penalty prescribed by the latter's legislation.

c. The requesting state may ask the requested state to ensure the complete application of the sentence.

In that event the requested state will adapt the penalty to its own criminal legislation as if the sentence had been pronounced in its own territory in respect of the same offence. The penalty applied by the requested state may not however be severer than the one pronounced in the requested state.

The requested state has to refuse the request in the following cases :

- if it considers that the sentence concerned is likely to prejudice its sovereignty or security, the fundamentals of its legal system, or other essential interests ;
- if the sentence relates to an act that is a political offence, an offence related to a political offence or a purely military offence ;
- if the penalty imposed can no longer be exacted, because of lapse of time, under the legislation of either the requesting or the requested state ;
- if the offender has been amnestied or pardoned in either the requesting or the requested state.

The request may be refused in the following cases :

- if the competent authorities in the requested state have decided not to take proceedings, or to drop proceedings already begun, in respect of the same act ;
- if the act to which the sentence relates is also the subject of proceedings in the requested state ;
- if the sentence was passed *in absentia* ;
- if the requested state deems the sentence incompatible with the principles governing the application of its own criminal law, in particular if by reason of his age the offender could not have been sentenced in the requested state.

In the case of fiscal offences, the sentence is enforced only if the Contracting Parties have so decided.

The convention entered into force on 22 August 1975. At present (June 1976) it is binding upon Belgium, France and Italy ; it has been signed, but not yet ratified, by Austria, Denmark, the Federal Republic of Germany, Luxembourg, the Netherlands and Turkey.

B. SUBSTANTIVE LAW

1. Standard Minimum Rules for the Treatment of Prisoners

International efforts to protect the rights of prisoners date back to the inter-war period. A set of "Standard Rules for the Treatment of Prisoners" was drawn up in 1929 and amended in 1933 by the International Penal and Penitentiary Commission. The rules were endorsed by the League of Nations in 1934.

After the second world war the United Nations re-examined these rules and adopted a new version in 1955. It reflects the development of ideas and practice in the penal field and constitutes an indispensable basis from which the various nations may further improve their systems of prison administration ; the new version expresses, as it were, the contemporary conscience in the matter.

Since its inception in 1957, the ECCP has carried out several studies concerning the rights of prisoners. In 1968, wishing to look into penal matters on a wider scale, it decided to review the Standard Minimum Rules for the Treatment of Prisoners ; to this end a sub-committee was created under the chairmanship first of Mr L. Darnour (France), then of Mr H. Le Corno (France). This initiative was prompted by a twofold concern. To ensure that the rules lost none of their weight, it was highly desirable, particularly in view of the changes that had occurred during the ten years or so, to compare them with the latest ideas regarding the treatment of offenders. It seemed only natural that the basic rules governing prison life should keep up with changes in social attitudes. The Council of Europe thus wished not only to stress the permanent value it attached to the principle embodied in the 1955 resolution but also to adopt the forward-looking approach recommended by the United Nations. But above all the Committee of Ministers considered that it was possible for the states of Europe, in their narrower framework, to find a more liberal common denominator than the one established at world level.

The rules set forth the rights which prisoners ought to enjoy with regard, for example, to accommodation, conditions of detention, clothing, discipline, the making of complaints, contacts with the outside world, work, remuneration, education, leisure and religion.

The amendments made to the original text are mainly aimed at facilitating contacts between prisoners and society through the various means of information, giving greater flexibility to criteria governing the separation of prisoners, fostering the use of methods involving prisoners' co-operation and participation in their treatment, protecting prisoners' links with their families and properly preparing them for their return to society upon their release.

The Standard Minimum Rules for the Treatment of Offenders are appended to Resolution (73) 5.

2. Electoral, civil and social rights of prisoners

The Minimum Rules adopted in 1955 by the United Nations deal mainly with prison administration and the application of the detention regimes of the different categories of prisoners. They do not cover the exercise by prisoners of basic rights pertaining to them as individuals. In the late 1950s, therefore, the ECCP decided that proposals should be drawn up for supplementing the United Nations rules in this report.

These proposals, worked out by a sub-committee under the chairmanship of Mr F. Clerc (Switzerland), were embodied in Resolution (62) 2 on the electoral, social, and civil rights of prisoners. Before their adoption by the Committee of Ministers, they were approved by the first European Conference of Ministers of Justice, held in Paris on 6 June 1961.

The resolution lays down the principle that the mere fact of detention should not result in a prisoner, whether untried or convicted, being denied the rights he would enjoy if he were free. However, the exercise of such rights may be limited by law or by prison rules if it is incompatible with the purpose of imprisonment or the maintenance of the order and security of the prison. The principle does not apply in cases where full or partial forfeiture of such rights forms part of a convicted prisoner's sentence.

In a spirit comparable to that of the European Convention on Human Rights, the resolution regulates the exercise by prisoners of their electoral rights, their civil rights—particularly with regard to marriage and the administration of property—their right to social benefits, especially retirement pensions, and their right to bring legal proceedings and correspond with persons or bodies responsible for defending their interests.

Naturally, the principles on which the resolution is based are not unknown to the Council of Europe member states, which, even if they do not always incorporate them in their laws, are often guided by them in practice. Nonetheless, their proclamation in an international context is tangible evidence of the European states' awareness of the importance of penal problems and their determination to improve the protection of society without, however, violating the human dignity of prisoners or prejudicing their chances of rehabilitation.

3. Prison work

At their first conference the Directors of Prison Administrations agreed that their next conference (1975) should be devoted, *inter alia*, to the subject of prison work, including vocational training in prison, and the role of work in the treatment of offenders. They regarded this as a practical question on which immediately applicable conclusions could be reached.

The task of writing a paper on the subject was entrusted to Mr K.J. Neale, a British Home Office official responsible for prison work matters.

The terms of reference laid down by the ECCP in this connection were as follows: "To study the main lines on which prison labour could be modernised. This approach should, above all, make it possible to explore the nature and organisation of such labour, as well as the question of payment for work done in prison and the uses to which such earnings can be put." It was further specified that the study should first and foremost be placed in the context of modern technology. Prison work should as far as possible be adapted to modern techniques and the needs of the labour market. To achieve this aim, obsolete approaches aimed mainly at keeping a prisoner busy, should, like outmoded techniques, be discarded. A new attitude towards the tempo, duration, productivity and organisation of prison work should be adopted as a means of achieving results comparable to those obtained in the outside world. Fair remuneration of prison work could then be contemplated and this could help, by extension, to solve problems connected with the support of prisoners' families, the compensation of victims, the rehabilitation of offenders and the possibility for prisoners to save up some of their earnings for their release.

The study on prison work was submitted for examination and adoption by the ECCP at its 23rd Plenary Session, in May 1974. It was also submitted to the 5th UN Congress on the Prevention of Crime and the Treatment of Offenders, held in Geneva in September 1975.

At their second conference, held in February 1975, the Directors of Prison Administrations approved the study's main lines. Aware of the importance of work for the training and rehabilitation of prisoners, they fully endorsed Mr Neale's proposals and adopted a number of conclusions which included the following points:

- the need for prison work to have a defined status and a defined priority,
- the need for suitable resources to be made available for the support of work programmes according to institutional requirements,
- the need for adequate and modern management systems, techniques and production processes to be fully utilised,
- the need for conditions of work, performance objectives and remuneration to be comparable to outside standards as far as practicable, due allowance being made for the special nature of work in prison,
- the need for staff selection and training to recognise the importance of work and its implications for management at all levels,
- the need for the labour allocation system to be co-ordinated with the other aspects of the management of penal regimes.

These conclusions were embodied in Resolution (75) 24 of the Committee of Ministers. Mr Neale's study has been printed and widely distributed.

4. Status, selection and training of prison staff

Despite the development of measures for the non-custodial treatment of offenders, a great number of offenders are still kept in prison in Council of Europe member states. As treatment is the chief purpose of imprisonment, special attention ought obviously to be accorded to those responsible for treating prisoners, i.e. prison staff of all grades.

The training, professional qualifications, character and living conditions of such staff are highly relevant to the effectiveness of penal treatment. These factors therefore need to be studied with a view to satisfactory solutions being found to the problems involved.

In the earliest years of its existence, the ECCP concerned itself with questions pertaining to the status, selection and training of prison staff: a sub-committee was set up and various activities such as study visits and seminars organised.

The main aspects dealt with by the sub-committee, chaired in turn by Mr Lamers (Netherlands) and Mr D. Fairn (United Kingdom) were as follows:

a. *General review of the status, recruitment and training of prison staff*

The dispatch of a lengthy questionnaire to Council of Europe member governments enabled a wealth of basic data to be collected on these questions.

An ECCP report on the general situation in member states with regard to the status, recruitment and training of prison staff was published in 1963 together with a select bibliography.

b. *Status, selection and training of basic-grade prison staff*

The traditional role of basic-grade prison staff is to ensure discipline and security. Developments in conceptions and forms of treatment have, however, revealed that such staff being in constant contact with prisoners can play a considerable part in their rehabilitation.

This task, apart from being a highly satisfying one, can serve to enhance the status of the staff performing it, though it calls for proper training.

The sub-committee, after reviewing the problems of prison staff in general, concentrated its attention on basic-grade staff. It circulated a questionnaire to member governments and closely studied the situations in the various countries. Its findings were set out in a 1967 ECCP report entitled "The status, selection and training of basic-grade custodial prison staff".

In its conclusions, the sub-committee recommended that basic-grade staff should, while still ensuring order and security in prisons, also be associated with modern methods of treating prisoners. Accordingly:

- such staff should always have civil servant status;
- the public should be informed of the social importance of their work so that sufficient qualified staff may be recruited;

- efficient selection methods should be used, with the assistance of qualified psychologists, so as to ensure that suitable candidates are chosen and enable information to be obtained which will help the prison administration to decide which kind of establishment is most appropriate to each recruit;

- the initial and in-service training of such staff should give them a grasp of prisoners' human problems and an insight into modern methods of treatment;

- communication between the various grades of staff should be developed so as to enable them to express their views and actively contribute to the treatment of prisoners;

- basic-grade staff should be provided with working conditions that enable them to perform their duties efficiently.

c. *The status, selection and training of governing grades of prison staff*

Lastly, the sub-committee dealt with the important responsibilities of governing prison staff and the development of ideas as regards the role of such staff. Its conclusions were set out in a 1969 ECCP report entitled "The status, selection and training of governing grades of staff of penal establishments".

The duties of a prison governor (assisted by his deputies) were summarised by the sub-committee as follows:

- responsibility for policy and administration within the prison,
- ensuring order and security,
- ensuring that the treatment programme is carried out as thoroughly as possible,
- establishing links with the outside community,
- continuously assessing the working of the prison as a whole and of individual staff contributions thereto.

The sub-committee underlined the importance of the development of adequate communications within a prison according to a horizontal rather than a vertical pattern, so as to ensure broad consultation among the various grades of prison administration.

It also emphasised the importance of:

- contacts between the governing staff on the one hand and judicial authorities and social services on the other,
- continuously keeping the governing staff abreast of research into treatment or—where possible—enabling them to participate in such research.

Finally the sub-committee made various recommendations relating to the status, working conditions, selection and training of governing staff.

Collaboration between the governing staff and specialist staff (doctors, psychologists, educators) of penal establishments was also examined by the

sub-committee. In the last chapter of its report, the sub-committee emphasised that specialist staff could play a constructive role within the establishment by not only participating in the treatment of prisoners but also dispelling mistrust among the various grades of staff and fostering co-operation.

The above principles also apply in two resolutions adopted by the Committee of Ministers :

- Resolution (66) 26 on the status, recruitment and training of prison staff (in general),
- Resolution (68) 24 on the status, selection and training of governing grades of staff of penal establishments.

5. Seminars and study visits

Within the ECCP framework, the Council of Europe has for over ten years been organising seminars and study visits for persons participating in the treatment of offenders of all ages.

Every year various groups of prison administration officials meet to discuss the problems daily confronting those engaged in the treatment and rehabilitation of offenders. A list of such meetings is given below.

A large number of prison administration officials also take part in study visits in order to familiarise themselves with methods of treatment in other countries.

*List of seminars organised in the framework of
the exchange programme for persons concerned with
the treatment of offenders of any age*

1964

12-30 October 1964 : Rome (Italy)
"Some aspects of the Italian prison system"

1965

22 April - 13 May 1965 : Wakefield (United Kingdom)
"Some aspects of the English prison system"

1966

16-17 May 1966 : Vienna (Austria)
"Enforcement of penal measures"

5-16 December 1966 : Vaucresson (France)
"Study of the relationship between the social structure of a centre for re-education and the nature, scope and limits of the re-educational activity which may be undertaken"

1967

4-6 December 1967 : Strasbourg, at the Council of Europe
"Probation and after-care"

1968

22-29 April 1968 : Bad Dribourg (Federal Republic of Germany)
"The treatment of aliens under provisional detention or subject to a sentence or detention order involving deprivation of liberty ; preparation and organisation of their discharge with particular regard to the provisions of the European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Persons"

21 October - 1 November 1968 : Wakefield (United Kingdom)
"Group counselling methods"

1969

5-10 May 1969 : Rome - Monte Mario (Italy)
"Standard principles or rules for the organisation and functioning of prisons for the purpose of providing, in the most effective way, for various forms of treatment"

14-21 October 1969 : Rozendaal (Netherlands)
"The democratisation of penal establishments"

1970

20-24 April 1970 : Merksplas (Belgium)
"Use of new measures restricting liberty"
12-23 October 1970 : Schwechat (Austria)
"Privation of liberty aiming at the offender's rehabilitation"

1971

3-8 October 1971 : Holte (Denmark)
"Prison and its environment"
18-22 October 1971 : Plessis le Comte (France)
"Problems raised by the training of staff responsible for the treatment of offenders"

1972

10-22 June 1972 : Wakefield (United Kingdom)
"The treatment of long-term prisoners"
1-7 October 1972 : Stockholm (Sweden)
"The treatment of persons detained on remand"

1973

4-8 June 1973 : Montreux (Switzerland)

"The relationship of prisoners with the outside world"

1-9 October 1973 : Noordwijk (Netherlands)

"Social welfare for delinquents in a changing society"

1974

22-28 September 1974 : Oslo (Norway)

"International co-operation within the penal field with a particular view to the European Conventions on the Transfer of Proceedings in Criminal Matters and on the International Validity of Criminal Judgments with special reference to the Nordic co-operation in this field"

1975

12-15 February 1975 : Rome (Italy)

"Electronic data processing in the prison administration"

22-26 September 1975 : Merksplas (Belgium)

"The social rehabilitation of delinquents"

6-10 October 1975 : Baden-Baden (Federal Republic of Germany)

"The procedure of prisoner selection and the differentiation of the forms of penal treatment"

1976

27 September - 2 October 1976 : Innsbruck (Austria)

"Management in prison at all levels"

6. Non-custodial treatment

Custodial sentences are no longer served in the unmistakably punitive and more often than not degrading conditions prevalent in the late 19th century. In every country efforts have been made to ensure that imprisonment contributes towards the rehabilitation of offenders. However, custodial sentences still involve considerable disadvantages. The isolation of an offender from his family and occupational environment, the dangers inherent in contacts between first offenders and hardened criminals, the psychological disturbances imprisonment entails, the impossibility of creating conditions fully conducive to rehabilitation—these are all reasons why the passing of prison sentences should be avoided as far as possible.

Measures not involving deprivation of freedom, such as suspended sentences and probation, which were introduced at the insistence of philanthropists and penal reformers even in the last century, have been extensively developed during this century, particularly since the second world war. Their application—the reasons for which are no longer philanthropic (though still

humanitarian)—is now the responsibility of a qualified and, as a rule, professional staff using precise techniques.

Non-custodial treatment, once the prerogative of a few offenders deemed worthy of charity, is now applied to a wide range of offenders, even serious ones, and may well occupy the leading place in the arsenal of penal measures: under the laws of several member states, imprisonment may be resorted to only in special cases where deprivation of liberty appears unavoidable.

The ECCP, aware of the ever increasing importance of non-custodial treatment in member states, devoted several of its activities to problems connected with such treatment in the earliest years of its existence.

a. Probation and After-care in Certain European Countries

This report, published in 1964, contains the results of a study by Mrs Patricia Elton-Mayo, engaged by the ECCP as a consultant.

It briefly describes the organisation of probation and after-care services in eleven Council of Europe member states as well as of social services in prisons. The author's personal findings include interesting comments on the situation regarding non-custodial treatment and social work at the time of writing.

b. Suspended sentence, probation and other alternatives to prison sentences

In January 1959, as a result of the Consultative Assembly's Recommendation 195 (1959) on penal reform, the Committee of Ministers instructed the ECCP:

— to study the procedure and practical means of incorporating the principles of Recommendation 195 in domestic criminal legislation ("a first offender who has committed an offence punishable by imprisonment shall, unless a serious crime is involved, receive a suspended sentence or be placed on probation or accorded some similar treatment");

— to prepare a draft Committee of Ministers resolution to be addressed to member governments;

— to show how far the application of such principles would entail changes in the domestic legislation of certain member countries.

In 1961 the ECCP created a sub-committee chaired by Mr A. Garofalo (Italy) to study these matters.

The sub-committee sent out two questionnaires to member states, one on legislation and practice with regard to non-custodial treatment, the other on statistics concerning the application of such treatment.

The findings of the sub-committee were incorporated in Resolution 65 (1), on suspended sentence, probation and other alternatives to imprisonment.

The resolution, which goes further than the principles enunciated by the Assembly, recommends that a conditional measure (suspended sentence, probation order etc.) be substituted for a term of imprisonment "in the case of any person who is a first offender and who has not committed an offence of special gravity".

It adds that conditional measures should be applied "in the light of the circumstances of the case, of the acts committed and of the personality of the offender, including the danger he may represent for society and the likelihood of his mending his ways".

In particular, the resolution recommends the introduction of broader application of probation orders or similar measures which "have the advantage that they provide for the offender to be helped and kept under supervision during the period covered by the order, so as to encourage his rehabilitation and control his conduct". The sub-committee had found that although suspension of sentence and conditional release could be applied in all member states, probation was provided for in only some of them.

The resolution further recommends the introduction into member states' legislation of "other measures designed to avoid imprisonment, particularly of first offenders".

The text of Recommendation (65) 1 and governments' replies to the questionnaires appear in a publication entitled *Suspended Sentence, Probation and Other Alternatives to Prison Sentences*.

c. Practical organisation of measures for the supervision and after-care of conditionally sentenced or conditionally released persons

After studying legislation on non-custodial measures in member states, the ECCP deemed it necessary to consider the practical application of such measures with a view to comparing systems and methods and seeing what improvements might be made.

A new sub-committee, under the chairmanship of Mr N. Nordskov-Nielsen (Denmark), was created in this connection.

After collecting data by means of a questionnaire addressed to governments and examining various documents drawn up by its members of the Secretariat, the sub-committee drafted Recommendation (70) 1, adopted by the Committee of Ministers in 1970, and a report on the subject, published by the Council of Europe the same year.

The chief findings of the sub-committee were as follows :

- conditional measures ought to be introduced and developed in the legislation of member states and their application improved ;
- any restrictions on the application of such measures (concerning categories of offenders or offences) which prevent sentences from being individualised should be eliminated ;

- an investigation into the offender's character and background should as far as possible be made whenever the ordering of a conditional measure is contemplated ; it should be carried out by qualified staff and should offer guarantees against unwarranted intrusion into the offender's private life ;

- legal provisions relating to conditional release should be reviewed and amended ; such release should also be envisaged with regard to offenders serving life sentences ;

- after-care should be provided for both conditionally and unconditionally released persons ; procedures pertaining to the grant of conditional release should be improved upon and every effort made to facilitate the transition from prison life to freedom ;

- methods of supervision and assistance should be developed ; conditions accompanying probation should allow of as effective individualisation of treatment as possible ; it should be possible to modify such conditions in the light of changing needs and circumstances ;

- probation staff should be professionally qualified ; special attention should be given to their conditions of employment and their initial and in-service training ; the engagement of voluntary staff should also be envisaged ;

- there should be proper administrative supervision of probation services in order to improve their efficiency ;

- provisions relating to the consequences of failure to comply with conditions imposed on probationers or conditionally released offenders, or to the commission of further offences by such persons, should be reviewed, so that flexible solutions adapted to individual cases may be found ;

- research into the selection of offenders for probation and the working of probation services should be encouraged.

d. Research into the practical organisation of supervisory and after-care services for persons conditionally sentenced or conditionally released

A small committee of research workers on this subject met in 1965 under the chairmanship of Mrs P. Morris (United Kingdom).

The committee, believing that its limited terms of reference did not enable it to make an exhaustive review of past and current research into probation and after-care, considered more particularly in what sectors research should be carried out in this field. The following sectors among others were suggested :

- selection of offenders for probation,
- selection of prisoners for conditional release,
- recruitment of probation officers (professional or voluntary),
- interaction between a probation officer and a probationer during treatment,

- team work in the field of probation and after-care,
- procedure for the drawing up of probation reports,
- use of group counselling in probation work,
- repercussions of a criminal penalty on the family of the offender,
- cases that may develop favourably without supervision,
- optimum length of probation,
- resources available for probation compared with other forms of treatment,
- evaluation of the effectiveness of probation.

These suggestions were submitted to the ECCP sub-committee responsible for studying the practical organisation of measures for the supervision and after-care of persons conditionally sentenced or conditionally released (see point C above).

e. Alternative penal measures to imprisonment other than suspended sentences, probation and similar measures

After a detailed examination of suspended sentences, probation and similar measures, the ECCP decided to study the various other alternatives to imprisonment, such as monetary and moral penalties.

A sub-committee composed of nine experts under the chairmanship of Mr W. Breukelaar (Netherlands) was appointed to carry out the study. To begin with, it made a broad review of problems concerning treatment and of the aims and resources of criminal policy. It concluded that the fullest possible use should be made of non-stigmatising measures that did not cut offenders off from their social environment but on the contrary afforded them all necessary help in adapting themselves thereto and living in a law-abiding manner. Links between the penal system and other social systems were deemed essential in this connection.

Even though suspended sentences, probation and similar measures had already been examined by other ECCP bodies, the sub-committee did not entirely ignore them, in the belief that there were new ways of applying such measures (intensive probation, group probation etc.), it devoted a fairly lengthy passage to them in its report.

Monetary penalties, also a major instrument of criminal policy, were carefully examined by the sub-committee with particular reference to their application and enforcement. The sub-committee stressed the need to develop arrangements enabling the amount of a fine and its method of payment to be adapted to the offender's means. The award of compensation to a victim by a criminal court was also studied by the sub-committee, which emphasised its importance in settling the social conflicts caused by offences.

Confiscation and prohibition were also examined, particularly with regard to the possibility of imposing them as independent penalties in lieu of imprisonment.

After its review of measures which have long existed in most countries, the sub-committee looked at some new penalties being tried out in member states such as :

- deferment of sentence,
- community work,
- semi-detention.

The sub-committee recommended that governments examine the possibilities offered by these measures. It also pointed to :

- the need to make the necessary resources available to services responsible for the application of such measures,
- the usefulness of associating judicial authorities with the development of alternatives to imprisonment,
- the need to inform the public of the advantages of alternative measures so as to secure their acceptance.

These findings are set out in Committee of Ministers Resolution (76) 10. The same problems were discussed by the Conference of European Ministers of Justice in 1972 and 1976.

f. Seminars

Alternatives to imprisonment were discussed at various seminars (see above) organised by the ECCP in co-operation with member governments.

7. Short-term treatment of adult offenders

A large number of prisoners in member states are serving short sentences, i.e. sentences of six months or less.

Such sentences entail all the usual disadvantages of imprisonment (loss of job, loosening of family ties etc.) without however enabling effective treatment to be applied precisely because of their shortness.

Noting that the development of non-custodial forms of treatment had only to a limited extent reduced the number of short sentences, the ECCP appointed a sub-committee to study ways in which short terms of imprisonment could best be used to foster an offender's rehabilitation. It specified that although the sub-committee should deal mainly with short-term treatment in prison, it should not disregard experiments regarding non-custodial treatment.

The sub-committee, which was chaired first by Mr Dupréel (Belgium), then by Mr Picca (France), reviewed the legislation and practice of member states with regard to the short-term treatment of adult offenders as well as research into the effectiveness of such treatment.

Its conclusions, set out in a 1974 report (*Short-term Treatment of Adult Offenders*), and incorporated in a resolution adopted by the Committee of

Ministers (Resolution (73) 17), were as follows :

a. *Short-term imprisonment*

1. Prison sentences should be resorted to as little as possible in the case of minor offenders and offenders posing little threat to society.

2. Short prison sentences offer an opportunity to make a summary study of the offender's personality and social background. The results of the study should be used as a basis for :

- treating the offender during the rest of his sentence or during any further sentence,
- providing after-care.

3. Efforts to treat short-term offenders are worth making despite the considerable difficulties due to the lack of time and the diversity and large number of such offenders.

b. *Short-term non-custodial treatment*

Experiments with such treatment, e.g. a one year's probation, are being conducted in the United Kingdom, the United States etc. The brevity of the probation period is offset by the intensity of the treatment, which is achieved by giving a small case-load to a specialised probation officer. The latter's selection may be determined by the existence of some psychological correlation between him and his probationers.

Although such treatment can be applied only to a few offenders it offers interesting possibilities worthy of the attention of governments.

c. *Other alternatives*

Measures half-way between complete liberty and incarceration, such as semi-liberty and residence in hostels, which offer the offender a means of assistance and social education are alternatives to imprisonment that deserve to be fostered and developed.

The sub-committee did not however make a detailed study of these measures, as they were being dealt with by another ECCP sub-committee.

8. Group and community work with offenders

Traditionally the treatment of offenders has been of an individual kind, based on a direct relationship between those responsible for treatment and the offender. After the second world war, however, methods of group treatment first applied in psychiatric hospitals were introduced into the penal establishments of certain countries.

To have a study made of these methods, the ECCP convened a small committee of research workers (1967) — whose conclusions were published in rounded form ("Group Counselling in Certain Countries of Europe", Council of Europe, 1967) — organised two seminars (Wakefield, United Kingdom, 1969; Schwechat, Austria, 1970), awarded a co-ordinated criminological research

fellowship, and finally set up a nine-member sub-committee under the chairmanship of Mr R. Taylor (United Kingdom). The sub-committee studied in detail the various forms of group treatment applied to offenders, viz. :

- activity groups,
- discussion groups,
- closed living groups,
- group counselling,
- group psychotherapy,
- group counselling by offenders themselves.

It also considered the therapeutic community model, whereby the community is treated as a network of interacting groups (therapeutic groups, ward groups, workshop groups and a daily group comprising the entire community).

Methods of group or community treatment are usually applied to offenders in prison. The sub-committee, however, also examined the scope for group work in non-custodial situations (probation, hostels etc.).

It concluded that group treatment methods were of considerable value, for, although they may not reduce recidivism, they nevertheless :

- attenuate offenders' anxiety and reduce their aggressiveness towards prison staff ;
- give the staff a sense of participating in useful work and help them overcome the difficulties inherent in their duties ;
- help to transform the "vertical" structure of establishments into a "horizontal" one involving the consultation and participation of all members of the staff during the implementation of treatment programmes ;
- make it easier for long-term prisoners to serve their sentences ;
- facilitate the social rehabilitation of prisoners.

The sub-committee emphasised that the success of such methods depended on the provision of proper training for those applying them and on the comprehension and co-operation of prison staff at all levels.

A draft resolution drawn up by the sub-committee was adopted by the Committee of Ministers (Resolution (73) 23), and the sub-committee's report (*Group and Community Work with Offenders*) was published in 1974.

9. Treatment of long-term prisoners

In 1972, the ECCP included in its work programme a study of the treatment of long-term prisoners. The study was entrusted to an eight-member multidisciplinary sub-committee of lawyers, psychologists, psychiatrists and sociologists, under the chairmanship of Mr E. Corves (Federal Republic of Germany). The sub-committee's work, which effectively and harmoniously combined jurisprudence with the human sciences, theory with

practice and administration with research, resulted in a draft resolution and a draft report which were approved by the ECCP in May 1975. The former text was subsequently adopted by the Committee of Ministers (Resolution (76) 2).

The first difficulty the sub-committee came across was that of defining "long" sentences, since sentencing practice and the execution of penalties vary greatly from one state to another. It eventually chose five years as the period beyond which problems specific to long-term imprisonment clearly emerge, due allowance being made for differences in correctional practice among the Council of Europe member states.

Although long-term prison sentences are sometimes deemed necessary, they give rise to many problems, particularly human ones. Prison administrations have means of effectively combating the negative effects of detention.

In this connection the following questions were considered in detail:

- Distribution of long-term prisoners among the available prisons

This problem, the sub-committee believed, should be approached flexibly, in the light of the treatment needs of each individual offender. Accordingly, segregation based on the type of offence committed would not serve any purpose as a rule even though the type of offence may sometimes be a pointer to the choice of treatment.

- Treatment programmes suitable for long-term prisoners, and the best time to apply them

Any judicious treatment, in both the broad and the narrow sense of the term, requires a thorough examination of the prisoner's personality at the beginning of his sentence, particularly in the case of long-term prisoners. A study must be made of the way in which the prisoner views his own situation and how he reacts. The treatment programme and its continuous reappraisal are of special importance for long-term prisoners.

- Possibility of minimising the risks of personality disintegration to which long-term prisoners are exposed, and of maintaining family ties

Although scientific research into the effects of long-term imprisonment has not resulted in unanimous conclusions it has shown that the negative aspects of long sentences are not unavoidable and can be counteracted by appropriate measures. The harm resulting from such sentences may be limited in this way, and it may even be hoped that time spent in prison can be used in order to make a prisoner better equipped to cope with the problems of ordinary life. Closer contacts with the outside world are a major part of the treatment in the widest meaning of the term. They not only help to combat the separation syndrome but also reduce aggressiveness. Once again, the nature and frequency of such contacts will depend on the type of establishment and the prisoner's personality.

- The best way to review sentences, and expediency of granting conditional release

The hope of a conditional release and hence a reduction in the time spent in prison is an important incentive for a prisoner. It is therefore the basis for encouraging him to co-operate in his rehabilitation. This cannot, however, be achieved unless the behaviour of the prisoner and the development of his personality are regarded as key criteria for a decision. The sub-committee, fully aware of the differences between the laws and practices of member states, did not recommend that offenders be automatically released after serving part of their sentences. Early release should be regarded as a chance to be given to the prisoner if he does not constitute a serious threat to society and if, in the light of his progress and behaviour during his sentence, it can be assumed that he will not commit any further offences. The time when conditional release can be contemplated is a matter demanding circumspection. In any event, release requires careful preparation, especially in the case of particularly long sentences. The sub-committee therefore considered that where an offender had made enough progress to allow him to be conditionally released without any foreseeable danger, any refusal to release him solely on the grounds of "general prevention" would have purely negative effects.

10. Recidivism

At their first conference, whose main purpose was to examine the European revision of the Standard Minimum Rules for Treatment of Prisoners and to study how they could be put into practice in Europe, the Directors of Prison Administrations recommended, in the light of Rule 58, that an enquiry be promoted in member states into the scale of recidivism after the serving of a prison sentence. They suggested that a sub-committee be set up for the purpose.

The Bureau of the ECCP, however, considered that it would be too difficult—by reason of a lack of comparable data in the near future—to launch such an enquiry, which would furthermore take a long time to conduct. It accordingly proposed that a sub-committee be set up to examine on what basis such an enquiry ought to be carried out.

At the end of its deliberations the sub-committee, chaired by Mr R. Breda (Italy), suggested that an enquiry into recidivism should be undertaken mainly for the purpose of collecting data that would enable member states to gauge the degree and extent of the phenomenon and provide basic material of interest to prison administrations. It recommended that any member state which decided to embark upon such an enquiry be guided by a model it had drawn up.

By "recidivism" the sub-committee meant the behaviour of persons who, after being convicted once, are convicted again of some offence or other.

The sub-committee believed the immediate value of the proposed enquiry would be threefold :

— The methodical collection of data on recidivism and their subsequent processing according to an appropriate system would provide material on the subject which, even if only descriptive, would be very useful as such data were not yet available in all cases ;

— A description of the phenomenon, provided it was well constructed and sufficiently detailed, would naturally give rise to a series of "operational questions" to which adequate answers were urgently needed and could in fact be given ;

— The preparation of a clear and detailed system for the compilation of data on recidivism would enable interested prison administrations to repeat the operation every year and thus acquire within a fairly short space of time a series of elements useful for evaluating the problem. The sub-committee, aware of the limits of such an enquiry, considered it ought to make it clear to prison administrations intending to carry it out that the enquiry could not be expected to supply a definite indication of the connections between recidivism and its causes or of the relative merits of forms of treatment available under the various criminal and penal systems.

The sub-committee's report is accompanied by other material, viz. : the results of an enquiry into recidivism among a group of ex-prisoners ten years after their release, carried out by the National Centre of Penal Research (CNERP) of the French Ministry of Justice ; an enquiry into the frequency and causes of recidivism among young adults by the criminological section of the National Centre of Prevention and Social Defence, Rome ; an annual statistical survey by the Belgian Prison Administration on recidivism among certain categories of prisoners, particularly habitual offenders, within five years of their release ; an empirical investigation in the Netherlands into prospects regarding recidivism ; and finally a bibliography.

The Directors of Prison Administrations have decided to undertake, at national level to begin with, an enquiry into recidivism on the basis of the model advocated by the sub-committee. The enquiry will be mainly intended to gather data that will enable prison administrations to assess the degree and extent of recidivism. Subsequently, if member states, or at least some of them, see fit, it may be followed up by a more sophisticated, broader criminological investigation, conducted as far as possible on a comparative European basis. The enquiry will cover a sample of offenders released in 1973 and will be spread over a period of three years.

CHAPTER III

ACTIVITIES IN THE FIELD OF JUVENILE DELINQUENCY

A. INTERSTATE CO-OPERATION

Repatriation of minors

Mutual assistance between member states is necessary in order to enable their legal systems to function satisfactorily within a geographical area where frontiers are less and less a hindrance to the movement of persons and goods. The development of mutual legal assistance, as well as a new distribution of tasks between states, is occurring in the spheres of civil, administrative and criminal law. Although the various treaties and conventions drawn up by international institutions are the essential means for achieving this aim, it is nonetheless important to co-ordinate all such activities in order to construct a coherent and comprehensive system of mutual aid. This presupposes that it should be possible, in certain circumstances, for a person to be transferred from one state to another where his presence is deemed necessary under the latter state's law. In the case of adults, who as a general rule enjoy complete freedom of movement, the need for compulsory transfer arises almost invariably in cases under the criminal law. However in respect of minors, who are not able to choose their place of residence of their own volition, the question of compulsory transfer arises in very different terms. Minors do not enjoy complete freedom of movement by reason of their being subject to the authority of a parent or guardian. Their freedom of movement may be further restricted by measures of protection or re-education imposed as a result of civil, administrative or criminal proceedings. In addition to these legal limitations there are practical ones deriving from a minor's lack of experience.

Accordingly the need for mutual assistance for the purposes of compulsory transfer is greater where minors are concerned. It should be pointed out, however, that it is not confined to juvenile delinquents.

There are various bilateral arrangements providing in specific cases for the compulsory transfer of minors who have broken away from parental authority ; but these agreements, relatively few in number and restricted in scope, fall short of present-day requirements. The need for effective mutual assistance in this particular field is all the greater as young people travel about increasingly, for either pleasure or business, and the system for their protection has changed considerably. It was chiefly for these reasons that it was felt important to draw up a multilateral European convention to enable minors to be compulsorily transferred from the territory of one Contracting Party to that of another.

Accordingly as a result of an ECCP proposal to the Committee of Ministers of the Council of Europe in 1965, a sub-committee was appointed

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under the chairmanship of Mr L. Hulsman (Netherlands) to prepare a European Convention on the Repatriation of Minors.

After its adoption, the convention was opened for signature by Council of Europe member states in The Hague in 1970, at the 6th Conference of European Ministers of Justice. It has so far been signed by Austria, Belgium, France, the Federal Republic of Germany, Italy, Luxembourg, the Netherlands and Turkey but has not yet received sufficient ratifications to come into force.

It should be pointed out that the Hague Convention of 26 October 1960 concerning the Powers of Authorities and the Law applicable in respect of the Protection of Infants does not conflict with the 1970 European Convention on the Repatriation of Minors. It is concerned with measures creating a situation for a given period, such as the appointment of a guardian and placement with a family, whereas the European convention deals with the specific matter of repatriation.

With regard to the scope of the convention, the term "minor" is defined as any person not having attained his majority who does not have the right to determine his own place of residence.

As for the grounds on which an application for repatriation may be made, a distinction is to be drawn between the state of origin of the minor concerned and his state of residence. If the former state applies to the latter for repatriation it will be because it considers that the minor ought to be in its territory for one reason or another. If the latter applies to the former it will be because it deems the minor's presence in its territory to be incompatible with either its own interests or the minor's.

B. SUBSTANTIVE LAW

1. Studies on juvenile delinquency

a. In 1958, the ECCP included in its work programme a study of post-war juvenile delinquency in Europe. This was not only one of the Council of Europe's first activities in the field of crime prevention and the treatment of offenders; it was also the first in an almost continuous series of topics pertaining to juvenile delinquency which the ECCP traditionally includes in its work programme.

The study was in no way intended to provide an explanation of juvenile delinquency in the years following the second world war; its purpose was rather to describe and assess the phenomenon in its context. By means of a questionnaire information was collected on:

- quantitative and qualitative trends in juvenile delinquency,
- methods available in the fields of crime prevention and the treatment of young offenders,

— legislative and administrative measures for the protection of youth, including measures proposed for the future.

The study was carried out by a sub-committee under the chairmanship of Mr T. Eriksson (Sweden) on the basis of replies from Austria, Belgium, Denmark, France, the Federal Republic of Germany, Greece, Italy, the Netherlands, Norway, Sweden, Turkey and the United Kingdom as well as relevant publications and the knowledge and experience of its members. It revealed various general trends concerning both the extent and the nature of juvenile delinquency in certain countries of Europe. It also showed that better presented and more comprehensive statistics would enable these trends to be more accurately and validly assessed. With regard to descriptive data relating to treatment and preventive measures as well as plans for the future, the study had to confine itself to mentioning certain major trends and quoting various examples that appeared to be of particular interest. At the time of the study's publication, in 1960, sufficient data were not available on the relative efficiency of the various methods of treatment or prevention. For this reason particular emphasis was laid on the importance of criminological research.

b. The problem of juvenile delinquency cannot be separated from that of young people in general, which is a matter of increasing seriousness in an ever-changing society. Conscious of the fact that Europe's past could not allow it to neglect its future, the ECCP, in 1961, welcomed a United Nations invitation to take part in a European seminar on the evaluation of methods for the prevention of juvenile delinquency, to be held in Frascati in October 1962. A report by the Crime Problems Division of the Council of Europe, to which the member states represented on the ECCP readily agreed to contribute, was presented at the seminar.

The report was mainly a review of current evaluative research into preventive measures in Council of Europe member states, designed to serve as a framework for the discussions and for other, more specialised documents at the seminar. In the sphere of juvenile delinquency, emphasis is increasingly being laid on prevention. However, the question of measuring the true effectiveness of preventive methods is a matter of ever-increasing concern.

The report dealt with research into the success of preventive measures taken so far and reviewed current or projected preventive programmes involving a research element capable of supplying a measure of their effectiveness, as well as other research projects, including private ones, concerning the merits of preventive measures.

The report was published in 1963 but is at present out of print.

c. The ECCP was subsequently authorised to pursue its work in the field of juvenile delinquency by means of a large-scale enquiry into the relationship between the mass media and juvenile delinquency. The various mass

media—press, cinema, radio, television, sound recordings, posters—were already exerting increasing influence on people's ideas and behaviour but no one had defined the nature of such influence or determined to what extent it was salutary, deleterious or neutral.

The problem of the links between juvenile delinquency and the mass media is a highly complex one, a study of which inevitably gives rise to major difficulties. It cannot be examined in isolation, for it is but one aspect of a much wider problem confronting anyone concerned with education. To assess the nature and importance of the influence exerted on young people by the mass media, a study needs to be made of the even more general question of the consequences of the advent of the mass media for the development of the contents and forms of culture.

The consequences, in both the short and the long term, are considerable, first and foremost because of a prodigious increase in the quantity of information with which the public is bombarded and which, through radio and television, reaches children at an early stage of their consciousness. There has also been a qualitative change: the printed word is increasingly yielding ground to oral and above all visual messages. This information makes a direct impact on people, particularly the young; over and above national and ethnic traditions, a mass youth culture is developing.

The difficulty in identifying the effects of the mass media is due not only to their complexity but also to the fact that our society is only now really beginning to change. Any research undertaken is therefore in constant danger of being overtaken by events. What is more, successive generations are affected in different degrees.

The sub-committee which was appointed under the chairmanship of Mr P. Ceccaldi (France) to study the question wished to provide itself with some points of reference for its task. To this end it sent out a questionnaire to Council of Europe member states to obtain information on their experience in the matter as well as on:

- measures taken in each country to protect youth from harmful aspects of the mass media, as well as measures to promote the constructive use of the mass media,
- the implementation of such measures and their effectiveness,
- scientific research into the link between the mass media and juvenile delinquency.

The sub-committee wished to collect data on positive as well as negative measures, on statutory provisions as well as administrative rules, on official as well as voluntary action. For the purposes of the study, juvenile delinquency was broadly construed: the word "young" was normally taken to apply to anyone under the age of 21.

The sub-committee began by studying the influence of the press on juvenile delinquency, the press being the oldest mass medium and the only one governed by specific legislation.

The resultant report, entitled *The Press and the Protection of Youth*, which was published in 1967 and constituted the first part of the ECCP's enquiry, begins with a review of press legislation, for it was thought only natural to describe first of all the legal context of each country's action. The problem of the protection of young people is then studied from a sociological standpoint and, lastly, the current situation is considered in relation to possible elements of a future policy.

Various common features clearly emerge from an objective study of action taken in the Council of Europe member states:

- A policy for the protection of youth must above all uphold the principle of freedom of education;
- It must be flexible and adaptable: the laying down of any rigid rules would be a mistake in view of the pace of the changes occurring and the complexity of the phenomena concerned;
- Lastly, an effective policy of protection requires that punitive attitudes should give way to more positive ones. It will no doubt still be necessary to retain the possibility of dealing firmly with abuses; but the main effort should be directed at prevention. What is important is to ensure that abuses no longer occur and that the educational value of publications read by young people increases: a publication that contents itself merely with not being harmful does not meet the requirements of a real policy of protection; the object should be to obtain a high-quality press. A decisive step for the development of such a policy is to associate the press itself with supervisory procedures. The value of such co-operation cannot be over-emphasised, since it enables publishers, journalists and illustrators to become conscious of the educational influence they in fact exert.

After studying the problem of the protection of youth in relation to the press, the sub-committee considered the same problem in relation to the cinema and even examined the general relationship between the cinema and young people.

Compared with the press, the cinema is, of course, a recent medium of communication, being entirely 20th century in origin and not having really developed until after the second world war. It is markedly different from books and periodicals by virtue of its method of communication: whereas the written word is understandable only to those who can read, comprehension of moving pictures requires no prior initiation. The cinema is fairly independent of its audience's level of maturity and culture; it reaches the illiterate and the learned, the subnormal and the intelligent, the child and the adult. It is also a public entertainment.

There are also economic and financial differences between the press and the cinema: in the case of the latter such aspects are more complex and their effects more decisive.

Lastly, the cinema, as a sociological phenomenon, is characterised by two other features, which have strongly influenced the nature of public intervention : the rapidity of its development and the extent of the changes it has undergone. These changes have been due in the first place to technical advances but they are also due to more general factors, such as the development of the means of motor transport available to young people and the growth of the gramophone record market.

The sub-committee's study, which includes a report on film censorship codes in Europe, another on the influence of films on individuals and groups, and a third on legislation affecting the cinema, clearly shows the importance of film censorship as a means of protecting young people. In one way or another such control has been introduced in all the countries which replied to the questionnaire.

Control may first of all be exercised by the public authorities directly, the purpose being to restrict the types of films exhibited to young people ; the number of films prohibited to specified age-groups bears witness to the scope of such control. It may also be exercised by the public authorities indirectly, with a view to influencing production policies.

Official control is supplemented by voluntary censorship whose effectiveness has already been clearly demonstrated : apart from experiments carried out in a number of member states, the growing importance of "parallel" censorship especially by religious bodies should be noted.

The study on the influence of the mass media on juvenile delinquency resulted in two resolutions : Resolution (67) 13, on the press and the protection of youth, and Resolution (69) 6, on the cinema and the protection of youth.

The former resolution chiefly emphasises the need for a more detailed study of the influence of the press on the behaviour of children and adolescents and for the adoption of suitable measures to enable the press to perform an educational function in relation to the young and, by eradicating the baneful influences that can be exerted by certain kinds of literature, to contribute to the prevention of juvenile delinquency. For this purpose research should be encouraged into the mechanisms by which the press influences children and adolescents and into the conditions of production, distribution, sale and consumption of publications intended for juveniles ; a series of enquiries should also be made into specific ways and means of applying measures for the protection of juveniles in the sphere of the press and into their effectiveness, notably with regard to the restriction of distribution.

The latter resolution, after acknowledging the important part played by the cinema and the influence it exerts on the education and culture of young people, stresses the need for cinema regulations to take biological, psycho-

logical and sociological factors into account in the determination of age groups. It also refers to the need to seek the views of those professionally concerned with films, social scientists and other suitable experts. All steps should be encouraged which promote the educational and cultural aims of the cinema, and accordingly the production and distribution of films for young people and the teaching of film appreciation in schools should be intensified. It is probably as well to remember how social attitudes have changed since these studies and resolutions on the influence of the mass media on juvenile delinquency were prepared. However, although it is true that children and adolescents are now educated more liberally and enjoy considerable freedom, the problems highlighted by the ECCP nearly ten years ago are still confronting society.

2. Short-term treatment of young offenders

Although short-term imprisonment of adult offenders is usually regarded as entailing several disadvantages and offering few opportunities for rehabilitation, various special measures of short-term treatment of juvenile delinquents have in some member states come to be considered highly promising.

The ECCP entrusted a study of these measures to a sub-committee chaired by Mr R. Ryssdal (Norway) and a small committee of research workers.

The following two measures in particular were covered by the study :

a. *Jugendarrest* (juvenile detention) (Federal Republic of Germany),¹ applied to 14 to 20 year olds subject to juvenile criminal law who have committed minor offences and are regarded as re-educable by means of a brief but severe period of custody,

b. a stay of up to six months in a Detention Centre (United Kingdom), an establishment reserved for offenders of less than 21 years of age with a strict, uniform regime (hard work, physical training and general education).

The purpose of these two measures is to create a shock that will dispel young people's apathy and make them think about their future.

The sub-committee and research worker committee also looked into similar methods applied in Sweden and the USA and elsewhere.

Their findings are set out in a 1967 ECCP publication entitled *Short-term Methods of Treatment for Young Offenders*. The sub-committee also drafted a resolution which was adopted by the Committee of Ministers (Resolution (66) 25).

The research worker committee, after examining the little research available into the above methods of treatment, found that there was no reason to believe that any particular form of short-term treatment was more

¹. *Freizeitarrrest* : weekend detention ; *Kurzarrrest* : maximum of six days' detention ; *Dauerarrrest* : between one and four weeks' detention.

effective than another. In its recommendations it emphasised that the short-term measures of treatment for juvenile delinquents should be tried out in both an institutional and a non-institutional setting, should not be too punitive in nature and should be applied with flexibility according to the various categories of young people. It also recommended that further research be carried out in this field.

The sub-committee emphasised in its draft resolution that wherever possible it was preferable to resort to short-term rather than long-term institutional treatment. Short-term treatment should be flexibly applied in specific establishments according to individual needs and circumstances by specialised staff and should be followed up by after-care.

Finally, the sub-committee recommended compiling statistics on young people treated by the above methods and carrying out research into the effectiveness of short-term treatment regimes.

Information supplied to the Secretariat three years after the resolution showed that the short-term treatment methods tried out with young offenders in the Federal Republic of Germany and the United Kingdom had gradually fallen into disuse.

3. Trends in the re-education of adolescent and young adult offenders

In 1969, the Committee of Ministers authorised the ECCP to continue its work in the field of juvenile delinquency by studying new trends in the re-education of adolescent and young adult offenders.

Between 1970 and 1973 a sub-committee, chaired by Mrs S. Huynen (Belgium) drew up a report with conclusions on the subject in the light of an enquiry among Council of Europe member states. The report was subsequently submitted for approval to the ECCP and the Committee of Ministers.

The purpose of the study was to make an objective appraisal of re-education methods applied to juvenile delinquents under the various national systems and, as far as possible, draw conclusions therefrom—with particular reference to innovations and experiments—that would provide member states with a guide for the treatment of offenders and the prevention of crime among young people.

Rather than make a comprehensive survey of treatment methods in member states, the sub-committee confined its attention to the latest relevant experiments and arrangements in both the public and the private sector. Only new, significant and original experiments, whether or not accompanied by research, were considered.

The work of the sub-committee led to thirteen conclusions, including the following :

- Alongside traditional forms of treatment and sanctions, there is a

trend in favour of refraining from all intervention or resorting only to non-coercive measures ;

- Changes in young people and the emergence of new forms of delinquency make it more than ever necessary to promote a continuous search for new methods of treatment. Re-education methods are showing increasing flexibility : residential treatment may be in some ways akin to treatment within the community, while the latter sometimes may make use of accommodation facilities or involve short stays in appropriate institutions ;

- Specialised treatment establishments are tending to be replaced by multipurpose educational complexes and networks providing, in one and the same region, various forms of treatment, residential or otherwise, while in some countries the distinction between reception, observation and treatment is becoming blurred ;

- The judiciary still has an essential part to play, even though a trend is emerging in favour of more recourse to methods that do not require a judicial decision. Treatment is increasingly encompassing a young person's relationships with his family and his peers and is making ever fuller use of the resources offered by the community ;

- With a view to strengthening links between a treatment institution and a young person's family, treatment should be regionalised.

4. Social change and juvenile delinquency

Throughout the member states of the Council of Europe, the last few decades have been a period of rapid social change. Obviously such change cannot fail to influence the social attitudes of young people.

Between 1958 and 1960 the ECCP made a study of juvenile delinquency in post-war Europe (see above).

Fifteen years later, it decided to conduct a more detailed enquiry into the changes undergone by society in the meantime and their repercussions on the behaviour of young people. For this purpose it set up a nine-member sub-committee under the chairmanship of Mr J. Selosse (France) with the following terms of reference :

- a.* to examine the effects of certain aspects of social change on the behaviour of young people ;

- b.* to look into steps taken in member states or elsewhere in order to prevent such change from inciting young people to crime.

While taking into consideration the ECCP's previous work in this field, the sub-committee has decided to adopt a new method of investigation consisting of a careful analysis of : change in all sectors of social life ; any links between the various forms of change ; and the consequences of change in relation to juvenile deviance and delinquency.

A questionnaire covering a large number of social indicators is to be answered by each member of the sub-committee. The indicators have been grouped under the following headings :

- demographic indicators,
- urbanisation,
- industrialisation and economic development,
- mass communication media,
- indicators relating specifically to young people.

Data on present-day aspects of juvenile deviance and social reactions thereto will also be collected.

This information will help the sub-committee to draw up a report containing a descriptive analysis of the situation and make suggestions about the sort of social and criminal policy that should be followed in order to reduce the adverse effects of social change on the behaviour of young people and increase its positive effects.

The work of the sub-committee is still in progress.

CHAPTER IV

ACTIVITIES IN THE FIELD OF CRIMINOLOGICAL RESEARCH

Introduction

In recent decades criminological research has made great progress in Council of Europe member states. A large number of criminological research institutes—governmental or university—have been set up, and a great deal of individual criminological research has been carried out.

At the very outset the ECCP was aware of the importance of criminological research not only for the advancement of knowledge on the subject, but also for the planning of member states' criminal policies. It was in fact becoming increasingly obvious that an effective criminal policy had to be based on data rigorously verified by research.

To foster scientific research in member states and an examination of criminal and criminological questions in the light of research findings—recognised as one of its major tasks—the ECCP initiated various activities. The Criminological Scientific Council, which began its work in 1963, has provided it with valuable advice as regards the planning of criminological studies and the choice of subjects and consultants.

The ECCP's criminological activities include the following :

- organisation of criminological conferences or colloquia,
- work by sub-committees or small committees of research workers,
- commissioning of reports from consultants,
- conducting of enquiries into matters of criminological interest,
- award of individual or co-ordinated fellowships to criminological research workers,
- publication of a bulletin for the exchange of information on criminological research projects.

1. Conferences of Directors of Criminological Research Institutes

The aims of these conferences are :

- to review and assess criminological research into a specific subject,
- to make suggestions concerning any aspects of the subject requiring further study,
- to provide information for the guidance of Council of Europe member states' criminal policies and the planning of Council of Europe activities in the sphere of crime problems.

Apart from directors or other representatives of research institutes, the conferences are attended by the ECCP Bureau, the Scientific Council and observers from non-member states and international organisations interested

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in crime problems. They afford opportunities for exchanges of views among research directors and contacts between research workers and criminal policy administrators.

The conferences have been held regularly since 1963, annually at first but since 1973 alternately with the Criminological Colloquia. In 1966, 1969, 1972 and 1974 they took place in an expanded form.

I. *1st Conference of Directors of Criminological Research Institutes, 1963 : administration and organisation of criminological research*

The 1st Conference of Directors of Criminological Research Institutes was naturally devoted to general matters, as before a study could be made of specific criminological problems, the current structures, working methods and trends of criminological research had to be reviewed.

The following subjects were examined :

a. *Administration and organisation of criminological research (Rapporteur : Mr L. Radzinowicz, United Kingdom)*

The Rapporteur, in the light of his own experience and his enquiries among European universities, examined the existing structures of criminological research institutes, their chief objectives, the problem of their resources and the use made of the results of their research. He expressed the hope that the Council of Europe would recommend governments to promote criminological research.

b. *Programmes and methods in fundamental research (Rapporteur : Mr J. Pinatel, France)*

The Rapporteur drew a distinction between fundamental and applied research. He described the various aspects of fundamental criminological research (research aimed at the advancement of scientific knowledge rather than at any immediate improvement in a given situation) and underlined its value and importance.

c. *Programmes and methods in applied research (Rapporteur : Mr di Tullio, Italy)*

The Rapporteur emphasised the need for clinical research that would enable individual offenders to be analysed and the appropriate treatment for each one determined. He recommended setting up criminological centres in penal establishments to that end.

d. *Research on juvenile delinquency (Rapporteur : Mr T.S. Lodge, United Kingdom)*

Mr Lodge surveyed trends in research into juvenile delinquency (etiological, statistical, clinical and action research), pointing out the problems, advantages and prospects in each case.

e. *Ways and means of instituting co-operation between the institutes and the Council of Europe (Rapporteur : Mr P. Cornil, Belgium)*

In summing up the proceedings of this first conference, Mr Cornil stressed the importance of :

- an exchange of information on research in member states, and
- the co-ordination of national research, particularly through the Council of Europe.

After debating Mr Cornil's findings, the conference recommended that the Council of Europe :

- launch two publications (a yearly one and a three-yearly one) for the purpose of exchanging information on criminological research ;
- carry out a survey of criminological research institutes in member states ;
- make a study of the direct cost of criminality in member states ;
- encourage the organisation of parallel studies between European research workers ;
- provide fellowships to enable research workers to make study visits to research institutes in other member states with a view to comparing methods and, if possible, establishing co-operation ;
- regularly convene the conference and other gatherings of criminological research workers.

The reports of the 1st Conference of Directors of Criminological Research Institutes are to be found in Volume I of *Collected Studies in Criminological Research*.

II. *2nd Conference of Directors of Criminological Research Institutes, 1964 : the strategy of research*

Like the previous conference, the 2nd Conference of Directors of Criminological Research Institutes was devoted to problems concerning research methods and organisation.

Before beginning its main discussions, the conference was informed of action taken by the Council of Europe on the conclusions of the 1st Conference, particularly its proposals or decisions pertaining to :

- i. the publication of bulletins for the exchange of information on research ;
- ii. the provision of individual and co-ordinated criminological fellowships ;
- iii. the launching of surveys on :
 - the co-ordination of criminological research ;
 - institutes of criminological research in member states ;
 - the direct cost of crime and the allocation of public funds to criminological research.

The following reports were submitted to the conference :

a. *What senior officials, judges and others expect from criminological research (Rapporteur : Mr P. Cornil, Belgium)*

In his report, Mr Cornil described the various categories of decision-making authorities concerned with criminal justice (legislature, judiciary, prison administration, police etc.). He outlined the specific problems encountered by each one in the course of its duties and emphasised that the administrator needed the research worker to help him to assess the effectiveness of his methods, while the research worker needed the administrator's help in collecting his material. The inference was that co-operation between research workers and administrators was not only desirable but inevitable.

b. *Causation research in criminology (Rapporteur : Mr G. Houchon, Belgium)*

The Rapporteur, after surveying various preliminary questions such as the possibility of developing comparative criminology and the evolution of the concept of causation research in the human sciences, particularly in criminology, gave a summary of theories deriving from research into the mass phenomenon, the offender's personality, the transition to the criminal act etc. He also described research models in this field (central kernel of the criminal personality, sub-culture of violence etc.), concluding his report with recommendations concerning, in particular, the development of criminological techniques.

c. *Research into methods of crime prevention (Rapporteur : Mr N. Christie, Norway)*

The Rapporteur referred to the latest research on the prevention of crime, particularly to "community programmes" for the control of crime in the USA, which required enormous resources but had not yielded any very appreciable results. He drew the conclusion that methodological precautions needed to be taken in the organisation of preventive programmes and research. The results of such research should be rigorously evaluated before any guide-lines for future action came to be deduced therefrom.

d. *Research on the effectiveness of punishment and treatments (Rapporteur : Mr Hood, United Kingdom)*

In his report, Mr Hood reviewed the results of various research projects, mostly British, aimed at evaluating and comparing the effectiveness of various forms of treatment. He stressed that when results were being evaluated, all the circumstances surrounding the sentence and the application of the various measures ought to be taken into account (e.g. if two types of treatment did not appear to be equally effective, it should be carefully considered whether the offenders subjected to each of them were not also very different). Mr Hood ended his report by examining the criteria and methods of evaluative research.

e. *Conclusions (General Rapporteur : Mr L. Radzinowicz, United Kingdom)*

Mr Radzinowicz summed up the proceedings of the conference and added his own observations to the topics dealt with. He emphasised the need for criminologists to receive proper training if they were to carry out worthwhile research. He also stressed the usefulness of meetings between criminologists and judges for the penalties in the light of experience.

Having regard to the conclusions of the first conference as well as to its own proceedings, the conference adopted a resolution urging the Council of Europe to pursue and intensify its action with respect to the international exchange of information on criminological research projects in Europe, the co-ordination of such research and the development of its results by, amongst other things :

a. recommending that governments foster the creation and extension of criminological research centres, give some of them an official status as advisory bodies and, at national level, ensure co-operation among them and whenever possible the co-ordination of their activities ;

b. providing fellowships for criminological research workers ;

c. stimulating or encouraging parallel studies.

This recommendation, subsequently examined by the Scientific Council and the ECCP, was embodied in Resolution (66) 18 on collaboration in criminological research.

The reports of the 2nd Conference of Directors of Criminological Research Institutes were published in Volume I of *Collected Studies in Criminological Research*.

III. *3rd Conference of Directors of Criminological Research Institutes, 1965 : prison research*

After a brief survey of the criminological activities of the Council of Europe, the 3rd Conference considered its chief subject on the basis of the following reports :

a. *Studies of prisoners as individuals (Rapporteur : Mr E. Selge, Federal Republic of Germany)*

The Rapporteur stressed the importance of knowledge and understanding of the prisoner's personality if proper treatment was to be applied. After outlining problems and methods in the analysis of an offender's personality, he pointed to the need for close collaboration between a penal establishment's governing staff and its specialists (doctor, psychologist, educator) so that whatever treatment was best suited to the individual concerned could be selected and applied.

b. *The prison community (Rapporteur : Mr T. Morris, United Kingdom)*

Adopting a sociological standpoint, the Rapporteur examined the structure of the prison community on the basis of studies by Clemmer, Sykes and

others. He described the community's component groups and their attitudes towards treatment and discipline. After outlining the problems and considerable resistance encountered by research workers carrying out studies in a prison, he underlined the contribution such research could make to reform planning by analysing the dynamics of prisons.

c. *Problems and possibilities for the future (Rapporteur : Mr Mathiesen, Norway)*

In his report Mr Mathiesen accorded particular attention to the resistance that all penal reform endeavours arouses both from the prison staff (whether responsible for discipline or treatment) and from the prisoners themselves. After discussing techniques employed to neutralise change (absorption, postponement and deflation of new ideas, co-operation of personnel representing new ideas), he recommended that further research be undertaken into factors fostering or impeding penal reform.

d. *Conclusions (General Rapporteur : Mr L. Radzinowicz, United Kingdom)*

The General Rapporteur analysed the sources of prison studies, stressed their importance and pointed out that the co-operation of prison staff at all levels was essential to their success. He then briefly reviewed the negative and positive aspects of prison life and concluded by expressing the hope that in future imprisonment would be resorted to less frequently, but more effectively.

The conference adopted a recommendation which, after being examined by the Scientific Council and the ECCP, was embodied in Resolution (67) 5 concerning research on prisoners considered from the individual angle and on the prison community.

The resolution recommended that member governments :

- encourage research on prisoners and the prison community by establishing research centres within their prison administrations or supporting research undertaken by independent organisations ;
- assist research workers ;
- take the findings of research into consideration when planning crime policy ;
- promote research to evaluate the results of new criminal policy measures.

It further stated :

- that research on prisoners should include clinical studies, comparative studies of the offender's personality before and after enforcement of a criminal measure, studies on the offender's conduct after treatment and a study of correlations between offenders' characteristics and the effects of the various forms of treatment applied ;

— that research on the prison community should include studies of the role, views and attitudes of both prisoners and prison staff as well as relations between the two groups ;

— that factors underlying resistance to reforms should be studied particularly closely by research workers.

The reports of the 3rd Conference of Directors of Criminological Research Institutes were published in Volume I of *Collected Studies in Criminological Research*.

IV. *4th Conference of Directors of Criminological Research Institutes, 1966 : criminological aspects of road traffic offences ; forecasting of criminality*

The 4th Conference, which was wider in composition and lasted longer than the previous ones, briefly reviewed the criminological activities of the Council of Europe before turning to the above two topics :

A. *Criminological aspects of road traffic offences*

a. *Presentation of the problem (Rapporteur : Mr P. Cornil, Belgium)*

The Rapporteur, after referring to the steady increase in the volume of road traffic, briefly examined the major road traffic offences and legal and social reactions thereto. He underlined the need to develop statistics and criminological research on road traffic offences and offenders.

b. *Research concerning the characteristics of motoring offenders (Rapporteur : Mr T.C. Willett, United Kingdom)*

The Rapporteur examined :

- the individual factors liable to occur in motoring offences,
- typologies of motoring offenders,
- the contribution of criminologists in the field of road traffic offences.

From his own investigations in the United Kingdom, Mr Willett inferred that psychopathological and social factors were the cause of road traffic offences, which were less accidental than might appear at first sight. He also stressed the importance—and difficulties—of research into motoring offenders, pointing out that the latter tended to be regarded as normal people.

c. *Desirable developments in the administration of justice (Rapporteur : Mr W. Middendorff, Federal Republic of Germany)*

Mr Middendorff's report examined the role of criminal legislation and procedure regarding traffic offences and, in the light of research, the effectiveness of the various penalties applicable to motoring offenders.

It suggested various improvements and called for further criminological research into the effectiveness of punishments for traffic offences as well as into public attitudes in the matter.

d. *Conclusions (General Rapporteur : Mr P. Cornil, Belgium)*

Mr Cornil summed up and commented on the chief findings emerging from the discussions. He said :

— that road traffic offenders should be detained in special sections of prisons so that their personalities could be studied more closely and contacts with other offenders avoided ;

— that criminological research be undertaken into the diverse aspects of road traffic offences.

After discussion of these suggestions, the conference adopted a set of conclusions, recommending research into :

- drunken driving,
- the previous records of road traffic offenders,
- the effectiveness of penalties for such offenders,
- public attitudes towards road traffic offences.

With a view to facilitating research into the treatment of road traffic offenders, the conference agreed that such offenders should be grouped together in special sections of prisons. It also advocated that a working party should study the methodology of research in the field of road traffic offences as well as ways and means of co-ordinating such research at European level.

B. *Forecasting criminality*

a. *Forecasting research in the social sciences with special reference to demography (Rapporteur : Mr Henry, France)*

Mr Henry outlined the methods used for the purpose of forecasting research in demography, where it had been carried out before being applied to other fields, including criminology. He explained the difficulties such research involved, as well as the potential advantages it offered, especially for criminological studies.

b. *Forecasting the volume and structure of future criminality (Rapporteurs : Mr J. Jepsen and Mrs Lone Pal, Denmark)*

This lengthy report contained the results of a large-scale enquiry carried out under the auspices of the Scandinavian Research Council for Criminology.

After reviewing the problems, aims and prospects of forecasting research in criminology, the report gave a summary of studies already carried out in this field, particularly in the Scandinavian countries. It then examined variables of relevance to forecasting in the criminological field and described the following three methods used for such research :

- i. one-dimensional regression analysis,
- ii. introduction of single social variables,
- iii. combination of social factors :
 - double regression analysis,
 - utilisation of multidimensional analysis with several social factors and the use of non-linear functions.

The results of such research were not regarded as wholly satisfactory by the Rapporteurs. They did however agree that some refinement of the methods used might make forecasting more accurate.

c. *Forecasting the trend of criminality : a preliminary investigation in Finland (Rapporteur : Mr P. Törnudd, Finland)*

This study, parallel to the Danish one, was also financed by the Scandinavian Research Council for Criminology. Its results were regarded as more satisfactory than the Danish study's with regard to the accuracy of forecasting.

d. *Conclusions (General Rapporteur : Mr J. Pinatel, France)*

In summing up the discussions on forecasting studies, Mr Pinatel dealt more particularly with the expediency, feasibility and practical aspects of such studies.

In its conclusions the conference advocated that the subject of forecasting studies be included in the Work Programme of the Council of Europe, that such studies be commended to governments and criminological institutes and that a working party be convened by the Council of Europe to examine the relevant methodological problems.

The reports of the 4th Conference of Directors of Criminological Research Institutes are to be found in Volume II (*Road Traffic Offences*) and Volume IV (*Forecasting Studies*) of *Collected Studies in Criminological Research*.

V. *5th Conference of Directors of Criminological Research Institutes, 1967 : criminality of migrant workers ; relationship between types of offenders and types of treatment*

After a brief review of the criminological activities of the Council of Europe, the conference embarked on a discussion of its two main themes.

A. *Criminality of migrant workers (Rapporteur : Mr F. Ferracuti, Italy)*

After surveying research outside Europe—particularly in America—into the social implications of migration, the Rapporteur looked at the criminality of migrant workers in the light of European research. His conclusion was that, in most cases, their rate of criminality was equal to or lower than that of the local population. Migrant criminality, however, sometimes had distinctive features, and its future pattern could not be forecast. The Rapporteur accordingly suggested that further research be carried out in this field.

Agreeing with Mr Ferracuti, the conference recommended that the Council of Europe should undertake or promote research into criminality among migrant workers.

B. *Relationship between types of offenders and types of treatment*

a. *Survey of research reports in French (Rapporteurs : Mr M. Blanc and Mr J. Susini, France)*

The Rapporteurs reviewed the most recent French-language studies on the personality of the offender and his treatment. They stressed the importance of research in clinical criminology and the value of mathematical methods for the classification of types of behaviour and the ascertainment of suitable forms of treatment.

b. *Survey of research reports in English (Rapporteur : Mr Sparks, United Kingdom)*

The Rapporteur reviewed British and North American research into possible connections between types of offenders and types of treatment, referring to the relevant methodological and practical problems. While stressing the limitations of such research, he concluded that it ought to be continued and further developed.

c. *Scandinavian research reports (Rapporteur : Mr B. Börjeson, Sweden)*

After reviewing research into the relationship between types of offenders and types of treatment, the Rapporteur analysed the workings of the system of criminal justice (particularly in Sweden) in order to determine whether the results of typological research could serve as a guide for decision-making at various stages of the system. While underlining the considerable difficulties encountered in this field, he expressed the wish that research workers be given a leading part to play in the devising of treatment strategies.

d. *Conclusions*

The proceedings of the conference were analysed :

- from a psychiatric standpoint by Mr Wiersma (Netherlands),
- from a psychological and sociological standpoint by Mr Trasler (United Kingdom),
- from a legal standpoint by Mr Waaben (Denmark).

The conference adopted a set of conclusions in which it :

- put forward various methodological suggestions for research on the relationship between types of offenders and types of treatment ;
- urged member states to give priority to such research ;
- recommended that the Council of Europe promote exchanges of information on such studies, encourage the adoption of common criteria for the classification of offenders and treatments, facilitate the pursuit of comparative studies on the effectiveness of methods of treatment and examine methods of collecting and analysing data relating to the results of judicial decisions and routine allocations in the correctional systems of member states.

The reports of the 5th Conference of Directors of Criminological Research Institutes were published in Volume III of *Collected Studies in Criminological Research*.

VI. *6th Conference of Directors of Criminological Research Institutes, 1968 : the dark figure ; model for the organisation of corrections in a modern state*

A. *The dark figure (Rapporteur : Mr F. McClintock, United Kingdom)*

On the basis of the latest research the Rapporteur examined the various aspects of the "dark figure", viz., a. the dark figure in crime, b. the dark

figure of criminality in the population, c. the grey figure of criminality in the population, d. the dark figure of criminality in the criminal record of convicted offenders. He also reviewed studies of victim characteristics as a means of ascertaining actual criminality. Finally, he explained the way in which the results of research on the dark figure could help to solve criminological and penological problems.

The conclusions of the conference on this subject were presented by Mr N. Christie (Norway). They were subsequently used by the Scientific Council and the ECCP to draw up a resolution of hidden criminality, which was adopted by the Committee of Ministers (Resolution (70) 13). The resolution recommended that member states :

- promote studies of the nature and volume of hidden criminality so as to determine any improvements needed in the administration of justice and the advisability of strengthening the action of other social institutions responsible for dealing with various forms of anti-social behaviour ;
- co-operate with one another through the Council of Europe with a view to improving the organisation and co-ordination of such studies.

B. *Model for the organisation of corrections in a modern state*

a. *Administrative, judicial and legal aspects (Rapporteur : Mr P. Cornil, Belgium)*

The Rapporteur examined the modern system of criminal justice, describing various trends in a number of countries, viz. :

- i. the proliferation of preventive regulations,
- ii. the transformation of criminal sanctions and their form of application,
- iii. recourse to new technical procedures.

In his conclusions, Mr Cornil stressed the desirability of :

- seeking new preventive measures,
- simplifying methods of dealing with breaches of regulations,
- refraining from any inessential penal action,
- reviewing the system of remand in custody and
- reviewing the system of remand in custody and its *raison d'être*,
- studying methods of dealing with organised crime.

b. *Organisation of a system of corrections (Rapporteur : Mr Woodfield, United Kingdom)*

The Rapporteur examined the system of corrections from the standpoint of the optimum distribution of available resources and the relationship between costs and benefits. He dealt more particularly with the relevance of economics, management studies, operational research and automatic data-processing to the system.

c. *Sociological and criminological aspects (Rapporteur: Mr Sveri, Sweden)*

The Rapporteur reviewed the correctional system as a formal bureaucratic organisation, the term "bureaucratic" being construed in its sociological sense. He explained that the factors influencing the system were: a. other social systems (particularly parliament and the Ministry of Justice, i.e. the political world), b. ideological factors (dependent on a country's prevailing ideology), c. systematic knowledge of facts (which played a much less important part than the foregoing factors). His conclusions were as follows:

- a model criminal code should be drawn up; its governing principle should relate to harm done to society by criminal acts;
- imprisonment should, as a matter of principle, be resorted to only in the case of dangerous criminals;
- the correctional system should seek to reduce the number of prison sentences;
- material standards in prison should be the same as in the community as a whole;
- probation should be used on a wider scale;
- psychological and psychiatric services should be developed;
- empirical research should become part and parcel of the entire correctional sphere.

d. *Conclusions (General Rapporteur: Mr Hulsman, Netherlands)*

Mr Hulsman's conclusions included the following points:

- the techniques of economics, management studies, and operational research could usefully be applied to the correctional system;
- the Council of Europe might convene a small group of experts to make an analytical and mathematical model of the correctional system;
- comparative studies of the various correctional systems might be organised within the Council of Europe;
- the use of computers in the correctional system depended on advances in empirical research and conceptualisation;
- multidisciplinary bodies responsible for the integration of the correctional system should be created or further developed;
- empirical research should be made an integral part of the system;
- frequent and close contacts should be established between administrators and research workers;
- flexible procedures for the reappraisal or modification of the system's structures ought to be established.

The reports of the 6th Conference of Directors of Criminological Research Institutes are to be found in Volume V of *Collected Studies in Criminological Research*.

VII. *7th Conference of Directors of Criminological Research Institutes, 1969: identification of key problems in criminological research*

This conference was held in an expanded form. Its aims were:

- to define fundamental problems in present-day criminological research and compare them with practical matters of concern to governments;
- to bring together research workers and administrators for the purpose of selecting problems for study as a matter of priority in order to advance knowledge in the sphere of criminal problems and hence collect data capable of assisting governments in their efforts to prevent crime and treat offenders;
- to hold an exchange of views with representatives of states outside the Council of Europe, so that as complete a picture as possible of criminological research problems might be obtained;
- to draw up a number of general guide-lines for the preparation of future activities (particularly as regards the international co-ordination of research).

Lengthy preparations were made for the conference. A large number of criminologists were written to by the Secretariat with a request for brief accounts of the main scientific problems experienced by them as well as for suggestions. Various criminologists in member states and other countries were also asked for regional reports on research to date.

The following reports were received:

Member states

- A survey of criminological research in France, by Mr J. Pinatel,
- Forecasting of trends in criminality, by Mr G. Picca (France),
- The situation of criminology in the Federal Republic of Germany, by Mr Th. Würtenberger,
- Criminological research in Italy, by Mr F. Ferracuti,
- The situation of criminological research in the Netherlands, by Mr W. Nagel,
- Scandinavian criminology facing the 1970s, by Mr N. Christie (Norway),
- Summary of research—Home Office Research Unit and Statistical Division (United Kingdom),

Non-member states

- Brief survey of criminological research carried out by the Council for Criminological Research at the General Attorney's Office of the People's Republic of Bulgaria,
- Research at the Department of the University of Montreal by Mr D. Szabo (Canada),
- Criminological research in Finland, by Mrs I. Anttila,
- Research in criminology in a country of social change, by Mr Sh. Shoham (Israel),

— Criminological research by Yugoslav scientific institutions, by Dr M. Milutiovic (Yugoslavia),

— Memorandum on a research project by the Institute of Criminology of the Faculty of Law, Ljubljana, by Mrs K. Vodopivec (Yugoslavia).

Five Rapporteurs were invited to examine current criminological research from various standpoints. The following reports were submitted :

1. Report on methodology, by Mr L.M. Raymondis and Mrs Favard-Drillaux (France),

2. The identification of key problems in sociological research within the field of criminology by Mr K. Christiansen (Denmark),

3. The fundamental psychological problems of contemporary criminological research in European countries, by Mr G. Canepa (Italy),

4. The identification of key problems in criminological research : the lawyer's point of view, by Mr H. Schultz (Switzerland),

5. Key problems in penological research, by Mr A. Bainton (United Kingdom).

The general report was presented by Mr T.C.N. Gibbens (United Kingdom), who outlined the chief problems in research relating to the different stages of the judicial process, with particular reference to :

- unreported criminal behaviour,
- forecasting studies,
- methods of recording data on criminality,
- the study of convicted offenders (minors and adults),
- the treatment of offenders (the various types of treatment etc.).

The conference's proceedings were divided among four sections (studies on society, studies on social or treatment institutions, studies on offenders, studies on the correctional system : objectives, effects, methods and limits) ; there were also plenary sittings.

The conclusions of the conference were presented by Sir Leon Radzino-wicz (United Kingdom), who, after noting that the conference, through its documentation and discussions, had succeeded in identifying the main problems of concern to research workers and governments, mentioned the various factors on which priorities in criminological research depended. It was neither possible nor desirable to lay down a rigid order of priorities. These should be determined in the light of circumstances and available resources in each country and reviewed at regular intervals so that new problems might be included in the research programme.

The reports of the 7th Conference of Directors of Criminological Research Institutes were published in Volume VI of *Collected Studies in Criminological Research*.

VIII. *8th Conference of Directors of Criminological Research Institutes, 1970 : embodying the results of criminological research in criminal policy*

a. *Assembly, storage and retrieval of information relevant to criminal policy (Rapporteur : Mr T.S. Lodge, United Kingdom)*

The Rapporteur reviewed the types of information relevant to criminal policy (statistics, results of sociological, psychological and anthropological investigations, results of opinion polls, of penological studies etc.) and described their purposes and the ways in which they could be used. He also described methods of assembling and processing information, storing it (e.g. by computer) and retrieving it for administrative purposes. Finally he discussed the related problems of the confidentiality of personal data.

b. *Channels of communication between research workers and decision-makers (Rapporteur : Mr G. di Gennaro, Italy)*

Mr di Gennaro dealt with the transmission of research data to administrators for use in the framing of criminal policy. He analysed the communication process and described the factors facilitating or hindering the flow of information in relation to the source, the message, the destination and the communication channel. The Rapporteur stressed the need to reduce distances between research workers and administrators and to set up a system of continuous cross-fertilisation.

c. *Operational research in the system of criminal justice (Rapporteur : Mr Ph. Robert, France)*

Mr Robert analysed the application of mathematical and statistical methods to the system of criminal justice, with particular reference to planning (including forecasting), cost/benefit evaluations and a study of image-making processes as a guide for reforms. Acknowledging that operational criminological research had not yet been sufficiently developed, he considered it should be fostered and encouraged.

d. *Conclusions (Rapporteur : Mr N. Pieck, Netherlands)*

Mr Pieck pointed out the importance of data from both routine statistics and criminological research and stressed the need for administrators to make use of them. He recommended ways and means (seminars, courses, various contacts) of facilitating communication and mutual understanding between administrators and workers and emphasised the importance of research aimed at analysing the criminal justice system.

The reports of the 8th Conference of Directors of Criminological Research Institutes were published in Volume VIII of *Collected Studies in Criminological Research*.

IX. *9th Conference of Directors of Criminological Research Institutes, 1971 : perception of deviance and criminality*

a. *Introductory address by Mr O. Klineberg, General Rapporteur*

Mr Klineberg's remarks related to the nature of deviant behaviour and variations in the perception of deviance according to different population

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groups, periods and cultural backgrounds. He put forward some preliminary conclusions on the subject.

b. *Sociological aspects of deviance and criminality* (Rapporteur: Mr B. Kutchinsky, Denmark)

Mr Kutchinsky, on the basis of his own research as well as research by other sociologists, examined the perception of deviance by various social groups selected according to age, sex, education etc. He also examined the average citizen's knowledge of the law, his conception of what constitutes an offence and his attitude towards offences. After pointing to the dangers in the stigmatisation of offenders, he stressed that criminal policy should combat not only criminality but also stigmatisation; this was a difficult but not impossible task.

c. *Clinical and psychological perception of deviance* (Rapporteurs: Mr F. Ferracuti and Mr G. Newman, Italy)

This report examined the criteria and definitions of deviance used by the clinician and compared them with those employed by the lawyer. The role of the clinician as an agent of social control was also discussed in the light of the current tendency to decriminalise certain types of behaviour.

d. *Legal aspects of the perception of deviance and criminality* (Rapporteur: Mr J.C. Versele, Belgium)

The Rapporteur examined the concepts of deviance and criminality in the context of the metaphysical and ideological principles governing the present system of corrections. He then made a critical appraisal of the system at the legislature, judicial and penal levels, coming to the conclusion that it was necessary to redirect the community reaction to deviance by revising the foundation of the system of corrections, modifying definitions of offences, adopting the nature of penalties in the light of current knowledge of the causes of deviant behaviour and rationalising criminal policy.

e. *Conclusions* (General Rapporteur: Mr Klineberg, France)

After making some scientific observations concerning, inter alia, the relativity of the concept of offence, hidden criminality, the role of stereotypes, decriminalisation and stigmatisation, the General Rapporteur put forward some recommendations about research, stressing in particular:

- the need for co-operation between lawyers and behavioural scientists,
- the desirability of research into the opinions of the various sectors of society on criminalisation and decriminalisation,
- the usefulness of international and intercultural comparisons,
- the expediency of a critical evaluation of research into biological factors, in order to determine their importance in the perception of deviant behaviour.

The reports of the 9th Conference of Directors of Criminological Research Institutes were published in Volume IX of *Collected Studies in Criminological Research*.

X. *10th Conference of Directors of Criminological Research Institutes, 1972: violence in society*

Because of the importance of the problem of violence, the 10th Conference, which was held in enlarged form, was the subject of special preparations.

Four Rapporteurs were invited to carry out research on violence from different standpoints. The studies were effected in five member states (Austria, France, Italy, Sweden and England and Wales).

Mr R. Pleven, French Minister of Justice, was Honorary President of the conference and made the opening speech.

a. *Introductory address by Mr D.J. West, General Rapporteur*

Mr West explained the working methods used by the team of Rapporteurs and briefly outlined the various aspects of the problem of violence examined by the Rapporteurs.

b. *Statistical aspects of violent crime* (Rapporteur: Mr J. Selosse, France)

On the basis of a list of violent forms of behaviour drawn up by the team of Rapporteurs, Mr Selosse reviewed the statistical data of the above-mentioned five countries during the ten years preceding the conference. He identified trends in crimes of violence in the countries concerned, taking into account such variables as sex, age, geographical distribution, nationality, the role of the victim and the manner of commission. After interpreting the data, he concluded that violence was an increasing feature of crimes committed for gain. Offences entailing moral or physical coercion (blackmail, taking of hostages) were also on the increase.

The Rapporteur believed it would be useful to assemble data on violence at regular intervals within the Council of Europe and organise criminological and sociological research on the various aspects of violence and social reactions thereto.

c. *Criminal policy and public opinion towards crimes of violence* (Rapporteur: Mr C. Lenke, Sweden)

In the first part (sentencing practice) of his report, Mr Lenke reviewed the various penalties available in the five member states covered by the investigation and compared the penalties imposed in each country on persons who commit violent crimes. In the second part (public opinion) he examined the studies undertaken in various countries on public attitudes to crimes of violence. He analysed the factors influencing public opinion (particularly the press) as well as the impact of public opinion on criminal policy.

d. *Phenomenological and contextual analysis of criminal violence* (Rapporteur: Mr F. McClintock, United Kingdom)

After briefly expounding the phenomenological aspects of violence, the Rapporteur analysed a classification of violent acts drawn up by Hadden and

himself in 1970. He concluded by recommending that research be conducted into the various forms of violence, the systems of social control relating thereto, and social attitudes towards violence.

e. *Etiology of violence (Rapporteur : Mr Ch. Debuyst, Belgium)*

After giving some terminological definitions, the Rapporteur examined violence according to the biological model based on the concept of instinct (in both animals and human beings), with particular reference to the ideas of Dr Greeff and the psychoanalytical school. He went on to analyse models which emphasise the importance of environment (frustration ; learning to use aggression as a way of solving problems). Finally he briefly examined the relationship between drugs, alcohol and violence.

f. *Conclusions (General Rapporteur : Mr D.J. West, United Kingdom)*

Mr West recommended various measures (educational, social and administrative) to reduce tension and prevent violence in society. He also advocated research into various matters pertaining to violence, e.g. educational methods aimed at socialising instincts in boys and girls ; the role of victims of violent crime ; the physiological and genetic peculiarities of hyper-aggressive people ; and the role of the mass media in public awareness of violence.

A small meeting on the *methodological aspects of classification in criminology* was held as part of the 10th Conference. The following papers were submitted :

— Problems of classification in criminology (Rapporteur : Mr K.D. Opp, Federal Republic of Germany),

— Methodological aspects of classification in criminology (Rapporteur : Mr A.E. Bottoms, United Kingdom).

The conclusions of the meeting were presented by Mr T.S. Lodge (United Kingdom), Chairman of the meeting.

The reports of the 10th Conference were published in Volume X (*Methodological Aspects of Classification in Criminology*) and Volume XI (*Violence in Society*) of *Collected Studies in Criminological Research*.

XI. *11th Conference of Directors of Criminological Research Institutes, 1974 : the importance of narcotics in relation to criminality*

For this conference, also held in enlarged form, the preparations lasted two years.

a. *Introductory address by Mr M. Portigliatti-Barbos (Italy), General Rapporteur*

Mr Portigliatti-Barbos said that drug addicts were often regarded as either criminals or sick persons. These attitudes led to misunderstandings which hindered an objective scientific enquiry into the problem of narcotics. Furthermore, various factors had the effect of restricting data on the scope of the

phenomenon. A thorough examination of the problem of drug addiction could help to eliminate prejudice and lead to an effective social policy in the matter.

b. *Reactions to the drug phenomenon (Rapporteur : Mr M. Florio, France)*

The Rapporteur gave an historical account of social attitudes to drug-taking and explained that, although the phenomenon was an old one, it had not attracted any social restrictions or reactions until the 20th century. He then surveyed the main instruments drawn up by the international community to combat drug abuse and outlined domestic legislation on the problem, referring also to the questions of decriminalisation and depenalisation. On the basis of research he described the reactions of public opinion and the mass media to the narcotics phenomenon, as well as the activities of voluntary associations concerned with helping drug addicts. By way of conclusion, he recommended :

— the carrying out of research to verify whether the invasion of our civilisation by science and technology and the weakening of other achievements of society were not one of the causes of drug addiction,

— the separation of rules governing drugs from those governing poisonous substances,

— the separation of treatment of drug addicts from that of mental patients,

— the provision of permanent means of detecting and combating drug addiction.

c. *Drug misuse and crime (Rapporteur : Miss J. Mott, United Kingdom)*

Miss Mott, on the basis of her own as well as other research, examined the links between drug abuse and criminality. She found the links to be coexistential rather than causal. She further found that, save in the case of offences committed under the effect of amphetamines, few offences were committed by people under the influence of drugs. She went on to look at theoretical explanations for the relationship between drugs and criminality (with regard to individual characteristics or social factors) and recommended further research in this sphere, notably long-term studies of the natural history of misuse by representative samples of misusers with a view to investigating the relationship between drug-using and criminal histories, including the effects of medical and penal intervention.

d. *Reactions of doctors to the drug phenomenon ; therapy and rehabilitation of delinquent drug addicts (Rapporteur : Mr H. Remschmidt, Federal Republic of Germany)*

In the first part of his report, Mr Remschmidt showed that doctors had proved ill informed in the face of the spread of drug misuse in recent years. He described the relationships between the doctor, the addict and his family as well as those between the doctor and specialists in other disciplines. In the second part of his report he briefly reviewed the causes and effects of

drug misuse (with particular reference to the criminality of addicts), described variables influencing the therapeutic process and outlined the various therapies at present being tried out. Finally he examined the problems raised by drug abuse at judicial and penal level as well as the means of preventing drug addiction, including the contribution made by voluntary associations concerned with helping addicts.

e. *Conclusions (General Rapporteur : Mr M. Portigliatti-Barbos, Italy)*

The conclusions adopted by the conference recommended governments to foster studies on : official and unofficial data concerning drug abuse ; drug delinquency and drug sub-cultures ; long-term trends in drug-taking ; legislation concerning drugs on the development of drug-taking ; and the effects of drugs on the driving of motor vehicles.

It was proposed that the Council of Europe envisage activities aimed at unifying the methodology of such research as well as a study of the treatment of delinquent drug addicts and a review of the basic concepts of legislation on drugs. Finally, the conference recommended the institution of international co-operation, in particular for the elimination of drug peddling.

The reports of the 11th Conference of Directors of Criminological Institutions are to be found in Volume XIII of *Collected Studies in Criminological Research*.

XII. *12th Conference of Directors of Criminological Research Institutes, 1976 : criminological aspects of economic crime*

At this conference, now in preparation, the following reports will be submitted :

- Descriptive analysis of economic crime (Rapporteur : Mr K. Tiedemann, Federal Republic of Germany),
- The personalities of economic criminals and their victims (Rapporteur : Mr G. Kellens, Belgium),
- Policy and prevention in respect of economic crime (Rapporteur : Mr Leigh, United Kingdom),

Mr J. Cosson (France) will present the general report.

2. *Criminological colloquia*

The purpose of these colloquia is to enable various methodological questions concerning criminological research to be considered in a narrower framework than that of the Conferences of Directors of Criminological Research Institutes.

They are attended by criminologists (invited on a personal basis from a list drawn up by the Scientific Council and the ECCP Bureau) as well as members of these two bodies and observers from non-member states and international organisations. They have been held regularly since 1973 in alternation with the conferences.

I. *First Criminological Colloquium, 1973 : methods of evaluation and planning in the field of crime*

a. *Methods of evaluation and planning of police work (Rapporteur : Mr B. Alpsten, Sweden)*

The Rapporteur examined budgetary and planning systems capable of increasing the productivity and efficiency of police work. He mentioned various criteria for evaluating such efficiency and emphasised that evaluation could be improved with the help of electronic techniques. Particular reference was made to the Swedish police system whose organisation was described in an appendix to the report.

b. *Towards more effective treatment evaluation (Rapporteurs : Mr R.V.G. Clarke and Mr I. Sinclair, United Kingdom)*

After reviewing previous evaluative research, the Rapporteurs noted that it had more often than not led to the claim that all forms of treatment had the same effects. This finding, due particularly to the adoption of a medical approach to treatment ("curing" the offender), ought not to discourage evaluative research, which should endeavour to improve its analysis of penal processes. This required a flexible strategy, which eschewed monolithic projects in favour of small-scale ones and used "intermediate" criteria to gauge the success of treatment. In conclusion, the Rapporteurs hoped that departments for the co-ordination of research and the application of its results to criminal policy would be set up within administrations.

c. *Conclusions (General Rapporteur : Mr Vérin, France)*

Mr Vérin pointed to the value of increasing the efficiency of the police and of co-ordinating its activities and objectives with those of criminal justice generally. He also drew attention to the importance of evaluative studies of treatment and the desirability of closer co-operation between research workers and administrators. To this latter end, he supported the suggestion of Mr Clarke and Mr Sinclair regarding the setting up within administrations of a unit to co-ordinate research and the application of its results.

The reports of the first Criminological Colloquium were published in Volume XII of *Collected Studies in Criminological Research*.

In the light of the colloquium's proceedings, the ECCP decided in 1974 to commission an expert report on the structure, working and achievements of agencies responsible in member states for the co-ordination of research and the application of its results in the sphere of criminal policy. It was agreed also that the report should assess the various national systems and make recommendations on the creation and development of such agencies.

Mr F. Ferracuti (Italy) has accepted an invitation from the Council of Europe to write this report, which is now in preparation.

II. *Second Criminological Colloquium, 1975: means of improving information on crime*

a. *Shortcomings, weaknesses and uses of crime statistics (Rapporteur: Mr G. Houchon, Belgium)*

Mr Houchon examined the limitations and weaknesses of crime statistics in the light of the theories of modern criminological schools of thought. To remedy these weaknesses, he suggested co-ordinating criminal statistics with other social and cultural data as well as fostering co-operation between statisticians and criminological research workers with a view to improving the selection of data to be collected and methods of compilation. He concluded that duly improved criminal statistics could be very useful for research and teaching, the drawing up of criminal policies and the supply of information to the public through the press.

b. *Improvements to crime statistics (Rapporteur: Mr C. Glennie, United Kingdom)*

The Rapporteur, noting that crime statistics were chiefly used for legislative and administrative decision-making, concluded that any improvement in them should normally be intended to assist the legislature and administration in their work. He made various suggestions relating to the time-scale, reliability, comparability, classification, analysis, content and presentation of crime statistics.

c. *Victimisation research and means other than crime statistics to provide data on criminality (Rapporteur: Mr P. Wolf, Denmark)*

The Rapporteur pointed to the existence of the "dark figure" (offences not reported and not prosecuted) and the "excess figure" (acts wrongly reported as offences) and described methods designed to supply a more accurate picture of actual criminality than that offered by crime statistics. In particular, he referred to enquiries based on the statements of persons interrogated as well as enquiries into victimisation emphasising that the latter were at present the chief means of supplementing crime statistics.

d. *Conclusions (General Rapporteur: Mr T.S. Lodge, United Kingdom)*

Mr Lodge pointed out that crime statistics, however imperfect, were essential for obtaining a fuller picture of the number and the nature of offences. He suggested various improvements to them and endorsed the means described by Mr Wolf for supplementing them. Lastly, he stressed the need for close co-operation between statisticians, administrators and research workers in this field.

The colloquium approved these conclusions and expressed the wish that the Council of Europe convene a working party to look into the possibility of establishing common criteria for the interpretation of crime statistics in member states.

3. **Small committees of research workers**

I. *Harmonisation of criminal statistics*

A small committee of research workers on this subject, convened by the ECCP, met from 14 to 17 December 1964 under the chairmanship of Mr O. Sarc (Turkey).

It broadly reviewed efforts in various member states to harmonise and improve criminal statistics (particularly in the Scandinavian countries, Great Britain and the Federal Republic of Germany). It also examined attempts by the UN and Interpol to harmonise criminal statistics at international level as well as an investigation by the International Society of Criminology.

The committee came to the following conclusions:

— The Council of Europe should not deal with the harmonisation of criminal statistics at police level as Interpol had been active in that field for the past fifteen years;

— The Council of Europe could concern itself with the harmonisation of criminal statistics at judicial level. To this end, it might make a pilot study by addressing to member states a questionnaire regarding persons (both minors and adults) who had been the subject of a final judicial decision in respect of certain categories of offences.

Mr Rangol (Federal Republic of Germany) drafted a questionnaire to this effect.

The committee's conclusions were submitted to the ECCP which, although appreciative of its work, did not adopt its suggestions on the ground that it would involve insurmountable difficulties (differences of terminology etc.).

The ECCP decided to commission an expert report on the methods of collecting and compiling national criminal statistics. The report was prepared by Mr D. Kalogéropoulos (France) and submitted in 1973, but was considered too voluminous to print.

II. *Classification of criminological research projects*

The committee concerned with this subject met from 18 to 20 March 1965 under the chairmanship of Mr W. Nagel (Netherlands).

Its task was to study the classification of criminological research projects with a view to the publication of a bulletin for the international exchange of information on such projects.

After a broad exchange of views on various methods of classification, it approved a classification table drawn up by Mr F. Ferracuti (Italy). The table was used for the indexing of the above-mentioned bulletin.

Meetings of small committees of research workers have also been held on the following subjects :

- III. *Research into probation and after-care,*
- IV. *Short-term treatment of young offenders,*
- V. *Group counselling.*

For summaries of the committees' reports, see above.

4. Enquiry into the effectiveness of punishment and other measures of treatment

In view of the importance of assessing means employed by member states to prevent crime and treat offenders, the ECCP, on the advice of the Scientific Council, appointed three experts to make a critical inventory of knowledge concerning the effects and effectiveness of punishment and other measures of treatment. It specified that the inventory should be confined to criminal penalties and measures of treatment involving deprivation or restriction of liberty and applicable to male offenders, whether minors or adults.

The study was carried out from the following standpoints.

- a. *Statistical and prognostic studies (facts and figures) (Rapporteur : Mr Leslie T. Wilkins, United Kingdom)*

Mr Wilkins dealt particularly with the methodology of evaluative, predictive and typological studies.

- b. *Experimental psychology and clinical psychology (Rapporteur : Mr Ch. Debuyst, Belgium)*

Mr Debuyst examined the effectiveness of treatment from the standpoint of psychological research aimed at quantitative assessment and from that of criminological clinical practice.

- c. *Sociological and cultural studies of the environment of the place of detention and training (Rapporteur : Mr D. Blomberg, Sweden)*

On the basis of the latest sociological studies, Mr Blomberg looked at the inmate society, the staff system, the interaction between staff and inmates and the purposes of places of detention and treatment.

He reached a number of conclusions on the importance of the various factors in the institutional environment with regard to rehabilitation.

- d. *Effectiveness of punishment and other measures of treatment relating to traffic offences (Rapporteur : Mr Middendorff, Federal Republic of Germany)*

The Rapporteur first reviewed the findings of research into the effectiveness of penalties generally. He then looked at criminological research into the causes of road accidents and the personalities of road traffic offenders. After studying, in the light of research, the direct or indirect effects of the various

sanctions imposed on such offenders, he made various suggestions regarding criminal policy on the subject.

These four reports appeared in an ECCP publication issued in 1967.

5. Methods used in criminality forecasting studies

In the light of the conclusions of the 4th Conference of Directors of Criminological Research Institutes (1966), which recommended that the Council of Europe should encourage crime forecasting studies, the ECCP appointed a consultant, Mr Rengby (Sweden), to prepare a report on crime forecasting in the governmental context. The report was published by the Council of Europe in roneoed form in 1970.

The ECCP also obtained authorisation from the Committee of Ministers to set up a sub-committee to enquire into the most appropriate ways of using forecasting studies in the criminal field.

The sub-committee, chaired by Mr Rengby, drew up a report and draft resolution. The latter, which was approved by the Committee of Ministers in September 1973 (Resolution (73) 25), recommends that member governments take the forecasting methods described in the report into account "in the context of the overall planning strategy of each state with a view to using the methods which best correspond to the special needs of the various sectors of crime policy".

After a short introduction, the sub-committee's report reviews national experience in the sphere of forecasting studies with particular reference to France, the Scandinavian countries and the United Kingdom. It then analyses the various means of classifying forecasting methods and draws a number of conclusions, emphasising that the choice of the method to be used in a specific country depends on the aims pursued and the data and resources available. The report does, however, commend one particular method for its cheapness and simplicity (Method II, described in Part II of the report). It concluded that forecasting studies should be used according to a country's overall planning strategy.

6. Criminality among migrant workers

In the light of the conclusions of the 5th Conference of Directors of Criminological Research Institutes, the ECCP created a sub-committee chaired by Mr G. di Gennaro (Italy), to study the legal and administrative aspects of criminality among migrant workers. At the same time, a working party, also chaired by Mr di Gennaro, enquired into the methodology of research on criminality among migrant workers.

The main findings of the sub-committee, subsequently embodied in Resolution (75) 3, were as follows :

- a. No migrant worker prosecuted or under sentence should be placed in

a position inferior to that of any other person prosecuted or under sentence. Accordingly :

- an accused migrant worker should not be remanded in custody solely because of a presumption that he will fail to appear at his trial ;
- the free assistance of an interpreter should be provided if the accused migrant worker does not understand the language in which proceedings are conducted ;
- in the application of sanctions, the same opportunities should be offered to migrant workers as to nationals as far as conditional measures are concerned ;
- the same criteria should be applied to nationals and migrant workers as regards placement in the various types of prisons ;
- to avoid any feelings of isolation migrant workers sentenced to imprisonment should be placed in establishments where the staff speak their own language and where there are already some of their compatriots ;
- in prisons where correspondence is censored, undue delay in the transmission of migrant workers' correspondence should be avoided by the introduction of rapid procedures for censoring letters in foreign languages ;
- due attention should be paid to the religious customs or philosophical beliefs of imprisoned migrant workers, particularly where they call for special diets ;
- any migrant worker who is arrested should be entitled to the assistance of his consular authorities.

b. A flexible policy, avoiding stigmatisation as criminals, should be pursued in the case of migrant workers charged with minor infringements of residence and work permit regulations.

c. Research into criminality among migrant workers should be promoted along the lines suggested in the report of the sub-committee.

d. Member governments should, when revising their countries' criminal statistics, take into consideration the criteria laid down in the sub-committee's report with regard to data on criminality among migrant workers.

The sub-committee's report comprised :

- an explanatory memorandum on Resolution (75) 3,
- a report by Mr K. Sveri (Sweden) on the methodology of research on criminality among migrant workers, as approved by the working party and subsequently the sub-committee,
- a report by Mrs E. Gibson (United Kingdom) on the uniform collection of statistical data relating to criminality among migrant workers, taking into account a previous report by Mr Marbach (Italy), also approved by the sub-committee.

The sub-committee's report was published in 1975.

7. Cost of crime and resources available for criminological research

The 1st Conference of Directors of Criminological Research Institutes recommended that the Council of Europe make a study of the direct cost of the correctional system and the allocation of public funds to criminological research in Council of Europe member states.

After the suggestion had been approved by the ECCP, the Secretariat drew up a questionnaire designed to elicit data on these questions by 1963.

Fifteen member states replied to the questionnaire. The Secretariat made a summary of the replies, and the results of the study were examined by the Scientific Council and the ECCP, which considered that the information sent in by member states was incomplete and difficult to compare.

Mr Martin, of Cambridge University (United Kingdom), was asked to write an evaluation report on the data thus collected. The Secretariat summary and Mr Martin's report were published in roneoed form in 1967. On the ECCP's instructions, the distribution of this document was restricted to member governments.

8. The index of crime

As part of its study of methods of measuring the volume and extent of criminality the ECCP decided to assess the "index of crime" devised in the USA by Professors Sellin and Wolfgang and consider the possibility of applying this method in Europe. The method is designed to gauge the extent of criminality in a given country according to the gravity of offences committed, as rated by samples of the various social groups.

For the purposes of the study, the ECCP set up a working party composed of Professor F.O. Christiansen (Denmark), Mr G.N.G. Rose (United Kingdom) and Professor M. Wolfgang (USA). Mr Y. Shekman (France) was an observer.

After examining reports by its members and discussing various methodological questions the working party reached the conclusion that the Council of Europe should encourage some of its member states to carry out pilot studies by the Sellin-Wolfgang method, modified or improved where necessary. Such studies might result in a methodology adapted to European circumstances.

Volume VII of *Collected Studies in Criminological Research* (1970) contains the reports submitted to the working party, viz. :

- An analysis of the results of pilot studies effected in Copenhagen by Professor K.O. Christiansen in co-operation with Mr B. Kutchinski and Mr B. Kaspachof,
- A critical appraisal of the Sellin-Wolfgang method with suggestions for improvements by Mr G.N.C. Rose,

— An account by Mr Marvin Wolfgang of why and how he and Professor Sellin devised the "index of crime".

The findings of the working party were reviewed by the ECCP, which authorised an enquiry among member states into studies being conducted on the crime index and decided to create a sub-committee to co-ordinate such studies.

The sub-committee was composed of representatives of an Italian research unit headed by Professors T. Delogu and F. Ferracuti and a Federal German research unit headed by Professor K. Pawlik.

The meetings of the sub-committee were also attended by Mr N. Elmhammer (Sweden), by reason of the Swedish authorities' interest in the crime index, as well as by Mr M. Schindhelm (Federal Republic of Germany), who had conducted a study on the subject at the University of Freiburg-im-Breisgau, and Mr M. Wolfgang (USA).

Various methodological matters were examined by the sub-committee.

The Italian research unit is at present continuing its study by analysing the answers to a questionnaire sent to representatives of various social groups.

The German team has expressed serious reservations as to the methodology and usefulness of the index and has suspended its work.

9. Methods of classifying offenders and treatments

The 5th Conference of Directors of Criminological Research Institutes discussed, in the light of research, the problem of matching types of treatment and types of offenders. It recommended that further studies be carried out on the subject.

The Committee of Ministers subsequently approved a proposal by the ECCP to set up a sub-committee to look into methods of classifying offenders and forms of treatment. The sub-committee's terms of reference were as follows :

First stage (1971-73) :

to review European and American typological studies and the practical application of their conclusions and to consider the possibility of co-ordinated pilot studies being conducted on typologies of offenders and treatments ;

Second stage (1975-76) :

to evaluate the results of any studies carried out and to advise on their implications for the legal infrastructure.

The sub-committee addressed a questionnaire to the member governments to obtain information on their methods of penal classification and on typological research by their criminological departments or institutes. The results of the enquiry were summarised by the Secretariat.

After examining this material, the sub-committee took the view that the typological research carried out in the United Kingdom by the Home Office Research Unit in co-operation with the Probation Service (IMPACT - Intensive Matched Probation and After-Care Treatment) was of interest and could serve as a model for typological investigations by other member states. It held a meeting in London and made an on-the-spot study of the methodology of the research.

The sub-committee submitted an interim report to the ECCP in May 1973. It suggested that its work be suspended until current research, particularly the IMPACT project, had progressed further and produced results. The ECCP decided to review in 1975 the desirability of reconvening the sub-committee to evaluate the results of the research.

In early 1975 the Secretariat, through enquiries among the members of the sub-committee, ascertained that no final results were yet available for evaluation for criminal policy purposes. At its plenary session in May 1975, the ECCP agreed to a Secretariat suggestion to review the matter in 1976. However, this review also proved negative, and the ECCP decided to abandon the activity.

10. Teaching of criminology

a. *At university level*

In a proposal made by the Scientific Council and approved by the ECCP, the Secretariat addressed a questionnaire to a large number of universities in member states to ascertain :

- whether criminology was taught there and, if so, in which faculty,
- what provision (programme and funds) was made for criminological studies and research.

The replies to the questionnaire were analysed by Mr K. Sveri (Sweden).

b. *As part of the training of officials*

Considering that public officials concerned with the prevention and control of crime required criminological training, the ECCP agreed to a suggestion by the Scientific Council that the Council of Europe should make a study of the matter.

In January 1972, a questionnaire on criminological training for judges, prison staff and police officials was sent to member governments, of which fifteen replied.

A Secretariat summary of the results of the enquiry was published in 1974 after being approved by the Scientific Council and the ECCP.

11. Criminological fellowships

Regulations governing the award of Council of Europe fellowships to criminological research workers were adopted by the Committee of Ministers in 1966.

These travelling grants are intended to enable their holders either to improve their knowledge of the objectives and methods of criminological research in other Council of Europe member states (individual fellowships) or to participate in criminological studies and research of common European interest (co-ordinated fellowships).

Before the individual fellowships programme was instituted in 1967, the Council of Europe member states were asked to appoint an authority for the shortlisting of candidates at national level and for liaison with the Council's Division of Crime Problems as well as establishments visited by fellowship-holders. All member states, with the exception of the Irish Republic and Iceland, have created national liaison offices through which candidates, who as a general rule are nationals of a Council of Europe member state, submit their applications. Applications, arranged in order of priority by national liaison offices, are submitted to the Individual Fellowships Selection Committee with an opinion by the authorities of the country to which the candidates wish to go. Each year, after a thorough examination of candidates' qualifications, study plans, proposed study methods and linguistic knowledge, the Selection Committee awards five to eight individual fellowships for a total duration of approximately twenty months to young criminological research workers who thus have an opportunity to visit another Council of Europe member state and study a topic of particular interest to them. The Division of Crime Problems helps candidates to make their choice by providing them, through the national liaison offices, with information on the specialisations and reception facilities of a number of research centres in member states where they will be able to meet and have fruitful discussions with teachers, students and other research workers.

The co-ordinated criminological research fellowships enable a team of four research workers, one of whom acts as director of studies, to carry out a criminological study of common European interest. Whereas a holder of an individual fellowship chooses his own subject, the theme to be studied by a co-ordinated fellowship team is decided upon by the ECCP. If appropriate, the team will be authorised to visit one or more Council of Europe member states for the purposes of its study. Studies so far have been completed by four teams:

i. In 1968 a team comprised of Mr T. Mathiesen (Norway), director of studies, Mr M. Collin (France), Mr U. Eisenberg (Federal Republic of Germany) and Mr R. Taylor (United Kingdom) studied "Aspects of the prison community". The team paid visits to penitentiary establishments in Austria, Denmark, Italy and the Netherlands, where it met prison administration and youth service officials.

The team found that, as a general rule, technological progress and social change had had repercussions in the penal sphere in Western Europe and that demands for prison reform were becoming increasingly insistent. From its investigations it drew a number of conclusions regarding prison reform

possibilities and the development of democratic decision-making procedures in prisons, involving participation by the prisoners themselves.

ii. In 1969, a team consisting of Mr M.J. Selosse (France), director of studies, Mrs Y. Bacy (Belgium), Mr A.J. Snelders (Netherlands) and Mr A. Duner (Sweden) studied "The role of the school in the prevention of juvenile delinquency". After paying visits to specialists working on related subjects in France, Sweden and the United Kingdom, the team produced a report in which it defined the role of schools, analysed various processes of socialisation, suggested scope for preventive action and put forward proposals for associating schools more fully with the prevention of delinquency. In the light of current knowledge and the most common features of juvenile delinquency, connected with family background, the school environment itself or leisure activities, the report examined the functions and general organisation of schools and the problems facing teachers. It then discussed various theories, which, although of limited value individually, collectively provide a basis for research into the role of schools in the prevention of juvenile delinquency. It also described some methods of investigating problems of juvenile delinquency, viz. contrasting of groups, contrasting of delinquents and total groups, cross-section studies of total groups and follow-up studies of total groups. The report went on to enumerate the three basic functions of a school, viz. the acquisition of knowledge and skills, the inculcation of adaptive behaviour and the development of character as a means of socialisation.

The school cannot, then, stand aside from the phenomenon of juvenile delinquency, and although it obviously cannot be expected to take charge of confirmed delinquents, it does have a duty to detect young people in jeopardy, apply methods to counteract criminogenic factors and take appropriate steps to foster young people's adaptation and development.

iii. In 1970, a team composed of Mr J.A. Mack (United Kingdom) director of studies, Mr J. Susini (France) and Mr H.J. Kerner (Federal Republic of Germany) made a study of professional and organised crime in Europe with particular reference to "business-type" and "white collar" crime. It tried to define such crime and determine the scope of the problem in member states, especially as regards its cost and the damage it causes to society. After reviewing previous and current research on the subject, it identified some trends and drew various conclusions from its study.

As the team was anxious that its report should be issued while still of topical interest, the report was published not by the Council of Europe, but by a private publisher, viz. : D.C. Heath Ltd, Saxon House, Westmead, Farnborough, England.

iv. In 1974, a team consisting of Mr F. Davenas (France), director of studies, Mr E. Blankenburg (Federal Republic of Germany), Mr C.J. Cosmo (Sweden) and Mr M. Wilcox (United Kingdom), was given the task of

studying "Prosecuting practice governed by the expediency principle". The study is still in progress.

The team has conducted two surveys among prosecuting officials, judges and police officers. The object of the first one was to obtain answers to the following questions.

- Is the expediency principle in criminal matters provided for the legislation or regulations and, if so, which ?
- Is the expediency principle in criminal matters a habitual practice that has become established in each member state covered by the enquiry ?
- What judicial or administrative authority is responsible in each member state for applying the principle ?
- According to what legal, moral and sociological criteria is the principle applied ?
- What difficulties are encountered in each member state with regard to the application of the principles ?

The aim of the second enquiry was to ascertain the criteria governing decisions. To this end a questionnaire on prosecuting practice regarding certain offences was drawn up. It referred to several fictitious cases of shop-lifting, car stealing, swindling (causing minor damage to the victim), tax evasion, bodily harm and road traffic offences resulting in injury.

On the basis of the data collected the team is to write a report expounding the subject of its study and its approach thereto. The report will include an analysis of the replies to the team's questionnaires, an exposition of the sociological aspects of the problem, an examination of the question from the standpoint of a criminal policy within a correctional system, a general survey of the current situation in member states and some conclusions from the team's investigations.

v. In July 1976, a co-ordinated fellowship team composed of Mr M. Fontanesi (Italy), director of studies, Mrs H. Einsele (Federal Republic of Germany), Mrs T. Stang Dahl (Norway) and Mrs N. Goodman (United Kingdom) embarked upon a study of "Female criminality".

12. Criminological research bulletin

In view of the many complex and difficult problems society has to contend with in the field of criminality, it is not surprising that in recent years there has been a considerable expansion of criminological research. This is itself raising problems, not least that of providing channels of communication through which research workers may be speedily and accurately informed of developments likely to have a bearing on their spheres of interest. It is difficult enough to do this at national level, and it is even more so at international level.

In the face of this problem, the 1st European Conference of Directors of Institutes of Criminological Research, convened by the Council of Europe in 1963, recommended publishing a bulletin on current criminological research, and in 1966 the first volume of such a bulletin appeared. By producing this publication, the Council of Europe is making a useful contribution to the improvement of communications in the criminological field. Another purpose of the bulletin is to make it easier for parallel studies to be carried out, so that the limited resources available in terms of staff, time and money may be used with maximum efficiency and economy.

Information on current research is of interest to legislators and practitioners as well as research workers. Accordingly, a system of classification which also serves as an index was devised for the benefit of all concerned.

Since 1966, the bulletin has been published twice yearly.

The sixteen volumes that have appeared so far contain accounts of a large number of research projects by research workers in all Council of Europe member states as well as other countries with which the ECCP co-operates in the criminological field.

CHAPTER V

CO-OPERATION WITH OTHER
INTERNATIONAL BODIES

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1. United Nations and UNSDRI

The activities of the ECCP, as defined in the preceding chapters, have led to many contacts between, and many points of common interest to, the Council of Europe and the United Nations. As already explained in the Introduction, the origin of the Council's work in this field was in proposals of the European Consultative Group of the United Nations and discussions with the Social Defence Section of the UN Secretariat.

Soon after the initial arrangements were made in 1956 and 1957, the UN decided to transform its European Consultative Group into a Consultative Group with world-wide competence, to reorganise its Social Defence Division and transfer a section of it to Geneva. This inevitably modified the original arrangements for co-operation, as it was clear that the UN would now become more active on the European scene. Extensive discussions took place in 1959 about possible forms of co-operation during which suggestions were made that the ECCP should take over some part of the UN programme of social defence in Europe, and that the two Secretariats should be established in the same place—or possibly even merged. These far-reaching proposals, however, were not realised.

In 1962 an exchange of letters defined methods of co-operation, including the fullest exchange of information and the attendance of representatives of the UN Secretariat at meetings of the ECCP and vice versa. The ECCP took the view that projects which were principally the concern of the member states of the Council of Europe should be handled by the latter and not tackled by UN; the latter more or less acquiesced but did not appear to share this view with any degree of conviction.

A further development took place in 1967-68, when the Social Defence Section in Geneva was transferred back to New York and the Institute for Social Defence Research (UNSDRI) established in Rome. An agreement between the Council and the Institute was concluded by exchange of letters in 1968, and accordingly the Council of Europe continues to be represented at meetings of the UN Advisory Committee of Experts, and representatives of the Council's Secretariat attended the UN Conferences on the Prevention of Crime and the Treatment of Offenders in Tokyo (1970) and in Geneva (1975). The United Nations is, as a general rule, represented at the plenary sessions of the ECCP and at the annual Conferences of Directors of Criminological Research Institutes.

About ten years ago the former Secretary General of the United Nations, Mr U Thant, addressed the Consultative Assembly of the Council of Europe and stated *inter alia* that, "Co-ordination is more than just dividing labour and avoiding duplication. It has become a dynamic process."

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This statement illustrates the development of the working relations between the United Nations and the Council of Europe.

It goes without saying that the Council of Europe's objectives in the field of crime problems have been pursued in a regional setting, the one confined by the member states of the Council of Europe. It does not mean however that the activities of the ECCP have been unrelated to, or have failed to influence, work done at world level or in other regional organisations.

The role of a regional organisation is, in addition to the manifold services which it renders directly to the states in the region it covers, that of being complementary to the UN. Indeed the heterogeneous nature of a world organisation will in many cases render achievements more difficult than in the homogeneous setting of a regional organisation. The state of economic, social and cultural development of more than a hundred countries may be so different as to make a common approach to many problems impossible of tangible results. More restricted groups of states, such as the Council of Europe, may, therefore, succeed where the larger groups have failed. Moreover, work at regional level among states which share the same basic structures and ideals may be carried out in a climate more favourable to positive results.

The regions will in these cases take the lead from the UN and transform into reality what would otherwise have remained on paper.

The regional organisations may also act as a sort of laboratory for new ideas and plans, in particular for those that aim to push progress past the common denominator determined at world level. This is not tantamount to sinking into a kind of prosperous or self-satisfied provincialism, but the result of an earnest pioneering desire to test such new projects critically and realistically as a means of proving or disproving their value and durability. What has stood up to the test in our region may be a source of inspiration and of use to other regions or to the world organisation. If, indeed, ideas can be made to work in one part of the world it may be easier to apply them progressively to the affairs of the world as a whole.

Thus the regions will show the way to UN and hope that regional results may be transformed into world-wide reality.

In order to allow these roles to be played efficiently, it is necessary to arrange and stimulate co-ordination. It is vital that the work of regional organisations and UN should be concerted, not competitive.

Happily, the activities of UN and UNSDRI and the Council of Europe have been increasingly co-ordinated during recent years by a strengthening of personal contacts and by an improved exchange of information.

This will hopefully accelerate the process of co-operation to the mutual benefit of both organisations, to their member states and to the ideals which they serve.

2. The four big associations in the field of crime problems

From the outset, the ECCP has established and maintained close and fruitful working relations with the International Association on Penal Law (IAPL), the International Penal and Penitentiary Federation (IPPF), the International Society of Criminology (ISC) and the International Society of Social Defence (ISSD).

These associations, whose aims and influence with competent national authorities need not be proved, participate in the activities of the ECCP by the sending of observers to the most important meetings, by the submission of working papers and by proposals, suggestions and advice. The associations thus contribute significantly to the ECCP's accomplishments.

The ECCP is usually represented by the Head of the Division of Crime Problems or other members of its Secretariat in conferences and congresses which are organised separately or jointly by these associations. The Council of Europe has always found a source of inspiration and encouragement in its working relations with the four associations and is grateful for the support which they have never failed to give to its activities.

CHAPTER VI

CONCLUSIONS

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CONFERENCE ON CRIMINAL POLICY

The approaching twentieth anniversary of the ECCP led to the feeling that the time had come to review work already done, to make a balance sheet of criminal policy and to pinpoint new perspectives. It was asked whether there was not a need for a more diversified approach to criminal policy so as to individualise such policy according to the varying degrees of gravity of offences and the different types of offender and to adopt an overall social orientation. The 11th Conference of European Ministers of Justice (Vienna, 1974) agreed that it was an appropriate moment to analyse the current situation and to exchange views on current policies.

With these aims in mind a Conference on Criminal Policy was held in March 1975 ; it was attended by crime policy officials from all the member states of the Council of Europe and by observers from Finland and Israel and from several governmental and non-governmental organisations.

Reports were presented to the conference on the following topics :

- a.* the role of penal law in the social context,
- b.* the criminal justice system,
- c.* development of sanctions.

These reports, together with the general report of the conference, have subsequently been published by the Council of Europe.

The conference discussions centred around the following themes :

a. A need for protection had become apparent in a number of areas that required special attention, such as violent crime, economic crime, environmental offences and juvenile delinquency ;

b. The criminal law had to be modernised in order to ensure its effectiveness and to preserve good relations between the public and authority. It was, in particular, necessary to abandon outdated provisions of the criminal law and to relieve the criminal courts of some of their work-load in less serious areas where there was particular congestion, such as minor road traffic offences and infringements of regulations. Some relief could be provided for the courts by means of decriminalisation ;

c. The role of the police in crime prevention could be expanded by making the police part of a general preventive system. Such a system would have to be co-ordinated through either central or local, if necessary new, agencies representing all circles concerned and adapted to the various forms of crime ;

d. Imprisonment should be used only where it could not be avoided, primarily as a security measure in the case of dangerous criminals. The most

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careful consideration should be given to possible alternatives to imprisonment, such as semi-detention and probation ;

e. Every effort should be made to shorten pre-trial delays and, in particular, to reduce the frequency and length of detention pending trial ;

f. Yet better links should be forged between policy-makers and researchers, whose findings should enable available resources to be deployed more effectively and to be allocated to the areas where they can do the most good ;

g. The public should be better informed in future so as to enlist their support and assistance through the whole spectrum of the administration of criminal justice.

Although the conference was not called upon to adopt formal conclusions, its views were summarised in the form of a list of suggestions for future activities within the framework of the Council of Europe. The conference thus not only made a considerable contribution to the development of criminal policy in member states but also furnished valuable guidelines as to the direction of the future work of the ECCP:

One can in fact be sure that, in the future as in the past, the European Committee on Crime Problems will continue and expand its invaluable role in the field of the prevention of crime and the treatment of offenders ; by adapting criminal policy in all its aspects to the needs of today's and tomorrow's society, it will play a major part in achieving the fundamental objectives of the Council of Europe, namely, to safeguard and realise the ideals and principles which are the common heritage of its member states and to facilitate their economic and social progress.

APPENDIX I

List of conventions in the European Treaty Series relating to crime problems

No. Title and year

- 24. The European Convention on Extradition (1957)
- 86. Additional Protocol to the European Convention on Extradition (1975)
- 30. The European Convention on Mutual Assistance in Criminal Matters (1959)
- 51. The European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders (1964)
- 52. The European Convention on the Punishment of Road Traffic Offences (1964)
- 70. The European Convention on the International Validity of Criminal Judgments (1970)
- 71. The European Convention on the Repatriation of Minors (1970)
- 73. The European Convention on the Transfer of Proceedings in Criminal Matters (1972)
- 82. The European Convention on the Non-Applicability of Statutory Limitation to Crimes against Humanity and War Crimes (1974)
- 88. The European Convention on the International Effects of the Deprivation of the Right to Drive a Motor Vehicle (1976)

APPENDIX II

Resolutions adopted by the Committee of Ministers

- Resolution (62) 2 on electoral, civil and social rights of prisoners
- Resolution (65) 1 on suspended sentence, probation and other alternatives to imprisonment
- Resolution (65) 11 on remand in custody
- Resolution (66) 18 on collaboration in criminological research
- Resolution (66) 25 on the short-term treatment of young offenders of less than 21 years
- Resolution (66) 26 on the status, recruitment and training of prison staff
- Resolution (67) 5 on research on prisoners considered from the individual angle and on the prison community
- Resolution (67) 13 on the press and the protection of youth
- Resolution (68) 24 on the status, selection and training of governing grades of staff of penal establishments
- Resolution (68) 25 on the setting up of a simplified procedure relating to minor road traffic offences
- Resolution (69) 6 on the cinema and the protection of youth
- Resolution (70) 1 on practical organisation of measures for the supervision and after-care of conditionally sentenced or conditionally released offenders
- Resolution (70) 13 on hidden criminality
- Resolution (71) 28 on the deprivation of the right to drive a motor vehicle
- Resolution (73) 5 on the Standard Minimum Rules for the Treatment of Prisoners
- Resolution (73) 6 on penal aspects of drug abuse
- Resolution (73) 7 on punishment of road traffic offences committed whilst driving a vehicle under the influence of alcohol
- Resolution (73) 17 on short-term treatment of adult offenders
- Resolution (73) 24 on group and community work with the offenders
- Resolution (73) 25 on methods of forecasting trends in criminality
- Resolution (74) 3 on international terrorism
- Resolution (75) 3 on the legal and administrative aspects of criminality among migrant workers

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- Resolution (75) 11 on the criteria governing proceedings held in the absence of the accused
- Resolution (75) 12 on the practical application of the European Convention on Extradition
- Resolution (75) 24 on the punishment of manslaughter and accidental injury on the road
- Resolution (75) 25 on prison labour
- Resolution (76) 2 on the treatment of long-term prisoners
- Resolution (76) 10 on certain alternative penal measures to imprisonment

APPENDIX III

*Publications*1. *Explanatory reports on conventions*

1. Explanatory report on the European Convention on Extradition (1957)
2. Explanatory report on the European Convention on Mutual Assistance in Criminal Matters
3. Explanatory report on the European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders
4. Explanatory report on the European Convention on the Punishment of Road Traffic Offences
5. Explanatory report on the European Convention on the International Validity of Criminal Judgments
6. Explanatory report on the European Convention on the Repatriation of Minors
7. Explanatory report on the European Convention on the Transfer of Proceedings in Criminal Matters

2. *Conferences of Directors of Criminological Research Institutes*A. *Reports, discussions, conclusions (rephotographed)*

- First Conference (1963) — Administration and organisation of criminological research (out of print)
- Second Conference (1964) — Research strategy (out of print)
- Third Conference (1965) — Prison community (out of print)
- Fourth Conference (1966) — Criminological aspects of road traffic offences (Vol. I) ; Forecasting criminality (Vol. II) (DPC/CDIR (67) 1 def. and 4) (out of print)
- Fifth Conference (1967) — Criminality of migrant workers (Vol. I) ; Relationship between types of offenders and types of treatment (Vol. II) (DPC/CDIR (68) 3 def. and 5 rev.)
- Sixth Conference (1968) — Dark figure and model for the organisation of corrections in a modern state (DPC/CDIR (69) 8 def.)
- Seventh Conference (1969) — Identification of key problems in criminological research (DPC/CDIR (70) 3 def.)
- Eighth Conference (1970) — Embodying the results of criminological research in criminal policy (DPC/CDIR (71) 6 def.)
- Ninth Conference (1971) — Perception of deviance and criminality (DPC/CDIR (72) 3 def.)

- Tenth Conference (1972) — Violence in society (DPC/CDIR (73) 5 rev.); Methodological aspects of classification in criminology (DPC/CDIR (73) 3 rev.)
- First Criminological Colloquium (1973) — Methods of evaluation and planning in the field of crime (DPC/Coll (74) 1 rev.)
- Eleventh Conference (1974) — The importance of narcotics in relation to criminality (DPC/CDIR (75) 4 rev.)
- Second Criminological Colloquium (1975) — Means of improving information on crime (DPC/Coll (76) 2 def.)

B. Printed reports

1. Administration and organisation of research—Research strategy—Prison community, Collected Studies in Criminological Research, Volume I, 1967 (out of print)
2. Criminological aspects of road traffic offences, Collected Studies in Criminological Research, Volume II, 1968
3. European migrants and crime—Typology of offenders and typology of treatments, Collected Studies in Criminological Research, Volume III, 1968
4. Forecasting research, Collected Studies in Criminological Research, Volume IV, 1969
5. The dark figure—The organisation of corrections, Collected Studies in Criminological Research, Volume V, 1970
6. Current trends in criminological research, Collected Studies in Criminological Research, Volume VI, 1970
7. The index of crime—some further studies, Collected Studies in Criminological Research, Volume VII, 1970 (out of print)
8. Embodying the results of criminological research in criminal policy, Collected Studies in Criminological Research, Volume VIII, 1971 (out of print)
9. Perception of deviance and criminality, Collected Studies in Criminological Research, Volume IX, 1972 (out of print)
10. Methodological aspects of classification in criminology, Collected Studies in Criminological Research, Volume X, 1973 (out of print)
11. Violence in society, Collected Studies in Criminological Research, Volume XI, 1974
12. Methods of evaluation and planning in the field of crime, Collected Studies in Criminological Research, Volume XII, 1974
13. The importance of narcotics in relation to criminality, Collected Studies in Criminological Research, Volume XIII, 1975
14. Means of improving information on crime, Collected Studies in Criminological Research, Volume XIV, 1976 (not yet available)

3. Studies

1. Juvenile Delinquency in Post-War Europe (1960)
2. The Death Penalty in European Countries (1962) (out of print)
3. The Effectiveness of Programmes for the Prevention of Juvenile Delinquency (1963) (out of print)
4. The Status, Selection and Training of Prison Staff (1963) (out of print)
5. Probation and After-care in Certain European Countries (1964) (out of print)
6. Probation, Suspended Sentence and Other Alternatives to Imprisonment (1966) (out of print)
7. Reports given at a Seminar in Vienna on the Enforcement of Penal Sanctions (1966)
8. The Press and the Protection of Youth (1967) (out of print)
9. Short-term Methods of Treatment for Young Offenders (1967)
10. The Status, Selection and Training of Basic Grade Custodial Prison Staff (1967)
11. The Effectiveness of Punishment and Other Measures of Treatment (1967)
12. Reports given at a Seminar at Vaucresson for Specialists in the Re-education of Delinquent Minors, Volumes I and II (1967)
13. The Cinema and the Protection of Youth (1968) (out of print)
14. International Validity of Criminal Judgments (1968)
15. Status, Selection and Training of Governing Grades of Staff of Penal Establishments (1969)
16. Legal Aspects of Extradition (1970)
17. Practical Organisation of Measures for the Supervision and After-care of Conditionally Sentenced and Conditionally Released Offenders (1970)
18. Problems Arising from the Practical Application of the European Convention on Mutual Assistance in Criminal Matters (1971)
19. The Role of the Schools in the Prevention of Juvenile Delinquency (1972)
20. Aspects of Prison Community (1973)
21. Standard Minimum Rules for the Treatment of Prisoners (1973) (out of print)
22. The Application of Modern Techniques of Resource Allocation in the Field of Crime Problems (1973)
23. Methods of Forecasting Trends in Criminality (1974) (out of print)
24. Penal Aspects of Drug Abuse (1974)
25. Short-term Treatment of Adult Offenders (1974) (out of print)
26. New Trends in the Treatment of Young Offenders (1974) (out of print)
27. Group and Community Work with Offenders (1974)

28. Sentencing (1974)
29. Aspects of Criminality among Migrant Workers (1975)
30. Conference on Criminal Policy (1975)
31. Alternative Penal Measures to Imprisonment (1976)
32. Prison Labour (1976)

4. Bulletins

*International exchange of information on current criminological research projects
in member states*

- Volume I (1966)
- Volume II (1966)
- Volume III (1967)
- Volume IV (1967)
- Volume V (1968)
- Volume VI (1968)
- Volume VII (1969)
- Volume VIII (1969)
- Volume IX (1970)
- Volume X (1970)
- Volume XI (1971)
- Volume XII (1972)
- Index (1973)
- Volume XIII (1973)
- Volume XIV (1973)
- Volume XV (1974) (out of print)
- Volume XVI (1975)

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