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**IMPROVING EUROPEAN CO-OPERATION
IN THE CRIMINAL JUSTICE FIELD**

*Report presented by the Rapporteur for the
Fourth Session:*

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THE MECHANISMS OF MONITORING AND CONTROL OF THE OPERATION OF THE CRIMINAL CONVENTIONS

Mr Chairman,
Ladies and Gentlemen,

It is an honour and a pleasure to present this report to you on the mechanisms of monitoring and control of the operation of the criminal Conventions.

Let me begin by extending my sincere thanks to the authorities of the Russian Federation for giving me this opportunity and congratulating them on the excellent organisation of this high-level Conference. In particular I wish to thank the Russian Ministers of Justice and of the Interior, Mr Ustinov and Mr Nurgaliev; without their co-operation and support, the attendance and the level of contributions at this conference would not have been those we have enjoyed since this morning.

Through its statutory bodies the Council of Europe is involved in different forms of monitoring. They include the political and theme-specific monitoring mechanisms of the Committee of Ministers and the Parliamentary Assembly concerning the honouring of commitments by the member states. Then there is the European Court of Human Rights, which rules on alleged violations by states of the European Convention on Human Rights.

Let us focus first on the essential role played by the European Court of Human Rights. As early as the 1970s the Court was called upon to make important judgments on the human rights of people involved in transnational procedures, mainly extradition procedures. This case-law has gradually developed a series of minimum standards for the protection of such people. These standards are now duly taken into consideration in the everyday practice of our member states, as well as in the efforts recently under way to update the criminal law conventions which we talked about this morning.

For more than 50 years now, the Council of Europe has been striving to set in place instruments of international co-operation in the criminal law field.

These standards help facilitate co-operation between judicial and enforcement authorities, harmonise domestic legislation, develop the institutions responsible for enforcing the law, as well as training, and encourage the implementation of prevention strategies. Of the 200 treaties the Council of Europe has adopted, 31 concern criminal law matters.

As was mentioned this morning, however, these standards must be enforced. Machinery for monitoring certain criminal law conventions was thus set in place at the end of the 1990s. The Council of Europe wanted to strengthen the efficacy of its standard-setting instruments through systems of mutual evaluation and "peer" pressure on the governments. The aim of these systems is to encourage the member states to implement the provisions of the conventions in their domestic law and practice. A goal considered all the more important in the case of conventions aimed at increasing the protection of individuals and states against different forms of crime.

The monitoring mechanisms form one of the three fundamental pillars of the development of legal co-operation in the Council of Europe.

The three pillars are standard setting, assistance programmes and the monitoring mechanisms. We can imagine these pillars as the three corners of a triangle, constantly interacting and feeding on one another. This interaction applies to all the criminal law matters the Council of Europe deals with.

Two particular mechanisms for monitoring the Council of Europe's criminal law conventions are interesting to look at in greater detail:

- MONEYVAL: the Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures,
- and GRECO: the Group of States against Corruption.

These two mechanisms are examples of innovative initiatives both in the way they work and in the results obtained.

They reflect the continuing efforts of the Council of Europe to develop, with its member states, standard-setting instruments and practices for combating the corruption that undermines the foundations of our democratic institutions, combating the money laundering that corrupts our financial systems and contaminates the legitimate economy, and in broader terms, combating the organised crime which creates "societies within society", veritable multinational business operations without scruples, unbound by any rules or controls.

MONEYVAL was set up in 1997 and now has 27 European member states, plus Israel as an "active observer". Where money-laundering activities are concerned, MONEYVAL is the main partner in Europe of the Financial Action Task Force (FATF), the International Monetary Fund and the World Bank.

This Committee monitors respect for European and international standards in the money laundering field, and in particular the 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

This convention has since been revised and a new treaty was opened for signature by the member states at the Third Summit of Heads of State and Government of the Council of Europe, in Warsaw in May 2005. This new convention adds a new dimension to the battle against money laundering, in the form of measures to prevent the financing of terrorism. Both are now covered by Moneyval's monitoring activities.

I should like to stress the active involvement of the Russian Federation in the work of Moneyval, where it currently occupies the Vice-Chairmanship. Fruitful co-operation has also been struck up between Moneyval and the Euro-Asian Group, which has observer status with Moneyval.

In June 2006 the Council of Europe/Moneyval was admitted, by unanimous decision, as an associate member of the FATF, which will contribute to useful exchanges and closer co-operation between the two organisations. In February 2007 we will be hosting a joint Moneyval/FATF plenary session in Strasbourg.

Going back to the triangle I mentioned earlier, Moneyval's evaluation reports have inspired the development of several bilateral assistance programmes on money laundering, co-financed by the European Commission. These assistance programmes are an opportunity for the countries concerned to receive expert advice on bringing their legislation and practices into line with international standards.

Now let us look at GRECO. It was established in 1999 and has 42 members, including the United States of America. Austria should join GRECO in December this year. I should also like to congratulate the Russian Federation on having recently ratified the Criminal Law Convention on Corruption. It will accordingly be joining GRECO next February.

GRECO, like Moneyval, organises its evaluation work in cycles. It is currently in its second cycle, which concerns the seizure and confiscation of the proceeds of corruption, corruption in public administration and the responsibility of legal persons.

The third evaluation cycle will begin in January 2007. It will cover corruption-related offences and the financing of political parties and election campaigns.

GRECO co-operates with the OECD and the United Nations. It contributes its experience and the results of a monitoring machinery that has demonstrated its efficacy.

Both mechanisms, Moneyval and GRECO, share the goal of having international standards transposed and applied at the national level. They also share a *modus operandi* based on visits to the countries and country reports. Recommendations to the states concerned accompany these reports and are the object of special follow-up. A special conformity procedure can be initiated when serious shortcomings are identified.

In terms of results, these monitoring exercises have led to the adoption of various types of measures:

- legal measures under countries' domestic legislation in areas such as the offences covered by the conventions, corporate liability, the confiscation of the proceeds of crime,
- preventive measures such as training and awareness-raising, reporting of suspicious financial transactions and the keeping of records and evidence of financial transactions in connection with money laundering, and, lastly
- operational measures such as co-operation between different services (police, customs, tax authorities, financial intelligence units) in investigations into and the prosecution of economic crimes, and promoting modern investigation techniques and the establishment of anti-laundering financial intelligence units.

In the light of these results and the gradual establishment of reliable and effective national regimes against money laundering and corruption, it has become increasingly obvious that monitoring of international obligations in this area is essential.

Provision has therefore also been made for monitoring machinery in the most recent conventions in the criminal field.

In particular, this involves:

- GRETA, the Group of Experts on Action against Trafficking in Human Beings, which was set up under the 2005 Convention on Action against Trafficking in Human Beings,
- and the Conferences of States Parties set up under the 2001 Convention on Cybercrime, the 2003 Protocol to the Convention on the Suppression of Terrorism, which established the COSTER, and the 2005 Convention on the Prevention of Terrorism.

GRETA is responsible for monitoring implementation by the Parties of the Convention on Action against Trafficking in Human Beings and will probably operate along similar lines to Moneyval and GRECO, with evaluation rounds, questionnaires to the States Parties, country visits and the preparation and adoption of reports. The Committee of States Parties foreseen by this same Convention will be responsible for the specific recommendations to be addressed to the relevant states.

The Conferences of Parties provided for in the case of the conventions on cybercrime, the suppression of terrorism and the prevention of terrorism are different in nature. Their main purpose is to bring the States Parties to the conventions together on a regular basis with a view to facilitating the effective use or implementation of the conventions, adopting opinions on questions relating to the application of the conventions and, where appropriate, drawing up proposed amendments.

However, these recent mechanisms, ie GRETA, COSTER and the Conferences of Parties, will not be operational until the relevant conventions enter into force.

I therefore take this opportunity to call again for the earliest possible ratification of the Council of Europe's recent conventions in the criminal field.

Implementing these conventions is vital to effective co-operation in combating the modern scourges of terrorism and trafficking in human beings.

It should also be noted that, pending the entry into force of the instruments, in the field of terrorism, their application is already being monitored by CODEXTER, the Committee of Experts on Terrorism. At its last meeting in June 2006, it adopted a thematic review of the implementation of the Council of Europe's instruments against terrorism.

I would add that current and future work on conventions at the Council of Europe will also provide for monitoring machinery. That is true of the planned convention against the sexual exploitation of children and it should also apply in the case of any future work on a binding legal instrument on counterfeit medicines.

Another example of monitoring also exists in the criminal field, in the form of the Committee of Experts on the operation of conventions on co-operation in the criminal field (PC-OC).

I will go into greater detail here, as its work is particularly relevant to the theme of this conference. This is because the PC-OC monitors the operation of the conventions on international co-operation in the criminal field.

This Committee has existed for 25 years and is essentially made up of the representatives of the central authorities of all member states and observers. It develops practical solutions to concrete problems encountered in the application of conventions, while mainly focusing on the issues of extradition, mutual assistance and the transfer of sentenced persons. It also deals with judicial co-operation under the "sector-specific" conventions covering specific crimes.

It is an informal monitoring mechanism in that no provision is made for it in the conventions. Nevertheless, it has made a major contribution to the development of international co-operation in the criminal justice field.

The Committee has been tasked with the development of the standards in its field of responsibility. It has prepared several recommendations on the practical application of the conventions in the criminal field, as well as the Protocol to the Convention on the Transfer of Sentenced Persons and the Second Additional Protocol to the Convention on Mutual Assistance in Criminal Matters. The latter provides the legal basis for co-operation methods to combat the various modern types of crime. It would be desirable for it to be ratified by all states so as to optimise the use of the methods proposed such as witness hearings by videoconferences and telephone conferences, joint investigation teams, controlled deliveries and covert investigations.

The PC-OC has also developed a series of practical tools to help those involved in international co-operation to apply the relevant Council of Europe conventions. These include, for instance, opinions on the practical application of provisions of the conventions, national guides on the procedures to follow for judicial co-operation and lists of bilateral agreements.

As Mr Selvaggi explained this morning, through its meetings, the PC-OC has built up a whole network of personal contacts between representatives of central authorities and thereby facilitated information exchanges on national procedures.

I am sure, however, that its great experience, recognised expertise and results to date mean that the PC-OC can go even further in carrying out its remit.

In this connection, I share the analysis we heard from Mr Selvaggi this morning. I also agree with him that judicial co-operation should be looked at from a fresh perspective which takes account of existing Council of Europe instruments, as well as recent developments in standard-setting and institutional terms.

The PC-OC could play a more dynamic role in three areas in future:

- facilitating the application of the conventions, in particular by collecting from the member states the data essential for the application of the main conventions, for instance regarding extradition, mutual assistance and the transfer of sentenced persons. As was proposed this morning, the relevant data could be gathered together in a practical, user-friendly computer database;
- standard-setting: in the light of the difficulties it has encountered, the PC-OC should identify those aspects of the treaties which should be modernised so as to make the various mechanisms quicker and more effective, while respecting individual rights and freedoms; and finally
- further developing the personal contacts built up over the years. The establishment of a network of national contact points would offer real added value here. Each state could name up to two or three people who could be contacted about any issues relating to the practical operation of international co-operation with it.

In my view, these efforts are vital in order to combat crime effectively in Europe and elsewhere, and I am sure that the PC-OC can meet this challenge, further to Resolution No 5 of the Conference of European Ministers of Justice held in Helsinki in April 2005.

I would also stress how pleased I am that the Russian Chairmanship of the Committee of Ministers of the Council of Europe included this issue among the priorities of its programme. I believe that this conference is a unique opportunity for stepping up the Council of Europe's activities in this area and giving them fresh political impetus.

Mr Chairman,
Ministers,
Ladies and Gentlemen,

The Council of Europe has established and further developed various mechanisms for monitoring and controlling the operation of the conventions in the criminal field. These mechanisms' contribution to the effective implementation of the conventions is absolutely vital.

I would conclude by making an appeal and expressing a desire, given that the effective operation of our conventions depends, above all, on your states' commitment to abide by the international standards proposed for effective co-operation against crime.

I should like both to reiterate the point I made here in Moscow, as it happens, at the 24th Conference of European Ministers of Justice in October 2001 about the urgent need to step up international co-operation and also to repeat my call to the states represented here today to ratify the relevant conventions at the earliest opportunity.

Lastly, I hope most sincerely that maximum use will be made of the potential offered by the informal Committee that monitors the conventions on international co-operation in the criminal field. It has a crucial role to play in facilitating the practical application of the conventions.

Thank you for your attention.