



THE EUROPEAN ORGANISATION OF
PRISONS AND CORRECTIONAL SERVICES

Improving Conditions Related to Detention

The Role of the ECHR, the Strasbourg Court and National Courts
6-7 November 2014, Strasbourg

The first of three seminars in a series co-financed by the European Commission via its Criminal Justice funding programme, was held in Strasbourg on 6-7 November 2014 at the premises of the Council of Europe. It brought together 59 participants, primarily judges, prosecutors, lawyers and civil servants from ministries, as well as some from NPMs and prison administrations to look at, 'Improving Conditions Related to Detention: the role of the ECHR, the Strasbourg Court and national courts.

The first day looked at the European Convention on Human Rights on detention and the European Court of Human Rights' relevant jurisprudence, which were covered by Professor Dirk van Zyl Smit from the University of Nottingham and Judge Vincent De Gaetano from the European Court of Human Rights. The newest case law, including some important ongoing ones, were discussed and the Court's wider jurisprudence in relation to articles 3, 5 and 6 of the Convention, as well as protocol no. 4 in relation to detention analysed. The second part of the morning was spent looking at matters of pre-trial detention, where the case for further action at a European level on the basis of its impact on individuals in the context of the ECHR was detailed by Rebecca Shaeffer from Fair Trials International. Alessio Scandurra from *Antigone*, the Observatory on Prison Conditions in Italy, continued with a presentation on the use of pre-trial detention from the perspective of Italy. In the afternoon the day concluded with a look at the role of national courts in dealing with detention issues and improving condition, looking at best judicial practice on the basis of Member States' experiences. Dominique Tricaud, a lawyer, Diana-Olivia Hatneanu, also a lawyer, and Dr Mary Rogan, Chair of the Irish Penal Reform Trust, presented on the situation in France, Romania and Ireland respectively.

On the second day the entire morning was dedicated to mutual trust and mutual recognition of judicial decisions. Libby McVeigh from Fair Trials International started off with issues arising from mutual recognition of judicial decisions in Europe, before Jesca Benerer from the European Commission's DG Justice went on to talk about Framework Decisions 829, 909 and 947 in relation to their effectiveness in enhancing cooperation within the EU. The latest Commission report on the progress in the implementation of these Framework Decisions within the Member States formed the basis for this presentation. Luis Pereira, Deputy Chief Prosecutor at the Lisbon Appeal Court and former Secretary General of EJTJ, then continued the morning with a presentation on the European Arrest Warrant and its application throughout the Member States, asking the question of whether it is acting as an effective tool or unnecessary burden in relation to detention. The final presentation of the day was on cross-border execution of judgments involving deprivation of liberty in the EU and overcoming legal and practical problems, on the basis of an IRCP study, which was explained by Michael Meysman from the Institute for International Research on Criminal Policy at Ghent University. The morning was concluded with a panel discussion on the most effective way forward to enhance mutual trust and mutual recognition of judicial decisions, to which several of the invited speakers were invited to speak on.



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A constructive exchange was had over the one-and-a-half day seminar between all of the speakers and participants. It was reconfirmed that there is a clear need for further action to be taken at EU level in relation to pre-trial detention and its use, especially when looking at the state of prisons in many Member States, in particular the issue of overcrowding. The same was true when looking at the proportionality of use of the European Arrest Warrant in relation to the crime having been committed.

The next seminar in the series will take place in Strasbourg on 7-8 May 2015 and deal with the supervision of matters relating to detention, looking at the Council of Europe and international bodies' work in improving conditions.