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CCPE (2006) 06

**CONSULTATIVE COUNCIL OF EUROPEAN PROSECUTORS  
(CCPE)**

1<sup>st</sup> meeting  
Moscow, 6 July 2006

REPORT TO THE COMMITTEE OF MINISTERS

FOREWORD

The CCPE invites the Committee of Ministers:

- a. to adopt the draft framework overall action plan for the work of the CCPE, as approved by the CCPE and the European Committee on Crime Problems (CDPC) (see section II and Appendix IV to this report);
- b. to adopt the draft terms of reference of the CCPE for 2007-2008, as approved by the CDPC and adopted by the CCPE (see section V and Appendix V to this report);
- c. to note that it has elected its Chair and Vice-Chair and the members of its Bureau (see section III of this report);
- d. to take note of this report as a whole.

Secretariat memorandum prepared by the  
Directorate General of Legal Affairs

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## REPORT TO THE COMMITTEE OF MINISTERS

### **I. INTRODUCTION**

1. The Consultative Council of European Prosecutors (CCPE) held its first meeting in Moscow (Russian Federation) on 6 July 2006. It was opened by Ms Margaret KILLERBY, Head of the Department of Crime Problems in the Directorate General of Legal Affairs. The list of participants appears in Appendix I to this report.
2. The CCPE wished to thank the Russian authorities, and in particular Mr Yuri CHAIKA, Prosecutor General of the Russian Federation, for hosting its first meeting. It appreciated the comfortable working conditions and the warm welcome extended by its Russian hosts.
3. It examined and adopted the agenda, as it appears in Appendix II to this report.
4. The CCPE expressed its satisfaction with the success of the 7<sup>th</sup> Session of the Conference of Prosecutors General of Europe (CPGE), held in Moscow on 5 and 6 July 2006 on the theme “The role of the public prosecutor in the protection of individuals”. It warmly welcomed the fact that the CPGE had been put on an institutional footing in the form of the CCPE and particularly appreciated the CPGE’s support for its mission and the confidence it had shown by assigning it specific tasks, set out in the conclusions of the 7<sup>th</sup> Session (see Appendix III to this report). It accepted these tasks and decided to include them in the CCPE’s priority activities.
5. The CCPE took note with great interest of the report presented by Mr Harald RANGE (Germany), Chair of the CPGE Co-ordinating Bureau, on the CPGE’s work. It wished, like the Chair of the CPGE Bureau, to thank Ms Anita VAN DE KAR for effectively overseeing the work of the CPGE and making an appreciable contribution to placing the conference on an institutional footing, and welcomed her successor, Ms Danuta WIŚNIEWSKA-CAZALS.
6. The CCPE examined and adopted the draft framework overall action plan for the work of the CCPE and submitted it to the European Committee on Crime Problems (CDPC) for final approval (by a written consultation procedure) with a view to its transmission to the Committee of Ministers for adoption (see section II and Appendix IV to this report).
7. The CCPE invited the Committee of Ministers to adopt its terms of reference for 2007-2008 (see section V and Appendix V to this report).
8. The CCPE elected Mr Harald RANGE (Germany) Chair and Mr Peter POLT (Hungary) Vice-Chair of the CCPE, and nine members of its Bureau (see section III of this report).

## II. FRAMEWORK OVERALL ACTION PLAN FOR THE WORK OF THE CCPE

9. The CCPE examined the draft framework overall action plan for its work, as approved by the CDPC, and decided in the light of the conclusions adopted at the close of the 7<sup>th</sup> Session of the CPGE (Moscow, 5 and 6 July 2006) to include in Appendix II (“CCPE priority actions”), after paragraph 5, the following theme: the duties of public prosecutors in the criminal field towards victims and witnesses, and in particular those who are juveniles (see Appendix IV to this report).

10. It instructed its Bureau to draw up an order of priority for future activities in the light of comments from CCPE members, who were invited to send their comments by email by 31 August 2006 to the following address: [dgl.ccpe@coe.int](mailto:dgl.ccpe@coe.int).

11. As decided by the CDPC (see CDPC (2006) 17 REV, paragraph 107), the CCPE would forward the draft revised framework overall action plan to the CDPC Bureau for final approval and then to the Committee of Ministers for adoption.

## III. ELECTION OF THE CHAIR AND VICE-CHAIR OF THE CCPE BUREAU

12. Mr Harald RANGE and Mr Peter POLT were unanimously elected Chair and Vice-Chair respectively of the CCPE for a term of one year. They would automatically be members of the CCPE Bureau.

13. In accordance with the provisions of Resolution Res(2005)47, the CCPE elected nine other Bureau members: Ms Raija TOIVAINEN (Finland), Mr Vito MONETTI (Italy), Mr Jerzy SZYMAŃSKI (Poland), Mr João Manuel da SILVA MIGUEL (Portugal), Mr Yuri CHAIKA (Russian Federation), Ms Katarina LAIFEROVA (Slovakia), Mr Antonio VERCHER NOGUERA (Spain), Mr Roy JUNKIN (United Kingdom) for a two-year term and Mr Olivier de BAYNAST (France) for a one-year term<sup>1</sup>.

14. In the light of the election results, the CCPE agreed to give Mr Jovan KRSTIC (Serbia) the status of substitute member of the Bureau. The substitute member could become a fully-fledged member of the Bureau if one of the members left the Bureau (if, for example, a member resigned in the course of his or her term of office or did not stand for re-election).

## IV. CO-OPERATION WITH OTHER COUNCIL OF EUROPE BODIES

15. The CCPE welcomed the involvement in its work of Mr Eugenio SALVAGGI, CDPC representative, and appreciated the warm message from Mr Raffaele SABATO, Chair of the Consultative Council of European Judges (CCJE), who had been unable to attend the meeting in person (the CCJE Chair’s message appears in Appendix VI to this report).

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<sup>1</sup> Under Article 13.c of Appendix I to Resolution Res(2005)47, “In order to ensure partial replacement of the Bureau each year, the first term of at least one such member shall be limited to one year.”

16. The CCPE decided that Mr João Manuel da SILVA MIGUEL (Portugal) would represent it on the CDPC and that Mr Antonio VERCHER NOGUERA (Spain) would represent it at CCJE meetings.

17. The CCPE considered that it was also important to co-operate with the European Commission for the Efficiency of Justice (CEPEJ) and therefore decided to mention such co-operation in its draft terms of reference for 2007-2008. Subject to the agreement in principle of CEPEJ, it decided that Mr Vito MONETTI (Italy) would represent it at CEPEJ meetings<sup>2</sup>.

## **V. DRAFT TERMS OF REFERENCE OF THE CCPE FOR 2007-2008**

18. The CCPE examined its draft terms of reference for 2007-2008, as approved by the CDPC. It decided to include CEPEJ among the participants (see also paragraph 17 above). The draft terms of reference would be submitted to the Committee of Ministers for adoption. They are set out in Appendix V to this report.

## **VI. WORKING METHODS OF THE CCPE**

19. The CCPE noted that, subject to budgetary feasibility, there would in principle be one plenary meeting and two Bureau meetings in 2007. It also noted that the working languages would be English and French.

20. It observed that there might be problems in reacting in time to important and urgent issues arising between CCPE meetings that necessitated a response from the CCPE before the plenary meeting.

21. In the light of the ensuing discussion, it instructed the Secretariat to prepare for the Bureau meeting a document on working methods between meetings, taking account of CDPC practice, and instructed its Bureau to make proposals for submission to the CCPE for consideration.

22. The CCPE authorised its Bureau, in the immediate future, to deal with all urgent matters that required a response before the next plenary meeting, in consultation with the CCPE members by means of a written procedure.

## **VII. DATES OF THE NEXT MEETINGS**

23. The first meeting of the CCPE Bureau would take place in Strasbourg in the week of 6 November 2006.

24. The CCPE Bureau would decide at its first meeting on the dates of the 2007 CCPE meeting, which would if possible be held in the first half of the year. The Secretariat would inform CCPE members of the dates as soon as possible.

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<sup>2</sup> CEPEJ granted the CCPE observer status at its 7<sup>th</sup> plenary meeting (Rome, 6 and 7 July 2006).

**APPENDIX I****LIST OF PARTICIPANTS/LISTE DES PARTICIPANTS****MEMBER STATES / ETATS MEMBRES****ALBANIA / ALBANIE**

Mr Thedhori SOLLAKU, General Prosecutor, Prokuroria E Pergjithshme, TIRANA

**ANDORRA / ANDORRE**

M. Robert AMPUY, Procureur Général, Conseil Supérieur de la Justice, ANDORRA-LA-VELLA

M. André PIGOT, Magistrat Honoraire, Conseil Supérieur de la Justice, BALQUERE

**ARMENIA / ARMENIE**

Ms Nelly HARUTIUNYAN, Head of International-Legal Relations Department, General Prosecutor's Office YEREVAN

**AUSTRIA / AUTRICHE**

Mr Ernst-Eugen FABRIZY, Deputy Prosecutor General, Generalprokuratur, WIEN

Mr Karl GASSER, Deputy Senior Public Prosecutor, Oberstaatsanwaltschaft, GRAZ

**AZERBAIJAN / AZERBAÏDJAN**

Mr Zakir GARALOV, General Prosecutor, BAKU

Mr Niyaz MAMISHOV, General Prosecutor's Assistant on Special Tasks, BAKU

Mr Ruslan HAJIYEV, Head of the Department of International Relations, General Prosecutor's Office, BAKU

Mr Nurlan MAMMADOV, Interpreter, Department of International Relations, General Prosecutor's Office, BAKU

**BELGIUM / BELGIOUE**

M. Cédric VISART DE BOCARME, Procureur général de Liège, LIEGE

M. Daniel BERNARD, Procureur fédéral, Parquet Fédéral, BRUXELLES

**BULGARIA / BULGARIE**

Mr Kamen MIHOV, Head of International Legal Cooperation Department, Supreme Cassation Prosecutor's Office, SOFIA

**CROATIA / CROATIE**

Mr Mladen BAJIĆ, General State Attorney, ZAGREB

Mr Josip ČULE, Deputy State Attorney, ZAGREB

Mr Dragan NOVOSEL, Deputy State Attorney, ZAGREB

**CZECH REPUBLIC / REPUBLIQUE TCHEQUE**

Mr Miroslav RŮŽIČKA, Public Prosecutor, Supreme Public Prosecutor's Office, BRNO

**DENMARK / DANEMARK**

Mr Jesper HJORTENBERG, Deputy Director, General Prosecution, COPENHAGEN

**FINLAND / FINLANDE**

Mr Matti KUUSIMÄKI, Prosecutor General, HELSINKI

Ms Raija TOIVIAINEN, State Prosecutor, Head of the International Unit, HELSINKI

**FRANCE**

M. Olivier de BAYNAST, Procureur Général près de la Cour d'Appel d'Amiens, AMIENS

**GEORGIA / GEORGIE**

Mr Kahka KOBERIDZE, Deputy Prosecutor General of Georgia, TBILISSI

**GERMANY / ALLEMAGNE**

Mr Harald RANGE, Generalstaatsanwalt, CELLE, **Chair / Président**

Ms Eva - Elisabeth SCHUEBEL, Senior Prosecutor, Office of the Federal Prosecutor General, KARLSRUHE

**GREECE / GRECE**

*Apologised / Excusé*

**HUNGARY / HONGRIE**

Mr Peter POLT, Chief Prosecutor, Head of Criminal Trial Cases, Office of the Prosecutor General, BUDAPEST, **Vice-Chair/Vice-Président**

Mr László VENCZL, Deputy Head of Military Prosecution Service, Office of the Prosecutor General of Hungary, BUDAPEST

**ICELAND / ISLANDE**

*Apologised / Excusé*

**IRELAND / IRLANDE**

Mr James HAMILTON, Director of Public Prosecutions, Office of the Director of Public Prosecutors, DUBLIN

*Apologised / Excusé*

Mr Peter McCORMICK, Prosecutor, Office of the Director of Public Prosecutors, DUBLIN

**ITALY / ITALIE**

M. Vitaliano ESPOSITO, Procureur général auprès de la cour de Cassation, Bureau des Relations Internationales, ROME

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M. Vito MONETTI, Substitut du Procureur de la République, Procura Generale presso la Corte di Cassazione, Cour Suprême de Cassation, ROME

M. Alberto PIOLETTI, Magistrat, Ministère de la Justice, Département des Problèmes Criminels, ROME

**LATVIA / LETTONIE**

Rudite ABOLINA, Head Prosecutor of Department of Analysis and Management of Prosecutor's General Office of the Republic of Latvia, RIGA

**LIECHTENSTEIN**

Mr Robert WALLNER, Prosecutor General, VADUZ

**LITHUANIA / LITUANIE**

Ms Laima CEKELIENE, Chief Prosecutor, International Cooperation and Legal Assistance Department, Prosecutor General's Office, VILNIUS

**LUXEMBOURG**

M. Robert BIEVER, Procureur d'Etat, Ministère de la Justice, LUXEMBOURG

**MALTA / MALTE**

Mr Silvio CAMILLERI, Attorney General, Attorney General's Office, VALLETTA

**MOLDOVA**

Mr Valeriu BALABAN, Prosecutor General, Office of the Prosecutor General, CHISINAU

**MONACO**

M. Philippe NARMINO, Directeur des Services Judiciaires, Chef du Ministère Public, MONACO

**NETHERLANDS / PAYS-BAS**

Mr Jacques VAN ECK, Chief Prosecutor in Maastricht

*Apologised / Excusé*

Mr Marc VAN ERVE, Chief Public Prosecutor, PARIS

**NORWAY / NORVEGE**

Ms Anne GRØSTAD, Public Prosecutor, Office of the Director of Public Prosecutions, OSLO

Ms Ingunn FOSSGARD, Senior Public Prosecutor, Office of the General Public Prosecutors, OSLO

**POLAND / POLOGNE**

Mr Jerzy SZYMAŃSKI, Public Prosecutor, National Prosecutor's Office, Ministry of Justice, Organised Crime Bureau, WARSAW

**PORTUGAL**



M. João Manuel DA SILVA MIGUEL, Procureur Général Adjoint, Procuradoria-Geral da República, LISBONNE

**ROMANIA / ROUMANIE**

Ms Georgeta-Gabriela GHITA, Deputy General Prosecutor, Public Ministry Prosecutor 's Office attached to the High Court of Cassation and Justice, BUCHAREST

**RUSSIAN FEDERATION / FEDERATION DE RUSSIE**

Mr Yuri CHAIKA, Prosecutor General of the Russian Federation, MOSCOW

*Apologised / Excusé*

Mr Alexander Grigorievich ZVYAGINTSEV, Deputy Prosecutor General, Office of the Prosecutor General, MOSCOW

**SERBIA / SERBIE**

Mr Slobodan JANKOVIC, Prosecutor General, BELGRADE

Mr Jovan KRSTIC, Deputy Prosecutor General, BELGRADE

**SLOVAKIA / SLOVAQUIE**

Ms Katarína LAIFEROVA, Head of the Office of the Prosecutor General, Generálna prokuratúra Slovenskej republiky, BRATISLAVA

**SPAIN / ESPAGNE**

Mr Antonio VERCHER NOGUERA, Deputy Attorney General, MADRID

**SWEDEN / SUEDE**

Mr Fredrik WERSÄLL, Prosecutor General, STOCKHOLM

Ms Annette von SYDOW, Chief Public Prosecutor, International Unit, Office of the Prosecutor General, STOCKHOLM

**SWITZERLAND / SUISSE**

M. Valentin ROSCHACHER, Procureur Général de la Confédération, BERNE

*Apologised / Excusé*

Ms Maria SCHNEBLI, Federal Prosecutor, Attorney General's Office of Switzerland, BERN

*Apologised / Excusée*

**"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA" /  
"L'EX-REPUBLIQUE YOUGOSLAVE DE MACEDOINE "**

Mr Jovan ILIEVSKI, Deputy Public Prosecutor and Head of the Department for combating organised crime and corruption, Public Prosecutors Office, SKOPJE

**TURKEY / TUROUIE**

Ms Esma ÖZKAN, Public Prosecutor of Court of Cassation, ANKARA

**UKRAINE / UKRAINE**

Ms Olga LYTVYNCHUK, Senior Prosecutor, International Law Department, Office of the Prosecutor General, KYIV

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**UNITED KINGDOM / ROYAUME-UNI**

Mr Philip GEERING, Director of Policy, Crown Prosecution Service, LONDON

Mr Jim BRISBANE, Deputy Crown Agent, Crown Office and Procurator Fiscal Service, EDINBURGH

Mr Roy JUNKIN, Deputy Director of Public Prosecutions, Public Prosecution Service for Northern Ireland, BELFAST *Apologised / Excusé*

**OBSERVER STATES / ETATS OBSERVATEURS**

**MONTENEGRO**

Ms Vesna MEDENICA, Chief state prosecutor of Montenegro, PODGORICA

**COUNCIL OF EUROPE BODIES / ORGANES DU CONSEIL DE L'EUROPE**

**EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)/**

**COMITE EUROPEEN POUR LES PROBLEMES CRIMINELS (CDPC)**

Mr Eugenio SELVAGGI, Deputy District Attorney General, Procura Generale presso la Corte di Appello, ROME

**CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE)/**

**CONSEIL CONSULTATIF DES JUGES EUROPEENS (CCJE)**

Mr Raffaele SABATO, Judge, Tribunal of Naples, ITALY  
Chair of the Consultative Council of European Judges (CCJE)

*Apologised / Excusé*

**NON GOVERNMENTAL ORGANISATIONS**  
**ORGANISATIONS NON- GOUVERNEMENTALES**

**International Association of Prosecutors / Association Internationale des Procureurs**

Mr Henk MARQUART SCHOLTZ, Secretary General, International Association of Prosecutors

**MEDEL**

Mr António Francisco DE ARAÚJO LIMA CLUNY, Substitute of the Attorney General, placed by the National Auditory, Tribunal de Contas, LISBON

**SECRETARIAT OF THE COUNCIL OF EUROPE**  
**SECRETARIAT DU CONSEIL DE L'EUROPE**

Ms Margaret KILLERBY, Head of the Department of Crime Problems, (DGI)

Ms Danuta WIŚNIEWSKA-CAZALS, Secretary of the CCPE/Secrétaire du CCPE, (DGI)

Mr Roman CHLAPAK, Administrative Officer, Department of Crime Problems (DGI)

Ms Odile GEBHARTH, Assistant (DGI)

Ms Elena HEDOUX, Assistant (DGI)

Ms Dominique WULFRAN, Assistant (DGI)

**INTERPRETERS / INTERPRETES**

Mr Philippe QUAINÉ, Responsible for the interpreters, Council of Europe

Mr Jan KROTKI

Ms Christine MARTEAU

Ms Irène MARKOWICZ

Mr Michel NERCESSIAN

Mr Pavel PALAZHCENKO

Mr Igor FEKLISOV

Ms Anna USPENSKAYA

**APPENDIX II****AGENDA / ORDRE DU JOUR**

1. Opening of the meeting by the Council of Europe representative / *Ouverture de la réunion par un représentant du Conseil de l'Europe*

2. Adoption of the agenda / *Adoption de l'ordre du jour*

Background document / Document de référence

Terms of reference of the CCPE / *Mandat du CCPE*

**CCPE (2006) 03**

3. Report of the Bureau of the Conference of Prosecutors General of Europe (CPGE) / *Rapport du Bureau de la Conférence des Procureurs Généraux d'Europe (CPGE)*

► Mr Harald Range, Chair of the Co-ordinating Bureau of the CPGE / *M. Harald Range, Président du Bureau de coordination du CPGE*

4. Examination and adoption of the draft framework overall action plan for the work of the CCPE to be approved by the European Committee on Crime Problems and the Committee of Ministers / *Examen et adoption du projet de programme cadre d'action générale pour les travaux du CCPE, devant être approuvé par le Comité européen pour les problèmes criminels (CDPC) et le Comité des Ministres*

Working document / Document de travail

Draft Framework Overall Action Plan for the CCPE / *Projet de programme cadre d'action générale pour le CCPE*

**CCPE (2006) 05**

5. Election of the Chair and the Vice-Chair of the CCPE / *Election du (de la) Président(e) et du (de la) Vice-Président(e) du CCPE*

Information document / Document d'information

Election of the Chair and the Vice-Chair of the CCPE / *Election du Président ou de la Présidente et du Vice-Président ou de la Vice-Présidente du CCPE*

**CCPE (2006) 02**

6. Election of the 9 other members of the Bureau / *Election des 9 autres membres du Bureau du CCPE*

Background document / Document de référence

Terms of reference of the CCPE / *Mandat du CCPE*

**CCPE (2006) 03**

7. Nomination of the CCPE representatives in the CDPC and the CCJE / *Nomination du représentant du CCPE auprès du CDPC et du CCJE*

Background document / Document de référence

Terms of reference of the CCPE / *Mandat du CCPE*

**CCPE (2006) 03**

8. Identification of the priorities areas of action to be undertaken under the framework overall action plan for the CCPE / *Identification des domaines d'action prioritaires à entreprendre au vu du Programme cadre d'action générale pour le CCPE*

Working document / Document de travail

Draft Framework Overall Action Plan for the CCPE / *Projet de Programme cadre d'action générale pour le CCPE*

**CCPE (2006) 05**

9. Examination and adoption of the draft terms of reference for the CCPE for 2007 and 2008 / *Examen et adoption du projet de mandat du CCPE pour 2007 et 2008*

Working document / Document de travail

Draft terms of reference for the CCPE for 2007 and 2008 / *Projet de mandat du CCPE pour 2007 et 2008*

**CCPE (2006) 04**

10. Exchange of views on the working methods of the CCPE / *Echange de vues sur les méthodes de travail du CCPE*
11. Calendar of the future meetings of the CCPE and the CCPE-Bu / *Calendrier des futures réunions du CCPE et du CCPE-Bu*
12. Any other business / *Divers*

Background documents / Documents de référence

Warsaw Declaration – Third Summit of Heads of State and Government of the Council of Europe (Warsaw, 16-17 May 2005) / *Déclaration de Varsovie – Troisième Sommet des Chefs d'Etat et de Gouvernement du Conseil de l'Europe (Varsovie, 16-17 mai 2005)*

**CM (2005) 79 final**

Plan of Action – Third Summit of Heads of State and Government of the Council of Europe (Warsaw, 16-17 May 2005) / *Plan d'Action – Troisième Sommet des Chefs d'Etat et de Gouvernement du Conseil de l'Europe (Varsovie, 16-17 mai 2005)*

**CM (2005) 80 final**

**CCPE (2006) 06**

Message from the Committee of Ministers to the Committees involved in the intergovernmental co-operation at the Council of Europe / *Message du Comité des Ministres aux Comités oeuvrant dans le cadre de la coopération intergouvernementale du Conseil de l'Europe*

**CCPE (2006) CM Message**

### **APPENDIX III**

## **CONFERENCE OF PROSECUTORS GENERAL OF EUROPE (CPGE) 7<sup>TH</sup> SESSION**

*organised by the Council of Europe  
in co-operation with the Prosecutor General of the Russian Federation*

*Moscow, 5 and 6 July 2006*

### **CONCLUSIONS**

#### **a) Introduction**

1. The prosecutors general and other prosecutors of Europe held their 7<sup>th</sup> Conference in Moscow (Russian Federation) on 5 and 6 July 2006 under the aegis of the Council of Europe, at the invitation of the Prosecutor General of the Russian Federation and in the context of the Russian Chairmanship of the Committee of Ministers of the Council of Europe.
2. The Conference was honoured by the participation of the President of the Russian Federation, Mr Vladimir Putin.
3. The opening of the Conference, chaired by Mr Yuri Chaika, (Prosecutor General of the Russian Federation), was marked by statements by Mr Sergey Mironov (President of the Council of Federation of the Federal Assembly of the Russian Federation), Mr Sergey Lavrov (Minister of Foreign Affairs of the Russian Federation, Chair in Office of the Committee of Ministers of the Council of Europe) and Ms Maud de Boer-Buquicchio (Deputy Secretary General of the Council of Europe).
4. The Conference programme and list of participants appear in separate documents. The Conference proceedings will be published at a later date.
5. The Conference participants welcomed the decision of the Committee of Ministers to put the Conference of Prosecutors General of Europe on an institutional footing by setting up the Consultative Council of European Prosecutors (CCPE) as an advisory body to the Committee of Ministers of the Council of Europe. The Conference considered that the establishment of the CCPE will do much to help implement Recommendation (2000) 19 on the role of public prosecution in the criminal justice system and that it is a key instrument for its own action to establish standards in the field of public prosecution and promote the principles of the rule of law.
6. Given the important role played by public prosecutors in international judicial co-operation in criminal matters, the Conference encouraged the CCPE to contribute to the strengthening of such co-operation, including the modernisation of the European Conventions in this field, the establishment of direct contacts between prosecutors in different countries, the streamlining and harmonising mutual judicial assistance procedures and improving the efficiency of public prosecution services in the performance of their task.

7. Having met to discuss a general theme, the role of the public prosecutor in the protection of individuals, the Conference considered, in the light of the discussions, that this vast, complex issue deserved to be elaborated on and examined in further depth in the future. The best practices discussed during the Conference concerning the efficient protection by public prosecution services of individuals for questions outside the criminal field which come within their competence could be examined with a view to the possible application of this positive experience by the member states where the public prosecution services have such authority. Once again, the debate confirmed the diversity of functions of public prosecutors across Europe, which stems from differences in the status and role of prosecutors in the member states. The Conference therefore invited the CCPE to take steps to promote implementation of Recommendation (2000) 19 in member states.

#### **b) Victims, witnesses and juveniles**

8. Having examined the duties of the public prosecutor towards victims and witnesses, in particular those who are juveniles, the Conference would point out that, in the exercise of their profession, public prosecutors enjoy certain safeguards but are also bound by duties and responsibilities towards people in contact with the judicial system, be they suspects, witnesses or victims, and anyone else whose rights have been violated. The main responsibility of public prosecutors is to perform their task fairly, impartially and objectively, with due respect for human rights, and as quickly as possible. The Conference stressed that measures and procedures applying to under-age victims and witnesses must be adapted to the special needs of this particularly vulnerable group.

9. In the light of the provisions of Recommendation (2000) 19 on the role of public prosecution in the criminal justice system, Recommendation (2005) 9 on the protection of witnesses and collaborators of justice and the recent Recommendation (2006) 8 on assistance to crime victims, the Conference invited the CCPE to continue examining compliance with the duties of public prosecutors towards victims and witnesses and the obstacles encountered in this respect and to draw up rules to be taken into account by states in order to encourage fairness, impartiality, coherence and effectiveness in the actions of public prosecutors in this field.

10. The Conference approved the conclusions of the Working Group on the duties of the public prosecutor in the criminal field towards victims and witnesses, in particular those who are juveniles (see the appendix to these conclusions). The Conference noted that the theme of the 27<sup>th</sup> Conference of the European Ministers of Justice (Yerevan, 11 – 13 October 2006) would deal with the theme “Victims – place, rights and assistance”.

#### **c) Persons deprived of their liberty**

11. Having devoted part of the proceedings to the duties of the public prosecutor towards persons deprived of their liberty, the Conference observed that, while the circumstances and manner in which a society deprives its citizens of their liberty reflects, as it were, the values underpinning that society, the degree of concern to avoid arbitrary detention and prevent the ill-treatment of prisoners is a clear indication of the real value of a legal system when it comes to protecting human dignity. The growing importance attached to internal mechanisms for the protection of prisoners, which can be observed both in the approach adopted by the European Court of Human Rights and the Committee



of Ministers on the occasion of the supervision of the execution of the Court's judgments, and by the Committee for the Prevention of Torture (CPT), highlights the extent of prosecutors' responsibilities in ensuring the effective protection of individuals against arbitrary deprivation of liberty and ill-treatment during detention. While affirming that the role of prosecutors in this respect may be more or less pronounced, depending on national statutory provisions, the Conference stressed that it was essential that such provisions are in keeping with the fundamental values upheld by the Council of Europe.

12. The Conference also pointed out that there are, as yet, no European rules specifically concerning the role of prosecutors in the execution of custodial prison sentences and other measures depriving people of their liberty. It encouraged the CCPE to continue its work in this field, which could lead to results that would be useful for updating Recommendation (2006) 2 on the European Prison Rules, adopted by the Committee of Ministers on 11 January 2006.

13. The Conference approved the conclusions of the Working Group on the duties of the public prosecutor towards persons deprived of their liberty (see the appendix to these conclusions).

x x  
x

14. The Conference warmly thanked Mr Yuri Chaika, Prosecutor General of the Russian Federation, and his staff for the excellent organisation of the 7<sup>th</sup> Conference and the hospitable welcome extended to all the participants.

### *Appendix*

#### **CONCLUSIONS OF THE WORKING GROUP I – The duties of public prosecutors in the criminal field towards victims and witnesses, and in particular those who are juveniles**

1. Working Group I examined the duties of public prosecutors towards victims and witnesses, in particular those who are juveniles in the light of the replies by member states to a questionnaire on this subject and a report by the scientific expert.
2. While recognising a diversity in member states with respect to particular measures and solutions towards victims and witnesses, the Working Group noted that member States do recognise now the special needs of victims and witnesses and the necessity to give them a more prominent place in the course of criminal proceedings. It also noted that many legal provisions and programmes in the member States draw on the same underlying principles of care for victims and witnesses directed in particular to both protection of privacy and protection of physical integrity. This is also the field where special attention for children and minors is most pronounced.
3. The Working Group agreed that more attention should be given to practical implementation processes on improving the position and treatment of victims and witnesses and that personalised and appropriate treatment of victims should become a legal duty of each public prosecutor also in order to avoid secondary victimisation.

4. The Working Group underlined that prosecutors have a duty to provide appropriate information to victims and witnesses (information not only regarding criminal proceedings, but also on victim support and other (social) services, on possibilities for legal advice and legal assistance and on different ways to obtain restitution and financial compensation). Such information should be provided effectively (in a pro-active way, in coordination with the police and victim support agencies).
5. The Working Group considered that victim-offender mediation can be in the interest of victims if certain conditions are respected; the public prosecutor can play an active role in identifying appropriate cases and referring them to mediation services in those countries where it is envisaged by law.
6. The need for special education and training for public prosecutors to deal with victims (not only legal knowledge but also focusing on attitudes and skills) was underlined by the Working Group. It observed that sufficient resources in terms of time, personnel and funding must be available.
7. The Working Group welcomed the elaboration by the Council of Europe of a new legal instrument concerning the protection of children against sexual exploitation.
8. The Working Group agreed that the integration of a victim / witness dimension and victim / witness friendly practices in the system can gain much from systematic co-operation, partnerships and networking with foreign counterparts and also NGOs. It invited the Consultative Council of European Prosecutors (CCPE) to continue examining the duties of public prosecutors towards victims and witnesses and to draw up rules in order to encourage fairness, impartiality, coherence and effectiveness in their actions in this field.
9. The Working Group encouraged the CCPE to undertake comparative research on the status of victims and the actual functioning of their participatory rights in member states, and on the right to react to any decision of the public prosecutor not to prosecute.

### **CONCLUSIONS OF THE WORKING GROUP II – Duties of public prosecutors towards persons deprived of their liberty**

1. Working Group II examined the duties of public prosecutors towards persons deprived of their liberty, in particular in the framework of criminal proceedings, in the light of the replies by member states to a questionnaire on this subject and a report by the scientific expert.
2. While recognising the significant differences in member states concerning the duties of public prosecutors towards persons deprived of their liberty, the Working Group considered that a considerable advance in the protection of such persons would be made if public prosecutors, within the limits of their powers, adopted a pro-active approach in order to protect the rights of individuals e.g. in case of pre-trial detention or extradition.
3. As regards arbitrary deprivation of liberty, the Working Group agreed that public prosecutors, within the limits of their powers, should seek, when necessary, in co-operation with all other competent authorities, to ensure that persons are not improperly or unnecessarily deprived of their liberty and that, as soon as it is appropriate to do so, such persons are immediately released.
4. As regards ill-treatment during detention, the Working Group recognised that public prosecutors, within the limits of their powers, have the duty to protect the rights of all persons deprived of their liberty, in particular having regard to the standards and requirements of the European Court of Human Rights (especially Article 5 of the

European Convention on Human Rights), the European Committee for the prevention of torture, inhuman or degrading treatment or punishment (CPT) and the European Prison Rules.

5. The Working Group considered that the protection of all persons deprived of their liberty against ill-treatment by any official or any other person was a particularly important duty, subject to the limits of their powers, of public prosecutors.
6. The Working Group therefore underlined the essential role played by public prosecutors in the case of complaints alleging ill-treatment of persons deprived of their liberty and considered that public prosecutors have the duty, subject to the limits of their powers, to ensure that these complaints are bravely, thoroughly, fairly and impartially investigated as soon as possible.
7. As regards the education and training of public prosecutors, the Working Group agreed that this training should ensure that full account is taken of the duties of public prosecutors towards persons deprived of their liberty and in particular of the case-law of the European Court of Human Rights and the other standards and requirements indicated in paragraph 4 above.
8. The Working Group invited the Consultative Council of European Prosecutors (CCPE) to consider in detail the duties of public prosecutors towards persons deprived of their liberty, especially concerning the contribution which public prosecutors could make to the prevention of arbitrary deprivation of liberty and ill-treatment during detention and the training which could be given for this purpose. The Working Group invited the CCPE to give priority to this issue.

**APPENDIX IV****CONSULTATIVE COUNCIL OF EUROPEAN PROSECUTORS (CCPE)****DRAFT FRAMEWORK OVERALL ACTION PLAN  
FOR THE WORK OF THE CCPE**

*As approved by the CCPE at its 1<sup>st</sup> meeting (Moscow, 6 July 2006)*

**A. INTRODUCTION**

1. The Consultative Council of European Prosecutors (CCPE), a consultative body to the Committee of Ministers of the Council of Europe, was created by decision of the Ministers' Deputies on 13 July 2005, with the intention to institutionalise the yearly Conference of Prosecutors General of Europe (CPGE). The CPGE was launched in Strasbourg on the occasion of the finalisation of the Recommendation Rec (2000)19 on the role of public prosecution in the criminal justice system and has met every year until 2006.
2. Through the institutionalisation of the previous informal forum of the CPGE, the Committee of Ministers as well as its European Committee on Crime Problems (CDPC), recognises the importance of closely involving Public Prosecution services of its member States in its work aimed at the development of common policies and legal instruments related to their functioning and professional activities.
3. The CCPE, composed of high level prosecutors of all member States, has been given the following terms of reference (the full text of the specific terms of reference for 2006<sup>3</sup> is set out in Appendix 1):
  - a. to prepare a framework overall action plan for the work of the CCPE to be approved by the European Committee on Crime Problems (CDPC) and the Committee of Ministers;
  - b. to prepare opinions for the attention of the CDPC on difficulties concerning the implementation of Recommendation Rec(2000)19 on the role of public prosecution in the criminal justice system;
  - c. following a specific request from the Committee of Ministers, the CDPC or any other Council of Europe body, to prepare opinions concerning issues related to the prosecution service;
  - d. to promote the implementation of Recommendation Rec(2000)19, in particular by the organisation of conferences on topics of common concern to the profession;
  - e. to collect information about the functioning of prosecution services in Europe.
4. On the basis of the above terms of reference, Recommendation Rec (2000)19 on the role of public prosecution in the criminal justice system, the conclusions of the previous

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<sup>3</sup> For the proposed terms of reference for 2007 and 2008 see CCPE (2006)06 Part V, Appendix V.

CPGE sessions and the proposals made by the Co-ordinating Bureau of the CPGE during its meeting on 7-8 November 2005, a preliminary draft framework overall action plan was proposed for discussion and comments by the Bureau of the CDPC, during its meeting in January 2006. The comments by the Bureau of the CDPC were considered by the Bureau of the CPGE who have reviewed the draft framework overall action plan in light of these comments before its consideration by the CDPC during its plenary meeting on 3-6 April 2006. The present, consolidated draft framework overall action plan, which includes the amendments proposed by the CDPC, was examined and then approved by the CCPE during its first meeting on 6 July 2006.

5. According to the procedure resulting from the specific terms of reference of the CCPE, the draft framework overall action plan adopted by the CCPE, will be sent to be approved by the CDPC (which is planned to be done through the written consultation procedure) and by the Committee of Ministers in order to be finalised.

## **B. OBJECTIVE**

6. The objective of the overall framework action plan for the work of the CCPE is to provide this body with a non-exhaustive and dynamic list of possible action areas.

## **C. FRAMEWORK OVERALL ACTION PLAN**

7. The implementation and the promotion of Recommendation Rec (2000)19 on the role of public prosecution in the criminal justice system constitute the heart of the specific terms of reference of the CCPE. The proposed action plan therefore adopts the structure and incorporates the contents of the Recommendation. However, since the terms of reference do not limit the work of the CCPE to the contents of Recommendation Rec (2000)19, the action plan also encompasses areas which are not covered by the Recommendation but are nevertheless closely linked to the tasks and functions of prosecution services in Europe.

### **I. Functions of the public prosecutor**

8. The functions of the public prosecutors in Europe vary considerably due to differences in their status and role in the justice systems of Council of Europe member states. Although some functions, such as those concerning criminal prosecution, are common to prosecutors in all member States, other functions, including those outside the criminal sector are not found in all legal systems. The following possible functions of public prosecutors could be addressed, either by undertaking a study on or an enquiry into their exercise (powers and limits in law and practice) in Council of Europe member States, or by the drafting of an opinion ( e.g. on the need to elaborate guidelines or standards on their exercise):
  - a. Functions in the criminal justice system with regard to
    - i. decision-making regarding the initiation, continuation or discontinuation of prosecution or regarding alternatives to prosecution (e.g. mediation):

- a) advantages and disadvantages of discretionary powers of this decision making;
    - implementation of crime policy priorities;
  - ii. the conduct of prosecutions before the court and the conduct of appeals;
  - iii. the conduct and co-ordination of criminal investigations;
  - iv. the supervision of the execution of court decisions in penal matters;
  - v. the protection of witnesses in danger;
  - vi. the protection of/ assistance to victims;
  - vii. juvenile delinquents, juvenile victims and witnesses;
  - viii. prisoners /persons deprived of their liberty;
- b. Functions, including court procedures, outside the criminal sector related to, inter alia:
    - i. civil law,
    - ii. family law,
    - iii. labour law,
    - iv. commercial law,
    - v. social law,
    - vi. public law ( including administrative and constitutional law),
  - c. and also, functions related to:
    - i. the administration and management of the justice system;
    - ii. advisory functions to the judiciary, executive and legislative powers;
    - iii. communication with the general public and the media.

## **II. Safeguards provided to public prosecutors for carrying out their functions**

- 9. The CCPE could also undertake an assessment of the safeguards provided to public prosecutors in member States for carrying out their functions in accordance with the principles contained in Recommendation (2000)19. These safeguards concerning their functioning, their status and professional career include the adequacy and effectiveness of measures to guarantee:
  - i. that public prosecutors are able to fulfil their professional duties under adequate legal and organisational conditions, including by ensuring sufficient budgetary means;
  - ii. fair and impartial procedures for recruitment, promotion and transfer of public prosecutors;
  - iii. that the careers, promotions and mobility of public prosecutors are governed by known and objective criteria;
  - iv. reasonable conditions of service such as remuneration, tenure, pension, age of retirement and that these conditions are governed by law;
  - v. that disciplinary proceedings against public prosecutors are governed by law and guarantee a fair and objective evaluation and decision, subject to independent and impartial review;
  - vi. that public prosecutors have access to a satisfactory grievance procedure, including where appropriate access to a tribunal if their legal status is affected;

- vii. that public prosecutors, together with their families are physically protected by the authorities when their personal safety is threatened;
- viii. that public prosecutors have an effective right to freedom of expression, belief, association and assembly under the conditions mentioned in §6 of Recommendation (2000)19;
- ix. that public prosecutors receive appropriate and sufficient training both before and after their appointment;
- x. the development of specialisation to respond to different forms of criminality, in particular organised crime, trafficking in human beings, terrorism, corruption, cybercrime, counterfeiting, domestic violence, sexual exploitation of children and money laundering, and the recourse to teams of specialists, including multi-disciplinary teams to assist public prosecutors in carrying out their functions;
- xi. that the assignment of cases meet the requirements of impartiality and independence and take due account of the level of legal qualification and specialisation required for each case;
- xii. that individual public prosecutors can request that instructions addressed to him or her be put in writing and that he or she be provided with an adequate internal procedure against instructions which he or she believes to be either illegal or running against his or her conscience.

### **III. Relationship between public prosecutors and the executive and legislative powers**

10. Prosecution services in European States represent widespread differences with respect to their institutional relationship with the executive and legislative powers. While in some legal systems the public prosecutor enjoys complete independence from parliament and government, in others he or she is subordinate to one or another while still enjoying some degree of scope for independent action. Although possibilities for harmonisation on this issue seemed premature, at least when Recommendation (2000)19 was adopted, current internal reforms in various member States of the Council of Europe might justify a need to assess the effective implementation of the safety nets enshrined in the Recommendation to avoid possible weaknesses of both models.
11. The principles and safety nets contained in Recommendation (2000)19 aim to guarantee, in all systems, the fundamental principle of the separation of powers between the legislative, the executive and the judiciary while ensuring, on the one hand, a sufficient level of operational autonomy of public prosecutors to perform their duties without unjustified interference and, on the other hand, a sufficient level of democratic accountability for the activities of the prosecution services and liability for individual shortcomings at disciplinary, administrative, civil and criminal levels.
12. In the above context, the following issues might be addressed:
  - a. In all systems:
    - i. capacity of public prosecutors to perform their duties without unjustified interference or obstruction, including their duty to prosecute public officials for offences committed by them;
    - ii. accountability of the prosecution service for its activities as a whole;

- iii. personal liability of public prosecutors (civil, penal or other).
- b. In systems where the public prosecution is part of or subordinate to the government:
  - i. nature and scope of the powers of the government as established by law;
  - ii. the exercise of these powers, in particular with regard to instructions;
  - iii. consultation of public prosecutors with regard to instructions;
  - iv. possibility for public prosecutors to submit to the court any legal argument of their choice, even when they are under a duty to reflect in writing the instructions received.
- c. In systems where the public prosecution is independent of the government:
  - i. nature and scope of the independence of the public prosecution as established by law;
  - ii. working relationship between the public prosecution service and government agencies and other institutions.

#### **IV. Relationship between public prosecutors and court judges**

13. Although prosecutors and judges are part of the same legal system, there can be no equivalence between the two professions and appropriate measures should be taken so as to fully ensure that the legal status, the competencies and the procedural role of public prosecutors are established by law in a way that there can be no doubt about the independence and impartiality of court judges. An assessment of measures taken to this effect could be conducted, including the following aspects:
- a. the guarantee that a person cannot at the same time perform duties as a public prosecutor and as a judge;
  - b. the strict respect by public prosecutors of the independence and impartiality of court judges, in particular by refraining from casting doubts on judicial decisions or from hindering their execution (save where exercising their right of appeal);
  - c. where judges are involved in criminal investigations (investigating judges), attention should be given to the functional co-operation of public prosecutors with these judges, within the respect of the latter's independence;
  - d. the need for public prosecutors to be fair, impartial and objective, in particular by providing the court with all relevant facts and legal arguments necessary for the fair administration of justice;
  - e. where public prosecutors are empowered to take measures which affect the fundamental rights and freedoms of individuals, these should be subject to judicial review.

#### **V. Relationship between public prosecutors and the police<sup>4</sup>**

14. With regard to the institutional link between public prosecutors and the police a distinction is to be made between States in which the police service is independent of the

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<sup>4</sup> For the purpose of this action plan "police" comprises all law enforcement agencies or bodies involved in criminal investigation.



public prosecution, and enjoys considerable discretion not only in the conduct of investigations but also often in deciding whether to prosecute, and those in which policing is supervised, or indeed directed, by the public prosecutor.

15. In countries where the police are placed under the authority of the public prosecutor, the following issues are to be considered:
  - a. instructions by the public prosecutor to the police with a view to an adequate implementation of crime policy priorities, including in particular:
    - i. cases to be dealt with as a priority;
    - ii. means used to search for evidence;
    - iii. staff used;
    - iv. duration of investigation;
    - v. information to be given to the public prosecutor;
  - b. where different police agencies are available, allocation of individual cases to the agency that deems best suited to deal with it;
  - c. evaluations and control necessary to monitor compliance with the instructions of the public prosecutor and with the law;
  - d. sanctioning of violations.
16. Where the police are independent of the public prosecution, attention should be given to the availability of effective and functional co-operation between the public prosecution and the police.
17. In general, the possible role of public prosecutors could be further considered in:
  - a. scrutinising the lawfulness of police investigations before any decision to proceed with public prosecution can be taken;
  - b. monitoring the observance of human rights by the police.

## **VI. Duties of the public prosecutor towards individuals**

18. As a corollary to the safeguards enjoyed by public prosecutors in the performance of their functions, these functions entail certain duties and responsibilities towards those who come into contact with the legal system, whether as suspects, witnesses or victims of crime or any other persons whose rights are violated. Public prosecutors should, as a main responsibility, ensure that they carry out their functions in a way that is fair, impartial and objective, respectful of human rights and as expeditious as possible.
19. The effective fulfilment of these duties by public prosecutors, and the obstacles encountered in fulfilling them should be considered, including in particular the following requirements:
  - a. non-discrimination and equality before the law;
  - b. consideration of all circumstances of a case including those affecting a suspect;
  - c. no prosecution when charge seems unfounded;
  - d. no prosecution based on illegally obtained evidence;

- e. safeguarding the principle of equality of arms, disclosure of information;
  - f. respecting the presumption of innocence, confidentiality of information;
  - g. taking account of the interests and the protection of the life, safety and privacy of witnesses and collaborators of justice;
  - h. taking account of the views and concerns of victims and providing them with appropriate information on their rights and the procedure;
  - i. taking adequate measures for the protection of the rights and interests of persons claiming that their rights or interests are violated.
20. Consideration should also be given to the requirements made to States to promote fair, consistent, impartial and efficient activity of public prosecutors in this respect, and in particular by:
- a. providing a possibility to victims and other interested parties of recognised or identifiable status to challenge decisions of the public prosecutor not to prosecute;
  - b. the development of national “codes of conduct” for public prosecutors<sup>5</sup>;
  - c. ensuring well designed hierarchical methods of organisation which do not lead to ineffective or obstructive bureaucratic structures;
  - d. defining general guidelines on the implementation of the crime policy, setting out priorities and means of pursuing them, and making them accessible to the public;
  - e. defining general criteria to guide decision-making in individual cases and making them accessible to the public;
  - f. ensuring an adequate control on the observance by public prosecutors of general criteria, instructions and general guidelines .

## **VII. International co-operation**

21. Given the important role played by the public prosecutor in international judicial co-operation in criminal matters and the growing importance of strengthening international co-operation in order to combat crime, consideration could be given to:
- a. ways to promote direct contacts between public prosecutors in the context of international judicial co-operation, within the framework of international agreements where they exist or on the basis of practical arrangements, e.g. by:
    - i. disseminating documentation;
    - ii. compiling a list of contacts and addresses giving the names of the relevant persons in the different prosecuting authorities, as well as their specialist fields, etc.;
    - iii. organising regular meetings between public prosecutors of different countries on questions regarding mutual assistance and shared crime issues;
    - iv. organising training and awareness-enhancing sessions;
    - v. introducing and developing the function of liaison law officers based in a foreign country;
    - vi. the conduct of joint investigation procedures.

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<sup>5</sup> During the 6<sup>th</sup> Conference of Prosecutors General of Europe held in Budapest, May 2005, the participants adopted “European Guidelines on ethics and conduct of prosecutors” (the “Budapest Guidelines”) which are largely inspired by the above principles.

- b. ways to improve rationalisation and active co-ordination of mutual assistance procedures by promoting
  - i. the awareness of all public prosecutors of the need for active participation in international co-operation;
  - ii. the specialisation of some public prosecutors in the field of international co-operation;
  - iii. the possibility that the public prosecutor of the requesting state, where he or she is in charge of international co-operation, may address requests for mutual legal assistance directly to the authority of the requested state that is competent to carry out the requested action, and that the latter authority may return directly to him or her the evidence obtained;
  
- c. ways to improve the role played by public prosecution services, including by the recourse to teams of specialists and multi-disciplinary teams, in strengthening international co-operation in the fight against specific forms of serious crime, such as:
  - i. organised crime;
  - ii. trafficking in human beings;
  - iii. terrorism;
  - iv. corruption;
  - v. cybercrime;
  - vi. counterfeiting;
  - vii. sexual exploitation of children; and
  - viii. money laundering.

#### **D. IMPLEMENTATION**

- 22. Priority issues to be addressed will be defined by the CCPE in consultation with the CDPC or will result from specific requests by the Committee of Ministers, the CDPC or any other Council of Europe body.
  
- 23. The action areas identified as a priority will be addressed, as appropriate, by the preparation of an opinion, a proposal to undertake a study or a proposal to elaborate draft legal instruments on certain aspects linked to the action plan.
  
- 24. The subjects might also lead to proposals to organise seminars or conferences on specific topics where large consultation or awareness raising is indicated.
  
- 25. Some suggestions for priority actions proposed by the CCPE are appended to this framework overall action plan (Appendix II). The order of priority for the actions will be decided by the Bureau in the light of comments sent by members of the CCPE. Members of the CCPE were invited to send to the Secretariat their comments, indicating their proposals concerning the order of priority, not later than the end of August 2006.

*Appendix I*

**Specific terms of reference of the  
Consultative Council of European Prosecutors (CCPE)<sup>6</sup>**

**1. Name of Committee:**

Consultative Council of European Prosecutors (CCPE)

**2. Type of Committee:**

Consultative body

**3. Source of terms of reference:**

Committee of Ministers

**4. Terms of reference:**

*a.* to prepare a framework overall action plan for the work of the CCPE to be approved by the European Committee on Crime Problems (CDPC) and the Committee of Ministers;

*b.* to prepare opinions for the attention of the CDPC on difficulties concerning the implementation of Recommendation Rec(2000)19 on the role of public prosecution in the criminal justice system;

*c.* following a specific request from the Committee of Ministers, the CDPC or any other Council of Europe body, to prepare opinions concerning issues related to the prosecution service;

*d.* to promote the implementation of Recommendation Rec(2000)19, in particular by the organisation of conferences on topics of common concern to the profession;

*e.* to collect information about the functioning of prosecution services in Europe.

**5. Membership of the Committee:**

*a.* All member states may be represented on the CCPE. Members should be chosen in contact, where such authorities exist, with the national authorities responsible for prosecutors and with the national administration responsible for managing the prosecution service, from among serving prosecutors having a thorough knowledge of questions relating to the functioning of the prosecution system combined with utmost personal integrity.

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<sup>6</sup> Adopted by the Committee of Ministers on 13 July 2005 during the 935<sup>th</sup> meeting of the Ministers' Deputies (CM/Del/Dec(2005)935, Item 10.2, Appendix 13)

The travel and subsistence of members shall be at the expenses of their states.

*b.* The European Union may take part in the work of the CCPE, without the right to vote or defrayal of expenses.

*c.* The following Council of Europe observers may send a representative to meetings of the CCPE, without the right to vote or defrayal of expenses:

- Canada;
- Holy See;
- Japan;
- Mexico;
- United States of America.

*d.* The following observers with the CCPE may attend the meetings of the CCPE, without the right to vote or defrayal of expenses:

- the International Association of Prosecutors;
- the Association “Magistrats européens pour la démocratie et les libertés” (MEDEL).

*e.* The CCPE may appoint one representative to attend meetings of the CDPC and one representative to attend meetings of the Consultative Council of European Judges (CCJE) and the CDPC and the CCJE may each appoint one representative to attend meetings of the CCPE. The Council of Europe will cover the travel and subsistence expenses of these representatives.

## **6. Structures and working methods:**

The CCPE is an advisory body of the Committee of Ministers. The Consultative Council works in co-operation, in particular, with the CDPC and the CCJE and also, depending on the subjects dealt with, other committees or bodies. The CCPE reports on its activities to the Committee of Ministers and to the CDPC and all texts for the Committee of Ministers will be forwarded through the CDPC to ensure proper coordination and consistency on matters relating to criminal justice policy.

In order to discharge its terms of reference, the CCPE will be assisted by a Bureau of eleven members appointed by the CCPE. The Bureau shall provide assistance as requested by the CCPE and to this end, the Bureau may seek the advice of external experts and have recourse to studies by consultants.

The travel and subsistence expenses of the Bureau members will be paid by the Council of Europe.

## **7. Duration:**

These terms of reference expire on 31 December 2006 and may be renewed.

*Appendix II***CONSULTATIVE COUNCIL OF EUROPEAN PROSECUTORS (CCPE)  
PRIORITY ACTIONS<sup>7</sup>**

1. Study ways and means to improve international co-operation between public prosecutors in Europe, on the basis of articles 37-39 of Rec (2000) 19, and in co-operation with the Committee of Experts on the Operation of Conventions in the Penal Field (PC-OC) [Reference to Chapter VII]
2. Further to the preliminary study and conclusions of the Budapest Conference of Prosecutors General of Europe with regard to the public prosecutor's competencies outside the criminal field, undertake further inquiries on the subject in view of the preparation of an opinion [Reference to Chapter I]
3. In the light of the recent updating of the European Prison Rules, study the relationship between public prosecution services and prison administrations including the role of public prosecutors in ensuring the respect of human rights of persons deprived of their liberty. [Reference to Chapter I]
4. Taking into account the conclusions of the 2<sup>nd</sup> European conference of Judges, held in Cracow in April 2005, on "Justice and the media", the possibility of defining guidelines on the relationship between prosecution services and the media should be considered. [Reference to Chapter I]
5. With reference to Recommendation (2000) 19 (articles 8,9,11,36) and the conclusions of the Conference of Ministers of Justice (Helsinki 2005) on the issue of restorative justice, undertake a study on the contribution by the public prosecution service to the establishment of the criminal justice policy. In particular, inquiries should be made with regard to possibilities of developing discretionary powers to decide on alternatives to prosecution and measures of restorative justice. [Reference to Chapters I and III]
6. Undertake an examination of the duties of public prosecutors towards victims and witness, in particular those who are juveniles, taking into account the Conclusions of the Moscow Conference.[Reference to Chapters I and VI]
7. With reference to the Council of Europe's programme of action "Children and violence", undertake a study on the public prosecutor's role with regard to children and juveniles, taking into account the work and conclusions of the CPGE in Bratislava on juvenile delinquency and to the various instruments of the Council of Europe of relevance to this issue. [Reference to Chapter I]
8. In co-operation with the European Commission for the efficiency of justice (CEPEJ), and with reference to the Recommendation Rec (2000)19 and other relevant instruments of the Council of Europe, the contribution of public prosecution services to

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<sup>7</sup> The order of priority for these actions will be decided by the Bureau of the CCPE in the light of comments from the members of the CCPE.

improving the administration and management of justice should be examined. [Reference to Chapter I and IV]

9. Referring to Recommendation Rec (2000)19, and in particular art. 35, consider ways and means of promoting the “European Guidelines on ethics and conduct of prosecutors” (the “Budapest Guidelines”). [Reference to Chapter VI]
10. Follow the work and activities undertaken in the Council of Europe, in particular those of the Consultative Council of European Judges (CCJE), that are of relevance to the public prosecution services.

**APPENDIX V****DRAFT TERMS OF REFERENCE OF THE CCPE FOR 2007-2008**

<b>1.</b>	<b>Name of committee:</b>	Consultative Council of European Prosecutors (CCPE)
<b>2.</b>	<b>Type of committee:</b>	Ad Hoc Committee
<b>3.</b>	<b>Source of terms of reference:</b>	Committee of Ministers
<b>4.</b>	<b>Terms of reference:</b>	
	<b>Having regard to:</b>	
-		<b>The Declaration and the Action Plan adopted by the Third Summit of Heads of State and Government (Warsaw, 16-17 May 2005), in particular concerning the necessity to strengthen and ensure the security of European citizens;</b>
-		Recommendation Rec(2000)19 on the role of public prosecution in the criminal justice system and the Conclusions of the Conferences of Prosecutors General of Europe;
-		<b>The framework overall action plan for the work of the CCPE approved in 2006 by the CCPE, the European Committee on Crime Problems (CDPC) and the Committee of Ministers ;</b>
	<b>Within the framework of the Programmes: “European Standards for Crime Control” and “Functioning and Efficiency of Justice” of the Programme of Activities, the CCPE is instructed:</b>	
i		to prepare opinions for the attention of the CDPC on <b>issues concerning the functioning of the public prosecution service as outlined in the framework overall action plan for the work of the CCPE and in particular</b> concerning the implementation of Recommendation Rec(2000)19 on the role of public prosecution in the criminal justice system;
ii.		following a specific request from the Committee of Ministers, the CDPC or any other Council of Europe body, to prepare opinions concerning issues related to the prosecution service;
iii.		
iv.		to promote the implementation of Recommendation Rec(2000)19, in particular by the organisation of conferences on topics of common concern to the profession;
		to collect information about the functioning of prosecution services in Europe.



<b>5.</b>	<b>Composition of the Committee:</b>
<b>5.A.</b>	<b>Members</b>  All member states may be represented on the CCPE. Members should be chosen in contact, where such authorities exist, with the national authorities responsible for prosecutors and with the national administration responsible for managing the prosecution service, from among serving prosecutors <b>of the highest possible rank</b> having a thorough knowledge of questions relating to the functioning of the prosecution system combined with utmost personal integrity.  The travel and subsistence of members shall be at the expenses of their states.
<b>5.B.</b>	<b>Participants</b>  The following Committees may each send a representative to meetings of the CCPE, without the right to vote and at the charge of the corresponding CoE budget sub-heads:  The European Committee on Crime Problems (CDPC) The Consultative Council of European Judges (CCJE) <b>The European Commission for the efficiency of Justice (CEPEJ)</b>
<b>5.C</b>	<b>Other participants</b>  i. The European Union may send representatives to meetings of the CCPE, without the right to vote or defrayal of expenses.  ii. The states with observer status with the Council of Europe (Canada, Holy See, Japan, Mexico, United States of America) may send a representative to meetings of the Committee without the right to vote or defrayal of expenses.
<b>5.D.</b>	<b>Observers</b>  The following non-member states: - Montenegro and the following non-governmental organisations: the International Association of Prosecutors; the Association “Magistrats européens pour la démocratie et les libertés” (MEDEL) may send a representative to meetings of the Committee without the right to vote or defrayal of expenses.
<b>6.</b>	<b>Working Methods and Structures</b>  The CCPE is an advisory body of the Committee of Ministers. The Consultative Council works in co-operation, in particular, with the CDPC and the CCJE and also, depending on the subjects dealt with, other committees or bodies. The CCPE reports on its activities to the Committee of Ministers and to the CDPC and all texts for the Committee of Ministers will be forwarded through the CDPC to

	<p>ensure proper coordination and consistency on matters relating to criminal justice policy.</p> <p>In order to discharge its terms of reference, the CCPE will be assisted by a Bureau of eleven members appointed by the CCPE. The Bureau shall provide assistance as requested by the CCPE and to this end, the Bureau may seek the advice of external experts and have recourse to studies by consultants.</p> <p>The travel and subsistence expenses of the Bureau members will be paid by the Council of Europe.</p>
<b>7.</b>	<b>Duration</b>
	These terms of reference will expire on 31.12.2008.

**APPENDIX VI****Message to the CCPE from the CCJE**

On behalf of the Consultative Council of European Judges (CCJE), which I have the honour of chairing, I welcome the setting up of the Consultative Council of European Prosecutors and wish it every success in its future proceedings.

The CCJE, formed in 2000, has been able to make itself known rapidly in the judicial sphere through the adoption of seven Opinions, the organisation of two European Conferences of Judges and numerous exchanges of experience; the CCJE is also recognised among Europe's judges as one of the champions of their independence. It was vitally important that the office of prosecutor might likewise benefit from a consultative council allowing its essential role in the criminal justice system and the furtherance of international co-operation to be examined in depth by organising Conferences of Prosecutors General of Europe.

The CCJE expresses the wish that bridges between the two councils may be found, for the enrichment of the work done by the Council of Europe to attain high-quality justice in Europe.

The CCJE is unable to be represented at the inaugural meeting of the CCPE; I nevertheless convey the wish that the CCPE agree to have a specific item concerning future CCPE-CCJE co-operation placed on the agenda for its next meeting, thereby offering the President of the CCJE the opportunity to have an exchange of views with the new council. The CCJE for its part will invite the CCPE to participate in the 7<sup>th</sup> plenary meeting of the CCJE to be held in Strasbourg from 8 to 10 November 2006.

Raffaele SABATO, President of the CCJE