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HIGH-LEVEL CONFERENCE PROSECUTORIAL INDEPENDENCE IN UPHOLDING THE RULE OF LAW

Outcome document

02 July 2023
Yerevan, Armenia

Whereas:

- On 1-2 July 2023, the Prosecutor General's Office of the Council of Europe held a Joint Conference on Prosecutorial Independence in Upholding the Rule of Law in Yerevan, Armenia;
- The Conference also *inter alia* celebrated the 105th anniversary of the establishment of the Republic of Armenia;
- The Prosecutor Generals from six member States of the Council of Europe took part in the Conference, together with the representatives of the Council of Europe, the International Association of Prosecutors and the European Union Agency for Criminal Justice Cooperation.

The Conference participants:

- Noted, as it was also mentioned by the Venice Commission' **Report on European Standards as regards the Independence of the Judicial System: Part II – the Prosecution Service**, that systems of criminal justice vary throughout Europe and different systems are rooted in different legal cultures and there is no uniform model for all states. There are, for example, important differences between systems which, in the framework of criminal procedure, are adversarial in nature and those which are inquisitorial¹;
- Emphasised that what may bring all these systems together is the requirement of the independence of the prosecution services as a pre-requisite for the rule of law and the independence of justice;
- Recalled in this respect that the Consultative Council of European Prosecutors (CCPE) stated in its **Opinion No. 9 (2014) on European norms and principles concerning prosecutors, including Rome Charter**, that since the independence and autonomy of the prosecution services constitute an indispensable corollary to the independence of the judiciary, a general tendency for such independence and autonomy of prosecutors and prosecution services should further be encouraged²;
- Highlighted accordingly the principles of institutional independence of the prosecution services and functional independence of individual prosecutors and also noted that, as advised by the Venice Commission' **Rule of Law Checklist**, in conformity with the principle of legality, the public prosecution service must act only on the basis of, and in accordance with, the law. This does not prevent the law from giving prosecutorial

¹ Report on European Standards as regards the Independence of the Judicial System: Part II – the Prosecution Service, adopted by the Venice Commission at its 85th plenary session (Venice, 17-18 December 2010), para 7.

² CCPE Opinion No. 9 (2014) on European norms and principles concerning prosecutors, Rome Charter, Section IV.

authorities some discretion when deciding whether to initiate a criminal procedure or not (opportunity principle)³;

- Shared respective practices and experiences in member States of the Council of Europe and noted that, while some of them have established prosecutorial councils, there is still no uniform practice or binding standards across Europe concerning such councils;
- Recalled also the **Recommendation CM/Rec(2000)19 of the Committee of Ministers of the Council of Europe on the Role of Public Prosecution in the Criminal Justice System** which is one of the key instruments of the Council of Europe as regards the public prosecution and principles of the rule of law;
- Recalled the increasing negative impact of environmental crimes and welcomed the adoption of the Terms of Reference on 23 November 2022 by the Committee of Ministers of the Council of Europe for a new Committee of Experts on the Protection of the Environment through Criminal Law (PC-ENV) which will work on a **new Convention on the Protection of the Environment through Criminal Law**;
- Further noted in this respect the CCPE' **Opinion No. 17 (2022) on the role of prosecutors in the protection of the environment**, adopted in the aftermath of the adoption by the Committee of Ministers of the Council of Europe of **Recommendation CM/Rec(2022)20 on human rights and the protection of the environment**;
- Expressed the hope to further reinforce international co-operation on criminal matters, whilst safeguarding the principles enshrined in the European Convention for the Protection of Human Rights and Fundamental Freedoms;
- Ex p r e s s e d g r a t i t u d e t o t h e P r o s e c A n t e p i a a n d G e n e r a l the Council of Europe for an excellent organisation of the Conference and for creating the opportunity for the valuable exchange of views and experiences and interesting discussions having taken place during this productive event.

³ Rule of Law Checklist, adopted by the Venice Commission at its 106th Plenary Session (Venice, 11-12 March 2016).