



Strasbourg, 24 February 2009

CCPE-BU(2009)7

**BUREAU OF THE  
CONSULTATIVE COUNCIL OF EUROPEAN PROSECUTORS  
(CCPE-BU)**

**Report of the 9<sup>th</sup> meeting  
Strasbourg, 16 February 2009**

Secretariat memorandum, prepared by the  
Directorate General of Human Rights and Legal Affairs

## LIST OF THE MAIN DECISIONS TAKEN BY THE BUREAU

### The CCPE-BU:

- **noted** that the President had attended the Committee of Ministers meeting on 10 December and the plenary meeting of the CEPEJ on 11 December 2009 in Strasbourg, at which he had represented the CCPE;
- **noted** that the World Summit of Prosecutors General, Attorneys General and Chief Prosecutors, would take place in Bucharest (Romania) from 23 to 25 March 2009, and asked the President to represent the CCPE at this event;
- **noted** that the CCJE/CCPE Joint Conference of European Judges would take place in Bordeaux from 30 June to 1 July 2009 at the invitation of the National School of Magistrates (the exact theme of the Conference was still being discussed);
- **noted** that a meeting of the CCPE-GT, including a joint meeting with the CCJE-GT, would be held in Bordeaux on 2 and 3 July and the possibility of holding another meeting of the CCPE-GT in September to finish preparing draft Opinion N°4 on the relationships between judges and prosecutors;
- **also took note** of the dates of the joint plenary meeting of the CCPE and the CCJE from 18 to 20 November and thanked the Slovenian authorities for their invitation to hold this meeting in Ljubljana in the context of the Slovenian Chairmanship of the Committee of Ministers of the Council of Europe;
- **learned**, with satisfaction, that the Committee of Ministers had adopted the CCPE's new terms of reference for 2009 with changes concerning the implementation of a more flexible procedure for the transmission of Committee of Ministers opinions on which the CDPC and the CDCJ would have the opportunity to submit their comments;
- **thanked** Professor Peter J.P. Tak for the report on the relationships between judges and prosecutors, which could serve as a basis for preparing Opinion No. 4 on the same theme;
- **decided** that a preliminary version of the draft opinion on the relationships between judges and prosecutors would be submitted for discussion at the CCPE-GT meeting in July;
- concerning the CCPE's overall working programme for 2009, **decided** to begin discussing public policies in the field of juvenile justice, particularly in the light of the resolution adopted by the 28<sup>th</sup> Conference of European Ministers of Justice and of the past activities conducted by the Council of Europe in this field;
- **noted** that a new group of specialists on child-friendly justice, tasked in 2009 with drafting European guidelines on child-friendly justice, had been set up under the authority of the CDCJ, and **decided** to appoint Mr Harald Range (Germany) to attend the meetings of this group on behalf of the CCPE;
- **instructed** the secretariat to draw up a list of Council of Europe texts on juvenile justice and prosecutors which might be used as a basis for discussion on an opinion on this subject;
- **asked** Mr Harald Range to prepare a questionnaire on juvenile justice and relations with prosecutors for the attention of member states;
- **instructed** the secretariat to undertake research into the case law of the ECHR relating to relationships between prosecutors and the prison administrations and in the light of Recommendation Rec(2006)2 on the European Prison Rules with a view to drafting an opinion at

a later date;

- **also instructed** the secretariat to establish contact with the secretariat of the CPT with an eye to making a presentation on the role of prosecutors in the administration of prisons at the next plenary meeting from 18 to 20 November 2009;
- concerning the implementation of Recommendation 2000(19) and its visibility in Council of Europe member states, **instructed** the secretariat to consider the possibility of drafting a questionnaire to be sent to member states (this exercise could also be a means of peer evaluation by member states or of evaluation by the countries themselves);
- concerning the request by the Cybercrime Convention Committee (T-CY) to consider needs in terms of prosecutors specialising in cybercrime, **decided** to continue its discussions with the T-CY on this subject and **underlined** the importance of giving prosecutors appropriate training in dealing with problems of cybercrime.

## **I. INTRODUCTION**

1. The Bureau of the Consultative Council of European Prosecutors (CCPE-BU) held its 8<sup>th</sup> meeting in Strasbourg in the morning of 16 February 2009, with Mr Olivier De Baynast (France) in the chair.
2. The agenda and list of participants appear in Appendix I.

## **II. COMMUNICATION BY THE PRESIDENT OF THE CCPE, MEMBERS OF THE BUREAU AND THE SECRETARIAT**

3. Mr Olivier De Baynast, the new President of the CCPE, thanked the members for the confidence they had shown by electing him. In view of the activities planned for 2009, the CCPE would undoubtedly be playing a more important role, particularly through the drafting of the joint CCJE/CCPE opinion on the relationships between judges and prosecutors. This exercise would also demonstrate the two committees' willingness to co-operate. The joint opinion was very ambitious and would take consideration of the provisions of the Recommendation (2000)19 further as it would address the question of a minimum status for judges and prosecutors.
4. The President said that he had represented the CCPE at the Committee of Ministers meeting on 10 December 2008 and that the delegations had paid tribute to the work done by the CCPE. The Committee of Ministers had also underlined the importance of the work already accomplished in Opinion No. 1 on "Ways to improve international co-operation in the criminal justice field" and welcomed the choice of subjects for the terms of reference for 2009 – 2010. Special attention had been given to co-operation and bringing the work of the CCPE into line with other councils and Council of Europe committees, and in particular to continuing to give the CDPC the opportunity to comment on CCPE opinions without delaying their transmission to the Committee of Ministers.
5. The President also informed the Bureau members that he had attended the plenary meeting of the CEPEJ on 11 December 2008, at which he had said the CCPE was willing to assist the CEPEJ in preparing appropriate instruments to analyse the activity of public prosecutors' departments, for example with regard to alternatives to prosecution. The CCPE could envisage work along these lines and present its conclusions to the Bordeaux Conference of European Judges and Prosecutors on 30 June and 1 July 2009.
6. The Bureau asked the President to represent the CCPE at the World Summit of Prosecutors General, Attorneys General and Chief Prosecutors in Bucharest (Romania) from 23 to 25 March 2009. The theme of the Summit was "The General Prosecutor - pillar of the contemporary criminal justice system" and the aim of the event was to strengthen the partnership between chief prosecutors and other players in criminal justice so as to increase public confidence in the rule of law.
7. With regard to the Bordeaux Conference of European Judges and Prosecutors, the secretariat informed the participants of the new dates negotiated with the National School of Magistrates and the members of the CCJE and the CCPE, namely 30 June and 1 July. The Conference would be preceded by a meeting of the CCPE-GT from the afternoon of 1 July to 3 July, with a joint CCJE-GT meeting on 2 July. A further meeting of the working group would be held in late September to finalise the preparation of the draft opinion prepared in the light of the conclusions of the Conference. The plenary meeting would be held in Ljubljana on 18 to 20 November 2009 at the invitation of the Slovenian authorities and would also be a joint CCJE/CCPE meeting.

8. The secretariat informed the Bureau members that, after consulting the CDPC, the Committee of Ministers had adopted new terms of reference for the CCPE for 2009, which contained some changes compared to the draft terms of reference adopted by the CCPE at its plenary meeting in October 2008. The CDPC and the CDCJ could submit comments on the opinions adopted by the CCPE before they were forwarded to the Committee of Ministers.

### **III. STATE OF PREPARATION OF THE BORDEAUX CONFERENCE**

9. The National School of Magistrates was looking forward to hosting the Conference, particularly in view of the fact that 2009 would be the 50<sup>th</sup> anniversary of the ENM. As a first step in the preparations, the secretariat was invited to draft invitations to this event, together with the French partners. Several delegations underlined the importance of stipulating the profile that participants were expected to have in the invitation, so as to ensure the highest possible level of knowledge and experience of the subject of the conference .

### **IV. TIMETABLE FOR THE DRAFTING OF THE CCJE – CCPE JOINT OPINION NO.4 ON THE RELATIONSHIPS BETWEEN JUDGES AND PROSECUTORS**

10. The Bureau thought that Professor Peter J.P. Tak's report on the relationships between judges and prosecutors gave a comparative view of the work and role of judges and prosecutors in the different member states of the Council of Europe and that it could be used as a basis for Opinion N°4. The Bureau members unanimously agreed that the subject was extremely topical, given the new reforms currently being planned.
11. The following views were given on the structure of the Opinion:
- the Opinion should not be concerned with the details of how cases were dealt with but merely the working relationship between judges and prosecutors, bearing in mind that their main duty was to deliver effective justice within a reasonable time and with all due respect for individual freedoms;
  - the Opinion should adopt a more conceptual approach and take account of all the duties of judges and prosecutors;
  - it was necessary to agree on a title which covered both judges and prosecutors and reflected the question of how they could succeed in their joint mission;
  - the Opinion should be short and not go into detail about the way in which cases were dealt with or how proceedings were conducted.
12. The procedure decided on for the drafting of the opinion was to appoint a judge and a prosecutor to draft each subject area/chapter. The various contributions should be sent to the secretariat by the end of March and the secretariat should prepare the final text by late May.

### **V. DISCUSSION OF THE OVERALL WORKING PROGRAMME FOR 2009**

13. With regard to the CCPE working programme for 2009 – 2010, the President said that the CCPE was invited to begin discussing public policies in the field of juvenile justice, particularly in the light of the resolution adopted by the 28th Conference of European Ministers of Justice and of the past activities conducted by the Council of

Europe in this field. In this context, the President informed the Bureau members that a new group of specialists on child-friendly justice had been set up under the authority of the CDCJ, and that its work for 2009 was to draft European guidelines on child-friendly justice. The Bureau decided to appoint Mr Harald Range (Germany) as a member of this group.

14. With a view to providing a basis for the discussion on a possible opinion in this field, the secretariat was instructed to draw up a list of Council of Europe texts on juvenile justice and prosecutors. Once this information had been gathered, the secretariat would ask Mr Harald Range (Germany) to prepare a questionnaire on this subject for the attention of the member states.
15. Another part of the CCPE working programme would concern the relationships between prosecutors and the prison administrations in the light of Recommendation Rec(2006)2 on the European Prison Rules. The CCPE might be asked to draft an opinion in 2010. The Bureau wished to make preliminary contact with the CPT secretariat and possibly make a presentation on the role of prosecutors in the administration of prisons at the next plenary meeting. The CCPE also asked the secretariat to undertake research into the case law of the ECHR on this subject so as to prepare a list of the questions concerning the role of prosecutors in prison administration.
16. The Bureau was already considering how it might celebrate the 10<sup>th</sup> anniversary of Recommendation (2000)19 in 2010. The French delegation suggested holding a meeting in France with the support of the National Association of Prosecutors to present Recommendation (2000)19, as it was generally thought that little was known about it in the profession. Another solution would be to hold regular information seminars to raise awareness of this instrument. Other possibilities, such as evaluation by peers or by the countries themselves could be envisaged. A questionnaire aimed at obtaining information from member states on the effective implementation of the Recommendation could also provide a starting point for a more detailed discussion.

## **VI. DISCUSSION OF THE REQUEST BY THE T-CY TO CONSIDER THE NEED OF SPECIALISED PROSECUTORS IN THE FIELD OF CYBERCRIME AS WELL AS APPROPRIATE TRAINING IN THE FIELD**

17. At the request of the Cybercrime Convention Committee (T-CY), the Bureau members took note of the last report of the 3<sup>rd</sup> multilateral consultation among the contracting states to the Convention on Cybercrime (ETS No. 185) and, particularly at the request of the T-CY to the CCPE, to consider needs in terms of specialist prosecutors and training for prosecutors in this field. The CCPE Bureau felt it was necessary for prosecutors to be given specialist training in this field. Given its extremely technical nature, this training should also be accessible mainly to people who already had knowledge of and skills in information technologies. The CCPE thought the case for specialised prosecutors needed further justification. However, if this idea was taken on board, it was important that specialised technical services should also be established. The CCPE was prepared to continue discussing this subject, particularly with regard to competences, making just one court responsible for particularly types of proceedings and international co-operation in the field and proposed to continue exchanging information with the T-CY.

**Appendix I****AGENDA**

- 1. Opening of the meeting**
- 2. Adoption of the agenda**
- 3. Communication by the President, members of the Bureau and the Secrétariat**
- 4. State of preparation of the Bordeaux Conference to be held from 30 June to 3rd July**
- 5. Timetable for the drafting of the CCJE – CCPE joint Opinion No.4 on the relationships between judges and prosecutors**
- 6. Discussion of the overall Working programme for 2009**
- 7. Discussion of the request by the T-CY to consider the need of specialised prosecutors in the field of cybercrime as well as appropriate training in the field**
- 8. Any other business**

## Appendix II

### List of Participants

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