



Strasbourg, 17 September 2008

CCPE-BU(2008)6

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

**Report of the 7th meeting
Strasbourg, 10 September 2008**

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:

- **thanked the authorities of the Russian Federation** for the organisation of the conference of General prosecutors of Europe on 1 – 3 July 2008 in Saint Petersburg, the conclusions of which lead to the preparation of the draft Opinion No 3 on the role of public prosecution outside the criminal law field;
- **took note** of the possible organisation of a conference of general prosecutors of the EU member states to be held in Vienna, on the same dates as the plenary meeting and, due to the lack of clear information about the details of this event, **decided** to keep the dates of the plenary meeting on 15 – 17 October set up by the members of the CCPE since November last year;
- **took note** that the CDPC forwarded the CCPE's Opinion N° 1 on "ways to improving the international cooperation in the criminal law field" to the Committee of Ministers which took it into consideration;
- **took note** of the fact that the communication by the CCPE President at the Committee of Ministers initially foreseen for 3 September 2008 had to be postponed due to the urgent debates on the situation in Georgia; a new date would be communicated by the Secretariat of the Committee of Ministers;
- **decided** that the working programme for 2009 of the CCPE should primarily focus on the drafting of the CCPE and CCJE joint Opinion on the relationships between judges and prosecutors;
- regarding the relationships between prosecutors and political authorities, **entrusted** the Secretariat to prepare a consolidated document comprising relevant information within the Council of Europe (in particular proceedings of the Conferences of the Prosecutors General of Europe, CEPEJ, CDPC, Venice Commission, PACE, Commissioner for Human Rights, case-law of the European Court of Human Rights) with a view to decide further work in this area;
- in relation to the items of the working programme for 2009 and in particular the topic concerning the implementation of the Recommendation 2000(19), **entrusted** the Secretariat to consider the possibility of drafting a questionnaire to be addressed to the member states which will be presented for discussion at the 3rd plenary meeting (this exercise may be a peer assessment by the member states or an evaluation by the countries themselves);
- also in relation to the terms of reference for 2009 – 2010, **decided** to include preparatory works for the topic: "Policies of the general prosecutor services in relation to the needs of juveniles" which could potentially serve as a basis for a future CCPE Opinion;
- for 2010, **entrusted** the Secretariat to begin preparatory works on the topic related to the relations of prosecutors and the prison administration in the light of the updated Council of Europe's European prison rules and the respect of Human Rights as well as to consider the possibility to work on the role of prosecutors in the cases related to the protection of the environment;
- **entrusted** the Secretariat to draft new terms of reference for the work of the CCPE for the years 2009 – 2010 to be discussed at the next plenary meeting on 15 – 17 October;
- **agreed** on a draft paper on procedures for addressing issues concerning the status of prosecutors in some member states, in line with the CCPE's terms of reference which would be presented for debates at the 3rd plenary meeting.

I. INTRODUCTION

1. The Bureau of the Consultative Council of European Prosecutors (CCPE-BU) held its 7th meeting in Strasbourg on 10 September 2008 in the morning. The meeting was chaired by Mr. Harald RANGE (Germany).
2. The agenda and list of participants appear in the Appendix I.

II. COMMUNICATION BY THE PRESIDENT OF THE CCPE AND THE SECRETARIAT

3. The Secretariat informed the Bureau members about the possible organisation in Vienna of Conference of General prosecutors of the EU member states on the same dates as the plenary meeting of the CCPE. Despite the efforts from the Secretariat to coordinate the dates of the events (the dates of the CCPE were decided and made public through the Internet in November 2007), no solutions was found to solve this problem. Nevertheless, it was decided to keep the dates of the plenary meeting (15 – 17 October) as agreed since November 2007 by the plenary meeting of the CCPE.
4. The President informed the Working group members about his recent participation at Conference: “Building a Europe for and with Children: towards a strategy for 2009-2011”, organised by the Council of Europe in Stockholm on 8 – 9 September within the Swedish Chairmanship of the Committee of Ministers, and as a follow up to the 28th Conference of the European Ministers of Justice (Lanzarote, October 2007). The President proposed to the Working group to consider the possibility of integrating in the future work of the CCPE the following questions: how to deal with juveniles? Juveniles as witnesses and victims in a criminal case; alternatives to prosecution for juveniles; tasks of the prosecutors outside the criminal field where juveniles are involved and power of prosecutor vis-à-vis custody.
5. The President will also represent the CCPE at Eurojustice Conference (the themes of the Conference are: “The Prosecutor’s Role in Securing Public Confidence in the Criminal Justice System” and “The Development of Information Communications Technology (ICT) by Prosecutors and Lessons Learned from Experience”) to be held in Edinburgh on 30 September – 1 October 2008.
6. The Secretariat told the Working group that Opinion No. 1 of the CCPE on “Ways to improve international co-operation in the criminal justice field” was transmitted by the CDPC to the Committee of Ministers which took note of it.]
7. The President thanked the Russian authorities for the excellent organisation of the Conference of General Prosecutors of Europe in Saint-Petersburg on 1 – 3 July 2008.

III. 2009 WORKING PROGRAMME

8. The Secretariat will prepare new draft terms of reference for the work of the CCPE for 2009 and 2010 which will be discussed at the 3rd plenary meeting in Strasbourg on 15 – 17 October 2008. Regarding the topics to be considered as priority for the CCPE in the upcoming year, there were few proposals.
9. As regards the “relationship between prosecutors, the judiciary and the executive power”, to continue collecting information within the Council of Europe, in particular from the Venice Commission, the work of CEPEJ, the CDPC, the PACE, the Commissioner for Human Rights and the case-law of the European Court. In this regard, the Secretariat could contact Mr Tak (Netherlands) to work on this issue as a scientific expert. This issue could be considered within the framework of the

assessment of the proper implementation of the Recommendation Rec(2000)19 in the member states; a questionnaire could be drafted for that purpose and addressed at the 3rd plenary meeting.

10. The relationship between judges and prosecutors should be a top priority for the 2009 agenda and contacts in this regard have been established with the CCJE. A Conference on the subject could be organised next year which would serve as a basis for the drafting of the next joint Opinion between the CCJE and the CCPE. The dates and place remain to be decided; on a more practical level it was suggested that a rapporteur is designed to assist both working groups of CCJE and CCPE. The Bureau of the CCPE prepared in the past for the purpose of a joint Opinion a list of priority issues to be tackled. This document was generally presented to the CCJE Bureau for preliminary views.

Other areas of particular interest for the Bureau members and where the CCPE could come with an opinion are : ; policies of the general prosecutor services in relation to the needs of juveniles (taking into account the Resolution taken by the 28th Conference of the European Ministers of Justice in 2007); relationship between prosecutors and the prison administration. These two topics could be addressed within the framework of the new terms of Reference of the CCPE. Other issues were mentioned, in particular: relationships between media and prosecutors and the role of prosecutor in cases related to the protection of the environment.

IV. SITUATION IN MEMBER STATES CONCERNING PROSECUTORS

11. The Bureau agreed that this issue was linked to information about recent developments and/or reforms concerning the work of prosecutors or difficulties they have in performing their duties. The exchange of views during the plenary meeting should be focused on the follow-up of the implementation of the Recommendation 2000(19) in the member states indicating which item of the Recommendation was concerned by the reforms.

V. PROCEDURES FOR ADDRESSING ISSUES CONCERNING THE STATUS OF PROSECUTORS IN SOME MEMBER STATES

12. Mr ZYMIN was entrusted by the Bureau to make a proposal on the ways in which the CCPE could deal with requests addressed to it concerning the status of prosecutors in specific member states. On the basis of this proposal, and taking into account the experience of the CCJE in this field, the Bureau prepared a draft procedure to be discussed at the next plenary session (see Appendix III).

VI. PREPARATION OF THE 3RD PLENARY MEETING (15 – 17 OCTOBER 2008)

13. The Bureau decided to keep the format of the past plenary meetings. The adoption of new terms of reference and the renewal of the Bureau should be taken into account when preparing the agenda.

Appendix I

AGENDA

- 1. Opening of the meeting**
- 2. Adoption of the agenda**
- 3. Communication by the President, members of the Bureau and the Secretariat**
- 4. 2009 Working programme**
 - Relationships between prosecutors and political authorities
 - Relationships between judges and prosecutors: preparatory work
 - Draft terms of reference for 2009 – 2010
- 5. Situation in member states concerning prosecutors**
- 6. Procedure for addressing issues concerning the status of prosecutors in some member states**
- 7. Preparation of the 3rd plenary meeting (15-17 October 2008)**
- 8. Any other business**

Appendix II

List of Participants

João Manuel DA SILVA MIGUEL, Procureur Général Adjoint, Bureau du Procureur Général de la République, LISBONNE, PORTUGAL

Olivier de BAYNAST, Procureur Général près de la Cour d'Appel d'Amiens, FRANCE

Peter POLT, Chief Prosecutor, Head of Criminal Trial Cases, Office of the Prosecutor General BUDAPEST, HUNGARY (Vice- President of the CCPE / *Vice-Président du CCPE*)

Harald RANGE, Prosecutor General, Generalstaatsanwaltschaft, CELLE, GERMANY (President of the CCPE / *Président du CCPE*)

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

**Directorate General of Human Rights and Legal Affairs, Justice Division /
Direction Générale des Droits de l'Homme et des Affaires Juridiques, Division de la
Justice**

Anna CAPELLO, Head of Justice, *Chef de la Division*

Stéphane LEYENBERGER, Deputy Head of Division ./ *Chef Adjoint de la Division*

Ana RUSU-MARIDET, Co-Secretary of the CCPE / *Co-Secrétaire du CCPE*

Jean-Pierre GEILLER, Documentation

Sandrina MAROLLEAU, Communication

Emily WALKER, Assistant / *Assistante*

Interpreters / Interprètes

Nicolas GUITTONNEAU

Chloé CHENETIER

Cynera JAFFREY

Appendix III

Draft procedures of the considering of applications received by the Consultative Council of Prosecutors of Europe

proposed by the CCPE's Bureau

1. The President of the CCPE immediately forwards **applications received from the Council of Europe bodies** (Committee of Ministers, Parliamentary assembly, Secretary General etc.) to the members of the Bureau for comments and suggestions as to their future consideration including, if necessary, at a Bureau meeting and/or at a plenary session of the CCPE.
2. The President, in consultation with the Bureau of the CCPE, forwards **applications received from natural or legal (such as professional NGO's) persons and national legal entities** to the CCPE member in respect of the state concerned, asking to submit comments and information, including that on the use by the applicants of national legal remedies with respect to the situation concerned, as well as, if necessary, copies of the appropriate official documents.

The President of the CCPE forwards the response to the applicant, which includes one or a number of the following variants, namely:

- in accordance with the terms of reference of the CCPE approved by the Committee of Ministers of the Council of Europe, consideration of such applications is not in the sphere of the competence of the CCPE;
- the application is forwarded for consideration to the CCPE member in respect of the State concerned;
- the CCPE will take into account the application received, as well as the comments of the said CCPE member in the course of further consideration by the CCPE of implementation of the Recommendation of the Committee of Ministers of the Council of Europe (2000)19;
- it is recommended to use national and other legal remedies to cope with the situation concerned.

Once this procedure achieved, the Bureau of the CCPE decides on a case by case basis on the follow up to be given to the application (namely a possible consideration at the plenary session of CCPE), taking into account the elements forwarded by the member of the CCPE in respect of the state concerned.

3. In any case, the plenary meeting of the CCPE is the only competent body to take the final decision regarding the application considered relevant by the Bureau.