

Strasbourg, 14 May 2002

Conference of Prosecutors General of Europe 3rd Session

CONCLUSIONS

Under the aegis of the Council of Europe and following an invitation from the Prosecutor General of Slovenia, the Prosecutors General and other Prosecutors of Europe met at Ljubljana, from 12 to 14 May 2002.

At its opening, the Conference heard a message addressed to it by the President of the Republic of Slovenia.

The Programme of the Conference, as well as the list of participants, are available in separate documents. The Proceedings of the Conference will be published in due course.

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1. **The Conference strongly reaffirmed its determination in** promoting the approximation of prosecutors and prosecutors' offices of Europe, as well as their harmonisation around common values and guiding principles, respectful of human rights and mindful of the requirement of efficiency in criminal justice.

It recalled that Recommendation Rec (2000) 19 of the Committee of Ministers of the Council of Europe to its member States, on "the Role of Public Prosecution in the Criminal Justice System" is in that respect the text of reference. It belongs to the Conference and to each prosecutor's office to ensure that the Recommendation is largely distributed, to see to it that it is taken into account, in particular where reforms are undertaken, and to react to any violations thereto.

The Conference tasked its Bureau with studying ways and means of setting up a monitoring mechanism to survey the implementation of the Recommendation in the different member States of the Council of Europe and evaluate the results.

In this framework, the Conference tasked its Bureau with reminding the appropriate instances of the applicable guidelines, in the most appropriate way and in case of urgency where it appears that, in one or another State, the implementation of certain items of the Recommendation poses a problem. It should subsequently report to the Conference.

It expressed the wish that the principles of the Recommendation may also inspire the organisation and the operation of present and future international justice-related bodies, including Eurojust, and international courts. Such bodies and courts, because of their jurisdiction raise in an entirely new way questions concerning the independence and responsibility of the actors of the system of justice. In this respect, it greeted the imminent entry into force of the Statute of the International Criminal Court (ICC), for the new Court will - at the highest level - ensure respect for the rule of law and the safeguard of human rights. Thus, it invited public prosecution offices in the different countries to bear in mind the existence of the ICC; it further underlined the need to introduce the matter in training programmes.

2. The Conference reiterated the invitation that it had addressed, at its session in Bucharest in 2001, to the Committee of Ministers of the Council of Europe that the latter formally recognise the Conference as a **fully fledged body** at the same level as the Consultative Council of European Judges, and grant it with the resources required for its operation.

3. As to the **relationship between public prosecution and judges**, the Conference reaffirmed that such relations are at the very heart of the criminal justice system: tasked with conducting prosecutions, enjoying the possibility of making appeals against decisions of justice, the Public Prosecution is the judge's natural correspondents in the proceedings, but also in a larger way, in the administration of criminal justice.

The Conference insisted on the fact that the proximity and complementarity of the missions of judges and prosecutors, as well as their common references create similar requirements, in particular in terms of qualification and ethics and, as they require, rules and professional safeguards of the same nature in terms of appointment, promotions and career, and also remuneration, retirement and pension rights.

Nevertheless, the Conference noted that there cannot be any confusion about the respective roles of judges and prosecutors. Such differences, as well as the respect for the independence of each and the procedural clarification of the functions of the different actors, must be recognised. The specificity of the missions of the prosecutors is the reason for them having a different regime than that of judges in terms of discipline and hierarchical organisation.

Lastly, the Conference expressed the wish that the Council of Europe organises a meeting for the members of the Public Prosecution at the Supreme Courts and the Courts of Cassation, because of the specific difficulties with which they are presently confronted.

4. Recalling that the autonomy of prosecutors - and for greater reason their eventual independence - should necessarily be accompanied by a system of responsibility founded on strict individual ethics, the Conference noted with interest that many prosecution offices already benefit from, or are in the process of adopting, a **code of ethics**. With the aim of encouraging that approach, the Conference was in favour of a generalisation of the use of such instruments and tasked its Bureau with preparing a draft model code of ethics for interested public prosecutors in Europe.

5. Underlining the importance that it attaches to **reinforced international co-operation** and the paramount role that public prosecution should play in that respect, in conformity with items 37 to 39 of the above-mentioned Recommendation as well as its own conclusions of Strasbourg and Bucharest, the Conference took note with great interest of the proposals for a "New Start" made by the Council of Europe's Reflection Group on developments in international co-operation in criminal matters.

It encouraged the Council of Europe to ensure a practical follow up to such proposals. It noted in particular that the objective of a European area of shared justice must be based on a commonly defined transnational justice in Europe, which will ensure unity of purpose and principle. It further noted that that area will take the form of legal provisions that introduce into the law the definition of the nature, the objectives, the guiding principles and the limits of transnational justice, as a first step to realising such a European area of shared justice.

The Conference declared its interest in taking part in such tasks.

Moreover, the Conference decided immediately to start a process to reinforce co-operation between public prosecution offices in Europe, by way of setting up a network of “national contact points” at the level of the member States of the Council of Europe. They should operate without prejudice to the role of national central authorities where they exist. Moreover, their coordination with the legal network of the European Union should be provided for.

To that effect, the Conference tasked its Bureau with submitting proposals to the Committee of Ministers, via the appropriate instances; it also tasked it with establishing contacts with Eurojust aimed at exploring the possibility of concluding a cooperation agreement, as it is provided for in Article 27.3 of Eurojust’s constituent text.

6. Expressing once again its preoccupation with respect to transnational **organised crime**, corruption under all its forms as well as economic and financial criminality, that each seriously threatens democracy, the Conference voiced its support to prosecutors, “juges d’instruction”, courts and police specialising in these matters.

It would wish States that do not have such specialised structures to envisage the possibility of creating such structures, endowing them with the means necessary to carry out their tasks and facilitating the exchange of information and, eventually the coordination of action.

Moreover, it expressed the wish that the competent national authorities be encouraged:

- fully to use the provisions concerning the communication and the exchange of information from judicial records, that are contained in the European Convention on Mutual Assistance in Criminal Matters and its Additional Protocol;
- fully to use the provisions concerning the spontaneous transmission of information, that are contained in particular in the 2nd Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters.

7. The Conference took note of the efforts of its Bureau designed to set up a **data base for public prosecution in Europe**. It encouraged the latter to pursue them, the Council of Europe to ensure its smooth operation and public prosecution offices to feed it regularly.

8. The Conference accepted with gratitude the invitation from the Prosecutor General of the Slovak Republic, to hold the next session in **Bratislava, from 1 to 3 June 2003**.