



Second day of the Fourteenth Meeting
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BRUSSELS DECLARATION ON CRIMINAL JUSTICE SYSTEMS

We, members of the Ministerial Council, reaffirm the commitments related to the administration of criminal justice, especially those contained in the Helsinki Final Act (1975), the Vienna Final Document (1989), the Copenhagen Document (1990), the Charter of Paris for a New Europe (1990), the Moscow Document (1991), the Budapest Document (1994), and the Charter for European Security (1999).

We recall Ministerial Council Decisions No. 3/05 on combating transnational organized crime and No. 12/05 on upholding human rights and the rule of law in criminal justice systems (Ljubljana, 2005).

We further recall the proceedings of the Human Dimension Seminar on Upholding the Rule of Law and Due Process in Criminal Justice Systems (Warsaw, May 2006).

We also recall relevant UN instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

We recall the commitment of the participating States to ensure the independence of the judiciary.

We recognize that nothing in this document shall undermine or diverge from participating States' existing commitments or obligations under international law, while we also acknowledge that each participating State, consistent with its legal tradition, determines the appropriate ways to implement them in its national legislation.

We consider that:

- Judicial independence is a prerequisite to the rule of law and acts as a fundamental guarantee of a fair trial;
- Impartiality is essential to the proper discharge of the judicial office;
- Integrity is essential to the proper discharge of the judicial office;

- Propriety, and the appearance of propriety, are essential to the performance of all the activities of a judge;
- A guarantee of equality of treatment to all before the courts is essential to the due performance of the judicial office;
- Competence and diligence are prerequisites to the due performance of the judicial office.

We consider that:

- Prosecutors should be individuals of integrity and ability, with appropriate training and qualifications;
- Prosecutors should at all times maintain the honour and dignity of their profession and respect the rule of law;
- The office of prosecutor should be strictly separated from judicial functions, and prosecutors should respect the independence and the impartiality of judges;
- Prosecutors should, in accordance with the law, perform their duties fairly, consistently and expeditiously, and respect and protect human dignity and uphold human rights, thus contributing to ensuring due process and the smooth functioning of the criminal justice system.

We consider that:

- Law enforcement officials should at all times fulfil the duty imposed upon them by law, by serving the public and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession;
- In the performance of their duty, law enforcement officials should respect and protect human dignity and maintain and uphold the human rights of all persons;
- Law enforcement officials should use force only to the extent necessary and appropriate to accomplish their mission and to ensure the safety of the public;
- Law enforcement officials, as members of the broader group of public officials or other persons acting in an official capacity, should not inflict, instigate, encourage or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment;
- No law enforcement official should be punished for not obeying orders to commit or conceal acts amounting to torture or other cruel, inhuman or degrading treatment or punishment;
- Law enforcement officials should be cognizant and attentive to the health of persons in their custody and, in particular, should take immediate action to secure medical attention whenever required.

We consider that:

- All necessary measures should be taken to respect, protect and promote the freedom of exercise of the profession of lawyer, without discrimination and without improper interference from the authorities or the public;
- Decisions concerning the authorization to practice as a lawyer or to join the profession should be taken by an independent body. Such decisions, whether or not they are taken by an independent body, should be subject to a review by an independent and impartial judicial authority;
- Lawyers should not suffer or be threatened with any sanctions or pressure when acting in accordance with their professional standards;
- Lawyers should have access to their clients, including in particular to persons deprived of their liberty, to enable them to counsel in private and to represent their clients according to established professional standards;
- All reasonable and necessary measures should be taken to ensure the respect of the confidentiality of the lawyer-client relationship. Exceptions to this principle should be allowed only if compatible with the rule of law;
- Lawyers should not be refused access to a court before which they are qualified to appear and should have access to all relevant evidence and records when defending the rights and interests of their clients in accordance with their professional standards.

We consider that the enforcement of custodial sentences and the treatment of prisoners must take account of the requirements of safety, security and discipline, while also ensuring prison conditions which do not violate human dignity and which offer meaningful occupational activities and appropriate treatment programmes to inmates, thus preparing them for their reintegration into society.

We call on the participating States to fully implement their commitments and international obligations to ensure fair and effective operation of their criminal justice systems.