

**Second day of the Thirteenth Meeting**  
MC(13) Journal No. 2, Agenda item 8

**DECISION No. 12/05**  
**UPHOLDING HUMAN RIGHTS AND THE RULE OF LAW**  
**IN CRIMINAL JUSTICE SYSTEMS**

The Ministerial Council,

Recognizing that full respect for human rights and fundamental freedoms and the development of societies based on pluralistic democracy and the rule of law is a prerequisite for achieving a lasting peace, security, justice and stability,

Reaffirming the rule of law commitments contained in the 1975 Helsinki Final Act, the 1989 Concluding Document of Vienna, the 1990 Copenhagen Document, and the 1991 Moscow Document, those undertaken at the 1994 OSCE Summit in Budapest, and other relevant OSCE commitments and recalling relevant international obligations, including the International Covenant on Civil and Political Rights and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Reiterating that the activity of the government and the administration as well as that of the judiciary will be exercised in accordance with the system established by law and in line with relevant OSCE commitments and international obligations of the participating States, and that respect for that system must be ensured,

Considering that the rule of law does not mean merely a formal legality which assures regularity and consistency in the achievement and enforcement of democratic order, but justice based on the recognition and full acceptance of the supreme value of the human personality and guaranteed by institutions providing a framework for its fullest expression,

Recognizing that rule of law must be based on respect for internationally recognized human rights, including the right to a fair trial, the right to an effective remedy, and the right not to be subjected to arbitrary arrest or detention,

Recognizing that an impartial and independent judiciary plays a vital role in ensuring due process and protecting human rights before, during and after trials,

Recognizing that defence lawyers play a critical role in ensuring the right to a fair trial and in the furtherance and protection of other human rights in the criminal justice system,

Underlining the need to speak out publicly against torture, and recalling that all forms of torture and other cruel, inhuman or degrading treatment or punishment are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and stressing the need to strengthen procedural safeguards to prevent torture as well as to prosecute its perpetrators, thereby preventing impunity for acts of torture, and calling upon participating States to give early consideration to signing and ratifying the Optional Protocol to the Convention against Torture,

Decides to:

- Increase attention to and follow up on the issues of the rule of law and due process in criminal justice systems in 2006, *inter alia*, by encouraging participating States to improve the implementation of existing commitments, also drawing on the expertise of the ODIHR, and in close co-operation with other relevant international organizations in order to avoid unnecessary duplication;

Tasks the ODIHR and other relevant OSCE structures to:

- Assist the participating States to share with one another successful examples, expertise and good practices to improve criminal justice systems;
- Assist the participating States upon their request to strengthen the institutional capacity of defence lawyers to protect and defend the rights of their clients.