

Strasbourg, 14 February 2017

## CONSULTATIVE COUNCIL OF EUROPEAN PROSECUTORS (CCPE)

### Questionnaire for the preparation of the CCPE Opinion No. 12 (2017):

#### “The rights of victims, witnesses and vulnerable persons”

*In your answers, please do not send extracts of your legislation but describe the situation in brief and concise manner, including briefly what is happening in practice.*

#### Introduction

The Opinion deals, in general, with the rights of victims, witnesses and vulnerable persons within the framework of criminal procedure, and, in particular, with the role of prosecutors in protecting these rights.

The first section deals with the definition of victims, witnesses and vulnerable persons in the way in which it exists in different member states of the Council of Europe. The second section deals with their rights. The third section concerns the role of prosecutors in protecting these rights. **This section, due to the mandate of the CCPE, is the key section of the Opinion.**

The Bureau and the Secretariat of the CCPE would like to strongly thank you for your cooperation and contributions.

#### 1. Definitions

- 1.1 Is there in your country **a definition** of a victim or a witness of crime? If yes, is it established in the law or other legal instruments?
- 1.2 Are there in your country **special regimes** for victims of certain types of crimes, for example, domestic violence, sexual abuse, trafficking in human beings? If yes, can you list them?

- 1.3 Is there in your country **a definition** of vulnerable persons, either in general sense, or particularly within the framework of criminal procedure? If yes, is it established in the law or other legal instruments?

## **2. The rights of victims, witnesses and vulnerable persons**

- 2.1 Are there in your country specific rights of victims, witnesses and vulnerable persons within the framework of criminal procedure, in addition to human rights in general?
- 2.2 If yes, are they established in the law or other legal instruments?
- 2.3 Please enumerate briefly these specific rights (e.g. the rights to protection, to be treated fairly and with dignity, to be notified, to be present and to be heard at court proceedings, to seek restitution, to the respect of privacy, to make a complaint about infringement or denial of their rights).
- 2.4 How are victims, witnesses and vulnerable persons informed of their rights? Are there any formal arrangements or informal mechanisms, free access to relevant information and databases etc.?
- 2.5 What kind of penalties and sanctions are established for violation of these rights?
- 2.6 Are there in your country specific rights of vulnerable persons due to their age (children, elderly people) or disability (physical or mental), either as victims or as witnesses?
- 2.7 When a decision in criminal matters is likely to affect the rights or the situation of a vulnerable person, is it brought to the attention of other bodies dealing with the rights of that person (e.g. a measure prohibiting contact with his wife for a husband in the event of domestic violence brought to the attention of the court responsible for ruling on the custody of children)?
- 2.8 Can such vulnerable persons bear testimony alone or only following authorisation by their legal representatives, and in this latter case, in what conditions?
- 2.9 Is the refusal to bear testimony admissible, for instance as regards children or mentally disabled persons? In what conditions?
- 2.10 Who proceeds to the evaluation of vulnerable persons and how the risk is assessed? Can the vulnerable person play a role in assessing such a risk? Which protective measures may be adopted and by whom?
- 2.11 Are there, in your country, any special procedures that allow testimony to be filmed, recorded and/or given from behind a screen? If so, in what circumstances can this occur?
- 2.12 How is the prevention of repeated victimisation ensured?
- 2.13 Are the rights of victims, witnesses and vulnerable persons foreseen only for nationals or also for foreigners? Under which circumstances?

### **3. Role of prosecutors in protecting the rights of victims, witnesses and vulnerable persons**

- 3.1 How are the rights of victims, witnesses and vulnerable persons within the framework of criminal procedure enforced and guaranteed? What is the role of prosecutors in this matter?
- 3.2 Is this role of prosecutors established in the law or other legal instruments? Is this role established in the rules of ethics and professional conduct of prosecutors?
- 3.3 How is this role fulfilled in practice? How do prosecutors cooperate with other organs of state in fulfilling this role, and do prosecutors have supervisory or monitoring functions?
- 3.4 Can victims, witnesses and vulnerable persons apply directly to prosecutors for protection of their rights?
- 3.5 Can prosecutors, at their own initiative, start legal action for protection of the rights of victims, witnesses and vulnerable persons?
- 3.6 Concerning assistance to victims, witnesses and vulnerable persons, do the prosecutors interact with other state bodies, private entities or NGOs?
- 3.7 Do the prosecutors benefit from specific training on the protection of the rights of victims, witnesses and vulnerable persons? Does such training also involve prosecutorial staff and law enforcement agencies? Do the prosecutors play a role in carrying out such training?
- 3.8 Any other relevant point you wish to raise.