RESOLUTION
adopted at the open conference "Development of Ukrainian Model of Restorative Justice"
Kyiv, Puscha Vodytsia, 11 February 2005

Participants in the all-Ukrainian open conference "Development of Ukrainian Model of Restorative Justice", which gathered representatives of the legal system of Ukraine, public and local authorities, educational, non-governmental and charitable Ukrainian organisations, having considered international experience in the field of introducing restorative justice programmes in the criminal justice system, and having discussed pressing issues related to the development of a Ukrainian model of restorative justice, adopted the resolution which reads as follows:

"ON STEPS REQUIRED TO BE TAKEN TO INTRODUCE RESTORATIVE JUSTICE PROGRAMMES IN THE UKRAINIAN CRIMINAL JUSTICE SYSTEM

Participants in the Conference,

referring to the resolution adopted at the first Ukrainian/American Conference of Judges and Mediators of 11 July 1999, as well as to the recommendations of the International Scientific and Practical Conference "Introducing Alternative Practices to Settle Conflicts in the Ukrainian Judicial System" of 20 May 2000,

referring also to decisions taken by the Plenum of the Supreme Court of Ukraine, namely the decision "On Practices of Ukrainian Courts in the field of Applying Laws concerning Juvenile Crime" (#5 of 16 April 2004), decision "On Practices of Courts in the field of Applying Laws Setting forth Rights of Victims of Crime" (#13 of 2 July 2004), as well as to paragraph 26 of the resolution of the Cabinet of Ministers of Ukraine entitled "On Approval of the State Programme for Organisational Support for Courts' Operation in 2003-2005" (#907 of 16 June 2003),

referring further to resolution 2000/14 of the Economic and Social Council of the United Nations of 27 July 2000 concerning basic principles of applying restorative justice programs in criminal cases,

bearing in mind international obligations undertaken in respect of victims of crime, particularly the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, as well as the Council Framework Decision on the standing of victims in criminal proceedings, as adopted by the Council of the European Union on 15 March 2001,

taking into account international obligations of Ukraine as member of the Council of Europe, particularly Article 13 of the European Convention on the Exercise of Children's Rights (8 September 1995), provisions of the Recommendations No. R (85) 11 on the position of the victim in the framework of criminal law and procedure, No. R (87) 18 concerning the simplification of criminal justice, No. R (87) 20 on social reactions to juvenile delinquency, No. R (87) 21 on assistance to victims and the prevention of victimisation, No. R (92) 16 on the European Rules on community sanctions and measures, No. R (92) 17 in respect of delivery of sentences, No. R (95) 12 on the management of criminal justice, and, finally, recommendation No. R (99) 19 concerning mediation in penal matters,

having familiarised themselves with positive experience in applying mediation programmes in criminal cases of several European countries and the nearest abroad, as well as with previous results of pilot and experimental programmes on the introduction of mediation and reconciliation programmes for victims and offenders in Ukraine,

considering discussions on restorative justice held at the conference sections' meetings devoted to legal base, scope of restorative justice programmes, and ways in which such programmes should be implemented,

1) **note** that measures should be taken to introduce, in the Ukrainian criminal justice system, restorative justice programmes as a sound approach to meeting victims of crime's needs, re-socializing offenders, involving the public in the elimination of crime problems, and preventing juvenile delinquency;
2) **recommend** that an interagency working group be set up at the Ministry of Justice of Ukraine to promote the introduction of practical models of restorative justice in pilot programmes and projects being implemented in Ukraine, to explore results of such experiment and prepare recommendations with regard to legislating them subsequently through introducing amendments to the draft Code of Criminal Procedure of Ukraine and relevant regulations in view of comprehensively governing mediation (restorative justice programmes), arrangements for the referral of cases and time-limits for their consideration, setting up criteria for organisations and officials that will be in charge of such activities;
3) **draw attention** of the Ukrainian legislator to the fact that the mediation institute does exist in the Criminal Code of Ukraine but that procedural opportunities for the application of reconciliation programmes (or restorative justice) are absent;
4) **suggest** that the working group of the Verkhovna Rada of Ukraine on the finalisation of the draft Code of Criminal Procedure of Ukraine introduce necessary amendments to the draft Code of Criminal Procedure and add therein provisions allowing to refer cases to a mediator (reconciliation programme facilitator) at the stage of pre-trial investigation and judicial trial of a criminal case with a view of promoting reconciliation of parties and applying alternative sanctions;
5) **invite** the Ukrainian Centre for Common Ground and the Academy of Judges of Ukraine to draw up recommendations with regard to required standards of training, certification, and accreditation of mediators-reconciliation programme moderators.

Conference's Council:

PYLYPCHUK P.P.
First Vice-President
of the Supreme Court of Ukraine

YEMELIANOVA I.I.
Deputy Minister of Justice
of Ukraine

VOITIUK I.A.
Rector
Academy of Judges of Ukraine

KOVAL R.G.
President
Ukrainian Centre for
Common Ground