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**CONSULTATIVE COUNCIL OF EUROPEAN PROSECUTORS
(CCPE)**

Opinion No.9 (2014)
of the Consultative Council of European Prosecutors
to the Committee of Ministers of the Council of Europe

on

European norms and principles concerning prosecutors

This Opinion contains:

- a Charter, called "the Rome Charter",
- a detailed Explanatory Note of the principles which appear in this Charter.

ROME CHARTER

The Consultative Council of European Prosecutors (CCPE), having been requested by the Committee of Ministers of the Council of Europe to provide a reference document on European norms and principles concerning public prosecutors, agreed on the following:

- I. In all legal systems, public prosecutors (hereafter prosecutors) contribute to ensuring that the rule of law is guaranteed, especially by the fair, impartial and efficient administration of justice in all cases and at all stages of the proceedings within their competence.
- II. Prosecutors act on behalf of society and in the public interest to respect and protect human rights and freedoms as laid down, in particular, in the Convention for the Protection of Human Rights and Fundamental Freedoms and in the case-law of the European Court of Human Rights.
- III. The role and tasks of prosecutors, both within and outside the field of criminal justice, should be defined by law at the highest possible level and carried out in the strictest respect for the democratic principles and values of the Council of Europe.
- IV. The independence and autonomy of the prosecution services constitute an indispensable corollary to the independence of the judiciary. Therefore, the general tendency to enhance the independence and effective autonomy of the prosecution services should be encouraged.

- V. Prosecutors should be autonomous in their decision-making and should perform their duties free from external pressure or interference, having regard to the principles of separation of powers and accountability.
- VI. Prosecutors should adhere to the highest ethical and professional standards, always behaving impartially and with objectivity. They should thus strive to be, and be seen as, independent and impartial, should abstain from political activities incompatible with the principle of impartiality, and should not act in cases where their personal interests or their relations with the persons interested in the case could hamper their full impartiality.
- VII. Transparency in the work of prosecutors is essential in a modern democracy. Codes of professional ethics and of conduct, based on international standards, should be adopted and made public.
- VIII. In performing their tasks, prosecutors should respect the presumption of innocence, the right to a fair trial, the equality of arms, the separation of powers, the independence of courts and the binding force of final court decisions. They should focus on serving society and should pay particular attention to the situation of vulnerable persons, notably children and victims.
- IX. Prosecutors enjoy the right to freedom of expression and of association. In the communications between prosecutors and the media, the following principles should be respected: the presumption of innocence, the right to private life and dignity, the right to information and freedom of the press, the right to fair trial, the right to defence, the integrity, efficiency and confidentiality of investigations, as well as the principle of transparency.
- X. Prosecutors should not benefit from a general immunity, but from functional immunity for actions carried out in good faith in pursuance of their duties.
- XI. Prosecutors and, where necessary, their families have the right to be protected by the State when their personal safety is threatened as a result of the discharge of their functions.
- XII. The recruitment and career of prosecutors, including promotion, mobility, disciplinary action and dismissal, should be regulated by law and governed by transparent and objective criteria, in accordance with impartial procedures, excluding any discrimination and allowing for the possibility of impartial review.
- XIII. The highest level of professional skills and integrity is a pre-requisite for an effective prosecution service and for public trust in that service. Prosecutors should therefore undergo appropriate education and training with a view to their specialisation.
- XIV. The organisation of most prosecution services is based on a hierarchical structure. Relationships between the different layers of the hierarchy should be governed by clear, unambiguous and well-balanced regulations. The assignment and the re-assignment of cases should meet requirements of impartiality.
- XV. Prosecutors should decide to prosecute only upon well-founded evidence, reasonably believed to be reliable and admissible. Prosecutors should refuse to use evidence reasonably believed to have been obtained through recourse to unlawful methods, in particular when they constitute a grave violation of human rights. They should seek to ensure that appropriate sanctions are taken against those responsible for using such methods or for other violations of the law.
- XVI. Prosecutions should be firmly but fairly conducted. Prosecutors contribute to reaching just verdicts by the courts and should contribute to the effective, expeditious and efficient operation of the justice system.
- XVII. In order to achieve consistency and fairness when taking discretionary decisions within the prosecution process and in court, clear published guidelines should be issued, particularly regarding decisions whether or not to prosecute. Where appropriate, and in accordance with law, prosecutors should give consideration to alternatives to prosecution.
- XVIII. Prosecutors should have the necessary and appropriate means, including the use of modern technologies, to exercise effectively their mission, which is fundamental to the rule of law.
- XIX. Prosecution services should be enabled to estimate their needs, negotiate their budgets and decide how to use the allocated funds in a transparent manner, in order to achieve their objectives in a speedy and

qualified way. Where the prosecution service is entrusted with the management of resources, it should use modern management methods efficiently and transparently, being also provided with adequate training.

- XX. Mutual and fair cooperation is essential for the effectiveness of the prosecution service at national and at international level, between different prosecution offices, as well as between prosecutors belonging to the same office. Prosecutors should treat international requests for assistance within their jurisdiction with the same diligence as in the case of their work at national level and should have at their disposal the necessary tools, including training, to promote and sustain genuine and effective international judicial cooperation.

Approved by the CCPE in Rome on 17 December 2014

EXPLANATORY NOTE

Introduction

1. Recommendation Rec(2000)19 of the Council of Europe's Committee of Ministers on the role of public prosecution in the criminal justice system remains, after 14 years, a milestone. At the same time, since 2000, further aspects of the public prosecution's activities have been highlighted at European level and the need for an update and a synthesis of relevant principles has become obvious.
2. In this context, the Consultative Council of European Prosecutors (CCPE), established by the Committee of Ministers in 2005, wished to identify the most notable trends as regards the status, tasks and operations of the public prosecution. In this framework, the Committee of Ministers, in January 2014¹, instructed the CCPE to adopt a reference document on European norms and principles concerning prosecutors. To undertake this task, the CCPE took into account the documents listed in the Annex to this Note.
3. The legal systems of member States are characterised by great diversity, particularly as regards the tasks and roles of prosecutors. Nevertheless, they always remain under an obligation to respect human rights and fundamental freedoms as laid down in the Convention for the Protection of Human Rights and Fundamental Freedoms and the case-law of the European Court of Human Rights.
4. This document is intended for state institutions and for judicial, executive and legislative powers, as well as practitioners and researchers.

1. Definition of a prosecutor

5. Public prosecutors (hereafter prosecutors) are public authorities who, on behalf of society and in the public interest, ensure the application of the law where the breach of the law carries a criminal sanction, taking into account both the rights of the individual and the necessary effectiveness of the criminal justice system². The prosecutors' mission can also include powers outside the criminal justice system, where the national legal system so provides³.

2. Role of prosecutors

6. In all cases and at all stages of the legal proceedings, prosecutors contribute to ensuring that the rule of law and public order are guaranteed by the fair, impartial and effective administration of justice⁴.
7. It is essential to ensure the independence and effective autonomy of prosecutors and to establish proper safeguards. They have a duty to act fairly, impartially and objectively. In criminal matters, prosecutors must also take into account the serious consequences of a trial for the individual, even one which results in an acquittal. They should also seek to contribute that the justice system operates as expeditiously and efficiently as possible and assist the courts in reaching just verdicts⁵.
8. A system where both prosecutor and judge act to the highest standards of integrity and impartiality presents a greater protection for human rights than a system which relies on the judge alone⁶.

2.1 Functions in criminal proceedings

9. Prosecutors play an essential role for the rule of law and the proper functioning of criminal justice systems.
10. Prosecutors decide whether or not to initiate or continue a prosecution, conduct the prosecution before an independent and impartial court established by law and decide whether or not to appeal decisions by that court.
11. In certain criminal justice systems, prosecutors also have other functions such as to elaborate and implement national crime policy (while adapting it, where appropriate, to regional and local circumstances), to conduct, direct or supervise investigations, to ensure that victims are effectively assisted, to decide on alternatives to prosecution, or to supervise the execution of court decisions⁷.

2.1.1 Principles governing prosecutions

12. The legal systems of some member states provide for the principle of “legality” as the basis for prosecutions. The legal systems of other member states provide for the principle of “discretion” or “opportunity principle”.

13. In order to achieve consistency and fairness when taking discretionary decisions within the prosecution process and in court, clear published guidelines should be issued, particularly regarding decisions whether or not to prosecute⁸. Even when the system does not foresee that prosecutors can take discretionary decisions, general guidelines should lead the decisions taken by them.

14. Prosecutors should seek to ensure that all necessary and reasonable enquiries and investigations are made before taking a decision in relation to a prosecution and proceed only when a case is founded upon evidence assessed to be reliable and admissible. Prosecutions should be firmly but fairly conducted and not beyond what is indicated by the evidence⁹.

15. Where participation in the investigation of crime or supervision of the police or other investigation bodies is within their competence, prosecutors should do so objectively, impartially and professionally and seek to ensure that the investigating services respect legal principles and fundamental human rights¹⁰.

16. Prosecutors should take account of the interests of witnesses, and where this is within their competence, take or promote measures to protect their life, safety and privacy, or ensure that such measures have been taken.

17. Prosecutors should take account of the views and concerns of victims when their personal interests are affected and take or promote actions to ensure that victims are informed of both their rights and developments in the procedure¹¹.

18. Prosecutors should give careful consideration on whether or not to prosecute, respect the rights of victims, witnesses and suspects and afford a right to seek a review to persons affected by their decisions¹².

19. Prosecutors should respect the principle of equality of arms between prosecution and defence, the presumption of innocence, the right to a fair trial, the independence of the court, the principle of separation of powers and the binding force of final court decisions.

20. The prosecutor should put all the credible evidence available before a court and disclose all relevant evidence to the accused. There can be situations where prosecutions should be discontinued¹³.

21. Prosecutors should refuse to use evidence reasonably believed to have been obtained through recourse to unlawful methods, in particular when they constitute a grave violation of human rights. They should seek to ensure that appropriate sanctions are taken against those responsible for using such methods or other violations of the law¹⁴. In some systems, the violation of human rights is sufficient to deny the evidence, without having to be grave.

2.2 Functions outside criminal proceedings

22. In many States, prosecutors have competences outside the criminal law field (inter alia, civil, family, labour, administrative, electoral law, protection of the environment, social rights and rights of vulnerable persons such as minors, disabled persons and persons with very low income¹⁵).

23. Where such competencies exist, prosecutors’ mission should be to represent the general or public interest, protect human rights and fundamental freedoms, and uphold the rule of law¹⁶. They should also firmly respect the democratic principles and values of the Council of Europe.

24. These competencies should be exercised in such a way as to:

- respect the effective separation of state powers;
- respect the independence of the courts and their role in protecting human rights, equality of parties, equality of arms and non-discrimination;
- be regulated by law as precisely as possible, be strictly limited, clearly defined and follow clear published guidelines in order to avoid any ambiguity¹⁷;

- ensure that there is no undue external intervention in the activities of prosecution services;
- respect the right of any natural or legal person to initiate or act as a defendant to defend his or her interests before an independent and impartial tribunal, even in cases where the public prosecutor is or intends to be a party¹⁸;
- not violate the principle of binding force of final court decisions (*res iudicata*) with some exceptions established in accordance with international obligations including the case-law of the Court;
- ensure that the ability of persons or institutions involved in the case to seek a review of actions by prosecutors is clearly prescribed;
- ensure that the right of persons or institutions, involved or interested in civil law cases to claim against measures or default of prosecutors is assured.

25. Any prosecutor's actions which affect human rights and freedoms should remain under the control of competent courts¹⁹.

26. Where prosecutors have power to question the decision of a court or state administration, they must do so by exercising a power of appeal or a power to seek a review of a decision. In private litigation between parties, where a public interest must be defended or asserted before the court, the ultimate say rests with the court²⁰.

27. The prosecutor who intervenes in court outside the field of criminal justice, should, in particular, in accordance with domestic laws:

- have equal rights and obligations to the other parties to the proceedings;
- not withhold evidence relevant to the issues in dispute;
- neither participate in the deliberations of the court, nor give the impression of doing so;
- when entitled to the right of appeal to a court decision, the prosecutors should have equal rights as other parties and never substitute their rights of appeal;
- exercise its powers independently, transparently and in full accordance with the rule of law;
- intervene against legal entities in cases where there are reasonable and objective grounds to believe that the private entity in question is in violation of its legal obligations, including those derived from the application of international human rights treaties.

Relevant decisions taken by prosecutors outside the field of criminal justice should always be followed by reasons open for persons or institutions involved or interested in the case.

2.3 Alternatives to prosecution and penalties

28. Prosecutors should give consideration, where appropriate and in accordance with law, to alternatives to prosecution²¹. When applying these alternatives, they should afford full respect for the rights and legitimate interests of suspects and victims and offer the possibility of mediation and reconciliation between offender and victim²². Special consideration should be given to the nature and gravity of the offence, protection of society and the character and background of the offender.

29. With a view to promoting a fair, consistent and efficient activity of prosecutors, the relevant state authorities are encouraged to publish clear rules, general guidelines and criteria for the effective and fair implementation of the criminal policy related to alternatives to prosecution.

30. Alternative measures should never be used to circumvent the rules of fair trial by imposing measures on a person who is innocent or who could not be convicted owing to procedural obstacles such as time-limits on prosecution, or where there is doubt as to the responsibility of the offender identified or the extent of the damage caused by the offence.

31. Having in mind the possible damaging impact of criminal and other proceedings on the future development of juveniles, prosecutors should, to the widest possible extent and according to the law, seek alternatives to prosecution of juvenile offenders, where such alternatives constitute a proper judicial response to the offence, taking into consideration the interest of the victims and of the general public and being consistent with the goals of juvenile justice²³.

32. Prosecutors should use their best efforts to prosecute juveniles only to the extent strictly necessary²⁴.

3. Status of prosecutors and safeguards provided to them for carrying out their functions

3.1 The independence of prosecutors

33. Independence of prosecutors – which is essential for the rule of law - must be guaranteed by law, at the highest possible level, in a manner similar to that of judges. In countries where the public prosecution is independent of the government, the state must take effective measures to guarantee that the nature and the scope of this independence are established by law²⁵. In countries where the public prosecution is part of or subordinate to the government, or enjoys a different status than the one described above, the state must ensure that the nature and the scope of the latter's powers with respect to the public prosecution is also established by law, and that the government exercises its powers in a transparent way and in accordance with international treaties, national legislation and general principles of law²⁶.

34. The European Court of Human Rights (hereafter "the Court") considered it necessary to emphasise that "in a democratic society both the courts and the investigation authorities must remain free from political pressure"²⁷. It follows that prosecutors should be autonomous in their decision making and, while cooperating with other institutions, should perform their respective duties free from external pressures or interferences from the executive power or the parliament, having regard to the principles of separation of powers and accountability²⁸. The Court also referred to the issue of independence of prosecutors in the context of "general safeguards such as guarantees ensuring functional independence of prosecutors from their hierarchy and judicial control of the acts of the prosecution service"²⁹.

35. The independence of prosecutors is not a prerogative or privilege conferred in the interest of the prosecutors, but a guarantee in the interest of a fair, impartial and effective justice that protects both public and private interests of the persons concerned.

36. States must ensure that prosecutors are able to perform their functions without intimidation, hindrance, harassment, improper interference or unjustified exposure to civil, penal or other liability³⁰.

37. Prosecutors should, in any case, be in a position to prosecute, without obstruction, public officials for offences committed by them, particularly corruption, unlawful use of power and grave violations of human rights³¹.

38. Prosecutors must be independent not only from the executive and legislative authorities but also from other actors and institutions, including those in the areas of economy, finance and media.

39. Prosecutors are also independent with regard to their cooperation with law enforcement authorities, courts and other bodies.

3.2 The hierarchy

40. A hierarchical structure is a common aspect of most public prosecution services, given the nature of the tasks they perform. Relationships between the different layers of the hierarchy must be governed by clear, unambiguous and well-balanced regulations, and an adequate system of checks and balances must be provided for.

41. In a State governed by the rule of law, when the structure of the prosecution service is hierarchical, effectiveness of prosecution is, regarding public prosecutors, strongly linked with transparent lines of authority, accountability and responsibility.

42. It is essential to develop appropriate guarantees of non-interference in the prosecutor's activities. Non-interference means ensuring that the prosecutor's activities, in particular in trial procedures, are free of external pressure as well as from undue or illegal internal pressures from within the prosecution system³². In a hierarchical

system, the superior prosecutor must be able to exercise appropriate control over the decisions of the office, subject to proper safeguards for the rights of individual prosecutors.

3.2.1 The assignment and the re-assignment of cases

43. With respect to the organisation and the internal operation of the public prosecution, in particular the assignment and re-assignment of cases, this should meet requirements of impartiality with respect to the structure, responsibilities and decision-making competences of the prosecution services.

44. Assignment and re-assignment of cases should be determined by transparent regulation that is aligned with the hierarchical or non-hierarchical structure of the prosecution service.

3.2.2 Instructions

45. General decisions on implementation of crime policies should be transparent in order to ensure fair, consistent and efficient activities of public prosecutors.

46. Instructions of a general nature must be in writing and, where possible, be published or otherwise transparent. Such instructions must respect strictly equity and equality³³.

47. Instructions by the executive or by superior level of the hierarchy concerning specific cases are unacceptable in some legal systems. While there is a general tendency for more independence of the prosecution system, which is encouraged by the CCPE, there are no common standards in this respect. Where the legislation still allows for such instructions, they should be made in writing, limited and regulated by law.

48. A public official who believes he/she is being required to act in a way which is unlawful, improper or unethical, should respond in accordance with the law³⁴.

49. A prosecutor enjoys the right to request that instructions addressed to him/her be put in writing. Where he/she believes that an instruction is either illegal or runs counter to his/her conscience, an adequate internal procedure should be available which may lead to his/her eventual replacement³⁵.

50. It should be understood that these guarantees are established in the interest of both individual prosecutors and the public³⁶.

3.3 Appointment and career

3.3.1 General principles

51. Member States should take measures to ensure that:

- a) the recruitment, the promotion and the transfer of prosecutors are carried out according to fair and impartial procedures and excluding discrimination on any ground such as gender, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, or other status;
- b) the careers of prosecutors, their professional evaluation, their promotions and their mobility are governed by transparent and objective criteria, such as competence and experience; recruitment bodies should be selected on the basis of competence and skills and should discharge their functions impartially and based on objective criteria;
- c) the mobility of prosecutors is governed also by the needs of the service³⁷.

52. The appointment and termination of service of prosecutors should be regulated by the law at the highest possible level and by clear and understood processes and procedures.

53. The proximity and complementary nature of the missions of judges and prosecutors create similar requirements and guarantees in terms of their status and conditions of service, namely regarding recruitment, training, career development, salaries, discipline and transfer (which must be affected only according to the law or by their consent)³⁸. For these reasons, it is necessary to secure proper tenure and appropriate arrangements for promotion, discipline and dismissal³⁹.

54. Striving for impartiality, which in one form or another must govern the recruitment and career prospects of public prosecutors, may result in arrangements for a competitive system of entry to the profession and the establishment of High Councils either for the whole judiciary, or just for prosecutors⁴⁰.

55. The manner in which the Prosecutor General is appointed and dismissed plays a significant role in the system guaranteeing the correct functioning of the prosecutor's office⁴¹.

56. If governments have some control over the appointment of the Prosecutor General, it is important that the method of selection is such as to gain the confidence and respect of the public as well as of the members of the judicial and prosecutorial system and legal profession. The Prosecutor General should be appointed either for an adequately long period or permanently to ensure stability of his/her mandate and make him/her independent of political changes⁴².

3.3.2 Training

57. The highest level of professional skills and integrity is a pre-requisite for an effective prosecution service and for public trust in that service. Prosecutors should therefore undergo appropriate education and training with a view to their specialisation⁴³.

58. Different European legal systems provide training for judges and prosecutors according to various models, the training being entrusted to specific bodies. In all cases, it is important to assure the autonomous character of the institution in charge of organising such training, because this autonomy is a safeguard of cultural pluralism and independence⁴⁴.

59. Such training should be organised on an impartial basis and regularly and objectively evaluated for its effectiveness. If it is appropriate, joint training for judges, prosecutors and lawyers on themes of common interest can contribute to improving the quality of justice⁴⁵.

60. The training should also include administrative staff and officials, as well as law enforcement agents.

61. Training, including management training⁴⁶, is a right as well as a duty for prosecutors, both before taking their duties and on a permanent basis.

62. Prosecutors should benefit from appropriate specialised training in order to adequately fulfil their responsibilities within and outside the criminal justice system⁴⁷, including in relation to the management of budgetary resources⁴⁸ and in the field of communication⁴⁹.

63. States should therefore take effective measures to ensure that prosecutors have appropriate education and training, both before and after their appointment. In particular, prosecutors should be made aware of:

- a) the principles and ethical duties of their office;
- b) the constitutional and other legal protection of persons involved in legal proceedings;
- c) human rights and freedoms as laid down by the Convention for the Protection of Human Rights and Fundamental Freedoms (Articles 5 and 6 in particular) and by the case-law of the European Court of Human Rights;
- d) principles and practices of organisation of work, management and human resources;
- e) mechanisms and materials which contribute to efficiency and consistency in their activities⁵⁰.

64. New criminal challenges as well as the growing complexity of certain types of criminality are due to the speedy development of new technologies, the globalisation and expanding international trade and data flow. Special training to enable prosecutors face the threats posed by the above mentioned phenomena is also required⁵¹.

3.3.3 Evaluation of professional skills

65. Evaluation of the performance of prosecutors should be carried out at regular intervals, be reasonable, on the basis of adequate, objective and established criteria and in an appropriate and fair procedure.

66. Prosecutors should have access to results concerning their evaluation and have the right to submit observations and to legal redress, where appropriate.

67. The promotion of prosecutors must be based on objective factors, in particular professional qualifications, ability, integrity and experience, and decided upon in accordance with fair and impartial procedures⁵².

3.3.4 Transfer and mobility

68. A means of improperly influencing a prosecutor might be his/her transfer to another prosecutor's office without consent.

69. In introducing transfer or secondment against the will of a prosecutor, either internal or external, the potential risks should be balanced by safeguards provided by law (for example, a transfer which is disguising a disciplinary procedure).

70. The ability to transfer a prosecutor without his/her consent should be governed by law and limited to exceptional circumstances such as the strong need of the service (equalising workloads, etc.) or disciplinary actions in cases of particular gravity, but should also take into account the views, aspirations and specialisations of the prosecutor and his/her family situation⁵³.

71. It should be possible to appeal to an independent body.

3.3.5 Dismissal

72. Given their important role and function, the dismissal of prosecutors should be subject to strict requirements, which should not undermine the independent and impartial performance of their activities⁵⁴. All guarantees attached to the disciplinary procedures should apply.

73. The independence of prosecutors is their protection from arbitrary or politically motivated dismissal. This is particularly relevant with reference to the Prosecutors General and the law should clearly define the conditions of their pre-term dismissal⁵⁵.

3.4 Conditions of service

3.4.1 General principles

74. Prosecutors should have the necessary and appropriate means to exercise their missions which is fundamental for the rule of law⁵⁶.

75. States should take measures to ensure that prosecutors have reasonable conditions of service such as remuneration, tenure and pension commensurate with their crucial role as well as an appropriate age of retirement⁵⁷.

76. The conditions of service should reflect the importance and dignity of the office, and respect attached to it⁵⁸. The appropriate remuneration of prosecutors also implies recognition of their important function and role and can also reduce the risk of corruption⁵⁹. Bonuses, where they exist, should be based on criteria which are completely objective and transparent.

3.4.2 Incompatibilities and conflicts of interest

77. Prosecutors should at all times adhere to the highest ethical and professional standards. In particular, they should not act in cases where their personal interests or their relations with the persons interested in the case could hamper their full impartiality⁶⁰. Prosecutors should not engage in any activity or transaction or acquire any position or function, whether paid or unpaid, that is incompatible with or detracts from the proper performance of his/her duties⁶¹.

78. States should guarantee that a person cannot at the same time perform duties as a prosecutor and as a court judge. However, States may take measures in order to make it possible for the same person to perform successively the functions of prosecutor and those of judge or vice versa. Such changes in functions are only possible at the explicit request of the person concerned and respecting the safeguards⁶².

79. Any attribution of judicial functions to prosecutors should be restricted to cases involving in particular minor sanctions, should not be exercised in conjunction with the power to prosecute in the same case and should not

prejudice the defendants' right to a decision on such cases by an independent and impartial authority exercising judicial functions⁶³.

80. Prosecutors should, at all times, conduct themselves in a professional manner and strive to be and be seen as independent and impartial⁶⁴.

81. Prosecutors should abstain from political activities incompatible with the principle of impartiality.

82. Prosecutors should exercise their freedom of expression and association in a manner that is compatible with their office and that does not affect or appear to affect judicial and prosecutorial independence or impartiality. While they are free to participate in public debate on matters pertaining to legal subjects, the judiciary or the administration of justice, they must not comment on pending cases and must avoid expressing views which may undermine the standing and integrity of the court⁶⁵.

83. In accordance with the law, for an appropriate period of time, the prosecutor should not act for any person or body in respect of any matter on which he/she acted for, or advised, the public service and which would result in a particular benefit to that person or body⁶⁶.

84. A prosecutor, like a judge, may not act in a matter where he/she has a personal interest, and may be subject to certain restrictions aiming to safeguard his/her impartiality and integrity⁶⁷.

3.5. Guarantees in proceedings

85. Standards and principles of human rights establish that prosecutors are responsible in the performance of their duties and may be subject to disciplinary procedures⁶⁸.

86. In a democratic system under the rule of law, an acquittal of an individual should not result in disciplinary proceedings against the prosecutor responsible for the case.

87. States should take measures to ensure that disciplinary proceedings against prosecutors are governed by law and should guarantee a fair and objective evaluation and decision which should be subject to independent and impartial review⁶⁹.

88. Prosecutors should not benefit from a general immunity that would protect them from prosecution for crimes they have committed, and for which they have to answer before the courts, as this may lead to lack of public trust or even to corruption⁷⁰. States may establish special procedures to bring prosecutors to justice as a guarantee for their independence and impartiality.

89. According to general standards, prosecutors may need protection from civil suits for actions done in good faith in pursuance of their duties.

3.6 Protection of prosecutors, their families, etc.

90. States should take measures to ensure that prosecutors, and where necessary, their families are protected by the State when their personal safety is threatened as a result of the discharge of their functions⁷¹.

91. When prosecutors or their families are subject to violence or threats of violence, or to any form of intimidation, coercion or inappropriate undue surveillance, a thorough investigation of such incidents should be carried out and steps to prevent their future recurrence should be taken; when needed, prosecutors and their families should be provided with the necessary counselling or psychological support⁷².

4. Duties and rights of prosecutors

4.1 Duties concerning the conduct of prosecutors

4.1.1 The fundamental duty of impartiality, objectivity and fairness

92. Prosecutors should carry out their functions impartially and act with objectivity. They should also treat people as equal before the law and should neither favour anyone nor discriminate against anyone.

93. Prosecutors are aware of the dangers of corruption and do not ask for, accept or receive benefits or any advantage in the exercise of their functions. Through their impartiality, prosecutors must ensure the confidence of the public in the prosecution services. Prosecutors avoid secondary occupations and other tasks in which their impartiality might be endangered. They identify situations that pose a conflict of interest and, if necessary, recuse themselves from handling the task.

4.1.2 The accountability of prosecutors

94. Prosecutors operate on the basis of public liability. Their decisions are based on the law and other regulations, and they remain within the scope of their discretion. In particular, prosecutors should respect and ensure the protection of human rights.

95. Prosecutors act in a transparent manner, unless legislation restricts their actions or the publicity of the documents they have drafted. They should particularly be careful to express their decisions in an understandable manner to the parties concerned and when communicating with the public and media.

96. The professional knowledge and skills of prosecutors, particularly as regards management, communication and cooperation, including at international level, must be at a high level and must be maintained through training. Prosecutors must manage cases, for which they are responsible, with speed and optimum quality and they should use resources available to them in a responsible manner.

4.1.3 The duty to maintain the dignity of the profession

97. Prosecutors must earn the trust of the public by demonstrating in all circumstances an exemplary behaviour. They must treat people fairly, equally, respectfully and politely, and they must at all times adhere to the highest professional standards and maintain the honour and dignity of their profession, always conducting themselves with integrity and care⁷³.

4.1.4 Code of ethics and conduct

98. The sharing of common legal principles and ethical values by all prosecutors involved in the legal process is essential for the proper administration of justice⁷⁴ and for the respect of the highest professional standards. Prosecutors must be able to identify ethical problems in their work and to refer to clear principles to solve them.

99. Codes of professional ethics and of conduct should be adopted and made public, based on international standards developed by the United Nations, as well as those set out in the European Guidelines on Ethics and Conduct for Public Prosecutors (The Budapest Guidelines) adopted by the Conference of Prosecutors General of Europe on 31 May 2005.

4.2 Fundamental freedoms of prosecutors

100. Prosecutors enjoy the freedom of opinion and speech and freedom of association in the same manner as other members of the society. When making use of these rights, they must take into account the duty of discretion and be careful not to jeopardise the public image of independence, impartiality and fairness which a prosecutor must always uphold.

101. All necessary steps should be taken to ensure that prosecutors' privacy is respected⁷⁵. However, they should behave with discretion and caution to avoid putting into question the dignity of their profession or their ability to exercise their functions.

5. Relations with other actors and institutions

5.1 Relations with victims, witnesses, suspects, defendants, accused persons and the public

102. Prosecutors should uphold the right to a fair trial and take into account the legitimate interests of witnesses, victims, suspects, defendants or accused persons by ensuring that they are informed of their rights and the progress of the procedure⁷⁶.

5.2 Relations with courts (judges and court staff) and lawyers

103. Where the prosecution service is a part of the judicial institution, it is necessary to establish a clear

distinction between prosecutors and court judges. Member States should clarify the legal status, the competencies and the procedural role of prosecutors by law in a way that there can be no doubt about the reciprocal independence and impartiality of prosecutors and court judges⁷⁷.

104. A fair, impartial and effective justice can only be guaranteed by complementary actions of judges and prosecutors⁷⁸.

105. For the effectiveness of judicial action, the prosecutors must also always maintain courteous relations with all court staff and lawyers.

5.3 Relations with investigators

106. The prosecutors and investigators cooperate in an appropriate and effective manner in the course of investigations.

107. It is up to the prosecutors, where this is within their competence, to ensure that investigators act legally, respect the rights of the defence and inform all suspects, in the shortest possible time and in a language that is accessible, in detail, about the facts that could be used against them⁷⁹.

5.4 Relations with the prison administration

108. The prosecutor, within the limits of his/her competence, is responsible for verifying the lawfulness of how the detention is carried out. He/she must ensure the full and effective protection of the rights of detainees and inmates, improve their situation and facilitate their reintegration into society⁸⁰.

5.5 Relations with the media

109. Prosecutors are encouraged to regularly inform the public, through the media, about their activities and the results thereof⁸¹. The actions of prosecutors should strive to promote and preserve transparency and public trust in the prosecution service.

110. Communications from prosecutors must demonstrate impartiality, without improperly influencing judges in any way and exposing them to personal criticisms.

111. When an individual prosecutor is subject to an unfair attack through the media, he/she is entrusted with the right of having the contested information rectified or other legal remedies according to the national law. Nevertheless, in such cases, as well as when false information is spread about persons or events involved in the proceedings which he/she deals with, any reaction should preferably come from the head or a spokesperson of the prosecution office and, in major cases, by the Prosecutor General or the highest authority in charge of the service or the highest state authority. Such an institutional reaction minimises the need for the prosecutor concerned to make use of his/her right of response guaranteed to every person, and the risk of excessive "personalisation" of the conflict.

5.6 Relations with public services and other institutions

112. Prosecutors should not interfere with the competence of the legislature or the executive. However, they should cooperate with state institutions and various services.

113. Prosecutors should be empowered, without suffering any hindrance, to order investigations and prosecute civil servants and elected officials when they are suspected of having committed crimes⁸².

6. Organisation of the prosecutor's office

6.1 Structure

114. A fundamental responsibility of the prosecution service is to ensure the effectiveness of its action. There should be an organisation and a structure to meet all of its statutory tasks with speed and skill while maintaining a high level of quality.

6.2 Staff

115. The prosecutor's office should be managed effectively, avoiding any bureaucratic drift. To do this, prosecutors should have sufficient and qualified administrative personnel, adequately trained. Experts in specific fields should also be provided for, e.g. for the reception of victims of crimes, data processing, statistics.

6.3 Management of resources

116. The provision of adequate organisational, financial, material and human resources contributes to ensuring independence. Particularly in times of economic difficulty, sufficient resources should be assigned to provide a quality service⁸³.

117. Where the management of resources is entrusted to the prosecution service, it has the duty to do it with the utmost rigor and transparent manner⁸⁴. For this purpose, as well as to maximise the results with the given means, there should be relevant measures in place; prosecutors should also receive adequate training and be supported by qualified specialists.

118. In any case, either where the prosecution services have or do not have management autonomy, they should be enabled to estimate their needs, negotiate their budgets and decide how to use the allocated funds in a transparent manner, in order to achieve the objectives of speedy and quality justice⁸⁵.

6.4 Specialisation

119. The need of specialisation of prosecutors, as well as within the public prosecutors organisational structure, should be seen as a priority⁸⁶, to better respond to new forms of criminality, as well as in cases where the prosecutor has competences outside the criminal law field. It would also improve and facilitate international co-operation. Specialisation is essential to improve effectiveness, but also to answer the challenges for the prosecutors' mission coming from the complexity of contemporary society.

6.5 Internal cooperation

120. Mutual and fair cooperation is essential for the effectiveness of the prosecution service, between different prosecution offices as well as between prosecutors belonging to the same office.

7. International cooperation

121. Prosecutors should treat international requests for support within their jurisdiction with the same diligence as in the case of their work at national level. In their jurisdiction, they should contribute, where appropriate, to the implementation of foreign decisions.

122. Prosecutors should benefit from training in the application of international instruments and basic principles governing the major legal systems. They may participate as much as possible in exchanges and international fora useful for the exercise of their functions, including in particular the collection of best practices⁸⁷.

123. When it results in more efficiency, prosecutors should use cooperation arrangements such as Eurojust, the European Judicial Network and other various relevant networks including liaison prosecutors⁸⁸.

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