



International Association of Prosecutors Global Forum for Associations of Prosecutors

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Consultative Council of European Prosecutors
Council of Europe



What is the Council of Europe?

- Council of Europe founded in 1949, based in Strasbourg
- Launched the process of European construction (followed by the European Coal and Steel Community (ECSC) in 1950 and the European Economic Community (EEC) in 1957)
- Set up to promote democracy and protect human rights and the rule of law in Europe following 2 world wars.
- 820 million people
- 47 member states, 28 of which are members of the European Union
- All 47 signed up to the European Convention on Human Rights (overseen by the European Court of Human Rights, Strasbourg)





What does the Council of Europe do?

- Advocates freedom of expression and of the media, freedom of assembly, equality, and the protection of minorities
- Helps Member States fight corruption and terrorism and undertake necessary judicial reforms. Its group of constitutional experts, known as the Venice Commission, offers legal advice to countries throughout the world
- Promotes human rights through international conventions
- Monitors Member States' progress in these areas and makes recommendations through independent expert monitoring bodies.
- Council of Europe Member States no longer apply the death penalty.

Council of Europe v EU

- The Council of Europe is a separate organisation from the 28-member EU. No country has joined the EU without first joining the Council of Europe. They both have the same flag.





Consultative Council of European Prosecutors (CCPE)

- The CCPE was created in 2005
- Formerly the Conference of Prosecutors General of Europe (CPGE)
- Is composed of high level prosecutors of all member States
- Is a consultative body to the Committee of Ministers tasked with:
 - preparing opinions for the Committee of Ministers on issues related to prosecution services,
 - promoting the implementation of [Recommendation Rec\(2000\)19](#),
 - collecting information about the functioning of prosecution services in Europe.



Committee of Ministers

- This is the Council's decision-making body and is made up of the ministers of foreign affairs of each member state or their permanent diplomatic representatives in Strasbourg.
- The Committee of Ministers decides Council of Europe policy and approves its budget and programme of activities.



Recommendation (R2000)19

- **Recommendation (R2000) 19** - deals with the role of public prosecution in the Criminal Justice System.
- Is a recommendation of the Committee of Ministers of the Council of Europe
- Recognises the role of Public Prosecutors and requires states to take effective measures to guarantee Public Prosecutors are able to fulfil their professional duties and responsibilities without unjustified interference.
- Provides specific safeguards for Prosecutors.
- Outlines duties of Public Prosecutors towards individuals. An example of this is their duty to carry out their functions fairly impartially and objectively.



Independence and Accountability

- Independence of prosecutors - essential for the rule of law
- Must be free from political or other improper influence
- Prosecutors act on behalf of the people and in the public interest
- Duty to act honestly, fairly, impartially and objectively
- Transparency is essential to promote public confidence
- Publically available general guidelines and codes of ethics promote consistency, fairness and accountability
- Checks and balances –possibility of judicial oversight



Ethical standards

Budapest Guidelines 2005

- European Guidelines on Ethics and Conduct for Public Prosecutors (“the Budapest Guidelines”) 2005 (CPGE)
- Adopted to encourage a better definition of common principles for Public Prosecutors
- Not binding but should be seen as containing widely accepted general principles for public prosecutors in the performance of their duties
- Sets out standards expected of all prosecutors working for or on behalf of public prosecution services
- Celle 2004 (unsuccessful attempt)



Budapest Guidelines (overview)

- Uphold the principles of fair trial, equality of arms, presumption of innocence and fundamental rights
- Adopt and publish general guidelines and principles in order to guard against arbitrary decision making
- Act objectively, consistently, professionally, fairly and impartially and in accordance with law
- Avoid conflicts of interest or improper influences
- Respect diversity and refrain from bias or prejudice or discrimination
- Maintain professional skills and knowledge and stay well informed of relevant legal developments
- Maintain personal integrity and avoid impropriety

CCPE Opinions and Declarations



- Eleven Opinions adopted since 2005 including:
 - Rome Charter (European norms and principles concerning prosecutors) 2014
 - Opinion No. 10 on the role of prosecutors in criminal investigations
- The CCPE will hold its 12th plenary meeting in November 2017 when the Council will adopt its opinion No. 12 on the rights of victims, witnesses and vulnerable persons
- 2014: Opinion by CCPE issued in response to request from the State Prosecutor's Office of Montenegro to review compliance with international standards

CCPE Opinions and Declarations (continued)

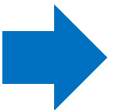


- 2016: Joint report of the Bureaux of the Consultative Council of European Judges (CCJE) and the Consultative Council of European Prosecutors (CCPE) on the “Challenges for judicial independence and impartiality in the member states of the Council of Europe”
- 2015: Declaration of the CCPE on communications relating to alleged threats to the impartial and efficient functioning of the prosecution service in Turkey
- 2016: Statement in relation to the position of prosecutors following the attempted coup d’état in Turkey



Rome Charter

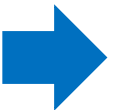
- Opinion No.9 (2014) of the Consultative Council of European Prosecutors to the Committee of Ministers of the Council of Europe
- Highlights importance of independence of prosecution service as an indispensable corollary to independence of judiciary
- Requires prosecutors to adhere to the highest ethical and professional standards, act impartially and objectively, always respecting the presumption of innocence, the right to a fair trial, the principle of equality of arms, separation of powers and binding force of final court decisions
- Highlights the requirement for transparency and published codes of professional ethics and conduct





Rome Charter (continued)

- Provides that prosecutors are entitled to freedom of expression, communication and association, the right to private life, to be protected by the State when their personal safety is threatened, and to functional immunity for actions carried out in good faith in pursuance of their duties (but not a general immunity)
- Provides that the recruitment and career of prosecutors should be regulated by law and governed by transparent and objective criteria
- Requires prosecutors to decide cases only on well- founded evidence, reasonably believed to be reliable and admissible





Rome Charter (continued)

- Prosecutors should not use evidence obtained through a grave violation of human rights (and should seek to ensure that appropriate sanctions are taken against those responsible)
- Prosecutions should be firmly but fairly conducted
- Clear published guidelines should be issued (and followed by prosecutors) to achieve consistency and fairness
- Prosecutors should abstain from political activities incompatible with the principle of impartiality and should not act in cases in which their (or their family's) personal interests could hamper full impartiality



Adoption of principles in a domestic context

Ireland

- Director of Public Prosecutions
 - Code of Ethics for Prosecutors
 - Guidelines for Prosecutors;
 - intended to give guidance to prosecutors so that a fair, reasoned and consistent policy underlies the prosecution process
 - reflect general principles applicable in Common Law jurisdictions.
 - regularly updated
- Civil Service Code of Standards and Behaviour
- Ethics in Public Office Acts 1995 -2001



Conclusion

Principles of Accountability

- The status and independence of prosecutors should be clearly established by law
- Lines of authority, accountability and responsibility should be transparent
- Clear published guidelines and codes of professional ethics and conduct should be issued to promote consistency and fairness
- Prosecutors should always adhere to the highest ethical and professional standards, act impartially and objectively, always respecting the presumption of innocence, the right to a fair trial, the principle of equality of arms, separation of powers and binding force of final court decisions
- Formal rules are not enough – they need to be implemented in practice

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CONSEIL
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