

**High-Level International Conference co-organised by the Prosecutor General's Office of the Russian Federation, the Council of Europe and the International Association of Prosecutors
6-9 July 2021
on the
Role of Prosecutors in the Protection of Individual Rights and Public Interest in light of
Requirements of the European Convention on Human Rights**

*Intervention of Dr. Ramin GARAGURBANLI,
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Dear Ladies and Gentlemen!

First of all, I would like to express my gratitude and appreciation to organizers - Prosecutor General of the Russian Federation, International Association of Prosecutors and Council of Europe for having invited the European Commission for the Efficiency of Justice (CEPEJ) to this high level Conference.

The CEPEJ is happy to be here with you, in this international forum, to discuss the protection of individual rights and public interest under the European Convention on Human Rights.

The Russian Federation is currently and recently being hit hard by the COVID crisis and my thoughts are with the persons concerned and their families.

Every member of the Council of Europe has accepted the principle of the Rule of Law and of the enjoyment by all persons within its jurisdiction of the human rights set out in the European Convention on Human Rights.

In many Member states because of their legal traditions public prosecutors play active role alongside with the criminal justice system, also in non-criminal justice field and this role varies considerably between different national legal systems. This role may include representing the general or public interest, providing legal support to individuals in the protection of their human rights and fundamental freedoms, representing the State before the courts, supervising public bodies and other entities, and an advisory role to courts.

It is worth to mention that where public prosecution services have a role outside the criminal justice system, Member states should take all necessary and appropriate steps to also ensure that this role is carried out with special regard to the protection of human rights and fundamental freedoms and in full accordance with the Rule of Law, in particular with regard to the right to a fair trial enshrined in the article 6 of the European Convention on Human Rights.

The public prosecutors should exercise their responsibilities and powers both in criminal and non-criminal justice system independently, transparently and in full accordance with the Rule of Law and the principles of legality, objectivity, fairness and impartiality.

In this regard, the different bodies of the Council of Europe play significant role in assistance to the Member states in proper implementation of conventional requirements. The creation of the CEPEJ in 2002, almost 20 years ago, demonstrated the will of the Council of Europe to promote the Rule of Law and fundamental rights in Europe on the basis of the European Convention of Human Rights. Driven by the increasing number of cases at the European Court of Human Rights, the Council of Europe has deemed it necessary to work more precisely on efficiency and quality of justice at a national level.

In this perspective, the Committee of Ministers entrusted the CEPEJ with the task of:

- analysing the various national judicial systems, including prosecution, advocacy and justice institutions in their compliance with the requirements and standards of the Council of Europe;
- preparing and publishing a biennial evaluation reports of the European judicial systems in order to have a precise photography of the situation in judicial systems, as regards detailed indicators such as budget, performance and quality, situation of justice professionals, courts, judges, prosecutors, lawyers and users;
- based on these reports and analyses, defining best practices as well as problems and advising on areas for possible improvements;
- and proposing concrete tools to assist courts, justice professionals, prosecution authorities and judicial institutions to render justice and protect human rights in a better way, in order to increase the confidence of users in justice.

Hardly work all over Europe and even outside Europe, CEPEJ is today a unique body for all European States, made up of qualified experts from 47 Council of Europe member states, to improve the efficiency and quality of justice in various topics which are mentioned in the Resolution (2002)12 of the Committee of Ministers establishing the CEPEJ. One of this topic concerns the public prosecutors.

The CEPEJ received also from the Committee of Ministers a mission of “after sale service” concerning the Council of Europe instruments as it has the responsibility to enable their better implementation in member States by analysing the judicial systems in their compliance with the requirements and standards of the Council of Europe concerning efficiency and fairness of justice. In that framework, it concerns, for prosecutors, the better implementation of two very important Recommendations:

- Recommendation CM/Rec(2000)19 on the role of public prosecution in the criminal justice system
- Recommendation CM/Rec(2012)11 of the Committee of Ministers to member States on the role of public prosecutors outside the criminal justice system.

Concretely, CEPEJ tools, elaborating by its experts of working groups on quality of justice, evaluation, time management and cyberjustice, are addressed to national justice institutions, courts, Bar Associations, but also prosecution services. I will limit myself to the most recent tools, which are fully relevant for the daily work of the public prosecutors:

- Guide on communication with the media and the public for courts and prosecuting authorities;
- Guidelines on how to drive change towards Cyberjustice;
- SATURN guidelines for judicial time management, which contains a specific part on prosecutors;
- Very recent guidelines on videoconference in courts, also applicable to public prosecutors.

More generally, the CEPEJ is engaged in a wide reflection with its Members states to support them in the modernization of its justice system, by developing tools with the view to offer a framework

and safeguards to states and justice professionals willing to create and use ICT and AI mechanism in order to improve the efficiency and quality of justice. The CEPEJ co-operation programmes usually organize some training courses for justice professionals, including prosecutors, in order to reinforce their expertise and capacities, for example on modern management of prosecutions services.

In order to fulfill its tasks, the CEPEJ has undertaken since 2004 a regular process for evaluating every two years the European judicial systems. It provides policy makers and justice professionals a practical and detailed tool for a better understanding of the functioning of justice in Europe, in order to improve its efficiency and quality in the interest of more than 800 million Europeans. In general, it is very useful to check the last CEPEJ Evaluation Report to have updated statistical data and useful comparisons concerning prosecutors in a European perspective.

The figures in this report make it possible to have an overall view of the functioning of the public prosecutors in Europe, their tasks and the means at their disposal, in order to measure efficiency and their contribution to the effectiveness of the judicial system.

The independence and autonomy of the public prosecutor's office are an essential prerequisite for the independence of the judiciary. We observed the trend of providing the statutory independence to public prosecution in European states. For instance, in 2018 from 47 member states in 31 the public prosecutor is declared statutorily independent (in 2010 this number was 28).

The status and organization of prosecution services differ widely across Europe. Nevertheless, all prosecution services are empowered to prosecute a case in court. In addition to their essential role in criminal matters, more and more in Member states public prosecutors are granted important prerogatives outside the field of criminal law. For instance, in 33 States the public prosecutors may intervene in civil and/or administrative cases and we identified the tendency in increasing the role of prosecution in other than criminal justice system.

The budget allocated by European states to prosecution services is around 25% of the total judicial system budget, with some differences from country to country (South-Eastern and the Eastern European states allocated more than 30%). Overall there is an increasing trend in allocation of budget for prosecution services (Bulgaria, Iceland, Italy, Switzerland are allocated a larger amount of budget to prosecution services than the other European states). On average the European states spent 14 Euro per inhabitant on the prosecution services (Russian Federation spent almost 8 Euro per inhabitant). The less affluent countries spend proportionately more on their prosecution authorities, while the richer countries invest more in legal aid system.

Relating to the number of public prosecutors across the Europe it is worth to indicate that since 2010 there is an ongoing trend of increasing the number of prosecutors per 100.000 inhabitants (average number of prosecutors in Europe increased from 11 to 12 prosecutors since 2010). The average increase across the Member states is 10%. Based on our observations we defined that most states in Northern, Western, Central and Southern Europe employ very low to average numbers of 2 to 15 prosecutors per 100.000 inhabitants (Switzerland, Turkey, Germany, Austria, Denmark, France, England, Norway, Portugal, Spain, Sweden, etc.). Higher numbers of more than 15 prosecutors per 100.000 inhabitants can be found mainly in more Eastern European countries (Russian Federation, Hungary, Bulgaria, Latvia, Lithuania, Slovak Republic, Republic of Moldova, etc.). Since 2010 there is an increase in 6% in Russian Federation, with high number of prosecutors – 23,5 per 100.000 inhabitants in comparison with other European states (France has the lowest number in Europe – 3 prosecutors per 100.000 inhabitants, Italy 3,7 per 100.000 inhabitants).

At the same time, concerning workload of public prosecutors I would like to indicate that the number of cases received per 100 inhabitants has significantly decreased since 2010. Many countries in Central and Eastern Europe have a significant number of prosecutors (over 10-20 prosecutors per 100.000 inhabitants) for a relatively small number of cases received (less than 3 cases). Countries of Western Europe such as France, Austria, Italy and Luxembourg have rather large workload despite the low number of prosecutors (6,6 case). In Russian Federation there are 23.5 prosecutors per 100,000 inhabitants who handle on average 0.56 case and exercise 10 prerogatives (in France this number is 3 prosecutors who handle on average 6.6 cases and exercise 13 prerogatives). Prosecutors in Austria, Italy, Luxemburg also have a rather large workload. It may reflect an improvement in the situation of prosecutors in terms of their workload. But, at the same, the average ratio of non-prosecutor staff to public prosecutors has decreased from 2010.

Dear Ladies and Gentlemen,

These various activities of the CEPEJ have a unique objective, indicated in the missions given by the Committee of Ministers : *“All necessary measures shall be taken to protect and promote the status and role of public prosecutors and, at the same time, to ensure their efficiency and competence, in order to enable them to perform their professional duties and responsibilities without unjustified interference.”*

I would like to recall the requirements of the Recommendations of the Committee of Ministers: the mission of the public prosecutors should be to represent the general or public interest, protect human rights and fundamental freedoms, and uphold the Rule of Law.

The concept of the Rule of Law implies that prosecutors, who are responsible for ensuring that all political, economic and social actors and citizens respect the law, exercise their functions within a legal framework, and conformity with law and standards.

In the meantime, as stated in Opinion N13 of the Consultative Council of European Prosecutors (CCPE), the general mission of prosecutors is demanding and difficult: it requires professionalism, character, courage, balance and determination.

How to comply with all these requirements is our objective today and I hope that these discussions will be fruitful and productive.

Thank you very much for your attention.