

Speech by Christos Giakoumopoulos
High-Level International Conference “Role of Prosecutors
in the Protection of Individual Rights and Public Interest in light
of Requirements of the European Convention on Human Rights”,
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**Session on Evolution of international legal standards in light of the
Recommendation CM/Rec (2012)11 “On the role of public
prosecutors outside the criminal justice system”**

Dear colleagues,

I am feeling really privileged to take the floor for a second time at such an interesting conference and to be part of such a distinguished panel.

The aim of this session is to look at evolution of legal standards in the light of the Recommendation CM/Rec (2012)11 “On the role of public prosecutors outside the criminal justice system”.

As it was already mentioned during the first day of the Conference many member States have a common practice when prosecutors execute powers and responsibilities outside the criminal justice system and that the scope of their roles varies considerably between different national legal systems.

At the time the Recommendation “On the role of public prosecutors outside the criminal justice system” was adopted, common international legal standards regarding the tasks, function and organisation of prosecution services in this regard were absent.

The CCPE was at the roots of the process of elaboration of the Recommendation CM/Rec (2012)¹¹ “On the role of public prosecutors outside the criminal justice system”.

In particular, the CCPE adopted, in 2008, its Opinion No. 3 (2008) on the role of prosecution services outside the criminal law field.

In that Opinion, the CCPE pointed out that the prosecution services in the majority of the Council of Europe member States had at least some tasks and functions outside the criminal law field, including in civil, family, labour, administrative, electoral law, as well as in the protection of the environmental, social rights and the rights of vulnerable groups such as minors, disabled persons and persons with very low income.

Almost ten years past since the adoption of the Recommendation. Insofar as the practice of prosecution services outside the criminal justice system has been gradually evolving, international legal standards on this matter have also advanced.

The growing engagement of the State in the settlement of the problems of utmost general interest, such as the protection of the public health, environment and minorities' rights, frequently led to the changes in national prosecutor's offices remit.

In this regard international and national bodies have to effectively address any extension of the role of the public prosecution outside the criminal law field in order to ensure full respect of the ECHR, and in particular its article 6 on the right to a fair trial, as well as the case-law of the European Court of Human Rights.

Following the Recommendation CM/Rec (2012)11 CCPE adopted a number of opinions which play an important complementary role and in particular, they provide further guidance as regards different aspects of the work of prosecutors outside criminal law.

For example, while the Recommendation CM/Rec (2012)11 establishes in a general way that the conduct of public prosecutors should be governed by appropriate codes of ethics, the CCPE Opinion No. 13 (2018) on independence, accountability and ethics of prosecutors provides a conceptual framework for the prosecutorial ethics.

It explains the practical implications of the requirement of ethical and professional standards in the work and behaviour of prosecutors, such as, for example, the absolute importance of integrity and the obligations of neutrality and impartiality, as well as other aspects. In this way, the Opinion No. 13 (2018) of the CCPE explains how in practice and concretely the general norm of the Recommendation CM/Rec (2012)¹¹ on ethics should apply.

The CCPE also adopted Opinion No. 7 (2012) on the management of the means of prosecution services. This Opinion points out to a number of operational modalities and practical requirements for proper functioning of the prosecution services.

It stresses that prosecutors must have at their disposal sufficient means in order to fulfil their various tasks in the situation of new national and international dangers and challenges, including those brought by the development of technologies and globalisation processes.

In 2014 the CCPE adopted the Opinion No. 9 (2014) of the CCPE on European norms and principles concerning prosecutors, including the famous Rome Charter, provides a comprehensive inventory of applicable principles for prosecutorial activities both within and outside criminal law.

This Opinion also has a whole section on functions of prosecutors outside criminal proceedings, stressing that in many member States, prosecutors have competences outside the criminal law field, and in such cases, prosecutors' mission should be to represent the general or public interest, protect human rights and fundamental freedoms, and uphold the rule of law.

The Opinion No. 9 (2014) goes on to provide further concrete practical guidance on the rights and obligations of prosecutors intervening in court proceedings outside the field of criminal justice.

The pandemic situation faced during the last year led to a landmark Opinion No. 15 (2020) on the role of prosecutors in emergency situations, in particular when facing a pandemic.

This Opinion emphasizes that prosecutors throughout member States - and in fact all over the world - are facing the challenge of making sure that, in the course of their work, the measures taken under a public health emergency are used to protect people, and that new legal measures are applied with strict respect for human rights obligations.

The restrictions introduced as a result of the pandemic may affect civil and political rights protected by the European Convention on Human Rights (ECHR), as well as economic, social and cultural rights, entailing discrimination against certain vulnerable groups.

That is why it is all the more important for prosecutors to continue ensuring respect for the ECHR in member States during a pandemic, as well as its aftermath.

This of course applies to functions of prosecutors both within and outside criminal law field, especially since the Opinion highlights, in addition to the implementation of the usual functions of prosecution services in emergency situations, their new or extended functions in response to such situations as well.

We should remember that Recommendation CM/Rec (2012)11 stresses the importance of national and international co-operation.

All Opinions of the CCPE specify the modalities of such co-operation and point out to specific structures, mechanisms and procedures in this respect.

In particular, the Opinion No. 9 (2014) of the CCPE on European norms and principles concerning prosecutors, including the Rome Charter, establishes that 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. This is applicable to their functions in both within and outside criminal law.

Public prosecution services are assigned a mission outside the criminal justice system on the basis of the added value which member States consider that their involvement brings, not only for the pursuit of the State's interests but also for the promotion and the protection of human rights.

The current crisis has once again revealed the importance of such role of the prosecutors. It brings to life our common core values: Human Rights, Democracy and Rule of Law.

It seems to me that there is no better way forward than to tackle both the existing and the emerging challenges building upon our established standards enshrined in the Council of Europe's Recommendation CM/Rec (2012)11.

I look forward to listening to other distinguished panelists.