



Генеральная прокуратура
Российской Федерации



Saint Petersburg, 3 July 2008

CPE (2008) 3

CONFERENCE OF PROSECUTORS GENERAL OF EUROPE

The role of public prosecution in the protection of human rights and public interest outside the criminal law field

*organised by the Council of Europe and the Prosecutor General's Office
of the Russian Federation*

Saint Petersburg, 2-3 July 2008

Konstantinovsky Palace

CONCLUSIONS

1. The Prosecutors General and other Prosecutors of Europe held their 8th Conference in Saint Petersburg (Russian Federation) from 2 to 3 July 2008, under the aegis of the Council of Europe, at the invitation of Mr Yuri Chaika, Prosecutor General of the Russian Federation.
2. The Conference was opened in the Saint Petersburg, Kostantinovsky Palace by Mr Yuri Chayka, Prosecutor General of the Russian Federation and by The Right Honourable Terry Davis, Secretary General of the Council of Europe. A welcome address of Mr Dmitry Medvedev, President of the Russian Federation was conveyed to the participants by Mr Ilya Klebanov, Presidential Plenipotentiary Envoy to the Northwest Federal District.
3. The programme of the Conference and the list of participants are available on the Council of Europe website at the following address: www.coe.int/ccpe.
4. The Conference addressed the issue of “the role of prosecution services in the protection of human rights and public interest outside the criminal law field” on the basis of the discussions held at previous conferences, notably the 4th Conference (Bratislava, Slovak Republic, 1-3 June 2003), 5th Conference (Celle, Germany 23-25 May 2004), the 6th Conference (Budapest, Hungary, 29-31 May 2005), the conclusions of the 7th Conference (Moscow, Russia, 5-6 July 2006), as well as the replies of member States to the questionnaire of the Consultative Council of European Prosecutors (CCPE) on this issue.
5. As already noted in Budapest and Moscow, the Conference confirmed that a great variety of systems exist in Europe regarding the role of the prosecution services, including outside the criminal law field, resulting from different legal and historical traditions. It is for member States to freely define their legal structures and their functioning, provided they fully respect human rights and freedoms, the rule of law principle and their international obligations. The role of public prosecution and the extent of its competences, including the protection of human rights and public interest, are defined by domestic legislation in member States.
6. Despite the absence of common European legal norms and rules regarding tasks, functions and organisation of prosecution services, in all member States of the Council of Europe prosecutors have an important role and duty to protect human rights, safeguard the law and defend the public interest. In most member States this role and duty also covers, to varying extents, the non criminal law field.
7. Two main groups of States can be identified: those where the prosecution services have no powers outside the criminal law field and those where prosecution services have some or extensive powers outside the criminal law field. In the latter group, the areas of competence are varied and include, *inter alia*, civil, administrative, labour, family, electoral law as well as the protection of social rights and the interests of vulnerable groups such as minors, disabled persons and persons with very low income. Both models can be considered as appropriate in a democratic State.

8. The Conference called upon those member States where the prosecution service is entrusted with functions outside the criminal law field to ensure that these functions are carried out in accordance with the following principles:
 1. These functions are carried out “on behalf of society and in the public interest, to ensure the application of law “(Recommendation of the Committee of Ministers R(2000)19 on the role of public prosecution in the criminal justice system), respecting fundamental rights and freedoms and within the competencies given to prosecutors by law, as well as the European Convention of Human Rights and Fundamental Freedoms (ECHR) and the case law of the European Court of Human Rights.
 2. The principle of separation of powers is fully respected and no undue intervention in the activities of prosecution services is allowed.
 3. The right to judicial review of acts or omissions by prosecutors in relation with individuals’ rights and obligations should be guaranteed.
 4. When acting outside the criminal law field, prosecutors should enjoy the same rights and obligations as any other party and should not enjoy a privileged position in the proceedings.
 5. The action of prosecution services on behalf of society to defend public interest in non criminal matters must not violate the principle of binding force of final court decisions (*res judicata*).
9. The Conference underlined the growing need in our societies to protect effectively the rights of vulnerable groups, notably of children and young people, witnesses, victims, handicapped persons, as well as social and economic rights of the population in general. It expressed the opinion that prosecutors may have a crucial role to play in this respect.
10. The growing involvement of the State in the settling of current problems such as the protection of the environment, consumers’ rights or public health, may lead to widening the scope for the role of prosecution services. Any extension of the role of the public prosecution outside the criminal law field must fully respect the ECHR, and in particular its article 6 on the right to a fair trial, notably the access to an independent and impartial tribunal, as well as the case-law of the European Court of Human Rights.
11. Considering Recommendation (2000)19 and in particular its section on “Duties of public prosecutors towards individuals”, prosecutors in countries where they have such prerogatives should ensure the effective protection of human rights outside the criminal law field before, during and after the trial.
12. The Conference resulted in the exchange of a variety of practices and experiences concerning the role of the prosecution services in the protection of human rights and public interest outside the criminal law field. The best practices discussed during the Conference concerning the efficient protection by public prosecution services of individuals for questions outside the criminal field which come within their competences could be examined with a view to the possible application of this positive experience by the member States where the public prosecution services have such authority.
13. The Conference invited the Consultative Council of European Prosecutors to base its work on the role of public prosecution in the protection of human rights and public interest outside the criminal law field on the conclusions and other materials presented during the Conference with a view to draft an opinion on this theme.

14. The Conference asked the Council of Europe and the Prosecutor General's Office of the Russian Federation to publish the materials of the Conference.
15. The Conference thanked warmly the Russian authorities for the organisation of this event and their contribution to the smooth running of the discussions and for their generous hospitality.