

SOPOT DECLARATION
OF PROSECUTORS GENERAL OF THE VISEGRAD GROUP

SOPOT, 15 MAY 2015

EUROPEAN PUBLIC PROSECUTOR'S OFFICE

1. Prosecutors General of the Visegrad Group carefully observe negotiations concerning the establishment of the European Public Prosecutor's Office (EPPO).
2. Prosecutors General wish to re-emphasize that – if once established – the EPPO should introduce more effective and more efficient decision making process in order to increase the level of protection of financial interests of the European Union.
3. Prosecutors General would like to call for clearly defined competence of the EPPO in order to ensure the principle of legal certainty and in order to avoid possible jurisdictional conflicts between the EPPO and the national authorities.
4. Prosecutors General are of the opinion that the current proposal does not regulate properly the issue of mutual legal cooperation between the EPPO and the third countries what may result into a non-execution of the EPPO's letters of request.
5. Prosecutors General take the opportunity to advocate for more decision making powers for European Delegated Prosecutors who have the necessary legal expertise of their national criminal systems.
6. Prosecutors General wish to recall that the "Network Model" presented by the Hungarian Prosecutor General addressed some of the issues mentioned above.
7. Prosecutors General wish to underline that any future reporting obligations of the national authorities concerning cases below the threshold of 10.000 EURO should clearly demonstrate their added value.
8. Prosecutors General welcome the deletion of the provision in the draft Regulation concerning a single legal area since the possible establishment of the EPPO does not result into establishing of a European criminal jurisdiction as the EPPO will only exercise the criminal jurisdiction of the Member States.

ROME CHARTER

1. Prosecutors General of Visegrad Group welcome the Opinion No. 9 developed by the Consultative Council of European Prosecutors devoted to European norms and principles concerning the model of the public prosecution and the status of prosecutors, the so-called Rome Charter that including the Explanatory Note constituting an integral part thereof, illustrates the principles of the rule of law referring to the functioning of the prosecution service and the adopted status of prosecutors, developed on the basis of the European Convention on Human Rights and the case law of the European Court of Human Rights, and developed by numerous international forums.
2. These standards of democratic prosecution service should be reflected also in the draft EPPO Regulation.
3. Prosecutors General recognize with satisfaction that the above referred Opinion No. 9 takes into consideration the vary of the European models of prosecution offices. It recognizes the principles of independence and hierarchy that are fundamental for the Visegrad Group region. At the same time they wish to underline that standards of functioning of the prosecution service and the status of prosecutors in a state under the rule of law may not be changed in the national law in a way resulting in lowering the level of guaranties of prosecutors' autonomy or independence (e.g. external guarantees with regard to relations with the executive powers, as well as internal guarantees with regard to relations between superior and subordinate prosecutor).
4. Prosecutors General believe that the fundamental factor of stability of the prosecution service as a fully-democratic body is its constitutionalization. It is desired that the basic regulations concerning the functioning of the prosecution service in the state under the rule of law had a rank of constitutional provisions. Only such legal framework provides for guarantee for irreversibility of the process of democratization of the prosecution service. Moreover, constitutionalization gives less possibility of influencing the prosecutor's service by changing the conditions in which it operates.
5. Prosecutors General agree that institutional separation of the function of the Prosecutor General as the supreme authority of the prosecution service was a correct step in the direction of ensuring the independence of the prosecution service. With the assurance of appropriate guarantees in system provisions (in particular the guarantee of democratic procedure of selecting candidates who meet the conditions set by law, the guarantee of term of office and enumerative indication of reasons for dismissal), the Prosecutor General becomes a guarantor of external independence of the prosecution service.
6. The prosecution service should be independent of politicians, but it may not be excluded from the system of state authorities. Mechanisms of linking the prosecution service with other authorities should function in such a way as to ensure a reasonable degree of balance between the independence of prosecution and the responsibility of the Prosecutor General for the fulfillment of its task by the prosecution service.

RELATIONS BETWEEN PROSECUTION AND THE POLICE

1. Prosecutors General of Visegrad Group are of the opinion that in order to ensure the legality of investigations, prosecutors should generally be guaranteed a supervisory role, a controlling or monitoring function over investigations of the police and other investigation bodies. Prosecutors should be ultimately responsible for verifying the lawfulness and professionalism of investigations as well as for safeguarding the respect of human rights.
2. Prosecutors General underline that prosecutors' investigative powers should be defined by law. In general, prosecutors should investigate cases in which the nature or gravity of the crime, the complexity of evidence, the eventual risk of bias and granted immunity justifies their investigative action.
3. Prosecutors General express their opinion that the prosecutor should actively instruct the police and other investigation bodies when the case requires the prosecutor to lead the investigation and determine the entire line thereof in detail. In such cases the police and other investigation bodies should perform their tasks and act strictly as instructed by the prosecutor.
4. Considering that in their jurisdictions the police and other investigation bodies investigate unless otherwise provided for by law and thus investigate the majority of criminal cases, Prosecutors General highlight that police and other investigation bodies, as a general rule, should act independently. At the same time, if the police or other investigation bodies investigate independently, criminal procedure law should vest prosecutors with supervisory power to ensure the lawfulness of investigations.
5. Dynamics and evolution of trans-border crime which entails many forms of advanced co-operation in criminal matters and the necessity of performing procedural activities taking into account legal regulations of other states give rise to a need of ensuring professional specialization both at the internal and external level, covering, to the same extent, prosecutors and police staff and officers of other investigation bodies.
6. Conclusions adopted by 6th Conference of Prosecutors General of Europe in Budapest on 31 May 2005 concerning the relationship between prosecutors and the police remain valid.

Prosecutors General of the Visegrad Group entrust Andrzej Seremet Prosecutor General of the Republic of Poland, with the presentation of The Sopot Declaration to the Consultative Forum of Prosecutors General and Directors of Prosecutions of the Member States of the European Union, and Péter Polt Prosecutor General of Hungary, with presentation hereof to the Consultative Council of European Prosecutors.

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of the Slovak Republic

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