



DEUTSCHE STIFTUNG FÜR
INTERNATIONALE RECHTLICHE
ZUSAMMENARBEIT E.V.



EU-projekt: Podrška Pravosudnoj akademiji: Razvoj sustava obuke za buduće suce i državne odvjetnike

EU-project: Support to the Judicial Academy: Developing a training system for future judges and prosecutors

NN 25/08

Last check / zadnja provjera: 27.04.2009.

CODE OF ETHICS

FOR PUBLIC PROSECUTORS AND DEPUTY PUBLIC PROSECUTORS

I GENERAL PROVISIONS

Article 1

The Code of Ethics for Public Prosecutors and Deputy Public Prosecutors (hereinafter: Code) establishes the principles and rules of conduct of public prosecutors and deputy public prosecutors (hereinafter: public prosecution officials) with which they shall always comply in order to preserve and further develop the dignity and reputation of the public prosecution service as an autonomous and independent judicial body.

II FUNDAMENTAL PRINCIPLES

Article 2

In performing their duties relating to other bodies, parties and citizens, and in their mutual relations, public prosecution officials shall particularly comply with the following principles:

1. Legality

A public prosecution official shall proceed in a legal and professional manner, in accordance with the Constitution of the Republic of Croatia, ratified international treaties, laws, and with the Regulation on Internal Operation in such a way that the legality and regularity of his or

her decisions may be checked and that the reasons for making these decisions may always be determined. (Combining items a) and e) of the current Code of Ethics).

2. Impartiality

A public prosecution official shall perform his or her duty objectively, impartially and independently of the judgement and opinion of the public and of external pressures, without prejudices, respecting and protecting the basic human rights laid down in the Constitution, the law and the Convention for the Protection of Human Rights and Fundamental Freedoms, and always respecting the dignity of others, notwithstanding the person in question and notwithstanding his or her status, without discrimination on the grounds of religion, sex, sexual orientation, national and regional origin, belonging to a particular ethnic group, race, age, or on any other grounds.

3. Diligence and professional conduct

In order to perform his or her duty, a public prosecution official must possess a high level of knowledge and be acquainted with the law and its application. This involves the obligation to undergo continuous professional development and training. He or she shall meet deadlines in the course of the procedure, while complying with the rules on priorities in resolving cases, endeavouring to resolve received cases of the same degree of urgency according to the order they have been received for work.

4. Honesty and integrity

A public prosecution official shall not use his or her office or his or her official status and reputation to acquire any pecuniary gain for himself or herself or anyone else. He or she shall also avoid accepting gifts and free services if this may bring into question his or her impartiality and objectivity.

5. Loyalty

When a public prosecution official receives an instruction to proceed in a particular case from a public prosecutor from the same or a higher public prosecution service, he or she shall refrain from giving others any information or making any comments concerning this issue. Before taking on any tasks outside the public prosecution service, the public prosecution official shall duly inform the public prosecutor or the higher public prosecutor, and proceed in accordance with the obtained opinion.

6. Dignity

A public prosecution official shall conduct himself or herself at work, and also in his or her free time, in such a way that his or her behaviour does not bring into question the dignity and reputation of public prosecution officials, or of the public prosecution service as a whole. He or she shall refrain from performing leisure activities which would be in conflict with his or her official duties or which may reduce his or her social reputation and the reputation of the public prosecution service, and shall inform the higher public prosecutor or the public prosecutor about those leisure activities which may allow public perception to doubt his or her independence and objectivity and thus reduce the social reputation of the public prosecution official and the reputation of the public prosecution service as a whole. A public prosecution

official shall take due care not to damage the reputation of the public prosecution service or the public prosecution office by his or her conduct in public places and by his or her general conduct. The principle of dignity also includes appropriate personal appearance.

7. Restraint

A public prosecution official shall refrain from making statements and from any activity which may bring into question or cast doubt on his or her independence, impartiality, loyalty and dignity. He or she shall behave towards his or her colleagues, employees and parties with the consideration, dignity and reserve which constitute part of the public prosecution office. This also includes the obligation to respect the official or business secret and the obligation to keep confidential everything that he or she comes to know about the parties, their rights, obligations and legal interests while performing his or her duty, provided that this does not represent a punishable offence.

III RELATIONSHIPS AND COOPERATION WITHIN THE PUBLIC PROSECUTION SERVICE

Article 3

Before undertaking a particular action or making a decision which he or she considers could have negative public repercussions or affect the reputation and status of the public prosecution service, the public prosecution official shall duly notify the higher public prosecutor or the public prosecutor.

Public prosecution officials in the public prosecution service shall show due consideration for one another and shall relate to each other with respect.

Public prosecution officials in the public prosecution service shall direct their work towards achieving the best possible results and shall whenever necessary work together, helping one another and acquainting others with their understandings about the tasks they perform.

Public prosecution officials in the public prosecution service shall not request from one another or from other employees services that could lead to compromising situations or disrupted relations.

Article 4

Public prosecution officials in the public prosecution service shall answer to their superior concerning their work and the methods they use in performing their tasks.

Public prosecution officials shall inform their superiors in time and without being specifically asked about all cases and understandings related to the work of the public prosecution service for which it is reasonable to believe that it is important that they be informed.

Article 5

In their everyday work, public prosecution officials shall relate to their employees openly and with consideration, be fair and provide a good model for them. They shall inform their subordinates about all the cases about which it is necessary that they have knowledge, and provide them access to data necessary for the good performance of tasks, so that the subordinates may perform their duties correctly and well.

In organising work, authorised persons shall take into account and respect as much as possible the wishes, affinities, possibilities and capacities of their subordinates, encourage them to

participate in professional development and training, and refrain from privatising relationships and inciting their subordinates to actions that are incompatible with the Code.

Article 6

Pursuant to the legal provisions regulating the relationships between higher and lower public prosecutors, public prosecutors shall cooperate among themselves with a view to achieving the best possible performance. In doing so, they shall be open regarding cooperation and the exchange of information and data about which they have acquired knowledge, and which may be of interest for the work of another public prosecution service.

IV RELATIONSHIPS AND COOPERATION WITH OTHER ACTORS

Article 7

Relations with the court

When representing parties in courts and in their everyday communication with the court, public prosecution officials shall respect and preserve the dignity of the court, their own dignity, and the dignity of the public prosecution service.

Public prosecution officials outside hearings or the main trial shall not (unless this is directly embedded in a written document which constitutes part of the case file) make comments on the rendered decisions of the court, or about how the court must proceed in a specific case, nor shall they give information to others on the actions of the court, about which they have gained knowledge.

A public prosecution official may only as an exception and with the prior written agreement of the higher public prosecution service state his or her opinions that differ from the opinions of the public prosecution service before the court.

Article 8

Relations with the police and other state bodies which participate in the preliminary investigation procedure

A public prosecution official in his or her relation with the police and other state bodies which participate in the preliminary investigation procedure shall proceed in such a way as to encourage cooperation, while giving clear instructions and making understandable decisions in accordance with the law and with his or her own powers and responsibilities.

A public prosecution official shall give instructions to the police and to other state bodies which participate in the preliminary investigation procedure in a manner which will not bring into question the legality and regularity of the actions of the police and other state bodies, and, if he or she establishes that an abuse has been committed and that they have proceeded against the law, he or she shall undertake the necessary measures in line with his or her powers.

Article 9

Inquiries

A public prosecution official shall undertake all that is necessary not to burden more than necessary the person filing a criminal report or other persons whose statements he or she considers may contribute to the assessment of the credibility of the allegations in the report, also in the interest of the due performance of the legal procedure. If necessary, required measures shall be undertaken to protect this person and the persons close to him or her.

Article 10

Relation to the suspect and the defendant

A public prosecution official shall take due care not to allow evidence to be used that he or she knows, or for which he or she has a grounded belief, that it has been unlawfully obtained. If a severe violation of fundamental human rights has occurred in obtaining such evidence, he or she may use such evidence to initiate legal proceedings against the person responsible for such a violation.

In conducting inquiries, the public prosecution official shall undertake actions to find the objective truth. In doing so, he or she shall take into consideration all the circumstances, both those that benefit the suspect and those that incriminate him or her. When the public prosecution official obtains knowledge about the facts and data that benefit the suspect or the defendant, or if he or she obtains knowledge about facts and evidence which are crucial to make a decision, he or she shall deliver without delay data on the evidence or these facts to the court.

In his or her relation towards the suspect or defendant, as well as towards the person who cooperates in the procedure and for whom there is a grounded suspicion that this person has committed a criminal offence, the public prosecution official shall protect the rights and reputation of the suspect or defendant, his or her own reputation, and the reputation of the public prosecution service. In doing so, he or she shall refrain from contacts and actions which may cast doubt on his or her objectivity. In order to remove such doubts, these contacts shall be conducted, whenever possible, in official premises, and official notes or recordings shall be made about the discussion with such a person.

Article 11

Relation with the opposite party

Public prosecution officials shall treat opposite parties sincerely and honestly. Public prosecution officials shall always be open for settlement with the opposite party in civil and administrative matters, being careful while doing so to protect the interests of the state or the other party he or she is representing in the procedure. Public prosecution officials shall also always be open for other ways of resolving criminal cases through the stay of criminal prosecution, out-of-court settlement, and agreement during the investigation, with a view to speeding up the procedure, but never to the detriment of the principles and interests he or she represents in these procedures.

Article 12

Relation with the injured person and the party represented by the public prosecution service

Public prosecution officials shall pay particular attention to the victim of the criminal offence and those close to the victim to protect the interests of the injured party. The official working

on the specific case shall give the injured party and the party represented by the public prosecution service all necessary information on the status and outcome of the procedure and on the rights that they may exercise in the procedure.

Public prosecution officials shall refrain from stating their own personal opinion when giving information to parties on the regularity of the rendered decision or the undertaken actions about which they are giving information, and on making statements about the possible way of completing the procedure.

Article 13

Relation with parties and citizens in general

In performing their office, public prosecution officials shall behave with care and diligence towards all those with whom they come into contact. They shall treat citizens politely. On the request of these persons, they will give all information that they are authorised to give within a reasonable time, and if they cannot act upon the request, they shall inform these persons of the reasons therefor.

A public prosecution official shall refuse to accept gifts and services from parties and other participants in the procedure. If the gift or benefit has been given against his or her will, the public prosecution official shall inform his or her superiors about this immediately after becoming aware of it, in writing, stating the circumstances in which the gift of benefit was provided. The public prosecution official shall also proceed in such a way in the event of an attempt of giving a gift or providing a benefit.

Article 14

Relations with state administration bodies

Public prosecution officials shall strive to have purposeful cooperation in their relations with employees in state bodies, both in criminal and in civil and administrative procedures. They shall conduct discussions and meetings with persons from state bodies in such a way as to present themselves and the public prosecution service they represent as professional and reliable interlocutors.

With a view to suppressing corruption in state bodies, public prosecution officials shall submit to the Office for the Suppression of Corruption and Organised Crime (USKOK) all data and evidence necessary for the successful prosecution of criminal offences committed by employees in state bodies and in the state administration, as well as of other criminal offences which may affect the integrity of state bodies and the state administration.

Article 15

Relations with the media

In particular criminal cases, but also in other cases, a public prosecution official shall state his or her opinion about the case solely at a hearing. A public prosecution official, or a deputy authorised by him or her, shall give the media information that is as objective as possible and which is at that time justified and permitted in relation to the stage of the procedure, duly taking into consideration all the circumstances of the case, and especially the rights of the victim, but also those of the suspect or defendant.

Article 16

International cooperation

When working with applications for the provision of legal assistance, a public prosecution official shall provide the required assistance in the shortest possible time.

V SUPERVISION OF THE APPLICATION OF THE CODE OF ETHICS

Article 17

Ethics committee

For the purpose of supervising compliance with the Code of Ethics and its correct interpretation, an Ethics Committee is hereby established consisting of a president and two members.

The president of the Ethics Committee is appointed by the members from their own ranks. Members of the Ethics Committee are appointed and dismissed by the Extended Collegiate Body of the Public Prosecution Service of the Republic of Croatia by a majority vote of the present members for a period of four years.

Candidates for the Ethics Committee, on the request of the Chief Public Prosecutor of the Republic of Croatia, are proposed by the expanded collegiate bodies of county public prosecution services.

Article 18

The Ethics Committee may provide its opinion on the conformity of particular conduct with the Code of Ethics on the request of a public prosecution official.

Article 19

The Ethics Committee provides opinions and recommendations in response to complaints on conduct considered by the complainants to be contrary to the Code, and on its own initiative. The public prosecution official to whom the complaint refers shall be allowed to respond within eight days.

The Ethics Committee shall inform the public prosecutor where the public prosecution official is employed, or the higher public prosecutor, about complaints that were assessed as founded. If the person in question is a public prosecutor, then it shall also notify the Chief Public Prosecutor of the Republic of Croatia.

Article 20

The procedure of the Ethics Committee does not suspend the implementation of measures under the jurisdiction of the public prosecutor and other authorised persons concerning employee liability for violations of duty, or other prescribed forms of employee liability, and concerning internal control when the specific conduct meets the requirements for the implementation of such measures.

VI FINAL PROVISIONS

Article 21

EN Code of Ethics for Public Prosecutors and Deputy Public Prosecutors
HR Etički kodeks državnih odvjetnika i zamjenika državnih odvjetnika

The Code shall come into effect on the day of its enactment, and shall be published in the Official Gazette and on the website of the Public Prosecution Service of the Republic of Croatia.