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**CONSULTATIVE COUNCIL
OF EUROPEAN PROSECUTORS
(CCPE)**

**CCPE Opinion No. 19 (2024)
on managing prosecution services
to ensure their independence and impartiality**

I. Introduction

1. In accordance with the terms of reference given by the Committee of Ministers, the Consultative Council of European Prosecutors (CCPE) has prepared this Opinion on managing prosecution services to ensure their independence and impartiality, as well as reinforcing the efficiency of the work of prosecution services.
2. The CCPE has previously stressed that the independence and autonomy of the prosecution services constitute an indispensable corollary to the independence of the judiciary. Therefore, the general tendency to enhance the independence and effective autonomy of the prosecution services should be encouraged,¹ in order to avoid any possible political pressure.
3. The CCPE has already developed a set of standards on prosecutorial independence and impartiality, including as regards prosecutorial self-governing bodies. The topic of this Opinion was chosen by the CCPE to build on these foundations with a view to focusing on how the independence and impartiality of prosecution services can be ensured and further reinforced through their management.
4. In doing so, the Opinion takes into account the diversity of legal systems and models existing across Europe and, in particular, the fact that in many legal systems, public prosecution services are structured as highly hierarchical institutions, led by the prosecutors general.² As a consequence, the independence and impartiality of prosecution services largely depend on how independent and impartial their heads are, and on their role in respect of individual prosecutors. At the same time, this is also applicable, *mutatis mutandis*, to systems without such a strong hierarchical structure.
5. The Opinion, therefore, explores the crucial role of prosecutors general in managing prosecution services as a way of ensuring their independence and impartiality, and, for that purpose, also highlights the importance of their own independence and impartiality, including through the transparency of the appointment/election procedure, the length of their term of office, together with safeguards concerning their removal and against any form of undue interference with their work.
6. The Opinion duly takes into account Recommendation Rec(2000)19 of the Committee of Ministers of the Council of Europe on the role of public prosecution in the criminal justice system, Recommendation Rec(2012)11 of the Committee of Ministers on the role of public prosecutors outside the criminal justice system and previous CCPE Opinions, in particular Opinion No. 7 (2012) on the management of the means of prosecution services, Opinion No. 9 (2014) on European norms and principles concerning prosecutors, including the Rome Charter, Opinion No. 13 (2018) on the independence,

¹ CCPE Opinion No. 9 (2014) on European norms and principles concerning prosecutors, Rome Charter, point IV.

² The Opinion uses the umbrella term “prosecutor general” to refer to the heads of prosecution services, irrespective of the titles used for this position in different legal systems (e.g. chief prosecutor, director of public prosecutions, etc.). The CCPE also acknowledges that prosecutors general may need to delegate part of their powers under certain conditions and in specific cases, as well as there are systems without a hierarchical subordination to one single head of the prosecution service.

accountability and ethics of prosecutors, as well as Opinion No. 18 (2023) on Councils of Prosecutors as key bodies of prosecutorial self-governance. Furthermore, the Opinion takes account of the responses of the CCPE members to a questionnaire on managing prosecution services to ensure their independence and impartiality.

7. Furthermore, the Opinion also takes into account the following: Opinion of the Consultative Council of European Judges (CCJE) No. 19 (2016) on the role of court presidents, the relevant case law of the European Court of Human Rights (ECtHR), reports of the European Commission for Democracy through Law (Venice Commission), instruments of the European Commission for the Efficiency of Justice (CEPEJ), the results of the Fourth Evaluation Round of the Group of States against Corruption (GRECO) in respect of prosecutors, the Review of the Implementation of the Council of Europe Plan of Action for 2016-2021 on Strengthening Judicial Independence and Impartiality of the European Committee on Legal Co-operation (CDCJ).
8. The Opinion also uses relevant documents of international bodies outside of the Council of Europe, in particular, those of United Nations treaty monitoring bodies, the reports of the Special Rapporteur of the United Nations on the independence of judges and lawyers, the standards of professional responsibility and statement of the essential duties and rights of prosecutors of the International Association of Prosecutors (IAP), the study of the Organisation for Economic Co-operation and Development (OECD) on anti-corruption reforms in Eastern Europe and Central Asia, progress and challenges (2016-2019), and the report of the European Network of the Councils for the Judiciary (ENCJ) on Independence and Accountability of the Prosecution (2014-2016).
9. The CCPE is grateful to its President, Ms Jana Zezulova (Czechia) for her substantial contribution and support throughout the process leading up to the adoption of this Opinion.

II. Purpose and scope of the Opinion

10. The CCPE has consistently emphasised that member states should take effective measures to ensure that prosecutors can fulfil their professional duties and responsibilities within an appropriate legal and organisational framework. For this purpose, prosecution services should be given the possibility of assessing their needs, including technological means³, human resources, negotiating their budgets, deciding how to use the allocated funds to the best effect and transparently. Where entrusted with the management of their resources, prosecution services should use modern management methods and tools in an efficient, transparent manner, in addition to being provided with adequate training for that purpose.⁴ The management of prosecution services plays an important role in achieving the proper use of resources allocated to them.

³ The Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law was adopted on 17 May 2024 is the first-ever international legally binding treaty in this field. It aims at ensuring that the activities of artificial intelligence systems are fully consistent with human rights, democracy and the rule of law.

⁴ CCPE Opinion No. 9 (2014) on European norms and principles concerning prosecutors, Rome Charter, point XIX.

11. In this context, while acknowledging the diversity of legal systems and models existing across Europe, the CCPE considers that what they have in common is the need to provide for the independence and autonomy of the prosecution services. In order to secure their impartial and effective functioning and decision making.⁵
12. In this regard, whilst mindful of existing differences between legal systems, this Opinion recognises the central role played by prosecutors general in the management of prosecution services, not only in representing the institution but also acting as the main guarantor of its independence and autonomy. This also involves upholding the functional independence and impartiality of individual prosecutors.
13. Given that a common feature of most prosecution services is their hierarchical structure, it is all the more important that prosecutors general be fully independent and impartial themselves, in addition to being seen as such. In order to ensure the independence and autonomy of the services they manage and for which they are accountable.
14. There are a number of important ways of securing the independence of prosecutors general. The most crucial characteristics are objective eligibility criteria for candidates, their profile based on merit, the transparency of procedures governing their appointment/election, the length of their term of office and safeguards concerning their removal and against any form of undue interference with their work. All these aspects have a significant bearing on the overall independence of the prosecution services and their impartial decision making.
15. In view of the above and building on the principles already set out by the CCPE regarding the functioning of prosecution services, this Opinion examines the crucial role of prosecutors general in ensuring the independence and impartiality of their institutions, both externally and internally, through their effective, transparent management.
16. The Opinion also takes into account existing standards of other bodies and institutions of the Council of Europe and beyond, reading them in conjunction with the CCPE recommendations, with the aim of providing overall guidance to member states. For this purpose, the Opinion focuses on the following main aspects:
 - the appointment/election procedure, in addition to the term of office of prosecutors general, the safeguards concerning their removal and against undue interference with their work as a guarantee of their independence;
 - the role of prosecutors general in safeguarding the independence and impartiality of the prosecution services, including through the management of the financial, material and human resources of their services (as regards prosecutors, as well as the staff of the prosecution services, including those with the status of a civil servant);

⁵ CCPE Opinion No. 18 (2023) on Councils of Prosecutors as key bodies of prosecutorial self-governance, para 16.

- the possible role of other management officials in prosecution services depending on the legal system of member states.
17. The Opinion offers pertinent guidance while considering various approaches to the management of prosecution services in member states. While it refrains from expressing any preference, it emphasises the importance of respecting the principles for the preservation of prosecutorial independence and impartiality. In particular, the Opinion acknowledges that:
- in various jurisdictions, prosecution services may be organised in centralised systems, where a central body, typically the Prosecutor General's Office, manages the entire service, or in decentralised systems where regional prosecution services or different prosecutorial bodies have internal autonomy in their management, or in combination of both systems;
 - in certain member states, the management of the prosecution service may be assigned to a specific official (e.g. Prosecutor General, Chief Prosecutor, or Director of Public Prosecutions);
 - in other member states, the management of the prosecution service may be assigned to a body (e.g. council of prosecutors or other prosecutorial self-governing body or a particular section within the service rather than a specific official);
 - in some member states, tasks and functions related to the management of the prosecution service may be distributed among various chief prosecutors or different officials or bodies;
 - respect for the principles established in the European Convention of Human Rights and the case law of the European Court of Human Rights, aimed at the preservation of prosecutorial independence, is very important.
18. Since the concept of independence is closely linked to the issue of accountability, the latter is also addressed in the Opinion. In this regard, the Opinion builds upon the idea that the public prosecution should account periodically and publicly for its activities as a whole, and in particular, the way in which its priorities were carried out.⁶
19. The Opinion acknowledges that, due to factors such as the workload and the size of the prosecution service, prosecutors general may need to delegate some functions and tasks to their deputies or other high-ranking officials within the service. Even if management functions are carried out by these officials instead of the prosecutor general, the standards outlined in the present Opinion continue to apply *mutatis mutandis*.

⁶ Recommendation Rec(2000)19 of the Committee of Ministers on the role of public prosecution in the criminal justice system, para 11.

III. Prosecutors general as guarantors of prosecutorial independence through the management of prosecution services

20. The independence and impartiality of prosecutors general is achieved by a combination of several important factors which this chapter highlights.
21. First of all, transparency, objective eligibility criteria and exclusion of undue interference in the appointment/election of prosecutors general, as well as safeguards concerning their removal and undue interference with their work are vital. In this context, a clear definition of their term of office is also crucial.
22. The functions and tasks of prosecutors general are addressed separately, emphasising that they should be explicitly and clearly stipulated, preferably in domestic legislation at the highest level, and, if need be, complemented through further regulations to ensure their transparency, in addition to the independent and impartial functioning of the prosecution services.
23. Thus, this part of the Opinion brings together relevant standards in this regard and further elaborates on them, providing member states with guidance in the matter.

A. Independence of prosecutors general through appointment/election, term of office and guarantees concerning pre-term removal

24. The appointment/election of the prosecutors general should not only be transparent, following established, objective criteria for the choice of candidates and free of undue interference, but also be perceived as such by the judicial and prosecutorial communities in particular, in addition to the public in general. This is important to foster not only trust within the judiciary and prosecution services but also, crucially, public trust in the justice system.
25. The status, independence, recruitment, career including evaluation, removal and disciplinary actions, of prosecutors should, similarly to judges, be clearly established by national legal system while being governed by transparent and objective criteria. This is all the more important when it comes to prosecutors general owing to their crucial role in managing the prosecution services.
26. The independence and impartiality of prosecutors general should also be guaranteed through a combination of factors. Such factors include but are not limited to the length of their term of office and safeguards concerning their removal, as well as against any form of undue interference with their work. This is important not only in terms of guaranteeing independence, but also ensuring stability, promoting accountability, enhancing public trust and facilitating professional development within the prosecutorial system.

1. Appointment/election of prosecutors general

27. The CCPE has previously stated that the manner in which prosecutors general are appointed plays a significant role in the system guaranteeing the correct functioning of

the prosecutor's offices,⁷ more specifically when it comes to their independence and impartiality.

28. The CCPE recognises the diversity of legal systems and models across Europe, resulting in different approaches to the appointment/election of the prosecutors general and their term of office. These approaches may involve the participation of the parliament, bodies which are responsible for prosecutorial self-governance⁸ in the selection process, or the decision by the head of state and/or government. The CCPE agrees with the position of the Venice Commission, which emphasises the importance of striking an appropriate balance between the requirement of democratic legitimacy in such appointments, on the one hand, and the necessity of depoliticisation, on the other.⁹
29. If governments have some control over the appointment of prosecutors general, it is important that the method of selection is such as to gain the confidence and respect of the public as well as of members of the judicial, prosecutorial system and legal profession.¹⁰
30. The CCPE is mindful of the interest of governments in retaining some control over the appointment/election of prosecutors general in some legal systems owing to the crucial role of prosecution services in implementing national criminal law policies. The CCPE considers that a way of reducing the risk of politicisation would be to keep to a minimum the role of the executive in the appointment/election of the prosecutors general, or to accompany it by very important safeguards. This can be achieved through various means, including the involvement of prosecutorial self-governance bodies,¹¹ such as councils of prosecutors where they exist, or other independent bodies, including the legislative power, in the selection and/or nomination process.¹²

⁷ CCPE Opinion No. 9 (2014) on European norms and principles concerning prosecutors, para 55; Venice Commission Report on European Standards as regards the independence of the judicial system: Part II – the prosecution service, CDL-AD(2010)040, 3 January 2011, paras 34-35.

⁸ These bodies are understood in the context of the CCPE Opinion No. 18 (2023) where it is stressed that the institutional value of Councils of Prosecutors – whether as separate bodies or as a part of Councils for the Judiciary responsible for both judges and prosecutors – or other bodies dealing with prosecutorial self-governance should be emphasised.

⁹ CDL-AD(2015)039, Joint Opinion of the Venice Commission, the Consultative Council of European Prosecutors (CCPE) and OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), on the draft Amendments to the Law on the Prosecutor's Office of Georgia, paras 19, 20 and 27.

¹⁰ CCPE Opinion No. 9 (2014) on European norms and principles concerning prosecutors, para 56; Venice Commission Report on European Standards as regards the independence of the judicial system: Part II – the prosecution service, CDL-AD(2010)040, 3 January 2011, para 37; UN Human Rights Council, Report of the Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul, A/HRC/20/19, 7 June 2012, para 65.

¹¹ If such bodies are involved, their opinion should be given serious consideration. If allowed by the national legislation and practices, such opinions should prevail. Any decision of the executive authorities not to follow it should be reasoned.

¹² As the Venice Commission pointed out, the use of a qualified majority for the election of a Prosecutor General could be seen as a mechanism to promote a broad consensus on such appointments, Report on European Standards as regards the Independence of the Judicial System: Part II – the Prosecution Service, adopted by the Venice Commission at its 85th plenary session (Venice, 17-18 December 2010), para 87(3).

31. Another way of reducing the risks of politicisation, either real or perceived, is to ensure a transparent procedure for the selection of prosecutors general. In this regard, the CCPE welcomes the practice of establishing eligibility criteria for the candidates for the position of prosecutor general that are objective, transparent and merit based.
32. The CCPE acknowledges that such criteria may vary from one member state to another due to the differences in legal systems and traditions. However, it is important that eligibility criteria are predetermined, by being either explicitly provided for by law or established by an institution entrusted by law to do so, so that they are not adjusted to eliminate or support certain candidates based on political considerations or any other unlawful interests.
33. Notwithstanding the type of legal system, the CCPE considers that it should always be checked that the candidates for the position of prosecutor general have the necessary legal expertise and determination, having fully accepted the need to protect and promote prosecutorial independence, for instance, by preventing any possible conflict of interest. Furthermore, an appropriate legal and professional background should be a primary requirement, in order to ensure the candidates' capacity to lead the prosecution service efficiently. Additionally, the merits of the candidates, including experience, proven management and other skills should also be considered as important. The combination of the aforementioned criteria is relevant to assess the capacity of a candidate to safeguard the independence and impartiality of the prosecution services. If possible in accordance with the legal system of the state, the process of selection and establishment of the list of candidates may be subject to judicial review.¹³

2. Term of office of prosecutors general and guarantees concerning pre-term removals

34. The CCPE has already emphasised that prosecutors general should be appointed/elected either for an adequately long period or permanently to ensure the stability of their office and make them immune to political changes,¹⁴ and their appointment/election and termination of service should be regulated by law at the highest possible level and according to clear procedures.¹⁵
35. The CCPE also wishes to reiterate its concerns regarding the pre-term removal of prosecutors general (i.e. before the expiration of the mandate).¹⁶ The independence of prosecutors implies their protection from any arbitrary or politically motivated removal. This is relevant for all prosecutors but even more so as regards prosecutors general.

¹³ Upon the appointment/election and during the term of office, the prosecutors general should not engage in political activities.

¹⁴ CCPE Opinion No. 9 (2014) on European norms and principles concerning prosecutors, para 56.

¹⁵ CCPE Opinion No. 9 (2014) on European norms and principles concerning prosecutors, para 52.

¹⁶ That is not in strict compliance with paras 34 and 36 of the present Opinion.

36. Where pre-term removal is possible according to the national legal system, the applicable conditions should be clearly defined,¹⁷ and it should only be based on clear and objective grounds.¹⁸ The pre-term removal of prosecutors general from office should thus be *ultima ratio* and it should take into consideration the severity of the reasons. The procedure of the pre-term removal should, similarly to grounds for it, be free from political interference and be transparent, well-founded and also made public.
37. The CCPE considers in particular that the grounds for pre-term removal of prosecutors general should not be broadly or vaguely formulated so as to prevent excessive discretion in the decision-making process and arbitrary interpretations. Furthermore, there must be express reference to the prohibition of any removal that occurs outside the pre-defined procedure and based on objective pre-determined criteria. Political motives or personal preferences should be proscribed in such cases.
38. The European Court of Human Rights (ECtHR) set out that the executive branch of the government cannot remove chief prosecutors without independent judicial review.¹⁹ The CCPE welcomes a possibility for independent judicial review²⁰ of any decision by any decision-making body concerning the pre-term removal of the prosecutor general.

B. Ethical and professional standards, accountability and disciplinary proceedings as a way to guarantee the independence of prosecutors general

39. The CCPE has already stressed that codes of professional ethics and conduct should be adopted and made public based on international standards developed by the United Nations, as well as those set out in the European Guidelines on Ethics and Conduct for Public Prosecutors (the Budapest Guidelines) adopted by the Conference of Prosecutors General of Europe on 31 May 2005.²¹
40. Ethical, professional standards and pre-determined norms on disciplinary proceedings applicable to prosecutors general are very important for safeguarding their independence, as well as their impartiality, which in turn has a bearing on their management of the prosecution services, affecting both the overall independence and impartiality of the prosecutorial activities.
41. As already stated by the CCPE, prosecutors should, in the course of their work, at all times adhere to the highest ethical and professional standards, always behaving impartially and objectively.²² Furthermore, standards and principles of human rights

¹⁷ CCPE Opinion No. 9 (2014) on European norms and principles concerning prosecutors, para 73; Venice Commission Report on European Standards as regards the independence of the judicial system: Part II – the prosecution service, CDL-AD(2010)040, 3 January 2011, para 40.

¹⁸ OECD (2020), Anti-corruption Reforms in Eastern Europe and Central Asia, Progress and Challenges, 2016- 2019, page 149, § G.

¹⁹ ECtHR *Kövesi v. Romania*, no. 3594/19, 5 May 2020, paras 154, 201, 205 and 208-209. See also *Baka v. Hungary*, no. 20261/12, 23 June 2016, paras 156-157 and 164-167.

²⁰ If possible and applicable in national legal system.

²¹ CCPE Opinion No. 9 (2014) on European norms and principles concerning prosecutors, para 99.

²² CCPE Opinion No. 9 (2014) on European norms and principles concerning prosecutors, Rome Charter, point VI.

establish that prosecutors are responsible for the performance of their duties and may be subject to disciplinary proceedings.²³

42. As with the possibility of pre-term removal from office, the guarantees and safeguards against political or other undue interference in the context of disciplinary proceedings, according to national legal system, are applicable to all prosecutors and prosecutors general.
43. The CCPE underlines that prosecutors general are expected to embody high ethical values and be subject to the legal principles of transparency and accountability during their term of office.
44. At the same time, the CCPE wishes to reiterate that the accountability of prosecutors is not meant to interfere with their independence. Although independent, prosecutors are accountable, in cases and in the manner provided for in national laws.²⁴ The accountability of prosecutors general is a way of ensuring that prosecution services are managed independently, impartially and effectively in order to contribute to a better functioning of the justice system.
45. Accountability mechanisms are essential for fostering public trust in the justice system, ensuring that prosecutors general adhere to professional and ethical standards, while fulfilling their duties responsibly. Accountability reduces risks of abuse of power, promoting impartiality and transparency in decision making.
46. Depending on the domestic legal system, member states may either consider establishing dedicated ethical rules for prosecutors general, taking into account their crucial managerial role, or ensuring that they are bound by the ethical conduct expected from the entire prosecutorial community. In both cases, these rules should be clear, objective and transparent. They should not leave the door open to arbitrary interpretations and political or other undue interferences.
47. To achieve this, any possible disciplinary proceedings against prosecutors general for potential misconduct should, similarly to the possibility of pre-term removal where they exist, be based on clear, objective and transparent grounds. The criteria and procedures should be unambiguously and clearly defined by domestic law. Under no circumstances, should such proceedings be driven by political motives or be subject to any kind of political or other undue interference.
48. Irrespective of the national legal system, disciplinary proceedings against prosecutors general should be conducted by an independent, impartial body, guaranteeing that they benefit from a fair hearing and due process. Independence and impartiality in cases involving high-ranking prosecutors may be secured by different means, such as the proceedings by a separate body outside the prosecution system, special guarantees for independent decision making despite hierarchical structure, public scrutiny, judicial

²³ CCPE Opinion No. 9 (2014) on European norms and principles concerning prosecutors, para 85; UN Human Rights Council, Interim report of the Special Rapporteur on the independence of judges and lawyers, A/65/274, 10 August 2010, para 60.

²⁴ CCPE Opinion No.13 (2018) on independence, accountability and ethics of prosecutors, para 46.

control or other measures. When the possibility exists, concerning disciplinary proceedings, the same system could apply to the highest-ranking members of the judiciary and prosecution services.

C. Management functions and tasks of prosecutors general

49. Functions and tasks carried out by prosecution services vary across member states owing to the diversity of legal systems and traditions. As a consequence, the functions and tasks assigned to prosecutors general also differ from one country to another. In most jurisdictions, they are entrusted with a wide range of responsibilities, including those related to career matters of prosecutors and staff of prosecution services as well as the management of various resources allocated to them.
50. The functions and tasks delegated to prosecutors general should be explicitly and clearly stipulated in applicable legislation and regulations in order to ensure transparency, independence and accountability. Where there is a council of prosecutors, the law should define the relations between the prosecutor general and such a body. The aim should be to create a fair balance of powers, in order to achieve a more effective and coordinated performance. This will ensure the respect for a wider internal independence of prosecutors, while at the same time safeguarding an effective, coherent and sustainable intervention of the prosecution service in the courts.

1. General role of prosecutors general

51. The key role of prosecutors general is to ensure the transparent, independent and efficient management of the prosecution services, which they are responsible for, and ensure, in particular, the independent and impartial decision making of the service's subdivisions, bodies and of individual prosecutors.²⁵
52. When tasked by domestic laws and regulations with managing the resources of the prosecution services, prosecutors general should also ensure efficient as well as adequate economical use of these resources. In addition, they should ensure that control and follow-up mechanisms function effectively.²⁶
53. Prosecutors general are often responsible for representing the prosecution services within the overall structure of state bodies in member states, as well as before foreign prosecution services and international organisations. They should accordingly ensure the preservation of their institutional independence, impartiality and promote their cooperation with state institutions, together with various other bodies and actors,²⁷ while not interfering with their competence.

²⁵ As the CCPE stressed, in all legal systems, prosecutors contribute to ensuring that the rule of law is guaranteed, especially by the fair, impartial and efficient administration of justice in all cases and at all stages of the proceedings within their competence, Opinion No. 9 (2014) on European norms and principles concerning prosecutors, Rome Charter, Section I.

²⁶ CCPE Opinion No. 7 (2012) on management of the means of prosecution services, para 51.

²⁷ CCPE Opinion No. 9 (2014) on European norms and principles concerning prosecutors, para 112.

2. Role of prosecutors general regarding the careers of prosecutors and staff of the prosecution services

54. The independence and impartiality of individual prosecutors is achieved by a combination of several important factors which this chapter highlights with a focus on the role of prosecutors general.
55. When prosecutors general assume responsibilities for career-related matters concerning prosecutors, guarantees and standards stipulated by relevant instruments of the Council of Europe, in the way described in paragraph 17 of this Opinion, including the previous opinions of the CCPE, should be fully applicable.²⁸
56. Member states are therefore expected to ensure that procedures for the recruitment of prosecutors are competitive, merit based and incorporate safeguards against any approach that favours or otherwise takes into account political or other undue considerations.
57. The status, independence, recruitment and career of prosecutors should, similarly to judges, be clearly established by law and governed by transparent and objective criteria.²⁹ In jurisdictions where prosecutors general are competent for carrying out, overseeing or having any other role in the recruitment of prosecutors (both with or without the status of civil servants, depending on national legal system), they should, within the limits of their competence, ensure that such recruitment is implemented on the basis of the candidates' skills, merit, integrity, ethical values and other objective criteria, as well as being free from any kind of discrimination. Recruitments that rely on excessive discretion or occur outside predefined procedures should be avoided.
58. If prosecutors general are also entrusted with carrying out, overseeing or having any other role in the recruitment of staff of the prosecution services (both with or without the status of civil servants, depending on national legal system),³⁰ such recruitments should be adjusted to the needs of the prosecution service and be both transparent and objective.
59. In various jurisdictions, prosecutors general may also assume responsibilities for other career-related aspects concerning prosecutors, as well as the staff of the prosecution services. These responsibilities may encompass professional evaluations, promotions, transfers, awarding honours in recognition of professional achievements, having a role

²⁸ This includes, but is not limited to, the guarantees provided by Recommendation Rec(2000)19 of the Committee of Ministers of the Council of Europe on the role of public prosecution in the criminal justice system, Recommendation Rec(2012)11 of the Committee of Ministers on the role of public prosecutors outside the criminal justice system, the CCPE Opinion No. 9 (2014) on European norms and principles concerning prosecutors, including Rome Charter, and the CCPE Opinion No. 13 (2018) on the independence, accountability and ethics of prosecutors.

²⁹ CCPE Opinion No. 13 (2018) on the independence, accountability and ethics of prosecutors, Recommendation III; see also the CCPE Opinion No. 9 (2014) on European norms and principles concerning prosecutors, Rome Charter, point XII.

³⁰ The term "staff of the prosecution services" is understood, for the purposes of the present Opinion, as including everybody working in the prosecution service, however not having the status of a prosecutor (e.g. contract employees, experts, administrative and financial officers, accountants, clerks, etc.).

in disciplinary proceedings against prosecutors along with the imposition of disciplinary sanctions, or other tasks and measures.

60. In particular, in jurisdictions where prosecutors general are competent for carrying out, overseeing or having any other role in the recruitment of prosecutors or staff of the prosecution services (both with or without the status of civil servants, depending on national legal system), they should ensure that:

- both the first appointment and promotion of prosecutors or staff of the prosecution services adhere to clear, precise, uniform selection procedures and criteria, notably merit, enshrined in the law;³¹
- aspects related to the careers of prosecutors or staff of the prosecution services and their profession are governed by transparent and objective criteria, such as competence together with experience,³² while avoiding excessive discretion and personal or otherwise biased preferences;
- mobility in particular is based on the needs of the prosecution service,³³ and is governed by known and objective criteria, such as competence and experience;
- disciplinary proceedings against prosecutors or staff of the prosecution services are governed by national legal systems, in order to guarantee a fair and objective assessment and decision which should be subject to independent judicial review;³⁴
- disciplinary sanctions imposed on prosecutors or staff of the prosecution services are based on clear evidence and, at the same time, are effective³⁵, proportionate³⁶ and dissuasive;
- the dismissal of prosecutors or staff of the prosecution services is subject to strict requirements, which in the case of prosecutors should not undermine the independent and impartial performance of their activities.³⁷

³¹ GRECO's Fourth Evaluation Round: corruption prevention in respect of members of parliament, judges and prosecutors, Evaluation Report concerning Georgia adopted by GRECO at its 74th plenary meeting (Strasbourg, 28 November- 2 December 2017), para 94.

³² CCPE Opinion No. 9 (2014) on European norms and principles concerning prosecutors, Rome Charter, point XII.

³³ CCPE Opinion No. 9 (2014) on European norms and principles concerning prosecutors, para 51; Committee of Ministers of the Council of Europe, Recommendation Rec(2000)19 on the role of public prosecution in the criminal justice system, 6 October 2000, para 5, items a, b and c.

³⁴ Recommendation Rec(2000)19 of the Committee of Ministers of the Council of Europe on the role of public prosecution in the criminal justice system, 6 October 2000, para 5, item e.

³⁵ GRECO's Fourth Evaluation Round: corruption prevention in respect of members of parliament, judges and prosecutors, Evaluation Report concerning Bosnia and Herzegovina adopted by GRECO at its 70th plenary meeting (Strasbourg, 30 November- 4 December 2015), para 126.

³⁶ UN Human Rights Council, Report of the Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul, A/HRC/20/19, 7 June 2012, para 86.

³⁷ UN Human Rights Council, Report of the Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul, A/HRC/20/19, 7 June 2012, paras 68-69.

3. Role of prosecutors general in the consistent application of law and case management

61. The concept of independence applies not only to the institutional independence of the prosecution services but also to the functional independence of its structural bodies and individual prosecutors. The principle of independence requires that prosecutors be free in their decision making and protected from unlawful interference, political pressure or any kind of undue influence in the fulfilment of their statutory duties.³⁸
62. At the same time, the functional independence of prosecutors is not in contradiction with a hierarchical organisation of the prosecution service and the issuing of general recommendations or guidelines/directives on the consistent application of the law. This equally applies to case law or implementation of the priorities for prosecutorial action.³⁹ Prosecutors general have the primary competence in this process, either themselves issuing such recommendations or guidelines/directives or supervising their adoption by other management officials of the prosecution service. Decisions on implementation of crime policies should be transparent in order to ensure fair, consistent and efficient activities of prosecutors,⁴⁰ always in accordance with law.
63. In this context, the CCPE reiterates that relationships between the different layers of the hierarchy in the prosecution services must be governed by clear and unambiguous rules so that personal or other considerations do not play an unwarranted role.⁴¹ Prosecutors general have a key role in ensuring that their services are managed to ensure that all prosecutorial operations are implemented transparently, impartially, effectively and based on strict compliance with law.
64. Depending on the national legal system, the prosecutor general may also play a role in case distribution and be empowered to re-assign cases among prosecutors. These processes should be fair and transparent while being based on clear criteria including but not limited to the complexity, nature or volume of cases, professional experience, skills, specialisation and workload of individual prosecutors. They should meet the requirements of impartiality with respect to the structure, responsibilities and decision-making competencies of the prosecution services.⁴² Decisions by superior prosecutors to remove cases from subordinate prosecutors should be reasoned and in writing.⁴³

³⁸ CCPE Opinion No. 13 (2018) on the independence, accountability and ethics of prosecutors, Recommendations I-III.

³⁹ CCPE Opinion No. 13 (2018) on the independence, accountability and ethics of prosecutors, Recommendation V.

⁴⁰ CCPE Opinion No. 9 (2014) on European norms and principles concerning prosecutors, para 45.

⁴¹ Recommendation Rec(2000)19 of the Committee of Ministers on the role of public prosecution in the criminal justice system, para 9.

⁴² CCPE Opinion No. 9 (2014) on European norms and principles concerning prosecutors, para 43.

⁴³ GRECO's Fourth Evaluation Round: corruption prevention in respect of members of parliament, judges and prosecutors, Compliance Report concerning Georgia adopted by GRECO at its 82nd plenary meeting (Strasbourg, 18-22 March 2019), para 64.

65. Taking note of the developing process of digitalisation of the work of the prosecution services,⁴⁴ the CCPE also notes that prosecutors general may use their managerial power, as well as their competence, to introduce or further reinforce the use of modern technologies in the work of prosecutors, in addition to the process of case management and distribution, where it is considered important in order to respond to the needs and effectiveness of the prosecution system. This should be in line with the relevant tools, notably those developed by the CEPEJ.⁴⁵ In this regard, prosecutors general should seek to ensure the participation of the prosecution system in the design and implementation of court information, in addition to case management systems.
66. In this context, a unique data and document repository at national level should be put in place, and more efficient, effective and easily developed means of research and analysis should be provided.⁴⁶
67. The CCPE also wishes to reiterate an important aspect concerning the organisation of prosecution systems in Europe which is the possibility of introducing the specialisation of prosecutors, and the role of the prosecutors general in this respect.⁴⁷ In this regard, taking into account the growing trend towards specialisation of the prosecution services in Europe, the CCPE underlines that all above-mentioned principles applicable to the role of the prosecutors general in consistent application of law and case management, should equally apply *ipso facto* to the specialised prosecution bodies and their prosecutors.
68. The CCPE further highlights the important role that prosecutors general have in reinforcing international cooperation between prosecution services, as well as judicial bodies of member states in addition to international courts and bodies. Such cooperation may contribute to the full respect of international commitments and obligations of member states, along with the implementation of decisions issued by international bodies. In this regard, it should be emphasised that all of the above-mentioned principles as regards the role of prosecutors general in ensuring prosecutorial independence and impartiality are also fully applicable when it comes to any area of international cooperation involving prosecution services.

⁴⁴ CCPE thematic study on digitalisation in the work of prosecution services and international co-operation (2023).

⁴⁵ CEPEJ European Ethical Charter on the use of artificial intelligence (AI) in judicial systems and their environment (2018), CEPEJ Guidelines on electronic court filing (e-filing) and digitalisation of courts (2021), CEPEJ Guidelines on videoconferencing in judicial proceedings (2021).

⁴⁶ CEPEJ Guidelines on electronic court filing (e-filing) and digitalisation of courts (2021), para 71.

⁴⁷ As it is mentioned in Recommendation Rec(2000)19 of the Committee of Ministers on the role of public prosecution in the criminal justice system, para 8, in order to respond better to developing forms of criminality, in particular organised crime, specialisation should be seen as a priority, in terms of the organisation of public prosecutors, as well as in terms of training and in terms of careers. The CCPE also spoke of specialisation, for example, in its Opinion No. 9 (2014) on European norms and principles concerning prosecutors, para 119, mentioning that the need of specialisation of prosecutors should be seen as a priority, to better respond to new forms of criminality, as well as in cases where the prosecutor has competences outside the criminal law field. It would also improve and facilitate international co-operation.

IV. Recommendations

Whereas:

- in many legal systems, public prosecution services are structured as highly hierarchical institutions;
- prosecutors general play a central role in the management of prosecution services while acting as the main guarantors of their independence and autonomy;
- the independence and impartiality of prosecution services largely depend, *inter alia*, on how independent and impartial their heads are, in addition to their role in respect of individual prosecutors;

the CCPE accordingly agreed on the following recommendations:

1. Prosecutors general must be fully independent and impartial. They must also be seen as such, to ensure the independence as well as the autonomy of the services they manage and for which they are accountable.
2. A way of reducing the risk of politicisation would be to keep to a minimum the role of the executive in the appointment/election of the prosecutors general, or to accompany it by very important safeguards. This can be achieved through various means, including the involvement of prosecutorial self-governance bodies, such as councils of prosecutors where they exist, or other independent bodies, including the legislative power, in the selection and/or nomination process.
3. Eligibility criteria that are objective, transparent and merit-based should be established for candidates to the position of prosecutor general.
4. Prosecutors general should be appointed/elected either for an adequately long period or permanently to ensure the stability of their office and make them immune to political changes. Their appointment/election and termination of service should be regulated by law at the highest possible level, in accordance with clear procedures.
5. Where pre-term removal of prosecutors general is possible according to the national legal system, the applicable conditions should be clearly defined. Such removal should always be based on clear, predetermined and objective criteria. It should be *ultima ratio*, should take into consideration the severity of the reasons and be based on a procedure which is free from any political interference, while being transparent, well-founded and clearly communicated to the public.
6. In particular, the grounds for pre-term removal should not be broadly or vaguely formulated so as to prevent excessive discretion in the decision-making process and arbitrary interpretations. Any removal that occurs outside the pre-defined procedure based on objective pre-determined criteria, as well as political motives or personal preferences should be prohibited.

7. Prosecutors general should adhere to the highest ethical and professional standards, always behaving impartially and objectively. They should also be subject to the legal principles of transparency and accountability during their term of office.
8. Any possible disciplinary proceedings against prosecutors general should be based on clear, objective and transparent grounds, criteria and procedures. The proceedings should be unambiguously and clearly defined by national legal system. Under no circumstances, should such proceedings be driven by political motives or be subject to any kind of political or other undue interference.
9. The functions and tasks delegated to prosecutors general should be explicitly and clearly stipulated in applicable legislation, as well as regulations, to ensure transparency, independence and accountability.
10. When tasked by domestic law with managing the resources of the prosecution services, prosecutors general should also ensure cost effective use of these resources.
11. When responsible for representing the prosecution services within the overall structure of the state bodies in member states, as well as before foreign prosecution services and international organisations, prosecutors general should accordingly ensure preservation of their institutional independence and impartiality and promote their cooperation with state institutions and various other bodies and actors, while not interfering with their competence.
12. In jurisdictions where prosecutors general are competent for carrying out, overseeing or having any other role in the recruitment of prosecutors (both with or without the status of civil servants, depending on national legal system), they should, within the limits of their competence, ensure that such recruitment is implemented on the basis of the candidates' skills, merit, integrity, ethical values and other objective criteria, and is free from any kind of discrimination. Recruitments that rely on excessive discretion or occur outside predefined procedures should be avoided.
13. Relationships between the different layers of the hierarchy in the prosecution services must be governed by clear and unambiguous rules so that personal or other considerations do not play an unwarranted role. Prosecutors general have a key role in ensuring that their services are managed and all prosecutorial operations are implemented transparently, impartially, effectively and based on strict compliance with law.
14. Prosecutors general may play a role in case management and distribution and be empowered to re-assign the cases among prosecutors. All these processes should be fair and transparent and be based on clear criteria including but not limited to the complexity, nature or volume of cases, professional experience, skills, specialisation and workload of individual prosecutors.
15. Prosecutors general may use their managerial power and competence to introduce or further reinforce the use of modern technologies in the work of prosecutors, in addition to the process of case management and distribution, where it is considered important in order to respond to the needs and effectiveness of the prosecution system.

16. Prosecutors general play an important role in reinforcing international cooperation between prosecution services, as well as judicial bodies of member states and with international courts and bodies. All principles as regards the role of prosecutors general in ensuring prosecutorial independence and impartiality are also fully applicable when it comes to any area of international cooperation involving prosecution services.