



GOVERNMENT OF MALTA
MINISTRY FOR JUSTICE

CELEBRATING 20 YEARS OF CEPEJ MALTA | 27, 28 JUNE 2022

38TH PLENARY MEETING
20TH CEPEJ ANNIVERSARY

Intervention by Mr Antonio Vercher, President of the Consultative Council of European Prosecutors (CCPE)

Which challenges are faced by a digitalized justice system?

Dear colleagues and distinguished guests,

Ladies and gentlemen,

It is an honour and pleasure for me to be invited to this ceremony of celebrating 20 years of the European Commission for the Efficiency of Justice (CEPEJ), and I would like to extend my sincere greetings on behalf of the Consultative Council of European Prosecutors (CCPE) to all participants.

I would like, in particular, to thank the CEPEJ for an excellent organisation of this important event.

I am very pleased by this opportunity to make a presentation and I would like to use it to say briefly a couple of words about the Consultative Council of European Prosecutors (CCPE) which plays a significant role in the overall structure of the Council of Europe's bodies and institutions. The CCPE is in fact a unique body of its kind, comprised of serving prosecutors from each of the Council of Europe member State, acting in their individual capacity. In this way, the CCPE provides a voice and perspective of serving prosecutors throughout Europe. It focuses on the practical context and aims to help ensure that prosecutors can work in independent, impartial and effective way when fulfilling their important responsibilities within the national legal systems.

We all agree that prosecutors play a powerful and influential role within society and their voice is important. Important as they uphold, through the actions, the rule of law, fairness, impartiality, and safeguard the liberties and freedoms of fellows' citizens. Fearless prosecutors and prosecution services, tenacious in their pursuit of justice, protective of their independence and impartiality, free of political control and direction, actively cooperating internationally to combat crime, will always be a bulwark for freedom and liberty.

The CCPE is on some occasions referred to as the "prosecutorial arm" of the Committee of Ministers of the Council of Europe, meaning that it is through the CCPE that the best European practices are assembled, analysed and transformed into "soft law" standards and guidance which the Committee of Ministers transmits to all member States for reinforcing the status of prosecutors and their independent, impartial and effective work.



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Since its establishment in 2005, the CCPE has adopted 16 general Opinions which cover the most essential aspects of the prosecutorial profession, and support the work not only of prosecutors, but also of policy makers and other legal professionals. CCPE's standards help in creating a conducive legal, institutional and procedural framework for prosecutors and consequently enable them to effectively work on cases and disputes at national level, in line with the European Convention on Human Rights and the case law of the European Court of Human Rights.

In this context, the CCPE also touched upon the development of new technologies and progressive improvement of videoconferencing systems in the judicial and prosecutorial systems across the Council of Europe's member States.

I admit that digitalized justice systems may indeed not only create new opportunities but also face some challenges.

The CCPE underlined in particular that the development of new technologies created new possibilities for ensuring the hearing of witnesses, experts and defendants without the need to compel them to travel to different venues within the member State where the investigation or the trial are being conducted.

Obviously, as shown by some examples in Europe, this approach could be of greater interest in cases of emergency, avoiding or reducing limitations on the functioning of the prosecution services and courts. While ensuring safety and facilitating a hearing that allows the parties to fully participate, the objective should be to make the remote proceedings and hearing as close as possible to the usual practices in the prosecution service and the court.

The European Court of Human Rights established in its case law that physical absence does not necessarily constitute a violation of the right to a fair trial. The European Court of Human Rights pointed to several international law instruments that provide for participation in the trial using videoconferencing as a way of respecting Article 6 of the European Convention on Human Rights, and it has adopted several judgments as regards the use of videoconferencing.

The CCPE emphasised in this regard that when establishing videoconferencing in courts, due attention should be paid to the interests of all the participants, particularly the preservation of the rights of the defence.

Regarding the webcasting of court sessions, in normal conditions, webcasting is being used to reach a wider audience and encourage a broader interest in the aspects of public life touched upon by courts.

When it comes to an emergency situation, webcasting is even more justified not only for the civic engagement but in order to expressly demonstrate that justice is being performed openly and in public.



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In accordance with the prosecution system in each member State, guidelines should be issued by the prosecution office at the central level, highlighting co-operation mechanisms and including the use of new technologies both within and outside the prosecution service in particular emergency circumstances. If guidelines at central level are not possible due to the organisational set-up of the prosecution services, they should at least strive to be coherent across different prosecutorial offices. Uniformity of application of the law and regulations should be expected from prosecutors and prosecution services throughout the States concerned.

Specific cooperation and coordination mechanisms and procedures including the use of new technologies may be established during emergency situations with other institutions such as law enforcement agencies, investigation and control bodies, courts, health institutions, mass media, professional associations of prosecutors and other civil society organisations. Cooperative and coordinative arrangements may include personnel and other relevant agencies which in a normal situation are not necessarily in contact with the prosecution services.

The conduct of investigations, or the supervision of those carried out by police and other investigation authorities, must be implemented with a particular vigilance for monitoring the protection of human rights and freedoms in the context of an emergency situation. An extended power for the prosecution services is not envisaged here, but rather using the existing powers most effectively in such situations.

In this context, victims and witnesses and other vulnerable groups should be effectively assisted and/or protected and defendants should have their rights respected throughout the criminal procedure. The prosecution services and prosecutors should particularly monitor whether emergency measures interfere with fundamental human rights and freedoms to a greater extent than is strictly necessary.

These are some parts of the CCPE standards, in particular from the CCPE Opinion No. 15 (2020) on the role of prosecutors in emergency situations, in particular when facing a pandemic, which highlighted the use of new technologies and progressive improvement of videoconferencing systems in the judicial and prosecutorial systems across the Council of Europe's member States.

Dear colleagues and distinguished guests,

Ladies and gentlemen,

I would like to conclude my presentation here, thank you for your attention and wish you fruitful work and outstanding professional achievements.