



**Conference of Prosecutors General of Europe  
5<sup>th</sup> Session**

**organised by the Council of Europe  
in co-operation with  
the Prosecutor General of Lower Saxony (Germany)**

**Celle, 23 - 25 May 2004**

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**Opening address by Mr. Harald RANGE  
Prosecutor General of Lower-Saxony (Germany)**

Office of the Prosecutor General, Celle  
The Prosecutor General

Celle, 24 May 2004

Opening address at the conference on 24 May 2004 (excerpt)

Colleagues, Ladies and Gentlemen,

The holding of this conference in Germany offers a good opportunity to describe the role of the public prosecution service in Germany.

As in other European countries, public prosecution authorities have existed here in Germany for around 150 years.

Their introduction spelt the end of the medieval inquisitorial procedure under which the police conducted investigations for judges who then handed down their sentences. A number of events during the revolutionary period in the mid-nineteenth century led people to look for an institution to conduct criminal investigations independently of the police and the courts – while also exercising a degree of supervision in relation to them. The French system was taken up as a model. A prosecutor general's office was set up at each Court of Appeal in Germany, with prosecution services in the individual regional courts being placed under its authority. The public prosecution services at the regional courts also performed prosecution functions for the district courts, ie the courts of first instance. These arrangements remain in place today. During the Nazi era, the public prosecution service was centralised. Following the horrors of that period, however, centralisation was very quickly abandoned and the old system was restored. There are now therefore 24 prosecutor general's offices, plus the Federal Public Prosecutor, who is not their hierarchical superior, however. In addition to acting as a public prosecutor at the Federal Court, he or she also conducts investigations in the fields of espionage and terrorism. I should like to take this opportunity warmly to welcome Mr GROTZ, representing the Federal Public Prosecutor, and a number of German Prosecutors General. I am delighted that you have found the time to attend the conference in spite of your busy appointments diaries. I would encourage you all to engage in discussions with my colleagues. They are looking forward to that. They want to use this forum to establish contacts with you and to build on existing contacts.

Ladies and gentlemen, the focus of our conference will be on the question of the application of the principles of discretionary or mandatory prosecution. I have no desire to prejudge the outcome of the discussions. Nevertheless, I would say that the German prosecution service has been governed by the principle of mandatory prosecution since the outset and still is today. That means that the police must pass on all investigations to the prosecution service for examination. The prosecution service then decides whether there are sufficient grounds for laying charges. If that is the case, it must decide whether bringing charges is necessary in the public interest. That in itself actually goes beyond the mandatory prosecution principle. And this goes even further insofar as whole areas of offences that occur in huge numbers, especially in the field of road

traffic, are all dealt with according to the discretionary principle as so-called non-criminal administrative offences. We will discuss the details this afternoon.

As was the case of the previous conferences, this year's event will also be a further step on the road to defining the profession and image of prosecutors in 21st-century Europe, where democracy and the rule of law prevail. I am therefore looking forward to the discussions and tomorrow's working groups. In that connection, I would just say that the meeting between German prosecutors general and the Federal Public Prosecutor last week was dominated by one key issue, namely the situation regarding the exertion of political influence on prosecutors' decisions. To my mind, that is also a central issue for our discussions of ethical principles for prosecutors...