



**Conference of Prosecutors General of Europe
5th 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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**Message from Ms Brigitte ZYPRIES
Federal Minister of Justice (Germany)**

Ladies and Gentlemen,

I send my best wishes to the 5th Conference of Prosecutors General of Europe. I am delighted that your annual conference has now come to Germany and all the more so that you have chosen the beautiful venue of Celle. Unfortunately, my other commitments prevent me from attending the conference in person and joining in the discussion of the items on your agenda.

One issue you are discussing is always topical from the cross-border perspective, namely the relationship between the principle of discretionary prosecution and the principle of mandatory prosecution. Under German law, we have chosen to make a distinction between non-criminal administrative offences and crimes. The principle of mandatory prosecution applies to crimes, whereas the principle of discretionary prosecution applies in the case of administrative offences. In an era of budgetary austerity, calls are frequently made for application of the discretionary principle to be extended. You will no doubt also discuss that point when you compare experiences with different approaches to the application of the two principles. However, I see no need to extend the application of the discretionary prosecution principle under German law, as our Code of Criminal Procedure provides for many possibilities for settling proceedings in other ways.

A further item on your agenda is international co-operation in criminal matters, in other words, mutual assistance in criminal matters. The general conditions here have changed at European level. However, Germany's position is unaltered: such assistance will continue in future to be a political matter, responsibility for which will therefore continue to lie with the Federal Government. This means that the Federal Minister for Justice reserves the right to decide about individual cases in agreement with the Foreign Ministry. However, in the case of mutual assistance involving European Union member states, this power is regularly delegated to the governments of the individual *Länder*, which in turn delegate it to prosecutor general's offices, prosecutor's offices and the courts. Moreover, the responsibilities of prosecutor general's offices in Germany will most probably be extended as a result of the introduction of the European arrest warrant. In future – although the *Länder* governments have to take the final decision here – decisions about extradition requests received in Germany will probably be delegated directly to prosecutor general's offices.

In Europe today we have largely uniform, or at least more or less comparable, regulations on mutual assistance. We also have effective, tried-and-tested machinery for taking the relevant regulations forward and discussing problems and problem areas. In this connection, I would draw particular attention to the work done at the Council of Europe by the CDPC and the PC-OC. Co-operation on a practical level has also been stepped up significantly: through agencies such as Eurojust and the European Judicial Network, which involves the prosecutor general's offices, the Federal Public Prosecutor and the Federal Ministry for Justice in Germany, and, last but not least, through contacts in the relevant Council of Europe committees and in European Union bodies. I am sure that your discussions about international co-operation will also be listened to at European level. My view is that your conference should operate as a special committee of the Council of Europe's steering committee on crime problems, the CDPC. That would both give your voice particular weight and, given current trends in practical co-operation in criminal matters, also provide it with a permanent organisational structure.

I wish you a pleasant stay in Celle with fruitful and interesting discussions, and hope that the conference is a success.