

ROLE OF THE PUBLIC PROSECUTION SERVICE OUTSIDE THE FIELD OF CRIMINAL JUSTICE

5. In the **Republic of Croatia**, apart from the Constitution of the Republic of Croatia, the State Prosecution Act is a basic legal source which governs the issue of powers of State Prosecution both in criminal and civil – administrative matters. The very same Act recognizes two basic departments on every level of internal structure of State Prosecution in the Republic of Croatia (the Municipal State Prosecution Office, the County State Prosecution Office, the State Prosecution Office of the Republic of Croatia), namely, Criminal Department and Civil –Administrative Department.

6. Though normative framework of the State Prosecution Act sets out quite a large variety of powers and public duties which are to be exercised and enforced by Civil – Administrative departments of State Prosecution, the position of State Prosecutor bears no difference in comparison to a position of any other party in civil or administrative proceedings.

Namely, under provisions of Article 14 – 24 of the State Prosecution Act and Articles 4 – 11 of the Act on Amendments to the State Prosecution Act, Civil – Administrative department is generally defined as an authority which protects property rights and other rights and interests of the Republic of Croatia in front of the courts and other public bodies.

These powers are iteratively enumerated as follows:

- filing claims, representing and undertaking legal actions in front of municipal, commercial and county courts, the Administrative Court of the Republic of Croatia, the Supreme Court of the Republic of Croatia and the Constitutional Court of the Republic of Croatia in all matters concerning property rights and interests of the Republic of Croatia and proceedings in which the Republic of Croatia appears as party / counterparty,
- representation of legal entities which are in sole or major ownership of the Republic of Croatia,
- providing legal opinions on a validity of certain legal acts which involve public interest based on provisions of particular legislation (e.g. the General Public Administration Procedure Act, the Agricultural Land Act, the Maritime Code, etc.)
- monitoring and observing the application of legislation in respect to the public and state's interest
- providing legal opinions on draft proposals of legislation.

Although under the provisions of the former Civil Procedure Act State prosecution office could have intervened in any proceeding between two parties where public interest was at stake, nowadays, under provisions of current legislation, the position of State Prosecution in civil and administrative matters does not differ from the

position of any other party, i.e. there aren't any special and exclusive powers which could be executed in those proceedings.

Nevertheless, the provision of Article of 186b of the Civil Procedure Act imposes the obligation on every party intending to file a claim against the Republic of Croatia to address the State Prosecution office with motion for mediation or reaching out-of-court settlement before taking any other action in front of the court's authorities.

7. Since the State Prosecution Office does not enjoy any special power in civil or administrative proceedings which could jeopardize the principle of procedural equity or alter the counterparty's positions, there isn't any particular decision of the European Court of Human Rights or the Constitutional Court of the Republic of Croatia which addresses this particular matter.

8. As to the issue of jurisdiction of State Prosecution in respect to the concept of human rights and rule of law, powers which tend to serve as protection of the same are essentially consumed in State Prosecution's role of giving legal opinions on draft proposals of legislation. Despite that, one could conclude that the role of State Prosecution, serving as advisory instance in procedure of lawmaking, is of very limited reach and cannot meet all expectations of aforementioned principles. The very effective action, which was abrogated by the latest amendments to the Civil Procedure Act, was the motion for the protection of legality by which State Prosecution was in position to intervene against any verdict or procedure which, in its essence, breaches human rights or challenge the principle of rule of law.