

# European Conference of Prosecutors Conférence européenne des procureurs Conferenza europea dei procuratori

## THE PRINCIPLE OF SPECIALIZATION OF PUBLIC PROSECUTORS AND PUBLIC PROSECUTOR'S OFFICES IN ENVIRONMENTAL CRIMES

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Theme II – Investigating and  
prosecuting environmental crimes: how  
to overcome obstacles and ensure an  
effective role for prosecutors?

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## INTERVENTION

### EUROPEAN CONFERENCE OF PROSECUTORS

Palermo, 5. - 6. 05. 2022

#### THEME II

**Investigating and prosecuting environmental crimes: Overcoming obstacles and ensuring an affective role for prosecutors?**

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#### **The principle of specialization of Public Prosecutors and Public Prosecutor's Offices in environmental crimes**

*"Being a specialist means that you have the know-how, contacts and do not need extra time to study the law and case law at the point of starting a case"*

#### I.

Let me briefly address the principle of specialization of prosecutors in environmental crimes.

There is no doubt that the fight against environmental crime poses a number of challenges for law enforcement authorities. The specific and complex nature of the environmental crimes and the technical nature of such crimes requires a multidisciplinary approach, a high level of legal knowledge, familiarity with of other disciplines, especially natural sciences and medicine, technical expertise as well as a high level of training and specialisation within all relevant competent authorities.

One of these challenges is the principle of specialisation of prosecutors or Public Prosecutor's Offices, or their departments, in environmental crime.

The principle of specialisation was first enshrined in The Council of Europe Resolution (77) 28 on the contribution of Criminal Law to the Protection of the Environment, adopted by the Committee of Ministers on 28 September 1977. The Resolution makes a number of recommendations, among them also creation of specialist branches of courts and offices of public prosecution to deal with environmental cases (see recommendation 4. a).

The specialisation of prosecutors and judges in criminal cases against the environment is also emphasised in the Proposal for a Directive of the European Parliament and of the Council on the protection of the environment through criminal law and replacing Directive 2008/99/EC.

In some the Member States of CCPE, the specialization of prosecutors in environmental crime is established.<sup>1</sup> Some Member States even have mandatory specialization of prosecutors in

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<sup>1</sup> See CCPE Member States' responses to the questionnaire for the preparation of Opinion No. 17 on the role of the prosecutor in environmental protection (CCPE internal document).

environmental crimes, established or imposed by an internal regulation of the Prosecutor General, at all levels of prosecution or at least at some level of the public prosecutor's office.

Where the specialisation of prosecutors or prosecution offices is not established, this is justified by the small size of the State, the size of the prosecution office or the smaller number of cases of environmental crimes.

The most frequent reasons given by CCPE Member States in favour of the principle of specialisation of prosecutors and/or Public Prosecutor's Offices in environmental crimes include:

- the need for a multidisciplinary approach to environmental criminality; the need for coordination and cooperation between numerous competent authorities and departments; a conceptual approach;
- exchange of experiences and best practices between public prosecutors and other competent authorities;
- the specific nature of the environmental crime agenda requires knowledge of other disciplines and technical expertise to effectively detect and prosecute perpetrators of this type of crime;
- knowledge of the specifics of preventing, detecting and investigating environmental crimes, the complexity of environmental cases;
- improving the identification of environmental crimes;
- the differences between environmental crime and ordinary crime, knowledge of the modus operandi, the international nature of organised crime groups, differences in the burden of proof in criminal and civil cases;
- effective application of the relevant provisions of criminal law and related legislation.

Creating a functional and, most importantly, collaborative network is a good idea. In some Member States, there are national networks of prosecutors specialising in environmental crime, which can be considered a good practice. These networks allow the exchange of knowledge and experience and facilitate the dissemination of best practice among professionals, thereby contributing to raising awareness of environmental crime issues within the judiciary.

## II.

Application of the principle of specialization of prosecutors in environmental crimes in the Czech Republic.

There are no specialised environmental prosecutor's offices or courts in Czech Republic as such. However, obligatory specialisations of public prosecutors are established in the prosecution system (e. g. economic crime, property crime, violent crime, etc.). The amendment to the general instruction of Prosecutor General (an internal normative regulation) has extended the obligatory specialisation of Public Prosecutors to environmental crime. There are specialised public prosecutors at all levels of the prosecutor's offices: in district, regional, high prosecutor's offices and Prosecutor general's office.

Specialisation means the main focus of the activities of a public prosecutor working at a District, Regional, High Public Prosecutor's Office or the Prosecutor General's Office. A prosecutor handles cases according to his or her specialisation.

In the first instance, crimes against the environment (Title VIII of the Special Part of the Criminal Code) fall under (with exceptions) the subject-matter jurisdiction of the District Public Prosecutors' Offices, of which there are 86 in the Czech Republic.

There is a National Correspondent for the fight against environmental crime at the Prosecutor General's Office. The National Correspondent and his expert team are, in their field of work, the guarantors of interdepartmental cooperation and cooperation with foreign countries, they analyse case law and expert articles, participate in the preparation of questionnaires and educational activities, especially those provided by the Judicial Academy, they participate in intra-departmental cooperation and specialist consultations, and they participate or propose participation in conferences.

The National Correspondent elaborates a report on his/her activities in the field of environmental crime for the past calendar year. The annual report is published on the Public Prosecutor's Office internal website - Extranet and is thus accessible to all prosecutors specialising in this type of crime (environmental crime).

The establishment of mandatory specialisations of prosecutors and the appointment of national correspondents for individual areas of crime is also important from the prevention point of view.

The High Public Prosecutor's Office in Prague, represented by one prosecutor as a permanent representative, is member of the European Network of Prosecutors for the Environment. This is an international non-profit association that aims mainly to support the work of environmental prosecutors, the exchange of information and experience and sharing of best practices. It currently has 41 members representing 30 countries.

Strengthening of the specialisation of prosecutors in the field of environmental crime, including the establishment of a network of specialised prosecutors, is also supported by the strategic material "Strategy to Prevent and Combat Waste-Related Crime for the Years 2021-2023". This recommendation was inspired by Spain, where the increasing specialisation of police officers and prosecutors has increased the number of cases prosecuted.

In the area of illegal waste management, i.e., illegal import of waste into the Czech Republic from abroad, increased activity of organised groups was recorded in 2019. There is a real threat that the Czech Republic may become, or is already becoming, one of the target countries, to which organised criminal groups transport waste for deposition or further disposal.

Similarly, the "Action Plan on Combating Illegal Trade in Endangered Species of Fauna and Flora up to the Year 2023" contains seven specific goals (such as to prioritise combating this type of crime, to improve the training system, to improve international cooperation, to increase capacity of rescue centres for endangered species and others) with fourteen proposed measures.

The Czech Republic plays an important role in wildlife trafficking, both as a destination and transit country. Within the European Union, the Czech Republic is one of the countries with the highest level of trade in live animals and plants – this is reflected in the level of illegal activities in this area. Not only individual traffickers, but also organised groups, including groups on the international level, operate in the territory of the Czech Republic. This type of criminal activity is also directed against species found in the Czech Republic and is associated with illegal killing of wild animals directly in the Czech countryside.

### III.

On the basis of the above, I take the liberty of drawing the following conclusions in favour of the principle of specialisation of public prosecutors in environmental crimes.

*"Specialisation and training will enable the public prosecutor to better understand the whole issue of environmental protection and thus to better act in the field of criminal and non-criminal competence of the Public Prosecutor's Office"*

Specialized prosecutors for environmental crimes are essential for successful investigations and judicial proceedings. Their assessment of the facts at the outset of a case can be decisive. They also need to know how to approach the case, as they need to lead the police and coordinate the work of other authorities in the preliminary investigation and oversee the collection of evidence.

Specialisation is the most effective tool to ensure expertise, adequate application of respective provisions of criminal law and related legal provisions, use of know-how in prosecution and sentencing of environmental crime. It also meets the requirement of effective exercise of powers of prosecutors – being a specialist means that you have the know-how, contacts and do not need extra time to study the law and case law at the point of starting a case.

Specialization and increasing the professional qualifications of prosecutors is one of the ways to improve the enforcement of law in the field of environmental crime.

Specialisation of prosecutors is also important in terms of crime prevention.

Finally, in this context, I would like to remind *Rome charter*.

“The highest level of professional skills and integrity is a pre-requisite for an effective prosecution service and for public trust in that service. Prosecutors should therefore undergo appropriate education and training with a view to their specialisation.” *Rome charter, XIII*.

As set out in the *Opinion No.9 (2014) of the Consultative Council of European Prosecutors to the Committee of Ministers of the Council of Europe on European norms and principles concerning prosecutors* - “The need of specialisation of prosecutors, as well as within the Public Prosecutor’s Office organisational structure, 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. Specialisation is essential to improve effectiveness, but also to answer the challenges for the prosecutors’ mission coming from the complexity of contemporary society” (see para 119).

These are, in my opinion, reasons for a clear need to continue to encourage or insist on the specialization of public prosecutors in environmental crimes. Consideration should also be given to the possibility of establishing specialised Public Prosecutor’s Offices for environmental crimes.



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