



Republika e Kosovës

Republika Kosova/ Republic of Kosovo

Këshilli Prokurorial i Kosovës/ Tužilački Savet Kosova/  
Kosovo Prosecutorial Council



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Prokurori i Shtetit / Državni Tužilac / State Prosecutor

# CODE OF ETHICS AND PROFFESIONAL CONDUCT FOR PROSECUTORS







Këshilli Prokurorial i Kosovës  
Tužilački Savet Kosova  
Kosovo Prosecutorial Council



Prokurori i Shtetit  
Državni Tužilac  
State Prosecutor



Taking into consideration the internationally recognized human rights standards and fundamental freedoms which in particular guarantee to everyone the principle of equality before the law, the presumption of innocence and, the right to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;

Having regard for the United Nations Basic Principles on the Independence of the Judiciary, endorsed by the United Nations General Assembly in November 1985, as well as the guidelines on the role of prosecutors adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

Referring to Recommendation No. R (19) 00 of the Committee of Ministers of the Council of Europe to member states on the role of public prosecution in the criminal justice system;

Recognizing that state prosecutor play a crucial role and carry out important responsibilities in the administration of justice on behalf of society and in the public interest, are in charge of ensuring the application of the law in cases where the violation of the law leads to criminal sanctions considering the individual rights and the necessary effectiveness of the criminal justice system;

Considering that the proper ethical conduct, and the perception of proper ethical conduct, are essential to the performance of all of the activities of a member of the Prosecutorial System;

Recognizing that in accordance with the Universal Declaration of Human Rights, prosecutors are like other citizens entitled to freedom of expression, belief, association and assembly – provided, however, that in exercising such rights, a prosecutor shall always conduct himself/herself in such a manner as to preserve the dignity of his/her office, and the impartiality and independence of the prosecutorial institution; and,

Considering that the principle of separation of powers must be respected in connection with prosecutors' tasks and activities outside the criminal law field and to ensure the role of courts to protect human rights;

Aware of the need to adopt provisions aimed at supporting the efficiency, independence, impartiality, transparency and fairness of state prosecutors.

Kosovo Prosecutorial Council (KPC) referring to Article 110 of the Constitution of the Republic of Kosovo and article 4 paragraph 1 point 1.19 the Law Nr.03/L-244 on Kosovo Prosecutorial Council approves:

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## Purpose

The Code of Ethics for Prosecutors aims at defining standards for the conduct and ethics of all prosecutors based on the values and principles of the Kosovo Prosecutorial Council (hereinafter the KPC) and the State Prosecutor, such as independence, impartiality, integrity, accountability, transparency and professionalism.

## Scope

The Code of Ethics contains mandatory rules of conduct and ethics for all state prosecutors and does not represent substitution but supplementation of other acts regulating this field.

The Code of Ethics fits the position of the prosecutor and the responsibilities charged to him by providing concrete points of reference on how prosecutors should act, whether in office or in private life

## General principles

The prosecutor will work to accomplish his mandate based on the general and fundamental principles of professional ethics, as follows:



1. Specific forms of misconduct of prosecutors involved in this code are not exhaustive. It is impossible to provide a complete list of all the situations that the prosecutor may face in practice.
2. An unwritten rule for assessing the relevant situation should be that any conduct that damages the honor and dignity of the State Prosecutor or that may undermine the public confidence in the impartiality or credibility of the State Prosecutor should be avoided by the prosecutor at all times.
3. The Prosecutor at all times, in all circumstances as in duty and private life, must:
  - 3.1. To observe high standards of professional and personal conduct;
  - 3.2. Perform tasks with impartiality and care;
  - 3.3. Avoid any conduct or situation that may question the integrity or impartiality of the prosecutor;
  - 3.4. Observe and adhere to the law;
  - 3.5. Carry out its duties based on internationally recognized human rights standards.
4. In cases when the prosecutor faces circumstances where it is not clear how to act, it is important for the prosecutor to discuss their dilemmas with his / her superior, a colleague or a trustworthy person.

# 1. Independence

The prosecutor should act independently in accordance with the Constitution, the laws, and the free assessment of the facts without restriction, interference, pressure or threat of any person and for whatever reason.

The prosecutor is supported by the society that during his work must be independent and make decisions based on objective reasons.

The prosecutor's personal interest must be subject to public interest and the prosecutor can not be guided by his or her personal interest or inappropriate motives.

## **Implementation**

- a. The prosecutor exercises his function independently on the basis of accurate assessment of the facts, in accordance with the Constitution, the correct implementation of the law and without influence from inside and outside;
- b. The prosecutor avoids any irregular or illegal attempt that may affect his assessment and decision-making;
- c. The prosecutor does not request or accept material or non-material benefits for themselves, their family members, third persons or institu-

- tions, interests directly or indirectly linked to the outcome of the proceedings or the matter they are pursuing;
- d. The prosecutor does not engage in any economic activity, including any kind of work or business, to acquire material or non-material interests that may affect his or her independence or may create the impression of using the duty for his or her interests, such as and should not join in social organizations that create suspicion that they compromise the prosecutor's figure or are incompatible with his or her function;
  - e. The prosecutor is not affected by the interests of certain groups and the pressures of the media and the public;
  - f. The prosecutor respects the rights of all persons to be equal before the law and avoids discrimination of any person for reasons such as gender, race, color, language, religion, political or other conviction, sexual orientation, social or national origin relating to a national minority, property, birth, health or other status;
  - g. The prosecutor must refrain from any conduct that may cause suspicion that he is political;

## 2. Impartiality

The Prosecutor in the exercise of his / her function should continuously ensure the rights of all persons to be equal before the law and to act objectively and impartially, avoiding any discrimination and prejudice related to political, ethnic, social, cultural, religious or gender, sexual orientation, age, status, physical or mental disability;

### Implementation

- a. The prosecutor does not allow a suspect or defendant to become an object of violence, pressure or torture, especially to force him to blame himself or to be found guilty of explanations taken in violation of the law;
- b. The prosecutor is impartial and should act at all times to appear and be perceived as such by the public;
- c. The prosecutor respects the principle of the presumption of innocence and the rights of the person under investigation or at any other stage during the criminal proceedings;
- d. The prosecutor exceeds cultural prejudices or any other prejudice that may influence the understanding and assessment of the facts, as well as the interpretation or application of the law;

- e. Prosecutor should be tolerant and open to discussions and solutions offered in a lawful manner and take into consideration the views, legal interests, privacy and other concerns of persons contacted during his official work;
- f. The prosecutor does not provide any legal service to his or her family members or relatives, except for the protection of personal rights;
- g. The prosecutor should avoid any activity that will adversely affect his impartiality in performing his function as a prosecutor, collecting financial means, providing legal advice regarding financial investments, financially contributing to political entities.
- h. The prosecutor should avoid public discussions and signing petitions that may have an impact on any political decision;
- i. The Prosecutor does not publicly or privately comment on cases in criminal proceedings that cause suspicion of impartiality, including judicial proceedings;
- j. The prosecutor will require his exclusion if the public can create an impression or himself or herself as unable to decide impartially in a given case

## 3. Integrity

- 1.1 Integrity is the quality of a prosecutor who must be visible and known at all times in harmony with his actions based on a high moral and professional character. Acting with integrity for a prosecutor means to work and be responsible for his actions and omissions in professional and private life.
- 1.2 Violation of integrity may involve an act or omission - whether in the exercise of official duty or in private life - that is in violation of the law, the prosecution system policies and strategies, administrative instructions, or an act constituting to a criminal offense.

### Implementation

- a. The prosecutor must have an impartial approach and attitude during the implementation of his duties at any time. The prosecutor should not act on the personal interests, interests or preferences of well-known persons, family members, business interests or political interests. Moreover, in no case should personal interests guide him in the advocacy of any position that is inconsistent with the facts and / or applicable law.
- b. The prosecutor does not allow media pres-

- sure to influence his decision-making.
- c. The prosecutor shall exclude any conduct that may raise doubts as to the impartiality of his motives and is not involved in behaviours that undermines the honor and dignity of the State Prosecutor or which may undermine public confidence.
  - d. The prosecutor does not engage in criminal offenses when as a suspect, a reporting party or a witness is involved any well-known person, family member or business relationship.
  - e. Except where permitted, the prosecutor does not use the State Prosecution property for private purposes and does not acquire such property at home except for official purposes.
  - f. The prosecutor should avoid any contact and private or business activity that may raise doubts about his work at the State Prosecution. This applies while on duty and in private life.
  - g. Prosecutors may be members of the association of prosecutors or other associations that protect the interests and promote the values of the justice system;
  - h. The prosecutor will not engage in any political function or activity, including membership in political parties or candidating or holding a political position. The prosecutor is encouraged to vote but can not attend to be elected to political office.

- i. The prosecutor may not perform activities that do not coincide with the reputation of the institution or negatively affect professional and public confidence in the prosecutorial system, except to the additional activities permitted by the law on the State Prosecution. In case of engagement in these complementary activities (including participation in professional organizations and scientific meetings promoting the independence and protection of the professional interest of prosecutors and engagement in professional and scientific writings), they may be compensated at twenty-five percent (25%) of the basic salary for participation in these activities.
- j. The prosecutor may be engaged in non-prosecutorial activities during the working hours, such as at the Academy of Justice, on the training of prosecutors and judges or in other cases when foreseen by special laws.
- k. The Prosecutor may not request or accept any form of gift, reward or other unfair advantage for himself or for any other person that may lead to improper influence on official decisions and actions, except in the case of any protocol or similar visits. The prosecutor is allowed to receive occasional gifts. Casual gifts are considered small gifts worth up to 25 euros. The prosecutor can not accept occasional gifts, the total value of which exceeds the amount of 500 euros within a



year<sup>1</sup> and can not receive more than one gift a year from the same person or institution<sup>2</sup>. The protocol gifts as well as the occasional gifts that are not of a personal character become the property of the institution<sup>3</sup>.

- l. The prosecutor shows respect for the duties that should be carried out by other professionals in the criminal justice system. He respects the fact that lawyers and judges can, from the viewpoints of their respective roles, come to other conclusions.
- m. In his relationship with a judge, the prosecutor must: respect the independence and impartiality of judges; he should not cast doubt on the judicial decisions nor should he obstruct their execution unless exercising his or her rights in remedies or requesting any other procedure in accordance with the law;
- n. The prosecutor should be objective and fair in court proceedings;
- o. The prosecutor should refrain from public criticism against judges inappropriately;
- p. The prosecutor in his relationship with the police and other law enforcement agencies should provide clear and legitimate guidance.

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1 Law on Declaration, Origin and Control of the Property of Senior Public Officials and Declaration, Origin and Control of Gifts for All Official Persons.

2 The aforementioned law.

3 The aforementioned law.

### 3.1. Confidentiality

The prosecutor is subject to the obligation of confidentiality. This obligation means that he does not provide any information, either directly or indirectly, that would reveal official secrets, that would jeopardize a pending investigation or criminal proceeding would undermine the integrity, dignity, security and privacy rights of any person, or that would violate the rights of juveniles.

#### **Implementation**

- a. The prosecutor protects the confidentiality of the information;
- b. The obligation of confidentiality obliges the prosecutor to not only 'disclose' or communicate any confidential information, but also to ensure that such information is not protected and that it does not allow others to access such information.
- c. The prosecutor uses information only for the purpose for which that information was provided;
- d. The prosecutor does not share information about a case with a family member, friend, well-known or unauthorized third party.

## 4. Accountability and Transparency

Accountability and transparency are fundamental values for the prosecutor, which means performing high-level, professional, accountable, transparent and efficient duties. The prosecutor should give an account when performing the function and for the way of its performance. During the performance of his function, the prosecutor has priority as a prosecutor, in the face of other activities.

### Implementation

- a. The prosecutor will provide relevant information for the parties to the proceedings, and the prosecutor will also request for information that may be relevant to the accountability required for the selection and performance of his activities.
- b. The prosecutor should also take into consideration other interests, such as the interests of the investigation, the presumption of innocence and the protection of the privacy of the citizens involved in the criminal proceedings. This means that a prosecutor can face the dilemma of which interests are considered to be of greater importance in a specific situation. If it turns out that nothing should be revealed about the case or at least not yet, the principle of transparency requires that in any case the reasons for this

action to be clear.

- c. The prosecutor handles the information carefully and does not hide or manipulate any relevant information. However, if there are sustainable reasons for not disclosing any specific information, this will be done openly and stating the reasons, and the prosecutor should register this. The prosecutor should be able to justify at any time the use or non-use of certain information.

#### 4.1. Transparency and Media

The prosecutor is in constant contact with the citizens, therefore the state prosecution institution is accessible and close to the media. For prosecutors, this means that they should always take into consideration the fact that a case in which they were working may appear in the media. This means the willingness to be transparent about the case if this is required by the management. During media appearances, the prosecutor should refrain from providing information regarding concrete cases unless there is a mandate for such a case.

For the purpose of providing information to the media, the prosecutor should respect the relevant internal guidelines on public relations. It must refrain from any contact with the media without the consent or authorization required.

## 5. Professionalism

Professionalism is one of the fundamental values which means that the prosecutor must have a high level of professional skills and perform his or her function in accordance with the responsibilities deriving from constitutional and legal provisions.

### Implementation

- a. The prosecutor should consider all the circumstances that favor and harm the defendant, the protection of the legal rights of victims, witnesses, suspects, defendants, convicted persons and other participants in the proceedings;
- b. The prosecutor follows the relevant practice in local and international rights which implies international conventions and instruments relating to the protection of human rights and freedoms;
- c. The Prosecutor Implements the highest standards of care during the performance of official functions;
- d. The prosecutor must do fair and professional conduct in official work and private life based on applicable law, code of ethics and professional conduct;
- e. The prosecutor has to determine his or her attitudes quickly, clearly and decisively, especially in their contacts with the police and the parties to the proceedings.

- f. The prosecutor should always be willing to replace colleagues when such a thing is required from him;
- g. The prosecutor should always be prepared during court representations;
- h. The prosecutor should act with respect when interacting with others, both in their relations with citizens and outside parties, as well as in their relations with colleagues, including superiors and subordinates;
- i. The prosecutor should aim to have good relations with his/her colleagues and focus on co-operation, team spirit, transparency, and service-oriented attitude;
- j. The prosecutor should refrain from giving comments or messages that may harm the honor and reputation of the State Prosecution or that may undermine public confidence in the impartiality and credibility of the State Prosecutor.
- k. The prosecutor should be aware that keeping certain contacts in his private life may be contrary to ethical conduct and may damage the reputation of the State Prosecution;
- l. The prosecutor should offer a professional and collegial environment in which dilemmas are always discussed. The prosecutor himself takes the initiative for himself, assisted by superiors within the state prosecutor's office.

## 6. Implementation and entry into force

This Code of Ethics enters into force on 1 March 2019. With the entry into force of this Code, the Code of Ethics and Professional Conduct for Prosecutors adopted by the Kosovo Prosecutorial Council on 31 July 2012 is repealed.

Procedures started before the entry into force of this Code are developed and completed according to the Code of Ethics and Professional Conduct of 31 July 2012.



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