

**COMMENTARY**  
**OF**  
**THE CODE OF ETHICS FOR THE STATE**  
**PROSECUTOR**

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# I. FIRST PART

## 1. EXECUTIVE SUMMARY

### i. Introduction

The prosecutorial system with pristine integrity is the base for ensuring respect for democracy and the rule of law.

Prosecutors exercise their duties fairly and impartially<sup>1</sup>.

The Code of Ethics and Professional Conduct for Prosecutors promotes the integrity of the prosecutorial system.




Following the adoption of the new Code of Ethics, it is considered necessary for this code to be accompanied for the first time with a guide commentary, which will provide clarification to prosecutors on the various ethical dilemmas that they may face during their career as prosecutors.

The Commentary on the Code of Ethics provides explanations on the core values of the ethics and professional conduct of prosecutors and the principles set out in this important ethics document.

In addition, this commentary, through various hypothetical examples and dilemma questions, describes the various circumstances and situations that prosecutors may face.

These examples and responses to different situations will help prosecutors to act fairly and honestly.

The Commentary of the Code of Ethics, through examples provided, clarifies some of the situations envisioned in the code principles, such as:

-  Independence,
-  Impartiality,
-  Integrity,

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<sup>1</sup> See European guidelines on ethics and the conduct of public prosecutors entitled: "Budapest Guidelines", adopted on 31 May 2005.

- ✚ Accountability,
- ✚ Transparency and
- ✚ Professionalism

This commentary will be supplemented with other practical examples that arise from the daily life and work of prosecutors.

## ii. [The Purpose of the Code of Ethics Commentary](#)

The purpose of the Code of Ethics Commentary for Prosecutors is to define and elaborate rules, principles and guidelines for the conduct of prosecutors to ensure the exercise of their functions independently, impartially, integrity, accountability, transparency and professionalism.

## iii. [Scope](#)

The Scope of Commentary, in accordance with the Code of Ethics, serves as a guide enriched with concrete examples of prosecutors and their behaviors for the official work and the private sphere of their lives.

# I. SECOND PART

## 1. GENERAL PRINCIPLES

### i. Independence

Every democratic state should emphasize the separation of powers through the highest legal act of that country. The State Prosecutor is independent of other powers. The prosecutor is the one who gives impulse to any criminal procedure and remains involved until its completion.

The personal independence of the prosecutor as an individual means his freedom to decide without being influenced by anyone, including colleagues, society, family, political circles, and his own supervisor.

In carrying out his function, the prosecutor has a high degree of independence and his decisions must be taken based on the circumstances of the case, based on law, evidence and conscience.

Personal independence has to do with the rejection of the various direct and indirect influences that can come from anyone inside and outside the institution.

Prosecutors, excluding genuine and principled discussions or mandatory instructions provided by law, must abide by the obligation not to influence their colleagues in any form.

This should be done because the public's perception of the independence of prosecutors is very important. Therefore, prosecutors need to be extremely vigilant so that the public's confidence in their independence does not fade.

Example 1: Prosecutor X has a still unsolved murder case. He calls his colleague Y, telling him that he is a close friend of the father of the defendant in the case of the murder that has been assigned to him. He asks to take care of the boy to have a fair investigation. He also tells him he does not believe that someone from that family may have committed the murder.

- Is prosecutor Y right?
- Is a colleague right to seek the fair treatment of a defendant?
- Is this effort to influence the case of another prosecutor?
- What if Y prosecutor really believes he did not commit the murder?
- Is it fair if Prosecutor X accepts the suggestion of Prosecutor Y?

Comment:

*Every prosecutor is forbidden to take action, which will influence the decision-making of other prosecutors, and thereby violate their independence. Independence in decision-making must be respected by everyone and be free from any external or internal impact. Prosecutors can only discuss the cases they have only in principle, regarding the dilemmas in law enforcement, without identifying what they are and against whom they are developing.*

*Example 2:* The Prosecutor of the Basic Prosecution in Pristina plans to buy a car for the daughter. Since he does not have all the money, the prosecutor goes to the bank he regularly goes to and asks to know the conditions for obtaining a mortgage loan. The bank official, in charge of credit issues, says: "Because you are a prosecutor, the bank will offer you more favorable terms than those offered to other ordinary clients. They will be given much greater credit for a lower interest rate. "

- Should the prosecutor accept this offer at all?
- Should he accept if the bank is not under the jurisdiction where the prosecutor works?
- Can the prosecutor use his post for personal gain?
- Is there a risk that acceptance of offer would endanger its personal independence in future decision-making as a prosecutor?

Comment:

In any case, the prosecutor will not agree to benefit favors and other personal benefits out of the approved banking rules, using his position as a prosecutor. In this case, the prosecutor should refuse the offer and waive the loan request in that bank. This behavior could jeopardize the prosecutor's independence in his work on different occasions.

*Example 3:* Chief Prosecutor X warns Prosecutor Y for a call, which will accept later in the day. Prosecutor Y, after several hours, receives a call from Assembly Member Z, who says, "You are a prosecutor of the case of a conflict in a nightclub. Look, that's where my grandson is involved, you know, that guy is unintentionally confused at the club, deferred by some of his friends and is the first time involved in such a conflict. Please take a look at this case and not present it and I promise you that my grandson will no longer be involved in such types of conflicts. "

The next day, at the prosecutor's office, the chief prosecutor is presented, who offers two tickets for a football match for receiving the call from the member of the Assembly.

- Should the prosecutor accept the Chief Prosecutor's suggestion to respond to the call?

- Should the prosecutor accept the call from the member of the Assembly?
- Should the prosecutor accept tickets for the football match?
- How should the prosecutor act in this situation?

**Comment:**

*The prosecutor must be independent of all internal and external influences and treat the parties without any discrimination and must demonstrate this by any action. In this case, the prosecutor should not accept the suggestion of the Chief Prosecutor to answer the call or even accept the suggested call. Also, in this case, the chief prosecutor / prosecutor should in no way accept the gift. In this case, he should continue the procedure initiated and act according to the law and the case evidence. The actions of the chief prosecutor addressed to the case prosecutor are not in line with the principle of the independence of prosecutors and the code of ethics. The actions of the chief prosecutor in the concrete case seriously damage the reputation of the chief prosecutor, the prosecutor and the prosecutorial system as a whole.*

*Example 4:* Prosecutor X while he was on-call, within his competencies, detained a suspected person for 48 hours on suspicion of having committed a criminal offense. While the prosecutor was assessing the case to decide whether it is necessary to make a request for a measure to ensure the presence of the suspect in criminal proceedings, he has received a call from an official working in the prosecutorial system. This official during the phone conversation has informed the prosecutor that the person who has been detained is the son of his uncle and, at the same time, has suggested the prosecutor to consider this fact and make a good assessment of the case, of course, in favor of the suspect. The prosecutor is put into dilemma of how to act on the occasion after this created situation: To make a request for any measure to ensure the presence of the defendant in criminal proceedings, even though the condition of grounded suspicion is not fulfilled, and if he released the suspect in a regular procedure following the received call, he would be convinced that the prosecutor was affected by his colleague.

- How to act the prosecutor?
- To make a request for determining the measure for providing the suspect in criminal proceedings?
- Release the suspect, because no evidence of proven suspicion has been provided?

*Comment:*

*In such a situation, the prosecutor should be careful not to question his / her independence in deciding on the case. Faced with such a situation, it would be best for the prosecutor to immediately notify his chief prosecutor through an official record, which should take legal action against the official who has called the prosecutor. In each case, the prosecutor should maintain his / her independence in decision-making from any external or internal influence and make decisions only on the basis of law, fairness of the facts and evidence and that the attempts for influence to direct to the superior in such a way as to eliminate the perception of the influence on the independence of prosecutors.*

## ii. Impartiality

Impartiality is one of the most important values that should describe the work of the prosecutor. It is important that impartiality not only to exist but also perceived that it exists from every external observer.

Lack of impartiality, or just a negative perception of bias, is likely to create an idea of injustice, which in the long run will undermine public confidence throughout the prosecutorial system.

Always, as well as the existence of independence, as well as impartiality, to achieve a fair outcome, the standard of the objective observer should be applied, so the question should be asked: Can a sensible observer, who has a realistic view of the situation and do not have direct interests, conclude that a prosecutor is impartial !?

The perception that a prosecutor is not impartial may come as a result of many factors such as: suspicions of conflict of interest, prosecutor behavior, off-duty work as a prosecutor, his or her financial interests or family members, various personal recognitions, public statements, as well as other circumstances and situations.

Appearance of impartiality can always be a problem and every prosecutor, both in his office and in the courtroom, should be carefully attended to respecting all participants, listening to all participants patiently, as envisaged by the law and avoiding the manifestation of prejudices.

The position of all parties in a case is very sensitive and because of that position they are inclined to see the prosecutor with bias, even when he is truly impartial. Therefore, the prosecutor must make every effort to prevent the emergence of suspicions of bias.

Cases where family members and relatives of prosecutors are engaged in work and various political activities can influence public perception of their impartiality.



Even outside the office, the prosecutor should avoid the use of words or behaviors that give rise to suspicion of lack of impartiality. Refrain from commenting on the various cases in the procedure and be careful not to allow his behavior to awaken any doubts in public for lack of impartiality.

The Criminal Procedure Code of Kosovo regulates the procedure under which a prosecutor applies for his dismissal from a case or when the parties so request.

*Example 1:* Prosecutor GG is from Prizren, where he was born and has completed education. Prosecutor GG during his life has often made statements in cafes and elsewhere, not showing respect for people coming from surrounding villages or village backgrounds.

Now he works as a prosecutor at the Basic Prosecution in Prizren. Even now, as a prosecutor does not hide this even in private circles. Meanwhile, in his job as a prosecutor, he takes a case against a suspect, a livestock worker, who came from a remote village on the heights of the mountains.

Since the prosecutor was known as a contemptuous of the villagers, the suspect had heard this position of the prosecutor, seeking his exclusion with this reasoning.

- How to evaluate his public attitude regarding people of certain geographic background?
- How should the Chief Prosecutor act in this case?
- Are his prejudicial, discriminatory attitudes and pose a risk to a lack of impartiality?
- How should prosecutors behave in public to increase public confidence?

Comment:

*Any public prosecutor's behavior must be qualified and followed by high standards of integrity. The prosecutor may not express prejudice to people of different ethnic, religious, gender, geographical or other qualities, as this poses a risk of animosity, or at least, of the perception of his impartiality. All parties should be treated with respect, honesty and without any kind of discrimination and prejudice.*

*Example 2:* The spouse of Prosecutor D is the deputy chairman of a highly influential political party. One day a reception is organized in the premises of Hotel "Z" in Pristina, where different public and political figures are invited, all with spouses. Prosecutor D associates her husband with politics at this reception and there she met many other politicians.

- Is this the right action of Prosecutor to go to this party?
- What are the ethical dilemmas in this situation, the arguments for and against its departure?
- Should prosecutors be completely isolated from social and family life?

Comment:

*Prosecutors are not required to be completely isolated from social life. Making a very limited life and without social contacts has an impact on the decision-making process of prosecutors as disconnection from social reality can lead to a lack of quality at work and decisions that it takes. However, the prosecutor comes to the public and when accompanied with others, he/she must be careful not to create a perception of the lack of independence and impartiality. In the example above, the event is public, the prosecutor accompanies her husband, so a priori should not be banned, but if a case is brought by the prosecutor against the officials of those districts, she must immediately seek its expulsion.*

*Example 3:* The prosecutor is charged with a case where the accused is of ethnicity X, while the injured party of ethnicity Y. The prosecutor is of X and has some members of the missing family as a consequence of the recent war which they have developed members of ethnicity Y.

- Should the prosecutor take action in this case?
- How should the prosecutor act in this case?

Comment:

*Each prosecutor should take care that in such cases when he or she does not feel that it may be objective or to escape the perception and possible suspicion of bias by the parties to the proceedings, he / she should request his / her exemption from the case.*

*Example 4:* Prosecutor E is employed at the Basic Prosecution in Prizren. Meanwhile, in Prizren, he is practicing as a lawyer and Mr. G. Both are of a generation, have been educated together, and the first steps in the profession of justice have been jointly done in the former Municipal Court in Prizren.

Lawyer B has a lot of work, defends many defendants in that court at the stage of the investigation and at the trial stage. During the main trial sessions, but also in the investigative hearings, their reports are very professional and nothing raises doubts about the prosecutor's impartiality.

On the contrary, there have been several cases that the prosecutor, during the interrogation of the defendants who had been defended by the lawyer, because he interfered with queries without a quarrel and without allowing the question, the lawyer left the room.

But the two of them go out together each evening and meet in the center of Prizren and continue to walk to Marashi, where after drinking coffee, they go back to their homes. This routine is repeated every evening.

- Should the prosecutor stay with a lawyer, even when they have many subjects together?
- Should prosecutors be prohibited from having social relations with lawyers?

- Who should be the one who will decide where this friendship will go?
- Is this close friendship between the prosecutor and the lawyer creating preconditions for prejudice and favoritism?
- Does this relationship interfere with the exercise of prosecutor functions?
- What about the perception of others, parties, peers, the public?
- What would be the attitude of an objective, reasonable, external and uninterested observer who knows about their close relations, whether or not there is suspicion of impartiality by the prosecutor?

Comment:

*The prosecutor should avoid these situations. He should, besides being impartial, also look unbiased. Thus it can create a negative perception of impartiality. Although no legal or ethical norm requires prosecutors to disconnect all connections and contacts with lawyers who may be friends, schoolmates, neighbors or relatives, however, these reports should be built with great care and transparency. Constant involvement with the same lawyer with many cases, any objective observer can lead to perception of lack of integrity and impartiality.*

### iii. Integrity

Integrity has to do with the quality of a person to be honest and have high moral principles, which he refuses to change. It also has to do with the high standards in doing work with the commitment not to lower these standards.

The integrity of a prosecutor includes maintaining sustainability, accuracy in work and credibility throughout his or her work as prosecutors, without doing any act / omission or behavior that disgraces him.

Prosecutors as officials called to deal with the revealing, investigation and prosecution of perpetrators are in the first order of state representatives, who must be provided with high moral qualities.

These qualities should never be questioned. The prosecutor must be and be seen as a person with absolute integrity.

Any deviation from the high standards of personal and professional conduct by a prosecutor represents a violation of his integrity.

A prosecutor who has consistency between what he is talking about and what he does and does not deviate from is never considered a person of personal integrity.

The prosecutor must focus on the responsibilities that the prosecutor's position requires, not the privileges and power it brings.

He should see work as a mission, not as a place for securing privileges, priorities, and getting a wage.

Integrity is always closely linked with public confidence.

Prosecutors since taking office have to make a more limited life that do not happen to ordinary people because prosecutors, as well as judges are under constant observation of public and media. This also applies to the part of the official life, and for personal life.

Public behaviors of a prosecutor must be responsive to the nature of his work because an unacceptable behavior by the prosecutor has consequences for the integrity and dignity of the system as a whole and public confidence in it.

The prosecutor should be cautious about establishing close friendly links with parties and lawyers who have jobs and official representations in the prosecution.

Every prosecutor has to be carefully brought in addition to private life. It must be endowed with the quality of integrity, courtesy, honesty, even after completing working hours, on the street, in the neighborhood and in places where he spent the free time, etc.

In this way, it maintains its dignity and the dignity of the respective prosecution, preserves and promotes a good image and public confidence in the work of the entire system.

Social contacts with lawyers and judges are allowed in principle and do not constitute a problem, however, excessive accompaniment may give rise to misunderstandings.

Excessive contacts with judges, where the prosecutor represents cases, may be assessed by the parties that he has entered unilateral communication with the judge. Whereas, lawyers with whom he brings together in different cases, he should be more careful because he may damage the image of the prosecutor and the whole system, as well as create a negative perception of impartiality.

Meanwhile, in cases when a prosecutor's spouse work as a lawyer, even though this is not forbidden, the prosecutor in these circumstances should pay the utmost care in the way they appear in public.

Behaviors that make the impression that the prosecutor is dealing with advocacy work will have major consequences for that prosecutor and for the institution as a whole. The basic actions that need to be taken in such cases are the lack of use of the office and the common telephone.

- Examples of behaviors that violate the integrity of a prosecutor are:
  - Failure to carefully and objectively evaluate and present all relevant facts in court;
  - Making inappropriate reviews in public
  - Non-respect of confidentiality during the investigation phase;
  - Inclusion in any form in a political activity and the expression of sympathetic or antipathy attitudes towards individuals or groups;
  - Inadequate communication with judges and lawyers;
  - Accompanying people with bad reputation and those who deal with suspicious activities;
  - Attending suspicious places or premises;
  - Failure to take responsibility for improper action;
  - Disrespectful and unprofessional treatment of staff with whom he works;
  - Failure to keep the promises without any reason;
  - Lies;
  - Non-compliance with financial obligations;
  - Being prone to manipulative behavior;
  - Exploiting the weaknesses of others and restoring these weaknesses in his / her favor;
  - Use of status as prosecutor to benefit from preferential treatment;
  - Improper use or abuse of any kind of colleagues / administrative staff, forcing them to perform services in their favor<sup>2</sup>.

The integrity of a prosecutor is also jeopardized by any other conduct that casts doubt on public confidence in honesty, objectivity, dedication, impartiality and independence. He, with his work, conduct and actions, should not leave any dilemma and hesitation to the objective observers, those who make his decisions affect and those with whom he works, is biased, prejudiced or discriminated, but make decisions according to law and honesty.

*Example 1:* A prosecutor as he is having dinner at a restaurant meets by chance with a lawyer with whom he has frequent cases. He knows the lawyer since the studies. The restaurant is full of guests. The lawyer, who also went out for dinner, sits on the same desk with him. At the end the lawyer insists and pays the dinner.

In this case, the dilemmas to answer are:

- What is the purpose behind this paid dinner?
- Is corruption or courtesy and respect by attorney?
- How is this perceived by others?
- How does this affect the prosecutor in future decision making?

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<sup>2</sup> Note: The list of situations described above is not exhaustive.

- Does this make you feel like in debt to him?
- Yes, if there are many lawyers there, and that happens often?
- How to deal with such cases?

**Comment:**

*The prosecutor should avoid these created situations, at least, being termed a lack of integrity and impartiality for him. This greatly damages the people's trust there and the wider public, for the entire prosecution system. The prosecutor must always, in his official work, but also in his private life, have his behavior in harmony with the high standards of ethics and professional conduct and should not allow any ambiguity in the honesty, sincerity and impartiality of his.*

*Example2:* A prosecutor has assigned a court hearing for a particular date. The case is serious and complicated. There are five defendants in the detention center in Peja and Prizren. Two others are under house arrest. Competent is the Basic Court in Pristina. The court issued orders for bringing them from detention and also sent invitations to accused under house arrest, as well as case witnesses and forensic expert were invited.

At night, before the trial, the prosecutor's aunt dies and he got informed that the burial will be on the same day.

- How to act the prosecutor?
- Go to the aunt's burial where the whole family has been gathered, fail the judgement for his absence, and turn back the accused, witnesses and experts?
- Go to the determined judgment and keep judgment?

**Comment:**

*This is a dilemma that the prosecutor has to resolve. In similar cases, it is necessary to decide between family obligations, the needs and requests of the parties and all other participants under consideration, who should always consider and respect them. Try to create a balance between these two requirements. In the present case, a prosecutor with high quality integrity will do his utmost to overcome personal feelings and pain and will not allow judgment failure.*

*Example 3:* A prosecutor has bought a BMW brand car. After a minor defect he sends the car for repair. After eliminating the defect, the mechanic knowing he is a prosecutor and refuses to take the money. After a while, the prosecutor still needs to send the car to the mechanic. In the city it is the only local that deals with defective BMW vehicle defects.

- How to act the prosecutor in this situation?
- Go back to the same person again?
- Do not go anymore?
- Should he necessarily insist on paying?

- To ask a similar car mechanic in the cities around where he will repair his car?

Comment:

*The prosecutor in this case must first of all take his integrity and appear to possess this quality in the eyes of others. Integrity is essential to public confidence in its work and the whole system. Going back to the same mechanic after the first experience does not honor a prosecutor. This shows that it has accepted the behavior of the mechanic and is willing to go back to such reports. Also, this behavior conveys the bad message that in the future, if need be, can restore this favor during his work, therefore, necessarily, such situations should be avoided.*

*Example 4* – The prosecutor L is also a teacher at a private university where he gives a specific subject. He regularly requests his legal officer of the office to print tests and other materials for his needs in working with a student, to make photocopies make phone calls and perform other services.

- Does the prosecutor have the right to lecture at the private university?
- Is the prosecutor's proper action, as it is in the service of following the knowledge of future generations?
- Does the prosecutor have the right to use the resources of the prosecution for private purposes?

Example:

The use of private prosecution resources is contrary to the Code of Ethics. At the same time, the prosecutor has the right to lecture at a private university as a secondary job, as long as such action does not present an obstacle to performing the duties of the prosecutor. The prosecutor should not use the status as a prosecutor and prosecutor's reputation to advance his or her personal rights or interests and will not perform any other task or service that may interfere with his independence and impartiality or in any other way may not be consistent with the exercise of the prosecutor's function.

*Example 5* – Prosecutor G from the Basic Prosecution is invited by the Prosecutorial Council to go on a two-week study visit to Germany. In the invitation received from the Prosecutor's Office of Germany, which has been forwarded to the Prosecutor by the Kosovo Prosecutorial Council, is explicitly stated: "The German Prosecution on this occasion undertakes to cover all expenditures except those of Kosovo transport in Germany and vice versa. The prosecutor successfully completes the study visit to Germany, but after returning to his workplace at the Basic Prosecution, he submits a request for reimbursement of expenses incurred in Germany. The prosecutor will claim full compensation of expenses in his claim, including those that have been covered by the German Prosecutor's Office.

In this case, these questions are raised:

- Can the prosecutor claim on behalf of the expense also the cost that was covered by the German Prosecutor's Office?

Comment:

*Such a prosecutor's action is in contradiction to the Code of Ethics and applicable legislation in Kosovo. The prosecutor may seek compensation on behalf of the expenses incurred solely for the transport costs which were not covered by the tour organizer.*

*Example 6:* Shortly before the holidays, a lawyer brings a large cake to the prosecutor's office, which he handed over to his assistant, with a card containing holiday wishes.

- What should the prosecutor do in this case?
- How important is the type of gifts are given?
- Does it matter whether the gift was given to a worker or officer, not to the prosecutor?

Comment:

*No matter what kind of gift is offered. The basic principle is that society should have confidence in the integrity and independence of the prosecutor, as well as all prosecutors and staff. Gifts provided to prosecutors or staff may be interpreted as intentional or deliberate data beyond the gift itself, and may lead to the finding that the action of the prosecutor will be affected or influenced by that gift. There is no distinction between prosecutors and prosecution staff regarding the admission of gifts. It does not matter that the gift is given to the prosecution staff, not the prosecutor. Receiving a gift from prosecution personnel is as well forbidden as a prosecutor. In this case the prosecutor should ask his assistant not to accept any kind of gift in any form.*

*Example 7:* You are in a trial of a rather complicated case where you replace your colleague, who is in the United States in education for Master of laws.

Your colleague, who has filed the indictment, has also accused of an offense whose legal status does not correspond to the factual affiliation and is also not supported by evidence. At the trial, all remarks and criticisms are addressed to you as a prosecutor, now in charge of the case.

- How should the prosecutor act?
- Say it is not your fault, but you will try to correct it?
- Tell him who made that mistake?
- Tell them you would never have acted like that?
- Improve your mistake during the final speech without mentioning your colleague?



Comment:

*Prosecutors all the time must preserve the honor and dignity of their position and profession, as well as the entire prosecution system. Every prosecutor should take responsibility for each case he or she deals with and represents. He/she should be personally responsible for each case he represents at trial. He/she must accept responsibility for any omissions in the case. He/she should never publicly point your finger towards your colleagues and try to blame others.*

Example 8: Prosecutor X attempts to convince the accused to plead guilty to a serious theft in the home of an injured party, in which case he has received items of considerable value. Although the prosecutor tries, he does not convince the defendant to plead guilty. During the trial, the accused before the judges and other participants indicates that the prosecutor has said he should plead guilty to this offense.

- What is unacceptable in the behavior of the prosecutor?
- What is the duty of the prosecutor in such cases?
- Is he allowed to insist on guilty plea?
- What if guilty plea is not supported by certain evidence?

Comment:

*A fair, independent and uncontested integrity prosecutor will never push the accused to plead guilty or enter into a guilty plea agreement. Except for notification of the rights provided by law, the prosecutor should refrain from giving legal advice to the accused. Never should promise something to the accused. Do not even recommend the appointed lawyer. The prosecutor should always avoid private conversations with an accused.*

#### iv. The confidentiality

Confidentiality represents the protection of information when performing the duty as a prosecutor. The prosecutor should be cautious with providing information at the investigation stage, but also in the other stages of the proceedings.

While the transmission of information, the media, but also to third parties, during the investigation should be very limited and can be transmitted only to the extent that it does not hurt the investigation.

In relation to the parties in the process and their legal representatives, the prosecutor should inform them in accordance with the legal obligations, the stage of criminal proceedings and the plans that are under investigation.

Prosecutors should make sure that they do not speak for media without permission and without consultation with their superiors and ensure that the media interest is largely responsive to public prosecutors, public communications bureaus, i.e. media officials employed in special offices.

No prosecutor should favor and privilege one or only a few media and create close relationships, providing them with information that other media have no access.

The prosecutor may have attacks by the media because of his position and because his decisions affect the interests of different persons. In these cases, the prosecutor must refrain from responding to media attacks, except when evaluated by the superior.

By entering debates and controversies with the media, the prosecutor violates impartiality, at least in appearance, and thus violates the code of ethics.

A good prosecutor and integrity speaks mainly through his own decisions, through various acts, remedies and not to oppose the media.

If a prosecutor appears in the media on behalf of the prosecution, he / she should not speak about concrete cases unless authorized by the superior, especially not for the investigations but only in the technical aspect, for the challenges of the justice system, standards of professionalism, system functioning and its shortcomings, and similar.

Also, prosecutors should be very careful that personal data of persons who are involved in the process in any capacity are not published in any way, except in cases and circumstances as permitted by law.

*Example 1* - Prosecutor A is a childhood friend with Person B, who is the owner of a major media company in the country. His newspaper devotes a lot of space to current developments in justice and the cases being dealt with. Prosecutor A is an inexhaustible source of information for this newspaper. He gives information on the following cases that have not yet been completed. This information publishes the newspaper regularly, without citing the source of the information. Meanwhile, from time to time, this paper speaks positively of this prosecutor, praising him for his work. Over time, the prosecution community begins to suspect that Prosecutor A is exactly anonymously providing the newspaper with this information.

- Is this action of the prosecutor in opposition to the Code of Ethics for Prosecutors?
- Does the prosecutor want to issue information on cases that are under procedure in his friendly districts?
- How should the prosecutor act in the situation when the journalist has a good friend and his work depends greatly on this information?

Comment:

*Prosecutors should maintain the confidentiality of information regarding ongoing investigations and trials that the court has declared in court as closed to the public. This way the life and security of the injured parties, witnesses and other citizens who are involved in the procedure may be endangered. Prosecutors may not have the information they possess to use for securing the benefits for themselves or the other. If a prosecutor has a journalist friend, he should keep up to the information provided in the cases. This information should only be communicated by information officers, designated prosecutors, and eventually the superior of that prosecution, or the prosecutor of the case himself, with the authorization of the chief prosecutor.*

*Example 2* - A judge publicly through the media criticizes the prosecutor of a prosecutor's office that he is incapable of managing his cases, that his office has no rule and nobody respects anyone, including him as a prosecutor. Following this statement some media, including the media that interviewed the judge, invite the prosecutor for a television interview. The prosecutor accepts, without prior permission from his / her superior, without consulting with any one and in this interview returns the attack to the judge, expressing in an unacceptable and unprofessional word to the judge.

- How did the prosecutor have to act?
- Is its behavior consistent with the Code of Ethics?
- How does prosecutor respond to the public accusations of the judge?
- Are prosecutors allowed to behave in such a way as to undermine the image and dignity of the institution?

Comment:

*In such situations, the prosecutor must refrain from starting the debate or controversy with the judge. Such communications may never end and thus the public's impression of "arena warriors" may arise that instead of carrying out their duties set out by law and constitution, they are more concerned with narrow personal issues. The prosecutor should always speak with his work, with written procedural acts, with legal remedies, with dignified appearance in consideration on behalf of the state, in service of which he is and with behavior that leaves no room for reproach by any impartial observer.*

*Example3* - A prosecutor in a TV debate with emotion and loudly criticized judicial institutions and judges in general. Among other things, he states that judges are unprofessional, lazy, or corrupt, because, according to him, there is no sound logic that judges in most cases release high public figures for criminal offenses against the official duty, corruption offenses.

- Is the prosecutor's action within the allowed behavioral framework defined by the Code of Ethics?

- Does this statement come within the fundamental right of every person to exercise the right to free expression of thought?
- Is there something neglected in the behavior and words of the prosecutor?

Comment:

*The conduct of the prosecutor in this case is inadmissible and may present a violation of the Code of Ethics. The prosecutor must not make inappropriate criticism of the courts, judges and their work. Instead, the prosecutor should use all the regular legal and extraordinary remedies available to them. The prosecutor may appear in debates with the authority of the superior to present the results of the prosecutorial system, but it is not ethical to make inappropriate declarations for the judicial system.*

*Example 1:* Prosecutor M is on medical leave. Incidentally, in the human resources office, prosecutor X takes over a doctor's report along with a diagnosis of the prosecutor M. According to this report, the reason for medical leave is a medical check abroad because the Prosecutor M is diagnosed with HIV-positive. By understanding this, prosecutor X feels sorry for a colleague because of a diagnosis and is discussing this issue with another prosecutor.

- How should prosecutor X act on this case?
- Tell his/her colleague what he has seen and discuss with her/him?
- To talk to his superior?
- Keep silent and not talk to anyone?

Comment:

*An honest and integrity prosecutor will never reveal any kind of information, especially those of a personal nature to his colleagues. In this case, prosecutor X had to store only information about his colleague M and not share it with other colleagues. By his action, Prosecutor X violated the secrecy of personal information protected and damaged the integrity and dignity of Prosecutor M.*

*Example2:* A famous actress is deprived of life. The case has given to you to handle it, because at the time of the murder you were at a night shift and you came to the scene. During work you have come up with lots of sensitive information about the deceased. In the case file you have also documents and photographs that talk about situations that are very unpleasant and unfamiliar with the deceased, who was widely known and worshiped. One of your colleagues, by curiosity, expresses the wish to see the photographs and other documentation in the file.

- How will you do it?
- Will you tell the materials?
- You will tell him, but will you warn him not to speak?

- You will not tell at all, but you will keep the secrecy of private information provided during your work?

Comment:

*The privacy and dignity of victims should be secured with increased vigilance and diligence. Prosecutors should never discuss with others about their cases. The prosecutor should deal with the highest level of confidentiality and not share with others the conversations, discussions and documentation provided in a particular case.*

## V. Accountability and Transparency

Accountability and transparency are part of the core principles that characterize the work of the State Prosecutor's Office.

Accountability and transparency, as core values and their implementation, are further explained in the Code of Ethics. Both of them are essential elements for the effective development and functioning of the State Prosecutor in the framework of public communication, presentation to the public and to the parties to the proceedings, while respecting the legislation and code of ethics, which clearly define the behaviors of prosecutors within the framework accountability and transparency.

Transparency of the prosecutor is about being open and honest in explaining all his actions in concrete cases and informing the general public of those cases, as long as it does not hurt an investigation or a procedure at another stage.

This prosecutor first meets by notifying the parties of their actions, providing them with paperwork and notifying the developments during the course of the procedure as provided for by law.

The prosecutor must refrain from any contact with the public without the consent or authorization required.

The accountability of the prosecutor at work represents the responsibility to carry out the duties for which he or she is competent, to fulfill the obligations required by the constitution and the law, to observe the working hours, to be timely in court hearings during the representation of cases and generally to be accurate, efficient and responsive.

Accountability relates to the quality and readiness of the prosecutor to account and be willing to accept his responsibilities for actions and omissions, as well as for eventual mistakes in his work.

*Example 1:* In a city there were gunshots. As a result of these shootings, four people have died. This is the first case that happened in this city, where such a high number of people have died. Citizens are shocked and want quick information about the case.

- What means of communication should the prosecutor use to provide clarification?
- What information does the prosecutor need to provide to the media?
- How open should the prosecutor be with the media and the public?

Comment:

*In such cases, the prosecutor in coordination with the superior should notify the public about the case, but always the information should not undermine the investigation process or prejudice the case. Hesitation of the prosecutor to come to the public can cause concern to citizens, misunderstandings, fears and panic in order to prevent misinformation about the case.*

*Example 2:* There is news in the media that prosecutor Y has not declared all his property according to legal norms in force. Prosecutor Y, concerned with this news and convinced that he respected all the legal provisions on the declaration of wealth, felt the need to clarify the truth to the public.

- What should the prosecutor do?
- Should he/she communicate with the media?
- Through whom should he/she communicate with the media?

Comment:

In such cases, the prosecutor may, in consultation with the superior, provide clarification to the public on issues raised in the media.

#### v. Professionalism

Another fundamental and important value of the Code of Ethics is professionalism. Prosecutors have a lot of room to use their discretion in concrete cases. However, this professional freedom includes the duty to use this discretion in a responsible manner.

Knowledge and expertise in performing the duties should be adequate to his work and should make efforts to keep this knowledge continuously and progressively. This should be done through participation in training and various forms of continuous professional development.

The prosecutor should take into account the fact that his decisions and legal actions can violate human rights and fundamental freedoms and therefore must develop his / her professional skills.

The prosecutor should determine his / her attitudes quickly, clearly and professionally, in particular with the parties to the proceedings. In relation to the police, the prosecutor should give instructions in a precise and clear manner and in compliance with the legislation.

The prosecutor should always be willing to replace colleagues who have reasons for their absence. He organizes his work in such a way as to enable a colleague to take over an issue without many problems, implying that he / she will notify his colleague at a reasonable time in the case.

*Example 1:* You are in a judicial review of fraud and the defense counsel is interrogating your witness indirectly. During the interrogation, the defense counsel raises serious, inadmissible, capricious questions, often ironizing questions and asking so many questions that it does not give room for answering. In general, he/she behaves very badly with her.

- How should the prosecutor act in such cases?
- Keep silent and wait for interrogation to end?
- Leave all the judges in their hands?
- To wait for him to reconsider his claims to correct the damages that defender has made?
- To appeal to the court and stop that form of interrogation?

Comment:

*Each prosecutor has the duty to defend his / her witness, making any objection in any case to such a question. Never allow anyone to behave abusively with a prosecution witness. Appeal to the trial panel in order to stop such examination and abusive behavior with the witness.*

*Example 2:* Prosecutor N has a case, which is now in the trial stage. The defense counsel possesses the evidence that the prosecutor has. A prosecution witness changes the statement fundamentally, but the defense counsel is oblivious, does not notice it and does not emphasize it during his interrogation.

- How will you do it?
- Will you find him as prosecutor and harm your case?
- Will you be silent with the hope that neither the court has not noticed?
- Will you speak for yourself and question your witness and this will weaken the case?

Comment:

*When the prosecutor presents a case on behalf of the state, he must do it with honesty and high professionalism. The prosecutor should not seek to issue a conviction for the defendant at all costs. Instead, the prosecutor must ensure that all relevant evidence is presented to the court, such as those that go wrong, as well as those that are in favor of the defendant.*