

# CCPE: Opinion on the Role of Prosecutors in Emergency Situations



## News

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On 21 March 2021, the Consultative Council of European Public Prosecutors (CCPE) published [Opinion No. 15](#) on “The role of public prosecutors in emergency situations, in particular when facing a pandemic.” The Opinion was adopted in November 2020; it is available in different languages on the [CCPE website](#).

Opinion No. 15 sheds light on the implementation of the usual tasks of prosecutors in emergency situations, their new or expanded tasks in response to such situations, the management of challenges faced by prosecutors in emergency situations, and the modalities of international cooperation during a pandemic, while ensuring that prosecutors carry out their mission with the highest quality and efficiency and respect for the rule of law and human rights.

The Opinion emphasizes that a formal declaration of a state of emergency is required for emergency measures and derogations from rights set forth in international instruments, including the ECHR. Furthermore, the restrictions introduced as a result of the pandemic may affect not only civil and political rights protected by the ECHR but also economic, social, and cultural rights, with the possible risk that they may entail discrimination against certain groups. This particularly affects health care workers and racial and ethnic minorities, which can lead to hate speech, racism, xenophobia, attacks on and forced returns of refugees and asylum seekers, mistreatment of foreigners and migrants, sexual violence, gender-based violence, and domestic violence.

Legislation governing the enactment of measures in emergency situations must primarily respect non-derogable rights. Measures affecting other rights must be based on the overarching principle of the rule of law and on the principles of necessity, adequacy, equality and non-discrimination, proportionality, temporariness, effective (parliamentary and judicial) scrutiny, predictability of emergency legislation, and loyal co-operation among state institutions.

The integrity of the prosecution service – including its competencies, independence, and impartiality – should be protected in the same way as the integrity of the court system. Where appropriate, prosecutors should pay particular attention to whether the use of emergency measures interferes with fundamental human rights to a greater extent than is strictly necessary. Prosecutors may also be called upon to monitor the necessity, proportionality, and appropriateness of emergency measures outside the criminal justice sphere.

The establishment of crisis response teams could be envisaged and, taking into account legal diversity, guidelines should be issued for cooperation mechanisms both within and outside the prosecutor’s office in

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special emergencies. In emergencies, special cooperation and coordination mechanisms can be established by prosecutors' offices with other institutions such as law enforcement agencies, health care facilities, and representatives of mass media.

Emergencies, such as a pandemic with closed borders and quarantine measures, pose particularly serious problems for international cooperation, which can lead to the complete breakdown of certain elements of cooperation. For such situations, more effective and innovative forms of cooperation must be developed in order to maximize operational efficiency. In this context, consideration should be given to using simplified procedures in emergencies, such as accepting and processing MLA and extradition requests by electronic mail.

Lastly, the CCPE invites member states to share the results of possible evaluations on the impact of the pandemic on their judicial systems in order to update the Opinion.

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