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Esteemed colleagues,

First of all, I would like to thank you on your kind invitation to participate in the work of this significant conference.

The independence of the prosecutors' office is a favorite topic among prosecutors, and has often been dealt with at various prosecutors' gatherings, meetings and conferences. The IAP Annual Conference was just held in South Africa. The basic theme was: "Prosecutorial Independence - The Cornerstone of Justice to Society". Well, perhaps this "cornerstone" term sounds a little pompous, but it only highlights the most important issue and that is how the independence of the prosecutors' offices represents an extremely important link in the developmental of the rule of law. I can also add "the independence of the judiciary," because it is one of the most important factors of every organized society.

The issue of prosecutors' independence can be approached from different perspectives: we can observe it as a legislative term, by analyzing how it is defined in the most important laws of a particular country. This is a very important issue, and we are very happy if the independence of the prosecution is emphasized in the highest legal acts of a particular country, such as the constitution or a related law. This in some ways represents the best formal "guarantee" that the actual position of the prosecution will truly be independent. However, reality could be completely different.

It is extremely important how an independent prosecutor's office shall function in reality. This independence is realized through various forms, so in some societies the particular aspects of this independence are also observed differently: in some societies the way in which they experience financial independence or independence in appointments is of special significance. Or, the question of personal safety in work may be especially important for the issue of prosecutor's independence.

There was an interesting presentation held in Johannesburg by a colleague who pointed out that he needed to explain financial needs of his office before the parliament, and in a way request the parliament to approve of the funds requested. This is a real problem that greatly affects the independence of prosecutor's office.

However, it was also interesting to have a colleague from another country who pointed out that it was very important their independence to be physically safe in carrying out their tasks, referring to personal safety and the safety of their families. So, as a proof of progress with regard to the issue, he pointed out that the procedure of arming the prosecutor was underway as well as their training for the use of personal arms. As you can see, everyone has their own

priorities, and observes the problems that affect the prosecutor's independence from a different angle.

I would now point out a relevant example, the one I can talk about, because it involves legal solutions in my country, the Republic of Croatia. In Croatia, the State Attorney General submits an annual report to the Parliament. He is then invited to the Parliament to present the report. In accordance with legal solutions, the Parliament should only receive this report for their information and in reality, after the State Attorney General presented the report, a debate is opened, and finally the Parliament votes on the report: it accepts it or not. If the Parliament does not accept the report, there are no "sanctions". However, last time when the parliament failed to accept the report of the State Attorney General (and this happened more than 15 years ago), the SAG subsequently resigned and left the office.

Therefore, we have a situation where the Prosecutor's Office in Croatia, according to the Constitution, is defined as an independent judicial authority, but on the other hand something I have just described could happen in the Parliament. Unfortunately, that is not all, as there are additional negative circumstances: as a rule, there are members of parliament against whom the prosecutor's office conducts criminal proceedings. It is therefore questionable how objectively they (or their representatives' clubs) can discuss the report of the SAG. And we also had the situation where the prosecutor's office was conducting criminal proceedings against a political party as a legal person, who was then a majority party in the Parliament.

I am mentioning all this because these are all the real challenges that need to be taken into account in order to create, before all, the legislative framework that will enable the independent position of the prosecutor's office in a society. Particularly bearing in mind the role prosecutors have in the phase of criminal prosecution of persons suspected of committing the criminal offense and the possibility of bringing prosecutorial decisions that may substantially jeopardize or limit fundamental human rights. Therefore, only an independent prosecutor can make quality decisions that can result in human rights restrictions, and these decisions should only be based on the facts that they collected during the proceedings and by the application of appropriate standards. These prosecutorial decisions may only be liable to the examination by the courts, and not some political entities or some other forum influences.

However, this is not the only issue we encounter in discussing the full and actual independence of prosecutors' offices.

There is a whole range of important factors that are "conditio sine qua non" to achieve the full independence of prosecutors' offices. I will only mention them, without implying that some of these reasons are less important than others. Let's start with the way the prosecutors are appointed, and then the possibility of their advancement at work. If this process is not conducted by an independent and fully non-political body, if it is not based on objective criteria, it is difficult to talk about the full independence of the prosecutors' offices.

Same goes for financial independence of prosecutors. It is clear that many states are not in a good economic situation, and this reflects to the whole society. However, even in such

situations, judicial officials must be proportionately well paid to be able to live normally with their family. The salary of prosecutors, not only in terms of the sum, but also in terms of permanence, must be something that is the default and firm category. This is just a part of what I consider personal financial independence of the prosecutor, because the question of pension also needs to be addressed. It is unacceptable that after a full-time work in the judiciary and retirement, prosecutors can barely survive on their pensions. Especially because being a prosecutor means that you do not have any possibility of making any significant additional earnings during his lifetime.

In discussing the independence of the prosecutor, we should also point to the aspects of internal independence, the independence within the prosecution system itself. It is about independence in decision-making and working on the case. Therefore, an efficient system of assigning the cases according to objective criteria should be developed so as to allow each individual prosecutor to make independent decisions that will not be liable to change or influence of senior/other prosecutors within the system.

Of course, the prosecutor's independence also has its other side: this is a huge personal responsibility of the prosecutor. In order to be independent, it means you are among the best of lawyers, that you are a legal expert who knows the law, that you are ready for an on-going education, and that you are able to make the best decisions within reasonable terms. However, that's just a part of the problem. Likewise, prosecutors are expected and requested to behave in accordance with the highest ethical standards, not only during work hours in the office or other places where they perform their duties, but also outside their working hours and outside the office. This is very important, but this sometimes leads to the prosecutors being very lonely. They spontaneously develop a self-censorship, avoiding company of numerous people, making sure they are not seen with people who could influence their independent work or whose presence could bring into question their independence.

When I look back at what I said, then it is apparent that all the essential elements I consider important for the prosecutors' independent position are in fact very consistent with the fundamental principles of the International Charter of the Judge issued by the International Association of Judges. Indeed, Article 9 explicitly states that there is the possibility of applying these principles to other judicial officials, i.e. directly to the prosecutors. Certainly this is a very positive example, and I think the prosecutors would gladly accept the principles set out in the Charter. Also, I believe that the principles outlined in the Charter are very similar to the document we have in the IAP - IAP standards that were adopted to: "... promote and enhance those standards and principles that are generally recognized internationally as necessary for the proper and independent prosecution of offenses."

And I personally like that this component referring to the independence of judges is defined in a more expressive, firm and comprehensive manner in the Charter, than the issue of prosecutorial independence within the IAP Standards.