

# **MEDEL**

## **DECLARATION OF PRINCIPLES CONCERNING THE PUBLIC PROSECUTOR**

(adopted in Naples on March 2nd 1993)

### **I. FUNCTION**

It is the function of the Public Prosecutor to promote the application of the law while ensuring the respect of legality, of the fundamental rights and of equality in front of the law.

### **II. INSTITUTIONAL POSITION**

The Public Prosecutor is a judicial organ, and consequently autonomous from the executive, the autonomy of the Public Prosecutor constituting an indispensable tool for guaranteeing the independence of the judiciary and equality in front of the law. Consequently, the organs of the executive cannot give either general or specific instructions to the . At most, the Public Prosecutor can be required to provide general information concerning its activity.

### **III. FUNCTIONAL STATUTE**

The Public Prosecutor is subject to the law alone: the criteria governing its activity are only criteria of legality, impartiality and objectivity. Therefore the exercise of penal action will be, in principle, obligatory. The principle of the appropriateness of legal proceedings will concern only minor delinquency, under conditions previously determined by the law. The fulfillment of these conditions will be subject to revision by a judge.

### **IV. PERSONAL STATUTE**

The members of the Public Prosecutor are necessarily magistrates, integrated in a single judicial body, or forming a distinct magistrature, which will have a statute, rights and guarantees equivalent to those of judges.

### **V. INTERNAL ORGANIZATION**

The allocation of cases, the substitution of magistrates and the transfer of files must be submitted to objective and predetermined criteria.

The coordination of action of the magistrates of the Public Prosecutor must not be an obstacle to their duty to refuse illegal orders, to exercise the clause of conscience and to freedom of speech during a hearing.

#### VI. APPOINTMENT, ADMINISTRATION AND DISCIPLINE

The appointment, organization and discipline of the magistrates of the Public Prosecutor must come under a Supreme Council (common to the judges or autonomous, depending on whether there is only one magistrature or the Public Prosecutor constitutes a distinct magistrature), which will consist in magistrates elected by their peers. Those responsible for the coordination of the Public Prosecutor are appointed for a given period.

#### VII. CONTROL OF THE JUDICIAL POLICE

When the Public Prosecutor directs investigations, it must have the power to handle the indispensable material means for its activity and have effective control over the judicial police.