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**CONSEIL CONSULTATIF DE PROCUREURS EUROPEENS  
CONSULTATIVE COUNCIL OF EUROPEAN PROSECUTORS  
(CCPE)**

**Questionnaire sur la gestion des moyens des ministères publics**

**Questionnaire on management of the means of the prosecution services**

**Compilation des réponses au questionnaire**

**Compilation of replies to the questionnaire**

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**Albania/Albanie****SECTION I: Status of the prosecution services in the state administration**

1. Please specify the status of the prosecutor and the prosecution service in your state. Is it an autonomous institution? If yes, how is this autonomy guaranteed?

Prosecution service and the prosecutors in Albania are independent from the government. The General Prosecutor is the Head of the Service. He is appointed by the President of Republic, and the proposal must get the approval of the parliament. At least once in 6 months, the General Prosecutor presents a report to the Parliament or to the parliamentary commissions. The prosecutors are appointed by the President of Republic after he gets the proposals from the General Prosecutor.

Article 54 of the Law on Prosecution Service specifies that the Council of Ministers is not allowed to recommend to General Prosecutor to proceed or not in a specified case. It can only give recommendations as to the priorities that must be kept in the fight against criminality in the current year.

2. Does the ministry of justice or another authority govern the activity of the prosecution service? If so, how?

NO.

3. Which authority is responsible for the creation of prosecutor positions?

The General Prosecutor proposes to the President of Republic the number of prosecutors positions, after has received the opinion of Ministry of Justice.

4. Please indicate if there is any connection between the prosecution service and the Ministry of Justice or another public authority in terms of financial and human resources, IT facilities etc. If so, please describe how this connection works.

As regards the human resources (prosecutors), the answer is given above. As to the financial resources, the request is headed to the Ministry of Finances, which decides on the amount that is to be allocated to Prosecution Service or other institutions each year. At the start of each year the parliament approves a law on the budgetary funds and the number of employees.

5. Is the prosecution service independent from other institutions when implementing and managing its own budget?

The law on the prosecution service, art.57, specifies that the Prosecution Service has an independent budget, which is drafted, administered and managed conform to the existing legal framework. Each fiscal year the Prosecution Service presents to the government and to the parliament its requests for the annual budget.

**SECTION II: Financial rules and regulations of the prosecution service**

6. Does the law governing the prosecution service include provisions on financial management and on the executive's obligation to provide it with the necessary infrastructure?

The article 57 of the Law on prosecution service, mentioned above, is the only one to deal with this subject.

7. Please describe how and when the budget of the prosecution service is managed (preparation, distribution of funds between the budget lines).

In March and April of each year, must be prepared the demands (detailed, taking in consideration all the needs the service has) for budgetary funds in the new budgetary year and for the 3 years period (medium term budgetary demands). In the first stage (April), the demands are headed to the Ministry of Finances which revise them. In August (second stage), a summary of all the demands is sent to the Ministry of Finances. In September, meetings take place with representatives of Ministry of Finances where are

examined the limits (funds allocated) posed by the Ministry and the additional demands of the institution. At the start of new year the budget and the total number of employees is approved by the parliament with the law on the budget.

8. Is there a specific department within the prosecution service responsible for the management of resources?

Finance and Economical Department is responsible for the management of budgetary funds.

9. Is there a national and/or centralised IT system for managing, monitoring and evaluating the budget of the prosecution services? *Does this system include a mechanism for increasing the efficiency of the resource management?*

Yes. The National System of Treasury, and an IT system in the Prime Minister Office. We don't have any access in it.

### SECTION III: Resources of the prosecution service

10. Please specify the amount of budget of the prosecution service for 2008, 2009, 2010 and 2011 (€ equivalent), indicating the distribution between staff expenditure and other types of expenditure.

Article Code	Name	Plan 2008	Plan 2009	Plan 2010	Plan 2011	EURO
600	Salaries	4,809,471	5,742,857	5,757,357	6,196,264	
601	Social insurances	788,514	757,143	749,714	807,143	
602	Goods and other services	1,465,229	1,842,857	1,497,214	1,726,343	
603	Subventions	-	-	-	-	
606	Domestic current transfers	900	-	2,964	3,036	
605	Foreign current transfers	357	-	393	-	
606	Transfers to family budgets and individuals	3,857	-	81,000	81,500	
<i>Subtotal</i>	<i>Current expenses</i>	<i>7,068,328</i>	<i>8,342,857</i>	<i>8,088,642</i>	<i>8,814,286</i>	
230	Intangible assets	-	-	34,807	4,286	
231	Tangible Assets	162,721	342,857	778,443	667,143	
<i>Subtotal</i>	<i>Capital expenses</i>	<i>162,721</i>	<i>342,857</i>	<i>813,250</i>	<i>671,429</i>	
Total	Currents and assets	7,231,049	8,685,714	8,901,892	9,485,715	
<i>Extra budgetary</i>		Foreign				2,857,143
Total (current+ assets+extra budgetary)						
		7,231,049	8,685,714	8,901,892	12,342,858	

11. In your jurisdiction, what resources would you improve access to, and how would you do that (e.g. through partnership agreements, joint investigations, redistribution of resources etc.)?

There are many issues linked to the unpaid hours of work (work done during weekends or during emergencies). With the limits posed by the government in spending for salaries, it's almost impossible to find a solution just by trying to redistribute the resources and there is a limit of 40 hours per month in maximum which is allowed to be paid. An increase in budgetary funds is needed, but with the ongoing financial and economical crisis it looks improbable to find a quick solution.

We need also to increase the number of employees, but the resources we have are not abundant so it's almost impossible to resolve this issue by a simple redistribution of resources.

12. Are the current or future budgets of the prosecution service affected by the 2009-2011 economic crisis?

Most of demands, taking into account the previous years, has been fulfilled but of course much more could have been done if the situation would have been different. We have to take into account that generally the funds allocated to the Prosecution Service have never been abundant, due to the enduring economical weakness of the country.

13. *What instruments are used to allocate resources needed for the good functioning of the prosecution service?*

The number of employees, unpaid bills from the previous year, the expected expenses of the coming year, investments etc.,.

14. Is there any connection between the budgets allocated to the prosecution service and to the judiciary or to law enforcement bodies?

No.

15. Do human resources of the prosecution service depend on other institutions of the judiciary (e.g. Judicial Council, National Schools of Clerks)?

The main source to provide the Prosecution service with new prosecutors is The School of Magistrates, but there are certain exceptions to the rule in the Law on Prosecution Service which allows other lawyers, which has had an experience as judge or prosecutor, or 5 years experience as judicial police officer, to get appointed as prosecutors. Their number in total cannot exceed the limit of 10% on the whole number of prosecutors.

16. In your jurisdiction, is there any mechanism of rapid reaction which could allow a quick redistribution of means (financial or human resources, logistics) between prosecution services, according to the needs of the system?

If there are funds to be allocated due to new unpredicted needs, a demand is headed to the General Prosecution Service, which take them into consideration as soon as possible.

17. Does the General Prosecutor (or equivalent institution) have a specific budget for taking interim/temporary measures in situations when, within a certain prosecution service, human resources are insufficient?

No, GP does not have such a budget.

#### SECTION IV: Budget for investigations

18. What steps are required in order to obtain direct access to the resources needed for investigations? Please assess the period of time that elapses between submitting a request for resources and the moment when they are actually obtained.

When an investigation activity needs a financial support, a request is made to the Finance Department which issues an order for the fulfilment of the request at the shortest possible term, according to the funds at disposal of the service.

19. Have you ever faced the risk that special investigative techniques (e.g. communication interceptions, legal-genetic expertise, computer search) could not be applied in due time because of insufficient resources? Have insufficient resources in general affected the performance of criminal investigation in normal cases?

Yes, it has been difficult in some cases to find financial resources in order to make some expensive expertises like legal genetic or those regarding financial investigations. We have also encountered problems in translation of documents sent to us in cases of judicial co-operation due to the high costs of translation but in general we have found the necessary resources to conduct the investigations in the right way.

20. Is the resource management performed by the prosecution services during their investigations controlled? Please specify.

Yes, there is a system in place to check the resource management. There are bylaws of GP to regulate this issue. But this is done based on the financial performance of the offices in general. If we come to single investigations or to the performance in managing resources during the whole investigative activity of the office, there isn't such a system of control in place.

21. What is the resource management procedure when various agencies are involved in the investigation procedure (e.g. the police)?

There is not a management procedure in place. The prosecution service leads the investigation and at the same time has the right to conduct a part or all the criminal investigation itself, when has not delegated investigative powers to the police service. In that way each body has to cover its own part of expenses.

22. Is it possible for prosecutors to specialise in certain type of crimes? If so, what kind of effect it has had on the results of the prosecution service?

Yes, this has been the trend recently (from 2004), especially in organised crime, financial crimes, trafficking of human beings etc. The results have been very positive.

23. Are there areas of investigation that have priority access to financial or material resources? If so, how and by whom is this priority established?

There is not a predefined priority order and the decisions are taken based on the assessments done by the GP.

#### SECTION V: Description of the system of management by results

24. Do you have a system of management by results? (Please specify.) If yes, is there any problem with this system ?

There is a system in place used by Financial and Economical Department for the evaluation of efficiency in the way the financial and other resources are used. These assessments are done periodically (every 3 months).

As to the whole activity of the service (results based management), every year a medium term budget program (MBP) is approved and there are set the objectives for the Prosecution Service, taking into account the different needs and the priorities of the service as a whole and of single offices as well.

25. What kind of objectives are set for the prosecution service, if such a system of objectives exists? Does your system use benchmarks of achieved results?

Each office sets its own objectives for the coming year but not taking into consideration the available financial resources of the coming year. The GPO is the one to establish the objectives in the light of financial capabilities. We have a centralised system of prosecution service and is the GPO which has the right to set the priorities, taking in consideration the objectives that each office has set.

Objectives are set in the Medium-term Budget Program (MBP),

There are different objectives set in this document. For example, in 2012, we can list some as below:

- 1- service improvements in interceptions, translations, forensic expertises,
- 2- improvement of work conditions by building new premises and the reconstruction of the old premises
- 3- efficiency in the management of financial resources
- 4- improvement of human capacities by trainings and financial motivations
- 5- increase efficiency during investigations by speeding up the their intensity and reducing in that way the period of investigative activity
- 6- increased efficiency during investigations through the application of modern investigative means,
- 7- higher transparency and professional integrity to increase the trust of citizens towards our work
- 8- further consolidation of task force units (financial crime specialised departments) by increasing the number of cases investigated and sent to trial

- 9- increased level of technological services (case management system predicted to become functional this year) etc,

As to the benchmark of achieved results, we don't have an elaborated system to measure the results, but we use mainly the statistical data to assess the success or the failure in achieving the objectives. It is important to say that GP is the one who thanks to the elaboration of data done by different specialised departments in GPO and by the assessment of work analysis and the performance of each prosecution office and also by focusing on the priorities in the fight against criminality, has a whole picture of the situation. So it is obvious that the objectives and the evaluation of the achievements is done periodically and the members of GSM pay attention to the estimations of the General Prosecutor who is responsible for the well functioning of the whole service.

26. Which authority/authorities is/are competent to set these objectives?

The competent authority to set the objectives is the Group for the Management of Strategies (GMS). It is composed mainly of prosecutors (General Prosecutor, prosecutors from different departments in GPO and district offices) General Secretary, the directors of Finance and IT departments.

27. What role does the prosecution service play in setting these objectives?

The GPO is independent in setting these objectives.

28. Are the objectives coordinated between all authorities of the criminal procedure? If such coordination exists, how does it influence the activities of the prosecution service?

No, they are not.

29. Are there regulations in your system as regards the optimal workload within prosecution offices? if yes, is the allocation of resources correlated with the workload? Please provide examples.

No, there are not such regulations in place. Usually are the prosecution offices which request to the General Prosecution Office the funds for the coming year based on their assessments. It's up to the general prosecutor office to decide on the distribution of the financial means, based on the size of the offices, the workload and other specific needs or features an office might have.

30. Is the setting of objectives based on a negotiation system?

No. Is the GSM which defines the objectives based on the estimation of the situation, where are taken into account the needs of every prosecution office and the available or predictable financial resources. The prosecution service in Albania is centralised and the GPO (General Prosecution Office) is on the top of the system. It collects data, elaborate and set objectives, manage, check and coordinate the whole activity of the service

31. Who are parties of the negotiations?

#### SECTION VI: Follow-up of results and reporting

32. Please indicate if there are any national strategies implemented in your state regarding the resources allocated to the judicial system, including the prosecution service. If so, in what areas were these strategies developed? Please comment on the results of these strategies.

No, there isn't such a strategy in place.

33. Is the attainment of objectives followed up yearly? How?

Every 3 months, GPO (General Prosecution Office) delivers its monitoring and performance report to the Ministry of Finance.

34. Have any reforms been implemented during the last 5 years aimed at increasing the budget of justice?

No.

35. Is the prosecution service included in the government strategies for enhancing the efficiency of public institutions (e.g. e-governance, external financial audit)?

No.

36. How would you assess internal audit recommendations within the prosecution service?

The recommendations done by the internal audit, have been taken into account and have resulted as valuables by the Prosecution Offices.

37. Is the social impact of the prosecutors' activities evaluated? If yes, by whom?

There is not a system in place to evaluate the public prosecutors activities. During the annually work analyses of each prosecution office, there is done an evaluation on the social impact we have achieved based mainly in the way we have perceived it but we don't have any well elaborated system to trustfully measure the social impact.



**SECTION I: Status of the prosecution services in the state administration**

38. Please specify the status of the prosecutor and the prosecution service in your state. Is it an autonomous institution? If yes, how is this autonomy guaranteed?

**Answer 1.** The Article 103 of the Constitution of the Republic of Armenia stipulates that the Prosecution service is a unified system, headed by the Prosecutor General. Prosecution office is an autonomous institution and is not a part of any other institution.

The status of the prosecutor and issues, related to legal and organizational relations, are regulated by the RA Law "On Prosecution". The Article 6 of the mentioned Law stipulates: "In the exercise of his powers, every prosecutor shall take decisions autonomously based on laws and inner conviction, and shall be responsible for decisions taken by him. Any interference with the prosecutor's activities, which is not prescribed by law, shall be prohibited." The Part 1 of the Article 44 of the same Law stipulates: "In the performance of their work, prosecutors shall be independent and shall abide only by law", and the Parts 2-5 of the same Article provide the official guarantees for prosecutors.

Moreover, the same Article regulates also the issues, related to the public service in the Prosecution Staff. In accordance with the Part 2 of the Article 64 of the same Law, "Public Service in the Prosecution Staff" is a professional activity carried out in "The Prosecution Staff" State Governance Institution in order to ensure the exercise of the powers vested in the Prosecution by the Constitution.

39. Does the ministry of justice or another authority govern the activity of the prosecution service? If so, how?

**Answer 2.** The ministry of justice or any other authority are not authorized to govern the activity of the Prosecution service. In the manner, stipulated by the Article 10 of the RA Law "On the Prosecution", the General Prosecutor manages the Prosecution service; define a policy for exercising the constitutional powers of the Prosecution service and ensure supervision of the implementation of the policy. The Article 5 of the same Law stipulates that every year, the Prosecutor General shall present a message to the National Assembly of the Republic of Armenia and the President of the Republic on the previous year's activities of the Prosecution service.

40. Which authority is responsible for the creation of prosecutor position?

**Answer 3.** In accordance with the Point 5 of the Part 1 of the Article 10 of the RA Law "On Prosecution", the Prosecutor General shall define the number of staff positions in the Prosecution service within the limits of the wage fund stipulated by law.

41. Please indicate if there is any connection between the prosecution service and the Ministry of Justice or another public authority in terms of financial and human resources, IT facilities etc. If so, please describe how this connection works.

**Answer 4.** The Prosecution service has no connection with the Ministry of Justice or any other public authority in terms of human resources, while in terms of financial resources the Prosecution service is connected with the RA Government and the Ministry of Finances of the Republic of Armenia.

42. Is the prosecution service independent from other institutions when implementing and managing its own budget?

**Answer 5.** When implementing and managing the budget, assigned to the Prosecution service by the Republic's state budget, the Prosecution service is independent; only the Control Chamber of the Republic regularly checks the accuracy of budget managing. Besides that, the Prosecution service quarterly submits a financial statement, in a manner, stipulated by law.

**SECTION II: Financial rules and regulations of the prosecution service**

43. Does the law governing the prosecution service include provisions on financial management and on the executive's obligation to provide it with the necessary infrastructure?

**Answer 6.** Each year the Prosecution service (not later than March 6 of the year) submits to the Ministry of Finances of the Republic of Armenia the budget application, based on his programme of medium-term expenses. The expenses of the budget, assigned to the Prosecution service are implemented in the manner, prescribed by law and through of the Financial-economic Department, which is the structural subdivision of the Prosecution Staff.

44. Please describe how and when the budget of the prosecution service is managed (preparation, distribution of funds between the budget lines).

**Answer 7.** The budget application, mentioned above (in the point 6) is composed with the Head of the Prosecution Staff and the experts working in the Financial-Economic Department of the Prosecution Staff. The application is composed after taking into consideration the opinions and needs of all interested departments, in order to finance the solution of planned and primary problems. The final edition of the draft shall be discussed at the meeting with participation of the Prosecutor General and the final document shall be sent to the Minister of Finances of the Republic of Armenia. The application is involving in the draft of the state budget with an individual line. The draft shall be sent to the Government of the Republic, and after discussion at the session of the Government, the draft shall be submitted to the National Assembly of the Republic of Armenia.

45. Is there a specific department within the prosecution service responsible for the management of resources?

**Answer 8.** The Prosecution Staff, within the authorities, prescribed by law, through his Financial-Economic Department, exersizes the financial procedures, under the control of the Head of the Prosecution Staff and infroming the Prosecutor General, since the Prosecutor General, in accordance with the procedure, prescribed by law is the Founder of the State Governance Institution.

46. Is there a national and/or centralised IT system for managing, monitoring and evaluating the budget of the prosecution services? *Does this system include a mechanism for increasing the efficiency of the resource management?*

**Answer 9.** An IT system is not adopted.

### **SECTION III: Resources of the prosecution service**

47. Please specify the amount of budget of the prosecution service for 2008, 2009, 2010 and 2011 (€ equivalent), indicating the distribution between staff expenditure and other types of expenditure.

The budget of the Prosecution service for 2008-2011 (in the questionnaire was not specified the following: in accordance with what month's or what year's rate the € equivalent should be counted) is the following:

10.1.2008 – 2 billion 695 million 850 thousand AMD (Armenian currency- dram), which is equivalent to 5 million 265.332 €, the € equivalent is counted bytoday's' rate – 512 AMD.

10.2. 2009- 2 billion 864 million 751 thousand AMD, 2 billion 584 million 770 thousand, underpayment was based on the Decision of the Government and 90,2 % of the assigned amount was paid. In € equivalent- was assigned 5 million 595217 € and paid 5 million 048379 €.

10.3. 2010 – was assigned 2 billion 732 million 570.000 AMD or 5 million 337051 €.

10.4. 2011 – 3 billion 13 million 278 thousand AMD (included natural development and index of rendering services) or 5 million 885 thousand 309 €.

48. *In your jurisdiction, what resources would you improve access to, and how would you do that (e.g. through partnership agreements, joint investigations, redistribution of resources etc.)?*

**Answer 11.** The solution of the problem of increasing the salaries of the prosecutors and paying of unpaid amounts per class degrees.

49. Are the current or future budgets of the prosecution service affected by the 2009-2011 economic crisis?

**Answer 12.** Yes, it is. The amounts, assigned for class degrees (remains unpaid) and in 2009 was paid only 90% of the budget, assigned to the Prosecution service.

50. *What instruments are used to allocate resources needed for the good functioning of the prosecution service?*

**Answer 13.** In order to allocate recources, assigned by the budget to the Prosecution service, is needed only one letter with attached application, addressed to the Ministry of Finances. So far, no application for allocating was turned down.

51. Is there any connection between the budgets allocated to the prosecution service and to the judiciary or to law enforcement bodies?

**Answer 14.** There is no connection between the budgets and because the salaries of prosecutors were not increased, in a result of it the salary for the position of the Prosecutor General is 397 000 AMD, which is less than salary of an ordinary judge – 420 000 AMD.

52. Do human resources of the prosecution service depend on other institutions of the judiciary (e.g. Judicial Council, National Schools of Clerks)?

**Answer 15.** In accordance with the draft of the Law, there are sufficient differences in the procedures of evaluation of judges and prosecutors, and the procedures, prescribed for prosecutors are much more difficult.

Moreover, prosecutors when transferring from Prosecution service to lawyer's practice shall pass an exam, while judges shall not.

53. In your jurisdiction, is there any mechanism of rapid reaction which could allow a quick redistribution of means (financial or human resources, logistics) between prosecution services, according to the needs of the system?

**Answer 16.** See the Answer 13.

54. Does the General Prosecutor (or equivalent institution) have a specific budget for taking interim/temporary measures in situations when, within a certain prosecution service, human resources are insufficient?

**Answer 17.** The Article 63 of the RA Law "On Prosecution" stipulates that 2% out of the budget assigned to the Prosecution service by the state budget is the reserve, which is managed by the Prosecutor General of the Republic of Armenia.

#### **SECTION IV: Budget for investigations**

55. What steps are required in order to obtain direct access to the resources needed for investigations? Please assess the period of time that elapses between submitting a request for resources and the moment when they are actually obtained.

**Answer 18.** According to the current legislation of the Republic of Armenia, the Prosecution service of the Republic of Armenia has no authorities to implement investigation. The investigation powers are vested to the Special Investigation service of the Republic of Armenia and corresponding investigation subdivisions of the RA Police, National Security Service, State Revenue Service, Ministry of Defense.

56. Have you ever faced the risk that special investigative techniques (e.g. communication interceptions, legal-genetic expertise, computer search) could not be applied in due time because of insufficient resources? Have insufficient resources in general affected the performance of criminal investigation in normal cases?

**Answer 19.**-----

57. Is the resource management performed by the prosecution services during their investigations controlled? Please specify.

**Answer 20.**-----

58. What is the resource management procedure when various agencies are involved in the investigation procedure (e.g. the police)?

**Answer 21.**-----

59. Is it possible for prosecutors to specialise in certain type of crimes? If so, what kind of effect it has had on the results of the Prosecution service?

**Answer 22.** In 2007 in the structure of the Prosecution service were carried out structural and organization reforms with an aim to provide the narrow specialization of the Prosecution service. In the context of the mentioned reforms, the divisions and departments at the Prosecutor General's office were established on the basis of the prosecutorial supervision over certain types of crime, and in territorial prosecution offices the activities, on the same basis, were divided among prosecutors. Such manner of managing the activity of the Prosecution service is more efficient.

60. Are there areas of investigation that have priority access to financial or material resources? If so, how and by whom is this priority established?

**Answer 23.** The issue is out of the scope of authorities of the prosecution service and is related to the bodies, which implements investigation activities.

#### **SECTION V: Description of the system of management by results**

61. Do you have a system of management by results? (Please specify.) If yes, is there any problem with this system?

**Answer 24.** Currently, at the Prosecution service is not adopted an electronic system of management by results, it is mainly implemented by compilation, submission and analyzing of paper-based statistical reports on "Crime condition", "Investigation work", "Prosecutor's work". But it is planned to replace the paper-based practice with electronic system of management by results. In particular:

The Prosecutor General of the Republic of Armenia, were confirmed technical characteristics and statistics criteria for compilation, submission and analyses of system of management by results at the Prosecution service. Were defined the necessity, purposes and grounds for adoption of the programme, main requirements to the programme (statistical criteria) and tasks, description of the programme and computer network (including current situation and description of proposed programme), stages of compilation and adoption of the programme. The document is ready for the use in practice.

The Prosecution service suggested to join the procedures of preparing and adoption of separate systems (programmes) of statistics and archive running into one procedure and include as one action in the next stage, financing by the European Union – in the programme of “Strategic actions of legal reforms in 2012-2016”. The grounds for the need of such programme were brought in corresponding letters. In particular, taking into consideration the peculiarities of exercising the powers, vested to the Prosecution service by the legislation and of organization of activities, as well as their connection with corresponding powers of inquiry and preliminary investigation bodies, it is reasonable to work out and adopt an electronic (computer) system of management and search (hereinafter - programme), including initial (content, text) and statistical data on corresponding results of prosecutors work and inquiry and investigation bodies, related to prosecutors work. As an obligatory component, the programme shall include subsystems of electronic (computer) management and archive running of paper-based documents (criminal cases, materials, files of criminal cases, decrees, petitions, statements, requests, directives, assignments, claims, cautions, forms, appeals and other documents).

The organization of activities on the basis of the mentioned approach will create more integrated and systematized idea about the activities of the Prosecution service and corresponding activities of other relevant bodies, directly connected with the Prosecution service, providing accessibility of receiving statistical (numerical) data, on the one hand, and content (text) data, from the other hand, from registering the information on the statement about an offence to the final solution of the case, which in its turn will provide the adoption of efficient mechanisms of permanent supervision and control over certain processes, and will create opportunity to solve problems by comprehensive approach and efficient spending of financial resources.

The above-mentioned conclusion was drawn by the comprehensive analyses of adoption of relevant system at the Prosecution services of different states, taking into consideration the peculiarities of the Prosecution service of the Republic of Armenia.

By the way, in many cases, programme solutions will depend on adoption of relevant programmes in other law-enforcement bodies, since within implementation of the measure, prescribed in the Point 51 of the list of measures, stipulated in the Decision 1039-N “On adoption of the crime prevention state programme”, adopted on March 27, 2008 by the Government of the Republic of Armenia, is stipulated to integrate the data bases of law-enforcement bodies (including prosecution service) in one system and create one joined information system, the information base, provided through the electronic (computer) management system (programme) of statistics and archive running will be a component of the above-mentioned united system. That is why the General Prosecutor’s office of the Republic of Armenia takes part in the works of the inter-agency commission and the working group, established for these activities.

The final programme and the preparation and adoption of it will depend on upcoming changes in the Criminal Procedure Code of the Republic of Armenia and other legal acts, directly connected to it, including many upcoming changes and amendments in the Criminal code of the Republic of Armenia, by the adoption of which will be possible to avoid the need to prepare programme once again and will be possible to begin the preparation and adoption of the final programme from 2012.

62. What kind of objectives are set for the prosecution service, if such a system of objectives exists? Does your system use benchmarks of achieved results?

**Answer 25.** There are no specific tasks prescribed to the Prosecution service, but the Constitution of the Republic of Armenia (Article 103) and the RA Law “On Prosecution” specify the powers, stipulated to the Prosecution service. They are following:

- 1) Instigate criminal prosecution;
- 2) Supervise the lawfulness of inquest and investigation;
- 3) Defend the charges in court;
- 4) File court claims on the protection of state interests;
- 5) Appeal against court judgments, rulings, and decisions; and
- 6) Supervise the lawfulness of the enforcement of sentences and other compulsory measures.

63. Which authority/authorities is/are competent to set these objectives?

**Answer 26.** There is no state authority, which is competent to set objectives for prosecution service, these objectives should be set by the law, in relation to this, we suggest to make certain changes and amendments in the RA Law “On Prosecution”.

In order to discuss fundamental issues related to the organization of the Prosecution activities, a Collegium shall function in the Prosecution, chaired by the Prosecutor General, according to the Article 22 of the RA Law “On Prosecution”. The Collegium shall consist of the Prosecutor General and 12 members. The Collegium members shall be the Deputies of the Prosecutor General, department heads of the General Prosecution Office, and other prosecutors appointed to the Collegium by decree of the Prosecutor General. Decisions of the Prosecution Collegium shall be implemented by decrees of the Prosecutor General.

64. What role does the prosecution service play in setting these objectives?

**Answer 27.** “The Prosecution Staff” State Governance Institution assists and provide services to the prosecutors for implementation of their activities in time and efficiently.

65. Are the objectives coordinated between all authorities of the criminal procedure? If such coordination exists, how does it influence the activities of the prosecution service?

**Answer 28.** In accordance with the former Law “On Prosecution”, the Prosecution service had regulatory status among other law-enforcement bodies. This function gave its positive results in the fight and prevention of crime, in general, and against organized crime, in particular. Within implementation of that function, the Prosecution service specified and regulated the activities of other law-enforcement agencies, making it more purposeful, systematized and centralized. The current legislation does not stipulate the mentioned function, so the tasks for bodies, taking part in criminal process and implementation of authorities in their nature are not regulatory.

66. Are there regulations in your system as regards the optimal workload within prosecution offices? if yes, is the allocation of resources correlated with the workload? Please provide examples.

**Answer 29.** The RA Prosecution service quarterly, termly and annually submits statistics on “The prosecutor’s work” and reviews the results. For each period is composed statistical table “On average monthly workload of senior prosecutors working at the Prosecution service and of prosecutors working at the territorial subdivisions”. The tables concludes and analyses average monthly workload of each prosecutor, on the basis of separate powers of prosecutors, spheres of activities. On the basis of analyses are made certain changes in organization, structure and staff in the Prosecution service for next corresponding term, in order to distribute the workload among the Prosecution offices and structural subdivisions equally, as much as possible.

67. Is the setting of objectives based on a negotiation system?

**Answer 30.** -----

68. Who are parties of the negotiations?

**Answer 31.** -----

## **SECTION VI: Follow-up of results and reporting**

69. Please indicate if there are any national strategies implemented in your state regarding the resources allocated to the judicial system, including the prosecution service. If so, in what areas were these strategies developed? Please comment on the results of these strategies.

**Answer 32.** The international instruments require that salaries and other means of social security for judges and prosecutors should be close to each other, but in Armenia they are very far from each other (salaries are sufficiently different, prosecutors do not have medical insurance, etc.).

70. Is the attainment of objectives followed up yearly? How?

**Answer 33.** Each term and year the Prosecution office resumes and analyses the results of activities. In separate spheres (for example – corruption-related crimes) the activities are resumed quarterly.

71. Have any reforms been implemented during the last 5 years aimed at increasing the budget of justice?

**Answer 34.** During the last 5 years any reforms in approaches to social issues have not been implemented. The most recent increase of prosecutors' salaries took place in January, 2008.

72. Is the prosecution service included in the government strategies for enhancing the efficiency of public institutions (e.g. e-governance, external financial audit)?

**Answer 35.** In accordance with the RA newly-adopted Law "On audit", the funds of the Prosecution service are checked by the audit and reported to the Prosecutor General. The system of electronic management in this sphere was not adopted.

73. How would you assess internal audit recommendations within the prosecution service?

**Answer 36.** The results of monitoring, held by the audit shall be discussed with the Head of Organization and Control Department of the General Prosecutor's office, with the Head of the Prosecution Staff, the Head of Financial-Economic Department of the same Staff and after the discussion, the results shall be reported to the Prosecutor General.

74. Is the social impact of the prosecutors' activities evaluated? If yes, by whom?

**Answer 37.** The Prosecution service, through the Public Relations Department of the RA Prosecution Staff, in accordance with the directives of the Prosecutor General and Deputies Prosecutor General, regularly, within the activities for providing transparency in cooperation with the non-governmental organizations, considers issues, related to the activity of the prosecution service, in particular, anti-corruption, anti-trafficking activities, as well as other issues, which interest the society.

At the same time, different public-opinion polls, held by different organizations on issues social impact, including the activity of the Prosecution service, indicate that during the last 5 years negative opinions on prosecution service activity yield to the positive opinion, the trust of the society increases.

**SECTION I: Status of the prosecution services in the state administration**

1. *Please specify the status of the prosecutor and the prosecution service in your state. Is it an autonomous institution? If yes, how is this autonomy guaranteed?*

In Austria the prosecution service is not an autonomous institution. It consists of prosecution offices (Staatsanwaltschaften and Oberstaatsanwaltschaften) subordinated to the Ministry of Justice.

2. *Does the ministry of justice or another authority govern the activity of the prosecution service? If so, how?*

According to a new provision in the Austrian Constitution (Artikel 90a Bundes-Verfassungsgesetz) the public prosecutors are part of the judiciary. Nevertheless the prosecution service is subordinated to and directed by the Ministry of Justice.

3. *Which authority is responsible for the creation of prosecutor positions?*

The posts of prosecutors are created by the Parliament in the law of the yearly budget of the state (Bundesfinanzgesetz).

4. *Please indicate if there is any connection between the prosecution service and the Ministry of Justice or another public authority in terms of financial and human resources, IT facilities etc. If so, please describe how this connection works.*

The Ministry of Justice administers the budget of the whole judiciary (including the prosecution offices) and controls the expenditure of the means. Public Prosecutors are appointed by the President of the Republic or by the Minister of Justice in accordance with the law of the yearly budget (Bundesfinanzgesetz).

5. *Is the prosecution service independent from other institutions when implementing and managing its own budget?*

The prosecution service does not have an own budget.

**SECTION II: Financial rules and regulations of the prosecution service**

6. *Does the law governing the prosecution service include provisions on financial management and on the executive's obligation to provide it with the necessary infrastructure?*

No

7. *Please describe how and when the budget of the prosecution service is managed (preparation, distribution of funds between the budget lines).*

The budget of the whole judiciary (including the prosecution offices) is prepared by the Ministry of Justice in negotiations with the Ministry of Finance and settled by the Parliament in the law of the yearly budget of the state (Bundesfinanzgesetz). The Ministry of Justice allocates the appropriations to the Presidents of the four Courts of Appeal (Oberlandesgerichte), who administer also the means of the prosecution offices.

8. *Is there a specific department within the prosecution service responsible for the management of resources?*

No

9. *Is there a national and/or centralised IT system for managing, monitoring and evaluating the budget of the prosecution services? Does this system include a mechanism for increasing the efficiency of the resource management?*

No

### SECTION III: Resources of the prosecution service

10. *Please specify the amount of budget of the prosecution service for 2008, 2009, 2010 and 2011 (€ equivalent), indicating the distribution between staff expenditure and other types of expenditure.*

The prosecution service does not have an own budget. Statistics on the means allocated by the Presidents of the Courts of Appeal (Oberlandesgerichte) to the prosecution offices are not available. Therefore no figures can be given.

11. *In your jurisdiction, what resources would you improve access to, and how would you do that (e.g. through partnership agreements, joint investigations, redistribution of resources etc.)?*

12. *Are the current or future budgets of the prosecution service affected by the 2009-2011 economic crisis?*

Yes. Savings in material resources and partly in human resources are expected.

13. *What instruments are used to allocate resources needed for the good functioning of the prosecution service?*

14. *Is there any connection between the budgets allocated to the prosecution service and to the judiciary or to law enforcement bodies?*

Yes. There is a common budget for the judiciary and the prosecution service.

15. *Do human resources of the prosecution service depend on other institutions of the judiciary (e.g. Judicial Council, National Schools of Clerks)?*

No

16. *In your jurisdiction, is there any mechanism of rapid reaction which could allow a quick redistribution of means (financial or human resources, logistics) between prosecution services, according to the needs of the system?*

Yes. There is the possibility of staff transfer (with consent of the employee).

17. *Does the General Prosecutor (or equivalent institution) have a specific budget for taking interim/temporary measures in situations when, within a certain prosecution service, human resources are insufficient?*

No

### SECTION IV: Budget for investigations

18. *What steps are required in order to obtain direct access to the resources needed for investigations? Please assess the period of time that elapses between submitting a request for resources and the moment when they are actually obtained.*

Material resources have never been a problem for the realisation of investigations.

19. *Have you ever faced the risk that special investigative techniques (e.g. communication interceptions, legal-genetic expertise, computer search) could not be applied in due time because of insufficient resources? Have insufficient resources in general affected the performance of criminal investigation in normal cases?*

No

20. *Is the resource management performed by the prosecution services during their investigations controlled? Please specify.*

The Auditor General's Office (Rechnungshof) is authorised to control the financial conduct of all public institutions.



21. *What is the resource management procedure when various agencies are involved in the investigation procedure (e.g. the police)?*

Every agency has to pay the costs of its action by itself.

22. *Is it possible for prosecutors to specialise in certain type of crimes? If so, what kind of effect it has had on the results of the prosecution service?*

There is the possibility for specialising in certain types of crimes, such as economic, sexual and financial criminal cases. For the prosecution of corruption and economic crimes a special prosecution office (Zentrale Staatsanwaltschaft zur Verfolgung von Wirtschaftsstrafsachen und Korruption) has been established 2009. The time for an evaluation is too short.

23. *Are there areas of investigation that have priority access to financial or material resources? If so, how and by whom is this priority established?*

No. The legality principle does not allow to give priorities.

#### **SECTION V: Description of the system of management by results**

24. *Do you have a system of management by results? (Please specify.) If yes, is there any problem with this system ?*

No

25. *What kind of objectives are set for the prosecution service, if such a system of objectives exists? Does your system use benchmarks of achieved results?*

26. *Which authority/authorities is/are competent to set these objectives?*

27. *What role does the prosecution service play in setting these objectives?*

28. *Are the objectives coordinated between all authorities of the criminal procedure? If such coordination exists, how does it influence the activities of the prosecution service?*

There is the possibility for installing special investigation teams to increase efficiency.

29. *Are there regulations in your system as regards the optimal workload within prosecution offices? if yes, is the allocation of resources correlated with the workload? Please provide examples.*

The posts of public prosecutors are allocated to the separate prosecution offices depending on the workload.

30. *Is the setting of objectives based on a negotiation system?*

No

31. *Who are parties of the negotiations?*

#### **SECTION VI: Follow-up of results and reporting**

32. *Please indicate if there are any national strategies implemented in your state regarding the resources allocated to the judicial system, including the prosecution service. If so, in what areas were these strategies developed? Please comment on the results of these strategies.*

33. *Is the attainment of objectives followed up yearly? How?*

34. *Have any reforms been implemented during the last 5 years aimed at increasing the budget of justice?*

Yes. The reform of the criminal procedure and the installation of a special office for the prosecution of corruption and economic crimes (Zentrale Staatsanwaltschaft zur Verfolgung von Wirtschaftsstrafsachen und Korruption) required higher personal and material resources.

35. *Is the prosecution service included in the government strategies for enhancing the efficiency of public institutions (e.g. e-governance, external financial audit)?*

Yes

36. *How would you assess internal audit recommendations within the prosecution service?*

37. *Is the social impact of the prosecutors' activities evaluated? If yes, by whom?*

### SECTION I: Status of the prosecution services in the state administration

1. Please specify the status of the prosecutor and the prosecution service in your state. Is it an autonomous institution? If yes, how is this autonomy guaranteed?

The prosecutors and the judges in Bulgaria are magistrates. The prosecution service is a part of the judicial branch and it is independent from the executive power, which is the ultimate guarantee for their autonomy.

2. Does the ministry of justice or another authority govern the activity of the prosecution service? If so, how?

The prosecution service is autonomous from the Ministry of Justice and other governmental institutions.

3. Which authority is responsible for the creation of prosecutor positions?

The Supreme Judicial Council is responsible for the creation of positions for prosecutors and judges.

4. Please indicate if there is any connection between the prosecution service and the Ministry of Justice or another public authority in terms of financial and human resources, IT facilities etc. If so, please describe how this connection works.

The Supreme Judicial Council organizes the execution of judiciary budget through the Inspectorate at the Supreme Judicial Council, the courts, the Prosecutor General and the National Institute of Justice. The connection between the prosecution service and the Ministry of Justice (Government) in terms of financial and human resources, IT facilities etc. is not direct. It works through the procedure of submitting the budget for the judiciary.

The Minister of Justice arranges the management of the property of the judiciary.

5. Is the prosecution service independent from other institutions when implementing and managing its own budget?

The draft budget of the judiciary is prepared in compliance with the instructions and with participation of the Supreme Judicial Council. The Supreme Judicial Council arranges the performance of the judiciary budget through the Inspectorate at the Supreme Judicial Council, the courts, the Prosecutor General and the National Institute of Justice. When implementing and managing its own part of the judiciary budget, the prosecution service is independent from the governmental institutions.

### SECTION II: Financial rules and regulations of the prosecution service

6. Does the law governing the prosecution service include provisions on financial management and on the executive's obligation to provide it with the necessary infrastructure?

Judiciary has its own budget (Art. 117, paragraph 3 from the Constitution of the Republic of Bulgaria and Art. 361, paragraph 1 from the Judicial System Act (JSA)).

Judiciary budget consists of the budgets of the Supreme Judicial Council, Inspectorate at the Supreme Judicial Council, judiciary bodies which are legal entities, and the National Institute of Justice ( Art. 361, paragraph 2 of JSA).

7. Please describe how and when the budget of the prosecution service is managed (preparation, distribution of funds between the budget lines).

Judicial authorities prepare draft budgets (for 1 or 3 years). They should be in compliance with the instructions of the Supreme Judicial Council (SJC) and the macroeconomic indicators included in the requirements of the Ministry of Finance. They should reflect the real needs for fulfillment of the obligations of judiciary and the tasks arising from the strategy for judicial reform. The Minister of Justice proposes the draft budget for judiciary and submits it for consideration to the Supreme Judicial Council (Art.362 from JSA). The draft budget is supported by estimates for the next two years (Art. 363 from JSA).

The Council of Ministers submits to the National Assembly the annual draft Law for the State Budget of the Republic of Bulgaria, together with the annual draft budget for the judiciary proposed by the Supreme Judicial Council supported by detailed statement (Art. 364, paragraph 1 from JSA). The National Assembly

approves judiciary budget by key indicators of revenue and expenditure and by judicial authorities as a separate part of the state budget (Article 364, paragraph 3 from JSA).

The Supreme Judicial Council organizes the execution of judiciary budget through the Inspectorate at the Supreme Judicial Council, the Supreme Cassation Court, the Supreme Administrative Court, the district and regional courts, the Prosecutor General and the National Institute of Justice (Art. 365 from JSA).

According to the Law for the Annual State Budget the Supreme Judicial Council can make changes of expenditures for judiciary during the budget execution, including allocation of funds from surplus in revenues from activities of judiciary according to order designated by the SJC.

8. Is there a specific department within the prosecution service responsible for the management of resources?

Financial and Economic Activities Directorate at the Administration of the Prosecutor General is in charge of financial and material provision of the Prosecutors' Offices in the country.

9. Is there a national and/or centralised IT system for managing, monitoring and evaluating the budget of the prosecution services? *Does this system include a mechanism for increasing the efficiency of the resource management?*

In compliance with Art. 3, paragraph 1 from the Law for Financial Management and Control in the Public Sector / LFMCPs / the Heads of organizations in the public sector are responsible for the financial management and control of all structures, programs, activities and processes managed by them in accordance with the principles of legality, good financial management and transparency.

Heads at all levels of the organization report to the higher level Head about their activities in terms of financial management and control of the structures and units managed by them (Article 3, paragraph 2 from LFMCPs).

### SECTION III: Resources of the prosecution service

10. Please specify the amount of budget of the prosecution service for 2008, 2009, 2010 and 2011 (€ equivalent), indicating the distribution between staff expenditure and other types of expenditure.

Items in euro

Name of the items	§	Approved budget for 2008	Approved budget for 2009	Approved budget for 2010.	Approved budget for 2011.
Budget costs for judiciary		60 184 382	73 954 112	88 168 040	86 756 461
Total costs for staff		51 883 424	65 843 790	80 008 705	77 052 495
Costs for implementing current activities	10 00	6 332 484	7 903 550	7 992 813	9 089 444
% of costs for staff compared to total budget costs		86.21	89.03	90.75	88.81
% of costs for implementing current activities compared to total budget costs		13.79	10.97	9.25	11.19

11. *In your jurisdiction, what resources would you improve access to, and how would you do that (e.g. through partnership agreements, joint investigations, redistribution of resources etc.)?*

To improve the work in structural units, the Prosecutor's Office of Bulgaria participates as beneficiary or partner in international and national projects and programmes, such as Operational Programme "Administrative Capacity".

12. Are the current or future budgets of the prosecution service affected by the 2009-2011 economic crisis?

The budget of judiciary, including the Prosecutor's Office of the Republic of Bulgaria, is set by the Law for the Annual State Budget of the Republic of Bulgaria. The budget of the Prosecutor's Office for 2012 has the parameters of the initial budget adopted three years ago with adjustment (increase) for activity of newly established Specialized Prosecutors' Offices. This budget framework restricts our opportunities to allocate funds for different lines (by costs and paragraphs).

In connection with the restrictive budgets for the period 2009-2011 and the instructions for budget execution, currently we pay attention to administrative heads to pursue a policy of strict budget savings and optimal prioritization of costs. Adjustments in budget accounts are made after approval with protocols from the Supreme Judicial Council with a view to the most appropriate, effective and optimal utilization of funds. Prioritization of costs and assumption of obligations are made only within the approved costs in the budget account.

13. *What instruments are used to allocate resources needed for the good functioning of the prosecution service?*

Law for the State Budget regulates the main phases of budget process, i.e. drafting, adoption, execution and reporting.

Introduction of program budgeting approach in Bulgaria aims at more effective allocation of available budget resources and their efficient spending. In program budgeting each proposal for funding particular program or project is supported by analysis including assessment of costs and benefits. In the best case, projects have clear objectives and measurable indicators for their achievement and after implementation are reported publicly.

The annual budget account of the Prosecutor's Office is approved on key indicators from the UBC /unified budget classification/ by decision of the Supreme Judicial Council. The approved budget is allocated on paragraphs from UBC and structural units. The Prosecutors' Offices budget accounts are approved by the Deputy Prosecutor General of Administrative Affairs.

On the basis of data collected from the separate units in the Prosecutor's Office a proposal for allocation of the approved budget is prepared. It includes funds for: salaries and contributions for employed staff; current activities; retirement compensations; repairs and facilities for employed staff and new employees as well as provision for expert services costs. Funds for salaries are planned on the basis of the employed staff in the Prosecutors' Offices in the country. Other items are prepared after analysis of budget execution during the previous year; all positions and occupied positions; necessary costs for current activities (including expertise and experts' fees).

14. *Is there any connection between the budgets allocated to the prosecution service and to the judiciary or to law enforcement bodies?*

State budget covers national budget and budget of judiciary. State budget sets:

- funds required for implementing functions and tasks of public authorities.
- organizational structure of the state budget and the arrangements for its drafting, adoption, execution and reporting.

According to the Law for the State Budget, Judicial System Act, Council of Ministers decision on the annual budget procedure and instructions of the Ministry of Finance, the Supreme Judicial Council prepares its draft budget and submits it to the Council of Ministers to become a part of the draft state budget. Ministry of Finance considers the draft budget presented by the Supreme Judicial Council and informs the latter in written about its statement. Prosecutor's Office budget is an inseparable part of the budget of the SJC. The National Assembly approves the budget of judiciary by key indicators of revenue and expenditure and by judicial authorities as an independent part of the state budget.

15. *Do human resources of the prosecution service depend on other institutions of the judiciary (e.g. Judicial Council, National Schools of Clerks)?*

In executing its powers set out in the Constitution, the Supreme Judicial Council carries out following activities:

- determines the number of judges, prosecutors and investigators in Courts, Prosecutors' Offices and Investigation Services according to the level of workload. After proposal or consultation with the administrative heads of judiciary and for the prosecutors and investigators –with the Prosecutor General it opens new or closes vacant positions;/ Art.30, paragraph 3 from the JSA /;
- organizes and carries out competitions for judges, prosecutors and investigators; / Art.30, paragraph 4 from JSA/

Judges, prosecutors, investigators, administrative heads and deputy administrative heads, with the exception of the Chair of the Supreme Court, the Chair of the Supreme Administrative Court and the Prosecutor General, are employed, promoted, demoted, transferred and dismissed by the Supreme Judicial Council

according to Art.160 from JSA. The Supreme Judicial Council is a primary administration of budget appropriations.

16. In your jurisdiction, is there any mechanism of rapid reaction which could allow a quick redistribution of means (financial or human resources, logistics) between prosecution services, according to the needs of the system?

There is a mechanism for redistribution of human resources via transformation of positions between the Prosecutors' Offices in the country. It is made by order of the Prosecutor General. If necessary magistrates are sent in other Prosecutors' Offices for a certain period /Art.147, paragraph. 1, 2 from JSA/.

At the end of each quarterly reported period during the year, a comprehensive analysis on execution of budget accounts in the structural units of the Prosecutor's Office is made. After that an update of budget accounts of the Prosecutors' Offices in the country is performed via internally compensated changes under paragraphs and subparagraphs from the Unified Budget Classification. Updated accounts are approved by the Deputy Prosecutor General of Administrative Affairs.

17. Does the General Prosecutor (or equivalent institution) have a specific budget for taking interim/temporary measures in situations when, within a certain prosecution service, human resources are insufficient?

At official need:

1. For his appellate region the appellate prosecutor may second prosecutors under the conditions stipulated by the Judicial System Act for seconding judges;
2. For his district the district prosecutor, may second prosecutors under the conditions stipulated by the Judicial System Act for seconding judges;
3. The Prosecutor General may second prosecutors and investigators throughout the country for up to one year. / Art.147 from JSA /

#### **SECTION IV: Budget for investigations**

18. What steps are required in order to obtain direct access to the resources needed for investigations? Please assess the period of time that elapses between submitting a request for resources and the moment when they are actually obtained.

A report is submitted to the administrative head of the investigative service to authorize costs for investigation. An enactment signed by investigator/prosecutor and endorsed by the administrative head is prepared for the expertise. The enactment together with account for the remuneration paid to experts is submitted to financial unit for payment of costs.

19. Have you ever faced the risk that special investigative techniques (e.g. communication interceptions, legal-genetic expertise, computer search) could not be applied in due time because of insufficient resources? Have insufficient resources in general affected the performance of criminal investigation in normal cases?

No.

20. Is the resource management performed by the prosecution services during their investigations controlled? Please specify.

Costs for investigations are controlled by obeying requirements of Ordinance No 2 from 26.10.2011 about the conditions and procedures for conducting forensic and forensic psychological expertise, including payments of costs of medical institutions.

21. What is the resource management procedure when various agencies are involved in the investigation procedure (e.g. the police)?

Agreements for mutual activity are signed between bodies when other bodies are involved in investigation.

22. Is it possible for prosecutors to specialise in certain type of crimes? If so, what kind of effect it has had on the results of the prosecution service?

In relation to optimizing activity of Supreme Cassation Prosecutor's Office and pursuant to Article 138, item 1 of the JSA, a new structure was established by order No 323 / 10.02.2012 of the Prosecutor General. The prosecutors in the Supreme Cassation Prosecutor's Office and the District Prosecutor's Offices are specialized in functions and area (type of crimes).

23. Are there areas of investigation that have priority access to financial or material resources? If so, how and by whom is this priority established?

No.

#### **SECTION V: Description of the system of management by results**

24. Do you have a system of management by results? (Please specify.) If yes, is there any problem with this system ?

System for reporting workload has been introduced in the bodies of judiciary in the Republic of Bulgaria, including the Prosecutor's Office. It reports workload under specific quantitative and qualitative indicators – number and type of initiated and resolved cases and prosecutors' correspondences, types of judgments, terms.

Depending on workload data the Supreme Judicial Council is competent to determine or change number of judiciary personnel. This is done to equalize the workload in different judicial regions in accordance with the number of employees in law enforcement. In this way approximate equalization of price of justice is achieved as the main budget expenditures are for the bodies of judiciary.

Changes in number of personnel and their distribution are usually made after proposal of the respective heads.

25. What kind of objectives are set for the prosecution service, if such a system of objectives exists? Does your system use benchmarks of achieved results?

The purpose of workload reporting is to create conditions for equal distribution of workload in the Prosecutor's Office and optimal use of human and other resources. Criteria for workload are mainly statistical - number of prosecutors' correspondences and cases, number and type of enactments. Now the Supreme Judicial Council is elaborating a system of additional criteria to make the approach to workload measuring more differentiated and accurate.

26. Which authority/authorities is/are competent to set these objectives?

The competent authority is the Supreme Judicial Council.

27. What role does the prosecution service play in setting these objectives?

The Prosecutor's Office of the Republic of Bulgaria is unitary and centralized system and has an interest in establishing reliable criteria for measuring workload to allow flexible management of resources. Therefore, the management of the Prosecutor's Office proposes to SJC models and practical solutions and assists the creation of new system for reporting.

28. Are the objectives coordinated between all authorities of the criminal procedure? If such coordination exists, how does it influence the activities of the prosecution service?

Decisions are taken by the Supreme Judicial Council, which administers the activities and budget of all bodies of judiciary – Courts, Prosecutor's Offices and Investigation Services. Thus objectives and criteria are coordinated in the area of criminal justice. Under the current model governing judiciary in Bulgaria, it is beneficial for the activity of the Prosecutor's Office.

29. Are there regulations in your system as regards the optimal workload within prosecution offices? if yes, is the allocation of resources correlated with the workload? Please provide examples.

Yes, this is the content of the answer to question No 24. Example for resource management depending on workload at the Prosecutor's Office was the proposal for reassigning military prosecutors and investigators (whose competence was limited due to changes and their workload dropped significantly) at first instance Prosecutors' Offices of general jurisdiction. These proposals were accepted by the Supreme Judicial Council.



30. Is the setting of objectives based on a negotiation system?

Negotiations in the strict sense are not carried out, as decisions are entirely in the power of the Supreme Judicial Council and do not imply agreement between parties. However, in discussing objectives and possible methods to achieve them, judicial authorities, including the Prosecutor's Office are given the opportunity to present their views and make substantiated proposals. Such an opportunity is also given to the professional associations of employees working in judiciary.

31. Who are parties of the negotiations?

As stated, "parties in the negotiations" is not appropriate for the current model of judiciary governance in Bulgaria. We would rather talk about bodies and organizations that assist SJC in establishing systems for reporting workload, determining number of personnel, attesting magistrates and others. These are the Courts and Prosecutors' Offices - including its units, as well as the associations of employees working in judiciary.

**SECTION VI: Follow-up of results and reporting**

32. Please indicate if there are any national strategies implemented in your state regarding the resources allocated to the judicial system, including the prosecution service. If so, in what areas were these strategies developed? Please comment on the results of these strategies.

National strategies for development and reform in law enforcement are adopted by Government and National Assembly. There is such a national strategy which has been adopted by the current government. The reform of judiciary in the field of criminal proceedings in particular has been set as a priority. Specific areas include improving collection of evidence and interaction between institutions, shortening the terms of criminal process, combating organized crime and corruption.

From a budgetary standpoint, treating judicial reform as a priority did not allow financial crisis to affect seriously the funds provided for the activity of judiciary and the Prosecutor's Office in particular. At shortages in initially approved budget, additional expenditures supported by the relevant justification are approved by Supreme Judicial Council.

33. Is the attainment of objectives followed up yearly? How?

National strategies adopted by now are for longer periods.

Activity of judicial bodies and especially of the Prosecutor's Office is reported in detail annually. Law enforcement in the Republic of Bulgaria is firmly based on the principle of legality and the Prosecutor's Office shall decide each registered case of its jurisdiction. As to the relationship between this principle and the budget of judiciary, the Prosecutor of the Republic of Bulgaria has not faced inability to perform its duties because of budget shortages by now.

34. Have any reforms been implemented during the last 5 years aimed at increasing the budget of justice?

Targeted increase of judiciary budget is being discussed at the moment with a view to creating a national mechanism for compensation of persons whose right for hearing and judging a case within a reasonable term under Art. 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms is violated.

As to the Prosecutor's Office strictly, the National Investigation Service (NIS) was incorporated in the structure of the Prosecutor's Office with the respective budget effect in accordance with the amendment of Judicial System Act from 2009. Budget account of the Prosecutor's Office was increased by Council of Ministers Ordinance from June 2011 in connection with the creation of specialized first instance and appellate prosecutor's offices in force from 1 January, 2012.

1. Is the prosecution service included in the government strategies for enhancing the efficiency of public institutions (e.g. e-governance, external financial audit)?

Yes.

Despite being part of independent judiciary, Prosecutor's Office of Bulgaria participates in interinstitutional working groups together with bodies from the executive power on planning of legislative changes and creation of secondary regulations. Some of them aim at enhancing the efficiency of public institutions. Prosecutor's Office of the Republic of Bulgaria participates in the Center for Prevention and Counteraction of Corruption. The main task of the Centre is to identify problem areas and to support all competent public authorities in preventing and combating corruption and organized crime. In this sense it is expected from the



Centre, as a specialized administrative structure to enhance the effectiveness and integrity of public institutions.

The Prosecutor's Office of the Republic of Bulgaria is subject to external audit. It is carried out by Bulgarian National Audit Office annually after certification of the annual report of SJC. The Prosecutor's Office presents its summarized report to the SJC. If necessary, the Prosecutor's Office provides additional information supporting the annual report. Prosecutor's Office is included in planned inspections according to a preliminary approved annual schedule of the Bulgarian National Audit Office.

2. How would you assess internal audit recommendations within the prosecution service?

There is an Internal Audit Unit at the Prosecutor's Office which inspects all activities and processes in the Prosecutor's Office according to approved annual plan. At identified gaps in the work of the Prosecutor's Office an action plan is prepared to meet recommendations. As a result of implementing recommendations internal rules are updated, or detailed procedures are drawn.

3. Is the social impact of the prosecutors' activities evaluated? If yes, by whom?

Activity of the Prosecutor's Office and Investigation Services is reported to the National Assembly by the Prosecutor General with an annual report. The annual report is submitted to the Supreme Judicial Council which receives ongoing information for the activity of prosecutors during the year. The social impact of prosecutors' work is institutionally evaluated by two independent bodies - the National Assembly and the Supreme Judicial Council.

**SECTION I: Status of the prosecution services in the state administration**

4. Please specify the status of the prosecutor and the prosecution service in your state. Is it an autonomous institution? If yes, how is this autonomy guaranteed?

**- Yes. Pursuant to the Constitution of the Republic of Croatia<sup>1</sup> the prosecution service is an autonomous institution.**

5. Does the ministry of justice or another authority govern the activity of the prosecution service? If so, how?

**- No.**

6. Which authority is responsible for the creation of prosecutor positions?

**- Public Prosecutor's Office of the Republic of Croatia.**

7. Please indicate if there is any connection between the prosecution service and the Ministry of Justice or another public authority in terms of financial and human resources, IT facilities etc. If so, please describe how this connection works.

**- Public Prosecutor's Office is financed from the state budget which is allocated to the Ministry of Justice of the Republic of Croatia. Public prosecutor's Office proposes the amount to the Ministry of Justice, but the Ministry is not bound by the proposition. Once the financial resources are approved, the Public Prosecutor's Office uses it according to its needs. Ministry of Justices contracts and procures equipment, including IT equipment for the Public Prosecutor's Office.**

8. Is the prosecution service independent from other institutions when implementing and managing its own budget?

**- Public Prosecutor's Office of the Republic of Croatia allocates resources according to its needs. It is independent from other institutions.**

**SECTION II: Financial rules and regulations of the prosecution service**

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<sup>1</sup> The Constitution of the Republic of Croatia

**5. THE OFFICE OF THE PUBLIC PROSECUTIONS**

**Article 124**

The Office of the Public Prosecutions is an autonomous and independent judicial body empowered and due to proceed against those who commit criminal and other punishable offences, to undertake legal measures for protection of the property of the Republic of Croatia and to provide legal remedies for protection of the Constitution and law.

The Chief Public Prosecutor of the Republic of Croatia shall be appointed by the Croatian Parliament at the proposal of the Government of the Republic of Croatia and with a prior opinion of the authorized committee of the Croatian Parliament for a four-year term.

At assuming their duty for the first time, Deputy Public Prosecutors shall be appointed for a five-year term. After the renewal of the appointment they shall assume their duty as permanent.

Deputy Public Prosecutors shall, in conformity with the Constitution and law, be appointed, relieved and decided upon their disciplinary responsibility by the National Council of Public Prosecutions. The National Council of Public Prosecutions shall be elected by the Croatian Parliament in the way and procedure determined by law. The majority of members of the National Council of Public Prosecutions shall be from ranks of Deputy Public Prosecutors.

Head officials of the public prosecutions' offices may not be elected as members of the National Council of Public Prosecutions.

Jurisdiction, organization and the mode of operation of the National Council of the Public Prosecutions shall be regulated by law.

The establishment, organization, jurisdiction and competence of the Office of Public Prosecutions shall be regulated by law.

9. Does the law governing the prosecution service include provisions on financial management and on the executive's obligation to provide it with the necessary infrastructure?

- **It includes general provisions, but the resources are provided in the budget upon the proposal of the Ministry and executive decides on the spending the resources which refer to material expenses.**

10. Please describe how and when the budget of the prosecution service is managed (preparation, distribution of funds between the budget lines).

- **resources are in advance distributed for:**
  - **salaries**
  - **material expenses**
  - **functional expenses (on-call duty, etc.)**

11. Is there a specific department within the prosecution service responsible for the management of resources?

- **No, there is accounting service which monitors the spending in terms of salaries and functional expenses; prosecutor decides on spending the material resources based on needs.**

12. Is there a national and/or centralised IT system for managing, monitoring and evaluating the budget of the prosecution services? *Does this system include a mechanism for increasing the efficiency of the resource management?*

- **No.**

### **SECTION III: Resources of the prosecution service**

13. Please specify the amount of budget of the prosecution service for 2008, 2009, 2010 and 2011 (€ equivalent), indicating the distribution between staff expenditure and other types of expenditure.

	2008	2009	2010	2011
budget	3,282,143	5,509.574	2,983.790	2,858.695
Expenses - employees	2,173.909	2,136.000	2,099.643	2,088,563
Other expenses	1,108.234	3,373.574	884.147	770.132

14. *In your jurisdiction, what resources would you improve access to, and how would you do that (e.g. through partnership agreements, joint investigations, redistribution of resources etc.)?*

- **We believe Prosecutor's Office should independently submit proposal for resources and manage one's budget without the Ministry.**

15. Are the current or future budgets of the prosecution service affected by the 2009-2011 economic crisis?

- **Yes.**

16. *What instruments are used to allocate resources needed for the good functioning of the prosecution service?*

- **Q is not clear, what is meant by "to allocate resources"**

17. Is there any connection between the budgets allocated to the prosecution service and to the judiciary or to law enforcement bodies?

- **No.**

18. Do human resources of the prosecution service depend on other institutions of the judiciary (e.g. Judicial Council, National Schools of Clerks)?

- **Q is not entirely clear: regarding the total number of deputy prosecutors, decision is made by the Public Prosecutor's Office of the Republic of Croatia. Appointment of deputies (and prosecutors) is performed by the Prosecutor's Council.**

19. In your jurisdiction, is there any mechanism of rapid reaction which could allow a quick redistribution of means (financial or human resources, logistics) between prosecution services, according to the needs of the system?

- **There is a possibility of a swift transfer of deputies pursuant to the Act on the Public Prosecutor's Office and in line with the needs.**

20. Does the General Prosecutor (or equivalent institution) have a specific budget for taking interim/temporary measures in situations when, within a certain prosecution service, human resources are insufficient?

- **No.**

#### **SECTION IV: Budget for investigations**

21. What steps are required in order to obtain direct access to the resources needed for investigations? Please assess the period of time that elapses between submitting a request for resources and the moment when they are actually obtained.

- **There is no "special budget for investigations". Budget is unique and money is allocated in line with needs.**

22. Have you ever faced the risk that special investigative techniques (e.g. communication interceptions, legal-genetic expertise, computer search) could not be applied in due time because of insufficient resources? Have insufficient resources in general affected the performance of criminal investigation in normal cases?

- **Sometimes it affects the length of proceedings.**

23. Is the resource management performed by the prosecution services during their investigations controlled? Please specify.

24. What is the resource management procedure when various agencies are involved in the investigation procedure (e.g. the police)?

- **Police has its own budget that is outside the competence of the Public Prosecutor's Office. Situation is the same with some other agencies (Tax Administration, Customs Administration...)**

25. Is it possible for prosecutors to specialise in certain type of crimes? If so, what kind of effect it has had on the results of the prosecution service?

- **There are certain specialized departments: for the fight against corruption and organised crime or for war crimes.**
- **Excellent results achieved justify the existence of such specialized departments.**

26. Are there areas of investigation that have priority access to financial or material resources? If so, how and by whom is this priority established?

- **There is no formal priority, although cases involving persons deprived of freedom, minors, war crimes, corruption and organised crime are a priority.**

#### **SECTION V: Description of the system of management by results**

27. Do you have a system of management by results? (Please specify.) If yes, is there any problem with this system ?

- **Yes, there is a system based on the monitoring of monthly work results. Based on that monitoring work is directed, cases assigned and deputies from other prosecutor's offices referred, if assistance is needed.**

28. What kind of objectives are set for the prosecution service, if such a system of objectives exists? Does your system use benchmarks of achieved results?

- **Yes, there are measurable criteria regarding promptness in work and successfulness in proceedings. Public Prosecutor's Office is prompt if number of unsolved cases is under the quarterly inflow of cases. Successfulness is considered to be good if number of negative decisions in regard to indictments is less than 15%.**

29. Which authority/authorities is/are competent to set these objectives?

- **Public Prosecutor's Office of the Republic of Croatia.**

30. What role does the prosecution service play in setting these objectives?

- **See 26. Public Prosecutor's Office sets the objectives.**

31. Are the objectives coordinated between all authorities of the criminal procedure? If such coordination exists, how does it influence the activities of the prosecution service?

- **No.**

32. Are there regulations in your system as regards the optimal workload within prosecution offices? if yes, is the allocation of resources correlated with the workload? Please provide examples.

- **There are no such precise regulations. There are only framework measures on average workload used for the calculation of the necessary number of public prosecutors and deputies.**

33. Is the setting of objectives based on a negotiation system?

- **No.**

34. Who are parties of the negotiations?

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## **SECTION VI: Follow-up of results and reporting**

35. Please indicate if there are any national strategies implemented in your state regarding the resources allocated to the judicial system, including the prosecution service. If so, in what areas were these strategies developed? Please comment on the results of these strategies.

- **There is a national strategy on the development of judiciary which refers to the rationalization of network of courts and public prosecutor's offices, expedience of solving cases...**

36. Is the attainment of objectives followed up yearly? How?

- **It is not followed precisely; Ministry revises the strategy every two years.**

37. Have any reforms been implemented during the last 5 years aimed at increasing the budget of justice?

- **No.**

38. Is the prosecution service included in the government strategies for enhancing the efficiency of public institutions (e.g. e-governance, external financial audit)?

- **Essentially, no.**

39. How would you assess internal audit recommendations within the prosecution service?

- **Good, although we do not have sufficient resources for implementation.**

40. Is the social impact of the prosecutors' activities evaluated? If yes, by whom?

- **Once a year, report is submitted to the Croatian Parliament regarding the state of affairs and occurrence of crime, and work. Parliament discusses and assesses the significance of our activities.**

### SECTION I: Status of the prosecution services in the state administration

1. Please specify the status of the prosecutor and the prosecution service in your state. Is it an autonomous institution? If yes, how is this autonomy guaranteed?

Public prosecutor's office is in accordance to Art. 80 of the Czech Republic's constitution a part of executive power established for representation of the state in proceeding before court in cases stipulated by law. The Act on Public Prosecutor's Office does not explicit stipulate the independence of public prosecutor. Nevertheless, it stipulates that public prosecutor's office performs its competence impartially and ensures the protection of fundamental rights and freedoms, public prosecutor is then - within the performance of its function - obliged to proceed among others impartially and fairly and has to refuse any external interference or other influence, which result could be a breach of these duties. However, there is an obvious effort to incorporation of a greater level of independence of public prosecutors and public prosecutor's office and that mainly in the area of criminal competence.

Public prosecutor does not perform his competence as an independent individual endowed with rights and duties but as a part vertically and horizontally structured system of public prosecutor's office under the influence of all links incl. functional and instance superiority, subordination and surveillance. Also for this activity he undoubtedly needs guarantees of impartiality and high level of independence, since he disposes of substantial powers and has high responsibility. It is so a higher level of independence, not full independence as it is in case of for instance judges, but independence within legal bindings between individual levels of public prosecutor's offices also within each office.

Public prosecutor's service creates to public prosecutor's office conditions for a due performance of its competence, especially in terms of personal, organizational, economic, financial and educational and supervises in a manner and within statutory limits proper performance of tasks entrusted to the public prosecutor's office. The performance of public prosecutor's service shall not disrupt the performance of tasks resulting from its competence. This relates to the Ministry of Justice as a central service authority and also all others service authorities (incl. service directors). By the service of public prosecutor's office shall not be interfered in its competence in such way, he would influence the result of performance of its tasks and also not it would be an obstacle of its activity.

Central service authority of public prosecutor's office is the Ministry of Justice. Authorities of public prosecutor's service are then heads of public prosecutors and their deputies.

2. Does the ministry of justice or another authority govern the activity of the prosecution service? If so, how?

The Ministry of Justice performs the service of public prosecutor's office vicariously – in the Supreme public prosecutor's service through the supreme public prosecutor, the service of other offices of public prosecutor's offices system can then perform directly or indirectly through the heads of public prosecutors, who head these public prosecutor's offices and with regard to district public prosecutors, also then through regional public prosecutors. The Ministry of Justice organizes, manages and controls the performance of public prosecutor's service conducted by head of public prosecutors. The Ministry deal with complaints against the procedure of public prosecutor's office.

In case the relevant authority of public prosecutor's service detects, that public prosecutor willfully breached duty of public prosecutor or by his act or behavior endangered trust in activity of public prosecutor's office, in its expertise of its procedure or by it he reduced the seriousness and dignity of function of public prosecutor, he will bring a motion for initiation of disciplinary proceeding in accordance with special legal regulation. He will also bring a motion for initiation of proceeding pursuant to special legal regulation in case public prosecutor is ineligible to perform the function.

3. Which authority is responsible for the creation of prosecutor positions?

Minister of justice appoints public prosecutors on the basis of supreme public prosecutor's proposal, supreme public prosecutor himself is appointed by the government on the basis of minister of justice's proposal. There are (1.2.2012) in total 1236 public prosecutors to this date in the Czech Republic. Their total planned number is 1272. This number determines the Ministry of Justice on the basis of negotiation with heads of competent public prosecutor's offices (Supreme, high and regional – also for district public

prosecutors offices, district public prosecutors can comment the issue of a number of public prosecutors as well).

4. Please indicate if there is any connection between the prosecution service and the Ministry of Justice or another public authority in terms of financial and human resources, IT facilities etc. If so, please describe how this connection works.

The Ministry of Justice performs the public prosecutor's office service in that, it ensures the course of public prosecutor's offices in terms of organizational (e.g. it determines the numbers of public prosecutors, senior officers and professional and other employees of public prosecutor's offices; in Supreme Public Prosecutor's Office in accordance with supreme public prosecutor), it ensures the course of public prosecutor's offices in terms of personal (it determines the methodic of election of legal trainees and methodically manages their acceptance into the employment relationship, it manages and organizes training preparation, especially determines for every regional public prosecutor's office the numbers of legal trainees and decides on counting the period of other legal activity into the training praxis, organizes and ensures professional final exams of legal trainees, organizes and manages professional education of senior officers and other employees of public prosecutor's office), it ensures the course of public prosecutor's offices in that, in ensures financing of their economy and material security, it determines to the regional public prosecutor's offices within the approved budget chapter means of state budget determined for economy of regional public prosecutor's office and district public prosecutor's offices in his district, minimally in the extent of division of binding indicators given by the Act on State Budget. The Ministry of Finance further organizes, manages and controls the performance of public prosecutor's offices service conducted by heads public prosecutors.

5. Is the prosecution service independent from other institutions when implementing and managing its own budget?

The Ministry of Justice performs the service of public prosecutor's office in matters of property of the state and state budget always through competent heads public prosecutors. Organizational body is an accounting unit, if special law or directly the Act on Public Prosecutor's Office so stipulates, the accounting units are the Supreme Public Prosecutor's Office, High and regional public prosecutor's offices.

There is a lot of talk in the Czech Republic recently that public prosecutor's office, which is a part of executive power and resort of the Ministry of Justice, has no independent links to the constitutional authorities, would dispose of an independent budget chapter. Art. 4 of the Recommendation of the Council of Ministers to the member states Rec (2000) 19 on the task of public action in the system of criminal justice would be fulfilled to a greater degree and pursuant to it the states will accept effective measures in order to guarantee public procurators can fulfill their professional duties and responsibility on the basis of corresponding legal and organizational conditions and also material means which are available for them. Such conditions are determined in cooperation with offices representatives of public action. A separation of budget chapter of public prosecutor's office was not realized so far.

## **SECTION II: Financial rules and regulations of the prosecution service**

6. Does the law governing the prosecution service include provisions on financial management and on the executive's obligation to provide it with the necessary infrastructure?

The Act on Public Prosecutor's Office § 13a, Art. (1) states: The task of service of public prosecutor's office is creating of conditions for public prosecutor's office for a proper performance its competence, especially in terms of professional, organizational, economic, financial and educational and to supervise in a manner and within the limits determined by this Act for proper performance. Art. 4 of the tasks entrusted to public prosecutor's office.

7. Please describe how and when the budget of the prosecution service is managed (preparation, distribution of funds between the budget lines).

The Ministry of Justice administers the budget of whole resort and allocates financial resources to individual organizational state units into their budgets. Every organizational state unit has two budgets - one for the wages of public prosecutors and administration (employees, assistants and support staff) and one for other material expenditures (resources for functioning of organizational state unit). The Ministry of Justice can regulate (modify) both budgets in the course of the year through so called budget measures on the basis of Ministry's decision and that by an increase or decrease of the budget resources of the organizational state unit.



For the area of investment expenditures, organizational state unit can receive financial resources directly from the Ministry of Justice and that for pre-approved investment plans.

Budget resources of organizational state unit for respective calendar year come out of organizational state unit budgets over the past years and of specific requirements for an increase of organizational state unit's budget for the next calendar year.

Budget information are always available at the beginning of January for the calendar year at the latest.

8. Is there a specific department within the prosecution service responsible for the management of resources?

Yes, it is service department and relevant department. In case of the Supreme Public Prosecutor's Office it is budget department, payroll administration and accountancy.

9. Is there a national and/or centralised IT system for managing, monitoring and evaluating the budget of the prosecution services? *Does this system include a mechanism for increasing the efficiency of the resource management?*

Yes, the tool is called Information system of state treasury (ISST) and it begins to be applied in praxis currently. ISST administrator is the Ministry of Finance.

Another tool, which will significantly influence budgets, will be a resort system of public procurement (RS CZ), which will be implemented from 1.7.2012. RS CZ administrator is the Ministry for Regional Development.

### SECTION III: Resources of the prosecution service

10. Please specify the amount of budget of the prosecution service for 2008, 2009, 2010 and 2011 (€ equivalent), indicating the distribution between staff expenditure and other types of expenditure.

Expenditures in Euro	2008	2009	2010	2011
Chapter 336 – Ministry of Justice	Value in Euro	Value in Euro	Value in Euro	Value in Euro
<b>Public prosecutor's office in total:</b>	<b>84 110 055, 20</b>	<b>89 330 630,80</b>	<b>83 646 547,20</b>	<b>79 208 627,18</b>
In that wages and other personal expenditures *)	54 929 760,80	56 617 904,00	54 023 367,60	51 383 198,40
Mandatory insurance paid by the employer, FKSP	20 133 300,80	20 307 039,20	19 413 003,60	17 996 145,43
Social benefits	0,00	0,00	0,00	0,00
<b>Other materials expenditures</b>	<b>8 622 607,60</b>	<b>10 484 899,20</b>	<b>9 391 380,00</b>	<b>8 733 589,07</b>
Capital expenditures	424 386,00	1 920 788,40	818 796,00	1095 694,28
*) from that employee wages	14 034 252,68	14 941 711,16	13 802 283,08	13 161 220,52

in an employment relationship				
Wages of public prosecutors	40 874 273,60	41 646 565,92	40 175 748,52	38 165 796,60

Exchange rate - CZK 25/EUR

11. *In your jurisdiction, what resources would you improve access to, and how would you do that (e.g. through partnership agreements, joint investigations, redistribution of resources etc.)?*

Resources for public prosecutor's office determines the Ministry of Justice and every public prosecutor's office (Supreme, high and regional) has its legal personality, i.e. it manages independently with allocated resources within its budget. It depends on its own discretion, how it will manage, what kind of budget-wise measures will it elect, which suppliers will cooperate with etc. Of course, everything has to be in accordance with valid law.

12. Are the current or future budgets of the prosecution service affected by the 2009-2011 economic crisis?

Yes, budgets are influenced by the crisis and it leads to a reduction of allocated financial resources for the functioning of public prosecutor's offices and it does not lead to an increase of budgets for wages (that can cause stagnation increase of average earnings of state administration employees).

There are not so many available resources in the area of investment expenditures, which would be needed for necessary reconstruction or assets renewal.

13. *What instruments are used to allocate resources needed for the good functioning of the prosecution service?*

It leads to a budget setting into specific budget items within the allocated financial resources at the beginning of calendar year due to the rules determined by the Ministry of Justice. The allocation of financial resources for individual costs accounts of the budget is being implemented through the IRES system in orders module. In case financial resources budgeted in budget item are not sufficient, then so called budget measure has to be implemented and that before the financial resources are spent.

14. Is there any connection between the budgets allocated to the prosecution service and to the judiciary or to law enforcement bodies?

There is certainly a connection/relations between the budgets, but only at the level of the Ministry of Justice.

15. Do human resources of the prosecution service depend on other institutions of the judiciary (e.g. Judicial Council, National Schools of Clerks)?

There is a certain dependence within the planning of a number of public prosecutors to a number of specialized professions in the area of resort (e.g. to a number of judges) and also a comparison of number of administrative persons in individual resort areas is conducted. So called systematization of jobs number of public prosecutors and other employees of public prosecutor's office processed at the level of the Ministry of Justice.

16. In your jurisdiction, is there any mechanism of rapid reaction which could allow a quick redistribution of means (financial or human resources, logistics) between prosecution services, according to the needs of the system?

There is no mechanism at the level of the Supreme Public Prosecutor's Office.

17. Does the General Prosecutor (or equivalent institution) have a specific budget for taking interim/temporary measures in situations when, within a certain prosecution service, human resources are insufficient?

No.

#### **SECTION IV: Budget for investigations**

18. What steps are required in order to obtain direct access to the resources needed for investigations? Please assess the period of time that elapses between submitting a request for resources and the moment when they are actually obtained.

Investigation in the Czech Republic is conducted by the Police of the Czech Republic and costs for the performance of investigative acts and for production of evidences are covered from its budget. Investigative acts are covered from the budget of public prosecutor's office in case they were conducted directly on order of public prosecutor's office, what is conducted in the praxis rarely. Interpreting acts are also covered from the budget of public prosecutor's office, if it is decided on their performance by public prosecutor. Such acts are then covered from budget of public prosecutor's office reserved for specific accounting period. Resources are being obtained ad hoc. In extreme cases it could be possible to ask the Ministry of Justice for budget increase in ad hoc form via budget measure.

19. Have you ever faced the risk that special investigative techniques (e.g. communication interceptions, legal-genetic expertise, computer search) could not be applied in due time because of insufficient resources? Have insufficient resources in general affected the performance of criminal investigation in normal cases?

I never met with that case.

20. Is the resource management performed by the prosecution services during their investigations controlled? Please specify.

In public prosecutor's offices, which have their own budget (regional, high and the Supreme Public Prosecutor's Office), the consumption of budgetary commitments is controlled. Control continuously be carried out by employees department of administration, control may also make a separate control department of the Ministry of Justice.

21. What is the resource management procedure when various agencies are involved in the investigation procedure (e.g. the police)?

As already mentioned above, individual acts are paid by the authority which is carried out (in the Czech Republic it is in most cases the Police of the Czech Republic)

22. Is it possible for prosecutors to specialise in certain type of crimes? If so, what kind of effect it has had on the results of the prosecution service?

High public prosecutor's offices in the Czech Republic have committed specialization on some kind of crime. No, the result of administration this classification currently has no effect, because specializations are applied within individual offices. In the future, foresees the establishment of a relatively independent public prosecutor's office for prosecution of serious economic crimes and corruption. Establishment of this specialized department will undoubtedly require a budget increase.

23. Are there areas of investigation that have priority access to financial or material resources? If so, how and by whom is this priority established?

Formally no such areas of investigation exist.

#### **SECTION V: Description of the system of management by results**

24. Do you have a system of management by results? (Please specify.) If yes, is there any problem with this system ?

No.

25. What kind of objectives are set for the prosecution service, if such a system of objectives exists? Does your system use benchmarks of achieved results?

No.

26. Which authority/authorities is/are competent to set these objectives?

No.

27. What role does the prosecution service play in setting these objectives?

No role.

28. Are the objectives coordinated between all authorities of the criminal procedure? If such coordination exists, how does it influence the activities of the prosecution service?

No.

29. Are there regulations in your system as regards the optimal workload within prosecution offices? if yes, is the allocation of resources correlated with the workload? Please provide examples.

No.

30. Is the setting of objectives based on a negotiation system?

No.

31. Who are parties of the negotiations?

No.

## **SECTION VI: Follow-up of results and reporting**

32. Please indicate if there are any national strategies implemented in your state regarding the resources allocated to the judicial system, including the prosecution service. If so, in what areas were these strategies developed? Please comment on the results of these strategies.

No.

33. Is the attainment of objectives followed up yearly? How?

No.

34. Have any reforms been implemented during the last 5 years aimed at increasing the budget of justice?

No.

35. Is the prosecution service included in the government strategies for enhancing the efficiency of public institutions (e.g. e-governance, external financial audit)?

No.

36. How would you assess internal audit recommendations within the prosecution service?

Internal audit recommendations (if it is established at the level of the the prosecutor's office) are helpful for management of the prosecution.

37. Is the social impact of the prosecutors' activities evaluated? If yes, by whom?

No.

## SECTION I: Status of the prosecution services in the state administration

1. Please specify the status of the prosecutor and the prosecution service in your state. Is it an autonomous institution? If yes, how is this autonomy guaranteed?

**The Prosecution Service in Denmark is not an autonomous institution. The Prosecution Service is thus under the responsibility of the Minister of Justice. The Prosecution Service as well as the Police and the Prison Service are subordinate to the Minister of Justice.**

**The Prosecution Service is structured as a hierarchy of three levels headed by the Director of Public Prosecutions (the General Prosecutor). The second level comprises six units called Regional Public Prosecutors, while at the local level there are 12 Commissioners of Police heading both the local Prosecution Service and the police. In addition to the basic structure, the Prosecution Service includes two specialised units with nation jurisdiction: The State Prosecutor for Serious Economic Crime and The Special International Crimes Office handling war crimes and crimes against humanity, etc.**

2. Does the ministry of justice or another authority govern the activity of the prosecution service? If so, how?

**The Ministry of Justice governs the Prosecution Service through a performance contract. The contract for the Prosecution Service is concluded between the Ministry of Justice and the Director of Public Prosecutions and covers the entire organisation. The contract is settled on annual basis and sets the objectives for the Prosecution Service. The contract is not legally binding.**

3. Which authority is responsible for the creation of prosecutor positions?

**The Director of Public Prosecution is responsible for the creation of prosecutor positions. However, sometimes the recruitment process is coordinated together with the Ministry of Justice and other institutions under the Ministry of Justice, such as the Police and the Prison Service.**

4. Please indicate if there is any connection between the prosecution service and the Ministry of Justice or another public authority in terms of financial and human resources, IT facilities etc. If so, please describe how this connection works.

**Cross ministerial IT-facilities (handled by the Prison Service).**

5. Is the prosecution service independent from other institutions when implementing and managing its own budget?

**The Police and the Prosecution Service are commonly funded in the Finance Act (§11.31.01). The specific funds for the prosecution cannot be read out of the Finance Act, but distribution of the total funds is decided by common agreement between the National Police and the Director of Public Prosecutions. The Prosecution Service is independent from other institutions when implementing its own budget; however the administration of the Prosecution Service is – like other public administrations - audited by the National Audit Office of Denmark (Rigsrevisionen).**

## SECTION II: Financial rules and regulations of the prosecution service

6. Does the law governing the prosecution service include provisions on financial management and on the executive's obligation to provide it with the necessary infrastructure?

**In the Finance Act it is stated that The Director of Public Prosecutions has the overall responsibility for steering the entire Prosecution Service both professionally and in terms of HR and financial management. The overall organisation and professional objectives of the Prosecution Service are described in the Danish Administration of Justice Act.**

7. Please describe how and when the budget of the prosecution service is managed (preparation, distribution of funds between the budget lines).

The total funds for the Prosecution Service are distributed through an activity-based resource allocation model. The proposal for funds is distributed to the Commissioners of Police before the negotiation of their internal performance contracts. The Director of Public Prosecutions is responsible for this process. The funding is coupled to goals for efficiency in the performance contracts.

8. Is there a specific department within the prosecution service responsible for the management of resources?

**The Director of Public Prosecutions is responsible for management of resources.**

9. Is there a national and/or centralised IT system for managing, monitoring and evaluating the budget of the prosecution services? *Does this system include a mechanism for increasing the efficiency of the resource management?*

**The Director of Public Prosecutions presents data concerning production, financial and human resources in a resource management application in a centralised IT-based business intelligence system to certain users within the Prosecution Service.**

### SECTION III: Resources of the prosecution service

10. Please specify the amount of budget of the prosecution service for 2008, 2009, 2010 and 2011 (€ equivalent), indicating the distribution between staff expenditure and other types of expenditure.

**Cost of the prosecution service in mill. €**

		Staff expenditure	Other types of expenditure		Total cost
<b>2008</b>	€	71,3	€	17,8	€ 89,1
<b>2009</b>	€	75,4	€	18,2	€ 93,6
<b>2010</b>	€	79,0	€	19,9	€ 98,9
<b>2011</b>	€	78,1	€	20,4	€ 98,5

11. *In your jurisdiction, what resources would you improve access to, and how would you do that (e.g. through partnership agreements, joint investigations, redistribution of resources etc.)?*

It is uncertain what is meant by this question

12. Are the current or future budgets of the prosecution service affected by the 2009-2011 economic crisis?

**No**

13. *What instruments are used to allocate resources needed for the good functioning of the prosecution service?*

It is uncertain what is meant by this question

14. Is there any connection between the budgets allocated to the prosecution service and to the judiciary or to law enforcement bodies?

**See no 5**

15. Do human resources of the prosecution service depend on other institutions of the judiciary (e.g. Judicial Council, National Schools of Clerks)?

**No**

16. In your jurisdiction, is there any mechanism of rapid reaction which could allow a quick redistribution of means (financial or human resources, logistics) between prosecution services, according to the needs of the system?

**There is not a specific mechanism in place. However, when it is called for means can be redistributed on ad hoc basis within certain boundaries.**

17. Does the General Prosecutor (or equivalent institution) have a specific budget for taking interim/temporary measures in situations when, within a certain prosecution service, human resources are insufficient?

**See no 16**

#### **SECTION IV: Budget for investigations**

**Investigations are not within the authority of the Prosecution Service in Denmark - investigations are handled by the police.**

18. What steps are required in order to obtain direct access to the resources needed for investigations? Please assess the period of time that elapses between submitting a request for resources and the moment when they are actually obtained.

19. Have you ever faced the risk that special investigative techniques (e.g. communication interceptions, legal-genetic expertise, computer search) could not be applied in due time because of insufficient resources? Have insufficient resources in general affected the performance of criminal investigation in normal cases?

20. Is the resource management performed by the prosecution services during their investigations controlled? Please specify.

21. What is the resource management procedure when various agencies are involved in the investigation procedure (e.g. the police)?

22. Is it possible for prosecutors to specialise in certain type of crimes? If so, what kind of effect it has had on the results of the prosecution service?

23. Are there areas of investigation that have priority access to financial or material resources? If so, how and by whom is this priority established?

#### **SECTION V: Description of the system of management by results**

24. Do you have a system of management by results? (Please specify.) If yes, is there any problem with this system?

**The Prosecution Service is managed through internal performance contracts for the Regional Public Prosecutors and the Commissioners of Police. The performance contracts are concluded between the Director of Public Prosecutions and the subordinated parties. The contract covers performance objectives on efficiency (based on a weighted production model), production, processing time, reduction of old charges (the average age). Besides the performance objectives, the contracts also cover other areas such as HR and local issues.**

25. What kind of objectives are set for the prosecution service, if such a system of objectives exists? Does your system use benchmarks of achieved results?

**The achieved results of the objectives mentioned above are monitored both individually and as benchmarks in a centralised business intelligence system (see no 9).**

26. Which authority/authorities is/are competent to set these objectives?

**The overall objectives in the performance contract for the Prosecution Service are negotiated between the Ministry of Justice and the Director of Public Prosecutions; where as the objectives in the internal contracts are negotiated between the Director of Regional Public Prosecutions and the Public Prosecutors/the Commissioners of Police. The negotiations at different organisational levels are coordinated at the same time.**

27. What role does the prosecution service play in setting these objectives?

**See no 25 - 26.**

28. Are the objectives coordinated between all authorities of the criminal procedure? If such coordination exists, how does it influence the activities of the prosecution service?

**The performance contract for the Prosecution Service is coordinated with the objectives in the performance contract for the Police, so that these two contracts constitute the overall management framework for the Police and Prosecution Service.**

29. Are there regulations in your system as regards the optimal workload within prosecution offices? if yes, is the allocation of resources correlated with the workload? Please provide examples.

**The resources are allocated through an activity-based budget model, which insures that resources are correlated with the workload.**

30. Is the setting of objectives based on a negotiation system?

**See no 25 – 26.**

31. Who are parties of the negotiations?

**See no 25 – 26.**

#### **SECTION VI: Follow-up of results and reporting**

32. Please indicate if there are any national strategies implemented in your state regarding the resources allocated to the judicial system, including the prosecution service. If so, in what areas were these strategies developed? Please comment on the results of these strategies.

**The political strategy for the Prosecution Service is stated in the political four-year agreement for economy in 2012-2015 of both the Police and the Prosecution Service. Besides the political goals, the Prosecution Service has stated its own long-term goals and strategy for 2010 – 2015 as well as a common strategy for the Police and Prosecution Service for 2011-15.**

33. Is the attainment of objectives followed up yearly? How?

**The attainment of objectives is communicated in a common annual report for the Police and the Prosecution Service. Besides the common annual report, the Director of Public Prosecutions also publishes a non-financial annual report which focuses on the goals of the internal strategy and communicates different feature stories about the results of the Prosecution Service.**

34. Have any reforms been implemented during the last 5 years aimed at increasing the budget of justice?

**A significant reform of the Police and the Prosecution Service was implemented in 2007.**

35. Is the prosecution service included in the government strategies for enhancing the efficiency of public institutions (e.g. e-governance, external financial audit)?

**The Prosecution Service is included in the Government strategy on public procurement. Furthermore, the Prosecution Service is bound by governmental contracts with private service and goods providers.**

**The administration of the Prosecution Service is externally audited by the National Audit Office of Denmark (Rigsrevisionen).**

36. How would you assess internal audit recommendations within the prosecution service?

**The Prosecution Service and the Police have set up a joint, internal audit.**

37. Is the social impact of the prosecutors' activities evaluated? If yes, by whom?



**SECTION I: Status of the prosecution services in the state administration**

1. Please specify the status of the prosecutor and the prosecution service in your state. Is it an autonomous institution? If yes, how is this autonomy guaranteed?

The Prosecutor's Office is part of executive power and is administered by the Ministry of Justice. In a specific criminal matter, the Prosecutor's Office and prosecutor are independent. This is set out both in the Prosecutor's Office Act and in the Code of Criminal Procedure.

2. Does the ministry of justice or another authority govern the activity of the prosecution service? If so, how?

In a specific criminal matter, the Prosecutor's Office and prosecutor are independent. The supervisory control that the Ministry of Justice exercises over the Prosecutor's Office does not cover the activities of the Prosecutor's Office in pre-trial criminal proceedings and in public prosecution in court. However, the Ministry of Justice is responsible for the budget of the Prosecutor's Office; the Government is also entitled to decide on priorities in the fight against crime.

3. Which authority is responsible for the creation of prosecutor positions?

The Minister of Justice.

4. Please indicate if there is any connection between the prosecution service and the Ministry of Justice or another public authority in terms of financial and human resources, IT facilities etc. If so, please describe how this connection works.

The Minister of Justice defends the budget of the Prosecutor's Office in negotiations with the Ministry of Finance and before the Government and Parliament. The Minister of Justice decides on the total number of prosecutors and over their distribution across different Prosecutor's Offices. In practice though, changes are made on a proposal from the Prosecutor's Office. Responsibility for the IT facilities and required IT developments of the Prosecutor's Office rests with the separate Centre of Registers and Information Systems, administered by the Ministry of Justice.

5. Is the prosecution service independent from other institutions when implementing and managing its own budget?

The Minister of Justice approves the overall budget of the Prosecutor's Office, which the Prosecutor's Office as a rule can use independently. However, the Minister of Justice has the right to reserve a certain amount of funds allocated to the Prosecutor's Office from the state budget and assign a specific purpose for the funds, such as hiring new prosecutors.

**SECTION II: Financial rules and regulations of the prosecution service**

6. Does the law governing the prosecution service include provisions on financial management and on the executive's obligation to provide it with the necessary infrastructure?

This is not directly regulated by law.

7. Please describe how and when the budget of the prosecution service is managed (preparation, distribution of funds between the budget lines).

Approved by the Parliament, the budget has 2 divisions: operating costs and investments. In the budget approved by the Minister of Justice, the operating costs are also divided in two: staff costs and management costs. The Prosecutor General will further subdivide the budget, which is to be presented to the Ministry of Justice.

8. Is there a specific department within the prosecution service responsible for the management of resources?

Yes, the Financial Department at the Office of Prosecutor General.

9. Is there a national and/or centralised IT system for managing, monitoring and evaluating the budget of the prosecution services? *Does this system include a mechanism for increasing the efficiency of the resource management?*

The financial accounts of the Prosecutor's Office are kept in a single state IT information system (SAP). The authorities administered by the Ministry of Justice are all in the same information system, which allows for single reporting and quick comparability.

### SECTION III: Resources of the prosecution service

10. Please specify the amount of budget of the prosecution service for 2008, 2009, 2010 and 2011 (€ equivalent), indicating the distribution between staff expenditure and other types of expenditure.

	2008 (mil €)	2009 (mil €)	2010 (mil €)	2011 (mil €)
staff costs	8,6	7,4	7,2	7,2
management costs	1,7	1,8	1,7	1,8
<b>Total</b>	<b>10,3</b>	<b>9,5</b>	<b>9,2</b>	<b>9,2</b>

11. *In your jurisdiction, what resources would you improve access to, and how would you do that (e.g. through partnership agreements, joint investigations, redistribution of resources etc.*

Gaining resources for filling vacant prosecutor's positions is of the first importance.

12. Are the current or future budgets of the prosecution service affected by the 2009-2011 economic crisis?

Yes. In 2008 the budget allocated for the salaries of prosecutors (taxes included) totalled €8.6 million, in 2009 it was €7.4 million, or it decreased by €1.2 million.

13. *What instruments are used to allocate resources needed for the good functioning of the prosecution service?*

The Ministry of Justice decides on the allocation of the total budgetary amount to the Prosecutor's Office. The Prosecutor General decides on the most effective division of the budget allocated to the Prosecutor's Office within the allocated budget.

The prosecutors are managed according to the principles of performance management – the budgets of Prosecutor's Offices are reviewed each half-year, considering the performance.

14. Is there any connection between the budgets allocated to the prosecution service and to the judiciary or to law enforcement bodies?

The Prosecutor's Office Act sets out that the salaries of the judges at the same level are also to be considered when deciding on the salaries of prosecutors.

15. Do human resources of the prosecution service depend on other institutions of the judiciary (e.g. Judicial Council, National Schools of Clerks)?

Not directly. However, movement of labour takes place between different legal authorities. For example, a prosecutor can proceed to work as a judge/lawyer, a police officer as a prosecutor, etc.

16. In your jurisdiction, is there any mechanism of rapid reaction which could allow a quick redistribution of means (financial or human resources, logistics) between prosecution services, according to the needs of the system?

There is no specific established mechanism as regards budget funds. When needed, in exceptional circumstances it is possible to apply for additional funds from the Government's reserve fund and temporarily rearrange work organisation.

17. Does the General Prosecutor (or equivalent institution) have a specific budget for taking interim/temporary measures in situations when, within a certain prosecution service, human resources are insufficient?

No.

#### **SECTION IV: Budget for investigations**

18. What steps are required in order to obtain direct access to the resources needed for investigations? Please assess the period of time that elapses between submitting a request for resources and the moment when they are actually obtained.

To receive additional resources besides the approved budget, the Government of the Republic is to be approached. The Government has the right to allocate the required funds from the Government's reserve fund. This approach is made via either the Ministry of Justice or Internal Affairs. This will take a week at the minimum.

19. Have you ever faced the risk that special investigative techniques (e.g. communication interceptions, legal-genetic expertise, computer search) could not be applied in due time because of insufficient resources? Have insufficient resources in general affected the performance of criminal investigation in normal cases?

The queues for expert analyses (chiefly the DNA analysis) primarily affect the speed of proceedings. Also, technical resources relating to surveillance activities are overburdened at certain times.

20. Is the resource management performed by the prosecution services during their investigations controlled? Please specify.

The Prosecutor's Office has the right to give relevant orders to investigative authorities (e.g., how many investigators should be on a case). As a rule, the relevant decisions are made in accordance with the opinion of the investigative authority.

21. What is the resource management procedure when various agencies are involved in the investigation procedure (e.g. the police)?

As a rule, various agencies determine the number of people on a specific case. There are no separate procedural rules for the allocation of resources; they are applied in mutual coordination.

22. Is it possible for prosecutors to specialise in certain type of crimes? If so, what kind of effect it has had on the results of the prosecution service?

It is possible. It allows for better training of officials, greater skills, and work of better quality.

23. Are there areas of investigation that have priority access to financial or material resources? If so, how and by whom is this priority established?

Priorities in the fight against crime are determined by the Government. Above all, this makes it possible assign a greater number of prosecutors and investigators to do certain things. As a rule, there is no way of obtaining additional resources in the course of a budgetary year.

#### **SECTION V: Description of the system of management by results**

24. Do you have a system of management by results? (Please specify.) If yes, is there any problem with this system ?

We do. Both the overall work results and results in priority fields are considered. To some extent, the results will serve as a basis for the allocation of the budget among Prosecutor's Offices. What could be a problem is that as a rule such result oriented systems are focused on quality, yet the quality of the work of prosecutors is difficult to adequately assess and compare, particularly considering the independence of prosecutors.

25. What kind of objectives are set for the prosecution service, if such a system of objectives exists? Does your system use benchmarks of achieved results?

For example, an objective set is the speed of criminal proceedings involving minors (as a rule below 4 months), prosecution in priority offences, etc. No direct benchmarks are used, apart from the speed of proceedings involving minors.

26. Which authority/authorities is/are competent to set these objectives?

The broad objectives in different fields are set by the Government. Specific definitions, objectives, and the way those are measured have been mutually agreed by the heads of the Prosecutor's Office and investigative authorities.

27. What role does the prosecution service play in setting these objectives?

The broad criminal policy objectives are set by the Government (e.g., that greater attention is to be directed to cyber crime) in consultation with the Prosecutor's Office and investigative authorities. To a great extent the specific objectives (e.g., what type of cyber crime will be particularly fought against) and the way and means to reach them can be chosen by the authorities. This is done primarily on the initiative of the Prosecutor's Office.

28. Are the objectives coordinated between all authorities of the criminal procedure? If such coordination exists, how does it influence the activities of the prosecution service?

The objectives are coordinated between the Prosecutor's Office and investigative authorities. However, investigative authorities cannot force any other objectives on the Prosecutor's Office without the latter's consent.

29. Are there regulations in your system as regards the optimal workload within prosecution offices? if yes, is the allocation of resources correlated with the workload? Please provide examples.

Officially, no such system has been set up, but the workload of prosecutors is monitored and resources reallocated where possible.

30. Is the setting of objectives based on a negotiation system?

The broad criminal policy objectives are set by the Government in consultation with both the Prosecutor's Office and investigative authorities. However, the Government is not connected with this opinion. Specific objectives are coordinated between the Prosecutor's Office and investigative authorities.

31. Who are parties of the negotiations?

The Minister of Internal Affairs, Minister of Justice, Prosecutor General, heads of major investigative authorities.

## **SECTION VI: Follow-up of results and reporting**

32. Please indicate if there are any national strategies implemented in your state regarding the resources allocated to the judicial system, including the prosecution service. If so, in what areas were these strategies developed? Please comment on the results of these strategies.

Currently there are no strategies that have brought to the Prosecutor's Office any considerable additional resources.

33. Is the attainment of objectives followed up yearly? How?

34. Have any reforms been implemented during the last 5 years aimed at increasing the budget of justice?

No.

35. Is the prosecution service included in the government strategies for enhancing the efficiency of public institutions (e.g. e-governance, external financial audit)?

Yes. For example, the accounting and staff accounting of the Prosecutor's Office are centralised under the Ministry of Finance, IT development is centralised under the Centre of Registers and Information Systems.

36. How would you assess internal audit recommendations within the prosecution service?

They are good.

37. Is the social impact of the prosecutors' activities evaluated? If yes, by whom?

No.

**SECTION I: Status of the prosecution services in the state administration**

1. Please specify the status of the prosecutor and the prosecution service in your state. Is it an autonomous institution? If yes, how is this autonomy guaranteed?

The prosecution service is part of the jurisdiction and/or the judicial system in Finland. Prosecutors have independence and autonomy, guaranteed by legislation. In this sense, the position of prosecutors is very similar to that of judges. In 1995, a new, united prosecution service, entirely independent of the police organisation, was established in Finland. The Act on the Prosecution Service (13.5.2011/498), which entered into force on 1 January 2012, further emphasises the independence and autonomy of prosecutors. Its section 7, subsection 1 issues the following provision: 'A prosecutor has independent and autonomous power to consider charges.' Provisions on the prosecution service are also laid down in Chapter 9 (Administration of justice) of the Constitution of Finland. Most of the provisions of said chapter concern judges and the court system. According to section 2, subsection 3 of the Act on the Prosecution Service, the prosecution service belongs to the administrative branch of the Ministry of Justice. This does not permit deductions to be made about which sector of government the prosecution service belongs to, since general administrative matters concerning the court system as well are handled by the Department of Judicial Administration of the Ministry of Justice.

2. Does the ministry of justice or another authority govern the activity of the prosecution service? If so, how?

The Ministry of Justice, or any other government body, does not have authority over the internal matters of the prosecution service, or over individual prosecutions. A prosecutor's independence and autonomy means that no one can give orders to a prosecutor on how he/she should decide an individual, pending criminal case. No other person than the case's prosecutor him/herself can, for example, decide on whether or not to press charges. Neither can anyone order the prosecutor to judge the evidence, nor interpret the provisions of a law, in a certain manner. Regarding interpretation of the law, a prosecutor is obligated to observe the law in a similar manner to, for example, a judge.

A prosecutor's independence and autonomy means, among other things, that the police officer who carried out the pre-trial investigation cannot coerce the prosecutor to press or not to press charges in the case investigated by the officer. This is not contradicted by the fact that the prosecutor and pre-trial investigation authority often cooperate during the pre-trial investigation, when the officer in charge of the investigation and the prosecutor naturally also discuss whether charges are likely to be pressed in the case. Regarding a prosecutor's independence and autonomy, it is of vital importance that, according to section 15, subsection 2 of the Criminal Investigations Act, a police officer must, if requested to by the prosecutor, conduct a pre-trial investigation or additional investigations and follow the orders given by the prosecutor to safeguard the objectives of the pre-trial investigation. A prosecutor therefore has the authority to give orders to the officer in charge of the investigation, but not vice versa.

The only quarter that can influence a prosecutor's decision-making is the highest prosecution authority, i.e. the Prosecutor General (or the Deputy Prosecutor General). But even he/she cannot order a prosecutor to decide an individual case in a certain way, but must rather exercise his/her right provided for in section 10 of the Act on the Prosecution Authority to take over the case. The following provision is issued in the law: 'The Prosecutor General can take over a case belonging to a prosecutor subordinate to him/her, or order a subordinate to pursue a charge the Prosecutor General has decided to bring. The Prosecutor General can also order a subordinate to consider charges for the case.' (This is the clearest, and possibly only, example of a situation where a prosecutor's independence and autonomy is different from a judge's independence and autonomy.)

The Prosecutor General is also independent and autonomous of other governmental authorities, based on the aforementioned legal provisions.

The organisational independence and autonomy of the prosecution service is increased by the fact that its funding is based on its own subsection in the state budget, approved by Parliament in the Finance Act each year. Also, the fact that the Office of the Prosecutor General handles indemnity matters concerning the prosecution service increases the prosecution service's autonomy to a certain extent.

3. Which authority is responsible for the creation of prosecutor positions?

The Office of the Prosecutor General establishes all public offices, within the bounds of the appropriations granted, and places them in the local prosecution offices.

4. Please indicate if there is any connection between the prosecution service and the Ministry of Justice or another public authority in terms of financial and human resources, IT facilities etc. If so, please describe how this connection works.

The Ministry of Justice grants an appropriation to the prosecution service, within the bounds of which the Office of the Prosecutor General decides on using the money for various purposes. The procurement and maintenance of ICT systems has been concentrated in the hands of the ICT Service Centre for the Judicial Administration (OTTK). The prosecution service pays OTTK for the ICT services it provides. The payments are in proportion to use.

5. Is the prosecution service independent from other institutions when implementing and managing its own budget?

The Ministry of Justice grants an appropriation to the prosecution service, within the bounds of which the Office of the Prosecutor General decides on using the money for various purposes in the prosecution service.

## **SECTION II: Financial rules and regulations of the prosecution service**

6. Does the law governing the prosecution service include provisions on financial management and on the executive's obligation to provide it with the necessary infrastructure?

Financial provisions are included in the Finance Act. There are no legislative or regulatory decrees on the prosecution service at this level. The Ministry of Justice's Financial Rule gives more detailed instructions on recording expenses, etc.

7. Please describe how and when the budget of the prosecution service is managed (preparation, distribution of funds between the budget lines).

The government approves the general spending limits for the coming year each March. Spending limits are only approved by administrative branch (judicial administration) at this time. The Ministry of Justice gives spending limits to the prosecution service on this basis. Based on the proposed spending limits, the Office of the Prosecutor General prepares the next year's draft budget in April–May. The Office of the Prosecutor General can, for a justified reason, propose that the spending limits be exceeded. At the end of May, the Ministry of Justice gives its draft budget to the Ministry of Finance. The matter is negotiated during the summer, both between public servants and by the entire government in the 'government budget session'. The draft budget is then considered in Parliament. The prosecution service has its own subsection in the final budget proposal, in which Parliament approves the final budget. The Ministry of Justice cannot, of its own accord, increase or reduce the prosecution service's appropriation.

8. Is there a specific department within the prosecution service responsible for the management of resources?

The Office of the Prosecutor General's administrative unit is responsible for these matters inside the prosecution service. There is a Chief District Prosecutor, deputy chiefs and a Judicial Secretary in each prosecution office who have responsibility for matters of this nature in the prosecution service.

9. Is there a national and/or centralised IT system for managing, monitoring and evaluating the budget of the prosecution services? *Does this system include a mechanism for increasing the efficiency of the resource management?*

The prosecution service receives up-to-date statistics from a separate data system. The data is transferred from the financial systems proper to the statistics database each day. Realisation figures are thus always available. This system has been a great help in planning and monitoring operations.

## **SECTION III: Resources of the prosecution service**

10. Please specify the amount of budget of the prosecution service for 2008, 2009, 2010 and 2011 (€ equivalent), indicating the distribution between staff expenditure and other types of expenditure.

	2008	2009	2010	2011
Staff expenditure	30,958,240	31,539,679	33,073,589	34,030,809
Expenditure on premises	3,297,053	3,888,493	3,879,280	3,956,888
IT	1,245,113	1,413,134	1,704,792	1,660,314
Other	2,976,090	2,937,971	2,893,240	2,809,888

11. *In your jurisdiction, what resources would you improve access to, and how would you do that (e.g. through partnership agreements, joint investigations, redistribution of resources etc.)?*

The new Criminal Investigations Act, which will enter into force in 2014, will set additional tasks for prosecutors. As a result, prosecutors will have to devote more time to pre-trial investigations. This increase in tasks will require additional resources. If additional resources are not granted, the required resources will have to be taken from other activities. Therefore, prosecutors should be granted additional resources to manage the increased number of pre-trial investigation tasks, if possible.

12. Are the current or future budgets of the prosecution service affected by the 2009-2011 economic crisis?

The general economic situation has affected the state budget. The prosecution service does its part to contribute to the state's general need to cut costs. The prosecution service has, however, been regarded as a core function of the state, and treatment has therefore been gentle compared to what many other agencies have received.

13. *What instruments are used to allocate resources needed for the good functioning of the prosecution service?*

The prosecution service uses 'spending limits'. This means that the available resources are distributed between the prosecution offices based on realised working hours. The method of calculating working hours has been the subject of extensive discussions between prosecution office chiefs. Changed circumstances require that the method of calculation be updated to make the result as fair as possible. This system has received general approval.

14. Is there any connection between the budgets allocated to the prosecution service and to the judiciary or to law enforcement bodies?

There are no direct dependencies between the budgets of courts and that of the prosecution service, for example. Their appropriations are defined in separate subsections. Both of the aforementioned budgets belong to the Ministry of Justice's administrative branch and they will be reviewed together if saving obligations have been set for the Ministry of Justice, for example.

15. Do human resources of the prosecution service depend on other institutions of the judiciary (e.g. Judicial Council, National Schools of Clerks)?

See the response to question 14.

16. In your jurisdiction, is there any mechanism of rapid reaction which could allow a quick redistribution of means (financial or human resources, logistics) between prosecution services, according to the needs of the system?

The system enables the rapid transfer of resources from one prosecution office to another. Prosecutors have competence across the entire country, which allows rapid re-evaluations to be made. These kinds of measures should, however, only be carried out for extremely well-justified reasons, or confidence in the system may deteriorate and prosecution office chiefs may lose their commitment to long-term work.

17. Does the General Prosecutor (or equivalent institution) have a specific budget for taking interim/temporary measures in situations when, within a certain prosecution service, human resources are insufficient?

The Office of the Prosecutor General has not reserved resources for unexpected eventualities. The local prosecution offices are such large units today that they can manage even unexpected situations. However, the Office of the Prosecutor General has the possibility to render assistance with smaller appropriations and by transferring cases to a different prosecution office.

#### **SECTION IV: Budget for investigations**

18. What steps are required in order to obtain direct access to the resources needed for investigations? Please assess the period of time that elapses between submitting a request for resources and the moment when they are actually obtained.

The funding of pre-trial investigations does not belong to the prosecution service in Finland. Prosecutors do not have competence in these matters.

19. Have you ever faced the risk that special investigative techniques (e.g. communication interceptions, legal-genetic expertise, computer search) could not be applied in due time because of insufficient resources? Have insufficient resources in general affected the performance of criminal investigation in normal cases?

See response to question 18.

20. Is the resource management performed by the prosecution services during their investigations controlled? Please specify.



See response to question 18.

21. What is the resource management procedure when various agencies are involved in the investigation procedure (e.g. the police)?

Each office is responsible for itself. If a case involves several prosecution offices, the Chief District Prosecutors will, in the first instance, coordinate prosecution activities. If necessary, the Office of the Prosecutor General will decide where and by whom prosecution activities and related pre-trial investigation work will be done.

22. Is it possible for prosecutors to specialise in certain type of crimes? If so, what kind of effect it has had on the results of the prosecution service?

Prosecutors can currently specialise in the following types of crime: 1) financial crime, 2) narcotics offences and organised crime, 3) offences in public office, military offences and corruption, 4) crimes targeting special persons (i.e. mostly crimes committed against women and children), 5) environmental offences, 6) computer crime, abuses of the freedom of speech. In addition, it is possible to specialise in 7) international cases and in questions concerning procedural law and the general part of the Criminal Code. Specialisation has been regarded as necessary both in fields where there are many criminal cases (e.g. financial crime and narcotics offences), and in fields where there are comparatively few criminal cases (e.g. environmental offences and abuses of the freedom of speech). Specialisation is justified by the fact that special expertise helps a prosecution office cope better with handling groups of cases requiring special expertise. There is a general consensus in the prosecution service on the benefits of specialisation, even though these benefits are not easily measured by objective standards. The government invests extensively in preventing financial crime ('the grey economy') such as tax fraud and abuse of various forms of financial aid. For this purpose, the prosecution service has also been granted extra funds to specifically increase the number of prosecutors specialised in financial crime. This also creates a certain need in the prosecution service to demonstrate the results produced by the extra resources directed at financial crime. The problem is that no particularly efficient indicators exist for this (for example, counting prison years sentenced is not one).

23. Are there areas of investigation that have priority access to financial or material resources? If so, how and by whom is this priority established?

A specific appropriation has been allocated to fighting the grey economy in recent government negotiations, for example. This appropriation was divided between the authorities that participate in this work in connection with normal budget negotiations. Thus, the prosecution service also received its share. The prosecution service will allocate 25 prosecutors to fighting the grey economy in 2012.

## **SECTION V: Description of the system of management by results**

24. Do you have a system of management by results? (Please specify.) If yes, is there any problem with this system ?

The Finnish Government has a performance guidance system. This means that Parliament grants a common operating appropriation to certain operations, e.g. the prosecution service, and sets general targets that the operations should achieve.

25. What kind of objectives are set for the prosecution service, if such a system of objectives exists? Does your system use benchmarks of achieved results?

Both qualitative and quantitative targets are set for the prosecution service. The most important quantitative targets are related to the time it takes to consider charges. Charges should be considered in a timely manner. Targets have been set for the average time taken to consider charges, and for no case to remain in consideration for very long (more than six months or a year). Qualitative targets have been related to cooperation between the prosecutor and pre-trial investigation authority during pre-trial investigations, increasing the level of knowledge on certain crime phenomena and using new process methods such as written procedure or limiting the pre-trial investigation.

26. Which authority/authorities is/are competent to set these objectives?

At the highest level, Parliament, but the more concrete performance targets are set in negotiations between the Ministry of Justice and the Office of the Prosecutor General. Performance targets are set for local prosecution offices in negotiations between the Office of the Prosecutor General and the prosecution office in question.

27. What role does the prosecution service play in setting these objectives?

A proposal for the following year's performance targets is prepared within the prosecution service. The final targets have been set in negotiations between the ministry and the Office of the Prosecutor General. Based

on this preparatory work, the government proposes higher-level targets for the prosecution service to Parliament, which then approves them.

28. Are the objectives coordinated between all authorities of the criminal procedure? If such coordination exists, how does it influence the activities of the prosecution service?

Within the Ministry of Justice, the permanent secretary is responsible for coordinating the targets for the entire crime chain. Meetings are held between the permanent secretaries of the Ministry of Justice and the Ministry of the Interior, which are also attended by public servants and representatives of the prosecution service. The targets of all actors involved in the handling of criminal cases are coordinated at these meetings.

29. Are there regulations in your system as regards the optimal workload within prosecution offices? if yes, is the allocation of resources correlated with the workload? Please provide examples.

Provisions on an optimal workload have not been issued in any decree. The prosecution service has, however, been paying attention to well-being at work, which includes this matter as well. Well-being is surveyed each year, and the results are used in the management of the prosecution service.

30. Is the setting of objectives based on a negotiation system?

The system is based on negotiations.

31. Who are parties of the negotiations?

The parties are the Ministry of Justice and the Office of the Prosecutor General.

## **SECTION VI: Follow-up of results and reporting**

32. Please indicate if there are any national strategies implemented in your state regarding the resources allocated to the judicial system, including the prosecution service. If so, in what areas were these strategies developed? Please comment on the results of these strategies.

The Ministry of Justice has approved a strategy on criminal policy, which includes considerations like this as well. The government's general strategies for each term are approved in the Government Programme. The prosecution service has also recently approved its own strategy.

33. Is the attainment of objectives followed up yearly? How?

The prosecution service draws up an annual report each year, and a biannual interim report every six months. In these documents, it is evaluated whether the performance targets that were set have been attained. If targets have not been attained, the most important reasons for this are assessed. Local prosecution offices draw up corresponding reports.

34. Have any reforms been implemented during the last 5 years aimed at increasing the budget of justice?

Parliament decides on the budget for the prosecution service when it approves the Finance Act. Therefore, the size of the budget is in the hands of the political leadership. If the question refers to legislative reforms that have sought to cut down the workload of the judicial system so that it can better concentrate on its core functions, the limitation of the right to appeal a district court's decision in a court of appeal was addressed in the last five years.

35. Is the prosecution service included in the government strategies for enhancing the efficiency of public institutions (e.g. e-governance, external financial audit)?

The general strategies concerning the prosecution service are included in the Government Programme and the strategies of the Ministry of Justice.

36. How would you assess internal audit recommendations within the prosecution service?

There is internal auditing in the prosecution service. It is used to chart the risks related to operations each year, and to evaluate the chance that they will be realised. Corrective measures are then devised based on the evaluation.

37. Is the social impact of the prosecutors' activities evaluated? If yes, by whom?

The social impact of prosecutors' activities is usually evaluated to be quite significant. The injunctions and commands of the law would remain empty phrases if law-breakers were not prosecuted and sentenced to punishment. Even though prosecutors' activities have a significant impact, it is quite difficult to measure it using objective indicators. The social impact of prosecutors' actions can, however, be measured rather

objectively by equality in handling time and uniformity of decisions in criminal cases. The requirement for a fair trial demands that the handling times of cases are not unreasonably drawn out. For this part, the activities of prosecutors can be evaluated by monitoring handling times and identifying the reasons behind delays. The purpose of monitoring the uniformity of decisions is to seek to control that prosecutors decide similar cases in a similar way throughout the country. In this respect, surveys are carried out on how many police investigations result in prosecution in various parts of the country. The figures of individual prosecution offices are compared with the national average. If substantial differences are discovered, the reasons behind them will be investigated in more detail. Acceptable reasons may exist for the variations, such as the fact that crimes investigated by the police are of a different nature in different parts of the country. In such a case, the activities of prosecutors fulfil the requirement of uniformity despite the difference in the statistics. The final evaluation is made by the Office of the Prosecutor General. Prosecutors' activities are, however, also evaluated by other parties, e.g. research institutes and individual researchers.

**Questionnaire en vue de l'élaboration de l'Avis n° 7  
sur la gestion des moyens des ministères publics**

REPONSES DE LA DELEGATION FRANCAISE -février 2012-

**SECTION I: Statut du ministère public dans l'administration publique**

1. Veuillez préciser quel est le statut du procureur et du ministère public dans votre pays. S'agit-il d'une institution autonome ? Si oui, comment cette autonomie est-elle garantie ?  
Le ministère public (parquet ) et les juges (siège) sont les deux parties du corps judiciaire . Leur statut est différent puisque les juges sont indépendants tandis que l'organisation du ministère public répond au système hiérarchique . Toutefois on ne peut pas dire que le Ministère public est un institution autonome puisqu'elle est en partie comme el siège administrée par la direction de services judiciaires du ministère de la justice
2. L'activité du ministère public est-elle dirigée par le ministère de la justice ou par une autre autorité ? Si oui, comment ?  
Le Garde des sceaux peut donner des instructions de poursuite aux procureurs par l'intermédiaire du procureur général mais l'exercice de l'action publique au quotidien relève de la responsabilité des procureurs .
3. Quelle autorité est compétente pour créer des postes de procureur ? Il s'agit de la direction des services judiciaires du Ministère de la justice sur el base des postes budgétaires votés par le parlement .
4. Veuillez indiquer s'il y a des relations entre le ministère public et le ministère de la Justice en ce qui concerne les ressources financières, les ressources humaines, les systèmes informatiques, etc. Si oui, veuillez en décrire le fonctionnement. Ces relations ne sont pas spécifiques au ministère public : elles s'inscrivent dans le cadre du dialogue budgétaire entre les responsables des cours d'appel (premiers présidents et procureurs généraux d'une part et la direction des services judiciaire du ministère de la justice d'autre part, lesquels se retournent vers les responsable des juridictions qui dépendent d'eux, le siège, les parquets, les services du greffe pour connaître leurs besoins .
5. Le ministère public est-il indépendant des autres institutions en ce qui concerne l'exécution et la gestion de son propre budget ? Les responsables des cours sont ordonnateurs secondaires et donc coresponsables pour l'exécution et la gestion de leur budget . A cette fin ils sont assistés d'importants services administratifs .

**SECTION II: Règlements financiers du ministère public**

6. La loi régissant le ministère public comporte-t-elle des dispositions relatives à sa gestion financière et à l'obligation du pouvoir exécutif de mettre les infrastructures nécessaires à sa disposition ? Non .
7. Veuillez décrire la procédure et le calendrier budgétaire du ministère public (préparation du budget, affectation des crédits).  
Pour l'ensemble des juridictions le budget est préparé un an à l'avance : recueil des besoins des juridictions parquet et siège un an ab à l'avance, arbitrage ministériel , année budgétaire et attribution de crédits par mandatements successifs .
8. Existe-t-il au sein du ministère public un service chargé spécialement de la gestion des ressources ? C'est un service commun au siège et au parquet au niveau de chaque cour :(le service d'administration régional : SAR )

9. Existe-t-il un système informatique national et/ou centralisé pour gérer, superviser et évaluer le budget du ministère public ? *Ce système comprend-il un mécanisme destiné à accroître l'efficacité de la gestion des ressources ? Oui et il sert d'outil de pilotage budgétaire pour les juridictions , siège et parquet qui doivent l'alimenter régulièrement de la commande au paiement .*

### **SECTION III: Ressources du ministère public**

10. Veuillez indiquer le montant du budget du ministère public pour 2008, 2009, 2010 et 2011 (valeur en euros), en précisant la part des dépenses de personnel et des autres types de dépenses. En augmentation régulière Le budget de la justice pour 2008 était de 6, 5 milliards , pour 2012 il est de 7,4 milliards d'Euros. Les données globales sont disponibles dans le rapport de la CEPEJE mais il est rappelé qu'il n'y a pas de budget séparé pour le ministère public dans la mesure où il existe de nombreux services communs au siège et au parquet et par ailleurs ce budget est également celui de l'administration pénitentiaire qui a ces dernières années, largement bénéficié des augmentations de la dotation du ministère de la justice .

11. *Dans votre pays, quelles sont les ressources auxquelles vous amélioreriez l'accès et de quelle manière le feriez-vous (accords de partenariat, enquêtes communes, réaffectation des ressources, etc.)? Des préconisations existent consistant à limiter le poids de l'administration centrale dans la gestion budgétaire et pour accroître la responsabilité des présidents et procureurs des tribunaux en établissant un lien plus fort entre le budget et la réalisation d'objectifs par exemple les délais d'audience ou de jugement ou d'exécution des décisions ainsi qu'en permettant d'utiliser des ressources disponibles dans certains chapitres à d'autres actions .Il est parfois préconisé également que le système judiciaire puisse profiter des sommes qu'il permet à l'ETAT de recouvrer par exemple en matière d'amendes ou de confiscation des avoirs provenant d'activités criminelles .*

12. Les budgets en cours et à venir du ministère public sont-ils touchés par la crise économique de 2009-2011 ?

Oui tous les budgets des ministères sont affectés même si la justice reste une priorité et qu'il n'y a pas de suppressions de postes mais de ce fait il n'y a cette année guère de créations de postes qui seraient pourtant nécessaires au parquet dans certaines juridictions. Par contre des postes de greffiers ont été créés pour combler de nombreux postes vacants

13. *Quels sont les instruments utilisés pour affecter les ressources nécessaires au bon fonctionnement du ministère public ?* Le dialogue budgétaire. L'outil informatique généralisé notamment le système chorus et le système Cassiopee.

14. Y a-t-il des liens entre le budget du ministère public et celui de la justice ou de la police ? Le budget du ministère public est partie intégrante de celui de la justice. En revanche il n'y a aucun lien avec celui de la police qui relève du Ministère de l'Intérieur.

15. Les ressources humaines du ministère public dépendent-elles d'autres institutions judiciaires (Conseil judiciaire, Ecole nationale d'administration, par exemple) ? Oui, les futurs magistrats qu'ils soient du siège ou du parquet sont généralement diplômés de l'Ecole Nationale de la Magistrature, sauf dans certains cas où l'intégration est décidée par une commission composée de magistrats élus. Enfin le Conseil supérieur de la magistrature est consulté pour la nomination des procureurs généraux et des procureurs qu'il entend avant de donner son avis que le ministère n'est pas tenu de suivre, de même pour l'ensemble des magistrats du parquet au cours de leur carrière.

16. Le Procureur général ou l'institution correspondante disposent-ils d'un budget particulier pour prendre des mesures temporaires lorsque les ressources humaines sont insuffisantes dans un service donné du ministère public ? Oui il existe un système de réserve au niveau de chaque cour d'appel .

17. Existe-t-il, dans votre pays, un mécanisme de réaction rapide permettant une réaffectation rapide des ressources (financières, humaines et logistiques) entre les services du ministère public en fonction des besoins du système ? Au cours de l'année budgétaire , le ministère de la justice sollicité, peut décider d'abonder le budget des cours d'une dotation supplémentaire pour leur permettre de faire face à des dépenses imprévues ou d'un montant supérieur à l'estimation initiale par exemple en cas de mise en oeuvre d'une réforme ayant un coût, comme l'an passé la réforme de la garde à vue prévoyant désormais la présence des avocats . Les procureurs généraux disposent d'une équipe de magistrats qu'ils peuvent affecter en renfort dans des parquets du ressort de la cour d'appel qu seraient en difficulté (on appelle cela les magistrats placés) .

#### **SECTION IV: Budget des enquêtes**

18. Quelles sont les mesures nécessaires pour avoir directement accès aux ressources requises pour les enquêtes ? Veuillez évaluer le temps écoulé entre le dépôt d'une demande de ressources et le moment où celles-ci sont effectivement reçues. Une partie du coût des enquêtes est financée par le ministère de l'intérieur. Les coûts incombant au Ministère public et aux juges sont financés par le budget annuel du ministère de la justice.

19. Avez-vous déjà couru le risque de ne pas pouvoir utiliser des techniques d'enquête spéciales (par exemple interception des communications, expertise génétique, perquisition informatique) en temps voulu faute de ressources suffisantes ? Le manque de ressources a-t-il affecté l'efficacité des enquêtes pénales dans des affaires normales ? Non mais les procureurs sont invités à éviter les dépenses inutiles et des marchés sont passés avec des opérateurs par exemple pour les expertises d'empreintes génétiques, le transport des corps , les interceptions téléphoniques pour obtenir le meilleur service au moindre coût . Néanmoins il arrive que les experts soient payés avec retard, faute de budget suffisant.

20. La manière dont les services du ministère public gèrent leurs ressources pendant les enquêtes fait-elle l'objet d'un contrôle ? Veuillez en préciser la nature. Double Contrôle budgétaire au quotidien par le Ministère et les directions régionales des finances publiques , l'Inspection des services judiciaires qui agit pour le Ministre et la Cour des comptes (juridiction financière indépendante) et contrôles au long de la pyramide hiérarchique depuis les chefs de cour .

21. Quelle est la procédure de gestion des ressources appliquée lorsque diverses instances sont impliquées dans la procédure d'enquête (la police, par exemple) ? La gestion est séparée entre les administrations concernées.

22. Est-il possible pour les procureurs de se spécialiser dans un certain type de crimes ? Si oui, quels ont été les effets d'une telle spécialisation au niveau du ministère public? La spécialisation concerne principalement la matière économique et financière, le terrorisme , l'environnement , la santé publique et la criminalité organisée . Elle permet d'avoir des parquets de haute compétence technique notamment à Paris pour la lutte contre le terrorisme et dans le Juridictions Interrégionales Spécialisées (JIRS) , contre la criminalité organisée .

23. Certains domaines d'enquête ont-ils un accès prioritaires aux ressources financières ou matérielles ? Si oui, qui détermine ces priorités et de quelle manière ? Non .

#### SECTION IV: Descriptif du système de gestion par résultats

24. Disposez-vous d'un système de gestion par résultats ? (Veuillez le décrire.) Si oui, y a-t-il des problèmes avec ce système ? C'est très limité, tout au plus existe-t-il des primes modulables de quelques points de pourcentage du traitement versé aux magistrats du parquet en fonction de leur participation plus ou moins grande à la charge de travail de leur juridiction.

25. Dans la mesure où un tel système existe, quels objectifs sont fixés pour le ministère public ? Votre système utilise-t-il des benchmarks pour les résultats achevés ? Les objectifs sont essentiellement quantitatifs et concernent les délais le taux de réponse pénale mais aussi qualitatifs : le pourcentage d'alternative aux poursuites et à la détention;

26. Quelle autorité est compétente pour fixer ces objectifs ? Le ministère de la justice relayé par le parquet général en liaison avec les magistrats du siège. Officieusement le ministère des finances s'intéresse aussi à la bonne utilisation des moyens.

27. Quel est le rôle du ministère public dans le processus de fixation de ses objectifs ? Le ministère public décline au niveau local les priorités d'action publique définies au niveau central en application des instructions reçues du ministre de la justice. Dans ce cadre le procureur général peut lui-même fixer aux procureurs de son ressort, certains objectifs qu'il définit en dialoguant avec eux en fonction de la situation locale, par exemple lutte contre l'alcool au volant, protection de l'environnement, prévention de la délinquance. Des contrats d'objectif peuvent être mis en place avec des moyens supplémentaires en personnel pour les atteindre ..

28. Ces objectifs sont-ils coordonnés entre toutes les autorités compétentes de la procédure pénale ? Si une telle coordination existe, comment influence-t-elle les activités du ministère public ? La coordination est faite au niveau central par les services du ministère et au niveau régional par les procureurs généraux en liaison avec les autres services de l'Etat : police, gendarmerie, douanes, directions spécialisées de l'Etat. Il existe même des structures de coordination multidisciplinaires comme les comités contre la fraude, les Groupements d'intervention régionaux GIR (police, douanes, gendarmerie, impôts), les Etats majors de sécurité (procureurs, élus, préfets, douanes, police etc.)

29. Existe-t-il dans votre pays une réglementation régissant la charge de travail optimale des services du ministère public ? Si oui, l'affectation des ressources est-elle liée à la charge de travail ? Veuillez donner des exemples. Il n'existe pas de réglementation stricto sensu mais des moyennes, présidant à l'attribution de postes de magistrats.

30. La fixation des objectifs est-elle basée sur un mécanisme de négociation ? Au niveau local, oui. Au niveau national il y a des échanges entre la conférence des procureurs généraux et le ministère.

31. Qui participe à une telle négociation ? Au niveau local le procureur général, les procureurs. Par ailleurs il existe des mécanismes de concertation sur la politique pénale avec les juges dans le cadre de la politique de juridiction conduite dans chaque cour ou tribunal par la dyarchie (président pour le siège et procureur pour le parquet). Parfois le dialogue est étendu aux avocats représentés alors par leurs bâtonniers, notamment pour la mise en place de réformes ayant une implication en matière d'exercice des droits de la défense. Au niveau national : les procureurs généraux et les services du ministère.

## SECTION VI: Suivi des résultats et établissement des rapports

32. Veuillez indiquer si des stratégies nationales ont été suivies dans votre pays en ce qui concerne les ressources du système judiciaire. Si oui, dans quels domaines ces stratégies ont-elles été développées ? Veuillez en commenter les résultats. C'est une question d e plus en plus débattue et qui a fait l'objet de nombreuses commissions parlementaires
33. Y a-t-il un suivi annuel de l'atteinte des objectifs ? Comment se déroule-t-il ? Il est analysé lors des discussions budgétaires .
34. Au cours des cinq dernières années, des réformes visant à augmenter le budget de la justice ont-elles été adoptées ? Le budget de la justice et donc des parquets augmente régulièrement mais si on fait abstraction du budget des prisons, cette augmentation reste insuffisante pour corriger le peu de place du budget de la justice dans le budget national par rapport aux autres Etats du Conseil de L'Europe .
35. Le ministère public est-il inclus dans les stratégies gouvernementales visant à améliorer l'efficacité des institutions publiques (par exemple e-gouvernance, audit financier extérieur) ? Oui avec les audit de la cour des comptes .
36. Comment évalueriez-vous les recommandations d'audit interne du ministère public ? Elles sont trop ciblées sur les données quantitatives de l'action du ministère public (nombre de procédures traitées) et pas assez sur ses compétences extrajuridictionnelles de plus en plus nombreuses comme la prévention de la délinquance ou le domaine civil et commercial qui s'accroît au fil des textes .
37. L'effet social des activités du ministère public est-il évalué ? Si oui, par qui ? Hélas non !



**SECTION I: Statut du ministère public dans l'administration publique**

38. Veuillez préciser quel est le statut du procureur et du ministère public dans votre pays. S'agit-il d'une institution autonome ? Si oui, comment cette autonomie est-elle garantie ?

**Réponse :**

Conformément à la loi géorgienne sur le Parquet, le Parquet de la Géorgie est une institution dépendant du Ministère de la Justice de la Géorgie dont la compétence est déterminée par la législation géorgienne. Le système du parquet est composé par: le Parquet Principal de la Géorgie, les Parquets des Républiques autonomes d'Abkhazie et d'Adjara, le Parquet de la ville de Tbilissi, les parquets régionaux, les parquets des districts, ainsi que par les parquets spécialisés établis à titre temporaire par le Ministre de la Justice.

Conformément à la même loi, le statut du procureur est attribué à: Ministre de la Justice de la Géorgie, Procureur Principal de la Géorgie, ses substituts, procureurs des Républiques autonomes d'Abkhazie et d'Adjara, Procureur de la ville de Tbilissi, procureurs régionaux, procureurs des districts, procureurs des parquets spécialisés, procureurs des affaires d'haute importance, procureurs majeurs, procureurs, procureurs-criminologistes, procureurs-stagiaires; ainsi qu'aux chefs des départements, des services et des unités du parquet et à leurs substituts, qui exercent directement les fonctions déterminées par la législation procédurale pénale; ainsi que dans les cas particuliers aux employés du parquet, qui n'exercent pas directement les fonctions déterminées par la législation procédurale pénale, mais qui ont passé les examens de qualification des employés du parquet et à qui le pouvoir du procureur est attribué par la décision du Ministre de la Justice.

Les personnes énumérées ci-dessus sont considérées comme les fonctionnaires publics (le Ministre de la Justice a le statut du fonctionnaire politique d'Etat) et ils ont les droits et les obligations déterminés par la législation géorgienne.

39. L'activité du ministère public est-elle dirigée par le ministère de la justice ou par une autre autorité ? Si oui, comment ?

**Réponse:**

L'activité du parquet d'une manière générale est dirigée par le Ministre de la Justice de la Géorgie, dont la compétence vis-à-vis le parquet est déterminée par la loi géorgienne sur le Parquet.

Ainsi, conformément à cette loi le Ministre de la Justice: crée et abolit des organes du parquet, détermine le territoire et le domaine de leur compétence; sur proposition du Procureur Principal de la Géorgie nomme et destitue les substituts du Procureur Principal de la Géorgie, procureurs des Républiques Autonomes d'Abkhazie et d'Adjara, procureur de la ville de Tbilissi et procureurs régionaux; à titre exclusif procède à la poursuite pénale contre certains fonctionnaires publics et politiques d'Etat; approuve les lignes directrices de la politique pénale; sur proposition du Procureur Principal de la Géorgie établit les propositions relatives au financement et à la logistique du parquet; dans les limites déterminées et sur proposition du Procureur Principal de la Géorgie approuve la structure des organes du parquet, le nombre et le montant de la rémunération du personnel; conformément à la règle déterminée par la loi, attribue et retire au personnel du parquet des titres spéciaux d'Etat; représente le parquet auprès des organes supérieurs d'Etat, ainsi que dans les relations avec les organisations internationales et avec les organes de justice des autres Etats; sur proposition du Procureur Principal de la Géorgie décide la question de l'application des sanctions administratives à l'encontre des substituts du Procureur Principal, des procureurs des Républiques Autonomes d'Abkhazie et d'Adjara, du procureur de la ville de Tbilissi et des procureurs régionaux; sur la base de la loi et pour son application émet des actes normatifs et individuels – ordres, instructions et circulaires; annule les ordres, les instructions et les circulaires illégaux émis par les procureurs dépendant de lui; approuve les règlements des organes du parquet et l'ordre de stage; approuve le code de déontologie des procureurs; dans le but de faciliter les tâches du parquet crée les conseils consultatifs; réalise les autres pouvoirs attribués à lui par la législation géorgienne.

En cas d'absence du Ministre de la Justice soit de résiliation de ses fonctions, les pouvoirs énumérés ci-dessus sont accomplis par le Procureur Principal de la Géorgie, soit par l'un des substituts du Procureur Principal.

L'application des lignes directrices de la politique pénale approuvées par le Ministre de la Justice est obligatoire pour tout le corps du parquet.

En outre, conformément à la loi géorgienne sur le Parquet, les organes du parquet sont dirigés par le Procureur Principal de la Géorgie. Ce dernier est nommé et destitué de ses fonctions par le Président de la Géorgie sur proposition du Ministre de la Justice.

**Le Procureur Principal de la Géorgie:** organise et dirige l'activité du parquet; propose au Ministre de la Justice les candidats de ses substituts, des procureurs des Républiques Autonomes d'Abkhazie et d'Adjarie, de procureur de la ville de Tbilissi et des procureurs régionaux; présente au Ministre de la Justice la proposition de leur révocation; nomme et destitue de leurs fonctions les autres procureurs, enquêteurs et autre personnel du parquet; à titre exclusif procède à la poursuite pénale contre le Ministre de la Justice, les procureurs, les enquêteurs soit le conseiller du parquet; assure l'élaboration des données statistiques, organise la généralisation et le perfectionnement de la pratique dans les organes du parquet; présente au Ministre de la Justice des propositions de financement et de logistique du parquet; dans les limites déterminées, présente au Ministre de la Justice des propositions sur la structure des organes du parquet, le nombre et le montant de la rémunération du personnel; détermine les fonctions de ses substituts et des organes du parquet; décide la question de l'application des sanctions administratives à l'encontre du personnel du parquet (à part de ses substituts, des procureurs des Républiques Autonomes d'Abkhazie et d'Adjarie, du procureur de la ville de Tbilissi et des procureurs régionaux); sur la base de la loi et pour son application émet les actes normatifs et individuels – ordres, instructions et circulaires; annule les ordres, les instructions et les circulaires illégaux émis par les procureurs dépendant de lui; examine les demandes et les déclarations des citoyens; réalise les autres pouvoirs attribués à lui par la législation géorgienne.

En cas d'absence du Procureur Principal de la Géorgie soit de résiliation de ses fonctions, les pouvoirs énumérés ci-dessus sont réalisés par l'un des ses substituts.

40. Quelle autorité est compétente pour créer des postes de procureur ?

**Réponse:**

**Le Ministre de la Justice de la Géorgie, dans les limites déterminées par le budget et sur proposition du Procureur Principal de la Géorgie approuve la structure des organes du parquet, le nombre des procureurs et le montant de leur rémunération.**

41. Veuillez indiquer s'il y a des relations entre le ministère public et le ministère de la Justice en ce qui concerne les ressources financières, les ressources humaines, les systèmes informatiques, etc. Si oui, veuillez en décrire le fonctionnement.

**Réponse:**

**Le parquet de la Géorgie est l'organe dépendant du Ministère de la Justice, ainsi malgré le fait que les dépenses du parquet sont mises à part des autres dépenses du ministère, les ressources financières du parquet et du ministère sont liés l'un à l'autre.**

**En ce qui concerne le système informatique, ce système est commun pour tous les organes dépendant du ministère de la justice; alors que le parquet a l'autonomie vis-à-vis les ressources humaines du parquet.**

42. Le ministère public est-il indépendant des autres institutions en ce qui concerne l'exécution et la gestion de son propre budget ?

**Réponse:**

**Le Parquet de la Géorgie est autonome dans l'exécution et la gestion de son propre budget.**

## **SECTION II: Règlements financiers du ministère public**

43. La loi régissant le ministère public comporte-t-elle des dispositions relatives à sa gestion financière et à l'obligation du pouvoir exécutif de mettre les infrastructures nécessaires à sa disposition ?

**Réponse:**

Conformément à la loi géorgienne sur le Parquet, le Ministre de la Justice de la Géorgie sur proposition du Procureur Principal de la Géorgie approuve les propositions relatives au financement et à la logistique du parquet. Suite à cela, il transmet ces propositions aux organes compétents.

Conformément à la même loi, le financement du parquet se fait par les assignats du budget d'Etat. Les dépenses relatives au parquet doivent être mises à part des autres dépenses. Le retranchement des dépenses en cours, destinés au parquet, par rapport aux dépenses de l'année précédente est permis uniquement avec l'autorisation du Ministre de la Justice. L'équipement du parquet par les infrastructures se fait d'une manière centralisée. Le propriétaire des biens mobiliers et immobiliers du parquet est l'Etat.

44. Veuillez décrire la procédure et le calendrier budgétaire du ministère public (préparation du budget, affectation des crédits).

**Réponse:**

Avant l'élaboration du projet budgétaire d'Etat, le parquet de la Géorgie à la mi-année élabore la proposition du budget annuel du parquet laquelle avec les pièces nécessaires et en forme due est présentée au Ministère de la Justice. Le Ministère de la Justice examine la proposition du parquet et en cas de son approbation, avec le budget commun du ministère avant la fin de l'année le transmet aux autorités compétentes.

45. Existe-t-il au sein du ministère public un service chargé spécialement de la gestion des ressources ?

**Réponse:**

Le Premier substitut du Procureur Principal de la Géorgie supervise la gestion des ressources du parquet. Le contrôle sur les dépenses est assuré par le département économique du Ministère de la Justice.

46. Existe-t-il un système informatique national et/ou centralisé pour gérer, superviser et évaluer le budget du ministère public ? *Ce système comprend-il un mécanisme destiné à accroître l'efficacité de la gestion des ressources ?*

**Réponse:**

Le parquet de la Géorgie est lié au « système d'information du service électronique » du Trésor Public, géré par le Ministère des Finances de la Géorgie. Avec l'utilisation de ce programme le parquet effectue les opérations financières et ainsi est contrôlé l'exactitude des dépenses du budget du parquet.

### SECTION III: Ressources du ministère public

47. Veuillez indiquer le montant du budget du ministère public pour 2008, 2009, 2010 et 2011 (valeur en euros), en précisant la part des dépenses de personnel et des autres types de dépenses.

**Réponse:**

<u>Année</u>	<u>Montant total des dépenses du budget du parquet</u>	<u>dont la part des dépenses de personnel</u>
2008	20 304 447.00 GEL (9 417 210.24 EUR)	15 008 785.00 GEL (6 961 080.19 EUR)
2009	15 584 968.00 GEL (7 228 314.09 EUR)	14 438 290.00 GEL (6 696 484.39 EUR)
2010	15 812 569.00 GEL (7 333 875.52 EUR)	14 134 366.00 GEL (6 555 524.33 EUR)

<b>2011</b>	<b>16 325 052.00 GEL (7 571 565.33 EUR)</b>	<b>14 540 949.00 GEL (6 744 097.68 EUR)</b>

48. Dans votre pays, quelles sont les ressources auxquelles vous amélioreriez l'accès et de quelle manière le feriez-vous (accords de partenariat, enquêtes communes, réaffectation des ressources, etc.) ?

**Réponse:**

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49. Les budgets en cours et à venir du ministère public sont-ils touchés par la crise économique de 2009-2011 ?

**Réponse:**

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50. Quels sont les instruments utilisés pour affecter les ressources nécessaires au bon fonctionnement du ministère public ?

**Réponse:**

**La mise en place du système électronique au parquet a considérablement contribué à la mobilisation des ressources financières, ce qu'est devenu plus opérationnelle et effective.**

51. Y a-t-il des liens entre le budget du ministère public et celui de la justice ou de la police ?

**Réponse:**

**Le budget du parquet n'a des liens qu'avec celui du Ministère de la Justice.**

52. Les ressources humaines du ministère public dépendent-elles d'autres institutions judiciaires (Conseil judiciaire, Ecole nationale d'administration, par exemple) ?

**Réponse :**

**Conformément à la loi géorgienne sur le Parquet, le procureur ou l'enquêteur du parquet peut être la personne, qui entre autre a passé l'examen de qualification. Cet examen est mis en place par le Conseil Supérieur de la Justice. Ce dernier est une autorité indépendante du Ministère de la Justice et du parquet.**

53. Le Procureur général ou l'institution correspondante disposent-ils d'un budget particulier pour prendre des mesures temporaires lorsque les ressources humaines sont insuffisantes dans un service donné du ministère public ?

**Réponse:**

**En Géorgie, les parquets régionaux ont le budget approuvé, relatif uniquement aux charges pour les services communaux. Pour le reste, le budget est centralisé.**

54. Existe-t-il, dans votre pays, un mécanisme de réaction rapide permettant une réaffectation rapide des ressources (financières, humaines et logistiques) entre les services du ministère public en fonction des besoins du système ?

**Réponse:**

**Puisque le budget du parquet est centralisé, il n'y a pas de nécessité de créer un tel mécanisme.**

#### **SECTION IV: Budget des enquêtes**

55. Quelles sont les mesures nécessaires pour avoir directement accès aux ressources requises pour les enquêtes ? Veuillez évaluer le temps écoulé entre le dépôt d'une demande de ressources et le moment où celles-ci sont effectivement reçues.

**Réponse:**

**En cas de nécessité et pour l'intérêt de l'enquête, suite au dépôt d'une demande écrite et la production des justificatives nécessaires (s'il y en a) les ressources requises sont directement transmis à l'enquête dans le délai raccourci (entre 1 et 24 heures).**

56. Avez-vous déjà couru le risque de ne pas pouvoir utiliser des techniques d'enquête spéciales (par exemple interception des communications, expertise génétique, perquisition informatique) en temps voulu faute de ressources suffisantes ? Le manque de ressources a-t-il affecté l'efficacité des enquêtes pénales dans des affaires normales ?

**Réponse:**

**Au sein du parquet les cas semblables n'ont pas eu lieu.**

57. La manière dont les services du ministère public gèrent leurs ressources pendant les enquêtes fait-elle l'objet d'un contrôle ? Veuillez en préciser la nature.

**Réponse:**

**Les dépenses de l'enquête du parquet doivent être justifiées. Dans tous les cas, conformément à la loi géorgienne sur le Parquet, le contrôle sur l'utilisation des moyens et des finances d'Etat dégagés dans le but de fonctionnement du parquet est assuré par la Chambre de Contrôle de la Géorgie.**

58. Quelle est la procédure de gestion des ressources appliquée lorsque diverses instances sont impliquées dans la procédure d'enquête (la police, par exemple) ?

**Réponse:**

**L'autorité judiciaire initiant l'exécution d'un acte procédural concret, sollicite le dégagement des ressources nécessaires de ces autorités. Ainsi, malgré le fait qu'il soit possible que diverses instances soient impliquées dans la procédure, il n'y a pas de double dépense dans ce sens.**

59. Est-il possible pour les procureurs de se spécialiser dans un certain type de crimes ? Si oui, quels ont été les effets d'une telle spécialisation au niveau du ministère public *[texte alternatif : sur les résultats achevés par le ministère public]* ?

**Réponse:**

**Compte tenu le nombre des procureurs au parquet de la Géorgie, cette diversification n'a pas été mise en place.**

60. Certains domaines d'enquête ont-ils un accès prioritaires aux ressources financières ou matérielles ? Si oui, qui détermine ces priorités et de quelle manière ?

**Réponse:**

**Les ressources financières en cas de nécessité sont dégagées pour tous types d'enquête sans distinction. Ainsi, il n'y a pas des priorités déterminées dans ce sens.**

#### **SECTION IV: Descriptif du système de gestion par résultats**

61. Disposez-vous d'un système de gestion par résultats ? (Veuillez le décrire.) Si oui, y a-t-il des problèmes avec ce système ?

**Réponse:**

**Le Ministère de la Justice de la Géorgie vient de mettre en place le système de gestion par résultats dans son office central, où ce système pour le moment s'applique à titre exclusif. Quoiqu'il y a le projet d'étendre ce type de gestion dans l'ensemble du ministère ainsi qu'au parquet.**

62. Dans la mesure où un tel système existe, quels objectifs sont fixés pour le ministère public ? Votre système utilise-t-il des benchmarks pour les résultats achevés ?

**Réponse:**

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63. Quelle autorité est compétente pour fixer ces objectifs ?

**Réponse:**

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64. Quel est le rôle du ministère public dans le processus de fixation de ses objectifs ?

**Réponse:**

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65. Ces objectifs sont-ils coordonnés entre toutes les autorités compétentes de la procédure pénale ? Si une telle coordination existe, comment influence-t-elle les activités du ministère public ?

**Réponse:**

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66. Existe-t-il dans votre pays une réglementation régissant la charge de travail optimale des services du ministère public ? Si oui, l'affectation des ressources est-elle liée à la charge de travail ? Veuillez donner des exemples.

**Réponse:**

**A ce stade, la charge de travail optimale des services du parquet n'est pas réglementée.**

67. La fixation des objectifs est-elle basée sur un mécanisme de négociation ?

**Réponse:**

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68. Qui participe à une telle négociation ?

**Réponse:**

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## **SECTION VI: Suivi des résultats et établissement des rapports**

69. Veuillez indiquer si des stratégies nationales ont été suivies dans votre pays en ce qui concerne les ressources du système judiciaire. Si oui, dans quels domaines ces stratégies ont-elles été développées ? Veuillez en commenter les résultats.

**Réponse:**

**Le Gouvernement géorgien a lancé le programme de « Réforme Pénale de la Justice » (RPJ), laquelle vise le renforcement des règles et le développement de l'environnement sûr pour la communauté. La RPJ a des plans d'action appropriés avec le budget de programme.**

Ce programme se compose de plusieurs sous-composantes parmi lesquelles une place importante est occupée par la réforme du parquet. L'objectif de cette réforme est l'augmentation de sens de la sécurité parmi les citoyens et la réduction de la criminalité. Dans ce but il est important d'avoir le parquet efficace.

Le programme susmentionné est coordonné par un Conseil de Coordination d'Inter-agence (CCIA) qui inclut des institutions d'Etat, des organisations internationales et des donateurs. Le CCIA siège à l'office central du Ministère de la Justice et a des responsabilités d'administration quotidienne, de coordination et de contrôle de processus des réformes.

Le CCIA a établi des groupes de travail pour 8 sous-composantes les plus importantes en incluant le Groupe de Travail sur le Parquet, lequel en outre élabore des diverses propositions sur la gestion efficace des ressources du parquet.

70. Y a-t-il un suivi annuel de l'atteinte des objectifs ? Comment se déroule-t-il ?

**Réponse :**

Le secrétariat du Conseil de Coordination d'Inter-agence prépare des rapports annuels sur l'état d'avancement de la RPJ. Le rapport concerne des initiatives thématiques et institutionnelles entreprises par le secrétariat et/ou par les agences appropriées, ainsi que des progrès effectués dans des sections individuelles du programme.

71. Au cours des cinq dernières années, des réformes visant à augmenter le budget de la justice ont-elles été adoptées ?

**Réponse:**

**Non.**

72. Le ministère public est-il inclus dans les stratégies gouvernementales visant à améliorer l'efficacité des institutions publiques (par exemple e-gouvernance, audit financier extérieur) ?

**Réponse:**

**Voir réponse N°32**

73. Comment évalueriez-vous les recommandations d'audit interne du ministère public ?

**Réponse :**

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74. L'effet social des activités du ministère public est-il évalué ? Si oui, par qui ?

**Réponse:**

Les études d'opinion relatives à la sécurité et à la situation criminelle est initiées par le Ministère de la Justice de la Géorgie et dirigé par GORBI (Gorgian Opinion Research Business International). L'étude vise à connaître le degré de satisfaction de la société géorgienne par rapport le travail des autorités judiciaires et à mesurer le niveau de la criminalité dans le pays.

**SECTION I: Status of the prosecution services in the state administration**

1. Please specify the status of the prosecutor and prosecution service in your state. Is it an autonomous institution? If yes, how is autonomy guaranteed?

The prosecution service is part of public administration under the head of the Ministry of Justice.

2. Does the Ministry of Justice or another authority govern the activity of the prosecution service? If so, how?

The prosecution service is by law governed by the principle of legality meaning that there is a duty to investigate whenever there are allegations of a crime committed. Although theoretically the Ministry of Justice could issue orders just as in any other administration, any such intervention would trigger careful public scrutiny. Thus, in practice there are no interventions by the ministry of justice and no interference with the duties assigned by law.

3. Which authority is responsible for the creation of prosecutor positions?

The respective ministry of justice according to practical needs (see question 28).

4. Please indicate if there is any connection between the prosecution service and the Ministry of Justice or another public authority in terms of financial and human resources, IT facilities etc. If so, please describe how this connection works.

Since the prosecution service is part of the administration of the Ministry of Justice it is the Ministry's responsibility to provide for all kind of necessary resources, be it human, financial or technical. The past has shown that the Ministry has taken this task very seriously especially in budgetary negotiations on government level and parliament where advocating for justice infrastructure requires particular insistence. Any shortcomings would immediately fall back on the respective Minister who is politically liable which is a strong incentive for adequate support.

5. Is the prosecution service independent from other institutions when implementing and managing its own budget?

Since the prosecution service is part of the 'ordinary' administration governed by cameralistics there are only very few fields where the respective prosecution office is really free to manage certain amounts (e.g. a certain budget intended for repairs allocated to the individual prosecution offices).

**SECTION II: Financial rules and regulations of the prosecution service**

6. Does the law governing the prosecution service include provisions on financial management and on the executive's obligation to provide it with the necessary infrastructure?

As described, the prosecution service is a subordinated authority of the respective Ministry of Justice which decides on general and specific rules for the administration of the means allocated to it by parliament as the responsible body for the public budget.

7. Please describe how and when the budget of the prosecution service is managed (preparation, distribution of funds between budget lines).

The cameralistic budgetary system provides for certain parts of the global budget to be used for certain purposes in the year to come as decided by parliament, i. e. remuneration of prosecutors, cost of investigation, offices, IT-infrastructure etc. These budget lines are determined by way of estimate based on the experience of previous years. As there is a long experience and a rather large body of prosecutors which reduces the effect of individual anomalies (e.g. unusually complex investigations in a particular case) on the overall result these expectations tend to be quite accurate; in consequence, the budget usually is more or less cost-effective. If not, more means may and will be allocated by parliament at a later stage during the year to fulfil the public responsibility of an effective criminal justice system as prescribed by law.

8. Is there a specific department within the prosecution service responsible for the management of resources?



The administration of means is carried out by the Ministry of Justice that delegates some of its responsibilities to the administrative branch of the Higher Regional Courts and to the Prosecutors General of the Länder (states) – and on the federal level to the Federal Prosecutor General.

9. Is there a national and/or centralised IT system for managing, monitoring and evaluating the budget of the prosecution services? Does this system include a mechanism for increasing the efficiency of resource management?

This depends on the state. In Baden-Württemberg, for example, all public spending is controlled by an SAP-tool that includes cost-performance calculation. This allows for comparing cost and needs of different prosecution offices within the state. Yet, it is not cost efficiency as such that is wanted but best practices and an instrument for the Ministry of Justice and parliament for a more accurate allocation of resources. In other states, there is a separate IT-system for the finances of the judiciary including the prosecution service.

### **SECTION III: Resources of the prosecution service**

10. Please specify the amount of the prosecution service for 2008, 2009, 2010 and 2011 (€ equivalent), indicating the distribution between staff expenditure and other types of expenditure.

Since the prosecution service is part of the judicial system which is in total administered by the Ministry of Justice there is no such thing as a special budget for the prosecution service. And since the responsibility for the judicial system falls within the competence of the Länder there is no nation-wide judicial budget either. Thus, an answer to this question would require detailed information from all 16 Länder which is not freely available. However, the actual annual judicial budget for Baden-Württemberg (roughly 11 million inhabitants) lies at € 1.470 million, of which 50% is spent on personnel and another 19% for pensions. Among the 19.000 persons employed in total there are 1600 persons working in prosecution offices. The figures for the previous years are quite similar.

11. In your jurisdiction, what resources would you improve access to, and how would you do that (e.g. through partnership agreements, joint investigations, redistribution of resources etc.)?

It would always be desirable to have more prosecutors dealing with the caseload. Yet, recent achievements on a data based system of assessing personnel (see question 28) have created a more transparent way of allocating staff. Since the administration of justice is a public task to be carried out in utmost independence from any undue influence there are limits as to going new ways of funding.

12. Are the current or future budgets of the prosecution service affected by the 2009-2011 economic crisis?

Since the code of criminal procedure obliges the prosecution service to investigate any reported or otherwise identified facts that allow the conclusion of an offence being committed (principle of legality) there is no possibility to draw back from this core task for financial reasons. Thus, cuts on budget might only be possible in infrastructure such as postponement of refurbishments. As of now, however, the government's approach to handle the crisis was rather to increase public spending in order to increase domestic demand and thus to attenuate the consequences of the economic crisis. Nonetheless, general budget cuts would affect the judiciary as well.

13. What instruments are used to allocate resources needed for the good functioning of the prosecution services?

The cameralistic system relies on evidence based estimates founded on spending in previous years. Statistics in criminality show that there is not much variation over the years and allow for a quite accurate calculation. Apart from that, there are a specific data based system of assessing personnel (see question 28) and an IT-system as described in no. 9 which are used to allocate resources.

14. Is there any connection between budgets allocated to the prosecution service and to the judiciary or to law enforcement bodies?

The Ministry of Justice also administers the budgets allocated to the courts, again partly via the Higher Regional Courts, and the penal institutions. The budgets of other law enforcement agencies (e.g. the police) are run separately.

15. Do human resources of the prosecution service depend on other institutions of the judiciary (e.g. Judicial Counsel, National School of Clerks)?

There are State Schools for Judicial Officers (Rechtspfleger) where specific training is provided in a three-year course. However, this training is comprehensive; the alumni will equally be deployed in courts.

16. In your jurisdiction, is there any mechanism of rapid reaction which could allow a quick redistribution of means (financial or human resources, logistics) between prosecution services, according to the needs of the system?

The Ministry of Justice is free to use the means provided to it according to the needs of the system as long as it stays within the respective budget line. In some Länder, this competence is – to a certain extent – delegated to the Prosecutors General.

17. Does the Prosecutor General (or equivalent institution) have a specific budget for taking interm/temporary measures in situations when, within a certain prosecution service, human resources are insufficient?

As illustrated, the Prosecutor General is not involved in the administration of budget. However, in some states, there are (permanent) task forces established at the Prosecutors General Office to bolster up local offices when help is needed or specialised units that take over certain investigations.

#### **SECTION IV: Budget for investigations**

18. What steps are required in order to obtain direct access to the resources needed for investigations? Please assess the period of time that elapses between submitting a request for resources and the moment when they are actually obtained?

Investigations do not depend on a prior allocation of means. Necessary investigations will be ordered by the prosecutor in charge. If they create costs they will be handled when the bill comes in. There is no limit as to this part of the budget, the figures in the annual budget are just quite accurate expectations as to how much cost is to be expected to be incurred considering past years and criminal statistics.

19. Have you ever faced the risk that special investigative techniques (e.g. communication interceptions, legal-genetic expertise, computer search) could not be applied in due time because of insufficient resources? Have insufficient resources in general affected the performance of criminal investigations in normal cases?

Only rarely, there may be a shortage of technical equipment. Some investigative techniques such as named above require specialists to carry them out. There may be a shortage of these specialists that might slow down the investigation, e.g. if several terabyte of data need to be interpreted by police forces. However, this is not a question of money but of finding the right person to do it in time. For the vast number of cases resources prove to be sufficient.

20. Is the resource management performed by the prosecution services during their investigation controlled? Please specify.

There is no financial supervision during ongoing investigations. Prosecutors are expected to handle budgetary issues with a sense of proportion and not to order futile measures.

21. What is the resource management procedure when various agencies are involved in the investigation procedure (e.g. the police)?

Since many investigations are handled by the police they incur costs, too. Generally, the costs will first be covered by the respective agency that places the order. At a later stage, they will all be added up as costs of the investigation and finally be borne by the Ministry of Justice under the respective budgetary title. In case of a conviction they will be charged to the convict.

22. Is it possible for prosecutors to specialise in certain types of crimes? If so, what kind of effect has this on the results of the prosecution services?

The direction of the question is not clear. If it aims at whether there is a financial competition as to overall cost efficiency among prosecution offices, there is no such thing in Germany. Instead, comparisons will only be drawn within a certain category of delicts and only for the purpose to identify best practices as to efficiency. Thus, specialisation – which is to a certain extent required by the administration – would not be a draw-back for a specific prosecution office, but is usually seen as an opportunity for distinction.

23. Are there areas of investigation that have priority access to financial or material resources? If so, how and by whom is this priority established?

The principle of legality as explained above (see questions 2, 12) will not allow for prioritising certain areas of investigation and putting others at hold. Yet, the police forces may set priorities to certain extents for example as a reaction to a newly developed drug market in town which would in consequence lead to a large number of cases reported and dealt with by the prosecution office. This, however, is not steered by prosecutors as in ordinary investigations theirs is rather the role to control the investigation lead by the police than to trigger investigations.

In some states, special programs (e.g. the fight against corruption) are run and financed separately from the ordinary budget.

#### **SECTION V: Description of the system of management by results**

24. Do you have a system of management by results? (Please specify.) If yes, is there any problem with this system?

It depends on what is to be understood by results. It is expected that investigations are conducted without delay and reports have to be made to the superior office if they last for more than one year. Besides, each prosecutor's statistics are looked at by the head of his division as to how many investigations he is conducting in parallel, how many he started and how many he closed in whatever way per month. There is a certain expectation that he would meet the average standard taking into account the type of crime he is investigating.

25. What kind of objectives are set for the prosecution service, if such a system of objectives exists? Does your system use benchmarks of achieved results?

The one guiding objective is to comply with the principle of legality, i. e. to investigate any crime in due course. Any other objective would be contrary to law.

26. Which authority/authorities is/are competent to set these objectives?

Not applicable.

27. What role does the prosecution service play in setting these objectives?

Not applicable.

28. Are there regulations in your system as regards the optimal workload within prosecution offices? If yes, is the allocation of resources correlated with this workload? Please provide examples.

There was a nation-wide data collection for a period of 6 months during which a statistically relevant number of prosecutors had to note precisely how much time they spent on doing what. As a result, each group of cases was allocated an average time period necessary to conduct an investigation. External experts supervised the process to assure accurate results and statistic validity. On the basis of these average working times together with the number of cases per year it is possible to retrospectively calculate how much prosecutors are needed to handle the overall workload within the whole state as well as the workload in the respective prosecution offices. Personnel is allocated on the assumption that next year's case numbers would not differ too much from those of the previous year. Since infrastructure such as offices and IT-equipment depends on the number of prosecutors needed in the individual office, these resources will be allocated accordingly. As to investigations they will never depend on a budget provided beforehand but will be paid according to needs, see question 18.

30. Is the setting of objectives based on a negotiation system?

Not applicable.

31. Who are the parties of the negotiations?

Not applicable.

#### **SECTION VI: Follow-up of results and reporting**

32. Please indicate if there are any national strategies implemented in your state regarding the resources allocated to the judicial system, including the prosecution service. If so, in what areas were these strategies developed? Please comment on the result of these strategies.

The data based system of assessing personnel as described in no. 28 is used for the whole judicial system. This leads to reliable figures telling in a comprehensible way how much an efficient law enforcement system will cost. As a result, the Ministry of Justice, who is in charge of negotiating the budget for the whole judicial system with the Ministry of Finance and parliament, usually is in a good position, especially since the 'judicial budget' is usually not really high compared to e.g. the budget spent on social welfare.

33. Is the attainment of objectives followed up yearly? How?

Not applicable.

34. Have any reforms been implemented during the last 5 years aimed at increasing the budget of justice?

The introduction of the data based system of assessing personnel (see question 28) has lead at least to a halt in earlier plans to cut the budget if not – as in some states – in an increase in personnel and thus in budget.

35. Is the prosecution service included in the government strategies for enhancing the efficiency of public institutions (e.g. e-governance, external financial audit)?

The above mentioned system was introduced with the aid of management consultants. Yet, there is a limit to enhance the efficiency of the judicial system with methods of corporate governance since many of the tasks are prescribed by law and could not be avoided, as cost-intensive as they may be.

36. How would you assess internal audit recommendations within the prosecution service?

Internal audit recommendations will not interfere with the cost of investigation and will respect the basic allocation of personnel according to the system described above. Starting from that, they provide valuable information as to how to do better and help to uphold the necessary sensitivity that it is public money that is being spent.

37. Is the social impact of the prosecutor's activities evaluated? If yes, by whom?

There is no such evaluation.

**SECTION I: Status of the prosecution services in the state administration**

The prosecution service is a judicial authority, independent from the courts and the executive power. Prosecutors enjoy functional and personal independence and, in the performance of their duties, are subject only to the Constitution and the laws. Prosecutors are appointed for life by presidential decree, pursuant to the law that stipulates their qualifications and the procedure for their selection.

Prosecutors are supervised by supreme court judges and higher-ranking prosecutors, according to the provisions of the law. Promotions, placements, transfers, postings and assignments of judicial officials are effected by presidential decree, issued by decision of a supreme judicial council, consisting of the president of the relevant supreme court and members of the same court, selected by lot among those who have served at such court for at least two years, according to the law. The Prosecutor at the Supreme Court and two Deputy Prosecutors at the Supreme Court also take part in the supreme judicial council for civil and criminal justice, selected by lot among those who have served at the Prosecution Service at the Supreme Court for at least two years, according to the law.

The salary of prosecutors is proportionate to their office. Prosecutors may be dismissed only by court judgment, on grounds of criminal conviction or serious disciplinary offence or sickness or disability or inadequacy of service, all certified according to the law.

Actions for mistrial against judicial officials are tried, according to the law, by a special court consisting of the President of the Council of State as Chairman, one member of the Council of State, one Supreme Court judge, one member of the Court of Audit, two ordinary law professors teaching at law schools of the country's universities and two lawyers, members of the Supreme Disciplinary Board of lawyers, as members, selected by lot.

The activity of the prosecution services is not inspected by the Ministry of Justice or any other authority.

The Minister of Justice is not entitled to instruct the relevant prosecutor to initiate criminal proceedings. He is only entitled to instruct the prosecutor at the magistrate court to carry out preliminary inquiries into any offence. In exceptional cases, the Minister of Justice may ask the Prosecutor at the Supreme Court to order investigations and refer a case to court by absolute priority.

The Minister of Justice supervises the administration of justice. The supervisory powers of the Minister of Justice also include the issuance of general informative instructions to prosecutors on the implementation of the legal means established in the context of the EU Council as regards the judicial cooperation of Member States in the fields of prevention and suppression of organised crime, trade and trafficking in drugs, international terrorism, establishment of gangs and criminal organisations for the commission of murder, trafficking in human beings and crimes against children, money laundering using high technology and international economic crime.

The number of permanent prosecutor positions is determined by law.

The State incurs all costs required for the operation of criminal justice.

The Minister of Justice determines judicial premises by decision. To finance cleaning services, maintenance of electric-mechanical equipment and facilities, elevators, IT equipment, office machines, air conditioners, fire safety, guarding and other extraordinary costs relating to the foregoing, as well as the procurement of stationery, consumables for the said machinery or facilities and cleaning items, the Judicial Buildings Financing Fund pays an annual subsidy to courts by decision of its Board of Directors. Such subsidy is intended to meet the foregoing needs of the courts of the relevant Court of Appeal Region by holding uniform tenders on a case-by-case basis. The subsidy is managed by a three-member committee, appointed for two years by the relevant Plenary Session.

The details of the procedure of settlement and payment of the costs relating to the aforesaid needs are determined by joint decision of the Ministers of Finance and of Justice, Transparency and Human Rights. The same decision also stipulates the method of auditing the management of the annual subsidy paid to the said courts.

**The prosecution service does not have its own budget.**

## **SECTION II: Financial rules and regulations of the prosecution services**

The law that governs the prosecution service does not comprise any provisions relating to the financial management and the obligation of the executive power to provide the necessary infrastructure.

Prosecution services comprise a Payroll and Financial Management (Accounting) Department, the powers of which include, *inter alia*, planning and monitoring the needs of the service, taking the necessary action to secure funds and managing such funds.

There is no national computer system for the management of the budget, since the prosecution services does not have their own budget.

## **SECTION III: Resources of the prosecution service**

By way of example, these are the funds requested by the Prosecution Service at the Court of Appeal of Athens to cover the foregoing costs and the relevant approved funds: Requested funds: (i) €52,483.73 for 2008, (ii) €53,947.67 for 2009, (iii) €72,672.82 for 2010, and (iv) €41,892.72 for 2011. Approved funds: (i) €45,277.85 for 2008, (ii) €44,086.67 for 2009, (iii) €61,378.42 for 2010, and (iv) €33,118.27 for 2011.

The expenditure of the prosecution service for the foregoing needs are covered by the said procedure. The relevant expenditure is affected by the economic crisis.

## **SECTION IV: Budget for investigations**

There is no budget for investigations. As mentioned above, the expenditure required for the operation of criminal justice is paid by the State, which has special agencies to assist the task of the prosecution service. The Ministry of Justice also covers any other costs (e.g. fees of experts, translation costs etc.).

Prosecutors may specialise in a certain type of offences, thereby dealing with such offences in a faster and more effective manner.

Specifically, there are prosecutors for economic crimes. The Prosecution Service at the First Instance Court of Athens, which is largest in the country, comprises a Prosecutor for the Environment, a Prosecutor for Children, Protection of Cultural Property (Antiquities), Family Violence and Protection of Animals.

## **SECTION V: Description of the system of management by results**

The purpose and objective of the prosecution service is to process criminal cases in a correct and prompt manner. The achievement of this objective depends on the court and the lawyers. There is no negotiation system for goal-setting. There are regulations relating to the optimum workload within each prosecution service.

## **SECTION VI: Follow-up of results and reporting**

There is no institutional provision about the assessment of the social impact of prosecutors' activities.

*Athens, 17 May 2012  
True translation from Greek  
The translator Eleni Dimitriou*

**SECTION I: Status of the prosecution services in the state administration**

1. Please specify the status of the prosecutor and the prosecution service in your state. Is it an autonomous institution? If yes, how is this autonomy guaranteed?

As a participant in criminal justice, the Prosecutor General and the prosecution service shall enforce the state's claim to punish crimes. Within its scope of activities the prosecution service shall prosecute crimes and other unlawful acts or omissions, and it shall also assist the prevention of unlawful acts.

The prosecution service is headed and directed by the Prosecutor General; public prosecutors are appointed by the Prosecutor General.

Upon the proposal of the President of the Republic, the Prosecutor General is elected by the National Assembly for a nine-year term. A two-thirds majority of the MPs is necessary for the election of the Prosecutor General.

The Prosecutor General submits an annual report to the National Assembly on the activity of the Prosecution Service.

The detailed regulations concerning the functioning of the Prosecution Service and the legal status of the Prosecutor General and that of the individual prosecutors, as well as their remuneration shall be stipulated by a two-thirds majority law. (Article 29 of the Basic Law of Hungary)

2. Does the ministry of justice or another authority govern the activity of the prosecution service? If so, how?

No.

3. Which authority is responsible for the creation of prosecutor positions?

Prosecutor positions are authorized at the highest level by the National Assembly by adopting the Act on the Central Budget.

Pursuant to Article 6 Paragraph (1) and (2) of Act CLXIII of 2011 on the Prosecution Service the Prosecution Service shall constitute an independent budgetary chapter in the Act on the Central Budget. The Prosecutor General composes his proposal for the budget of the Prosecution Service as well as his report on the budget implementation which is submitted by him as part of the bill on central budget and its implementation without any alterations to the National Assembly.

4. Please indicate if there is any connection between the prosecution service and the Ministry of Justice or another public authority in terms of financial and human resources, IT facilities etc. If so, please describe how this connection works.

In terms of human resources there is no connection between the prosecution service and the Ministry of Public Administration and Justice, or any other authorities.

The Prosecutor General may – with the consent of the prosecutor and the Minister of Justice – transfer individual public prosecutors to the Ministry of Justice headed by the Minister of Justice to take part in the preparation of statutory instruments or other tasks requiring prosecutorial experience.

The public prosecutor transferred to the Ministry of Justice headed by the Minister of Justice (hereinafter: the transferred public prosecutor) shall retain his/her prosecutorial position, however, shall not be entitled to exercise his/her prosecutorial powers. For the remuneration of the transferred public prosecutor regulations relating to public prosecutors shall be applicable. (Article 29 of Act CXIV of 2011)

Upon the initiation of the Minister of Public Administration and Justice, four prosecutors work presently at the Department of Criminal Law and Codification of the Ministry for a definite period of time.

5. Is the prosecution service independent from other institutions when implementing and managing its own budget?

Yes.

## **SECTION II: Financial rules and regulations of the prosecution service**

6. Does the law governing the prosecution service include provisions on financial management and on the executive's obligation to provide it with the necessary infrastructure?

The law governing the prosecution service does not include provisions on financial management and on the executive's obligation to provide it with the necessary infrastructure. As the Prosecution Service of the Republic of Hungary forms an independent budgetary chapter, the totals of its income and expenses as well as for the amount of the budgetary subsidy that is aimed at covering expenses arising from tasks defined in Article 29 of the Basic Law are governed by the Act on the Central Budget of Hungary.

7. Please describe how and when the budget of the prosecution service is managed (preparation, distribution of funds between the budget lines).

On the basis of the Planning circular letter, issued by the Ministry for National Economy, containing budgetary planning, the elaboration of the budgetary proposal and the tasks of the compilation of the Budgetary Act the Prosecutor General prepares the budgetary proposals for the chapter of the Prosecution Service of the Republic of Hungary which is then submitted to the Parliament by the Government. Upon the adoption of the Prosecution Service budget proposal the organizational units of the Prosecution Service disposing of partial budgetary allocations –along the guidelines laid down in the circular letter of the Head of the General Directorate for Finances and Economy – shall prepare their own budgetary proposals. The chief prosecutor is responsible for the necessity of the expenditure of the allocated sums, the amount and extent of services retained, as well as for the reasonableness and austerity of the proposal. Budgetary allocations handled in the centre are planned by the General Directorate for Finances and Economy. The proposed amounts are finalized in the course of budgetary negotiations. Next, the organizational units of the Prosecution Service disposing of partial budgetary allocations must re-plan the approved budgetary appropriation in accordance with the budgetary blank published by the Ministry for National Economy. The estimates of expenditures laid down in the course of the budgetary negotiations, as well as the targets, handled in the centre are to be approved by the Prosecutor General.

8. Is there a specific department within the prosecution service responsible for the management of resources?

Pursuant to Article 23 Paragraph (2) of 25/2003 (ÜK.12) LÜ General Instruction on the organization and functioning of the Prosecution Service of the Republic of Hungary the General Directorate for Finances and Economy and specifically the Head of the General Directorate for Finances and Economy is responsible for the implementing of bookkeeping relating to the annual budgetary appropriation and data disclosure. Employees of the Prosecution Service listed in Articles 5 and 6 of 6/2010 (ÜK. 6) LÜ General Instruction on certain management regulations of the Office of the Prosecutor General are qualified to commitment and these persons are entitled to dispose of the budgetary appropriation.

Pursuant to Article 22 Paragraph (1) of /2003 (ÜK.12) LÜ General Instruction on the organization and functioning of the Prosecution Service of the Republic of Hungary, the Department for Human Resources, Continuous Training and Administration contributes to provide human resources.

9. Is there a national and/or centralised IT system for managing, monitoring and evaluating the budget of the prosecution services? *Does this system include a mechanism for increasing the efficiency of the resource management?*

A national IT system has not been set up yet. If the centralized IT system is meant to be a central system within the Prosecution Service, there is a centralized IT system which only handles the budget of the Prosecution Service but does not control or evaluate it. This system does not include a mechanism for increasing the efficiency of the resource management.

## **SECTION III: Resources of the prosecution service**

10. Please specify the amount of budget of the prosecution service for 2008, 2009, 2010 and 2011 (€ equivalent), indicating the distribution between staff expenditure and other types of expenditure.

Please be informed that the Act on the Central Budget of Hungary defines the totals of income and expenses, as well as the amount of the budgetary subsidy of the independent budgetary chapter, the



Prosecution Service of the Republic of Hungary in forints. (HUF) Therefore, the data concerning the years 2008-2011 in the table below indicate million forints.

Types of expenditure	2008		2009		2010		2011	
	target	accomplishment	target	accomplishment	target	accomplishment	target	accomplishment
Personal allocation	19 264	20 896	19 191	19 345	19 189	19 168	21 082	20 418
Contributions of the employer	6 057	6 527	6 015	5 893	5 013	5 034	5 534	5 301
Material expenditure	2 974	2 776	3 045	2 974	3 090	3 775	3 573	3 665
Tradition of resources	932	69	187	85	89	74	92	158
Modernization	100	110	50	50	30	34	30	32
Other institutional investments	671	1 224	911	1 627	1 121	1 423	1 780	1 040
<b>Total</b>	<b>29 998</b>	<b>31 602</b>	<b>29 399</b>	<b>29 974</b>	<b>28 532</b>	<b>29 508</b>	<b>32 091</b>	<b>30 614</b>

11. *In your jurisdiction, what resources would you improve access to, and how would you do that (e.g. through partnership agreements, joint investigations, redistribution of resources etc.)?*

Since the expenses of the Prosecution Service are mainly financed by the central budgetary subsidy (in a four-year average the proportion of the budgetary subsidy within the income of the Prosecution Service was 99.5%), it seems expedient to finance the necessary resources from the budgetary subsidy.

12. Are the current or future budgets of the prosecution service affected by the 2009-2011 economic crisis?

Current budget: see the table above

The budgetary target of the Prosecution Service for 2011 was considerably increased (by 3.6 milliard forints) by the resource needs of the new tasks, emerging in 2011.

Future budget: no information available

13. *What instruments are used to allocate resources needed for the good functioning of the prosecution service?*

The compound of resources of the expenditure of the Prosecution Service does not allow for the use of further instruments.

14. Is there any connection between the budgets allocated to the prosecution service and to the judiciary or to law enforcement bodies?

There is no connection between the budgets allocated to the prosecution service, the judiciary or to law enforcement bodies.

15. Do human resources of the prosecution service depend on other institutions of the judiciary (e.g. Judicial Council, National Schools of Clerks)?

The human resources of the prosecution service do not depend on other institutions of the judiciary.

16. In your jurisdiction, is there any mechanism of rapid reaction which could allow a quick redistribution of means (financial or human resources, logistics) between prosecution services, according to the needs of the system?

The central accountant record system of the Prosecution Service (MegaOra system) allows the redistribution of means, according to the needs of the system.

17. Does the General Prosecutor (or equivalent institution) have a specific budget for taking interim/temporary measures in situations when, within a certain prosecution service, human resources are insufficient?

No specific budget is available for taking interim/temporary measures. Article 12 and 12/A of 3/1998. (ÜK.11.) LÜ General Instruction on the management of human resources and specific personal allowances within the prosecution service stipulate that in cases of insufficient human resources, vacant positions or prolonged absence what regulations should serve as basis for forming a fee limit payable for overtime work.

#### **SECTION IV: Budget for investigations**

18. What steps are required in order to obtain direct access to the resources needed for investigations? Please assess the period of time that elapses between submitting a request for resources and the moment when they are actually obtained.

The Hungarian State Treasury manages the financing of the operational budgetary subsidy on a monthly basis which makes resources continuously available. Pre-financing has not occurred in the past five years.

In justified cases further financing is also ensured. Therefore, it is not necessary to submit a request for extra resources in relation to individual investigations.

Pursuant to Paragraph (1) of Article 1 of the Common Instruction 21/2003 (VI. 24) IM-PM-BM on the advanced cost of a criminal procedure – unless otherwise provided by a statutory instrument – the cost of criminal procedure is covered up to the budgetary limit available by the investigating authority in the investigative phase of the procedure, by the public prosecutor in the procedure of the investigative judge and the public prosecutor.

Pursuant to Paragraph (1) of Article 169 of Act on Criminal Procedure the prosecutor or the investigating authority shall adopt a decision on the establishment of the costs of the criminal procedure, the assignment of an expert or an interpreter and the establishment of their fee.

Authorities proceeding in criminal matters pay the emerging criminal costs of obtaining evidence from their budget allocated to them on the basis of their yearly estimate. The order of allocation: the obligee presents the invoice, the list of costs; a decision is adopted on the authorization of the invoice and finally follows remittance.

In practice, the period between the presentation of the invoice and the actual payment is not longer than 2-3 weeks, and there is also no precedent for exceeding the time limit set for the decision establishing the remuneration of the expert.

As regards the investigating authority, however, a delay exceeding half a year has also occurred.

19. Have you ever faced the risk that special investigative techniques (e.g. communication interceptions, legal-genetic expertise, computer search) could not be applied in due time because of insufficient resources? Have insufficient resources in general affected the performance of criminal investigation in normal cases?

We have not faced the risk that the application of special investigative techniques/procedures would have failed due to insufficient resources in the past five years.

Sporadically, there have been cases where costly proceedings of gathering evidence, such as obtaining expertise on DNA and homogenetics, have been disregarded during the course of criminal investigation.

This mostly occurs in cases where it is possible to clarify questions by using other means of evidence, or when with regard to criminal liability expert witnessing would not lead to an undisputable result.

The fulfillment of the duty of inquiry as to the facts of the case, falling into the competence of the investigating authority and the prosecution service, specified by Section 164 (2) of the Act on Criminal Procedure, is thus not violated in most cases.

Should the budget allocation for procedural expenses not enable any further, rather costly evidence gathering, it may be the case that the investigation should be planned in a way that allows the involvement of experts only to the extent of the resources available in the subsequent year.

It is also possible to request bids from several experts prior to their assignment when questions requiring special expertise arise and thus mitigating the amount of the procedural expenses.

It shall also be noted that the lack of resources causes difficulties not only when decisions are made whether to use an expert, namely the Criminal Expert and Research Institute can mostly carry out costly examinations only with significant delays due to the obstacles already mentioned, and reviewing the necessity of their assignment has already been initiated several times before the authorities.

20. Is the resource management performed by the prosecution services during their investigations controlled? Please specify.

While implementing the budget and using budget allocations, – and in this way during the course of prosecutorial investigation as well – payment obligations may be undertaken under conditions specified by law.

To the debit of the expenditure targets of the fiscal year, payment obligations may only be undertaken to the amount of those original or modified expenditures (unrestricted expenditure targets) the amount of which is reduced by previous payment obligations still effecting the expenditure targets of the fiscal year or by other payment obligations.

On behalf of the budgetary organ payment obligations may be undertaken in writing by the head of the organ undertaking such an obligation (Prosecutor General), or upon his authorization, a person employed by the organ undertaking the payment obligation.

Heads of the organs (appellate chief prosecutors, chief prosecutors, the director of the National Institute of Criminology) defined by Section 8, Paragraph (1) Subparagraph b) and c) and Section 10 of Act CLXIII of 2011 on the Prosecution Service shall be deemed as heads of the organ undertaking payment obligations with regard to the obligations undertaken to the debit of the expenditure targets allocated to them.

Payment obligations may only be undertaken following a financial countersignature, prior to the due date of financial performance, and in writing. The party providing a financial countersignature shall check whether the unrestricted expenditure targets are available, the financial coverings are provided at the planned dates of payment, and that the payment obligations undertaken do not violate the financial regulations.

Prior to the financial countersignature the party providing a financial countersignature shall make sure that the free expenditure targets needed are available, the inflowing or the targeted and inflowing incomes expected provide sufficient covering, the financial coverings are provided at the planned dates of payment, and the payment obligations undertaken do not violate the financial regulations.

In case of a payment obligation undertaken to the debit of the expenditure targets of the budgetary organ, the financial executive (head of the General Directorate for Finances and Economy), or, by his written designation, a person employed by the budgetary organ shall be entitled to provide a financial countersignature to the obligation.

Ordering a payment to the debit of the expenditure targets (remittance) may only be ordered following the confirmation of performance and the validation in compliance with it.

In accordance with the documents verifiable during the confirmation of performance, it is necessary to examine and justify that payments have been duly performed, to verify their total amount, and to justify performance of payment in case of a payment obligation incorporating consideration if payment or part of the payment is due after the performance of consideration.

Persons authorized to certify payment shall be designated by the entity undertaking payment obligations (obligor) in writing with reference to the specific obligation or the predetermined groups of obligations.

When payments are effected, it shall be the validating entity who is obliged to check the total amount, the availability of the financial covering and the compliance with the laws in internal regulations during the preceding procedure. Validation shall take place before the document is remitted.

The obligor and the entity providing the financial countersignature may not be the same person concerning the same financial event. In relation with the event of the same financial event, the validating entity shall not coincide with the entity entitled to undertake payment obligations, to remittance, and to certify performance of payment.

Tasks of undertaking payment obligations, providing financial countersignature, validation, remittance and confirming performance shall not be done by a person who would pursue the aforesaid activities for himself or close relatives defined by the Hungarian Civil Code.

Auditing shall be the competence of the State Audit Office and is done while auditing the implementation of the budget.

21. What is the resource management procedure when various agencies are involved in the investigation procedure (e.g. the police)?

Pursuant to Section 1. of Decree 21/2003. (VI.24.) IM-PM-BM – referred to in Point 18. – the expenses arising during the course of investigation conducted by the investigation authority shall be advanced to the debit of the available budget cover by the investigation authority itself.

In these cases prosecutors are entitled to review or influence decisions resulting in expenses only by setting aside, reversing the decisions made by the investigation authority – also referred to in the previous paragraph – pursuant to Section 28 Paragraph (4) Subparagraph c) of the Code on Criminal Procedure, subsequently and indirectly, by determining the limitations of evidence gathering.

22. Is it possible for prosecutors to specialize in certain type of crimes? If so, what kind of effect it has had on the results of the prosecution service?

Pursuant to Section 30 Paragraph (1) of the Code on Criminal Procedure, the competence and territorial jurisdiction of the prosecution service is determined by the competence and territorial jurisdiction of the court where it functions.

Section 17 Paragraph (5) and (6) of the Code on Criminal Procedure stipulates that instead of the court having general territorial jurisdiction and located at the place where the crime was committed, the local court administering justice at the headquarter of the county court, whereas in the territory of the Metropolitan Court the Central District Court of Pest shall proceed as courts with special jurisdiction exclusively the in criminal cases of public endangerment, interference with works of public concern, misuse of radioactive substance, illegal operation of nuclear facilities, misuse of nuclear energy, and with the exception of violation of accounting regulations in criminal cases of economic as well as financial crimes.

Finally, pursuant to Section 17, Paragraph 10 of the Code on Criminal Procedure the Metropolitan Court shall adjudicate in criminal cases of communist crimes specified by the Act on the Punishability and Exemption from the Statute of Limitations of Crimes Against Humanity, as well as on the Prosecution of Specific Crimes Committed during the Communist Dictatorship, whereas this court shall also have jurisdiction in criminal procedures initiated for crimes where the statute of limitations does not apply according to international law.

Within the framework prescribed by law the local and territorial prosecution service offices have the right to organize their structure in compliance with an internal division adjusting to the various types of criminal offences.

Owing to the lack of relevant examinations, indicators of efficiency deriving from the structuring and specialization of the organization cannot be reported.

23. Are there areas of investigation that have priority access to financial or material resources? If so, how and by whom is this priority established?

No investigation has priority access to financial or material resources as such a lack of resources does not prevent any procedure. Consequently, it is not necessary to establish priorities from financial aspects.

## **SECTION V: Description of the system of management by results**

24. Do you have a system of management by results? (Please specify.) If yes, is there any problem with this system ?

No.

25. What kind of objectives are set for the prosecution service, if such a system of objectives exists? Does your system use benchmarks of achieved results?

—

26. Which authority/authorities is/are competent to set these objectives?

—

27. What role does the prosecution service play in setting these objectives?

—

28. Are the objectives coordinated between all authorities of the criminal procedure? If such coordination exists, how does it influence the activities of the prosecution service?

—

29. Are there regulations in your system as regards the optimal workload within prosecution offices? if yes, is the allocation of resources correlated with the workload? Please provide examples.

When new positions become available, the Office of the Prosecutor General carries out a periodical and repeated evaluation with regard to workload prior to the allocation of positions.

30. Is the setting of objectives based on a negotiation system?

—

31. Who are parties of the negotiations?

#### **SECTION VI: Follow-up of results and reporting**

32. Please indicate if there are any national strategies implemented in your state regarding the resources allocated to the judicial system, including the prosecution service. If so, in what areas were these strategies developed? Please comment on the results of these strategies.

Combating crimes such as corruption, other criminal offences against public justice as well as malfeasance, the essential part of which falls into the exclusive competence of the prosecution, is supported.

Supporting surplus duties deriving from the mandatory participation of prosecutors in trials.

33. Is the attainment of objectives followed up yearly? How?

Specifying and controlling strategies is the competence of the political decision-making.

34. Have any reforms been implemented during the last 5 years aimed at increasing the budget of justice?

Yes, the same reply is provided to this question as the one included in point 32.

35. Is the prosecution service included in the government strategies for enhancing the efficiency of public institutions (e.g. e-governance, external financial audit)?

Yes, the prosecution service is included in the government strategy for enhancing the efficiency of the public institutions.

36. How would you assess internal audit recommendations within the prosecution service?

37. Is the social impact of the prosecutors' activities evaluated? If yes, by whom?

Various poll companies may deal with this question.

**SECTION I: Status of the prosecution services in the state administration**

**Please specify the status of the prosecutor and the prosecution service in your state. Is it an autonomous institution? If yes, how is this autonomy guaranteed?**

The Prosecution Service is an independent institution. Each public prosecutor is also independent. Such an independence is guaranteed by the Italian Constitution.

In Italy public prosecutors are defined as magistrati (corresponding to the French term magistrats), as they belong – together with judges – to the judiciary.

Their independence is achieved through (and safeguarded by) the Consiglio Superiore della Magistratura (CSM – the High Council for the Judiciary). The latter has full authority appointments, transfers, careers and discipline of judges and public prosecutors. The High Council for the Judiciary is mostly composed of magistrati (judges and public prosecutors) who are appointed by all the judges and public prosecutors.

Their independence is further guaranteed by their “irremovability”. They can only be removed or suspended from their functions or transferred to another work place if the CSM decides so (in case they would not agree) and according to the guarantees of the law.

From an Italian perspective, the principle of mandatory criminal action (enshrined in the Constitution) is believed to contribute to safeguard public prosecutors’ independence. Since they must prosecute all crimes, they cannot be conditioned by other public powers.

**Does the ministry of justice or another authority govern the activity of the prosecution service? If so, how?**

The Minister of Justice does not govern Prosecution Offices’ activities. He is only charged with the organization and the functioning of services linked to justice activities (i.e. resources and personnel).

The judiciary is not organized in a hierarchy (it is said to be a “diffused” power). However, powers of control and impulse of the activities of public prosecutors lie within the authority of the Prosecutor General at the Supreme Court of Cassation -as the last resort- and of the Prosecutors General at the Courts of Appeal. They have a duty to control that a correct and uniform prosecution, a fair trial and an accurate organization of prosecution offices be implemented.

**1. Which authority is responsible for the creation of prosecutor positions?**

The Italian Parliament is responsible for it.

The number of members of the judiciary -judges and public prosecutors- is established by law. If new positions are created, their distribution is decided by the Minister of Justice, after hearing the CSM's opinion. An enabling act sets forth provisions concerning the elimination of smaller judicial offices. In accordance with this act, the Minister of Justice on the way to change Italian judicial districts. As a consequence, positions corresponding to the suppressed offices will be assigned to the resulting offices.

**2. Please indicate if there is any connection between the prosecution service and the Ministry of Justice or another public authority in terms of financial and human resources, IT facilities etc. If so, please describe how this connection works.**

Yes, there is. The organization and running of justice-related services lie within the authority of the Ministry of Justice.

As for human resources, public prosecutors, personnel and police work altogether in prosecution offices. All of them are civil servants. The Ministry of Justice assigns the decides administrative staff assigned to each prosecution office.

As for financial resources, information systems, etc., they are provided by the Ministry of Justice and more generally from the State. Prosecution offices, like Courts, are not independent with respect to accountant and financial matters. Receipts (coming from private people's fees having access to legal services and from seized or confiscated illegal proceeds) become part of State Budget, which is also burdened with any expenditure (staff salaries, infrastructure expenses, office expenses, investigation costs etc.)

Building and facilities expenses are advanced by Municipalities and then they are reimbursed by the State in a percentage equivalent to 75%. Office expenses (paper, equipment) are paid by funds which the Ministry allocates to Prosecutor General offices and handed down from them to different prosecution offices. Personnel and information technology expenses are directly paid by the State.

Criminal proceedings’ expenses (investigations, phone or indoor tapping, experts’ reports etc.) are advanced by the State although, in case of conviction, they will have to be paid by offenders.

The information system (software packages, registries of criminal offences, etc.) is managed by prosecution offices in cooperation with the Ministry of Justice and the CSM. All this prevents the Ministry from interfering with programs which might influence public prosecutors’ investigations. Individual prosecution offices might

sign conventions with local authorities (for example Regions) to improve services of the legal system. They might also have access to European funds.

**3. Is the prosecution service independent from other institutions when implementing and managing its own budget?**

No, it is not.

**SECTION II: Financial rules and regulations of the prosecution service**

**4. Does the law governing the prosecution service include provisions on financial management and on the executive's obligation to provide it with the necessary infrastructure?**

No, there are no provisions concerning financial management. However, there are the responsibilities indicated in answer no. 4).

**5. Please describe how and when the budget of the prosecution service is managed (preparation, distribution of funds between the budget lines).**

There is no real budget of the prosecution service, neither at a central nor at a local level.

The law prescribes that each prosecution office shall write a yearly program of the most relevant activities, considering human, financial and instrumental activities at their disposal.

Such a document is jointly drawn up by the Chief Prosecutor and by the administrative Manager of the prosecution office.

Then, every prosecution office draws up a statement of accounts of yearly expenses. Some prosecution offices also draw up their own "social budget" with respect to their results, but it is not compulsory.

**6. Is there a specific department within the prosecution service responsible for the management of resources?**

In every prosecution office the administrative Manager is responsible for the management of resources. If there is no administrative Manager (as it often happens in smaller offices), then the Chief Prosecutor is responsible for it.

**7. Is there a national and/or centralised IT system for managing, monitoring and evaluating the budget of the prosecution services? Does this system include a mechanism for increasing the efficiency of the resource management?**

There is a national IT system to keep the accounts. This system depends on the Ministry of Finance. Systems monitoring expenses are starting to be developed, but their efficacy is not relevant yet. There are no really adequate mechanisms for increasing the efficiency of resource management.

**SECTION III: Resources of the prosecution service**

**8. Please specify the amount of budget of the prosecution service for 2008, 2009, 2010 and 2011 (€ equivalent), indicating the distribution between staff expenditure and other types of expenditure.**

There are no national data summing up the situation.

With the aim of giving some reference data, we indicate here below data concerning prosecution offices within the District of Florence Court of Appeal (13 prosecution offices for a population of about 3.3 million people, amounting to 5.8% of the global Italian population).

Yearly expenses (excluding staff expenditure):

2008 = € 6.962.000 (among them for phone tapping €1.287.000)

2009 = € 6.736.000 (among them for phone tapping €1.987.000)

2010 = € 6.531.000 (among them for phone tapping €1.909.000)

2011 = € 10.117.000 (among them for phone tapping €3.736.000)

**9. In your jurisdiction, what resources would you improve access to, and how would you do that (e.g. through partnership agreements, joint investigations, redistribution of resources etc.)?**

There is a need for increasing financial resources and, above all, administrative staff. It would be convenient (they have already started to do so) to allocate all resources produced by the judicial system (fines, seized goods etc.) for the running of the judicial system itself. It would also be convenient to resort more to European Social Funds.

As far as human resources are concerned, the situation is serious, since no new administrative staff has been engaged for many years. Agreements with public authorities, such as Regions, Provinces and Municipalities (as well as with Universities and Bar Councils), should be enhanced.

Joint investigations would surely be very useful to maximize resources allocation. However, since there is no national centralised office leading public prosecutors' activities, the only tool to this purpose is a coordination

among different prosecution offices. Anyhow, the system should be organized in a more rational way, whereas today it includes too many categories of expenditure and budget items.

**10. Are the current or future budgets of the prosecution service affected by the 2009-2011 economic crisis?**

Yes they are, although there are no precise data.

In the last few years we have been mostly affected by the veto on hiring new administrative staff.

**11. What instruments are used to allocate resources needed for the good functioning of the prosecution service?**

State Finance and Budget laws are the instruments which are used to allocate resources to the Ministry of Justice and, consequently, to prosecution offices. Other resources can be found through conventions and the European Social Funds, as indicated in answer no. 11.

**12. Is there any connection between the budgets allocated to the prosecution service and to the judiciary or to law enforcement bodies?**

There is no direct link between funds allocated for prosecution offices and funds allocated for courts, neither is there a link with respect to the budgets of police forces. In general terms, allocations for prosecution offices amount to one third of allocations for courts.

**13. Do human resources of the prosecution service depend on other institutions of the judiciary (e.g. Judicial Council, National Schools of Clerks)?**

Yes, they do. As already said here above, the administrative staff is employed by the Ministry of Justice and the police working at prosecution offices are employed by the Executive.

As for judges and prosecutors, see answer no. 4.

**14. In your jurisdiction, is there any mechanism of rapid reaction which could allow a quick redistribution of means (financial or human resources, logistics) between prosecution services, according to the needs of the system?**

Yes, there is, as far as human resources are concerned. Judges and prosecutors can be temporarily "seconded" from their office to another court/prosecution office that has vacancies or investigation-related needs. In these cases it is up to the Prosecutor General at the Court of Appeal to decide when a public prosecutor is seconded within the same district, otherwise it is up to the CSM to decide.

Administrative staff can also be temporarily seconded from its permanent office to a different office.

We are not dealing here with very quick mechanisms, neither are we speaking of mechanisms permitting a distribution of financial resources. The problem is less serious if we consider that investigation expenses can be advanced even though they overcome the budget at that moment.

**15. Does the General Prosecutor (or equivalent institution) have a specific budget for taking interim/temporary measures in situations when, within a certain prosecution service, human resources are insufficient?**

There is no specific budget to this purpose. In case of need, the instruments devised are those indicated in answer no. 16.

**SECTION IV: Budget for investigations**

**16. What steps are required in order to obtain direct access to the resources needed for investigations? Please assess the period of time that elapses between submitting a request for resources and the moment when they are actually obtained.**

Expenses needed for investigation purposes are always advanced by the Treasury.

Therefore, special measures are not needed.

If special equipment is required for an investigation (for example equipment for indoor tapping), it can be provided by the police (the prosecution office has no expenses in this case) or it can be hired from private people (in this case expenses are still advanced by the Treasury). If a prosecution office decides to buy some special equipment and the cost overcomes available funds, it has to request a permit to the Ministry of Justice. In such a case, it is common to wait some months for the answer.

**17. Have you ever faced the risk that special investigative techniques (e.g. communication interceptions, legal-genetic expertise, computer search) could not be applied in due time because of insufficient resources? Have insufficient resources in general affected the performance of criminal investigation in normal cases?**

No, we have not. No, insufficient resources have never raised problems in this respect.



**18. Is the resource management performed by the prosecution services during their investigations controlled? Please specify.**

No, it is not. A public prosecutor decides in such a case. In some prosecution offices, the Prosecutor General can later control some special expenses (for example for some legal-genetic expertise) by putting an "approval sign" on the payment order.

**19. What is the resource management procedure when various agencies are involved in the investigation procedure (e.g. the police)?**

There is no procedure differing from the above mentioned ordinary procedure.

**20. Is it possible for prosecutors to specialise in certain type of crimes? If so, what kind of effect it has had on the results of the prosecution service?**

Yes, it is. In all prosecution offices (except very small prosecution offices, that is with less than 5 prosecutors) there are special groups of public prosecutors specialized in investigating certain types of crimes. Here listed are some of the most widespread criminal offences they specialize in: offences concerning the government (corruption, bribery, etc.), economic and fiscal offences (usury, false accounting, tax evasion, etc.); offences against the weakest layers of society (domestic violence, sexual abuse of children, exploitation of prostitution, breach of immigration law, etc.). For organized crime offences (*mafia*-related and similar offences), a specialization is established by the law: there is a special District Anti-mafia Prosecution Office in each prosecution office located in the District regional capital.

This specialization gives positive results with respect to the number of cases dealt with and the quickness of their settlement.

This specialization is balanced by the prohibition for a public prosecutor to stay on the same work group for more than ten years. All this prevents this specialized knowledge from becoming stiffen for public prosecutors.

**21. Are there areas of investigation that have priority access to financial or material resources? If so, how and by whom is this priority established?**

No, there are not.

## **SECTION V: Description of the system of management by results**

**22. Do you have a system of management by results? (Please specify.) If yes, is there any problem with this system?**

No, we do not.

**23. What kind of objectives are set for the prosecution service, if such a system of objectives exists? Does your system use benchmarks of achieved results?**

We have general objectives, starting from the mandatory action of prosecution. It compels prosecutors to investigate all crimes and prosecute all offenders.

The Chief Public Prosecutor can underline some priorities in the organization of his prosecution office. As far as financial resources are concerned, some hints can be given in the yearly program drawn up by the Chief Public Prosecutor and the administrative Manager (considering the general hints contained in the performance directive adopted by the Ministry of Justice).

Benchmarks for the obtained results are not used.

We have to underline that objectives cannot be examined in an exclusively economic perspective, since we are speaking -for instance- of pursuing results such as the decrease in the backlog of cases.

**24. Which authority/authorities is/are competent to set these objectives?**

See answer no. 25.

**25. What role does the prosecution service play in setting these objectives?**

See answer no. 25.

**26. Are the objectives coordinated between all authorities of the criminal procedure? If such coordination exists, how does it influence the activities of the prosecution service?**

Judges and public prosecution are -strictly speaking- the only authorities having jurisdiction in criminal procedure matters. From this perspective, there is no relevant coordination to reach the mentioned targets.

**27. Are there regulations in your system as regards the optimal workload within prosecution offices? if yes, is the allocation of resources correlated with the workload? Please provide examples.**

At present there are no rules determining the optimal workload correlated to the allocation of resources. Some studies are under way in this matter.

28. **Is the setting of objectives based on a negotiation system?**

No, it is not.

29. **Who are parties of the negotiations?**

#### **SECTION VI: Follow-up of results and reporting**

30. **Please indicate if there are any national strategies implemented in your state regarding the resources allocated to the judicial system, including the prosecution service. If so, in what areas were these strategies developed? Please comment on the results of these strategies.**

There are no national strategies.

31. **Is the attainment of objectives followed up yearly? How?**

No, it is not, except for a limited control of the prosecution office administrative Manager over the attainment of objectives which are fixed in the above mentioned program of yearly activities. Some elements are verified by the Prosecutor General's control, as mentioned above in the answer no. 2.

32. **Have any reforms been implemented during the last 5 years aimed at increasing the budget of justice?**

No system reforms have been implemented. There were only increases in litigant parties' fees, especially in civil cases.

33. **Is the prosecution service included in the government strategies for enhancing the efficiency of public institutions (e.g. e-governance, external financial audit)?**

It is only included in government strategies with respect to IT instruments (telematic services of process, certificates, digitalization of deeds, etc.)

34. **How would you assess internal audit recommendations within the prosecution service?**

We would assess them in a positive way. However, we also need to use safeguards to prevent the control from becoming a way of conditioning certain investigations.

35. **Is the social impact of the prosecutors' activities evaluated? If yes, by whom?**

No, it is not.

## **SECTION I: Status of the prosecution services in the state administration**

**Please specify the status of the prosecutor and the prosecution service in your state. Is it an autonomous institution? If yes, how is this autonomy guaranteed?**

1. The autonomy of the Prosecution Office is safeguarded by the status of Prosecution Office provided for by the Prosecution Office Law. According to the Section 1(1) of the Prosecution Office Law the Prosecution Office shall be an institution of judicial power, which shall independently exercise supervision over the compliance to law within the limits of competence prescribed by this Law.
2. According to the Section 6(1) and (2) of the Prosecution Office Law the Prosecutor shall be independent in his/her activities from any influence of other public and administrative institutions or officials and shall comply only with law. The Parliament, the Cabinet of Ministers, public and local government institutions, public and local government officials, enterprises and organizations of all types as well as individuals shall be prohibited from intervening into the work of the Prosecution Office in investigation of cases or during the performance of any other functions of the Prosecution Office.
3. According to the Prosecution Office Law the Prosecutor General shall establish a structure and staff of the Prosecution Office accordingly with the allocated public budget funding.
4. No, Prosecution Office is judicial institution that independently carries out functions and tasks set out in the Prosecution Office Law.
5. In general, yes. The checks regarding quality and efficiency of budget expenditure are performed by the State Audit Office that in case of necessity gives instructions on improvements of budget management mechanism, which are binding to the Prosecution Office.

## **SECTION II: Financial rules and regulations of the prosecution service**

6. Yes, the financial management of the Prosecution Office must be performed mainly in compliance with general requirements to public funding expenditure in public funding bodies. According to the Section 51 of the Prosecution Office Law the State shall provide the institutions of the Prosecution Office with service premises, means of communication and an appropriate logistical and technical base.
7. The Prosecution Office budget for next year initially is being developed, taking into consideration execution of previous year budget and economical situation in the country. Draft budget is developed by the Administrative Director Service of the Prosecution Office and agreed with the Prosecutor General. Initially are calculated primary (mandatory) budgetary expenses related with maintenance of Prosecution Office institutions (expenses for rent of premises, heating, payments for electricity consumption, post services etc.) and salaries. The amount of needed funding is established, taking into consideration the tariffs of previous year and possible changes of tariffs in next year. Also salary is unitary governed by the Law on Salary of State and Municipal Institutions Officials and Employees. After calculation of abovementioned expenses the remaining amount is divided by positions on the grounds of priority needs for ensuring of Prosecution Office performance (repair of premises, improvements of infrastructure, renewal of logistical and technical base etc.). Prosecutor General submits draft budget to the Ministry of Finance for its advancing for approval within joint public budget package in the Parliament. According to the Law on Financial and Budget Management any amendments to a draft budget of the Prosecution Office must be agreed by the Ministry of Finance with Prosecutor General.
8. Management of Prosecution Office funding is ensured by the Administrative Director Service – the Prosecution Office unit that ensures financial and business activity of the Prosecution Office and of institutions under its supervision. Internal audit is taken by Internal Audit Division, which is directly subordinated to the Prosecutor General. Only Prosecutor General is authorized to deal with the financial resources.
9. The Administrative Director Service performs centralized management of the Prosecution Office budget in the unified system *HORIZON* (in current version of given software). That system is used by most public institutions. The system gives possibility to improve supervision over public funding expenditure efficiency.

## **SECTION III: Resources of the prosecution service**

10. Herewith we provide information regarding funding allocated to the Prosecution Office of the Republic of Latvia and its expenditure:

**Year 2008**

Resources for covering of expenses – 23 656 154 €  
Grant from general revenues – 23 634 811 €  
Expenses (total) – 23 656 154 €  
Reimbursement – 20 958 241 €  
Salaries – 15 795 111 €.

**Year 2009**

Resources for covering of expenses – 18 162 474 €  
Grant from general revenues – 18 141 131 €  
Expenses (total) – 18 174 573 €  
Reimbursement – 16 273 413 €  
Salaries – 13 114 202 €.

**Year 2010**

Resources for covering of expenses – 15 182 346 €  
Grant from general revenues – 15 161 003 €  
Expenses (total) – 15 182 346 €  
Reimbursement – 13 157 748 €  
Salaries – 10 603 391 €.

**Year 2011**

Resources for covering of expenses – 20 181 595 €  
Grant from general revenues – 20 160 252 €  
Expenses (total) – 20 181 595 €  
Reimbursement – 18 156 996 €  
Salaries – 14 361 615 €.

11. The Prosecution Office needs more financial resources for ensuring of technical equipment. More funding is required for training and increasing of qualification of the Prosecutors.

12. Due to economical crisis in 2009 the budget of the Prosecution Office of the Republic of Latvia was radically cut (on average for 25%). Also in 2010 and 2011 the public budget funding was allocated in decreased amount in comparison with the budget of 2008. Since 2009 the funding of the Prosecution Office of the Republic of Latvia is insufficient.

13. The amount of needed funding is determined depending on number of employees in each Prosecution Office institution, workload, condition of buildings and premises, current condition of equipment, equipment of working places and other factors.

14. The Prosecution Office is judicial power institution that independently performs functions and tasks set out in the Prosecution Office Law. The annual public funding request of the Prosecution Office of the Republic of Latvia is not directly related with budget requests of other judicial power and investigation institutions.

15. The Prosecution Office is judicial power institution that independently performs functions and tasks set out in the Prosecution Office Law. Hence the number of persons employed by the Prosecution Office of the Republic of Latvia is not directly dependant on number of persons employed by other judicial institutions.

16. The needed funding for ensuring of performance of 44 Prosecution Office institutions is allocated in centralized way in one budget program "Maintenance of the Prosecution Office institutions". Hence Prosecutor General, who manages and supervises performance of the Prosecution Office institutions, as well as determines their internal structure and staff-roll accordingly with the allocated public funding, in case of necessity may rapidly take decision on redistribution of funding between the Prosecution Office institutions. If arises necessity to redistribute allocated funding between types of expenditure, then pursuant to the procedures provided for by the Law the Prosecution Office of the Republic of Latvia applies with substantiated request to the Cabinet of Ministers or the Ministry of Finance.

17. The needed financial resources and number of employed persons is approved upon adoption of current annual public budget. Within the approved resources the Prosecutor General is entitled in case of necessity immediately redistribute resources between the institutions of the Prosecution Office or its units, as well as to adopt internal legal acts in such cases.

#### **SECTION IV: Budget for investigations**

Any prosecutor of every Prosecution Office unit may apply with the written request to the management of the Prosecutor's General Office and responsible persons regarding resources required for work. The request dependently on financial possibilities is executed within 3-10 days or in longer period, if immediate execution is not possible due to restricted funding or if according to the procedures provided for by the law of the Republic of Latvia the Prosecution Office must arrange a tender.

The primary costs related with ensuring of Prosecution Office performance are payments for communications, IT and maintenance services for Prosecution Office institutions. The lack of modern equipment or other material provision may influence deadlines of work execution. Due to restricted funding of forensic examination centres deadlines of fulfilling of some forensic examinations may be very long, that possibly may impede finalization of certain criminal procedures in reasonable deadline.

Every Prosecutor is responsible for use of resources received for ensuring of work. The supervision and accounting of resources allocated to every Prosecution Office institution is centralized and carried out by the Administrative Director Service (Financial Division, Logistical Division, Filing Division). For example, IT equipment is granted for use against signature of a prosecutor, who assumes obligation to comply with rules of equipment exploitation and is pecuniary liable for granted equipment.

Every judicial or investigation institution according to the Law "On Current Annual Public Budget" is granted independent funding according to the functions entrusted to such institution. Hence every institution separately accounts granted and spent resources.

The Section 28 ("Specialized Prosecution Offices") of the Prosecution Office Law provides for that Prosecutor General may establish specialized branch specific prosecution office, if it is necessary. Specialized branch specific prosecution offices may be granted the status of district or court region prosecution office. Prosecutor General has established 5 specialized prosecution offices: Specialized Prosecution Office for Organized Crime and Other Branches, Specialized Multi-Branch Prosecution Office, Prosecution Office for Investigation of Financial and Economical Crimes, Prosecution Office for Investigation of Crimes Related to Illegal Circulation of Drugs, Riga Road Transport Prosecution Office. Prosecutors of mentioned Prosecution Offices supervise quality and efficiency of investigation of respective criminal offences, as well as perform criminal prosecution and maintaining of public accusation for these criminal offences. Establishment of the specialized prosecution offices depends on criminal situation in the country. Additionally Head Prosecutors, when arranging of work of prosecutors under their supervision, by their order may specialize specific prosecutors for fighting with certain types of criminal offences. For example, some prosecutors of Specialized Prosecution Office for Organized Crime and Other Branches specializes only in investigation of criminal offences related with human trafficking, that substantially improves quality of investigation and supervision of the given cases.

Every Prosecution Office institution within the funding granted for entire year is allocated resources for fulfilment of determined functions without prioritizing of fighting with any specific type of crimes.

#### **SECTION V: Description of the system of management by results**

18. There exists the system for analyzing of prosecution office performance results, no problems have arisen in relation with that system.

19. That system ensures unified statistical record keeping regarding work of the prosecutors in the preliminary criminal procedure and prosecutor's work which is not related with the directing of the preliminary criminal procedure. By the order of Prosecutor General are developed criteria for assessment and comparison of prosecution office institutions performance results, on the grounds of these criteria each month current workload and performance efficiency of prosecutors is estimated. Referring to the statistical data submitted by each prosecution office institution negative and positive rating is granted. For example, positive rating is granted for every criminal case lodged with the court, for every person regarding which the criminal procedure is terminated by executing Prosecutor's injunction on sentence etc. Negative rating is granted, for example, for every remaining criminal procedure, if its criminal prosecution deadline exceeds two months etc.

20. This is the system for analysis of Prosecution Office performance results developed by the Prosecution Office upon its own initiative on the grounds of internal legal acts and its tasks may be determined only by Prosecutor General.

21. It is internal system for analyzing of Prosecution Office performance results and its tasks may be determined only by Prosecutor General by means of internal legal act adoption which is binding to all Prosecution Office institutions.

22. Tasks of that system are not coordinated with other institutions involved in the criminal procedure.

23. One of main tasks of this system is to determine and compare current workload of prosecutors that gives a possibility to adjust it respectively in case of necessity.

24. System tasks are determined by way of negotiations in the Prosecutor's General Office.

25. In negotiations involved parties are Prosecutor General and Head Prosecutors of the Prosecutor's General Office departments, who are responsible for respective areas of the Prosecution Office activities in the country.

## **SECTION VI: Follow-up of results and reporting**

26. Not applicable.

Priority target areas of the Prosecution Office are determined once in a half year after assessment of prosecution office performance quality and efficiency, as well as criminal situation in the country in the Council of the Prosecutor General (The Council of the Prosecutor General shall be a collegiate advisory institution which shall review the main issues related to the organization and operation of the Prosecution Office). Additionally once in a half year Head Prosecutor of the Criminal Law Department of the Prosecutor's General Office by order determines especially topical types of the criminal offences, which must be paid special attention in terms of fighting with them and for finalization of the criminal procedures regarding such offences additional positive ratings are granted. Moreover once in a year the Prosecutor's General Office organizes meeting of Head Prosecutors, during which indicators of prosecution office performance in previous year are assessed and priority target areas for prosecution office activities in next year are identified in presence of deputies from respective Parliament commissions, heads of other law enforcement and public institutions and representatives of mass media.

Not applicable.

Not applicable.

Internal audit recommendations regarding financial management are assessed by Prosecutor General. If more comprehensive analysis is necessary, Prosecutor General may request some prosecutor to perform an examination. Prosecutor's workload is monitored each month and dependently on workload changes Prosecutor General may make corrections after consultations with head prosecutors of departments or heads of other prosecution office units regarding possible solutions.

27. Once in a year Prosecutor General organizes meeting of Head Prosecutors, during which indicators of prosecution office performance in previous year are assessed and priority target areas for prosecution office activities in next year are identified in presence of deputies from respective Parliament commissions, heads of other law enforcement and public institutions and representatives of mass media. This meeting is open and representatives of mass media also are invited to attend it. Prosecution Office has also the website, wherein are regularly published news of Prosecution Office activities. Additionally each year is drafted annual report of the Prosecution Office, which is freely available to any interested person. Prosecutor's General Office has also public relations officer, who regularly summarizes information regarding news on Prosecution Office activities and informs about that mass media. Mass media can freely obtain information they are interested in from Prosecution Office units or officials through public relations officer.

## Liechtenstein

### Answers to Section I:

1. The Liechtenstein Prosecution Service (Prosecution Service) reports to the Liechtenstein Government (Government).  
As to objective independence, the Government may give instructions to the Chief Prosecutor. However, such instructions must not be for shelving a report, for the discontinuation of proceedings, for the withdrawal from prosecution through *Diversion* (withdrawal from prosecution due to certain actions by the suspect, such as community service), for the withdrawal of the indictment, or for refraining from appeals that are disadvantageous for the accused (Art 8 *Staatsanwaltschaftsgesetz* [StAG, Act Concerning the Prosecution Service]). In practice, however, no such instructions were or are given.  
As to personal independence, prosecutors are employed for the time until they have reached the age threshold for ordinary retirement (Art 34 (1) StAG). It is possible for prosecutors to be assigned by the Government to a department or an office of the Liechtenstein administration, but only subject to their consent and to approval by the Chief Prosecutor (Art 48 StAG). The Government may terminate employment for major operational or economic reasons, in particular if funding is no longer available. In that case, the position of the prosecutor must be removed from the establishment plan (Art 50 Abs 1 StAG).
2. The Chief Prosecutor must forthwith report to the Government member competent for the Prosecution Service and to the Prime Minister on any criminal cases that are of particular public interest. Criminal proceedings against members of the Diet, of the Government, or against persons exercising the function of head or member of the municipal council of a Liechtenstein municipality must be reported, unless any connection with the suspect's political activities can be excluded (Art 13 StAG).  
These reports form a possible basis for the above-mentioned instructions by the Government to the Chief Prosecutor; however, such instructions do not happen in practice.
3. The position of a prosecutor in the establishment plan must be approved by the Liechtenstein parliament (Diet). The prosecutor is then employed by the Government into that position by entering into a written employment contract. Vacant positions for prosecutors must be advertised by the Government in the official organs of publication for free application. The Chief Prosecutor must comment to the Government as to the suitability of applicants, and if there are several applicants, submit a proposal with grounds for filling the vacancy, which proposal the Government is not bound to follow (Art 32 StAG).
4. The staffing of the Prosecution Service depends on the establishment plan, which is resolved by the Diet. Also, there is the above-mentioned possibility of termination (Art 50 (1) StAG).  
As to financial resources, the Prosecution Service's budget must be approved by the Government. The Prosecution Service has sufficient financial means to fulfil the duties given to it by the law.
5. The Prosecution Service is independent as to its budget, but is subject to the usual financial control, in particular as to the correctness of its accounting.

### Answers to Section II:

6. The StAG does not contain any such provisions. The Prosecution Service is subject to the general rules of the Liechtenstein administration.
7. The Prosecution Service must address its budget applications to the Finance Unit, to the Office of Staff and Organisation, and to the Ministry of Justice at the Government. The budget is resolved by the Government.
8. Since the Prosecution Service is such a small authority, financial matters are handled by the Chief Prosecutor and his assistant.
9. There is a central IT system, which is operated by the Liechtenstein Cashier.

### Answers to Section III:

10. The budgets of the Prosecution Service for the years 2008 to 2011 were as follows:  
2008: total amount CHF 2,186,000.--, of these CHF 2,076,000.-- for staff,  
2009: total amount CHF 2,615,000.--, of these CHF 2,393,000.-- for staff,  
2010: total amount CHF 2,582,000.--, of these CHF 2,380,000.-- for staff,  
2011: total amount CHF 2,618,000.--, of these CHF 2,431,000.-- for staff.
11. As far as the question is comprehensible: the Prosecution Service has enough financial resources, so that further measures would be unnecessary and inexpedient, given the small size of the Prosecution Service as an authority.
12. There were no effects, with negligible exceptions.
13. The question is incomprehensible.
14. No.

15. No.
16. Financially speaking, the Government and the Diet may approve supplementary loans with regard to the budget.  
As to staffing, the fixed-term employment is possible for a period of no more than three years, and in justified cases that term may be extended by no more than another two years (Art 34 (2) StAG).
17. No.

**Answers to Section IV:**

18. No time is spent in this regard because the Prosecution Service has enough funds available for travelling, translations and any further costs, so that in financial terms, no prior approval is necessary for the Prosecution Service's activities.
19. No.
20. No.
21. The budget of the Prosecution Service is absolutely independent from those of other law enforcement authorities, in particular the Liechtenstein Police. Any costs incurred by the Liechtenstein Police through actions carried out at the request of the Prosecution Service is accounted for in the Liechtenstein Police's own budget.
22. There is a certain degree of specialisation in the Prosecution Service. However, since the Prosecution Service is such a small authority, every prosecutor must be able to carry out all types of work incurred.
23. There are no fields of investigation that take priority in their access to financial resources because due to the duties given to it by the law and due to the principle of legality, the Prosecution Service must examine all facts known to it for relevance in criminal terms. Human and financial resources are adequate for this.

**Answers to Section V:**

24. No.
25. to 31. No (see 24.).

**Answers to Section VI:**

32. No.
33. No.
34. No.
35. The Prosecution Service is not concerned by such strategies of the Government.
36. These are not necessary.
37. No.



### SECTION I: Statut du ministère public dans l'administration publique

1. Il convient de prendre en considération les particularismes géographiques et démographiques de la Principauté dans l'examen des réponses à ce questionnaire et de rappeler que Monaco ne dispose que d'un Parquet Général dirigé par le Procureur Général et composé d'un premier substitut et de deux substituts, assistés pour ce qui concerne les tâches administratives par un secrétaire général, un secrétaire en chef et un secrétariat.
2. Veuillez préciser quel est le statut du procureur et du ministère public dans votre pays. S'agit-il d'une institution autonome ? Si oui, comment cette autonomie est-elle garantie ?
3. La justice est indépendante du pouvoir exécutif. Il n'y a pas de ministre de la justice dans le Gouvernement : l'administration de la justice relève de la Direction des Services Judiciaires, qui a été organisée en 1918 séparément de l'autorité gouvernementale, afin d'assurer son autonomie.
4. La Constitution consacre le principe de la justice déléguée : le pouvoir judiciaire appartient au Prince Qui en délègue le plein exercice aux cours et tribunaux : ceux-ci rendent la justice en Son nom.
5. Le Parquet de la Principauté de Monaco composé de magistrats appartenant au même corps que les juges présente la particularité d'être un parquet unique pour toutes les juridictions monégasques devant lesquelles le Ministère Public est représenté, d'où son appellation de Parquet Général.
6. Il est hiérarchisé et indivisible. Le principe de l'indivisibilité du Parquet permet à chaque substitut de représenter le Ministère Public au lieu et place du Procureur Général dans tous les actes de procédure et à toutes les audiences.
7. A noter que le Directeur des Services Judiciaires veille à la bonne administration de la justice dont il est responsable devant le Prince seul et que conformément au principe de la séparation des pouvoirs tel qu'appliqué à Monaco, le Directeur des services judiciaires ne siège pas au conseil de gouvernement. De même, en application de l'article 46 de la constitution du 17 décembre 1962, modifiée, les ordonnances souveraines concernant les services judiciaires ne sont pas délibérées en conseil de gouvernement mais prises par le Prince sur le rapport du Directeur des services judiciaires.
8. L'activité du ministère public est-elle dirigée par le ministère de la justice ou par une autre autorité ? Si oui, comment ?
9. Aux termes des articles 20 et 21 de l'ordonnance du 9 mars 1918 organisant la Direction des Services Judiciaires, le Directeur des Services Judiciaires dispose de la direction de l'action publique, mais ne peut cependant ni l'exercer lui-même, ni en arrêter ou en suspendre le cours. En revanche, il peut donner des instructions écrites aux magistrats du Ministère Public qui sont tenus de s'y conformer dans leurs actes écrits.
10. Bien que placé sous la direction et le contrôle du Procureur Général, lequel est lui-même placé sous l'autorité du Directeur des Services Judiciaires, chaque magistrat du Parquet dispose d'une entière liberté de parole à l'audience en vertu de l'adage « la plume est servie mais la parole est libre ». Ce statut et cette liberté de parole sont aujourd'hui affirmés par l'article 8 de la loi n° 1.364 du 16 novembre 2009 portant statut de la magistrature.
11. Quelle autorité est compétente pour créer des postes de procureur ?
12. La Direction des Services Judiciaires peut, si besoin est, proposer la création d'un poste de procureur qui sera soumise à l'approbation du Souverain.
13. Veuillez indiquer s'il y a des relations entre le ministère public et le ministère de la Justice en ce qui concerne les ressources financières, les ressources humaines, les systèmes informatiques, etc. Si oui, veuillez en décrire le fonctionnement.
14. La Direction des Services Judiciaires établit le budget des services judiciaires monégasques. Le budget est ensuite soumis à l'avis technique du Département des Finances et de l'Economie, puis il est soumis à S.A.S. le Prince pour approbation ; le budget des services judiciaires ainsi validé est intégré au budget général de l'Etat. Il est ensuite présenté au vote du Conseil National (Parlement).
15. La gestion du budget est ensuite assurée par la Direction des Services Judiciaires.

16. En cas de besoin en ressources humaines et / ou matériels, le Parquet Général se consulte avec la Direction des Services Judiciaires qui prendra toute mesure à sa disposition pour répondre au mieux au bon fonctionnement du ministère public.

17. S'agissant du système informatique, la Justice dispose d'un serveur informatique indépendant et d'une ligne budgétaire propre à l'informatique sur laquelle sont prises les dépenses relatives à des logiciels spécifiques, contrats de maintenance et matériels dédiés au fonctionnement de la justice tels que webcams, matériel d'enregistrement pour les auditions de mineurs, vidéoconférence, etc...

18. Le ministère public est-il indépendant des autres institutions en ce qui concerne l'exécution et la gestion de son propre budget ?

19. Non, il dépend de la Direction des Services Judiciaires. En revanche, les frais nécessaires au bon fonctionnement des procédures judiciaires engagées sont, autant que faire se peut, engagées à la discrétion du ministère public.

## SECTION II: Règlements financiers du ministère public

20. La loi régissant le ministère public comporte-t-elle des dispositions relatives à sa gestion financière et à l'obligation du pouvoir exécutif de mettre les infrastructures nécessaires à sa disposition ?

21. Non.

22. Veuillez décrire la procédure et le calendrier budgétaire du ministère public (préparation du budget, affectation des crédits).

23. Il n'existe qu'un seul budget général de l'Etat dans lequel est inclus, après approbation de S.A.S. le Prince, le budget de la Direction des Services Judiciaires qui gère et répartit les ressources entre les différentes instances judiciaires y compris le ministère public.

24. Le secrétariat général de la Direction des Services Judiciaires effectue le suivi et la gestion quotidienne du budget des services judiciaires. Le Contrôleur Général des dépenses réalise un contrôle de la régularité des dépenses *a priori* et la Commission supérieure des comptes le fait *a posteriori*. En revanche, sauf dépense très importante, il n'y a pas de contrôle d'opportunité des dépenses relevant des frais de justice.

25. La procédure se fait en deux temps : budget primitif et budget rectificatif. Le budget primitif est voté en fin d'année pour l'année suivante (généralement au mois de décembre) alors que le budget rectificatif de l'année en cours est voté au mois d'octobre.

26. Existe-t-il au sein du ministère public un service chargé spécialement de la gestion des ressources ?

27. Non.

28. Existe-t-il un système informatique national et/ou centralisé pour gérer, superviser et évaluer le budget du ministère public ? *Ce système comprend-il un mécanisme destiné à accroître l'efficacité de la gestion des ressources ?*

29. Non.

## SECTION III: Ressources du ministère public

30. Veuillez indiquer le montant du budget du ministère public pour 2008, 2009, 2010 et 2011 (valeur en euros), en précisant la part des dépenses de personnel et des autres types de dépenses.

31. *Le budget indiqué ci-dessous est celui affecté aux Cours et Tribunaux et inclut les dépenses relatives au personnel (traitements) ainsi à titre d'exemple que les frais de justice et ceux relatifs à l'assistance judiciaire :*

32. 2008 : 5.006.100 euros

33. 2009 : 5.069.600 euros

34. 2010 : 5.322.800 euros

35. 2011 : 5.622.000 euros

36. *Dans votre pays, quelles sont les ressources auxquelles vous amélioreriez l'accès et de quelle manière le feriez-vous (accords de partenariat, enquêtes communes, réaffectation des ressources, etc.) ?*
37. Les budgets en cours et à venir du ministère public sont-ils touchés par la crise économique de 2009-2011 ?
38. Les budgets en cours n'ont pas fait l'objet d'augmentation par rapport aux exercices précédents.
39. *Quels sont les instruments utilisés pour affecter les ressources nécessaires au bon fonctionnement du ministère public ?*
40. Il n'existe pas de critères spécifiques si ce n'est de remplir l'objectif d'assurer un bon fonctionnement de la justice. Le budget est évaluatif en fonction des frais de justice souvent peu prévisibles.
41. Y a-t-il des liens entre le budget du ministère public et celui de la justice ou de la police ?
42. Le budget du ministère public est inclus dans celui affecté à la Direction des Services Judiciaires.
43. Sont pris en charge par les services judiciaires les dépenses liées à l'exécution de demandes d'entraide internationale (par exemple commissions rogatoires et extraditions effectuées par les agents de police selon les cas sous l'autorité du procureur général ou des juges d'instruction.
44. Les ressources humaines du ministère public dépendent-elles d'autres institutions judiciaires (Conseil judiciaire, Ecole nationale d'administration, par exemple) ?
45. Non. Elles dépendent essentiellement des besoins.
46. Le Procureur général ou l'institution correspondante disposent-ils d'un budget particulier pour prendre des mesures temporaires lorsque les ressources humaines sont insuffisantes dans un service donné du ministère public ?
47. Non, mais il concerte la Direction des Services Judiciaires qui veille à prendre dans les meilleurs délais possibles les mesures nécessaires à bon fonctionnement du Parquet ( affectation d'un agent suppléant, ect..)
48. Existe-t-il, dans votre pays, un mécanisme de réaction rapide permettant une réaffectation rapide des ressources (financières, humaines et logistiques) entre les services du ministère public en fonction des besoins du système ?
49. A Monaco, il n'existe qu'un seul Parquet Général composé d'un Procureur Général, d'un premier substitut et de deux substituts assistés d'un secrétariat général. La question ne se pose donc pas réellement. En cas de besoin, pour ce qui concerne les magistrats, un magistrat du siège peut être temporairement affecté au Parquet étant entendu que tout magistrat a vocation à être nommé, au cours de sa carrière, à des fonctions du siège ou du parquet auprès de toute juridiction mais que, en raison de son inamovibilité, le magistrat du siège ne peut recevoir, sans son consentement, une affectation nouvelle, même en avancement.
50. En ce qui concerne le personnel administratif, un agent suppléant peut être affecté en urgence ou un mouvement interne aux services judiciaires pourrait avoir lieu.

#### SECTION IV: Budget des enquêtes

51. Quelles sont les mesures nécessaires pour avoir directement accès aux ressources requises pour les enquêtes ? Veuillez évaluer le temps écoulé entre le dépôt d'une demande de ressources et le moment où celles-ci sont effectivement reçues.
52. Compte tenu des réalités géographiques notamment la dimension de son territoire, ces questions de délai ne se posent pas. Les dépenses nécessaires au bon fonctionnement de la justice sont effectuées et prises en charge sans difficultés. Dans le cas où une dépense exceptionnelle doit être engagée (exemple : coût très élevé d'une extradition), l'examen de la demande peut être effectué en quelques heures pour vérifier que les ressources nécessaires sont disponibles.

53. Avez-vous déjà couru le risque de ne pas pouvoir utiliser des techniques d'enquête spéciales (par exemple interception des communications, expertise génétique, perquisition informatique) en temps voulu faute de ressources suffisantes ? Le manque de ressources a-t-il affecté l'efficacité des enquêtes pénales dans des affaires normales ?
54. Non.
55. La manière dont les services du ministère public gèrent leurs ressources pendant les enquêtes fait-elle l'objet d'un contrôle ? Veuillez en préciser la nature.
56. Non, si ce n'est un contrôle a priori sur la régularité de la dépense la Direction des Services Judiciaires puis le Contrôleur général des dépenses.
57. Quelle est la procédure de gestion des ressources appliquée lorsque diverses instances sont impliquées dans la procédure d'enquête (la police, par exemple) ?
58. Les services judiciaires prennent en charge, au titre des frais de justice, les dépenses engagées lors des enquêtes (déplacement d'agents de police dans le cadre de commission rogatoires, etc...) sans contrôle d'opportunité et sans limite du montant.
59. Est-il possible pour les procureurs de se spécialiser dans un certain type de crimes ? Si oui, quels ont été les effets d'une telle spécialisation au niveau du ministère public [*texte alternatif* : sur les résultats achevés par le ministère public] ?
60. Les membres du Parquet Général ont une compétence générale mais peuvent néanmoins se spécialiser dans certains domaines. La spécialisation permet une plus grande efficacité de l'action du Parquet ( ex : pour les affaires de blanchiment ou délinquance astucieuse).
61. Certains domaines d'enquête ont-ils un accès prioritaires aux ressources financières ou matérielles ? Si oui, qui détermine ces priorités et de quelle manière ?
62. Oui, en concertation entre le Procureur Général et le Directeur des Services Judiciaires.

#### SECTION IV: Descriptif du système de gestion par résultats

63. Disposez-vous d'un système de gestion par résultats ? (Veuillez le décrire.) Si oui, y a-t-il des problèmes avec ce système ?
64. Non, il n'existe pas de tel système à ce jour. En revanche, chaque année, des statistiques sont établies en début d'année judiciaire et un bilan de l'année judiciaire écoulée est présentée.
65. Dans la mesure où un tel système existe, quels objectifs sont fixés pour le ministère public ? Votre système utilise-t-il des benchmarks pour les résultats achevés ?
66. Une analyse de ces statistiques est effectuée pour renforcer si besoin l'action publique dans tel ou tel domaine.
67. Quelle autorité est compétente pour fixer ces objectifs ?
68. Il n'y a pas de politique pénale à proprement parler mais des orientations générales peuvent être données à l'action publique par le Directeur des Services Judiciaires par exemple en matière de lutte contre le blanchiment de capitaux ou de délinquance routière.
69. Quel est le rôle du ministère public dans le processus de fixation de ses objectifs ?
70. Le ministère public est autonome quant à la fixation d'objectifs. Il pose lui-même ses objectifs en fonction du contentieux qu'il est conduit à traiter.
71. Ces objectifs sont-ils coordonnés entre toutes les autorités compétentes de la procédure pénale ? Si une telle coordination existe, comment influence-t-elle les activités du ministère public ?
72. Oui, il y a une coordination et le ministère public consulte pour fixer ces objectifs la police qui est sur le terrain et qui donc a une connaissance précise de la réalité de la délinquance.

73. Existe-t-il dans votre pays une réglementation régissant la charge de travail optimale des services du ministère public ? Si oui, l'affectation des ressources est-elle liée à la charge de travail ? Veuillez donner des exemples.

74. Non.

75. La fixation des objectifs est-elle basée sur un mécanisme de négociation ?

76. Non.

77. Qui participe à une telle négociation ?

78. Sans objet.

#### SECTION VI: Suivi des résultats et établissement des rapports

79. Veuillez indiquer si des stratégies nationales ont été suivies dans votre pays en ce qui concerne les ressources du système judiciaire. Si oui, dans quels domaines ces stratégies ont-elles été développées ? Veuillez en commenter les résultats.

80. Dernièrement, des efforts ont été entrepris sur l'instauration des nouvelles technologies : informatisation des services judiciaires et la dématérialisation des procédures judiciaires ainsi que sur la réforme de l'assistance judiciaire.

81. Y a-t-il un suivi annuel de l'atteinte des objectifs ? Comment se déroule-t-il ?

82. Oui, notamment à l'occasion des réunions périodiques avec les partenaires (Ministère d'Etat, avocats, Sûreté Publique).

83. Au cours des cinq dernières années, des réformes visant à augmenter le budget de la justice ont-elles été adoptées ?

84. Oui, ont été incluses au budget de la justice les dépenses relatives à l'instauration d'un serveur informatique indépendant et à la mise en place de la dématérialisation des procédures ainsi qu'à la création et le fonctionnement du Haut Conseil de la magistrature.

85. Le ministère public est-il inclus dans les stratégies gouvernementales visant à améliorer l'efficacité des institutions publiques (par exemple e-gouvernance, audit financier extérieur) ?

86. Oui, pour les projets législatifs concernant les domaines qui relèvent de sa compétence.

87. En dehors, des questions législatives, oui mais sans formalisme en raison de la dimension du territoire de la Principauté.

88. Comment évalueriez-vous les recommandations d'audit interne du ministère public ?

89. L'effet social des activités du ministère public est-il évalué ? Si oui, par qui ?

90. Sans objet.

**SECTION I: Statut du ministère public dans l'administration publique**

41. Veuillez préciser quel est le statut du procureur et du ministère public dans votre pays. S'agit-il d'une institution autonome ? Si oui, comment cette autonomie est-elle garantie ?

La loi sur les parquets du 20 juin 1985 régit le statut du Procureur général et du ministère public.

Par la loi du 9 octobre 2009 qui modifiait la loi régissant le ministère public ci-dessus, la fonction du Ministre de la justice a été séparée de celle du Procureur général étant auparavant à la fois le Ministre de la justice, membre du gouvernement et le Procureur général.

Les principales missions du ministère public de la République de Pologne consistent à garantir le respect du droit et à diriger les poursuites pénales.

En vertu de la loi, le ministère public de la République de Pologne comprend le Procureur général, des procureurs de droit commun et d'unités organisationnelles militaires placés sous sa subordination hiérarchique, ainsi que des procureurs de l'Institut de la mémoire nationale et de la Commission chargée de poursuivre les auteurs de crimes contre la nation polonaise.

Le procureur général occupe la fonction la plus élevée au sein du ministère public. Il dirige le ministère public en personne ou par ses adjoints en rendant des ordonnances, des lignes directrices et des instructions qui ne peuvent pas porter aux actes de procédure.

L'autonomie du ministère public est garantie, en particulier, par des mesures légales suivantes :

- le Procureur général est nommé par le président de la République de Pologne pour une période de six ans sur une liste de candidats recommandés par le conseil judiciaire national et par le conseil national des procureurs. Des candidats- des procureurs ou des juges pénales doivent être en service actif 10 ans au moins.

- Le Procureur général et les procureurs placés sous sa subordination hiérarchique ne peuvent pas occuper d'autres fonctions sauf celles liées à l'activité de recherche ou d'enseignement et de recherche au sein de l'école supérieure ou à l'Académie Polonaise des sciences ou au sein des instituts de recherche ou bien au sein d'autres établissements d'enseignement, ni exercer d'autre activité lucrative.

- Le Procureur général et des procureurs placés sous sa subordination hiérarchique ne peuvent pas adhérer aux partis politiques, ni exercer d'activité publique inconciliable à la dignité de leur mandat. Le Procureur général ne peut pas adhérer à un syndicat.

- Les procureurs sont tenus d'agir conformément à la loi, de respecter le principe d'impartialité et d'égalité de traitement de tous les citoyens. Le procureur est indépendant dans l'exercice de sa mission.

- En outre, le Conseil national du ministère public préserve l'indépendance du ministère public.

42. L'activité du ministère public est-elle dirigée par le ministère de la justice ou par une autre autorité ? Si oui, comment ?

Le Procureur général occupe la fonction la plus élevée au sein du ministère public. Il dirige le ministère public en rendant des ordonnances, des lignes directrices et des instructions qui ne peuvent pas toutefois porter aux actes de procédure.

Conformément à la loi régissant le ministère public, le Ministre de la justice a conservé les compétences limitées en ce qui concerne le ministère public. Ainsi :

Le ministre de la Justice présente sa position aux rapports annuels sur les activités de services que le Procureur général soumet au Premier ministre,

Le ministre de la Justice, ayant une initiative législative, après consultation avec le Procureur général, rend des règlements relatifs au fonctionnement du ministère public, dont un règlement interne de services du ministère public.

43. Quelle autorité est compétente pour créer des postes de procureur ?

Le Procureur général est compétent pour créer des postes de procureur au titre des moyens financiers alloués. Conformément au paragraphe 117 point 2 du règlement du Ministre de la justice « *Règlement interne d'unités organisationnelles du ministère public* » le Procureur général dispose d'une partie du budget d'État correspondant au ministère public.

Le Procureur général nomme des procureurs de droit commun sur une liste de candidats soumise par le conseil national des procureurs.

44. Veuillez indiquer s'il y a des relations entre le ministère public et le ministère de la Justice en ce qui concerne les ressources financières, les ressources humaines, les systèmes informatiques, etc. Si oui, veuillez en décrire le fonctionnement.

Les recettes et les dépenses des services du ministère public constituent une partie distincte du budget d'État, sauf les frais de formation initiale et continue des professionnels de la justice et du parquet étant en charge de l'École nationale de la Juridiction et du Parquet et couverts d'une partie du budget de l'État qui reste à la disposition du Ministre de la Justice.

Le Procureur général dispose d'une partie du budget d'État correspondant au ministère public. Il est cependant à noter que les activités des unités organisationnelles militaires du ministère public sont financées des ressources budgétaires préaffectées par le Ministère de la défense nationale. En outre, l'Institut de la mémoire nationale - la Commission chargée de poursuivre les auteurs de crimes contre la nation polonaise dispose de son propre budget.

Faute de pouvoir créer au Parquet général son propre centre de traitement des données des systèmes informatiques utilisés au sein des services du ministère public, le ministère de Justice assurait le service informatique jusqu'au 31 mars 2010, à savoir jusqu'à la date de la séparation du ministère public des structures du ministère de la Justice. Ces services sont assurés en vertu du contrat conclu le 7 mai 2010 entre le Procureur général et le ministre de la Justice relatif à la prestation des services par le ministère de la Justice pendant une période transitoire dont le but est d'assurer le bon fonctionnement du Parquet général en ce qui concerne le côté l'informatique et les systèmes informatiques installés au sien des services du ministère public et en ce qui concerne les moyens et les dates où le ministère de la Justice communiquera au Parquet général les missions liées à l'exploitation des applications informatiques, du réseau et des outils informatiques.

Le 12 janvier 2012, le Procureur général a conclu avec le Ministre de la Justice un nouveau contrat sur la prestation des services par le ministère de la Justice dans le cadre de l'informatique et l'informatisation des services du ministère public.

45. Le ministère public est-il indépendant des autres institutions en ce qui concerne l'exécution et la gestion de son propre budget ?

Oui, le Procureur général est indépendant d'autres institutions en ce qui concerne la gestion du budget du ministère public.

Toutefois, le budget de « l'administration de la justice » dont une partie reste à la disposition du Procureur général est fixé par le Ministre de la Justice en consultation avec le Ministre des Finances.

Afin que le Procureur général puisse s'acquitter de son obligation d'assurer le bon fonctionnement des structures du ministère public de la manière plus effective, il est demandé d'habiliter le Procureur général à fixer lui-même les recettes et les dépenses du ministère public.

## **SECTION II: Règlements financiers du ministère public**

46. La loi régissant le ministère public comporte-t-elle des dispositions relatives à sa gestion financière et à l'obligation du pouvoir exécutif de mettre les infrastructures nécessaires à sa disposition ?

La loi régissant le ministère public ne comporte pas de dispositions relatives à sa gestion financière et à l'obligation de mettre les infrastructures nécessaires à sa disposition.

La loi de finances publiques du 27 août 2009 régit les activités du Parquet général en ce qui concerne sa gestion financière. Cette loi prévoit, en particulier, l'étendue et les règles des activités des unités budgétaires, les règles et les modalités de contrôles de procédures relatives à la mobilisation, à la distribution des fonds publics et à la gestion des biens publics, les règles spécifiques de comptabilité, la planification et les rapports applicables au secteur des finances publiques, les règles de gestion des fonds publics du budget de l'Union européenne et d'origine étrangère différente, les règles du contrôle de gestion et ceux d'audit interne et finalement les dispositions réglementaires conformes à cette loi.

Au niveau exécutif, le décret n° 20/2012 relatif à la mise en œuvre des méthodes comptables au sein du ministère public, délivré le 1<sup>er</sup> mars 2012 par le Procureur général, est un acte juridique important.

47. Veuillez décrire la procédure et le calendrier budgétaire du ministère public (préparation du budget, affectation des crédits).

Le Procureur général procède à la répartition de ressources allouées dans le budget d'État pour l'administration de la justice dans la partie n°88 « unités organisationnelles du ministère public ». Le budget alloué prévoit les moyens financiers classifiés aux paragraphes de la nomenclature budgétaire. En outre, le Procureur général gère le budget par activité et le plan des recettes du ministère public.

La note budgétaire élaborée par le Ministre des Finances fixant les modalités précises et les dates de l'élaboration des documents nécessaire pour le projet de la loi de finances précède l'établissement du budget du ministère public pour l'exercice donné.

Les documents nécessaires pour le projet de la loi de finances sont élaborés sur la base :

des objectifs du projet du budget d'État examinés par le Conseil des Ministres, dont des prévisions macroéconomiques élaborées par le Ministre des Finances après les consultations avec le ministre chargé des cotisations sociales et avec d'autres ministres chargés de la politique socio-économique, le montant des dépenses initial pour les parties du budget, des missions réalisées dans le cadre des programmes et des projets subventionnés par le budget de l'Union européenne.

La première étape de l'établissement du budget consiste à élaborer et présenter au Ministre des Finances le plan des activités financées par les ressources budgétaires établi sur les formulaires de planification, dans le délai précisé à la note budgétaire, le plus souvent, jusqu'au 31 mars de l'année qui précède l'année à venir.

L'étape suivante de l'établissement du budget consiste à élaborer le projet du budget dans le délai de 14 jours civils à compter la réception d'une note communiquant le montant des dépenses initial pour l'exercice (le plus souvent jusqu'à mi-août de l'année qui précède l'année à venir). Ensuite, le Procureur général en tant que gestionnaire d'une partie du budget communique aux unités qui restent à sa subordination, le 25 octobre au plus tard, le montant des recettes et des dépenses qui est adopté par le Conseil des Ministres dans le projet de la loi finances pour la partie prévue pour le ministère public. Les projets de plans financiers garantissant la conformité des montants de recettes et de dépenses budgétaires, dont les rémunérations, au projet de la loi de finances sont approuvés par les chefs des unités et communiqués au gestionnaire de la section du budget selon la structure de section du budget dans les délais fixés, au plus tard, le 1<sup>er</sup> décembre de l'année qui précède l'année à venir.

Les gestionnaires des sections budgétaires procèdent aux vérifications des projets de plans financiers en fonction de leur conformité au projet de la loi de finances. En cas d'un écart, les projets sont modifiés et les modifications sont communiquées aux chefs des unités qui restent sous leur subordination selon la structure de la section du budget dans les délais fixés, au plus tard, le 31 décembre de l'année qui précède l'année à venir.

Les projets de plans financiers conformes au projet de la loi finances sont le fondement de la gestion financière à partir du 1<sup>er</sup> janvier de l'exercice jusqu'à la date où le nouveau plan financier sera élaboré sur la base des informations sur les montants de recettes et des dépenses prévues par la loi de finances.

Dès l'annonce de la loi de finances, le Procureur général communique, dans un délai de 21 jours suivant son annonce, aux services qui restent sous sa subordination, les informations concernant les montants de recettes et de dépenses prévues par la loi de finances. Selon ces informations, les chefs des services établissent, dans un délai de 14 jours suivant la réception des informations, le plan financier des unités budgétaires, en veillant que les projets de plans financiers soient conformes à la loi de finances. Le plan financier, ainsi établi, constitue le fondement de la gestion financière de chaque service.



48. Existe-t-il au sein du ministère public un service chargé spécialement de la gestion des ressources ?

Le Département du budget et des biens du ministère public chargé de la gestion des ressources financiers fait partie du ministère public.

Il existe également des sections chargées de la gestion de ressources financières au sein des parquets d'appel et au sien des parquets régionaux.

49. Existe-t-il un système informatique national et/ou centralisé pour gérer, superviser et évaluer le budget du ministère public ? *Ce système comprend-il un mécanisme destiné à accroître l'efficacité de la gestion des ressources ?*

Il n'existe pas au sein du ministère public de système informatique (centralisé) pour gérer, superviser et évaluer le budget du ministère public.

### SECTION III: Ressources du ministère public

50. Veuillez indiquer le montant du budget du ministère public pour 2008, 2009, 2010 et 2011 (valeur en euros), en précisant la part des dépenses de personnel et des autres types de dépenses.

en milliers d'euros

	2008	2009	2010	2011
<b>Total des dépenses</b>	<b>367 890</b>	<b>381 495</b>	<b>404 319</b>	<b>415 936</b>
Dépenses de personnel	274 424	296163	314 565	321 979
Dépenses de fonctionnement administratif courant	71 234	75 917	80 323	84 121
Dépenses budgétaires	22 232	9 415	9 431	9 838

Taux de change de l'euro 1 EURO – 4, 13620 PLN - le 16 mars 2012

51. *Dans votre pays, quelles sont les ressources auxquelles vous amélioreriez l'accès et de quelle manière le feriez-vous (accords de partenariat, enquêtes communes, réaffectation des ressources, etc.) ?*

Le financement du ministère public par d'autres ressources comme par exemple les fonds de l'UE ou la réalisation des investissements sous la forme du partenariat public-juridique sont considéré comme des activités de soutien d'une importance minime. L'une des raisons en est que les programmes de l'Union permettant aux ministères publics de demander les ressources sont peu nombreux. La réalisation des missions sous la forme du partenariat public-juridique est peu développée et à partir de la première mission il conviendrait de prendre en compte des couts élevés nécessaires pour les préparer et assurer le service, ce qui ne serait pas justifié dans la situation budgétaire actuelle.

52. Les budgets en cours et à venir du ministère public sont-ils touchés par la crise économique de 2009-2011 ?

La crise économique touche le budget en cours et à venir du ministère public par la réduction des dépenses de fonctionnement administratif courant et des dépenses budgétaires. Le budget actuel est un budget « de survie » c'est-à-dire le paiement des dépenses qui couvrent le service courant de dépenses dites nécessaires. Il manque de ressources pour la rénovation des biens déjà existants et de l'infrastructure et pour leur achat.

La crise économique de 2009-2011 avait une incidence sur les ressources allouées au projet du plan financier pour l'an 2012, surtout sur les dépenses budgétaires prévues au paragraphe 6060 destinées dans la majeure partie à couvrir l'achat de matériel informatique, de programmes et la création et le développement de l'infrastructure informatique.

53. *Quels sont les instruments utilisés pour affecter les ressources nécessaires au bon fonctionnement du ministère public ?*

Compte tenu du fait que les ressources pour l'activité du ministère public ne viennent que du budget de l'État, le Procureur général informe le Ministre des Finances ou le Premier Ministre du budget qui lui aurait manqué. Il peut également les demander le soutien supplémentaire.

En 2011, le bureau du Procureur général a procédé à l'analyse des besoins et des possibilités de se procurer de l'aide de l'Union européenne pour les services du ministère public.

Le ministère public a obtenu la possibilité de financement du Programme Opérationnel « Capital humain » et du Programme Opérationnel « l'Économie innovante ». En outre, le ministère public a élaboré un projet « Ministère public efficace » qui prévoit la digitalisation de dossiers de procédures préliminaires et l'établissement du répertoire central du dossier digitalisé des services du ministère public.

54. Y a-t-il des liens entre le budget du ministère public et celui de la justice ou de la police ?

Les moyens financiers qui restent à la disposition du Procureur général, destiné à couvrir le financement du ministère public constituent une partie intégrante du budget prévue à l'administration de la justice – il existe, donc, les liens entre le budget du Procureur général et celui du Ministre de la Justice

Le montant et la structure du budget du ministère public ne sont pas liés au budget de la police. Le budget de la police reste à la disposition du Ministre des Affaires Intérieures.

55. Les ressources humaines du ministère public dépendent-elles d'autres institutions judiciaires (Conseil judiciaire, Ecole nationale d'administration, par exemple) ?

Oui. Les procureurs, ainsi que les juges sont issus de l'École nationale de la Juridiction et du Parquet. De même, le recrutement de procureurs dépend du Conseil national des procureurs.

Le mécanisme assurant le partage optimal des ressources humaines a été instauré aux services du ministère public. Il était en même temps garanti l'intransmissibilité des procureurs. En cas d'un poste de procureur vacant, la section du personnel du bureau du Procureur général procède à l'évaluation où les besoins du personnel sont les plus importants. En fonction des conclusions de cette section, sont prises des décisions suivantes : celle de recrutement pour le poste vacant ou celle de suppression de poste et sa création, là où ce poste serait plus utile.

56. Le Procureur général ou l'institution correspondante disposent-ils d'un budget particulier pour prendre des mesures temporaires lorsque les ressources humaines sont insuffisantes dans un service donné du ministère public ?

Au sein du ministère public, il existe un système de détachement de procureurs permettant de réaffecter les procureurs dans un autre service. Les incidences financières de ces détachements sont couvertes du budget courant.

57. Existe-t-il, dans votre pays, un mécanisme de réaction rapide permettant une réaffectation rapide des ressources (financières, humaines et logistiques) entre les services du ministère public en fonction des besoins du système ?

Le Procureur général est gestionnaire du budget du ministère public. Dans le cadre de ses compétences, il peut réaffecter les ressources placées aux paragraphes des dépenses, sous réserve que ces réaffectations n'augmenteront pas de dépenses prévues aux rémunérations. Ces limites concernent également les dépenses d'investissement et les achats d'investissement dont la modification est possible, sous réserve de l'autorisation du Ministre des Finances.

#### **SECTION IV: Budget des enquêtes**

58. Quelles sont les mesures nécessaires pour avoir directement accès aux ressources requises pour les enquêtes ? Veuillez évaluer le temps écoulé entre le dépôt d'une demande de ressources et le moment où celles-ci sont effectivement reçues.

Lors de l'établissement du projet du budget, les unités organisationnelles du ministère public communiquent au gestionnaire principal (au Procureur général) les projets de plans budgétaires tenant compte des frais d'enquêtes. Cela signifie que la répartition des dépenses budgétaires inscrite dans le budget finalement adopté prend en compte les montants prévus par les services du ministère public aux paragraphes

différents. Les services couvrent les frais d'enquête qui sont diligentées au sein de ces services en prenant compte le montant de ressources assurées pour le service donné.

Dans le cas où en raison de cumul d'actes de procédures survenues au cours des enquêtes complexes et multiples des frais supplémentaires seraient générés par le grand nombre et la complexité des opinions d'expert, il est possible, à titre exceptionnel, de demander le Ministre des Finances d'octroyer des moyens supplémentaires regroupés dans la réserve générale ou la réserve spéciale.

59. Avez-vous déjà couru le risque de ne pas pouvoir utiliser des techniques d'enquête spéciales (par exemple interception des communications, expertise génétique, perquisition informatique) en temps voulu faute de ressources suffisantes ? Le manque de ressources a-t-il affecté l'efficacité des enquêtes pénales dans des affaires normales ?

Il n'y a pas eu en fait des situations où, faute des ressources suffisantes il n'était pas possible d'utiliser des techniques d'enquête spéciales.

Toutefois, des problèmes différents liés aux paiements ont été constatés. Par exemple, dans une des enquêtes menée pour faits commis avec l'utilisation d'Internet, il était nécessaire que les experts aient examiné un nombre considérable d'ordinateurs (200, environ) et de supports de données (quelques milliers) saisis. Afin d'éviter une situation où un parquet serait surchargé des frais considérables d'une expertise cumulative et comme il n'était pas impérativement nécessaire de mener cette enquête par un parquet, on a pris une décision de la suivre par plusieurs parquets polonais.

Un autre parquet a soulevé un problème important qui n'a pas été toutefois étayé par des exemples précis concernant les négociations menées par des procureurs avec des experts en ce qui concerne les limites et les frais d'opinion et le choix des experts qui sont les moins chers. Ces pratiques contribuent à prolonger une enquête et porte préjudice à la forme d'une décision (p.ex. manque ou un petit nombre de planches photographiques).

Un autre problème, c'est le déplacement de l'administration de la preuve par expertise et en conséquence le paiement retardé pour l'expertise qui se produit entre les autorités chargées d'enquête (p.ex. la police) et les parquets qui les supervisent.

60. La manière dont les services du ministère public gèrent leurs ressources pendant les enquêtes fait-elle l'objet d'un contrôle ? Veuillez en préciser la nature.

Les procureurs chargés d'enquête sont indépendants dans les actes de procédure préliminaire tels que : une prise de décision de prise d'une opinion d'un expert ou une demande d'expertise. Ce qui ne veut pas dire qu'ils ne sont pas confrontés au plan financier de l'unité organisationnelle du ministère public où ils exercent leurs activités.

Comme il était déjà indiqué au point 6, la loi de finances publiques du 27 août 2009 régit la gestion de ressources financières par le ministère public. Cette loi prévoit, entre autres les modalités des contrôles de procédures relatives à la mobilisation, à la distribution des fonds publics et à la gestion des biens publics, les règles spécifiques de comptabilité, la planification et les rapports applicables au secteur des finances publiques, les règles de contrôle de gestion et ceux d'audit interne et finalement les dispositions réglementaires conformes à cette loi.

61. Quelle est la procédure de gestion des ressources appliquée lorsque diverses instances sont impliquées dans la procédure d'enquête (la police, par exemple) ?

En principe, les frais d'opinion d'experts auraient été couverts par les autorités chargées d'enquête ainsi que par les services compétents du ministère public.

Comme il était indiqué au point 19, il existe des situations où le déplacement de l'administration de la preuve par expertise et en conséquence le paiement retardé pour l'expertise se produit entre les autorités chargées d'enquête (p.ex. la police) et les parquets qui les supervisent.

62. Est-il possible pour les procureurs de se spécialiser dans un certain type de crimes ? Si oui, quels ont été les effets d'une telle spécialisation au niveau du ministère public [texte alternatif : sur les résultats achevés par le ministère public] ?

Les procureurs polonais ne se spécialisent pas dans de certain type d'infraction puisque une telle répartition de missions n'existe pas au sein des services du ministère public polonais. Par contre, il existe une distinction nette entre la criminalité organisée et d'autres infractions. Les enquêtes pour faits commis en bande organisée sont diligentées par des sections chargées de la lutte contre la criminalité organisée situées au sein de 11 parquets d'appel. Le Département pour la lutte contre la criminalité organisée et la corruption situé au bureau du Procureur général est chargé de la coordination et de la surveillance des travaux de ces sections.

Il est également à noter que des sections chargées de la criminalité économique fonctionnent au niveau des parquets régionaux.

Tous les procureurs des unités de droit commun participent à de différentes formations professionnelles pendant lesquelles ils ont l'occasion de développer et d'améliorer leurs connaissances et compétences en matière de la lutte contre les infractions. Les connaissances complémentaires acquises par des procureurs sont prises en considération par leurs subordonnés lors de l'attribution de nouvelles affaires pénales. Cela ne signifie toutefois que le procureur ayant des connaissances professionnelles développées est chargé si et seulement de mener des affaires de type d'infractions choisi.

Le Département de procédure préliminaire est un des services du Parquet général. Son rôle consiste au suivi et à la coordination des enquêtes diligentées dans des types d'infractions déterminées.

Ces missions sont effectuées par les procureurs qui se spécialisent en ces types d'infraction.

63. Certains domaines d'enquête ont-ils un accès prioritaires aux ressources financières ou matérielles ? Si oui, qui détermine ces priorités et de quelle manière ?

On ne fait pas de telle distinction. En fonction de l'importance et de la complexité de l'affaire, le chef du service du ministère public chargé de l'enquête peut solliciter des ressources financières complémentaires.

#### **SECTION V: Descriptif du système de gestion par résultats**

64. Disposez-vous d'un système de gestion par résultats ? (Veuillez le décrire.) Si oui, y a-t-il des problèmes avec ce système ?

Le système du contrôle de gestion, qui constitue un ensemble de mesures entreprises en vue d'atteindre les objectifs et des missions d'une manière légitime, avec un bon rapport coût/efficacité et en temps utile, est mis en œuvre dans des services du ministère public, ainsi qu'au sein d'autres unités du secteur des finances public.

Le plan d'activité des services du ministère public pour un exercice et des mesures déterminant le taux de la réalisation des résultats sont déterminées dans les missions résultant du contrôle de gestion.

65. Dans la mesure où un tel système existe, quels objectifs sont fixés pour le ministère public ? Votre système utilise-t-il des benchmarks pour les résultats achevés ?

Les procédures internes de la première vérification de contrôle de conformité des opérations économiques et financières au plan financier ont été mises en œuvre au sein des unités organisationnelles du ministère public. Le système de contrôle de gestion dans les parquets prévoit des règlements intérieurs tels que des règlements et des descriptions de poste, des règles de la gestion des biens, des règlements relatifs aux modalités de réalisation d'appels d'offres publics ou aux méthodes comptables, ou encore la comptabilité de caisse ou d'autres règlements financiers et économiques applicables.

La direction des unités organisationnelles du ministère public a entrepris des mesures ayant pour but l'utilisation efficace des ressources financières allouées, ce qui a contribué à une exécution correcte du budget en 2011 :

Les mesures entreprises visaient à :

- utiliser des ressources financières d'une manière efficiente et dans le principe d'économie pour effectuer les dépenses nécessaires
- effectuer les dépenses de manière ciblée, en respectant le principe d'obtention de meilleurs résultats à partir de moyens utilisés ce qui a permis d'effectuer les missions dans les délais prévus ; dans les délais résultants des engagements contractés,

- gérer les finances d'une manière appropriée afin d'éviter la violation de la discipline financière et la naissance des engagements à régler.

66. Quelle autorité est compétente pour fixer ces objectifs ?

Le Procureur général élabore le plan d'activité des services du ministère public et le communique au Ministre de la Justice. Ce plan fait partie d'un plan d'activité pour l'exercice à venir de l'unité des administrations publique « justice », dans laquelle les services du ministère public sont identifiés. Le système de la gestion de risque existe dans le cadre du contrôle de gestion.

67. Quel est le rôle du ministère public dans le processus de fixation de ses objectifs ?

Idem

68. Ces objectifs sont-ils coordonnés entre toutes les autorités compétentes de la procédure pénale ? Si une telle coordination existe, comment influence-t-elle les activités du ministère public ?

Une telle coordination n'existe pas.

69. Existe-t-il dans votre pays une réglementation régissant la charge de travail optimale des services du ministère public ? Si oui, l'affectation des ressources est-elle liée à la charge de travail ? Veuillez donner des exemples.

Les résultats de travail des services du ministère public s'il s'agit des procédures d'enquête, des procédures pénales devant les tribunaux et d'autres activités des procureurs sont évalués tous les six mois et une fois par an sur la base des données statistiques recueillies et traitées par les services du ministère public.

Les données statistiques recueillies permettent de calculer entre autres la charge moyenne mensuelle des procureurs par des affaires pénales, la charge des procureurs exerçant leurs activités au sein des services du ministère public. On calcule un taux de croissance des affaires pénales achevées, un taux de la durée de procédures pénales, un taux d'efficacité des poursuites relatif aux affaires menées ou contrôlées par des procureurs.

L'analyse annuelle des résultats statistiques et leur rapprochement aux années précédentes constitue parfois la base de prendre des mesures visant à améliorer des résultats statistiques des activités sélectionnées en mettant par exemple en œuvre d'activité de contrôle, dont des enquêtes, des examens de dossiers et la surveillance hiérarchique interne.

70. La fixation des objectifs est-elle basée sur un mécanisme de négociation ?

Une telle procédure n'est pas prévue.

71. Qui participe à une telle négociation ?

Idem

## **SECTION VI: Suivi des résultats et établissement des rapports**

72. Veuillez indiquer si des stratégies nationales ont été suivies dans votre pays en ce qui concerne les ressources du système judiciaire. Si oui, dans quels domaines ces stratégies ont-elles été développées ? Veuillez en commenter les résultats.

Le ministère public a été inclus dans le programme « Stratégie nationale de développement 2020 » constituant un élément du nouveau système de gestion de développement national qui fixe des objectifs et indique des décisions nécessaires pour renforcer le processus de développement national. Le projet est actuellement soumis aux arrangements. Dans le programme « Stratégie nationale de développement 2020 », les questions relatives au fonctionnement du parquet ont été inscrites dans la partie « l'amélioration de l'efficacité de l'administration de la justice ». Parmi les missions stratégiques de l'État se trouvent les missions visant à améliorer l'administration de la justice.

73. Y a-t-il un suivi annuel de l'atteinte des objectifs ? Comment se déroule-t-il ?

Il est trop tôt pour évaluer ce projet.

74. Au cours des cinq dernières années, des réformes visant à augmenter le budget de la justice ont-elles été adoptées ?

Pendant les 5 dernières années des réformes visant à augmenter le budget de l'administration de la justice et le ministère public, en particulier, n'ont pas été adoptées.

75. Le ministère public est-il inclus dans les stratégies gouvernementales visant à améliorer l'efficacité des institutions publiques (par exemple e-gouvernance, audit financier extérieur) ?

Vu la nécessité de l'introduction des méthodes de gestion modernes, au sein du ministère public également, la section de l'aide communautaire de l'École nationale de la Juridiction et du Parquet, a inscrit « Modernisation de gestion du ministère public » comme l'une des missions dans le plan d'activité adressé au ministère du Développement Régional pour le projet « L'administration de justice efficace dans l'économie de la connaissance » qui sera réalisé dans les années 2012-2013.

76. Comment évalueriez-vous les recommandations d'audit interne du ministère public ?

En principe, l'évaluation est positive. Le contrôle semblable est mis en œuvre au sein du ministère public polonais.

77. L'effet social des activités du ministère public est-il évalué ? Si oui, par qui ?

Il n'a pas de cadre formel de telle évaluation.

### SECTION I: Status of the prosecution services in the state administration

1. Please specify the status of the prosecutor and the prosecution service in your state. Is it an autonomous institution? If yes, how is this autonomy guaranteed?

- Functions and statute: In accordance with article 219 of the Constitution of the Portuguese Republic the Public Prosecution Service represents the State and safeguards the interests prescribed by law, takes part in the enforcement of the criminal policy as defined by the sovereign bodies, carries out the prosecution according to the principle of legality, and defends democratic legality. The Public Prosecution Service has its own statute, its autonomy being enshrined both in the Constitution and the law. The statute of the Public Prosecution Service was approved by Law No. 47/86, of 15 October, as republished by Law No. 60/98, of 27 August and amended by Laws No. 42/2005, of 29 August, No. 67/2007, of 31 December, No. 52/2008, of 28 August, No. 37/2009, of 20 July, No. 55-A/2010, of 31 December and No. 9/2011, of 12 April.
  - According to article 3 of this Statute it is especially incumbent on the Public Prosecution Service:
    - a) to represent the State, the Autonomous Regions, the local authorities, the persons lacking legal capacity, the persons having no permanent residence and those whose whereabouts are unknown;
    - b) to take part in the enforcement of criminal policy as defined by the organs of sovereignty;
    - c) to carry out the prosecution pursuant to the principle of legality;
    - d) to represent *ex-officio* the workers and their families in view of the defence of their social rights;
    - e) to defend the collective and diffuse interests in the cases falling within the law;
    - f) to safeguard the independence of the courts within its powers and to ensure that its jurisdictional duties are carried out pursuant to the Constitution and the laws applying thereto (these powers include a binding duty to appeal in cases covered by the Law on the Organisation, Operation and Procedure of the Constitutional Court);
    - g) to promote the enforcement of court decisions within its powers;
    - h) to direct the criminal investigation even in cases where it is carried out by other bodies;
    - i) to promote and implement crime prevention initiatives;
    - j) to ensure that the legislation complies with the constitutional terms;
    - l) to intervene in bankruptcy and insolvency proceedings, as well as in all other proceedings which are embodied of public interest;
    - m) to perform consultative functions as laid down by this Law;
    - n) to oversee the procedural activity of criminal police bodies;
    - o) to lodge an appeal where a decision has been reached by way of agreement between the parties with the intent to defraud the law, or where such a decision has been rendered in clear violation of the law;
    - p) to perform such other functions as may be conferred upon it by the law.
- Autonomy: In accordance with article 219 of the Constitution, the Public Prosecution Service has its own statute, its autonomy being enshrined both in the Constitution and the law. The agents of the Public Prosecution Service are accountable judicial officials, who form part of, and are subject to, a hierarchy, and who may not be transferred, suspended, retired or removed from office except in the cases provided for by law. The powers to appoint, assign, transfer and promote agents of the Public Prosecution Service, as well as to exercise discipline over them pertain to the High Council of the Public Prosecution Service. Prosecutors form a body parallel to the judges, and they are independent and autonomous from the latter. In accordance with article 220 of the Constitution of the Portuguese Republic the Prosecutor General's Office is the highest body of the Public Prosecution Service and has the composition and powers as laid down by law (see article 15 of the Statute of the Public Prosecution Service). The Prosecutor General's Office is presided over by the Prosecutor General, and it encompasses the High Council of the Public Prosecution Service, which includes members elected by the Assembly of the Republic and members elected by the public prosecutors from and among their peers. The Prosecutor General's Office, the supreme constitutional body of the Public Prosecution Service, consists of two distinct governance instruments of the Public Prosecution Service.

One, monocratic – the Prosecutor General for the Republic – who presides over it and is appointed for a term of six years by the President of the Republic, upon Government proposal.

The other, collegial – the High Council of the Public Prosecution Service – consists of five members elected by Parliament, two persons appointed by the Minister of Justice, seven members elected by the prosecutors of the different hierarchic rangs within the Public Prosecution Service and the four District Deputy Prosecutors General, being chaired by the Prosecutor General for the Republic

In accordance with article 2 of its Statute, the Public Prosecution Service is autonomous as regards the other bodies of the central, regional and local authorities, its autonomy being characterised by the compliance with criteria of legality and objectivity and by the exclusive submission of Public Prosecutors to the directives, orders and instructions set out in their own statute. Therefore the statute also sets out the possibility for Prosecutors to refuse to comply with hierarchic instructions which would violate their legal conscience, with the exception of those coming directly from the Prosecutor General for the Republic, which can only be refused on the grounds that they are contrary to the law.

In addition, instructions addressing specific proceedings must always be given in writing and the doctrine directives given by the Prosecutor General for the Republic must be published in the official Journal in order to meet concerns on public transparency and make those who issue them personally accountable therefor. Pursuant to article 15, the Prosecutor General's Office carries out its powers as regards the disciplinary and management matters through the High Council of the Public Prosecution Service, which is composed of:

- a) The Prosecutor General;
- b) The District Deputy Prosecutors General (4);
- c) A Deputy Prosecutor General elected from and among the Deputy Prosecutors General;
- d) Two District Prosecutors elected from and among the District Prosecutors;
- e) Four Deputy District Prosecutors elected from and among the Deputy District Prosecutors, one per each judicial district;
- f) Five members elected by the Assembly of the Republic;
- g) Two persons of recognised merit, designated by the Minister of Justice.

**2. Does the ministry of justice or another authority govern the activity of the prosecution service? If so, how?**

No. The Minister of Justice has a restricted sphere of intervention in that area. He may appoint two members for the High Council of the Public Prosecution Service under article 32 of the statute, on the one hand, and to attend meetings of the High Council of the Public Prosecution Service whenever he considers it to be appropriate, or where he intends to make a communication or clarify a specific matter. The intervention of the Minister of Justice in the Public Prosecution Service is therefore extremely limited.

Pursuant to its Statute, the Public Prosecution Service is autonomous towards the other bodies of the central, regional and local authorities.

Therefore, the Minister of Justice and the Government are unable to intervene in a criminal inquiry. However, in accordance with article 32 of the Statute, the Minister of Justice may attend meetings of the High Council of the Public Prosecution Service (HCPPS) whenever he considers it to be appropriate, or where he intends either to communicate information or clarify a specific matter, which occurs very rarely and only as part of the protocol. The Minister of Justice is also responsible, through the Prosecutor General for the Republic, for requesting information on the work carried out by the Public Prosecution Service, but has no directive powers in criminal matters or in matters related to the constitutional functions of this magistracy to represent the public interests as conferred on it, and in general in the safeguard of democratic legality. For purposes of its operation, the Public Prosecution Service is solely bound to criteria of legality and objectivity, being exclusively subject to the orders and instructions covered by law.

**3. Which authority is responsible for the creation of prosecutor positions?**

The Assembly of the Republic and/or the Government through the Minister of Justice are responsible therefor.

The Ministry of Justice is responsible for ensuring the training of prosecutors and other staff members, allowing them to fulfil specific functions in the area of justice.

The number of prosecutors assigned in the courts is set by the law. Nonetheless, those vacancies may only be filled after expenditure approval, i.e. after payment of expenditures resulting from fulfilment of the vacancy is secured, in particular when referring to salaries of prosecutors. In what concerns the first instance courts, such expenditure is undertaken by the *DGAJ*, which causes the filling of the vacancies for Prosecutors to be dependent on that body.



**4. Please indicate if there is any connection between the prosecution service and the Ministry of Justice or another public authority in terms of financial and human resources, IT facilities etc. If so, please describe how this connection works.**

The Public Prosecution activities are/may be limited by the Ministry of Justice in the sense that the budget allocated to the salaries of those public prosecutors (salaries, facilities, equipments, etc.) assigned in the first instance courts is managed by the DGAJ (a body operating under the Minister of Justice).

According to Order in Council No. 123/2011 (*Decreto-Lei nº 123/2011*), of 29 December, the Minister of Justice establishes the bridge between the Government and the courts, the Public Prosecution Service, the High Council for the Judiciary, the High Council for the Administrative and Fiscal Courts. The Ministry of Justice is responsible, in particular, for the management of human, financial and material resources, as well as for the justice IT systems, without detriment to the powers conferred on other administrative bodies and departments.

The *Instituto de Gestão Financeira e Equipamentos da Justiça, I.P* (Financial and Justice Equipment Management Institute, or the *IGFIJ, I.P*) is entrusted with the management of the Ministry of Justice financial resources, infrastructures and technology resources, as well as the management of the estate allocated to the area of justice. Furthermore this Institute is also responsible for the design, execution and evaluation of IT plans and drafts, in articulation with other services and bodies within the Ministry of Justice.

The *Centro de Estudos Judiciários* (Judicial Training Centre), which operates within the Ministry of Justice, is entrusted with the professional training of future judges and public prosecutors.

**5. Is the prosecution service independent from other institutions when implementing and managing its own budget?**

The funding of the national-wide Public Prosecution services is covered by the general revenue – the State General Budget.

The funding of the Public Prosecution services is covered solely by the State Budget. However, except for the Prosecutor General's Office, the budget management concerning these services is not incumbent on the Public Prosecution Service: management at first instance level is entrusted to the DGAJ (salaries), the ITIJ (IT equipment) and the IGFIJ (facilities); management of higher courts is mainly centered on the president of the concerned Court, who is no Prosecutor.

## **SECTION II: Financial rules and regulations of the prosecution service**

**6. Does the law governing the prosecution service include provisions on financial management and on the executive's obligation to provide it with the necessary infrastructure?**

Yes. Order in Council No. 333/99, of 20 August, governs the structure, staff and assignment roles granted to the technical and administrative support services of the Prosecutor General's Office. It also determines that the support services budget shall cover the expenditure involving prosecutors and staff members carrying out duties at the Prosecutor General's Office, as well as other current and capital expenditure deemed necessary for the implementation of their functions. Moreover, Order in Council No. 333/99 provides for the State Budget and the Ministry of Justice budget to allocate sums intended to fund the Prosecutor General's Office's budget.

The Public Prosecution services operating by the first instance courts have no budget of their own. The expenditures derived therefrom are covered by funds from agencies integrated in the Ministry of Justice (DGAJ, ITIJ, IGFIJ), in particular in what concerns the salaries of prosecutors and staff members, equipments, consumables, facilities, etc.

In the case of higher courts these expenditures are covered by the budget of the concerned court, except for the salaries of prosecutors holding functions by the STJ (Supreme Court of Justice), the STA (Supreme Administrative Court), the Court of Audit and the Constitutional Court, which are covered by the budget of the Prosecutor General's Office.

**7. Please describe how and when the budget of the prosecution service is managed (preparation, distribution of funds between the budget lines).**

Similarly to the Judiciary budget, the Public Prosecution Service budget is part of the State General Budget approved by the Assembly of the Republic.

In compliance with the Government policy, the Prosecutor General's Office prepares and distributes the funds among the different budget lines, being also responsible for their execution.

The same applies to the other services in which prosecutors are assigned, such services being also responsible for the budget execution.

**8. Is there a specific department within the prosecution service responsible for the management of resources?**

No. In what concerns the Prosecutor General's Office (the *PGR*) such responsibility lies on the Technical and Administrative Services (the *SATA*).

The responsibility for the management of resources lies on the Courts of Appeal as regards the District Deputy Prosecutors General's Offices (the *PGD*).

Such responsibility is conferred on the Ministry of Justice in what concerns the Public Prosecution Service and the first instance courts.

**9. Is there a national and/or centralised IT system for managing, monitoring and evaluating the budget of the prosecution services? Does this system include a mechanism for increasing the efficiency of the resource management?**

Overall, the management, monitoring and evaluation of any budget integrated in the financial organisation of the Ministry of Justice – which also comprises the Public Prosecution Service – are centralised in the Ministry of Justice.

### **SECTION III: Resources of the prosecution service**

**10. Please specify the amount of budget of the prosecution service for 2008, 2009, 2010 and 2011 (€ equivalent), indicating the distribution between staff expenditure and other types of expenditure.**

No aggregated elements are available allowing us to answer this question.

**11. In your jurisdiction, what resources would you improve access to, and how would you do that (e.g. through partnership agreements, joint investigations, redistribution of resources etc.)?**

Except for its highest body (the *PGR*), the financial resources of the Public Prosecution Service are managed by the Courts of Appeal and/or by departments under the responsibility of the Ministry of Justice.

**12. Are the current or future budgets of the prosecution service affected by the 2009-2011 economic crisis?**

As widely known, Portugal is currently undergoing external financial assistance, and budgets forcibly reflect this reality.

**13. What instruments are used to allocate resources needed for the good functioning of the prosecution service?**

The budgets are prepared based upon the experience and the know-how acquired from previous years, although they are zero-based budgets.

The various existing reports, in particular those on the activities and performance, are documents used in decision-making processes.

**14. Is there any connection between the budgets allocated to the prosecution service and to the judiciary or to law enforcement bodies?**

The budgets are prepared in compliance with the legislation in force.

Although the prosecution service and the judiciary are both magistracies, there is no information on whether the agency of the Ministry of Justice entrusted with the distribution of the funds establishes any "link" between them.

**15. Do human resources of the prosecution service depend on other institutions of the judiciary (e.g. Judicial Council, National Schools of Clerks)?**

The Public Prosecutors depend on the High Council of the Public Prosecution Service.

For purposes of registrar tasks, the prosecutors are assisted by justice officers, who pertain to the Direction General for Justice Administration. The evaluation of merit and the disciplinary matters involving justice officers are entrusted to Council of the Justice Officers.

**16. In your jurisdiction, is there any mechanism of rapid reaction which could allow a quick redistribution of means (financial or human resources, logistics) between prosecution services, according to the needs of the system?**

Yes. Within the existing principles of legality, changes to the budget are allowed so that given budget lines of other bodies can be boosted..

As aforesaid, the management of services other than the Prosecutor General's Office that are financially responsible for the prosecutors and justice officers depend upon the said bodies.

**17. Does the General Prosecutor (or equivalent institution) have a specific budget for taking interim/temporary measures in situations when, within a certain prosecution service, human resources are insufficient?**

The Prosecutor General's Office has its own budget. Where possible and required the budget balance may be allocated in order to tackle the needs.

#### **SECTION IV: Budget for investigations**

**18. What steps are required in order to obtain direct access to the resources needed for investigations? Please assess the period of time that elapses between submitting a request for resources and the moment when they are actually obtained.**

The Public Prosecution Service budget is funded by the Ministry of Justice to a great extent. The steps have been taken through the proper bodies of the Ministry without problems so far.

This does not necessarily imply that no budgetary difficulties are felt. In fact those difficulties are sometimes tackled and overcome thanks to a direct communication with the decision-makers.

**19. Have you ever faced the risk that special investigative techniques (e.g. communication interceptions, legal-genetic expertise, computer search) could not be applied in due time because of insufficient resources? Have insufficient resources in general affected the performance of criminal investigation in normal cases?**

A significant effort has been made by the Public Prosecution Service with a view to ensure that investigations are not affected by insufficient budget resources. Nonetheless, consideration must always be paid to the fact that resources are scarce, budget limits must be met and that we are experiencing times of major constraint..

**20. Is the resource management performed by the prosecution services during their investigations controlled? Please specify.**

Yes. All bodies encompassed by the State General Budget must send monthly reports on their accounts to the Minister of Finance.

**21. What is the resource management procedure when various agencies are involved in the investigation procedure (e.g. the police)?**

In general terms each agency involved in the investigations bears the operational costs (e.g., salaries, transport, etc).

**22. Is it possible for prosecutors to specialise in certain type of crimes? If so, what kind of effect it has had on the results of the prosecution service?**

Yes, there are specialised sections within the prosecution departments.

**23. Are there areas of investigation that have priority access to financial or material resources? If so, how and by whom is this priority established?**

The priorities are defined and outlined when the annual budgets are drafted, although they may undergo adjustments throughout the year.

#### **SECTION V: Description of the system of management by results**

The Prosecutor General's Office annual report comprises all the Public Prosecution services, the respective findings being broadly expanded and assessed therein.

**24. Do you have a system of management by results? (Please specify.) If yes, is there any problem with this system ?**

**25. What kind of objectives are set for the prosecution service, if such a system of objectives exists? Does your system use benchmarks of achieved results?**

**26. Which authority/authorities is/are competent to set these objectives?**

**27. What role does the prosecution service play in setting these objectives?**

**28. Are the objectives coordinated between all authorities of the criminal procedure? If such coordination exists, how does it influence the activities of the prosecution service?**

**29. Are there regulations in your system as regards the optimal workload within prosecution offices? if yes, is the allocation of resources correlated with the workload? Please provide examples.**

**30. Is the setting of objectives based on a negotiation system?**

**31. Who are parties of the negotiations?**

#### **SECTION VI: Follow-up of results and reporting**

The follow-up and reporting of results are expanded on the Prosecutor General's Office annual report. The same applies to the inspection activities made by the inspection service (which is composed of 15 inspectors operating in the dependence of the HCPPS) to the Public Prosecution services.

**32. Please indicate if there are any national strategies implemented in your state regarding the resources allocated to the judicial system, including the prosecution service. If so, in what areas were these strategies developed? Please comment on the results of these strategies.**

**33. Is the attainment of objectives followed up yearly? How?**

**34. Have any reforms been implemented during the last 5 years aimed at increasing the budget of justice?**

**35. Is the prosecution service included in the government strategies for enhancing the efficiency of public institutions (e.g. e-governance, external financial audit)?**

**36. How would you assess internal audit recommendations within the prosecution service?**

**37. Is the social impact of the prosecutors' activities evaluated? If yes, by whom?**

## Montenegro / Monténégro

### SECTION I: Status of the prosecution services in the state administration

1. State Prosecutor's Office is unique and independent state organ which prosecute offenders for crimes and other punishment acts ex officio (Article 136 of Montenigrian Constitution).
2. The Ministry of justice supervise the work of State Prosecutor's office through the authorized officers, in relation to:
3. organize the work of state Prosecutor's Office according to the Rules of Procedure of the State Prosecutor's Office.
4. action under the complaints and petitions;
5. operation of the Registry and archives;
6. keeping record
7. make other actions related with proper operation of prosecution administration.
8. The Ministry of justice is responsible for:
9. adoption of Rules of Procedure of the State Prosecutor's Office which governing the issues stipulated by the State Prosecutor's Office and other issues of importance for organization of State prosecution , having previously obtained the opinion of the Council of Prosecutors.
10. prescribe the form, manner, procedure and records of official identifications card of State Prosecutors and Deputy State Prosecutors;
11. adopt other acts relevant to the work of State Prosecutor's Office (Article 102 Law on State Prosecution)
12. Council of Prosecutor appoint, dismiss and determine the function of a Deputy State Prosecutor and determine the proposal for appointment and dismissal of the State Prosecutor. On the proposal of the Council of Prosecutor, Assembly appointed and dismissed State Prosecutors.
13. Answer on the question 2. include this question.
14. Funding for the State Prosecutor's Office and Council of Prosecutor as provided in special section of Montenigrin budget (Article 128 Law on State Prosecution). Proposal of the special section determine Supreme State Prosecutor, after he send proposal to the Government of Montenegro, and he has a right to participate in the session of the Montenigrin Parliament in discussing the proposed budget (Article 128 Law on State Prosecution). Ministry of Finance previously approved use of funds from the budget of Montenegro approved for State Prosecution.
15. Financial management of the budget allocated for the State Prosecution is not regulated by Law on State Prosecution, but these issues are stipulated in the Law on budget.
16. ...
17. Accountancy of State Prosecutor's Office performs accounting service related to the planning, monitoring, implementation and preparation of a report on the budget.
18. National Audit Office as special and independent State organ which control spending of budget funds from all budget users, as well as State Prosecutor's Office, and contain measures to increase the efficiency management of the budget funds.
19. Approved budget of the State Prosecutor's Office:
20. 2008. – 4.998.279 eur
21. 2009. – 4.538.776 eur
22. 2010. – 5.176.985 eur
23. 2011. – 5.364.839 eur
24. 2012. – 5.704.697 eur
25. State Prosecutor's Office as unique and independent organ should have special budget for which deposal is responsible State Prosecutor. In order to improve the revenue of budget, the law should regulate distribution of budgets revenues from charged for criminal proceedings, the funds of an alternative way of resolving criminal cases and funds from the sale of permanent seized property on the way that agreed amount represent the budgetary revenue of the State Prosecutor's Office as it stems from the comparative experiences of the European Union countries ( for example Italy).

26. European crises 2009 – 2011 had influence on State Prosecution budget.
27. For normal functioning of State Prosecutor's Office is provided workspace that was missing and which is equipped with necessary technical and office equipment and strengthened the administrative capacity of state Prosecutor's Office.
28. There are no connection between the budget of State Prosecutor's Office and Judiciary, but the budget of State Prosecutor's Office is especially regulated by Law on Budget.
29. Human resources are not dependent on any other judicial institutions, except for Prosecutorial staff training issues that are conducted through the Centre for Judicial Training.
30. There are no possibility for redistribution of financial funds between some State Prosecutor's Office.
31. The Law on State Prosecution provides an possibility for a temporary assignment of a State Prosecutor, without his consent, to work in another Prosecutor's Office, if it is necessary. Salary and other expenses incurred by assignment State Prosecutor to another State Prosecutor's Office, provides Prosecutor's Office which was referred.
32. It is necessary to submit an request to the State Treasury for approval and the release of funds, and with request submit also solutions and accounts. Such request it is possible to apply once a month, and dynamic and time period of release of funds dependence of State Treasury.
33. State Prosecutor's Office has not had problems in securing necessary funds to perform special investigation techniques and measures because the human resources is provided, which was lacking for such purposes, and there is an possibility to engagement experts in inquest.
34. Management of resources for investigations is regulated by the mechanisms of internal control in the State Prosecutor's Office.
35. When the police and other state organs are involved in investigation, they costs are regulated and determined in the budget those organs.
36. In Prosecutor's Offices with high number of prosecutor, specialization for different type of crime is done – cybercrime, juvenile crime, domestic violence, human trafficking etc.
37. In investigation cases, especially the more complex and extensive in proving process, carry out assessments of financial and material resources.
38. The control of results is perform by mechanisms of internal and external control. Internal control is perform by inline higher State Prosecutor and by Supreme State Prosecutor. External control is perform reporting to the Supreme State Prosecutor Assembly's of Montenegro.
39. The system of goals for State Prosecutor's Office is in Constitution and in Law on State Prosecution and:
40. State Prosecutors prosecute perpetrators of crime and other punishment acts;
41. lodge legal remedies against courts decision, request for the protection of legality against final judgments, if the law has been violated,
42. performed function based on Constitution, law and ratified contracts,
43. in work they are autonomous and independent,
44. function of State Prosecutor is performed in public interest to ensure application of law, respecting and protecting human rights and freedom,
45. function of State Prosecutor shall be performed impartially and objectively,
46. State Prosecutor in exercise of the function adhere to the Constitution, law and State Codes of Ethics,
47. work of State Prosecutor's Office is public unless something different is written in the law,
48. State Prosecutor must truly and completely determine the facts which are important for the adoption of a lawful and proper decision,
49. in they work, State Prosecutor adheres to the principle of truth and fairness with equal attention to examining all facts against defendant and the one in his favor,
50. State Prosecutor are required to abide by the principle of legality of prosecution.
51. Achieving the objectives of the State Prosecutor's Office are determined by the Constitution and Law on State Prosecution whose adoption is the responsibility of the Montenegrin Parliament.

52. Answer as in question 25.

53. State prosecutor in pretrial coordinate and manage the work of the police and other organs in detecting crimes. They are investigating as a first stage of criminal proceedings. Since the indictment in the further course of judicial proceedings, prosecutor and court jurisdiction are required by Criminal procedure Law.

54. Criteria for optimal working load are determined by deciding the number of prosecutors in individual prosecutions. For they work, State Prosecutors receive a salary and compensation for the duty-hours required to plan the number of duty prosecutors.

55. ...

56. ...

57. There is National strategy for judicial reform with an Action plan for its implementation for the period 2007-2012 and 2012-2014, then the Strategy for combating corruption and organized crime with an Action plan for its implementation witch results assesses the National Commission. Based on this strategy is implemented reform of State Prosecutor's Office by taking an investigation from the courts, then the formation of the Special Prosecutor's Office for organized crime, corruption, terrorism and war crimes and strengthening the administrative and technical capacity at all levels of State Prosecutor's Office.

58. Achievement of objectives is monitored through the annual strategic and analytical reports on the work.

59. Try implementing of reforms in State Prosecutor's Office, increased the budgets funds for the operation of organ.

60. The State Prosecutor's Office is involved in the implementation of the mentioned National reforms, in particular trough the execution of tasks in Action plans for implementing the recommendations of the European Commission in the rule of law, corruption and organized crimes.

61. State Audit Office recommendations are aimed to increase the efficiency of the management of funds intended for State Prosecutor's Office.

62. Social impact of the State Prosecutor's Office is estimated by the Montenegrin Parliament which consider a report on a work of State Prosecutor's Office, the National Commission for the implementation of strategies to combat corruption and organized crimes and reports of experts teams from European Union and Council of Europe.

## Norway / Norvège

### SECTION I: Status of the prosecution services in the state administration

Please specify the status of the prosecutor and the prosecution service in your state. Is it an autonomous institution? If yes, how is this autonomy guaranteed?

1. The prosecution service in Norway is an autonomous institution. Its autonomy is guaranteed by law. King in Council formally may, however, instruct Director of Public Prosecution (DPP) in the handling of specific cases, but this has never been done and would be in conflict with a long tradition and several statements in official documents from Parliament regarding the autonomy of the prosecution authority. Financially, the prosecution service relies on sufficient funding/grants from the Ministry of Justice and Public Security (Justis- og beredskapsdepartementet)/Norwegian Parliament (Storting).

Does the ministry of justice or another authority govern the activity of the prosecution service? If so, how?

2. The Norwegian government (which is responsible towards the Parliament (Storting)), may/will express general views/goals regarding priorities within the area of criminal politics in connection with the yearly allocations of means/funding. The DPP will take such statements into account when goals and priorities within the prosecution authority are communicated to subordinated departments, and the same applies for the Police directorates (Politidirektoratet) priorities. The Ministry of Justice and Public Security cannot, and will not, interfere with decisions in specific cases taken by the Prosecution authority.

Which authority is responsible for the creation of prosecutor positions?

3. The Norwegian prosecution authority is divided into three levels (local, regional, national). The regional and national level represent The Higher Prosecution Authority, while the first level (local) is part of the Police and formally subordinated The Chief of Police. In matters regarding questions of prosecution, the Chief of Police is responsible towards The Regional Public Prosecutor, which in turn is responsible towards DPP. DPP handles the funding of The Higher Prosecution Authority on the basis of funds received from the Norwegian Parliament (Storting), which is again based on proposals from The Ministry of Justice, while the prosecution authority at the first (local) level is financed in the same manner as part of the police (through The Police Directorate (Politidirektoratet)).

4. The creation of positions within The Higher Prosecution Authority is naturally nearly connected with funding. When increased manpower is needed, DPP will inform The Ministry of Justice about the need, which may be met by the Norwegian Parliament (Storting). Formally, public prosecutors in The Higher Prosecution Authority are appointed by The King in council. Public Prosecutors within the Police are appointed by the Chief of Police. Chief of Police is appointed by King in Council.

5. Please indicate if there is any connection between the prosecution service and the Ministry of Justice or another public authority in terms of financial and human resources, IT facilities etc. If so, please describe how this connection works.

6. As already explained, there is a connection between the prosecution service and The Ministry of Justice/Parliament in terms of financial and human resources. This also applies to operation of and investment in IT-facilities. Regarding IT-facilities, The Higher Prosecution authority uses solutions which is based on the system used within the police, and this system, and the special solutions for The Higher Prosecution Authority, are developed by a special branch of the Police (Politiets Data- og Materielltjeneste/PDMT). The Higher Prosecution Authority, therefore is charged with a yearly amount as a payment for operation of the system. Investments in new IT-solutions, however, has to be financed by grants/funding from Parliament, (or within the regular budget).

7. Is the prosecution service independent from other institutions when implementing and managing its own budget?

Yes

### SECTION II: Financial rules and regulations of the prosecution service

8. Does the law governing the prosecution service include provisions on financial management and on the executive's obligation to provide it with the necessary infrastructure?



9. Regulations regarding economic management has been given and applies (generally) to all state institutions (Økonomireglementet og Bestemmelser om økonomistyring i staten). Naturally these regulations also apply to the Higher Prosecution Authority.

10. Please describe how and when the budget of the prosecution service is managed (preparation, distribution of funds between the budget lines).

11. The budget process is long and ongoing. To describe how it functions, it is necessary to start in "year minus 2" (2010 for the 2012-grant). In year minus 2 DPP informs The Ministry of Justice in writing about possible areas of commitment/cuts (and expected consequences of such commitments/cuts). The next year (year minus 1) areas of possible expansion/reduction similarly are described, and The Ministry of Justice supplies DPP with an "economic frame", which the Prosecution authority may comment. On the basis of these comments The Ministry of Justice may make some adjustments. After these adjustments have been made, The Ministry of Justice sends a letter to DPP regarding this years funding. On the basis of this letter and the grant that has been given, DPP allocates available funds between the different regions of The Higher Prosecution Authority. After this letter has been sent from DPP, there may still be further correspondence with The Ministry of Justice regarding additional grants. In May/June (year zero) Parliament makes a decision regarding the revised budget. This decision may, or may not, affect the total grant to The Prosecution authority in that very same year.

12. Is there a specific department within the prosecution service responsible for the management of resources?

13. DPP is responsible for the management of resources within The Higher Prosecution Authority. The Police Directorate (Politidirektoratet) is responsible for the management of resources within the police, and as stated in the answer to question 3 above, this also includes the first level of the prosecution service.

Is there a national and/or centralised IT system for managing, monitoring and evaluating the budget of the prosecution services? *Does this system include a mechanism for increasing the efficiency of the resource management?*

Yes, we apply a system delivered by the Directorate of Economic Management (Direktoratet for økonomistyring). This system does not yet, however, include a mechanism for increasing efficiency of resource management within the prosecution service.

### SECTION III: Resources of the prosecution service

14. Please specify the amount of budget of the prosecution service for 2008, 2009, 2010 and 2011 (€ equivalent), indicating the distribution between staff expenditure and other types of expenditure.

15. Please note what is stated in the answer to question 3, above. This figure only regards expenditures (in thousand euros (exchange rate 7,46)) for the Higher Prosecution Authority in year 2008-2011

Year	2008	2009	2010	2011
Salary	12049	12425	13666	14467
Rent	2298	2373	2449	2492
Travel expenses	737	792	812	757
Other expenditures	1256	1360	1318	1328
Total	16361	16951	18247	19046

*In your jurisdiction, what resources would you improve access to, and how would you do that (e.g. through partnership agreements, joint investigations, redistribution of resources etc.)?*

16. Possibly through (even) more cooperation and flexibility between the (ten) regional prosecution offices and the prosecution service in the Police. It may also be possible to increase cooperation with official controlling bodies, like the National health insurance (NAV) and the National Tax Directorate (Skattedirektoratet).

Are the current or future budgets of the prosecution service affected by the 2009-2011 economic crisis?

It seems that the economic crisis in Europe may have reduced the commitment in this field, even though it has not been expressed directly. In this respect, however, it is also important to note that the economic crisis has not hit Norway as hard as other countries in Europe.

*What instruments are used to allocate resources needed for the good functioning of the prosecution service?*

17. As explained above (in regard to question 7), DPP will have an ongoing dialogue with representatives of The Regional Prosecution Offices and with representatives of The Ministry of Justice. On the basis of all the proposals from The Regional Prosecution Offices, he makes suggestions to The Ministry of Justice regarding future grants.

18. Is there any connection between the budgets allocated to the prosecution service and to the judiciary or to law enforcement bodies?

19. Probably. However, we have sent this question to the Ministry of Justice, which probably can answer more specifically. An answer from the Ministry of Justice will be forwarded. The same applies to question 28 and 32.

20. Do human resources of the prosecution service depend on other institutions of the judiciary (e.g. Judicial Council, National Schools of Clerks)?

No, and please be aware that the Norwegian prosecution authority is not part of the Judiciary.

21. In your jurisdiction, is there any mechanism of rapid reaction which could allow a quick redistribution of means (financial or human resources, logistics) between prosecution services, according to the needs of the system?

22. There is no formal routine which takes care of this. DPP may and will, however, whenever necessary, quickly try to redistribute means and give instructions concerning the handling of specific cases within The Higher Prosecution service.

23. Does the General Prosecutor (or equivalent institution) have a specific budget for taking interim/temporary measures in situations when, within a certain prosecution service, human resources are insufficient?

24. To some extent through a small reserve, but ideally this reserve should have been larger.

#### SECTION IV: Budget for investigations

25. What steps are required in order to obtain direct access to the resources needed for investigations? Please assess the period of time that elapses between submitting a request for resources and the moment when they are actually obtained.

26. We have sent question 18-23 to the Police Directorate. The answer will be forwarded.

27. Have you ever faced the risk that special investigative techniques (e.g. communication interceptions, legal-genetic expertise, computer search) could not be applied in due time because of insufficient resources? Have insufficient resources in general affected the performance of criminal investigation in normal cases?

28. Is the resource management performed by the prosecution services during their investigations controlled? Please specify.

29. What is the resource management procedure when various agencies are involved in the investigation procedure (e.g. the police)?

30. Is it possible for prosecutors to specialise in certain type of crimes? If so, what kind of effect it has had on the results of the prosecution service?

Are there areas of investigation that have priority access to financial or material resources? If so, how and by whom is this priority established?

#### SECTION V: Description of the system of management by results

31. Do you have a system of management by results? (Please specify.) If yes, is there any problem with this system?
32. Partly and in principle, eg. related to the amount of arrears and time limits in specific cases. However, the possibilities are limited due to old technology, which means that there is a potential for improvement.
33. What kind of objectives are set for the prosecution service, if such a system of objectives exists? Does your system use benchmarks of achieved results?
34. In the letter of allocations from The Ministry of Justice to the prosecution authority, there is usually given some signals in the form of main priorities/goals based on suggestions from DPP. This may also include some benchmarks, eg. regarding certain time limits and ratios of "success" etc. in specific types of cases.
35. Which authority/authorities is/are competent to set these objectives?
36. The Ministry of Justice/the Norwegian Parliament may give such general instructions, usually based on suggestions from DPP.
37. What role does the prosecution service play in setting these objectives?
38. The Director General's office plays an important role concerning which objectives that are expressed from the Ministry of Justice and the Norwegian Parliament (Storting) regarding the prosecution service. As already mentioned, such objectives will usually be based on suggestions from the Director General's office, or his views have been taken into consideration.
39. Are the objectives coordinated between all authorities of the criminal procedure? If such coordination exists, how does it influence the activities of the prosecution service?
40. We have sent this question to The Ministry of Justice. The answer will be forwarded
41. Are there regulations in your system as regards the optimal workload within prosecution offices? if yes, is the allocation of resources correlated with the workload? Please provide examples.
42. No.
43. Is the setting of objectives based on a negotiation system?
44. No, not directly – it is based on the described dialogue.
45. Who are parties of the negotiations?

As stated above, it is not directly a negotiation system. There is a dialogue between DPP, The Ministry of Justice and The Police Directorate. DPP, in turn, has an ongoing dialogue with the regional prosecution offices. The Police Directorate has a similar dialogue with the police districts.

#### SECTION VI: Follow-up of results and reporting

Please indicate if there are any national strategies implemented in your state regarding the resources allocated to the judicial system, including the prosecution service. If so, in what areas were these strategies developed? Please comment on the results of these strategies.

We have sent this question to The Ministry of Justice. The answer will be forwarded.

Is the attainment of objectives followed up yearly? How?

Attainment of the objectives is followed up through dialogue and reports exchanged between the DPP and The Regional Public Prosecutors offices several times each year.

Have any reforms been implemented during the last 5 years aimed at increasing the budget of justice?

There has, among other things, been an increased commitment to the police force (more generally), and an increased number of positions within the National investigation agency regarding serious economic crime, and within the National prosecution agency for organized crime and other serious crime.

Is the prosecution service included in the government strategies for enhancing the efficiency of public institutions (e.g. e-governance, external financial audit)?

Yes.

How would you assess internal audit recommendations within the prosecution service?

It functions well.

Is the social impact of the prosecutors' activities evaluated? If yes, by whom?

Not as far as we know.

SECTION I: Status of the prosecution services in the state administration

Please specify the status of the prosecutor and the prosecution service in your state. Is it an autonomous institution? If yes, how is this autonomy guaranteed?

1. The Public Ministry is part of the judicial authority. The prosecutors develop their activity according to the principle of legality, impartiality and hierarchical control, under the authority of Justice Ministry (exercising control of the prosecutor's activity, by prosecutor's specially appointed).

The prosecutor is independent in the proposed settlements, in the conditions provided by law. The adopted settlements may be legitimately invalidated by the hierarchically superior prosecutor, when they are appreciated as unlawfully, by default or as a consequence of the complaint expressed by the injured person in its legitimate interests. Also, the prosecutor's settlements may be appealed also at the court.

The Prosecutor's Offices are independent in the relationships with the courts, as well as with the other public authorities (article 62 paragraph (4), from Law no.304/2004).

Does the ministry of justice or another authority govern the activity of the prosecution service? If so, how?

2. The criminal activity developed by the prosecutors is not managed by the Ministry of Justice or by other authorities.

According to the provisions of article 69, paragraph 2, Law 304/2004, the control exercised by the Minister of Justice through prosecutors specially appointed by the General Prosecutor of POHICJ, of the special Directorates or by the Ministry of Justice cannot target the measures ordered by the prosecutor during the criminal investigation and the adopted settlements.

The Minister of Justice may offer written guidance regarding measures for the prevention and fight against criminality.

Which authority is responsible for the creation of prosecutor positions?

3. The establishment of new prosecutor's positions is made by Romanian Government decision, proposed by the Minister of justice.

Please indicate if there is any connection between the prosecution service and the Ministry of Justice or another public authority in terms of financial and human resources, IT facilities etc. If so, please describe how this connection works.

4. The Public Ministry manages its own financial, human and IT resources.

In particular cases, the Ministry of Justice promotes within the strategies regarding the judiciary development requirements of the Public Ministry or, according to other agreements, there are developed common activities of the resources – RMS, IT applications ECRIS).

Is the prosecution service independent from other institutions when implementing and managing its own budget?

5. Yes. The activity of the prosecutor's offices is financed from the state budget.

According to Article 131, Paragraph, of Law 304/2004, the budget for the prosecutor's offices attached to the courts of appeal, tribunals, specialized tribunals and courts is managed by the Prosecutor's Office attached to the High Court of Cassation and Justice, the General Prosecutor with the quality of main credit officer.

The budget of the military prosecutor's offices is managed by the Ministry of National Defence, the Minister of national defence has in its turn the quality of main credit officer.

46.

47. SECTION II: Financial rules and regulations of the prosecution service

Does the law governing the prosecution service include provisions on financial management and on the executive's obligation to provide it with the necessary infrastructure?

6. Yes.

Law no.34/2004 on judicial organization provides that the Ministry of Justice is going to ensure the proper organization of justice as a public service. The Law also provides the economic, financial and administrative management of the prosecutor's offices.

Please describe how and when the budget of the prosecution service is managed (preparation, distribution of funds between the budget lines).

7. The budget issuance is made according to Law no. 500/2002 regarding the public finances by the main credit officer through the analysis and centralization of the budget proposals drawn by the subordinate credit officers. Annually, by frame-letter, the Ministry of Public Finances sends the total amount where it has to fit the PM (Public Ministry) budget.

The centralized MP budget is handed to the Ministry of Public Finances to be approved, the last one being able to operate changes according to the existing resources at national level.

The distribution of the funds between budgetary lines is the following:

Personnel expenses (salaries)

goods and services (office, utilities, handling the judicial expenses for interpreters, expertise, printing, accommodation and transportation, fuel, communication etc.)

interests (financial leasing contract)

transfers between the units of public administration (handling the child care allowance up to the age of 1 year by the Public Ministry, that is recovered from the town halls),

social care (allowances paid at the pension, in case of death),

projects with external grants from European funds financing,

non-financial actives (capital expenses: capital repairs, investments, equipments and goods exceeding a certain value – equivalent of 400 euro).

Is there a specific department within the prosecution service responsible for the management of resources?

8. The Prosecutor's office attached to the High Court of Cassation and justice and the prosecutor's offices attached to the courts of appeal and tribunals have an economic, financial and administrative department, run by an economic manager. The economic manager is under the head of the public prosecutor's office where she/he works. The economic, financial and administrative department within the prosecutor's offices attached to tribunals also provide the economic, financial and administrative requirements of the prosecutor's offices attached to the courts of first court in their jurisdiction.

Is there a national and/or centralised IT system for managing, monitoring and evaluating the budget of the prosecution services? *Does this system include a mechanism for increasing the efficiency of the resource management?*

9. There is a centralized IT system for managing, monitoring and evaluating the budget, IT system which has in its components an analysis module (mechanism) of management analysis allowing the assessment and increasing the efficiency of the resources' management at any time.

### SECTION III: Resources of the prosecution service

Please specify the amount of budget of the prosecution service for 2008, 2009, 2010 and 2011 (€ equivalent), indicating the distribution between staff expenditure and other types of expenditure.

INDICATORS	Budget 2008	Budget 2009	Budget 2010	Budget 2011
GRAND TOTAL	163.845.317	134.556.076	160.949.636	133.361.345
Staff expenses	139.848.529	111.835.533	140.383.215	114.55.177
Goods and services	14.603.031	13.410.435	13.943.241	12.618.469
Interest	191.207	41.625	2.100	0
Transfers between the units of the public administration	0	0	0	0
Other transfers	187.193	169.339	0	0
Projects financed from external grants (FEN) post-accession	0	0	196.742	997.060
Social care	45.920	2.341.185	259.289	32.410
Non-financial assets	8.969.437	6.757.958	6.165.049	5.158.229
Recovery from financing the previous years	0	0	0	0
TOTAL STATE BUDGET	159.232.750	132.506.977	159.213.732	132.446.929
Staff expenses	138.180.357	110.889.267	139.486.557	114.535.963
Goods and services	12.644.535	12.591.174	13.191.047	12.596.477
Interest	191.207	41.625	2.100	

Transfers between the units of the public administration				
Other transfers	187.193	169.339		
Projects financed from external grants (FEN) post-accession			196.742	131.722
Social care	45.920	2.341.185	259.289	32.410
Non-financial assets	7.983.539	6.474.386	6.077.997	5.150.358
Recovery from financing the previous years				
EXTERNAL GRANTS	4.612.566	2.049.099	1.735.904	914.415

*In your jurisdiction, what resources would you improve access to, and how would you do that (e.g. through partnership agreements, joint investigations, redistribution of resources etc.)?*

11. The following activities require prioritization in terms of resources assignment:  
access in technical expertise and expert advice in specific fields, that in certain complex cases is required for a longer period of time;  
access in forensic services; in this respect, a proposal was issued regarding the subordination of the forensic services to the judiciary rather than to the Ministry of Health, as it currently is. The proposal was not a success and for the improvement of this process, solutions are looked for.  
Access to basic office equipment such as fax, copy machines, printers. Thus kind of equipment usually has limited duration of life and their failure often hampers the development of current activities. A solution to rationalize the access to this equipment, as IT strategy for the judiciary sector so that continuity is provided.

Are the current or future budgets of the prosecution service affected by the 2009-2011 economic crisis?

12. The Public Ministry budget was and still is affected by the economic crisis from 2009 -2011. There have been adopted temporary laws by which current expenses have been reduced (for example in the second semester of 2010, OUG no.55/23.06.2010 regarding some measures of reducing public expenses, have had as effect dropping of expenses of the Public Ministry by 20%). From 2009 the purchase of a category of assets like automobiles, copy machines, furniture has been restricted. Still this kind of assets are useful to the prosecutor's offices units be it for advanced wear of the owed equipment, be it for the occupation of new spaces, towards which the existing equipment are insufficient for the development of the activity.

*What instruments are used to allocate resources needed for the good functioning of the prosecution service?*

13. In compliance with Law no.500/2002 of the public finances, for the proper development of the prosecutors offices and for the purpose of flexibility of resource use, according to the priorities, there are operated transfers and fund redistributions.

The legislation regarding the public acquisitions is also applicable to the prosecutor's offices. Thus, annually there are contained in the public acquisitions plan of necessary goods for the reference period. The volume of activity from the current year serves as an acceptable prognosis of the future activity.

The forecasts for the salary fund consider the promotions in positions and appointments, given from the human resources domain regarding the average of the experience in that position. As for the salaries matter, the budgetary execution was inferior to the approved budget and allowed redistributions to the funds for functional expenses.

The investments are periodically monitored, in order to allow withdrawals and increases of amounts from some objectives, reported to the execution rhythm, so that the budget credits are not blocked.

Is there any connection between the budgets allocated to the prosecution service and to the judiciary or to law enforcement bodies?

14. There is no connection between the budgets granted to the PM and to the other institutions of the judiciary or other authorities meant to watch over the enforcement of the law.

Do human resources of the prosecution service depend on other institutions of the judiciary (e.g. Judicial Council, National Schools of Clerks)?

15. Human resources of the prosecutor's offices units within the Public Ministry are provided, predominantly, through the National Institute of Magistracy and the National School of Clerks, institutions coordinated by the Superior Council of Magistracy.

Acceptance in magistracy and initial training for the purpose of occupancy of the prosecutor position is achieved through the National Institute of Magistracy.

Recruitment of the law clerks is usually made through the National School of Clerks, and other categories of auxiliary professional personnel – IT law clerks, archive clerks, register clerks – are recruited by contest organized at the level of the Prosecutor Offices attached to the courts of appeal or as appropriate at the Prosecutor's Office attached to the High Court of Cassation and Justice or, according to the provisions of Law no.567/2004.

SCM (Superior Council of Magistracy) publishes annually the agenda of the contests, so that there are elements for the predicting of the financial measures accompanying the appointment/promotion of the personnel.

In your jurisdiction, is there any mechanism of rapid reaction which could allow a quick redistribution of means (financial or human resources, logistics) between prosecution services, according to the needs of the system?

16. At the level of PM there is an integrated Informational System, allowing the monitoring and permanent control of the resource use, fact ensuring the quick reaction according to the requirements.

So when the situation requires it, the General prosecutor of Prosecutor's Office of the High Court of Cassation and Justice may order the redistribution of the financial resources, human and logistic between the subordinated units, for the insurance of the development in natural conditions of criminal investigation.

The law allows the initial budgets of the subordinate credit officers to be modified.

Does the General Prosecutor (or equivalent institution) have a specific budget for taking interim/temporary measures in situations when, within a certain prosecution service, human resources are insufficient?

17. The law provides the possibility of commissioning the prosecutors to another prosecutor's office or in leading positions, with the approval of the person. If, for example the prosecutors from a county do not agree with the commissioning from a unit in that district, the lack of human resources is totally substituted by the takeover of the files of the hierarchical superior prosecutor's units, so that it would not affect the research efficiency.

#### SECTION IV: Budget for investigations

What steps are required in order to obtain direct access to the resources needed for investigations? Please assess the period of time that elapses between submitting a request for resources and the moment when they are actually obtained.

18. The case prosecutor drafts a report on the resources required for the investigations which he then submits for approval to his hierarchically superior prosecutor (the head of the prosecutor's office). The required resources are allocated with celerity, depending also on their nature. As a rule, public institutions make the payments for the current month in the following month. If a payment is imminent and the amount can be forecast, the funds can be requested during the current month if the monthly expense limit is observed.

Have you ever faced the risk that special investigative techniques (e.g. communication interceptions, legal-genetic expertise, computer search) could not be applied in due time because of insufficient resources? Have insufficient resources in general affected the performance of criminal investigation in normal cases?

19. No, as far as prosecutor's offices are concerned. There was a situation, in a most complex case, when the resources required to intercept communications were exhausted by the end of April. In compliance with the legal provisions, the funds were supplemented from the Government reserve funds.

Is the resource management performed by the prosecution services during their investigations controlled? Please specify.

20. The amounts advanced during the investigation must reflect the judicial costs calculated at the end of the investigation. If a non-prosecution decision is delivered, such amounts will be charged to the state. If prosecution and conviction decisions are delivered, the amounts will be charged to the defendant.

Article 160 of the Internal Regulations of prosecutor's offices stipulates that judicial costs should be calculated for each and every cause.

As regards hierarchical control, the chief prosecutor is the one who checks the compliance with the legal provisions when funds are advanced for certain activities.

By comparison with a case sample, the internal auditing checks the compliance with the law, from the financial point of view, of the payments for expert analyses and the correct calculation of judicial costs.



Depending on the findings, the auditing may, for example, extend the control to all the cases disposed during a certain period of time.

What is the resource management procedure when various agencies are involved in the investigation procedure (e.g. the police)?

21. Pursuant to the provisions of Article 218 (1) of the Criminal Procedure Code, the prosecutor directs and controls directly the criminal investigation activity carried out by the judicial police and other specialized investigation bodies, making sure that the criminal investigation acts are carried out in compliance with the legal provisions. The orders issued by the prosecutor are mandatory for the criminal investigation body and for the other bodies with legal responsibilities in establishing the commission of crimes (Article 219 (2) of the Criminal Procedure Code).

Considering that human, financial or logistic resources are required to fulfill the prosecutor's orders, the police has the obligation to allocate such resources. The same applies for other law enforcement agencies (collaboration protocols establishing such aspects have been signed between the Prosecutor's Office attached to the High Court of Cassation and Justice and the institutions I referred to).

Is it possible for prosecutors to specialise in certain type of crimes? If so, what kind of effect it has had on the results of the prosecution service?

22. The Law on the organization of the judiciary refers to the specialization of prosecutors as one of the criteria based on which prosecutors are distributed to the sections/departments within prosecutor's offices.

Depending on the type of crime, the law also defines the jurisdiction of the National Anticorruption Directorate – prosecutors specialized in fighting high-level corruption crimes, that of the Directorate for the Investigation of Organized Crime and Terrorism – prosecutors specialized in fighting organized crime, and that of the Military Prosecutor's Offices Section – crimes committed by servicemen in connection with their official duty.

Based on internal orders, the prosecutors from prosecutor's offices attached to tribunals are specialized in fighting small and medium corruption, and criminalists are specialized in crimes against life.

Specialization has obvious benefic effects on the results of criminal prosecution, on focusing resources, and on the accumulation and improvement of good practices.

Are there areas of investigation that have priority access to financial or material resources? If so, how and by whom is this priority established?

23. A prioritization of cases in point of financial resources is required in case trial terms risk to be affected. The heads of prosecutor's offices responsible for the allocation of resources have the possibility to do this with priority to certain cases, after having analyzed the existence of certain cumulative conditions, namely the complexity of the case, a prompt resolution of the case, short trial terms.

#### SECTION V: Description of the system of management by results

Do you have a system of management by results? (Please specify.) If yes, is there any problem with this system?

24. We have such a management system and the activity of each prosecutor's office is analyzed on a regular basis. These regular analyses are followed by complementary measures monitored for average periods of time. There is no specified volume to be achieved but prosecutors must focus on obtaining results in the areas set as priorities by the management.

In addition to that, pursuant to Article 79 of the Law No. 304/2004, the Prosecutor's Office attached to the High Court of Cassation and Justice prepares an annual report on the activity carried out and submits it to the Superior Council of the Magistracy and to the ministry of justice by February the following year. The minister of justice presents the conclusions concerning this activity report to the Parliament.

So far, this system has proved to be effective in practice.

What kind of objectives are set for the prosecution service, if such a system of objectives exists? Does your system use benchmarks of achieved results?

25. The standing objective of the criminal prosecution structures is to identify and hold criminally responsible the individuals who have committed crimes.

The medium-term objectives are established based on the activity results and other factors. The medium-term objectives for prosecutor's offices established in 2010 are the following:

Increased efficiency in fighting corruption

Increased efficiency in fighting smuggling and tax evasion  
Increased firmness (pretrial arrest in serious cases)  
Increased efficiency of inquiries  
Balancing the workload  
Higher quality of the criminal investigation acts.

These priorities are needed to adapt managerial measures so as to ensure sustainable results, to adjust assessment standards to the range of results by districts/areas.

While analyzing the results of each territorial office, it became obvious that some performed better than others in terms of achieved results, and that such results could become benchmarks for their future activity or for that of similar offices facing the same problem.

Which authority/authorities is/are competent to set these objectives?

26. The competence for establishing these objectives corresponds to the management of the Prosecutor's Office attached to the High Court of Cassation and Justice (see also Point 24) and it is done on an annual basis. The objectives are taken over accordingly by the judicial police.

What role does the prosecution service play in setting these objectives?

27. The Prosecutor's Office attached to the High Court of Cassation and Justice establishes the objectives, sets forth the methods to achieve them, collaborates with other law enforcement institutions in order to clarify common problems and measure/assess the results obtained.

At territorial level, each office has to adapt its general strategies and define its specific objectives.

Are the objectives coordinated between all authorities of the criminal procedure? If such coordination exists, how does it influence the activities of the prosecution service?

28. The objectives of the Public Ministry are correlated with those of other law enforcement agencies, and they take into consideration the priority fields established through the Government policies. Such coordination and identity of objectives with the law enforcement agencies is meant to speed-up procedures relating to the celerity of the act of justice.

Are there regulations in your system as regards the optimal workload within prosecution offices? if yes, is the allocation of resources correlated with the workload? Please provide examples.

29. As a rule, the Superior Council of the Magistracy determines the optimum workload throughout the judicial system. In reality, the CSM has created optimum workload standards only for courts.

Under the circumstances, the Prosecutor's Office attached to the High Court of Cassation and Justice has created, starting 2008, its own average workload determination method taking into account the posts provided and the occupied posts, in order to establish the right job redistribution measures.

Based on the average workload and other criteria, certain courts and prosecutor's offices with a small workload were dissolved. (Law No. 148/2011)

The general prosecutor bases his evaluation of the required legal conditions for seconding (see Point 17) on this report on the average workload and the level of occupancy.

In compliance with Article 95 of the Law No. 304/2004 on the Judicial Organization, chief prosecutors in prosecutor's offices try to achieve a proper balance of the workload of prosecutors (number of files, complexity, specialization).

Is the setting of objectives based on a negotiation system?

30. No.

Who are parties of the negotiations?

31. –

## SECTION VI: Follow-up of results and reporting

Please indicate if there are any national strategies implemented in your state regarding the resources allocated to the judicial system, including the prosecution service. If so, in what areas were these strategies developed? Please comment on the results of these strategies.

32. The Public Ministry contributes to the preparation by the Ministry of Justice and/or the Superior Council of the Magistracy of the national strategies on the judicial system and their implementation

The fields targeted by these strategies are:

Human resources

Integrated management of resources

Computerization of the judicial system

Increasing the magistrates' specialization in fighting corruption and economic and financial crime

Amending judicial statistics

Adapting the curriculum for the initial training of future magistrates.

Is the attainment of objectives followed up yearly? How?

33. Yes. The established medium-term and standing objectives are accompanied by performance indicators, a monitoring process and the assessment of the results. Depending on the progress of the indicators, a detailed analysis of the results as against the objectives is performed when significant variances are discovered (usually over 20%).

Have any reforms been implemented during the last 5 years aimed at increasing the budget of justice?

34. The budget restrictions caused by the financial crisis of 2009 also had an impact on the possibilities of increasing the budget of the institution. Yet, the current national strategy for the development of justice provides for measures to safeguard the proper financing of the judiciary.

Is the prosecution service included in the government strategies for enhancing the efficiency of public institutions (e.g. e-governance, external financial audit)?

35. Yes. The strategies having the Public Ministry as beneficiary are generally targeting the judiciary. The Public Ministry has been a beneficiary of the judicial system computerization strategy and of the government strategy on enrolling Microsoft operating licenses. However, as regards e-governance measures, the applications for criminal case records are meant to increase transparency and the access to information on the judicial system. As regards prosecutor's offices, their case records are generally not meant for the use of other institutions until the moment the cases go to court/are disposed.

The Public Ministry must also implement the internal control and create the auditing framework established at government level.

How would you assess internal audit recommendations within the prosecution service?

36. The internal auditing has checked the compliant use of material resources (see Point 20). The findings and the recommendations of the internal auditing are the basis for specific measures in the judicial system, considering the hierarchical organization and the legality principle. The internal auditing is meant to formalize the duties of each employee belonging to other categories than that of prosecutor, and the existence of procedures for the auxiliary and support activities.

Is the social impact of the prosecutors' activities evaluated? If yes, by whom?

37. The social assessment is not formalized. The surveys conducted on a regular basis are meant to reveal the public confidence in the justice system. Sometimes, the surveys reveal a mix-up as regards the functions of prosecutor's offices.

### SECTION I: Status of the prosecution services in the state administration

Please, indicate what status does the prosecutor and prosecutor's office have in your country? Is the prosecutor's office an independent institution? If yes, how is this independence guaranteed?

The Prosecutor's Office of the Russian Federation takes a special place in the system of the state authorities. The main principles of organization and activities of the Prosecutor's Office are fixed in the Constitution of the Russian Federation, in chapter "Judicial Power".

According to the Constitution of the Russian Federation, the Prosecutor's Office of the Russian Federation constitutes a single centralized system with subordination of the lower prosecutors to the superior ones and the Prosecutor General of the Russian Federation, and its powers, organization and the order of activities are defined by the federal law (article 129).

The place of the Prosecutor's Office in the system of the state authorities is defined first of all by the contents of its functions. The most important functions are as follows: the prosecutor's supervision over the compliance with the Constitution of the Russian Federation and observance of laws, which are in force in the territory of the Russian Federation; criminal prosecution; coordination of the activities of law enforcement bodies in combat against crimes; participation of prosecutors in examination of cases by courts; participation in legislative activities; international cooperation with the relevant bodies of other countries and international organizations.

Functions which are not envisaged by the federal law cannot be imposed on the Prosecutor's Office of the Russian Federation.

Federal Law "On Prosecutor's Office of the Russian Federation" stipulates certain guarantees of independence of the bodies of the Prosecutor's Office and Prosecutors.

Thus, the bodies of the Prosecutor's Office exercise their powers irrespective of the federal bodies of state power, bodies of state powers of subjects of the Russian Federation, bodies of local self-government, public associations. At that the establishment of the bodies of the Prosecutor's Office, which are not within the single system of the Prosecutor's Office of the Russian Federation, and their activities in the territory of the Russian Federation are not allowed.

Prosecutors cannot be members of elected and other bodies, formed by the bodies of the state power and bodies of local self-government.

Prosecutors cannot be members of public associations, pursuing political goals, and participate in their activities.

Establishment and activities of public associations, pursuing political goals, and their organization in the bodies and institutions of Prosecutor's Office are not allowed.

Prosecutors have no right to combine their main activities with any other paid or voluntary activities unless they are engaged in teaching, scientific research and other creative activities. At that teaching, scientific and other creative activities cannot be financed solely from the funds of foreign states, international and foreign organizations, foreign citizens and persons without citizenship unless otherwise is stipulated by the international treaty of the Russian Federation or laws of the Russian Federation.

Prosecutors have no right to be a member of the bodies of administration, guardian or observation boards, other bodies of foreign non-commercial non-governmental organizations and their structural divisions unless otherwise is stipulated by the international treaties of the Russian Federation or laws of the Russian Federation.

Influence in any form of the federal bodies of state powers, bodies of state power of subjects of the Russian Federation, bodies of local self-government, public associations, mass media and their representatives as well as officials on the prosecutors with the aim to influence the decisions or causing obstacles in any form to their activities lead to liability, stipulated by law.

Prosecutors are not obliged to give any explanations about the essence of the cases and materials in his conduction and to submit them to anybody for acknowledgement unless the relevant cases and order are

envisaged by federal laws. Nobody has a right to disclose the materials of checks, conducted by the bodies of Prosecutor's Office, without consent of the prosecutor before such checks have been completed.

Requirements of prosecutors, arising out of their powers, enlisted in the Law on the Prosecutor's Office, are subject to unconditional implementation within the established period of time and non-execution of these requirements entail liability, envisaged by law (article 17.7 of the Code of Administrative Offences of the Russian Federation).

Does the Ministry of Justice or any other body of power govern the activities of the Prosecutor's Office? If yes, then how?

Neither the Ministry of Justice nor any other body of state power cannot govern the activities of the Prosecutor's Office.

Activities of the Prosecutor's Office is governed by the Prosecutor General of the Russian Federation who is appointed and released from his position by the Federation Council of the Federal Assembly of the Russian Federation upon nomination by the President of the Russian Federation.

At the same time, according to the law the Prosecutor General of the Russian Federation annually submits a report on law and order in the Russian Federation and the work to strengthen these to the President of the Russian Federation and both Houses of the Federal Assembly of the Russian Federation (the Federation Council and State Duma). The reports of the Prosecutor General and his/her deputies on certain aspects of activities, the state of law and order in the country may be heard at the meetings of the Houses of the Federal Assembly.

Which body is responsible for establishment of prosecutor's positions?

The order of appointment of prosecutors to their position, their subordination and grounds for release from the position are regulated by the Federal Law "On Prosecutor's Office of the Russian Federation".

Prosecutor General of the Russian Federation is appointed and released from the position by the Federation Council of the Federal Assembly of the Russian Federation upon the nomination by the President of the Russian Federation.

The First Deputy and Deputies of the Prosecutor General of the Russian Federation are appointed to the position and released from it by the Federation Council of the Federal Assembly of the Russian Federation upon presentation of the Prosecutor General of the Russian Federation.

Prosecutors of the subjects of the Russian Federation are appointed and released from their position by the Prosecutor General of the Russian Federation in coordination with the bodies of state powers of the subjects of the Russian Federation, defined by the subjects of the Russian Federation which are subordinate and accountable in their activities to the Prosecutor General of the Russian Federation.

Prosecutors of cities and districts, prosecutors of special Prosecutor's Offices are appointed and released from the position also by the Prosecutor General of the Russian Federation and are subordinate and accountable to the superior prosecutors and Prosecutor General of the Russian Federation.

Please, indicate whether there is any connection between the Prosecutor's Office and the Ministry of Justice or any other state body of power in the sphere of financial resources and personnel, possibilities to use computer technologies and etc. If yes, please, describe and how this connection is expressed.  
There is no connection between the bodies of Prosecutor's Office and other state bodies in the part of financial resources.

At the same time, there is certain mutual connection between the bodies of justice and bodies of the Prosecutor's Office in respect of provision of the personnel.

Thus, the service in the bodies and institutions of the Prosecutor's Office is the federal state service. Employees of the Ministry of Justice of the Russian Federation and the Federal Bailiff Service subordinate to it, the Federal Penal Service and their territorial bodies take the positions of the Federal State Civil Service.

Prosecutors may be citizens of the Russian Federation who have higher law education, received in the educational institution of higher professional education, which has state accreditation, including educational institutions of the Ministry of Justice of the Russian Federation. On their part, the graduates of the

educational institutions of the system of the Prosecutor's Office of the Russian Federation may be employed into the Federal State Civil Service in the bodies of Justice.

Moreover, the periods of service (employment) in which are included into the work record of the state civil service for appointment of pension for the working period of federal state civil servants, the Schedule of the positions envisages that the period of service in the position of employees of the Prosecutor's office should be included in the above mentioned work record of the federal state civil service.

Alongside with it, for the persons who are at the positions of the federal state civil service in the bodies of the Prosecutor's Office of the Russian Federations, it is envisaged that their work record in the federal state civil service in the bodies of justice shall be included in the above mentioned work record.

The potential of computer technologies is used by the bodies of the Prosecutor's Office and the bodies of justice independently in the process of execution of Federal Law #8-FZ "On Ensuring Access to Information on Activities of State Bodies and Bodies of Local Self-Government", dated February 09, 2009. Moreover, the bodies of the Prosecutor's Office have their own Internet web-sites and systematically place information about the state of law and order, transfers of criminal cases to courts which are of higher public interest, and court decisions on such cases, checks conducted by Prosecutors, in the process of which serious violations of law were revealed, in the electronic means of Mass Media.

Is the Prosecutor's Office independent from other institutions when realizing and disposing of its own budget?

Financial provision of the activities of the bodies and institutions of the Prosecutor's Office and guarantees and compensations to the prosecutors are the expenditure obligation of the Russian Federation. For instance, the Federal Law "On the Federal Budget for 2012 and for the Planning Period of 2013 and 2014" included the Prosecutor General's Office of the Russian Federation into the number of the main administrators of the means of the federal budget, meant for financing the activities of the bodies and institutions of the Prosecutor's Office.

Financial provision of the activities of the bodies of military prosecutor's office is maintained by the Ministry of Defense of the Russian Federation and other federal bodies of executive power, in which military service is envisaged and the relevant bodies of the Prosecutor's Office supervise the activities of such bodies.

## SECTION II: Financial rules and regulations of the prosecution service

### Section II. Financial Rules and Orders of the Prosecutor's Office

Does the Law, according to which the Prosecutor's Office conducts its activities, include the provisions on financial regulation and the duty of the its administration to provide for its necessary infrastructure?

The Law on Prosecutor's Office stipulates financing of the activities of the bodies and institutions of the Prosecutor's Office of the Russian Federation as well as guarantees and compensations to its employees from the funds of the federal budget. It is also stated that transport and technical means and uniform are supplied to the bodies of the Prosecutor's Office in the centralized order by the Government of the Russian Federation.

The Prosecutor General of the Russian Federation issue orders, directives, rulings, provisions and instructions regulating the order of establishment of the infrastructure of bodies and institutions of the Prosecutor's Office and realization of the measures, concerning material and social provision of the employees of the Prosecutor's Office.

Material and technical provision of the bodies of Military Prosecutor's Office, allocation of service premises, transport, means of communication for them and other types of provision and supplies are entrusted to the Ministry of Defense of the Russian Federation and other federal bodies of executive power, where military service is envisaged.

Please, describe how and when the management of the budget funds of the Prosecutor's Office (drafting, planning, distribution of funds according to different budget accounts) is organized.

Drafting and execution of the budget is conducted by the bodies of institutions of the Prosecutor's Office of the Russian Federation according to the Budget Code of the Russian Federation and federal laws on federal budget which were adopted according to it for the next financial year and for the planned period.

The President of the Russian Federation and the Government of the Russian Federation issue standard legal acts, regulating the budget legal relations.

Budget allocations, which are annually adopted by the federal law, envisage expenditure of bodies and institutions of the Prosecutor's Office to pay for work, pensions, allowances, compensations, insurance, medical aid, expenses to ensure functioning of the bodies of the Prosecutor's Office and relevant underdepartmental institutions, budget investments into the objects of capital construction, provision of housing and other directions of expenditure.

## SECTION II: Financial rules and regulations of the prosecution service

Is there a special division in the Prosecutor's Office which is responsible for management of resources?

The structure of the Prosecutor General's Office of the Russian Federation includes the Administration which is the division responsible for exercising the functions of the main administrator of the budget funds and which ensure the target nature, address and result of the use of the budget funds and conducts planning of the relevant expenditure from the budget. It drafts, adopts and conducts the budget records, distribute budget allocations and limits of budget obligations for the under-departmental administrators and receivers of budget funds and executes the relevant part of the federal budget; defines the order of adoption of budget estimates of the bodies and institutions of the Prosecutor's Office; exercises other budget powers, stipulated by the Budget Code of the Russian Federation and standard legal acts, adopted according to it, and departmental acts of the Prosecutor General's Office of the Russian Federation, regulating the budget relations.

The Main Human Resources Department of the Prosecutor General's Office of the Russian Federation organizes the provision of the bodies and institutions of the Prosecutor's office with personnel under direction of the Prosecutor General of the Russian Federation.

Is there any national and/or centralized computer system of administration, monitoring and assessment of the budget of the Prosecutor's Office? Does this system include a mechanism to increase the efficiency of the management of recourses?

In the Prosecutor General's Office of the Russian Federation the automation of the accounting process in the bodies and institutions of the Prosecutor's Office is conducted centrally within the frames of the departmental program and technical complex of the bodies and institutions of the Prosecutor's Office. This system contributes to the increase in efficiency of the management of financial resources.

According to the requirements of the Ministry of Finance of the Russian Federation and the Order of the Prosecutor General's Office of the Russian Federation, there is annual monitoring of the quality of financial management of the bodies and institutions of the Prosecutor's Office.

### Section III. Recourses of the Prosecutor's Office

Please, specify what kind of budget the Prosecutor's Office had for 2008, 2009, 2010 and 2011 and indicate how these funds were allocated between salary of the personnel and other types of expenses.

The Budget of the Prosecutor's Office amounted to 40, 305, 997. 7 thousand roubles in 2008, 45, 598,762.7 thousand roubles in 2009, 37 837 777.9 thousand roubles in 2010, 41, 929,692.4 thousand roubles in 2011.

The share of expenses for payment of salaries (with allowances) is 75-80% in average.

The monetary provision for the prosecutors is fixed according to the ration to the monetary provision of the First Deputy Prosecutor General of the Russian Federation which amounts to 80% of the salary of the Chairman of the Supreme Court of the Russian Federation. When the salary of judges is increased, so does the salary of the prosecutors as it is financed from the funds of the federal budget.

Alongside with it the allocations from the federal budget for material and technical provision and creation of the infrastructure of the bodies and institutions of the Prosecutor's Office have been increased.

To what resources in your jurisdiction would you like to improve access and how would you do it? (for instance through partnership agreements, joint investigations, re-distribution of resources and etc.)?

To find personnel, the bodies of the Prosecutor's Office conclude agreements with the higher educational institutions which are not within the system of the Prosecutor's office. These are the agreements on targeted enrollment of students for law education and further employment in the Prosecutor's Office. Thus, simultaneously with the advanced training of the personnel in the educational institutions of the Prosecutor's Office, it is necessary to develop the above mentioned form for personnel provision.

Taking into account the financial opportunities of the state it is also expedient to further improve the level of material and social provision of the employees of the Prosecutor's Office.

The Housing problem has not been settled down fully yet. The Government of the Russian Federation which defines the allocation of the funds for these aims, should expedite the solution of the above mentioned problem, taking into account the opportunities of the federal budget.

Did the crisis of 2009-2011 influence the existing or future budget of the Prosecutor's Office?

As a result of the crisis of 2009, the budget expenditure to provide for the functioning of the bodies of the Prosecutor's Office was decreased by 15% and these levels has not been restored yet.

What instruments are used to allocate resources which are necessary for normal work of the Prosecutor's Office?

Provision with the personnel resources of the system of the Prosecutor's Office of the Russian Federation is conducted by setting the maximum common number of staff by the Decree of the President of the Russian Federation.

The Prosecutor General's Office of the Russian Federation annually submits to the Ministry of Finance of the Russian Federation a draft document about the volumes of financing to provide for the activities of the bodies of the Prosecutor's Office according to the functional and economic indices of classification of expenses.

The representatives of the Prosecutor General's Office of the Russian Federation in the Government of the Russian Federation and Houses of the Federal Assembly of the Russian Federation accompany and monitor the adoption of the draft Law on the Budget in the Russian Government and Parliament.

To ensure material and technical provision and establish the necessary infrastructure, the bodies of the Prosecutor's Office organize and conduct competitions and auctions for supplies of goods, services and execution of work at the expense of the budget funds, allocated to it, according to the applicable laws.

Is there any link between the budget resources, allocated to the Prosecutor's Office and Judicial bodies or law enforcement bodies?

According to the Law on the Prosecutor's Office, the amount of the budget resources for monetary provision of the employees of the Prosecutor's Office is linked with the financing of salaries of judges (see the reply to question #10). At that the allocations for material and technical provision of courts and bodies of the Prosecutor's Office are distributed separately.

Financing of the bodies of Prosecutor's Office and other law enforcement bodies is also conducted according to different sub-sections of the Federal budget.

Do human resources of the Prosecutor's Office depend on other institutions of judicial power?

Human resources systems of the bodies of the Prosecutor's Office of the Russian Federation do not directly depend on the institutions of judicial power. At that, taking into account the necessity to provide for participation of prosecutors in criminal, civil and arbitration proceedings when the number of judges is increased, the issue on the increase in the number of personnel in the bodies of the Prosecutor's Office might be examined in the future.

The Prosecutor's Office of the Russian Federation has its own system of human resources /hiring personnel. The bodies of the Prosecutor's Office conduct selection of the candidates for training in targeted spheres in higher educational institutions. Generally, persons, who successfully completed their education, receive a right to be primarily hired and obtain positions in the bodies of the Prosecutor's Office. For instance, in 2011 2058 candidates were selected and out of them 505 persons entered and took target places in Law higher educational institutions (law departments). 433 graduates, who had been previously sent for target training, were hired in the bodies of the Prosecutor's Office.

The Prosecutor's Office organizes individual and group training according to special plans, training in regional centers of institutions of advanced training for higher qualification, scholarships of the employees of the Prosecutor's Office in the superior bodies of the Prosecutor's Office. Thus, in 2011 4387 seminars and workshops and 54 scientific and practical conferences were conducted, 707 employees received training in



regional centers, 2315 obtained advanced training for higher qualification in the institutions of higher qualification.

Does your jurisdiction envisage a mechanism of urgent reaction, which allows to re-distribute the resources (financial and human resources) quickly between the Prosecutor's offices according to the needs of the system?

Re-distribution of financial funds between the bodies of the Prosecutor's Office is made according to the order, established by the Budget Code of the Russian Federation, the Law on Budget for the relevant year, standard legal acts of the Government of the Russian Federation and the Ministry of Finance of the Russian Federation.

Financial provision of the activities of the bodies of the Prosecutor's Office is conducted at the expense of the funds of the federal budget according to the budget estimate.

The Prosecutor General's Office of the Russian Federation distributes the budget allocations, limits of budget obligations among under-departmental administrators and receivers of the budget funds within the relevant limits of the budget obligations.

For the purpose of operative reaction to the need to re-distribute personnel very quickly among the bodies of the Prosecutor's Office of the Russian Federation, the Prosecutor General's Office of the Russian Federation does not conduct full distribution of the maximum numbers of personnel, established by the Decree of the President of the Russian Federation. A certain part of the staff, as a rule, from 100 to 200 employees, depending on different circumstances, remains in the so called reserve of the Prosecutor General's Office of the Russian Federation. The above mentioned reserve is used, if necessary, to establish new bodies of the Prosecutor's Office (e.g. environmental or transport prosecutor's offices) or to increase the number of staff of some bodies of the Prosecutor's office when the workload increases there.

Does the Prosecutor General (or the relevant institution) have a special budget for interim/temporary measures in the situation when in some Prosecutor's Office there is shortage of personnel?

Within the limit of the number of stuff, fixed in the Decree of the President of the Russian Federation and to the salary fund, established by the federal budget, The Prosecutor General of the Russian Federation defines the staff and structure of the Prosecutor General's Office of the Russian Federation and subordinate bodies and institutions of the Prosecutor's Office.

That is the reason why according to the Order of the Prosecutor General of the Russian Federation, the financial and human resources of the Prosecutor's Office may be re-distributed taking into account the needs of its bodies and institutions (See also the reply to question #16).

#### SECTION IV: Budget for investigations

Since 2010 The Investigation Committee was isolated from the structure of the Prosecutor General's Office of the Russian Federation, it means that the preliminary investigation into criminal cases is not conducted by the bodies of the Prosecutor's Office and the resources, necessary for investigations, are not allocated.

The preliminary investigation into criminal cases is conducted in the form of either pre-trial investigation or enquiry. The preliminary investigation is conducted by the investigators of the Investigation Committee of the Russian Federation, the bodies of the Federal Security Service, bodies of the Interior of the Russian Federation, bodies for control of drugs and psychotropic substances. The enquiry is conducted by the enquirers of the bodies of the Interior of the Russian Federation, border agencies of the Federal Security Service, bodies of the Federal Service of Court Bailiffs, bodies of state fire supervision of the Federal Fire Prevention Service, bodies for control over circulation of drugs and psychotropic substances, as well as officials of the bodies of executive power, who have powers to conduct operative and search activities according to the federal law and other persons, empowered by the Criminal Procedure Code.

At that material and technical, financial provision and creation of the necessary infrastructure of the Investigation Committee of the Russian Federation is a separate expenditure obligation of the Russian Federation. Separate financing is provided for conduction of preliminary investigation to the bodies of the Interior of the Russian Federation, the bodies of the Federal Security Service, bodies of the Federal Service of Court Bailiffs, bodies of state fire supervision of the Federal Fire Prevention Service, bodies for control over circulation of drugs and psychotropic substances, as well as officials of the bodies of executive power

## SECTION V: Description of the system of management by results

24. Do You use the Result Management System? If yes, is there any problem connected with this system?

The desired result of the activities of the bodies of the Prosecutor's Office is the proper execution of targets and tasks, entrusted to the bodies of the Prosecutor's Office according to the Constitution of the Russian Federation and federal laws.

The system of assessment of this result is based on the data of departmental statistic reports, established by the Orders of the Prosecutor General of the Russian Federation, and statistic reports of other bodies of state power (alongside with it, since January 1, 2012, the Prosecutor General of the Russian Federation has a right to conduct uniform records and statistics on the state of crime, solution of crimes, investigative activities and prosecutor's supervision).

According to the analysis of such information the bodies of the Prosecutor's Office take managerial decisions, aimed at improving its efficiency, plan events to realize such activities, elaborate and adopt organizational and administrative documents.

The system of the Prosecutor's Office of the Russian Federation fully realizes the principle of result and efficiency of the use of budget funds, which means that the targeted results should be met with the use of the smallest amount of resources or that the best possible results must be achieved with the use of the funds, allocated by the budget.

The problems of the result management system in the bodies of the Prosecutor's Office may be as follows: how to ensure the reliability of data of the initial report, how to improve the criteria and assessment methods used to evaluate the conducted activities, how to increase the efficiency of organization of work and planning.

What aims are set before the Prosecutor's Office, if this system of aims exist? Does your country use the criteria of achieved results?

The Law establishes the following aims for the Prosecutor's Office: to ensure the supremacy of law, unification and strengthening of law and order, protection of rights and freedoms of a person and a citizen, as well as the interests of society and state protected by law, to strengthen combat against crime.

Taking into consideration the long-term nature of the strategic aims of the Prosecutor's Office of the Russian Federation, the tasks to achieve these aims are continuing from one period to the following planned period.

According to the established order, the values of main indices of activities of the Prosecutor General's Office of the Russian Federation, which characterize the achievement of this aim and the tasks in the accounting, current and planned periods are defined for each aim and task.

The criteria of result of work of prosecutors correspond to the above mentioned aims, these criteria are defined by the organizational and administrative documents of the Prosecutor General's Office of the Russian Federation and they are constantly being perfected on the basis of practical activities and scientific research.

What body/bodies has/have powers to set such aims?

The activities of the Prosecutor's Office is defined by standards-aims (on a lawful state, the highest value of a human being, his/her rights and freedoms and others) of the Constitution of the Russian Federation. Specific aims of work of prosecutors are defined by the Federal Law "On Prosecutor's Office of the Russian Federation".

The orientation points of the activities of prosecutors are other federal laws, standard legal acts of the President of the Russian Federation, legal positions and decisions of the Constitutional Court of the Russian Federation, explanations on the issues of court practice of the Supreme Court of the Russian Federation and the Higher Arbitration Court of the Russian Federation.

What role does the prosecutor play in setting these aims?

In defining the priority directions of activities of prosecutors, the notable role is attributed to the submission of an annual report on the state of law and order in the Russian Federation and work to strengthen them by the

Prosecutor General of the Russian Federation to the Houses of the Federal Assembly of the Russian Federation and the President of the Russian Federation.

Moreover, the Prosecutor General's Office of the Russian Federation annually sends to the Ministry of Justice of the Russian Federation proposals to the projects of the plan of monitoring of law application and a report on the results of such monitoring to the President of the Russian Federation. Proposals to the draft project on the results of monitoring to the President of the Russian Federation should contain data on expediency of adoption (publication), amendment or recognition of invalidity (cancellation) of legislative and other standard legal acts of the Russian Federation.

Are these aims coordinated among all the bodies, conducting criminal proceedings? If there is such coordination, how does it influence the activities of the Prosecutor General's Office?

The Prosecutor's Office is entrusted with the function of coordination of the activities of law enforcement bodies in combat against crime.

Coordination of the activities of the bodies of the Interior of the Russian Federation, bodies of Federal Security Service, bodies for control over circulation of drugs and psychotropic substances, customs bodies of the Russian Federation and other law enforcement bodies is conducted in order to increase the efficiency of combat against crime by the way that these bodies elaborate and conduct coordinated actions on joint detection, revealing, prevention and suppression of crimes, causes and conditions encouraging commission of crimes.

Activities of the law enforcement bodies in combat against crime are coordinated by the Prosecutor General of the Russian Federation, prosecutors of the subjects of the Russian Federation, cities, districts and other territorial prosecutors as well as prosecutors, equaled to them, of Military and other specialized Prosecutor's Offices (at the relevant levels).

To ensure coordination of the activities of the law enforcement bodies, prosecutors convene coordination meetings. The coordination meeting is usually held with participation (at the relevant levels) of a prosecutor (the Chairman of the meeting) and directors of the relevant law enforcement bodies (members of the meeting). For participation in coordination meetings, prosecutors actively invite representatives of state bodies of power, controlling bodies, bodies of local self-government, public organizations. The meetings and the results of these meetings are communicated to the public by Mass Media.

According to the results of discussion, members of coordination meetings adopt coordinated decisions. Directors of law enforcement bodies ensure execution of the adopted decisions in the part, within the competence of the relevant bodies, headed by them.

Active realization of coordination activities is one of the factor which help to decrease the levels of crime in the country as a whole.

Are there standards and rules, regulating optimal workload in divisions of the Prosecutor's Office in your system? If yes, is there any ratio of the allocated resources with the volume of workload? Please, give examples.

The service workload of prosecutors is determined by the necessity of successful execution of functional activities on the serviced territories and objects and it is precisely defined in their service duties, specified by the more superior prosecutors.

Depending on the service workload, the employees of the Prosecutor's Office receive their salary and bonuses for complexity, intensiveness and high results in work.

Bonus for complexity, intensiveness and high results in work is evaluated taking into account the volume of the work performed and the results of service in the amount of up to 50% of salary.

Is the setting of tasks based on the system of negotiations?-31. Who is a party to these negotiations?

The Prosecutor's Office of Russia is based on the subordination of lower-level prosecutors to the more superior ones and to the Prosecutor General of the Russian Federation. That is the reason why the tasks, which arise from the requirements of the Constitution of the Russian Federation, the Law on Prosecutor's Office and other federal laws, are put before the prosecutors by the Prosecutor General of the Russian Federation, who issues binding orders, directives, provisions and instructions for this purpose. In their turn,

prosecutors of the subjects of the Russian Federation and the prosecutors equaled to them are entitled to issue orders, directives, decisions, instructions, binding for execution by all subordinate employees.

At the same time the Prosecutor General's Office of the Russian Federation concluded agreements with the Ombudsman of Human Rights in the Russian Federation, the Ombudsman of Child Rights at the President of the Russian Federation, the Public Chamber of the Russian Federation, the Russian Union of Industrialists and Entrepreneur, which stipulate cooperation in the sphere of maintenance of law and order.

#### SECTION VI: Follow-up of results and reporting

32. Please, indicate if there are any national strategies, being implemented in your country in respect to resources, which are allocated for the system of judiciary, including Prosecutor's Office. If yes, in what spheres were these strategies developed? Please, comment the results of these strategies.

According to Order #1082-r of the Government of the Russian Federation, dated August 04, 2006, the Concept of federal target program "Development of the System of Judiciary of Russia" for 2007-2011 was adopted.

As for the recourses, which are allocated to the bodies of the Prosecutor's Office, there is a budget target program "Housing", the result of which is the timely solution of the issues concerning provision of service housing to the Prosecutors and members of their families.

Moreover, within the framework of federal address investment program, there are envisaged non-program investments for construction, reconstruction and acquisition of administrative buildings of the Prosecutor's office, aimed at improvement of working conditions of employees of the bodies of the Prosecutor's office.

Are the achievements of these aims followed every year? How?

The above mentioned concept was put into life when the Council on Judicial reform attached to the President of the Russian Federation was established according to Decree #2010 "On the Measures of Realization of the Concept of the Judicial Reform in the Russian Federation" of the President of the Russian Federation, dated November 22, 1994.

The Federation Council of the Federal Assembly of the Russian Federation conducted measures, according to the results of which the following resolutions were adopted: Resolution #492-1-SF "On Parliamentary Hearings "Problems of Judicial Reform in the Russian Federation", dated May 25, 1995, and Resolution #569-SF "On Parliamentary Hearings "On the Follow-up of Realization of the Concept of the Judicial Reform in the Russian Federation", dated December 24, 1998.

Bodies of judicial community actively participated in realization of the above mentioned concept. Thus, IV (Ad hoc) All-Russian Congress of Judges adopted Resolution "On the State of the Judicial System of the Russian Federation and Prospects of its Development", dated December 04, 1996; the Vth All-Russian Congress of Judges adopted Resolution "On the Follow-up of the Judicial Reform in the Russian Federation and Prospects of Development of the Judicial System", dated November 29, 2000; the VIth All-Russian Congress of Judges adopted Resolution "On the State of Justice in the Russian Federation and Prospects of its Perfection", dated December 02, 2004; the VIIth All-Russian Congress of Judges adopted Resolution "On the State of the Judicial System of the Russian Federation and Priority Directions of its Development and Perfection", dated December 04, 2008, which envisaged proposals on its human resources, financial and material and technical provision of judicial activities.

The Council of Judges of the Russian Federation adopted Resolution, dated January 30, 2001, concerning the examination of the draft concept of improvement of legislation of the Russian Federation on the judicial system.

Resolution #805 of the Government of the Russian Federation, dated November 20, 2001, adopted the Federal target program "Development of the Judicial System in Russia for 2002-2006", which envisaged the development of human resources and material and technical provision of the judicial system. The similar program for 2007-2012 was adopted by Resolution #583 of the Government of the Russian Federation, dated June 21, 2006.

Have any reforms, aimed at increasing the budget of the system of justice been implemented for the last five years?

For the last 5 years, according to the Orders of the President of the Russian Federation, the total number of personnel of the bodies of the Prosecutor's Office of the Russian Federation was increased by 4000 employees. According to the same Orders, the Government of the Russian Federation was entrusted to provide for the financing of the increase in the number of staff of the bodies of the Prosecutor's Office of the Russian Federation.

Financing of judicial bodies in the above mentioned period of time corresponded to international legal acts. For instance, according to Order #1082-r "On the Concept of the Federal Target Program "Development of the Judicial System of Russia" for 2007-2012", dated August 04, 2008, the amount of 48, 465.3 million roubles was allocated from the federal budget.

Is the Prosecutor's Office included in the strategy of the Government to increase the efficiency of public institutions (e.g. the electronic government, external financial audit)?

Within the framework of the system of the Prosecutor's Office of the Russian Federation, the system of electronic document recording and circulation was introduced. Order #65 of the Government of the Russian Federation, dated January 28, 2002, adopted the Federal Target Program "Electronic Russia (2002-2010)". According to this program, the Central Administration of the Prosecutor General's Office of the Russian Federation has already introduced electronic circulation of documents, and in the Prosecutor's Offices of the subjects of the Russian Federation active work is undergoing to introduce this electronic document processing.

Moreover, the Prosecutor's Office is included in the system of external audit and is an integral part of this system. The Government is elaborating strategies to increase the efficiency of public institutions, including according to the analysis of the results of external audits.

Open information on the work of the bodies of the Prosecutor's office is submitted to the Mass Media. Similar information representative offices were created by the Prosecutor's offices of the subjects of the Russian Federation. Access to the above mentioned information resources is granted also to citizens and organizations, including via the Internet-portal of the Government of the Russian Federation.

In the Russian Federation, the Audit Chamber of the Russian Federation is entrusted with organization and control over the timely execution of expenditure accounts of the Federal Budget on the volumes, structures and target use, determination of efficiency and expediency of the expenses of state means and the use of the federal property, analysis of the revealed deviations from the fixed indices of the federal budget. This state body is the permanent body of the state financial control, formed by the Federal Assembly of the Russian Federation.

At that the Audit Chamber of the Russian Federation regularly submits information on the execution of the federal budget and the results of the control checks, including in the bodies and institutions of the Prosecutor's Office to the Federation Council and the State Duma of the Federal Assembly of the Russian Federation.

How do you assess the recommendations of the internal audit, conducted in the Prosecutor's office?

Assessment of the internal control (audit), conducted by the Prosecutor's Office, is made by the Audit Chamber of the Russian Federation in the course of annual auditing of the annual budgets. Assessment is made on the basis of international and Russian standards for external and internal audit of the receivers of the budget funds. As a rule, the Audit Chamber of the Russian Federation gives positive evaluation of the results of the internal control (audit), which is conducted by the structural division of the Prosecutor's Office.

The results of the departmental financial control, conducted by the Department of the Administration of the Prosecutor General's Office of the Russian Federation and similar divisions of the Prosecutor's Offices of the subjects of the Russian Federation and the Prosecutor's offices equaled to them, must be communicated to the Prosecutor General of the Russian Federation and the relevant prosecutors who give assessment to the results of financial checks and if necessary they adopt organizational and administrative documents on them and in case of revealed violations of financial discipline, the guilty officials are brought to disciplinary and material liability.

Is the social influence of the activities of prosecutors assessed? If yes, who conducts this assessment?

The Academy of the Prosecutor General's Office of the Russian Federation, which summarizes and analyzes the reports of Mass Media, expert statements, results of sociological surveys, opinion polls, conducts studies

of the above mentioned influence. The results of the research are reflected in the semi-annual and annual informational and analytical notes, which are forwarded by the Academy of the Prosecutor General's Office of the Russian Federation to the Prosecutor General of the Russian Federation and used in his annual reports on the work performed to strengthen the law and order in the Russian Federation submitted to the Houses of the Federal Assembly of the Russian Federation and the President of the Russian Federation.

The Department on cooperation with Mass Media of the Prosecutor General's Office of the Russian Federation and prosecutors of the subjects of the Russian Federation are obliged to conduct daily monitoring of the main Mass Media and Internet sites to detect the assessment of the activities of the bodies of the Prosecutor's Office by citizens and organizations. The results of this monitoring are analyzed and communicated to the relevant prosecutors.

## Slovakia / Slovaquie

### SECTION I: Status of the prosecution services in the state administration.

*Please specify the status of the prosecutor and the prosecution service in your state. Is it an autonomous institution? If yes, how is this autonomy guaranteed?*

Prosecution service of the Slovak Republic is independent, hierarchically structured uniform system of state authorities headed by the General Prosecutor, in which individual prosecutors act within relations of subordination and superiority. Prosecutors carry out powers of the prosecution service. Prosecution service has status of an independent institution; its independency is guaranteed by means of constitutional status of the General Prosecutor who is the head of the prosecution service and is appointed and removed from Office by the President of the Slovak Republic upon proposal by the National Council of the Slovak Republic (hereinafter referred to as „National Council“). General Prosecutor has the position of head of central state authority. General Prosecutor may be removed from Office only by the President of the Slovak Republic upon proposal of the National Council provided that statutory prerequisites were met.

*Does the ministry of justice or another authority govern the activity of the prosecution service? If so, how?*

Prosecution service of the Slovak Republic forms a part of the constitutional system/establishment of the Slovak Republic. General Prosecutor is constitutional official who bears responsibility for activity of any state body which is part of the system of prosecution service of the Slovak Republic. For his activity he is accountable to the President of the Republic as well as to the National Council.

Ministry of Justice had not any direct influence over activity of the prosecution service until effectiveness of the Act No. 220/2011 Coll., amending and supplementing Act 153/2001 Coll. on Public Prosecution Service as amended. That Act (220/2011) has been created by the Ministry of Justice of the Slovak Republic (hereinafter referred to as „Ministry of Justice“). After publication of the wording of the Act 220/2011 in the Collection of Laws of the Slovak Republic, the minister of justice was given power to improperly interfere with the activity of the prosecution service e.g. to appoint one half of the number of members of the Commission for Issuing Opinions on the proposal of which the general prosecutor issues opinions with the view of uniform application of laws and any other generally binding legal regulations binding on any prosecutor; furthermore the minister of justice was given power to propose appointment of several members of disciplinary commissions, move for commencement of disciplinary proceedings against any prosecutor including General Prosecutor as well as to propose appointment of members of the Commission for Competitive Examination for a position of prosecutor etc.

Upon motion of the General Prosecutor's Office, the Constitutional Court of the Slovak Republic issued its Resolution No. PL ÚS 105/2011 of 28 September, 2011 suspending effectiveness of the provisions of the Act no. 220/2011 Coll. regarding the Act no. 154/2001 Coll. on Prosecutors and Trainee Prosecutors and regulating the above specified powers of the minister of justice. The General Prosecutor's Office has objected/challenged compliance of specific provisions of the Act 220/2011 Coll. with the Constitution of the Slovak Republic, Convention on the Protection of Human Rights and Fundamental Freedoms, International Covenant on Civil and Political Rights as well as with the Charter of Fundamental Rights of the European Union because the objected legal regulation ignores defined constitutional scope, denies independency of the prosecution service and functional autonomy of the General Prosecutor and, as result it negates fundamental principles of the structure of the prosecution service as independent, hierarchically structured uniform system of state bodies headed by the General Prosecutor.

*Which authority is responsible for the creation of prosecutor positions?*

Number of employees of the prosecution service is defined in the Act on State Budget approved by the National Council. Ministry of Finance of the Slovak Republic (hereinafter referred to as „Ministry of Finance“) notifies the General Prosecutor's Office binding indicators of the state budget including maximum number of the employees of the prosecution service. Individual prosecutors are appointed and removed by the General Prosecutor.

*Please indicate if there is any connection between the prosecution service and the Ministry of Justice or another public authority in terms of financial and human resources, IT facilities etc. If so, please describe how this connection works.*

Financial and human resources of the prosecution service of the Slovak Republic do not depend of any other institution within the judiciary. The General Prosecutor's Office of the Slovak Republic has separate budget chapter within the state budget. The Government of the Slovak Republic (hereinafter referred to as „Government“) decides in relation to the draft budget for the public administration and after it submits it to the National Council for approval. Any subject within the structure of the state administration (including General Prosecutor's Office) need to have their draft budget approved by the National Council. Number of employees in the prosecution service is defined in the Act on State Budget and is approved by the National Council.

Information system PATRICIA for the General Prosecutor's Office and STA for Courts were created within the Phare Project SK0008.0101 „Efficient Exchange of Information and Data Processing among Law Enforcement Agencies“ (LEA 1) with the aim to implement electronic intergovernmental exchange of data between the above mentioned systems and the DVS information system in the Ministry of Interior.

The follow up of the intergovernmental LEA Project is represented by the internal information system of the prosecution service (PATRICIA), it has the potential for cooperation with the Ministry of Interior and Courts. In the information system PATRICIA, any registered and statistical information is processed regarding criminal prosecution, the system includes information on prosecutorial decisions and in some cases also texts of their meritorious decisions which are published (without personal identification data) in the web site of the General Prosecutor's Office. Information system PATRICIA includes also basic information on final court decision and related information on remedial measures filed by prosecutor.

Information system PATRICIA enables Courts to search for information on situation/current stage of specific criminal proceedings in the prosecution service and to find out information on valid convictions in the database of the Criminal Register of the General Prosecutor's Office (IS EOO).

*Is the prosecution service independent from other institutions when implementing and managing its own budget?*

General Prosecutor's Office has its own chapter within the state budget thus it is independent from other institutions when managing its own budget. Regional and district prosecution offices are fully funded from the state budget i.e. connected to state budget in relation to their income and expenditures by means of the budget chapter of the General Prosecutor's Office.

## SECTION II: Financial rules and regulations of the prosecution service

*Does the law governing the prosecution service include provisions on financial management and on the executive's obligation to provide it with the necessary infrastructure?*

In the Act no. 153-2001 Coll. on Public Prosecution Service there are not provisions regarding management of financial resources, the chapter about the state budget of the prosecution service is elaborated according to general legal regulation i.e. Act no. 523-2004 Coll. on budgetary rules of public administration as amended. Act no. 153-2001 Coll., on public prosecution service regulates organization and management of the public prosecution service, it defines system/structure of the public prosecution service, seats of individual offices, territorial and material jurisdiction, subordination and superiority relations.

*Please describe how and when the budget of the prosecution service is managed (preparation, distribution of funds between the budget lines).*

Within the meaning of the Section 9, Act no. 523/2004 Coll., on budgetary rules of public administration as amended, the prosecution service represents separate chapter in the State budget. The Section 14 of the said Act regulates budgetary procedure in relation to public administration. Ministry of Finance manages preparation of the draft budget on the basis of proposals approved by the Government by the end of April of current budgetary year. Ministry of finance elaborates draft budget for public administration in co-operation with respective subjects of the public administration (in the course of preparation of the budget for 2012-2014 it happened for the first time that the representative of the General Prosecutor's Office was not invited to attend the discussions). Ministry of finance shall submit the draft budget for public administration to the Government before 15 October of current year unless National Council decides otherwise. Public administration authorities (including General Prosecutor's Office) have the obligation to submit their draft budgets to the National Council for approval in accordance with the Government's decision adopted in the course of discussions regarding their budgets. Draft budget of the General Prosecutor's Office is submitted to the Government before the 15 August of current year; prior to it, the respective official of the General Prosecutor's Office has to plan distribution of resources to subordinated prosecution offices (eight Regional



Prosecution Offices and Central Authority i.e. General Prosecutor's Office) including any possible changes in the budget approved by the Government or National Council.

*Is there a specific department within the prosecution service responsible for the management of resources?*

Yes, there is the Economic Department in the General Prosecutor's Office; it manages the entire budgetary procedure as well as distribution of funds and has also number of tasks in the field of management of accounts, agenda related to salaries, various payments, financial audit/monitoring, management of files, receiving department and management of other agenda.

*Is there a national and/or centralised IT system for managing, monitoring and evaluating the budget of the prosecution services? Does the system include a mechanism for increasing the efficiency of the resource management?*

In the Slovak Republic there is the system of State Treasury which means system of activities ensuring centralization of management of public finances as well as system of relations between the Ministry, State Treasury and agency in order to ensure activities of the system of the State Treasury.

The State Treasury system ensures the following activities:

Realization/implementation of budget of the state administration subjects/authorities,  
Management and administration of clients' accounts (including the General Prosecutor's Office),  
Implementation of payment operation of clients,  
Financial operations in financial market,  
Management of current assets of State Treasury,  
Risk management,  
Management of State debt,  
Centralization of accounting information and data necessary for the purpose of assessment of performance of public administration budget according to reports submitted by public administration bodies,  
Accounting regarding the turnover of clients' accounts and accounting of operations related to financing of State debt, financing of the deficit of State budget, management of current assets of State Treasury and risk management,  
Management of the central registry of property owned by the Slovak Republic.

### SECTION III: Resources of the prosecution service

*Please specify the amount of budget of the prosecution service for 2008, 2009, 2010 and 2011 (Euros equivalent), indicating the distribution between staff expenditure and other types of expenditure.*

Public prosecution's budget for respective years (in Euros) was as follows:

#### **Budget of the prosecution service for 2008:**

Expenditures - total amount: 59 254 763

Staff expenditure: 45 341 632

Other types of expenditure: 13 913 131

#### **Budget of the prosecution service for 2009:**

Expenditures – total amount: 64 297 693

Staff expenditure: 51 389 495

Other types of expenditure: 12 908 198

#### **Budget of the prosecution service for 2010:**

Expenditures – total amount: 64 289 376

Staff expenditure: 52 963 689

Other types of expenditure: 11 325 687

#### **Budget of the prosecution service for 2011:**

Expenditure – total amount: 63 614 144

Staff expenditure: 52 802 467

Other types of expenditure: 10 811 677

Staff expenditure may be considered every personal expenditure i. e. expenditure for:

Salaries, wages, service/public servants incomes, other personal payments,

Insurance and insurance allowances,

Current transfers.

Other types of expenditures may be considered expenditures for:

Goods and services,  
Capital expenditures.

*In your jurisdiction, what resources would you improve access to, and how would you do that (e.g. through partnership agreements, joint investigations, redistribution of resources etc.)?*

For the current budgetary year 2012 it would be necessary to improve/increase resources for usual/everyday operation of the prosecution service regarding every category of the budget in total amount of app. 11,7 mil. Euros. The prosecution service has not any other possibility only to request the Ministry of Finance to carry out budgetary measure and approve to exceed the expenditure limit under the Section 17, Act no. 523/2004 Coll., on budgetary rules of public administration.

*Are the current or future budgets of the prosecution service affected by the 2009-2011 economic crisis?*

Yes, both the current budget for 2012 and future budgets for 2013 and 2014 are affected by the economic crisis of 2009-2011.

*What instruments are used to allocate resources needed for the good functioning of the prosecution service?*

Instruments from the field of planning and preparing budget from resources are used for drafting proposal for next 3 years budgetary period. For allocation of resources needed for the good functioning of the prosecution service, instruments of operative management are used in the field of financing of needs.

*Is there any connection between the budgets allocated to the prosecution service and to the judiciary or to law enforcement bodies?*

As explained in previous answers, the General Prosecutor's Office has its own separate chapter in the State budget, there is not any connection between the budgets allocated to the prosecution service and to the judiciary or law enforcement bodies.

*Do human resources of the prosecution service depend on other institutions of the judiciary (e.g. Judicial Council, National School of Clerks)?*

Amount of human resources i.e. number of employees in the prosecution service does not depend on any other institutions of the judiciary. Number of employees of the prosecution service is defined in the Act on State Budget which is approved by the National Council. Every year, the Ministry of Finance informs the General Prosecutor's Office its binding indicators of the State budget including limit of number of employees in the prosecution service i.e. prosecutors, civil servants, public servants.

*In your jurisdiction, is there any mechanism of rapid reaction which could allow a quick redistribution of means (financial or human resources, logistics) between prosecution services, according to the needs of the system?*

Yes, there is the system of budgetary measures to be taken by individual prosecution services, this is considered mechanism of rapid reaction allowing quick redistribution of financial resources between different prosecution services according to current needs. Under this system the prosecution service may redistribute financial means between different categories of the budget. There is also possibility to redistribute funds to different prosecution services within one single category which means that for another, funds have to be reduced. Mechanism of rapid reaction is limited by two factors i.e. amount of the budget (especially in the end of the year) and by defined binding indicators of the budgetary chapter (indicators may not be changed without approval of the Ministry of Finance). Total amount of expenditures is the binding indicator of expenditure from the budget; expenditures for salaries, wages, service incomes and other personal payments as well as capital expenditures.

*Does the General Prosecutor (or equivalent institution) have a specific budget for taking interim/temporary measures in situations when, within a certain prosecution service, human resources are insufficient?*

General Prosecutor does not have any separate/special budget which could allow to take temporary measures when human resources are insufficient in certain prosecution service. In case of need and given that it does not regard prosecutorial position (recruitment of another prosecutor), similar situations are solved by means of concluding temporary contracts. These are operatively covered from the allocated budget of the respective unit/department of the prosecution service concerned.

#### SECTION IV: Budget for investigations

*What steps are required in order to obtain direct access to the resources needed for investigations? Please assess the period of time that elapsed between submitting a request for resources and the moment when they are actually obtained.*

From the point of view of their powers, the prosecution service of the Slovak Republic does not carry out investigations; for this reason there are not any financial means allocated for investigations to it. In the Slovak Republic, Police Forces carry out investigations and their operations are covered from the separate chapter in the State budget i.e. from the budget of the Ministry of Interior of the Slovak Republic (hereinafter referred to as „Ministry of Interior“).

*Have you ever faced the risk that special investigative techniques (e.g. communication interceptions, legal-genetic expertise, computer search) could not be applied in due time because of insufficient resources? Have insufficient resources in general affected the performance of criminal investigation in normal cases?*

Referring to the answer no. 18, it is not possible to answer this question.

*Is the resources management performed by the prosecution services during their investigations controlled? Please specify.*

It is not possible to answer this question (please see answer no. 18).

*What is the resource management procedure when various agencies are involved in the investigation procedure (e.g. the police)?*

Police authorities cover expenses for investigations from separate chapter of the State budget allocated to the Ministry of Interior; prosecution service covers performance of their duties from the resources in the separate chapter of the State budget allocated to the General Prosecutor's Office. There is not any cooperation between different chapters of the State budget.

*Is it possible for prosecutors to specialise in certain types of crimes? If so, what kind of effect it has had on the results of the prosecution service?*

Yes, prosecutors in different levels of the prosecution service (regional, district prosecution offices and the General Prosecutor's Office) have the possibility to specialize in various types of crimes (economic crime, crime against property, violent crime, drug related crime, environmental crime, road traffic crime etc.). Specialization contributes to improvement of quality of prosecutorial supervision within pre-trial proceedings especially in relation to the Police. In general, prosecutors supervise proceedings by means of examination of files submitted by investigative authorities, or by means decision-making on remedial measures as well as through direct instructions to the Police. In practice actually, specialization is impossible to apply strictly in the prosecution offices in first instance (district prosecution offices) because there is not sufficient number of prosecutors.

*Are there areas of investigation that have priority access to financial or material resources? If so, how and by whom is this priority established?*

It is impossible to answer this question (please see answer no. 18).

#### SECTION V: Description of the system of management by results

*Do you have a system of management by results? (Please specify.) If yes, is there any problem with this system?*

Any member of the management adapts his/her work to results achieved. For this reason, any statistically measurable figure is closely monitored e.g. number of cancelled police resolutions due to their unlawfulness or lack of justification, number of diversions of criminal proceedings, number of prosecutor's participations in investigative acts, number of examinations/controls of investigative files within pre-trial proceedings etc. Superior prosecutor gives instructions to his/her subordinate prosecutors according to conclusions made from the above i.e. he/she issues binding instructions, changes organizational structure, emphasizes the application of some institutes from the Code of Criminal Procedure etc. There had not been major problems found in this system, if there are any, as a rule it was some deviation or mistake made by individual prosecutor.

*What kind of objectives are set for the prosecution service, if such a system of objectives exists? Does your system use the benchmarks of achieved results?*

Prosecution service of the Slovak Republic does not use benchmarks of achieved results.

*Which authority/authorities is/are competent to set these objectives?*

Objectives are set by superior prosecutor who also monitors and assesses fulfilment thereof.

*What role does the prosecution service play in setting these objectives?*

Please see answer no. 28.

*Are the objectives coordinated between all authorities of the criminal procedure? If such coordination exists, how does it influence the activities of the prosecution service?*

Under the Slovak legal system, prosecutor supervises over the observance of legality in pre-trial proceedings. Prosecutor is the „*dominus*“ of the preliminary proceedings, has irreplaceable role and extensive decision-making powers. There is some coordination with the authorities of the Ministry of Interior and the Presidium of the Police Forces but in majority of cases it applies to fulfilment of tasks in specific criminal cases. There is the long lasting problem of the lengthy investigation. Promptness of investigation depends primarily of workload of individual police officer and his theoretical training notwithstanding the fact that the direction/aim of investigation and evidence to be produced/obtained may be specified by prosecutor's binding instructions. In this relation, prosecutor takes measures to improve the situation.

*Are there regulations in your system as regards the optimal workload within prosecution offices? If yes, is the allocation of resources correlated with the workload? Please provide examples.*

Any legal regulation regarding optimal workload within prosecution offices does not exist. From this it logically results that allocation of resources has not any correlation with workload. As matter of fact, prosecutors of first instance offices face the major workload, on the other hand they are given the lowest financial estimation.

*Is the setting of objectives based on a negotiation system?*

No, setting of objectives in the prosecution service of the Slovak Republic is not based on negotiation system.

*Who are parties of the negotiations?*

Please see answer no. 30.

## SECTION VI: Follow-up of results and reporting.

*Please indicate if there are any national strategies implemented in your state regarding the resources allocated to the judicial system, including the prosecution service. Of so, in what areas were these strategies developed? Please comment on the results of these strategies.*

Allocation of resources to prosecution service is carried out within the framework of budgetary process of the public administration and regulated in the Section 14, Act 523/2004 Coll., on budgetary rules of the public administration. Ministry of Finance governs preparatory works and it directs elaboration of draft budget for public administration, namely draft State budget on the basis of background information approved by the Government (as a rule before the end of April each current budget year). Government decides on draft budget for public administration and it submits it to National Council for approval. Subjects (various institutions and agencies including General Prosecutor's Office) of public administration have to submit their own draft budgets to National Council for approval in accordance with the Government's decision adopted during negotiations on their draft budgets.

*Is the attainment of objectives followed up yearly? How?*

While establishing their own budget, different departments and units of the General Prosecutor's Office define measurable indicators and they distribute/allocate them to regional prosecution offices. Following/monitoring of fulfilment of these indicators falls within competence of respective departments of the General Prosecutor's Office. On the basis of data provided by different departments/sections of the General Prosecutor's Office, monitoring report is elaborated which is enclosed to the final balance of the budgetary chapter of the General Prosecutor's Office.

*Have any reforms been implemented during the last 5 years aimed at increasing the budget of justice?*

No, within the prosecution service there have not been implemented any reforms aimed at increasing the budget in last 5 years.

*Is the prosecution service included in the government strategies for enhancing the efficiency of public institutions (e.g. governance, external financial audit)?*

Prosecution service is included in the eGovernmentu strategy based on long term objectives of informatization of public administration of the Slovak Republic resulting from the Strategy of Informatization of the Public Administration and from the National Conception of Informatization of the Public Administration.

External financial audit is carried out by the Supreme Audit Office of the Slovak Republic and by the Financial Control Administration. These institutions fulfil tasks imposed by law but are not included in the government strategy.

*How would you assess internal audit recommendations within the prosecution service?*

Recommendations of the internal audit of the General Prosecutor's Office are regularly assessed after the implementation of each audit. They are also assessed at least once a year in general and each recommendation is given level/degree of acceptance by the controlled subject. Internal audit summarizes all recommendations not only from point of view of number and extent thereof but also as for their orientation in different fields/areas.

Recommendations of internal audit assess first of all observation of generally binding legal regulations regarding management of funds as well as possible risks of financial management and ways of maximum level of elimination thereof. Recommendations to the audit also aim to improve quality of financial management as well as enhancing quality of operation of management of entire system in order to achieve maximum economy (money saving), efficiency and effectiveness of use of financial resources.

**Recommendations of the audit are assessed in following areas:**

State owned property management and control system

- recommendations aimed at improvement of quality of legal relations in the field of immovable property, registries thereof, amortization, corrections to be made in order to achieve accordance with law on accounting as well as at more consistent application of control mechanisms as regards property related legal acts.

Contractual/legal relations and system of control

- recommendations aimed at establishing additional control elements to be used while preparing contracts as well as to improvement of quality of internal control system for financial operations in the form property related legal acts.

Accounting, provability, records and registries, balance report, system of control

- recommendations in this area aimed to improve quality of records and registries, improvement of quality of contents of accounting, better quality of supporting documents for inventories, for inventories in the area of real estate and reserves, more accuracy of final balance and achieving of better consistency with legal status/laws.

Financial relations, financial operations and system of control

- recommendations aimed to improve quality of financial flows, achievement of full consistency with laws, and more exhaustive application of preliminary and current/continuous financial controls in relation to several acts of preparation of financial operations by means of control elements.

Tax relations and control system

- recommendations in relation to tax aimed to achieve consistency of financial operations with legal regulations in the area of taxes.

**Recommendations of the audit according to level of acceptance thereof**

From the point of view of acceptance and partial acceptance of audit recommendations there is 100% success of each audit. Each recommendation has been accepted.

*Is the social impact of the prosecutors' activities evaluated? If yes, by whom?*

In the Slovak Republic there is not any special institution or authority responsible for evaluation of social impact of prosecutor's activities.

Under the Section 11, par. 1, Act no. 153/2001 Coll., on public prosecution service and Section 128, par. 1 in the Act no. 350/1996 Coll., on rules of procedure of the National Council of the Slovak Republic as amended, the General Prosecutor has the obligation to prepare Annual Activity Report on behalf of the Public Prosecution Service of the Slovak Republic and to submit it to the National Council.

The Annual Report includes assessment of performance of prosecutors on each instance of the system, coordination of their work, cooperation and social approach to solution of significant criminal issues and coordination with other law enforcement bodies especially the Police Forces.

Annual Report offers information about situation regarding observance of laws, as well as information about activities performed by the Public Prosecution Service in both criminal and non-criminal field within which each prosecutor performs his/her duties and powers impartially, fairly, respects dignity and fundamental human rights and freedoms without any discrimination. Annual Report also assesses membership of prosecutors in different commissions and public administration bodies, speeches, lectures, publications, appearance in media and providing information to public, participation in conferences, seminars, workshops, cooperation and coordination with other authorities in order to prepare and evaluate programs and action plans aimed at prevention of crime.

**SECTION I: Status of the prosecution services in the state administration**

1. Please specify the status of the prosecutor and the prosecution service in your state. Is it an autonomous institution? If yes, how is this autonomy guaranteed?

**According to the Article 3 of the State Prosecutor's Office Act (Official Gazette of the Republic of Slovenia, No. 58/2011) are state prosecutors in Slovenia self-dependent \*.**

**A state prosecutor shall be self-dependent and bound to the Constitution and statute in performing his state prosecutorial service. Pursuant to the Constitution, a state prosecutor shall also be bound by the general principles of international law and ratified and published international treaties. Decisions made by the state prosecutor shall not be interfered with, except by way of general instructions that are relevant for uniform application of the laws and the assigning of a case in the manner stipulated by the State Prosecutor's Office Act.**

**A state prosecutor who believes that his self-dependence has been violated may request the State Prosecutorial Council to deal with the violation. If the State Prosecutorial Council concludes that the request is justified, it may remedy the violation or request that it be remedied and make its conclusion public as appropriate.**

**According to the Article 10 of the State Prosecutor's Office Act the state prosecutor's offices shall be self-dependent state bodies within the system of justice. The State Prosecutor's Office Act shall determine the method for ensuring a standard policy for criminal prosecution and the implementation of other duties of state prosecutor's offices.**

**Personnel, organisational and supervisory responsibilities in matters of state prosecutorial and justice administration referring to state prosecutor's offices and state prosecutors shall be implemented by the Government of the Republic of Slovenia pursuant to the provisions of the State Prosecutor's Office Act, either directly or through the ministry responsible for justice. The responsibilities of the National Assembly of the Republic of Slovenia towards the State Prosecutor's Office shall be as stipulated by the statute.**

**According to the new Amendment to the Government of the Republic of Slovenia Act from February 2012 the Ministry of the Interior exercises responsibilities pursuant to the State Prosecutor's Office Act, which refers to the organization and status of the State Prosecutor's Office and supervision over state prosecutorial administration. Before the amendment to the Government of the Republic of Slovenia Act these responsibilities were exercised by the Ministry of Justice. According to this transfer of responsibilities from Ministry of Justice to the Ministry of the Interior the State Prosecutor's Office Act has not been amended yet. For the time being, because the State Prosecutor's Office Act has not been changed yet, State Prosecutor's Office is still understood as a self-dependent state body within the system of justice. Answers in this questionnaire are given on the basis of the current situation and on the provisions of the current State Prosecutor's Office Act. What changes will be made pursuant to the State Prosecutor's Office Act is not known at the moment.**

**\* The term "self-dependent" is used in unofficial translation of the State Prosecutor's Office Act. In Slovene "self-dependent" is: "samostojen". A verbatim translation would be: "standing on its own". Self-dependent means less than independent and more than autonomy. A similar German term is "*Selbständigkeit*".**

2. Does the ministry of justice or another authority govern the activity of the prosecution service? If so, how?

**Matters pertaining to justice administration in the field of State Prosecutor's Office shall be carried out by the Ministry of Interior, as now is planned by the new Government. Personnel, organisational and supervisory responsibilities in matters of state prosecutorial and justice administration referring to state prosecutor's offices and state prosecutors shall be implemented by the Government of the Republic of Slovenia pursuant to the provisions of this Act, either directly or through the Ministry of Interior.**

The responsibilities of the National Assembly of the Republic of Slovenia towards the State Prosecutor's Office shall be as stipulated by the statute. The National Assembly may request to inspect the documents on justice supervision if they refer to the parliamentary investigation associated with the implemented justice supervision. According to the Article 20 of the Deputies Act a member of the National Assembly has a right to issue parliamentary questions to the Government or to a ministry. On this basis the State Prosecutor's Office is obliged to answer the Ministry.

The State Prosecutor General shall compile the annual report on the work of state prosecutor offices for the previous year and shall send it to the Minister, the National Assembly and the State Prosecutors' Council. The joint annual report shall contain joint data as mentioned above and an analysis of reasons for eventual differences demonstrated by the comparison of deviations of particular state prosecutor's offices from the national average, and evaluation of attained planned objectives of the prosecution policy. Based on the data and analysis from the preceding paragraph, the joint annual report shall contain:

- Measures for improving the efficiency, performance and economy of work and implementation of the prosecution policy for particular and for all state prosecutor's offices together;
- Measures for improving the efficiency for state prosecutor's offices whose results deviate considerably from the planned ones;
- Assessment of suitability of the number of state prosecutor posts and state prosecutor personnel and other conditions including the appropriate proposals for their improvement.

The joint annual report may, based on the conclusions from monitoring the state prosecutor practice, advise about the reasons and circumstances for the occurrence, increase, change or development of crime in a determined area, and about the possible legislative and other appropriate measures for their elimination or reduction. The State Prosecutor Council and the Minister may also submit their opinion on the joint annual report during its consideration in the National Assembly or its working bodies.

3. Which authority is responsible for the creation of prosecutor positions?

For the positions of the prosecution organisation and state prosecutors within the system of power is responsible the National Assembly, the Government of the Republic of Slovenia. The position of State Prosecutor's Office is reflected in the Constitution and in the adopted State Prosecutor's Office Act, especially on those parts with the provisions of the role of the Ministry responsible for prosecution service administration, nomination of the state prosecutors and independency of the prosecutors' work.

According to the Article 10 of the State Prosecutor's Office Act a vacant state prosecutor position shall be advertised by the Ministry on the proposal of the head of a state prosecutor's office following a preliminary approval of the State Prosecutor General. The provisions of the act regulating the election and/or appointment procedure to the office of a judge shall apply *mutatis mutandis* to the procedure involving incomplete applications or applications not submitted in good time.

State prosecutors shall be appointed by the Government of the Republic of Slovenia on the Minister's proposal. The Government of the Republic of Slovenia shall serve the decision on the appointment on all candidates who applied to the vacant state prosecutor position provided their applications were not rejected and/or refused during the call for applications procedure. The State Prosecutorial Council shall be responsible for the appointment and dismissal of the heads of district state prosecutor's offices, performance assessment and promotion, transfers, secondments and participation in the appointment procedure of state prosecutors.

According to the Article 213 of the State Prosecutor's Office Act the Minister of Justice in agreement with the Government, following a preliminary opinion of the State Prosecutor General, harmonised the Decree on the Number of Posts for State Prosecutors and Assistants to State Prosecutors with the provisions of the new State Prosecutor's Office Act, referring to the number of posts for state prosecutors and their titles at particular state prosecutor's offices for the performance of the state prosecutorial service, and the number of posts for state prosecutors subject to the requirement of a superior level of mastery of the languages of national communities.

According to the new Amendment to the Government of the Republic of Slovenia Act from February 2012 the Ministry of the Interior exercises responsibilities pursuant to the State Prosecutor's Office Act, which refers to the organization and status of the State Prosecutor's Office and supervision over



state prosecutorial administration. Before the amendment to the Government of the Republic of Slovenia Act these responsibilities were exercised by the Ministry of Justice. According to this transfer of responsibilities from Ministry of Justice to the Ministry of the Interior the State Prosecutor's Office Act has not been amended yet.

4. Please indicate if there is any connection between the prosecution service and the Ministry of Justice or another public authority in terms of financial and human resources, IT facilities etc. If so, please describe how this connection works.

**Personnel, organisational and supervisory responsibilities in matters of state prosecutorial and justice administration referring to state prosecutor's offices and state prosecutors shall be implemented by the Government of the Republic of Slovenia pursuant to the provisions of the State Prosecutor's Office Act, either directly or through the Ministry of Interior. The responsibilities of the National Assembly of the Republic of Slovenia towards the State Prosecutor's Office shall be as stipulated by the statute.**

**Minister in agreement with the Government, following a preliminary opinion of the State Prosecutor General, harmonised the Decree on the Number of Posts for State Prosecutors and Assistants to State Prosecutors with the provisions of the new State Prosecutor's Office Act, referring to the number of posts for state prosecutors and their titles at particular state prosecutor's offices for the performance of the state prosecutorial service, and the number of posts for state prosecutors subject to the requirement of a superior level of mastery of the languages of national communities.**

**The budget for the State Prosecutor's Office is created by the Ministry of Finance in the coordination with the State Prosecutor's Office. The Government approves the budget expenses; responsibility for the use of financial resources is in the hand of the State Prosecutor's Office.**

**The Judicial Training Centre at the Ministry of Justice is responsible for initial and continuous training of state prosecutors as well as for training and for other state prosecutorial personnel. The training is performed mainly in the form of lectures, seminars and workshops. The Judicial Training Centre is also responsible for training of judges and state attorneys and also implements bar examinations, examinations for court interpreters, court experts, appraisers and others whose work is closely related to judicial system.**

**On the basis of Article 17 of the State Prosecutor's Office Act Minister of Justice adopted the State Prosecutorial Rules. The State Prosecutorial Rules shall regulate the functioning of state prosecutor's offices and determine the internal organisation of state prosecutor's offices, the assignment and removal of cases to and from state prosecutors, office administration rules, the contents of registers, directories and records and their upkeep, work forms, form and contents of seals, stamps and logo of the state prosecutor's office, form and content of official identification cards, detailed rules on the dissemination of public information, contacts with members of national communities, conducting business in the state prosecutor administration, rules on the performance of expert supervision, ensuring the security of persons, documents and property, the provision of information to the Ministry, general house rules and standards for state prosecutor's office premises and equipment, rules on the viewing and copying of files, rules on the implementation and supervision of material and financial operations, rules on the regular performance of matters and reporting, the organisation of working hours and client visits, rules on keeping statistics and other rules referring to the functioning of state prosecutor's offices.**

**Certain state prosecutor administration tasks may be performed self-dependently by directors appointed for one or more district state prosecutor's offices. The director shall perform self-dependently the tasks of the state prosecutor administration referring to the following:**

- **Personnel management of state prosecutor personnel and the implementation of regulations on the safety and health at work;**
- **Deciding on the rights, obligations and responsibilities of the state prosecutor personnel;**
- **Financial, accounting and inventory management and management of public procurement procedures.**

**Based on authorisations of the head of a district state prosecutor's office, the director may perform self-dependently the tasks of state prosecutor administration referring to the following:**

- **Entering, recording and statistical monitoring of matters;**
- **Office and technical operation;**
- **Activities associated with tangible assets in direct use by a state prosecutor's office;**

- Concern and measures for the security of persons, documents and assets at a state prosecutor's office; and
- Other state prosecutor administration tasks except those referring to the performance of the state prosecutorial service.

The director of a particular or several district state prosecutor's offices shall be appointed and dismissed by the Minister based on a proposal of the head of the state prosecutor's office where he shall be appointed, and following a preliminary opinion of the head of other district state prosecutor's offices for which he shall perform the tasks of the state prosecutor administration. This position shall be granted by a decree on appointment for a period of five years with a possibility of reappointment. The Supreme State Prosecutor's Office shall have a director general who shall be appointed and dismissed by the Minister on a proposal of the State Prosecutor General. This position shall be granted by a decree on appointment for a period of five years with a possibility of reappointment. The Director General shall perform the tasks of the director of the state prosecutor's office.

The justice administration matters include the provision of general conditions for successful performance of the state prosecutor office, in particular:

- Drafting acts and other regulations in the field of organisation and operation of state prosecutor's offices, status, rights and obligations of state prosecutors and state prosecutor personnel;
- Concern for education and expert training;
- Provision of personnel, material and technical conditions;
- Dealing with supervisory appeals;
- Collection of statistical and other data on the operation of state prosecutor's offices; and
- Performance of other administrative tasks when stipulated so by the law.

Unless otherwise stipulated by the act, the matters of justice administration shall include the provision of premises, including the provision of funds for the rental of rented premises of state prosecutor's offices. The Ministry may, for the purpose of implementing the competences under this Act, request that state prosecutor's offices submit clarifications, data and reports, it may inspect the files in the premises of state prosecutor's offices and request the extracts from registers and other documentation from state prosecutor's offices which refer to the implementation of a particular matter or type of matters of the state prosecutor administration. If the head of a state prosecutor's office refuses to comply with the request referred to in the preceding paragraph because he believes that it implies an illicit interference with the self-dependence of a state prosecutor, the procedure pursuant to the provisions on the refusal of justice supervision shall be followed.

According to the Article 160 of the State Prosecutor's Office Act the Ministry shall perform supervision over the performance of state prosecutorial administration matters (hereinafter: justice supervision) directly or indirectly. The Ministry shall perform justice supervision over a district state prosecutor's office through the head of a district state prosecutor's office or through the State Prosecutor General, and over the Supreme State Prosecutor's Office through the State Prosecutor General (indirect justice supervision). The Ministry may also perform justice supervision directly (direct justice supervision). When implementing direct justice supervision, two members of the State Prosecutorial Council may be present on a request of the head of a district state prosecutor's office, i.e. one member of the elected state prosecutors and one member who is not a state prosecutor.

The Ministry shall perform indirect justice supervision through the Ministry's personnel appointed by the Minister's decision on the implementation of supervision (supervisory group). The supervisory group shall implement supervision self-dependently within the framework and on the basis of the Constitution, the statute and other regulations. The supervisory group shall compile a report on the implemented supervision and shall submit it to the Minister.

According to the Article 161 of the State Prosecutor's Office Act the head of a state prosecutor's office may refuse to implement justice supervision if he believes that it implies an illicit interference with the self-dependence of a state prosecutor in deciding on a particular matter. He shall immediately notify thereof the Minister, Government and the State Prosecutor Council, and if the justice supervision is implemented over a district state prosecutor's office, he shall notify also the State Prosecutor General. Following the opinion obtained from the State Prosecutor Council, the Government shall decide within eight days of receipt of the notification referred to in the preceding paragraph as to whether the justice supervision shall be implemented. If the justice supervision is implemented over a district state prosecutor's office, the State Prosecutor Council shall obtain a

preliminary reasoned opinion of the State Prosecutor General. The head of a state prosecutor's office and the Ministry shall be bound to the opinion of the State Prosecutor Council.

When implementing the justice supervision, the persons authorised to implement supervision shall inspect the files, records and other documentation of the state prosecutor's office in the presence of the head of the state prosecutor's office or state prosecutor who has been authorised by the head. The persons authorised to implement supervision shall protect the confidentiality of all obtained data. They may disclose it only to the Ministry or other national authorities whose competences for their application are determined by statutory law.

The court may request to inspect the documents on justice supervision if they refer to the subject of court proceedings associated with the implemented justice supervision. The National Assembly may request to inspect the documents on justice supervision if they refer to the parliamentary investigation associated with the implemented justice supervision.

According to the Article 151 of the State Prosecutor's Office Act the state prosecutorial administration shall include decision-making and other duties which provide the conditions for regular, correct, conscientious and efficient functioning of the state prosecutor's office on the basis of the State Prosecutor's Office Act, the State Prosecutorial Rules and other implementing acts.

The state prosecutorial administration shall include in particular the following matters:

- Internal organisation and organisation of operation of state prosecutor's offices;
- Preparation of annual programmes and annual reports;
- Organisation of participation in main hearings, preliminary hearings and other actions;
- Provision of supervision and supervision over the legitimacy, professional regularity and timeliness of state prosecutor's office operation in the matters of state prosecutor administration;
- Issuing and implementation of general instructions;
- Dealing with supervisory appeals;
- Personnel management and implementation of regulations on safety and health at work;
- Deciding on the rights, obligations and responsibilities of state prosecutors and state prosecutor personnel;
- Reporting on the activities of the state prosecutor's office;
- Formulating the initiatives and opinions on acts and implementing regulations;
- Training and monitoring of the court case-law and prosecutor case-law;
- Entering, recording and statistical monitoring of matters;
- Office and technical operation;
- Financial, accounting and inventory management and management of public procurement;
- Activities associated with tangible assets in direct use by a state prosecutor's office;
- Concern and measures for the security of persons, documents and assets at a state prosecutor's office; and
- Other matters as determined in the regulations referred to in the preceding paragraph.

The implementation of state prosecutorial administration matters at state prosecutor's offices shall be supervised by the State Prosecutor General, and at district state prosecutor's offices also by the head of the district state prosecutor's office. When implementing the state prosecutorial supervision, the heads of state prosecutor's offices may demand written explanations and reports on the implementation of particular tasks and may inspect the files. The State Prosecutor General may authorise a supreme or higher state prosecutor for the supervision described in the first paragraph. The supervision over the implementation of state prosecutorial administration matters at state prosecutor's offices may also be carried out by the Minister through the heads of state prosecutor's offices or directly pursuant to the provisions of the State Prosecutor's Office Act on justice supervision.

5. Is the prosecution service independent from other institutions when implementing and managing its own budget?

After the budget is adopted in the National Assembly, the State Prosecutor's Office is autonomous in managing its own budget. The State Prosecutor's Office has to take into account the following legal provisions: the Public Finance Act, the Republic of Slovenia Budget for 2010 and 2011 Implementation Act and the Prosecutor General's Instructions Regarding the Financial Management.

The basis for financial needs of the State Prosecutor's Office is determined in the following regulation.

According to the Article 146 of the State Prosecutor's Office Act the head of a state prosecutor's office shall prepare a draft annual work programme which shall contain the implementing plan of the state prosecutor's office, including the plan for prosecution policy implementation, for the following year and shall send it to the State Prosecutorial Council and to the Minister, and the head of a district state prosecutor's office also to the State Prosecutor General, all of whom may submit their recommendations within 15 days from receipt of the draft. The head of a state prosecutor's office shall adopt the annual work programme not later than within 30 days before the beginning of budget implementation and shall inform the authorities on having duly considered their recommendations. The State Prosecutor General, the State Prosecutor Council and the Minister shall discuss the performance of state prosecutor's offices twice a year at joint meetings held with the heads of state prosecutor's offices and shall adopt and/or coordinate the measures required for implementation of annual work programmes.

The annual work programme shall be an integral part of the explanation of a state prosecutor's office financial plan. The annual work programme shall foresee the expected case-load, the volume of resolved matters, timescale for typical procedural acts, timescale for resolving the matters and the indicators of efficiency, performance and economy. The efficiency shall be demonstrated by the number of planned resolved matters divided with the number of state prosecutors and the number of state prosecutor personnel; the efficiency shall be demonstrated by the period planned for resolution of prosecutorial matters being expressed in months from the time of case assignment to the time of its resolution, and the economy by dividing the amount of budget resources earmarked for the work of the state prosecutor's office by the number of planned resolved matters. The form and instruction for preparing an annual work programme shall be prescribed by the Minister by means of an implementing regulation.

## **SECTION II: Financial rules and regulations of the prosecution service**

6. Does the law governing the prosecution service include provisions on financial management and on the executive's obligation to provide it with the necessary infrastructure?

Yes, the law governing the prosecution service includes provisions on financial management. The State Prosecutorial Rules were adopted on the legal basis of the State Prosecutor's Office Act. The State Prosecutorial Rules shall determine rules on the implementation and supervision of material and financial operations of state prosecutor's offices. According to the Article 191 of the State Prosecutorial Rules State Prosecutor's Offices (District, Specialized and Supreme) are bounded by laws on public finance, public procurement and budget implementation. The State Prosecutor's Office is bounded on this basis by the Public Finance Act, the Republic of Slovenia Budget for 2010 and 2011 Implementation Act and by the Prosecutor General's Instructions Regarding the Financial Management.

State Prosecutor's Offices' Accounting Departments are responsible for the financial management. Common Finance and Accounting Service at the Supreme State Prosecutor's Office is a central financial service and is responsible for coordination between State Prosecutor's Offices and Ministry of Finance.

According to the State Prosecutor's Office Act, matters pertaining to justice administration in the field of State Prosecutor's Office shall be carried out by the Ministry. The justice administration matters include the provision of general conditions for successful performance of the state prosecutor office, including provision of personnel, material and technical conditions. Unless otherwise stipulated by the act, the matters of justice administration shall include the provision of premises, including the provision of funds for the rental of rented premises of state prosecutor's offices.

7. Please describe how and when the budget of the prosecution service is managed (preparation, distribution of funds between the budget lines).

Every year in summer months is a draft budget of the Republic of Slovenia for the next year prepared by the Government. After that the Supreme State Prosecutor's Office of the Republic of Slovenia prepares the draft of distribution of these funds between prosecution offices. Distribution of funds between the budget lines is distributed into a part for salaries, a part for material expenditures and a

part for alternative dispute resolution procedures. The budget shall be adopted after that in the National Assembly.

8. Is there a specific department within the prosecution service responsible for the management of resources?

The Common Finance and Accounting Service at the Supreme State Prosecutor's Office is responsible for the management of resources and for distribution of funds to the district and other state prosecutor's offices. The heads of the state prosecutor's offices are responsible for further implementation of appropriations. In a case of insufficient resources in a certain prosecution office The Common Finance and Accounting Service at the Supreme State Prosecutor's Office is responsible for redistribution of the funds to this office.

The State Prosecutorial Council provides opinion to the proposal of a joint financial plan for state prosecutor's offices.

9. Is there a national and/or centralised IT system for managing, monitoring and evaluating the budget of the prosecution services? *Does this system include a mechanism for increasing the efficiency of the resource management?*

A special national and centralised IT system MF-RAC (official title of the application) is used for managing, monitoring and evaluating the budget of the all ministries, state bodies and also prosecution services. The planning and implementation of appropriations of the budget, accounting salaries and state budget balances are made within this IT system.

On the basis of this IT system the financial services can check the implementation of appropriations at every moment. On this basis the authorities can take a decision on further distribution of funds.

### SECTION III: Resources of the prosecution service

10. Please specify the amount of budget of the prosecution service for 2008, 2009, 2010 and 2011 (€ equivalent), indicating the distribution between staff expenditure and other types of expenditure.

#### **REALISATION OF BUDGET RESOURCES FOR ALL STATE PROSECUTOR'S OFFICES IN SLOVENIA 2008 - 2011 IN EUR (€)**

YEAR	TOTAL BUDGET	A PART OF BUDGET FOR SALARIES	BUDGET FOR SALARIES IN %	A PART OF BUDGET FOR OTHER EXPENDITURES	BUDGET FOR OTHER EXPENDITURES IN %
2008	18,376,167.06	15,810,689.67	86.04	2,565,477.39	13.96
2009	18,223,328.84	15,899,935.60	87.25	2,323,393.24	12.75
2010	19,024,138.88	16,773,759.93	88.17	2,250,378.95	11.83
2011	18,739,116.51	16,473,109.82	87.91	2,266,006.69	12.09
TOTAL	74,362,751.29	64,957,495.02	87.35	9,405,256.27	12.65

Other expenditures are material expenditures, expenditures for alternative dispute resolution procedures and expenditures for minor investments (e. g. mobile phones, chairs etc.)

11. In your jurisdiction, what resources would you improve access to, and how would you do that (e.g. through partnership agreements, joint investigations, redistribution of resources etc.)?

The State Prosecutor's Office does not have access to resources for IT equipment and is dependent on the ministry responsible for prosecution services.

We would like to improve the access to the resources for the international cooperation in criminal matters and programs (For example: Joint investigations in the framework of Eurojust).

12. Are the current or future budgets of the prosecution service affected by the 2009-2011 economic crisis?

**Yes, the current and future budgets of the prosecution service are affected by the economic crisis. In the revised national budget for 2012 is planned the 3% reduction of funds for prosecution services in comparison to the budget for 2011. The reductions are made especially in the field of material expenses.**

13. What instruments are used to allocate resources needed for the good functioning of the prosecution service?

**The Republic of Slovenia Budget Implementation Act provides options to allocate resources from one to another field inside the prosecution services and also to another prosecution office. It is not possible to allocate resources between prosecution service and a ministry without Government's decision. The allocations of resources from the ministries to the prosecution services were not used in past years.**

14. Is there any connection between the budgets allocated to the prosecution service and to the judiciary or to law enforcement bodies?

**There are no certain connections between the budgets allocated to the prosecution service and to the judiciary or to law enforcement bodies.**

15. Do human resources of the prosecution service depend on other institutions of the judiciary (e.g. Judicial Council, National Schools of Clerks)?

**The State Prosecutorial Council shall be a self-dependent state body which performs the duties of state prosecution self-governance and administrative tasks as determined by this Act, and shall participate in ensuring the uniformity of prosecution and safeguarding the self-dependence of state prosecutors. The State Prosecutorial Council shall be responsible for the appointment and dismissal of the heads of district state prosecutor's offices, performance assessment and promotion, transfers, secondments and participation in the appointment procedure of state prosecutors, the provision of opinions on prosecution policy, performance assessment and the performance results of the state prosecutor's offices, the protection of self-dependence in the performance of state prosecutorial service and the implementation of other matters in accordance with this Act.**

16. In your jurisdiction, is there any mechanism of rapid reaction which could allow a quick redistribution of means (financial or human resources, logistics) between prosecution services, according to the needs of the system?

**By providing his written consent, a state prosecutor may be permanently transferred to another state prosecutor's office (transfer) or temporarily seconded to another state prosecutor office or authority (secondment). Transfers or secondments shall not affect the rank and salary enjoyed by the state prosecutor in his appointed position. A state prosecutor may only be transferred or seconded without his consent in the circumstances and the conditions stipulated by State Prosecutor's Office Act. A state prosecutor may be transferred to another state prosecutor's office following his preliminary written consent on the proposal of the State Prosecutor General and in agreement with the heads of both state prosecutor's offices.**

**A state prosecutor may be transferred to another state prosecutor's office without consent only in the following special cases:**

- 1. if the state prosecutor's office at which he performs his duties is abolished;**
- 2. if the volume of work in the state prosecutor's office at which the state prosecutor performs his office is significantly reduced for a longer period of time or if the number of state prosecutor positions at a state prosecutor's office is reduced owing to reduced workload;**
- 3. if the organisation of state prosecutor's offices is altered;**
- 4. in other cases as provided for by the law.**

**According to the Article 61 of the by State Prosecutor's Office Act a state prosecutor may be seconded, even without his consent, to perform the state prosecutorial office at another state prosecutor's office for full working time or part time if so dictated by the circumstances which could otherwise jeopardize or prevent the timely implementation of tasks and/or responsibilities of the state prosecutor's office, in particular for the reason of an extremely increased workload or elimination of major backlog. The State Prosecutor General shall decide on the secondment and termination of secondment on the proposal of the head of the state prosecutor's office to which the state prosecutor shall be seconded. When deciding on secondments without consent, a comparable**

situation of state prosecutors shall be provided taking into consideration the number and length of all preceding secondments.

According to Civil Servants Act a civil servant in state prosecutor's office may be seconded, to perform the work at another state prosecutor's office. According to the Article 149 of the by Civil Servants Act civil servants shall, due to work requirements, be transferred to the available work posts or to a professional-technical work posts within the same or in another body:

1. for the reasons of service;
2. if the civil servant was found incompetent for his work post;
3. if the principal believes that a more effective and expedient performance of the body can be ensured therewith;
4. if there is a permanent change in the workload or the working procedure are being rationalised, and the civil servant no longer bears the full work burden;
5. in other cases provided by law.

The Republic of Slovenia Budget Implementation Act provides options to allocate resources from one to another field inside the prosecution services and also to another prosecution office. The Common Finance and Accounting Service at the Supreme State Prosecutor's Office is responsible for the management of resources and for distribution of funds to the district and other state prosecutor's offices.

17. Does the General Prosecutor (or equivalent institution) have a specific budget for taking interim/temporary measures in situations when, within a certain prosecution service, human resources are insufficient?

**The Prosecutor General of the Republic of Slovenia has no specific budget for taking interim/temporary measures in situations when human resources are insufficient.**

#### **SECTION IV: Budget for investigations**

18. What steps are required in order to obtain direct access to the resources needed for investigations? Please assess the period of time that elapses between submitting a request for resources and the moment when they are actually obtained.

**All resources are distributed in the national budget on annual basis. The State Prosecutor's Office does not have specific resources for investigations. The Police are responsible to carry out investigations in a pre-trial stage and resources for investigations are provided in the budget for police.**

**Courts are responsible to carry out judicial investigations after the prosecutor's demand for investigation and before the indictment. Resources for judicial investigations are provided in the budget for Courts.**

**Pursuant to the above mentioned the State Prosecutor's Office does not have resources for investigations, but have only resources for expenditures in pre-trial procedure with safekeeping or securing confiscated objects which must be confiscated under the Criminal Code, or which may prove to be evidence in criminal proceedings. The resources for that are provided by annual budget.**

**For the activity of the Expert Information Centre at Supreme State Prosecutor's Office special financial resources are guaranteed. The Expert Information Centre provides an expert assistance in the area of fiscal, financial, accounting and other disciplines to the state prosecutor or the interpretation of documentation in certain cases when such assistance is needed by a state prosecutor in pre-trial stage of the procedure.**

19. Have you ever faced the risk that special investigative techniques (e.g. communication interceptions, legal-genetic expertise, computer search) could not be applied in due time because of insufficient resources? Have insufficient resources in general affected the performance of criminal investigation in normal cases?

**The State Prosecutor's Office has not faced the risk that special investigative techniques could not be applied in due time because of insufficient resources. The police have provided resources for special investigative techniques in the budget.**

20. Is the resource management performed by the prosecution services during their investigations controlled? Please specify.

**The resource management during the investigations is performed by the Police.**

21. What is the resource management procedure when various agencies are involved in the investigation procedure (e.g. the police)?

**The resource management during the investigations is performed by the Police. The Police are responsible to carry out investigations in a pre-trial stage and resources for investigations are provided in the budget for the Police. Other agencies (Custom, Court of Audits etc.) have to cover their own expenses.**

22. Is it possible for prosecutors to specialise in certain type of crimes? If so, what kind of effect it has had on the results of the prosecution service?

**According to the Article 144 of the State Prosecutor's Office Act the cases shall be assigned to state prosecutors following the order of receipt, taking into consideration the organisation of work, specialisation and an even workload. The rules for the assignment of cases and implementation of procedural rules may be determined in more detail by the annual work schedule in accordance with the State Prosecutorial Rules.**

**The most serious criminal acts whose prosecution calls for a special organisation and qualifications of state prosecutors and the highest level of performance shall be dealt with by the Specialised State Prosecutor's Office of the Republic of Slovenia**

**The Department for the Investigation and Prosecution of Officials with Special Authorisations shall operate as a self-dependent internal organisational unit with a special status at the Specialised State Prosecutor's Office.**

23. Are there areas of investigation that have priority access to financial or material resources? If so, how and by whom is this priority established?

**The Police are responsible to carry out investigations in a pre-trial stage and resources for investigations are provided in the budget for the Police.**

#### **SECTION V: Description of the system of management by results**

24. Do you have a system of management by results? (Please specify.) If yes, is there any problem with this system?

**The State Prosecutorial Council is responsible for evaluation on the state prosecutorial service about meeting the criteria for promotion of certain state prosecutor. According to the Article 103 of the State Prosecutor's Office Act the State Prosecutorial Council shall adopt the quality performance criteria for the assessment of state prosecutor's performance and criteria for prosecution performance by state prosecutor's offices on the proposal of the State Prosecutor General.**

**Framework criteria for the assessment of state prosecutors' expertise shall be defined by quality performance criteria for state prosecutors, including the expected time for the resolution of a particular type of matters and for typical procedural acts. The share of matters in a determined period of time shall be defined by the criteria for the prosecution performance of state prosecutor's offices in which the solution is expected to be reached through deferred prosecution, mediation, punitive order, fast-track procedures, filing of indictment act, judgment of conviction, type and amount of issued sanction, depending on the nature of criminal act, type of procedure and prosecution policy. The grounds for monitoring, establishing and analysing the efficiency, performance and economy of prosecution shall be defined as well.**

**We also have a system of management by results pursuant to the budget preparation and [annual financial statement of the state budget](#) for the prosecutions service.**

**According to the new State Prosecutor's Office Act from November 2011 the State Prosecutor General shall adopt the prosecution policy. The State Prosecutor General shall formulate**



**prosecution policy based on the strategic work programme of the state prosecutor's office. The prosecution policy has not been adopted yet.**

25. What kinds of objectives are set for the prosecution service, if such a system of objectives exists? Does your system use benchmarks of achieved results?

**The resources in the prosecution service have been monitoring with the comparison of workload of each state prosecutor. The average annual scope of prosecutor's work has been prescribed. If the average annual scope of prosecutor's work has exceeded in a certain state prosecutor's office, the personnel allocation followed. The Supreme State Prosecutor's Office has been monitoring the pace of the work of state prosecutors due to the prescribed time for resolving cases. The economy of procedures has not been estimated in any specific way. The work of the state prosecutor is specific and can be started from the early stage of detection of criminal offences and with cooperation with the police and providing guidance to police investigation, to the decision-making about criminal report, representing the indictment in front of the court and dealing with appeals and other legal remedies. This entire prosecutor's work demands a big prosecutor's engagement that can not be always quantifiable and measurable. According to that, the management by results can not be done in such ways as it is in other institutions. The objective of prosecutor's work can not be only conviction, but proper, lawful and on time made state prosecutor's decision.**

**According to the budget preparation and [annual financial statement of the state budget](#) the objectives for the prosecutions service were set:**

- Effective exercise of prosecution of perpetrators of criminal offences;
- Effective actions in appeal procedure and in procedures with extraordinary legal remedies;
- Effective exercise of supervision and training tasks.

**Within the object Effective exercise of prosecution of perpetrators of criminal offences the two main goals are set: quicker resolving of cases and effective prosecution of perpetrators of economic, financial and serious criminal offences.**

26. Which authority/authorities is/are competent to set these objectives?

**According to the Article 103 of the State Prosecutor's Office Act the State Prosecutorial Council shall adopt the quality performance criteria for the assessment of state prosecutor's performance and criteria for prosecution performance by state prosecutor's offices on the proposal of the State Prosecutor General.**

**The State Prosecutor General shall adopt the prosecution policy following a preliminary reasoned opinion of the State Prosecutor Council on the proposed prosecution policy. The State Prosecutor General shall formulate draft prosecution policy based on the strategic work programme of the state prosecutor's office that he shall enclose to his application, and shall submit the draft to the State Prosecutor Council to procure their opinion not later than within four months after the appointment.**

27. What role does the prosecution service play in setting these objectives?

**See above about the quality performance criteria.**

28. Are the objectives coordinated between all authorities of the criminal procedure? If such coordination exists, how does it influence the activities of the prosecution service?

**See above about the quality performance criteria.**

29. Are there regulations in your system as regards the optimal workload within prosecution offices? if yes, is the allocation of resources correlated with the workload? Please provide examples.

**The criteria regarding the minimum workload of the state prosecutors have been adopted by the State Prosecutorial Council. Current annual obligations for a state prosecutor are: 190 criminal cases of the first instance and at least two full trial days per week or attending the trial four times per week.**

30. Is the setting of objectives based on a negotiation system?

**No, it is adopted inside the State Prosecutor's Office.**

31. Who are parties of the negotiations?

#### **SECTION VI: Follow-up of results and reporting**

32. Please indicate if there are any national strategies implemented in your state regarding the resources allocated to the judicial system, including the prosecution service. If so, in what areas were these strategies developed? Please comment on the results of these strategies.

**We should follow the National strategy for fight against criminality and National strategy fighting against the economic crime.**

**The State Prosecutor General shall adopt the prosecution policy (answer on question 26).**

**We also have a system of management by results pursuant to the budget preparation and [annual financial statement of the state budget](#) for the prosecutions service.**

33. Is the attainment of objectives followed up yearly? How?

**On the basis of the quality performance criteria for the assessment of state prosecutor's performance and criteria for prosecution performance by state prosecutor's offices is monitoring, establishing and analysing the efficiency, performance and economy of prosecution made by the State Prosecutorial Council. On this basis the State Prosecutorial Council shall prepare assessments of state prosecutorial service performance and decide on the promotion of state prosecutors in compliance with the State Prosecutor's Office Act, adopt quality criteria for assessment performance of state prosecutors and criteria for prosecution performance of state prosecutor's offices, provide opinion on the number of state prosecutor positions in state prosecutor's offices and provide opinion on the joint annual report on the work of state prosecutor' offices.**

**According to the budget preparation and [annual financial statement of the state budget](#) the objectives for the prosecutions service (effective exercise of prosecution of perpetrators of criminal offences, effective actions in appeal procedure and in procedures with extraordinary legal remedies, effective exercise of supervision and training tasks) are followed by performance indicators.**

**Performance indicators are:**

- Rate of positive solved cases to the all cases of State Prosecutor's Office;
- Average time of resolving of cases at the State Prosecutor's Office;
- Increasing the number of cases, solved in alternative procedures;
- Number of cases of prosecution of perpetrators of economic, financial and serious criminal offences;
- Number of introduced accusation acts;
- Number of cases, supervised in expert supervision procedures;
- Number of training activities;
- Number of received cases, number of resolved cases and average expense on a case.

34. Have any reforms been implemented during the last 5 years aimed at increasing the budget of justice?

**No, there have been no significant reforms implemented during the last years aimed at increasing the budget of justice.**

35. Is the prosecution service included in the government strategies for enhancing the efficiency of public institutions (e.g. e-governance, external financial audit)?

**The State Prosecutor's Office is a partner in a project E-Justice to enhancing the efficiency of prosecution service.**

36. How would you assess internal audit recommendations within the prosecution service?

**The Supreme State Prosecutor's Office has an Internal Audit and Financial Supervision Service. The Service supervises the use of financial resources and gives the recommendations for the proper use of the resources.**

37. Is the social impact of the prosecutors' activities evaluated? If yes, by whom?

**No, the social impact is not evaluated.**

## SECTION I: Status of the prosecution services in the state administration

1. Please specify the status of the prosecutor and the prosecution service in your state. Is it an autonomous institution? If yes, how is this autonomy guaranteed?

The Spanish Prosecution Service is regulated in article 124 of the Constitution, under Title VI (On the Judicial Power). According to this article, prosecutors promote the action of Justice by defending legality, the rights of citizens and the public interest; defends the independence of Courts; and acts before courts in defence of the social interest. The actions of prosecutors are bound by the principles of legality, impartiality, unity of action and hierarchy.

The Act on Prosecutors (dating from 1981 and amended in 2007) defines the Prosecution Service as an Entity of Constitutional relevance, integrated within the Judicial Power with functional autonomy. Apart from the previously stated principles, autonomy is guaranteed by articles 8 and 55 of the Act on Prosecutors. Article 8 determines the Government is entitled to forward issues to the PG for his consideration (but not send orders or instructions) and article 55 indicates prosecutors can only receive orders from their superiors. The hierarchical pyramid of the Prosecution Service ends with the position of the Prosecutor General. According to the Constitution, the Prosecutor General is appointed by HM the King of Spain at the proposal of the Government. However, the dismissal of the Prosecutor General can only be decided according to one of the motives specifically stated in article 31.1 of the Act on Prosecutors.

The budgetary needs of the Institution are covered by the Spanish Government through the budget of the Ministry of Justice, although a process has started to singularise the funds allocated to the Prosecution Service.

2. Does the ministry of justice or another authority govern the activity of the prosecution service? If so, how?

**No, apart from the fact that budgetary needs of the Prosecution service depend currently on the Ministry of Justice**

3. Which authority is responsible for the creation of prosecutor positions?

**The Ministry of Justice**

4. Please indicate if there is any connection between the prosecution service and the Ministry of Justice or another public authority in terms of financial and human resources, IT facilities etc. If so, please describe how this connection works.

**As indicated above, the Prosecution Service fully depends on the budget of the Ministry of Justice for financial, IT and human resources policies. It must be stated that in certain regions, the Autonomous Communities regional Governments are the ones playing this role, in the place of the Ministry of Justice. However, according to article 13 of the Act of Prosecutors, the General Prosecution Office as the Management Board of the Prosecution Service is responsible for leading the IT and HR strategy along with the Ministry of Justice and the Regional Governments.**

5. Is the prosecution service independent from other institutions when implementing and managing its own budget?

**No, but the General Prosecution Office as the Management Board of the Prosecution Service manages its own budget for general and administrative expenses that amounted to 666.410€ in year 2011.**

## SECTION II: Financial rules and regulations of the prosecution service

6. Does the law governing the prosecution service include provisions on financial management and on the executive's obligation to provide it with the necessary infrastructure?

**Yes, articles 71 and 72 of the Act of Prosecutors lay down that the prosecution service must be provided an adequate number of trained staff and appropriate facilities.**

According to article 72 of the Act of Prosecutors the PG takes part in the elaboration of the Justice budget by making a proposal to the Ministry of Justice and the Regional Governments on a yearly basis including the needs of the Prosecution Service.

7. Please describe how and when the budget of the prosecution service is managed (preparation, distribution of funds between the budget lines).

The budget of the prosecution service is elaborated and managed by the Ministry of Justice and the Regional Governments annually. The preparation starts in June and the only role that the PG plays is the proposal described above. The Prosecution Service doesn't have its own budget lines but for HR and training expenses.

8. Is there a specific department within the prosecution service responsible for the management of resources?

**Yes. The Support Unit to the Prosecutor General, currently served by three prosecutors and directed by a Senior Head Prosecutor that are supported by a skilled administrative team.**

9. Is there a national and/or centralised IT system for managing, monitoring and evaluating the budget of the prosecution services? *Does this system include a mechanism for increasing the efficiency of the resource management?* **No, there is not.**

### SECTION III: Resources of the prosecution service

10. Please specify the amount of budget of the prosecution service for 2008, 2009, 2010 and 2011 (€ equivalent), indicating the distribution between staff expenditure and other types of expenditure.

As mentioned above the Prosecution Service doesn't have its own budget lines but for HR and training, being that a recent achievement only in the budget of the Ministry of Justice (it doesn't apply to the budget of Regional Governments where Prosecution Service doesn't have its own budget lines yet).

Year 2010	HR- Prosecution Service-Ministry of Justice Budget.....	220.025.010€
	Training-Prosecution Service-Ministry of Justice Budget.....	N.A.
Year 2011	HR- Prosecution Service-Ministry of Justice Budget.....	215.321.180€
	Training-Prosecution Service-Ministry of Justice Budget.....	4.934.360€

The General Prosecution Office policy is to try to achieve own budget lines in every Public Budget, including the ones of the Regional Governments.

11. *In your jurisdiction, what resources would you improve access to, and how would you do that (e.g. through partnership agreements, joint investigations, redistribution of resources etc.)?*

**Spanish Prosecution Service is at a previous stage. As mentioned above we are trying to get own budget lines.**

12. Are the current or future budgets of the prosecution service affected by the 2009-2011 economic crisis?

**Yes they are. HR and training budget cuttings amount to 10%. IT budget suffered also important cuttings but it cannot be assessed because the Prosecution Service has no specific IT budget lines. Salaries of prosecutors, as public officials, were diminished in May 2010.**

13. *What instruments are used to allocate resources needed for the good functioning of the prosecution service?*

**For the moment the Prosecution Service is not responsible for that and the only role it plays is the one described above.**

14. Is there any connection between the budgets allocated to the prosecution service and to the judiciary or to law enforcement bodies?

**Generally speaking and apart from HR and training budget, Judiciary and Prosecution Service share the budget lines without any further distinction.**

15. Do human resources of the prosecution service depend on other institutions of the judiciary (e.g. Judicial Council, National Schools of Clerks)?

**No. HR of the prosecution service depends exclusively on the General Prosecution Office as the Management Board of the Prosecution Service.**

16. In your jurisdiction, is there any mechanism of rapid reaction which could allow a quick redistribution of means (financial or human resources, logistics) between prosecution services, according to the needs of the system?

**It doesn't apply to the Spanish Prosecution Service because it doesn't even have own Budget.**

17. Does the General Prosecutor (or equivalent institution) have a specific budget for taking interim/temporary measures in situations when, within a certain prosecution service, human resources are insufficient?

**No, the Ministry of Justice and the Regional Governments have specific budgets for that.**

#### **SECTION IV: Budget for investigations**

18. What steps are required in order to obtain direct access to the resources needed for investigations? Please assess the period of time that elapses between submitting a request for resources and the moment when they are actually obtained.

**Please note these set of questions is not particularly relevant for the Spanish case, given that our systems is based on the Investigating judge. The cases in which the prosecution service carries out autonomous investigations are not so numerous and do not require specific budgetary provisions**

19. Have you ever faced the risk that special investigative techniques (e.g. communication interceptions, legal-genetic expertise, computer search) could not be applied in due time because of insufficient resources? Have insufficient resources in general affected the performance of criminal investigation in normal cases?

20. Is the resource management performed by the prosecution services during their investigations controlled? Please specify.

21. What is the resource management procedure when various agencies are involved in the investigation procedure (e.g. the police)?

22. Is it possible for prosecutors to specialise in certain type of crimes? If so, what kind of effect it has had on the results of the prosecution service?

23. Are there areas of investigation that have priority access to financial or material resources? If so, how and by whom is this priority established?

#### **SECTION V: Description of the system of management by results**

24. Do you have a system of management by results? (Please specify.) If yes, is there any problem with this system ?

**Yes, there is an incentive of salaries connected to the productivity of each prosecutor. There are problems arising from the indicators attended in performance evaluation and from the informatic applications that monitorizes the process.**

25. What kind of objectives are set for the prosecution service, if such a system of objectives exists? Does your system use benchmarks of achieved results?

**Quantitative and qualitative indicators of activity of the prosecutors, such as hearings attended and indictments presented.**

26. Which authority/authorities is/are competent to set these objectives?

**The General Prosecution Office as the Management Board of the Prosecution Service, along with the Ministry of Justice.**

27. What role does the prosecution service play in setting these objectives?

**The Prosecution Service sets the objectives but the total amount available for the performance evaluation program is decided by the Ministry of Justice.**

28. Are the objectives coordinated between all authorities of the criminal procedure? If such coordination exists, how does it influence the activities of the prosecution service?

**Such coordination doesn't exist.**

29. Are there regulations in your system as regards the optimal workload within prosecution offices? if yes, is the allocation of resources correlated with the workload? Please provide examples.

**There are internal guidelines that are applied by the General Prosecution Service when it presents the proposal to the Ministry of Justice and the Regional Government in the process of the elaboration of the Annual Budget.**

**The indicators attended to allocate resources are correlated with the criteria applied in the performance evaluation along with the workload.**

30. Is the setting of objectives based on a negotiation system?

**No, although the professional associations of prosecutors were heard in the process of setting the indicators.**

31. Who are parties of the negotiations?

#### **SECTION VI: Follow-up of results and reporting**

32. Please indicate if there are any national strategies implemented in your state regarding the resources allocated to the judicial system, including the prosecution service. If so, in what areas were these strategies developed? Please comment on the results of these strategies.

**Strategies are being developed in the HR and IT areas. The Ministry of Justice and the Regional Governments are responsible for that.**

**Results in HR: organizational changes in the staff of the judges and prosecutors.**

**Results in IT: Advances in E-Justice.**

33. Is the attainment of objectives followed up yearly? How?

**The Ministry of Justice has a three-year strategic plan where indicators to evaluate the fulfillment of objectives are defined.**

34. Have any reforms been implemented during the last 5 years aimed at increasing the budget of justice?

**Yes, the Strategic IT Plan.**

35. Is the prosecution service included in the government strategies for enhancing the efficiency of public institutions (e.g. e-governance, external financial audit)

**Yes, within the strategies of the Justice Department.**

36. How would you assess internal audit recommendations within the prosecution service?

**They must be adapted to the IT and organizational changes.**

37. Is the social impact of the prosecutors' activities evaluated? If yes, by whom?

**Yes, it is evaluated by the General Prosecution Office in its annual activity report that the General Prosecutor presents in the Parliament at the beginning of every judicial year.**



**SECTION I: Status of the prosecution services in the state administration**

1. Please specify the status of the prosecutor and the prosecution service in your state. Is it an autonomous institution? If yes, how is this autonomy guaranteed?

*The Swedish Prosecution Authority is an independent organisation. It is an autonomous agency accountable to the Government and it is independent both from the police and the courts.*

*The autonomy is guaranteed by the Swedish Constitution which i.e. regulates the relation between the legislative and the executive powers.*

*The prosecution service in Sweden also includes the Swedish Economic Crime Authority, a special prosecution authority for fighting economic crime. Answers given in this questionnaire only apply to the Swedish Prosecution Authority.*

*An organizational chart of the Swedish Prosecution Authority is enclosed.*

2. Does the ministry of justice or another authority govern the activity of the prosecution service? If so, how?

*The Swedish Prosecution Authority, like all government agencies within the Swedish judicial system, falls within the area of responsibility of the Ministry of Justice. The Government determines the general mandate, guidelines and the allocation of resources for the agencies activities.*

3. Which authority is responsible for the creation of prosecutor positions?

*The Government appoints the Prosecutor-General who is the head of the Swedish Prosecution Authority and the highest-ranking public prosecutor in the country. The creation of prosecutor positions is the responsibility of the prosecution authority.*

4. Please indicate if there is any connection between the prosecution service and the Ministry of Justice or another public authority in terms of financial and human resources, IT facilities etc. If so, please describe how this connection works.

*Except the allocation of financial resources from the Government there is no other connection between the prosecution service and the Ministry of Justice in terms of financial and human resources, IT facilities etc.*

*The Swedish Prosecution Authority and the Swedish Economic Crimes Bureau have a joint platform for IT and some of the IT systems are used in common. The Swedish Prosecution Authority is responsible for the recruitment and training of all public prosecutors.*

5. Is the prosecution service independent from other institutions when implementing and managing its own budget?

*Yes it is.*

**SECTION II: Financial rules and regulations of the prosecution service**

6. Does the law governing the prosecution service include provisions on financial management and on the executive's obligation to provide it with the necessary infrastructure?

*Provisions on financial management etc. are not included in the law governing the prosecution service. Financial management ordinances and provisions for central government apply to the Prosecution Authority as to all government agencies in Sweden. There is no executive's obligation to provide it with the necessary infrastructure.*

7. Please describe how and when the budget of the prosecution service is managed (preparation, distribution of funds between the budget lines).

*The budget is prepared in the yearly planning and budgeting process which involve all management levels within the Prosecution Authority. Budget is delegated from the Prosecutor-General to all local public prosecution offices, to the development centres and to the departments at the office of the Prosecutor-General. Budget delegated to the departments at the office of the Prosecutor-General also include budget*

lines to cover the authority's joint and common costs for premises (rent, electricity and capital cost on investments), training of prosecutors and administrative staff, IT etc. Delegated budgets to the local public prosecution offices cover salaries and benefits for employees and running costs.

8. Is there a specific department within the prosecution service responsible for the management of resources?

*The finance department at the office of the Prosecutor-General coordinates the budget allocation and budget execution for the entire organization. The department is responsible for financial management, monitoring of financial outcome, forecasts, accounting, internal rules and guidelines etc.*

9. Is there a national and/or centralised IT system for managing, monitoring and evaluating the budget of the prosecution services? Does this system include a mechanism for increasing the efficiency of the resource management?

*The Prosecution Authority has a centralised IT system – Agresso –for accounting and for budget management and monitoring of financial outcome. The Agresso business system is used by most central government agencies in Sweden. The business system is an important tool for an efficient resource management. The business system gives easy access to consolidated financial outcome for management purposes.*

*The Prosecution Authority, like all central government agencies in Sweden, reports financial outcome monthly to the central government accounting system, Hermes. Hermes is a national IT system for managing and monitoring of the Swedish state budget. The system is also used for submitting forecasts to the Government on the expected total expenditure for the current year and future years.*

### **SECTION III: Resources of the prosecution service**

10. Please specify the amount of budget of the prosecution service for 2008, 2009, 2010 and 2011 (€ equivalent), indicating the distribution between staff expenditure and other types of expenditure.

EUR million	2008	2009	2010	2011
Appropriation from the Government	113	117	127	132
EUR million	2008	2009	2010	2011
Expenditure:				
Staff	90	94	106	107
Other	20	23	26	24
Total	110	117	132	131

1 EUR = app. SEK  
9,00

11. In your jurisdiction, what resources would you improve access to, and how would you do that (e.g. through partnership agreements, joint investigations, redistribution of resources etc.)?

*The Swedish Government emphasises increased efficiency and reform in administrative services and office property. The Prosecution Service Authority is assessing to what extent this can be improved through partnership with other government agencies in general and within the justice system in particular.*

12. Are the current or future budgets of the prosecution service affected by the 2009-2011 economic crisis?

*No effect on the current budget, but a lower economic growth will probably affect the state budget and the allocation of resources for the coming years.*

13. What instruments are used to allocate resources needed for the good functioning of the prosecution service?

*Every year (March 1st) the Prosecution Service Authority submits a proposal for financing its operations in the coming years to the Government. The proposal does not only include a proposal of funding but also describes the consequences if the requested resources are not allocated. As a part of the budget process within the Prosecution Authority the allocation of resources to the local public prosecution offices is based on a model where budget means are distributed in relation to the average number of received crime suspicions where different types of crime have different weights.*

14. Is there any connection between the budgets allocated to the prosecution service and to the judiciary or to law enforcement bodies?

*The courts and the Swedish Police Force are independent government authorities, separated from the prosecution service. The Ministry of Justice is responsible for the allocation of budget to all the government agencies in the judicial system.*

15. Do human resources of the prosecution service depend on other institutions of the judiciary (e.g. Judicial Council, National Schools of Clerks)?

*The Courts - Employment as a prosecutor requires Swedish court clerk merit rating obtained at a district or administrative court.*

16. In your jurisdiction, is there any mechanism of rapid reaction which could allow a quick redistribution of means (financial or human resources, logistics) between prosecution services, according to the needs of the system?

*At the Office of the Prosecutor-General there are four Directors of Public Prosecution with responsibility for co-ordination of the operative activities at the local public prosecution offices. The Directors have the possibility to redistribute budget means, staff or cases between the local offices. A formal decision can also be taken by the Prosecutor-General to redistribute budget means during the fiscal year.*

17. Does the General Prosecutor (or equivalent institution) have a specific budget for taking interim/temporary measures in situations when, within a certain prosecution service, human resources are insufficient?

*The Prosecutor General reserves a specific budget for interim/temporary measures if there is a great deal of uncertainty about the workload and/or other essential preconditions in a certain area.*

#### **SECTION IV: Budget for investigations**

18. What steps are required in order to obtain direct access to the resources needed for investigations? Please assess the period of time that elapses between submitting a request for resources and the moment when they are actually obtained.

*Resources for investigations are only allocated to the police. The prosecution service doesn't have direct access.*

19. Have you ever faced the risk that special investigative techniques (e.g. communication interceptions, legal-genetic expertise, computer search) could not be applied in due time because of insufficient resources? Have insufficient resources in general affected the performance of criminal investigation in normal cases?

*The budgetary resources of the Swedish Prosecution Authority are sufficient but limited. Temporary scarcity of investigators or other personnel can however occur due to both expected and unforeseen circumstances. In such situations, the prosecutor and the police have to make priorities among conflicting interests. A consequence thereof may be that the application of special investigation techniques, i.e. forensic examinations of computers, are delayed but not cancelled. What is said about special investigation techniques applies to criminal investigations in general. When such situations occur, the prosecutors make priorities in accordance with the principles described in question 23.*

20. Is the resource management performed by the prosecution services during their investigations controlled? Please specify.

*The individual prosecutor is responsible for the investigations led by him or her. The decisions made or the actions taken by the prosecutor in the course of an investigation can be tried for example by a superior*

prosecutor or in retrospect, by the Parliamentary ombudsmen (JO). Such review of the activities of the prosecutor is, however, conducted primarily from a legal standpoint and does not focus on the manner in which the prosecutor has managed the resources of the Swedish Prosecution Authority, the Police or any other government agency. Similarly, the review exercised by the courts through their judgments, primarily focuses on legal issues and only indirectly on the resource management of the prosecutor during the investigation that preceded the indictment.

The resource management of the Swedish Prosecution Authority in general is subject to review of separate government agencies, e.g. the Swedish National Audit Office (Riksrevisionsverket) and the Swedish Agency for Public Management (Statskontoret).

21. What is the resource management procedure when various agencies are involved in the investigation procedure (e.g. the police)?

*When the investigation is led by the prosecutor, chapter 23 Section 3 of the code of judicial procedure, provides that the prosecutor may request assistance by the police. In that capacity, the prosecutor hence calls for the use of resources of another authority. Although the prosecutor can invoke the resources of the police, the prosecutor neither controls nor is responsible for the management of police resources. The prosecutor, however, constantly strive to combine the focus on achieving work of high quality with an efficient resource management. What is said about the Police applies to other investigative authorities as well, e.g. the Swedish Customs.*

*The Swedish Prosecution Authority also participates in the efforts to fight organized crime within the Operative Council (sv. Operativa rådet). The Operative Council, in which eight national agencies take part, makes decisions regarding the national operative direction in the struggle against organized crime and is authorized to deploy specially assigned police resources, so called action groups, in all parts of the country.*

22. Is it possible for prosecutors to specialise in certain type of crimes? If so, what kind of effect it has had on the results of the prosecution service?

*The Swedish Prosecution Authority primarily operates through*

- 1. 32 public prosecution offices,*
- 2. three international public prosecution offices,*
- 3. one National Anti-Corruption Unit,*
- 4. one National Environmental Crimes Unit,*
- 5. one Prosecution Office for National Security, and*
- 6. one National Police-related Crime Office*

*The offices and units mentioned in sections 2-6 all specialize in specific crime fields, e.g. corruption and environmental crimes.*

*Within the 32 public prosecution offices, the prosecutors are to some extent specialized in specific types of investigations, such as crimes committed by young offenders and domestic violence. Large public prosecution offices are generally more often divided into separate specialized teams of prosecutors than the smaller ones. Even the smaller offices, however, often have specialists assigned to investigations of the abovementioned crimes.*

*Specialization in certain fields are considered an advantage in achieving both quality and improved efficiency. For the units mentioned under sections 2-6 above, the specialization enables increased international cooperation within for example Eurojust as well as sustainability in time consuming and complicated investigations.*

23. Are there areas of investigation that have priority access to financial or material resources? If so, how and by whom is this priority established?

*The priorities according to which the prosecutors operate are established primarily by the legislator, e.g. by establishing mandatory deadlines for finalizing investigations against young offenders.*

*Priorities are further established by the Prosecution Authority and set out in internal documents such as the annual general planning document and other operational guidelines.*

*Applicable laws, the annual general planning document of the Swedish Prosecution Authority and internal guidelines provide that investigations in which the suspect is being detained, investigations against young*

*offenders, investigations of crimes against children shall be prioritized by the prosecutors in that order before other investigations.*

*The actions decided in the Operative Council is prioritized by the cooperating agencies since special resources are assigned to those investigations.*

## **SECTION V: Description of the system of management by results**

24. Do you have a system of management by results? (Please specify.) If yes, is there any problem with this system ?

*Yes we do. The system is a basic performance management system where we set the long-term objectives, make a yearly plan on how to meet those objectives and describe how we intend to measure the results. As in all such systems it can be difficult to find result measures that correspond well with the actual goals. There is also a risk that what gets measured tends to be viewed as an objective rather than an indicator to monitor the results.*

25. What kind of objectives are set for the prosecution service, if such a system of objectives exists? Does your system use benchmarks of achieved results?

*At present there are no explicit externally imposed objectives for the Swedish Prosecution Authority, other than the general task which is to reduce criminality by ensuring that those who commit crimes are held responsible in an efficient and legally secure manner. However, in the annual appropriation directions, issued by the Ministry of Justice, a number of statistics and other types of operations information are defined, which are to be accounted for in the annual report. These indicate what legal areas are prioritized by the government (e.g. juvenile delinquents). An additional number of specific tasks are also given in this document.*

*There are five general (internal) goals set for the Swedish Prosecution Authority:*

- 1. The quality in our casework is high and uniform, performed within a cost efficient operation*
- 2. The Prosecution Authority contributes to the legal development and a uniform legal practice*
- 3. The Prosecution Authority is an attractive employer*
- 4. The Prosecution Authority is viewed upon with high confidence*
- 5. The quality in internal management, support and services is high*

*These are measured by a number of statistics. No 1 is supported by statistics from the case management system, primarily case turnaround time and prosecution rate in prioritized legal areas. These statistics are published on the IntraNet and are used in extensive benchmark activities. To measure no 3 and 4 we use external material from recognized annual polls. No 2 and 5 are subject to internal evaluation.*

26. Which authority/authorities is/are competent to set these objectives?

*The Ministry of Justice has the possibility to include specific objectives in the annual appropriation directions, but at present this is not the case. The Prosecutor-General decides upon both budget and internal goals and objectives for the Prosecution Authority in the annual general planning document.*

27. What role does the prosecution service play in setting these objectives?

*The Prosecution Authority has a high degree of self-determination and sets its own objectives.*

28. Are the objectives coordinated between all authorities of the criminal procedure? If such coordination exists, how does it influence the activities of the prosecution service?

*The Ministry of Justice coordinates the annual appropriation directions within the judicial system. Some specific tasks are for instance given jointly to the Police and the Prosecution Authority and the prioritized legal areas are usually the same. On all levels, from the Prosecutor-General to local prosecution offices, there are regular meetings where co-ordination matters are discussed with the corresponding counterparts from the Police and the courts.*

29. Are there regulations in your system as regards the optimal workload within prosecution offices? if yes, is the allocation of resources correlated with the workload? Please provide examples.

*There is no formal regulation regarding limits or optimal work load, but the momentary case load per prosecutor is monitored closely. Those statistics are used as one basis for the re-distribution of budget means, staff or cases which the Directors of Public Prosecution can make.*

30. Is the setting of objectives based on a negotiation system?

*Not formally, but there are a number of opportunities for those responsible for operations to give feed-back on suggested objectives.*

31. Who are parties of the negotiations?

*The Directors of Public Prosecution conduct dialogues with the local chief prosecutors concerning budgets, activities and objectives.*

## **SECTION VI: Follow-up of results and reporting**

32. Please indicate if there are any national strategies implemented in your state regarding the resources allocated to the judicial system, including the prosecution service. If so, in what areas were these strategies developed? Please comment on the results of these strategies.

*National strategies that are central to the prosecution service are the Mobilization to combat organized crime, Youth offenders and Efficient exchange of information in the Criminal Justice system. The national efforts focused on Youth offenders have not rendered any additional resources. Organized crime and the improved exchange of information have included increased resources available to the judicial system.*

33. Is the attainment of objectives followed up yearly? How?

*Yes, in the annual report the Swedish Prosecution Authority, like all government agencies, reports back to the government on general performance, spending and other areas specified in the appropriation directions.*

*Internally, we closely (each month) monitor all objectives set in the annual general planning document.*

34. Have any reforms been implemented during the last 5 years aimed at increasing the budget of justice?

*For the years 2010-2012 the Swedish Parliament (Riksdagen) and the Government have decided on increases in the budget of justice.*

35. Is the prosecution service included in the government strategies for enhancing the efficiency of public institutions (e.g. e-governance, external financial audit)?

*Yes the prosecution service is included in government strategies for e-governance. All government agencies in Sweden are audited by the Swedish National Audit Office.*

36. How would you assess internal audit recommendations within the prosecution service?

*The Prosecution Authority has been governed by the ordinance on internal audit since 2010. The internal audit function was established the same year. The audits carried out during 2010 and 2011 have been valuable and most internal audit recommendations have been followed.*

37. Is the social impact of the prosecutors' activities evaluated? If yes, by whom?

*Yes, by the Swedish National Council for Crime Prevention (Brå), which functions as the Swedish Government's body of expertise, research and development within the judicial system.*

*An annual survey, **the Swedish Crime Survey**, is conducted by **Brå** of attitudes and experiences of the general population of Sweden regarding victimization, fear of crime and public confidence in the justice system.*

**SECTION I: Statut du ministère public dans l'administration publique**

1. Veuillez préciser quel est le statut du procureur et du ministère public dans votre pays. S'agit-il d'une institution autonome ? Si oui, comment cette autonomie est-elle garantie ?

Selon l'art. 16 al. 1 LOAP (Loi sur l'organisation des autorités pénales, LOAP, RS 173.71), le Ministère public de la Confédération s'administre lui-même. Il n'est soumis qu'au contrôle d'une autorité de surveillance élue par l'Assemblée fédérale (art. 23 al. 1 LOAP). Cette autorité de surveillance peut édicter des directives de portée générale sur la manière dont le Ministère public de la Confédération doit s'acquitter de ses tâches. En revanche, sont exclues toutes instructions dans un cas d'espèce relatives à l'ouverture, au déroulement ou à la clôture d'une procédure, relatives à la représentation de l'accusation devant le tribunal ou aux voies de recours (cf. art. 29 al. 2 LOAP). Cela permet d'assurer que le Ministère public de la Confédération ne soit pas instrumentalisé à des fins politiques ou autres et que son indépendance soit garantie dans chaque cas d'espèce.

2. L'activité du ministère public est-elle dirigée par le ministère de la justice ou par une autre autorité ? Si oui, comment ?

Le Ministère public de la Confédération ne répond qu'à l'égard de l'autorité de surveillance élue par l'Assemblée fédérale (art. 23 al. 1 LOAP). Elle comprend sept membres et est composée de la manière suivante:

- d'un(e) juge du Tribunal fédéral et d'un(e) juge du Tribunal pénal fédéral (art. 23 al. 1 lettre a LOAP);
- deux avocat(e)s inscrits dans un registre cantonal des avocats (art. 23 al. 2 lettre b LOAP);
- trois spécialistes qui n'appartiennent pas à un tribunal fédéral et qui ne sont pas inscrits dans un registre cantonal des avocats (art. 23 al. 2 lettre c LOAP).

L'autorité de surveillance fait rapport à l'Assemblée fédérale sur son activité (art. 29 al. 1 LOAP). Elle peut édicter des directives de portée générale à l'égard du Ministère public de la Confédération sur la manière dont ce dernier doit s'acquitter ses tâches. En revanche, sont exclues toutes instructions dans un cas d'espèce relatives à l'ouverture, au déroulement ou à la clôture d'une procédure, relatives à la représentation de l'accusation devant le tribunal ou aux voies de recours (cf. art. 29 al. 2 LOAP). Elle vérifie que les instructions sont respectées et, en tant que de besoin, prend des mesures à l'égard du Ministère public de la Confédération (art. 29 al. 3 LOAP).

L'autorité de surveillance peut exiger du Ministère public de la Confédération qu'il lui fournisse des renseignements et des rapports supplémentaires sur son activité et procéder à des inspections (art. 30 al. 1 LOAP). Les personnes que l'autorité de surveillance a chargées de demander des renseignements ou de procéder aux inspections ont accès aux dossiers de procédure dans la mesure où l'exécution de leur mandat l'exige (art. 30 al. 2 LOAP).

L'autorité de surveillance soumet à l'Assemblée fédérale, chambres réunies, la requête visant la destitution du procureur général et des procureurs généraux suppléants (art. 31 al. 1 LOAP). En cas de violation des devoirs de fonction, l'autorité de surveillance peut infliger un avertissement ou ordonner une réduction du salaire des membres du Ministère public de la Confédération élus par l'Assemblée fédérale (art. 31 al. 2 LOAP). L'autorité de surveillance soumet au Conseil fédéral son projet de budget et ses comptes ainsi que le projet de budget et les comptes du Ministère public de la Confédération. Le Conseil fédéral les transmet sans changements à l'Assemblée fédérale (art. 31 al. 4 LOAP). L'autorité de surveillance du Ministère public de la Confédération défend les projets des budgets et les comptes du Ministère public de la Confédération devant l'Assemblée fédérale (art. 142 al. 3 de la Loi fédérale sur l'Assemblée fédérale [LParl; RS 171.10]). L'Assemblée fédérale exerce la haute surveillance sur la gestion du Ministère public de la Confédération (art. 26 al. 1 LParl).

3. Quelle autorité est compétente pour créer des postes de procureur ?

Le Procureur général de la Confédération dirige le Ministère public de la Confédération (art. 9 al. 1 LOAP). Il est responsable, en particulier, de l'affectation efficace des ressources humaines ainsi que des moyens financiers et de l'infrastructure (art. 9 al. 2 lettre c LOAP). Les procureurs fédéraux de la Confédération et les procureurs fédéraux suppléants de la Confédération sont nommés par le procureur général pour une période de fonction de 4 ans (art. 20 al. 2 et 3 LOAP).

4. Veuillez indiquer s'il y a des relations entre le ministère public et le ministère de la Justice en ce qui concerne les ressources financières, les ressources humaines, les systèmes informatiques, etc. Si oui, veuillez en décrire le fonctionnement.

Le Ministère public de la Confédération s'administre lui-même (art. 16 al. 1 LOAP). Il constitue ses services et engage le personnel nécessaire (art. 16 al. 2 LOAP). Il tient sa propre comptabilité (art. 16 al. 3 LOAP). Le Ministère public de la Confédération couvre de manière autonome ses besoins en biens et prestations dans le domaine de la logistique (art. 18 al. 2 LOAP).

En tant que destinataire de prestations, le Ministère public de la Confédération reçoit les prestations informatiques tant de l'Office fédéral de l'informatique et des télécommunications (OFIT) ainsi que du Centre de services informatiques du Département fédéral de justice et police (CSI-DFJP). Dans le domaine des finances et de l'organisation du personnel, le Ministère public de la Confédération est assisté par le personnel spécialisé du Secrétariat général du Département fédéral de justice et police (SG-DFJP).

5. Le ministère public est-il indépendant des autres institutions en ce qui concerne l'exécution et la gestion de son propre budget ?

Le Ministère public de la Confédération s'administre lui-même (art. 16 al. 1 LOAP). Il constitue ses services et engage le personnel nécessaire (art. 16 al. 2 LOAP). Il tient sa propre comptabilité (art. 16 al. 3 LOAP). Chaque année, le procureur général soumet à l'Autorité de surveillance un projet de budget et les comptes à l'intention de l'Assemblée fédérale et fournit son rapport sur l'activité du Ministère public de la Confédération (art. 17 al. 1 LOAP). Le rapport contient notamment les informations sur l'utilisation des ressources humaines, des moyens financiers et de l'infrastructure (art. 17 al. 2 lettre d LOAP).

## **SECTION II: Règlements financiers du ministère public**

6. La loi régissant le ministère public comporte-t-elle des dispositions relatives à sa gestion financière et à l'obligation du pouvoir exécutif de mettre les infrastructures nécessaires à sa disposition ?

Le Ministère public de la Confédération s'administre lui-même (art. 16 al. 1 LOAP). Il constitue ses services et engage le personnel nécessaire (art. 16 al. 2 LOAP). Il tient sa propre comptabilité (art. 16 al. 3 LOAP). Le Ministère public de la Confédération couvre de manière autonome ses besoins en biens et prestations dans le domaine de la logistique (art. 18 al. 2 LOAP). Le procureur général de la Confédération est responsable, notamment, de l'affectation efficace des ressources humaines ainsi que des moyens financiers et de l'infrastructure (art. 9 al. 2 lettre c LOAP).

7. Veuillez décrire la procédure et le calendrier budgétaire du ministère public (préparation du budget, affectation des crédits).

Procédure de planification financière et budgétisation (budget 2013 et planification financière 2014-2016):

- Octobre 2011: Planification décompte interne des prestations Confédération à mars 2012 (Services pour hébergement, informatique, services, etc.)
- Mars 2012 : Elaboration du budget et du plan financier en tenant compte des instructions de la direction
- Mars 2012: Présentation du projet à la direction du Ministère public de la Confédération
- Mars 2012: Discussion du projet révisé avec l'AS MPC (autorité de surveillance du MPC)
- Avril 2012: Elaboration des rapports sur le budget et le plan financier
- Avril 2012 Révision du budget et présentation à l'AFF (Administration fédérale des finances)
- Octobre 2012: Présentation du budget (Commission des finances du Conseil national et du Conseil des Etats)
- Débat parlementaire et décision (éventuellement adaptations)
- Décembre 2012: Approbation du budget par l'AFF (Administration fédérale des finances)

8. Existe-t-il au sein du ministère public un service chargé spécialement de la gestion des ressources ?

L'Etat-major de gestion des ressources (EM-GR) est subordonné au procureur général de la Confédération en tant qu'Etat-major permanent (art. 2 du Règlement sur l'organisation et l'administration du Ministère public de la Confédération [RS 173.712.22]). Cet Etat-major dirige, au niveau de la direction et de manière centralisée, les ressources de la Police judiciaire fédérale (PJF) nécessaires à la conduite des procédures (art. 9 al. 5 du règlement).



9. Existe-t-il un système informatique national et/ou centralisé pour gérer, superviser et évaluer le budget du ministère public ? *Ce système comprend-il un mécanisme destiné à accroître l'efficacité de la gestion des ressources ?*

La Loi sur les finances de la Confédération (LFC; RS 611.0) du 7 octobre 2005 dispose explicitement qu'un système de contrôle interne (SCI) doit être créé, utilisé et surveillé au sein de l'administration fédérale. Les dispositions relatives au SCI s'appliquent – par analogie au champ d'application de la LFC – à l'Assemblée fédérale, y compris à ses services parlementaires, aux tribunaux fédéraux, au contrôle fédéral des finances, à l'intégralité des unités administratives de l'administration centrale de la Confédération ainsi qu'aux unités administratives de l'administration décentralisée de la Confédération qui ne tiennent pas leurs propres comptes.

Le SCI comprend tous les niveaux du traitement des données financières. En particulier, tous systèmes préalables et intersections avec des systèmes de traitement de données financières font partie intégrante du SCI de l'unité d'administration concernée. La tenue de la comptabilité a lieu selon les normes IPSAS (International Public Sector Accounting Standards).

Bien que le Ministère public de la Confédération ne fasse plus partie de l'administration fédérale proprement dite, le SCI est assuré au sein du Ministère public de la Confédération par le chef des finances désigné par le SG-DFJP.

### SECTION III: Ressources du ministère public

10. Veuillez indiquer le montant du budget du ministère public pour 2008, 2009, 2010 et 2011 (valeur en euros), en précisant la part des dépenses de personnel et des autres types de dépenses.

Budget du Ministère public de la Confédération 2008-2011:

	EUR Credit_2008	EUR Credit_2009	EUR Credit_2010	EUR Credit_2011 (Intégration OJIF)
Traitements et contributions employeur	17'020'000	19'448'000	19'331'000	26'374'000
Autres frais de personnel	232'000	290'000	305'000	407'000
Frais de détention, d'instruction et d'exécution de Peines	4'917'000	4'837'000	4'832'000	7'255'000
Frais de location	3'031'000	3'027'000	2'718'000	3'215'000
Frais d'informatique	2'063'000	2'047'000	1'233'000	3'061'000
Frais de conseils	174'000	192'000	192'000	233'000
Autres charges d'exploitation	864'000	948'000	1'654'000	2'006'000
Amortissements, fortune administrative	61'000	68'000	72'000	89'000
Dépôt provisions à terme échues	0	0	115'000	142'000
Placements mobiliers et immatériels, réserves	58'000	0	1'134'000	1'358'000
<b>Total frais et investissements</b>	<b>28'420'000</b>	<b>30'857'000</b>	<b>31'586'000</b>	<b>44'140'000</b>
Emoluments				-125'000
Rétributions	-50'000	-50'000	-50'000	-93'000
Valeurs patrimoniales confisquées	-833'000	-417'000	-417'000	-833'000
Autres recettes	-25'000	-25'000	-25'000	-28'000
<b>Total recettes</b>	<b>-908'000</b>	<b>-492'000</b>	<b>-492'000</b>	<b>-1'079'000</b>
<b>Total général</b>	<b>27'512'000</b>	<b>30'365'000</b>	<b>31'094'000</b>	<b>43'061'000</b>

11. Dans votre pays, quelles sont les ressources auxquelles vous amélioreriez l'accès et de quelle manière le feriez-vous (accords de partenariat, enquêtes communes, réaffectation des ressources, etc.) ?

Un renforcement de la coordination avec les cantons est actuellement à l'étude.

12. Les budgets en cours et à venir du ministère public sont-ils touchés par la crise économique de 2009-2011 ?

Non, Comme cela résulte des chiffres du budget (cf. ci-dessus, ch. 10), il n'y a pas eu de réduction des crédits pour les années 2009 – 2011.

13. Quels sont les instruments utilisés pour affecter les ressources nécessaires au bon fonctionnement du ministère public ?

Cf. ci-dessus, ch. 8

14. Y a-t-il des liens entre le budget du ministère public et celui de la justice ou de la police ?

Non. Le Ministère public de la Confédération s'administre lui-même (art. 16 al. 1 LOAP). Il constitue ses services et engage le personnel nécessaire (art. 16 al. 2 LOAP). Chaque année, le procureur général soumet à l'Autorité de surveillance un projet de budget et les comptes à l'intention de l'Assemblée fédérale (art. 17 al. 1 LOAP).

15. Les ressources humaines du ministère public dépendent-elles d'autres institutions judiciaires (Conseil judiciaire, Ecole nationale d'administration, par exemple) ?

Cf. ci-dessus, ch. 14.

16. Le Procureur général ou l'institution correspondante disposent-ils d'un budget particulier pour prendre des mesures temporaires lorsque les ressources humaines sont insuffisantes dans un service donné du ministère public ?

Le Ministère public de la Confédération ne dispose pas d'un budget particulier, supplémentaire pour des pénuries temporaires de personnel qui ne seraient pas déjà incorporées dans le processus du budget. Il existe néanmoins une possibilité limitée de transfert de crédit entre les postes 'traitements' et 'autres frais de personnel'. Si, contre toute attente, de plus amples moyens devaient être mise à disposition, il existe la possibilité des 'suppléments de crédits' et de 'dépassements de crédits', qui devront cependant être soumis à l'Assemblée fédérale pour approbation.

17. Existe-t-il, dans votre pays, un mécanisme de réaction rapide permettant une réaffectation rapide des ressources (financières, humaines et logistiques) entre les services du ministère public en fonction des besoins du système ?

Lorsque des frais ou des dépenses d'investissement pour lesquelles aucun crédit ou aucun crédit suffisant n'a été autorisé dans le budget ne peuvent être ajournés, le Conseil fédéral peut les arrêter avant l'ouverture d'un crédit supplémentaire par l'Assemblée fédérale. Il requerra au préalable l'assentiment de la Délégation des finances (art. 34 al. 1 LFC). Le Conseil fédéral soumet à l'approbation de l'Assemblée fédérale les charges et dépenses d'investissement urgentes qu'il a décidées, avec l'assentiment de la Délégation des finances, avec le prochain supplément du budget ou, lorsque cela n'est plus possible, il les lui soumet à titre de dépassement de crédit avec le compte d'Etat pour approbation subséquente (art. 34 al. 2 LFC). En vertu de l'art. 34 al. 3 LFC, il peut soumettre à l'approbation ultérieure de l'Assemblée fédérale les charges ou dépenses d'investissement urgentes arrêtées sans l'assentiment préalable de la Délégation des finances lorsque les conditions suivantes sont réunies:

- a. un dépassement de crédit est nécessaire; et
- b. le montant n'excède pas 5 millions de francs dans le cas particulier.

Si la charge ou la dépense d'investissement dépasse 500 millions de francs et que, en vue de son approbation ultérieure, la convocation de l'Assemblée fédérale en session extraordinaire est demandée dans le délai d'une semaine après l'assentiment de la Délégation des finances, cette session aura lieu dans la troisième semaine qui suit le dépôt de la demande de convocation (art. 34 al. 4 LFC).

#### **SECTION IV: Budget des enquêtes**

18. Quelles sont les mesures nécessaires pour avoir directement accès aux ressources requises pour les enquêtes ? Veuillez évaluer le temps écoulé entre le dépôt d'une demande de ressources et le moment où celles-ci sont effectivement reçues.

Avant d'ouvrir une nouvelle procédure, l'État-major opérationnel du Procureur général (EMO PG) s'assure que l'affaire relève de la compétence des autorités de poursuite pénale de la Confédération. Si la compétence facultative est retenue, il s'assure que la procédure concernée s'inscrit dans la stratégie du MPC et que les ressources nécessaires sont disponibles (art. 8 al. 6 du règlement).

Les demandes d'attribution de ressources doivent être transmises en original (avec annexes) à l'Officier d'enquête (Ofe) en chef. De plus, une copie de la demande (sans annexes) doit être transmise au secrétariat de l'EM GR. De même, toutes communications ultérieures à l'Ofe en chef doivent être communiquées au secrétariat de l'EM GR. La direction de la procédure informera l'EM GR lorsque le mandat concerné aura été accompli afin que l'EM GR sache que les ressources attribuées seront libérées entièrement ou du moins pendant un certain temps. L'EM GR se réunit une fois par semaine (les mardis après-midi). A la suite de la réunion de l'EM GR, les directeurs de procédure concernés seront informés de la décision par courrier électronique. Dans les cas urgents, l'Ofe en chef pourra être contacté directement par téléphonie ou par courrier électronique; par la suite, il faudra toujours également informer le secrétariat de l'EM GR (cf. manuel d'organisation, chiffre 3.2).

19. Avez-vous déjà couru le risque de ne pas pouvoir utiliser des techniques d'enquête spéciales (par exemple interception des communications, expertise génétique, perquisition informatique) en temps voulu faute de ressources suffisantes? Le manque de ressources a-t-il affecté l'efficacité des enquêtes pénales dans des affaires normales ?

Non

20. La manière dont les services du ministère public gèrent leurs ressources pendant les enquêtes fait-elle l'objet d'un contrôle ? Veuillez en préciser la nature.

Le directeur de la procédure compétent décide d'entente avec l'EM GR de l'attribution de ressources spécifiques aux procédures concernées.

21. Quelle est la procédure de gestion des ressources appliquée lorsque diverses instances sont impliquées dans la procédure d'enquête (la police, par exemple) ?

L'EM GR est la plate-forme commune du Ministère public de la Confédération et de la Police judiciaire fédérale pour discuter des problèmes concrets opérationnels dépassant les procédures individuelles. Au sein de l'EM GR, l'utilisation des moyens de police est déterminée d'entente avec les représentants de la PJF. Ainsi, l'EM GR dirige, au niveau de la direction et de manière centralisée, les ressources policières du Ministère public de la Confédération et de la Police judiciaire fédérale nécessaires à la conduite des procédures.

22. Est-il possible pour les procureurs de se spécialiser dans un certain type de crimes ? Si oui, quels ont été les effets d'une telle spécialisation au niveau du ministère public **[texte alternatif : sur les résultats achevés par le ministère public]** ?

Le domaine opérationnel du Ministère public de la Confédération est réparti dans les sections protection de l'état et états de fait particuliers, terrorisme et criminalité organisée, et criminalité économique. Chacune de ces sections est matériellement compétente pour la poursuite d'infractions spécifiques. En conséquence, les procureurs attribués aux sections correspondantes sont spécialisés dans la poursuite d'infractions déterminées et disposent des connaissances spécialisées correspondantes.

23. Certains domaines d'enquête ont-ils un accès prioritaires aux ressources financières ou matérielles ? Si oui, qui détermine ces priorités et de quelle manière ?

Dans le cadre de la détermination de sa stratégie criminelle, le Ministère public de la Confédération a procédé à une fixation de priorités et d'accents parmi les champs d'infractions qui entrent dans sa compétence. Cette concentration sur certaines tâches clés et leur limitation à la lutte contre la grande criminalité transfrontalière se reflète également dans l'attribution des ressources financières, personnelles et matérielles disponibles.

#### **SECTION IV: Descriptif du système de gestion par résultats**

24. Disposez-vous d'un système de gestion par résultats ? (Veuillez le décrire.) Si oui, y a-t-il des problèmes avec ce système ?

Non. Le Ministère public de la Confédération ne connaît pas de système d'administration/gestion orienté sur le résultat. Ce n'est que dans le cadre de la détermination de la stratégie criminelle qu'il y a une pondération, respectivement une priorisation des divers champs de délits.

Le Procureur général en coordination avec les Procureurs fédéraux en chef répartit les dossiers en fonction de la charge de travail afin d'optimiser l'efficacité de leur traitement.

25. Dans la mesure où un tel système existe, quels objectifs sont fixés pour le ministère public ? Votre système utilise-t-il des benchmarks pour les résultats achevés ?

Cf. ci-dessus, ch. 24

26. Quelle autorité est compétente pour fixer ces objectifs ?

Cf. ci-dessus, ch. 24

27. Quel est le rôle du ministère public dans le processus de fixation de ses objectifs ?

Cf. ci-dessus, ch. 24

28. Ces objectifs sont-ils coordonnés entre toutes les autorités compétentes de la procédure pénale ? Si une telle coordination existe, comment influence-t-elle les activités du ministère public ?

Cf. ci-dessus, ch. 24

29. Existe-t-il dans votre pays une réglementation régissant la charge de travail optimale des services du ministère public ? Si oui, l'affectation des ressources est-elle liée à la charge de travail ? Veuillez donner des exemples.

Non, il n'existe pas de réglementation concernant une répartition optimale du travail au sein des services du Ministère public de la Confédération.

30. La fixation des objectifs est-elle basée sur un mécanisme de négociation ?

Cf. ci-dessus, ch. 24

31. Qui participe à une telle négociation ?

Cf. ci-dessus, ch. 24

## **SECTION VI: Suivi des résultats et établissement des rapports**

32. Veuillez indiquer si des stratégies nationales ont été suivies dans votre pays en ce qui concerne les ressources du système judiciaire. Si oui, dans quels domaines ces stratégies ont-elles été développées ? Veuillez en commenter les résultats.

En décembre 1999, le parlement fédéral a adopté le projet d'efficacité (mesures tendant à renforcer l'efficacité et la légalité de la poursuite pénale, ProjEff). Dans le contexte de cette mise en œuvre, entrée en vigueur en 2002, et des programmes d'allègement budgétaires 2003 de la Confédération qui ont conduit à un arrêt de l'engagement de personnel jusqu'à la fin 2006, le chef de l'époque du DFJP a ordonné une analyse de la situation. En 2006, il a mandaté un groupe de projet, avec la collaboration de l'ancien conseiller d'Etat Uster, de procéder à cette analyse (ProjEff 2). Les mesures en résultant ont été mises en œuvre jusqu'à la fin 2007; il en est également résulté la recommandation qu'il ne devait pas y avoir une augmentation des postes, mais qu'il fallait procéder à des mesures d'optimisation. Au mois de mai 2008, l'Office fédéral de la police (FEDPOL) a sollicité des postes supplémentaires. Cette requête a été rejetée par la Cheffe du DFJP. Elle a mandaté M. Uster de vérifier la mise en œuvre des mesures selon ProjEff 2 ainsi que la situation des ressources. Selon le mandat de la Cheffe du DFJP, le MPC et FEDPOL devaient mettre en œuvre cinq des recommandations du "rapport sur l'analyse de la mise en œuvre et des ressources dans le cadre du ProjEff2". Ces travaux ont pu être achevés largement en 2009 et la plupart des recommandations ont pu être mises en œuvre.

33. Y a-t-il un suivi annuel de l'atteinte des objectifs ? Comment se déroule-t-il ?

L'Autorité de surveillance, composée des membres élus par le Parlement fédéral, s'assure que le MPC travaille avec professionnalisme et efficacité.

Cf. Ordonnance de l'Assemblée fédérale du 1<sup>er</sup> octobre 2010 concernant l'organisation et les tâches de l'autorité de surveillance du Ministère public de la Confédération (RS 173.712.24) et Règlement de l'autorité de surveillance du Ministère public de la Confédération du 4 novembre 2010 (RS 173.712.243).

34. Au cours des cinq dernières années, des réformes visant à augmenter le budget de la justice ont-elles été adoptées ?

Pas de commentaires

35. Le ministère public est-il inclus dans les stratégies gouvernementales visant à améliorer l'efficacité des institutions publiques (par exemple e-gouvernance, audit financier extérieur) ?

Pas de commentaires

36. Comment évalueriez-vous les recommandations d'audit interne du ministère public ?

Pas de commentaires

37. L'effet social des activités du ministère public est-il évalué ? Si oui, par qui ?

Pas de commentaires

## Ukraine

Prepared answers to the questions are based on Constitution of Ukraine, Law "On Public Prosecution Service", Budget Code of Ukraine and other legislative acts of Ukraine.

It should be noted that currently there is the process of reforming the criminal justice system in Ukraine.

In this regard, the Action Plan for the duties and obligations of Ukraine resulting from its membership in the Council of Europe was approved by the decree of the President of Ukraine № 24 of January 12<sup>th</sup>, 2011.

The said document provides for alteration to the Law of Ukraine "On Prosecution" within a year after the adoption of new Criminal Procedural Code of Ukraine.

In February 2012 the draft of the Criminal Procedural Code of Ukraine was adopted by Verkhovna Rada of Ukraine in the first reading as a basis.

The future adoption of the new Criminal Procedure Code of Ukraine is closely connected with the simultaneous reform of the public prosecution system and the development of the new Law of Ukraine "On Public Prosecution Service".

### **SECTION I: Status of the prosecution services in the state administration**

*1. Please, describe the status of the prosecutor and the prosecutor's office in your country. Is it an autonomous institution? If so, in what way such autonomy is being guaranteed?*

According to its constitutional and legal status the public prosecution service of Ukraine does not belong to any of the power branches. Public prosecution service shall exercise its powers independently of any state authority (legislative, executive and judicial). The public prosecution service functions are regulated by the individual chapter of the Constitution of Ukraine (Chapter VII «Public Prosecution Service»), it means that performance of prosecution functions is an independent state activity.

In carrying out its powers public prosecution service interacts with all branches of state power system and plays an important role in ensuring the balance between them.

Article 123 of the Constitution of Ukraine stipulates that the organization system and activities of the Public Procuracy Authorities of Ukraine are determined according to the law.

Article 6 of the Law of Ukraine "On Public Prosecution Service" provides that public prosecution bodies is the unified centralized system, headed by the Prosecutor General of Ukraine, where there is subordination of lower prosecutors to the parent ones.

Article 13 of the above-mentioned law specifies that the system of Public Prosecution bodies bases oneself upon the Prosecutor General's Office, The Office of the Prosecutor of the Autonomous Republic of Crimea, prosecutor's offices of the cities of Kyiv and Sevastopol (within the meaning as Regional prosecutor's offices), city, district, inter-district, and other equivalent prosecutor's offices and military prosecutors. The bodies of the military prosecution service include regional military prosecutors' offices and the Military Prosecution Service of the Naval Forces of Ukraine (empowered as regional prosecutor's office), the garrison military prosecutor's offices (as city prosecution service).

The Prosecutor General's Office of Ukraine is the highest link in the system headed by the Prosecutor General. According to the Article 14 of the Law of Ukraine "On Public Prosecution Service" the structure of the Prosecutor General's Office of Ukraine and the rules for its units shall be approved by the Prosecutor General of Ukraine.

The unity of the public prosecution bodies is realised due to the unified objectives, functions, principles of organization and operations, the powers to detect law violations and the means to respond to them. The unity of the public prosecution system means that it functions as an independent central state authority.

The legal status of the prosecutor is guaranteed by the aggregate of rights and obligations specified by the Constitution of Ukraine, Law of Ukraine "On Prosecution" and under procedural legislation of Ukraine (Administrative Code of Ukraine, the Criminal Procedural Code of Ukraine, Civil Procedural Code of Ukraine) due of its function.

In accordance with Article 121 of Chapter VII of the Constitution of Ukraine the prosecution service of Ukraine constitutes a unified system that is entrusted with the following powers and duties:

- 1) the maintenance of public prosecution at trial;
- 2) representation of the individual or the State interests in court in cases determined by law;
- 3) supervision over compliance with legislation by the bodies conducting detective and search activities, inquest and pre-trial investigation;
- 4) supervision over legality of court decisions in criminal cases, as well as other actions of legal coercion related to restriction of personal freedoms.

In accordance with Paragraph 9 of Chapter XV of the Constitution of Ukraine "Transitional Provisions" the public prosecution service continues to perform the functions of supervision over the observance and application with legislation and the function of preliminary investigation until the enactment of laws regulating the activities of public authorities empowered to control the observance of laws is realised and the pre-trial investigation system is formed and the laws that govern its activities are enacted.

Public prosecutors may not belong to any political parties or movements. Moreover, prosecutors shall not be allowed to act as the members of commissions, committees and other collective bodies formed by the Councils and their executive bodies.

*2. Does Ministry of Justice or another agency supervise the activity of the prosecution? If so, in which way?*

None of the bodies of state authority and administration is authorized to perform the functions of control over the activities of the public prosecution bodies of Ukraine with regard to their legal status.

*3. Which body is responsible for the prosecutor's position?*

Prosecutor General's Office of Ukraine directs the work of prosecutors and monitors their activities.

Furthermore, the Prosecutor General of Ukraine issues the orders compulsory for the prosecution bodies, approves regulations and instructions in accordance with the laws of Ukraine.

In order to focus the supervisory work of the public prosecution bodies there are boards of Prosecutors' offices that shall simultaneously act as the advisory bodies and consider the most important issues relating to the observance over legality, rule of law, the activities of the prosecution service, execution of the orders of the Prosecutor General of Ukraine.

*5. Please indicate whether there is any interaction between public prosecution bodies and the Ministry of Justice or other public authority in respect of financial and human resources of information technologies. If so, please describe in what way this interaction operates.*

Any interaction between Ukrainian public prosecution bodies and the Ministry of Justice based on the unified financial, human resources and information technology tools is not available.

However, under Article 9 of the Law of Ukraine "On Public Prosecution Service" Prosecutor General of Ukraine, his deputies have the right to participate in meetings of Verkhovna Rada of Ukraine and its bodies, the Cabinet of Ministers of Ukraine, boards of ministries and other central executive bodies.

Under Article 20 of the said Law the prosecutor or his deputy when detecting violations of the legislation within their jurisdiction have the right to lodge a protest against the Acts issued by the Prime Minister of Ukraine, Cabinet of Ministers of Ukraine, of the Autonomous Republic of Crimea, ministries and other central executive bodies as well as decision and actions of any officials. When lodging a protest, the prosecutor shall raise the question on cancellation of the act or bringing it into compliance with the law as well as ceasing the illegal actions by the official, restoration of the right violated.

Under Article 6 of the Law of Ukraine "On Public Prosecution Service" the principle of transparency in the activities of prosecutors has been enshrined, under which they operate openly, inform the state authorities, community of the state of lawfulness and measures taken for its strengthening.

*5. Is public prosecution service independent of other institutions when using and managing its own budget?*

Under Article 52 of the Law of Ukraine "On Public Prosecution Service" it is provided that the financing of the public prosecution bodies is conducted at the expense of the State Budget of Ukraine. Therefore, on issues of funding public prosecution service shall interact with the Cabinet of Ministers of Ukraine, which is the supreme body of the executive authority and in accordance with paragraph 6 of Article 116 of the Constitution of Ukraine ensures the execution of the State Budget approved by Verkhovna Rada of Ukraine.

## **SECTION II: Financial rules and regulations of the prosecution service**

*6. Does the law governing the public prosecution body's activity include the regulations on financial management and commitments of the executive authority to provide the necessary infrastructure?*

According to Article 52 of the Law of Ukraine "On Public Prosecution Service":

- Financing of the public prosecution bodies at the expense of the state budget of Ukraine;
- Cost Estimates for the maintenance of the public prosecution bodies shall be approved by the Prosecutor General of Ukraine and within the allocations given he has the right to make alterations to it;
- Local community councils and their executive bodies shall provide the relevant premises under a lease to the public prosecution authorities on their territory;
- Public prosecution bodies are provided with transportation and material-technical means at the cost of State Budget of Ukraine in a centralized manner, as determined by the President of Ukraine;

- Remuneration for prosecutors, investigators, officials and other employees of the military prosecutor's offices shall be provided by the Ministry of Defense of Ukraine;
- Provision of military prosecution service with premises, security means, transport, communications, and other necessary equipment as well as provision of the personnel of the military prosecution with uniform conducted by the Ministry of Defense of Ukraine.

Cabinet of Ministers of Ukraine by its Decree of March 9<sup>th</sup>, 2006 № 268 "On Ordering the Structure and Conditions of Remuneration for the Employees of Executive Agencies, Prosecutors, Courts and Other Bodies" approved the levels of salaries and rises in wages for prosecutors.

*7. Please describe in what way and terms is the budget of the prosecution service being conducted (preparing of the draft, distribution of funds between budget lines).*

According to Sub-clause 1 of Paragraph 2 of Article 22 of the Budget Code of Ukraine, Prosecutor General's Office of Ukraine in terms of the rights entrusted with acts as the main manager of budgetary allocations determined by the State Budget of Ukraine. Prosecutor General's Office of Ukraine determines the network of spending units lower, distribute and communicate to them in due course, budget allocations.

Prosecutor General's Office of Ukraine in accordance with paragraph 5 of Article 22 of the Budget Code of Ukraine is entrusted with the right to:

- 1) develop plans and activities for the planned and next scheduled two budget periods;
- 2) organize and provide on the basis of the activity plan and indicative budget figures making a draft of the budget and the budget request projected for the next scheduled two budget periods and to submit them to the Ministry of Finance;
- 3) receive allocations through his approval of the State Budget Law of Ukraine; to decide on the delegation of the powers on execution of budget program to the subordinate spending units, to distribute and provide them in due course with budgetary appropriations;
- 4) approve the estimates of costs for subordinate spending units;
- 5) develops and approves the passports of budgetary programs and makes reports on their performance, provides with analysis of the budget programs;
- 6) manage budgetary funds within his budget authorities established to him and efficient budget programs by providing with efficient, effective and special-purpose use of budgetary funds, organization and coordination of work of the subordinate spending units in the budget process;
- 7) exercise internal control over completeness of revenues, taking budgetary commitments by the subordinate spending units and their spending of the budget funds;
- 8) ensure the organizing and conducting the bookkeeping, making and submission of financial and budgetary reporting according to the procedure established by law;
- 9) provide access to information on the budget in accordance with the law.

*8. Is there a special unit (department) within the public prosecution body, which is responsible for resource managing?*

The Department of Finance and Accounting of the Prosecutor General's Office of Ukraine is an independent department within the organizational structure of the Prosecutor General's Office of Ukraine, which is entrusted to ensure the implementation of the functions of the principal manager on the issues of planning, financing and execution of the budgets established for the public prosecution bodies of Ukraine, reporting on the state budget implementation and supervision over the compliance with the budget legislation and monitoring over special-purposefulness and efficiency of the use of financial, material (intangible), IT and human resources, preservation of property of the public prosecution bodies in Ukraine.

*9. Is there national and / or centralized information technology system on management, monitoring and evaluation of the budget of the public prosecution authorities? Does this system include a mechanism to increase the efficiency of resource management?*

There is no available national or centralized information technology system on management, monitoring and evaluation of the budget of the public prosecution authorities in Ukraine.

Prosecutor General of Ukraine in accordance with:

- Article 20 of the Budget Code of Ukraine at all stages of the budgetary process within its authority shall assess the efficiency of budget programs, which includes measures for monitoring, analysis and control of special-purposeful and efficient use of public funds. Evaluating of the effectiveness of budgetary programs on the basis of analysis of the efficiency figures the budgetary programs, as well as other information included in the budget requests, the estimates of costs, budget program passports, reports of execution of budgets and execution reports under the passports of budgetary programs;
- Article 58 of the Budget Code of Ukraine and the Law of Ukraine "On Accounting and Financial Reporting in Ukraine" provides submitting the cumulative quarterly and annual financial and budgetary reporting to the State Treasury of Ukraine, the Chamber of Accounts and the Ministry of Finance of Ukraine.



### SECTION III: Resources of the prosecution service

10. Please indicate, the amount of budgetary appropriations for the public prosecution authority in 2008, 2009, 2010 and 2011 (in euros) with the distribution of costs between wages for employees and other types of expenses.

*Analysis of budgetary appropriations for prosecution bodies in 2008-2011:*

	Total		Among them the expenditures allocated for:			
	thous. (in UAH)	thous. (in euros)	consumption		development	
			thous. (in UAH)	thous. (in euros)	thous. (in UAH)	thous. (in euros)
<b>2008</b>	<b>1 139 188, 9</b>	153540,7	1 095 584, 9	147663,7	43 604, 0	5877,0
<b>2009</b>	<b>966 985, 0</b>	89078,2	946 963, 7	87233,9	20 021, 3	1844,3
<b>2010</b>	<b>1 226 161, 7</b>	107098,7	1 216 361, 7	106242,7	9 800, 0	856,0
<b>2011</b>	<b>2 270 000, 0</b>	214695,0	2 107 234, 9	199300,8	162 765, 1	15394,2

11. Which resources would you like to improve the access to within your competence, and in which way would you do that (e.g. by concluding partner agreements, conducting shared investigations, reallocating resources etc.)?

The promptness of financing of the expenses from the general fund of public money, in accordance with the approved fund allocation plan, as well as simplification of expenses deployment according to budget programs, and increase of development expenses by means of reducing the consumer spending, must be improved.

12. Did the economic crisis of 2009-2011 affect the current and future budgets of prosecution service?

Global economic crisis caused reduction of financing of the prosecution service of Ukraine.

13. Which tools are used to allocate resources which are required for appropriate operating of prosecution service?

In order to allocate financial resources, the prosecution service turns to relevant calculations and verification in terms of their deduction with the purpose of providing appropriate financial means and independent complying with official duties by prosecutors and investigators, as well as securing skilled personnel.

14. Is there any link among budgets allocated for prosecution service, judiciary and law enforcement authorities?

There is no link among budgets allocated for prosecution service, judiciary and law enforcement authorities.

15. Do prosecution service resources depend on other institutions of judiciary (e.g. Council of Judges, National School for Secretaries)?

Prosecution service resources do not depend on other institutions of judiciary.

16. Is there any mechanism of prompt response within your competence which could allow a prompt deployment of means (financial or human resources, material support) among prosecution services according to the needs of the system?

Deployment of financial resources is provided by the Prosecutor General's Office of Ukraine as a central administrator of budgetary funds, within established budgetary competence, and provides an effective, efficient and appropriate application of budgetary funds by subordinate budgetary administrators, in accordance with the provisions of Ukrainian legislation.

17. Does the Prosecutor General's Office of Ukraine (or equivalent institution) have a specific budget to take provisional measures in situations when there are insufficient human resources within certain prosecution service?

A specific budget for aforementioned measures is not provided in the Prosecutor General's Office of Ukraine.

### SECTION IV: Budget for investigations

**18.** Which steps are to be done in order to receive a direct access to resources which are necessary for investigations? Please, evaluate the lapse of time passing from the moment of submission of application for providing resources up to the date when they are received in fact.

**19.** Have you ever faced the risk when special investigation technologies (e.g. information capturing in communications channels, forensic genetic examination, computer search) could not be applied in time due to insufficient resources? Did insufficient resources affect criminal proceedings in the simple cases?

**20.** Is the management of resources that is conducted by prosecution services during their investigations inspected? Please, outline.

**21.** Which is the procedure of resources management when various institutions (e.g. police) are involved in the investigation process?

**Answers to the questions 18-21.**

There is no special budget for investigations in the prosecution services provided by current legislation of Ukraine.

**22.** Can prosecutors be qualified in certain types of crimes? If so, how did it affect the results of prosecution service activity?

Paragraph 4.1 of the Order of Prosecutor General of Ukraine dated 19.09.2005 No.4 рн "On organization of procuracy supervision over law observance by agencies which conduct inquiry and pretrial investigation" provided introduction of investigators' specialties with the purpose of improving the efficiency of prosecution service investigative branch activity.

Application of such specialty promotes the promptness, comprehensiveness, amplitude and objectiveness of criminal cases investigation.

**23.** Are there specific areas of investigation which have prioritized access to the financial and material resources? If so, how and who establishes such priority?

Since there is no specific budget provided for investigations in Ukrainian prosecution services, there are no specific areas of investigation with prioritized access to the financial and material resources.

**SECTION V: Description of the system of management by results**

**24.** Do you have the result-based management system? (Please, classify). If so, are there any problems with this system?

With the purpose of raising the level of prosecution service activity organization, various forms of statistical reporting are applied. The procedure of their forming and the terms of submitting reports to the superior prosecutor's office are determined by relevant orders of Prosecutor General of Ukraine (or orders which are joint with other law enforcement authorities), as well as their approved specifications.

Reporting record shows actual (quantified) results of prosecutor's and investigator's work during respective reporting time period (month, quarter, year) which outline its effectiveness taking into account the legitimacy in the region.

With the purpose of prompt, proved and full reflection of results of prosecutors and investigators' work, Prosecutor General of Ukraine by his order dated 28.12.2011 No.123 provided a computer software network "Unified system of statistics and analysis of Ukrainian prosecution services work" which is used by Ukrainian prosecution services starting from the beginning of the current year.

**25.** Which types of purposes are set before prosecution service, if such system exists? Does your system use indicative figures of achieved results?

Paragraph 21 of the Order of Prosecutor General of Ukraine dated 26.12.2011 No.1 рн "On Ukrainian prosecution services work organization" provided that the following are admitted as the principal criteria of assessment of effectiveness of Ukrainian prosecution services activity: a compliance with Ukrainian Constitution and laws when accomplishing procuracy powers, a provision of appropriate organization of work, a completeness and a promptness of measures taken to eliminate violations of legitimacy, a real restoration of people's rights and freedoms and lawful interests of the state, a compensation for caused losses, and bringing of the accused to liability established by law. The assessment of effectiveness of prosecution services work based only on quantified figures is not admissible.

Prosecution services activity is assessed integrally in the platitude of professional solution to the issues that belong to the prosecutor's office competence together with statistical data which describe work quality and may be objectively put in comparison.

**26.** Which authority (ies) has powers to establish such purposes?

**27.** Which role does prosecution service play in establishment of such purposes?

**Answers to the questions 26, 27.**

Prosecutor General of Ukraine directs the work of prosecution service and controls their activity, as well as gives orders and instructions obligatory for prosecution services, and approves provisions and guidelines.

Branch-based orders specify tasks and priorities of prosecution activity according to current legislation.

With the purpose of directing prosecution services activity, the prosecution boards as advisory authority operate.

Decisions of the Prosecutor General's Office Board in required cases are implemented by orders of Prosecutor General of Ukraine.

**28.** *Are these targets coordinated among all authorities of criminal process? If such coordination exists, how does it influence the prosecution service activity?*

In accordance with Article 10 of Ukrainian Law "On Prosecution Service", Prosecutor General of Ukraine and his subordinate prosecutors coordinate the activity of all law enforcement authorities of Ukraine related to the fight against crime.

**29.** *Are there any instructions in your system relative to appropriate loading within prosecutor's offices? If so, is allocation of resources correlated with loading?*

The work of Ukrainian prosecution services is organized under territorial and functional (branch) principles.

Delimitation of powers among prosecution services of certain directions is determined by branch-based orders of Prosecutor General of Ukraine.

Determination of appropriate structure, staff number and appropriate distribution of duties between management and subordinate employers of prosecution service is the most important factor in organization and management.

Staff number of prosecutor service is developed by the Prosecutor General's Office of Ukraine, complying with efficient correlation of managing officials, prosecutors, investigators and public officials.

When distributing functional duties among employers, the academic background, practical experience, individual inclinations and skills of the employments are taken into account.

**30.** *Are the targets established on the basis of negotiation system?*

**31.** *Who is the participant of these negotiations?*

**Answer to the question 30, 31.**

The current legislation does not provide the building up of purposes for the prosecution service based on negotiation system.

At the same time, with the purpose of coordination of activity against crime, pursuant to Article 10 of Ukrainian Law "On Prosecution Service", the prosecution service is empowered to organize coordinating meetings, working groups, as well as to take part in organization of meetings of Presidential Coordinating Committee against Organized Crime of Ukraine.

The participants of aforementioned coordinating meetings may be authorities of the interior, Security Service authorities, Tax Police authorities, Customs Service authorities, Military Service of Law Order attached to the Armed Forces of Ukraine and other law enforcement authorities.

## **SECTION VI: Follow-up of results and reporting**

**32.** *Please, indicate whether specific national strategies are applied in your state towards resources allocated for judicial system, including prosecution service? If so, within which areas are these strategies developed? Please, comment on results of application of these strategies.*

In Ukraine, prosecution service is not a part of judiciary authorities, and accomplishes its powers independently from public authorities. The answer to this question is out of competence of prosecution service.

**33.** *Is achievement of purposes inspected annually? In which way is it carried out?*

The procedure of assessment of effectiveness of prosecution service work is set forth in the answers to the questions 24, 25.

**34.** *Were some reforms conducted during 5 last years, directed at increase of budget of justice?*

As it was mentioned before, prosecution service is not a part of judiciary, and in this context, the prosecution service budget is not connected with the budget of judiciary.

**35.** *Is prosecution service included in public strategies for enhancing effectiveness of public institutions (e.g. electronic management, external financial control)?*

Ukrainian prosecution service is not included in public strategies for enhancing the effectiveness of public institutions.

For example, the external financial control and the examination of financial and economic activity of public institutions, according to paragraph 4 of Article 26 of Budget Code of Ukraine, are conducted by the Audit Chamber – with regard to control over application of funds of the state budget of Ukraine, and by Main Department for Control and Audit of Ukraine – in accordance with its powers, established by law.

At the same time, Ukraine prosecution service supervises over observance and appropriate application of laws by all public authorities, that influences the legitimacy and functioning of public authorities.

**36.** *How would you define recommendations on internal control within prosecution service?*

Control over, as well as organizational and methodical management of activity of subordinate prosecutors' offices are entrusted on administrations of the Prosecutor General's Office of Ukraine and regional prosecutors' offices.

**37.** *Is there any assessment of the impact of prosecutors' activity on the society? If so, who conducts such assessment?*

According to Article 2 of Ukrainian Law "On Prosecution Service", Prosecutor General of Ukraine at least annually informs the Verkhovna Rada (the Parliament) of Ukraine on the state of legitimacy.

With the purpose of providing observance of publicity principle, prosecution services also inform the government and the public about the state of legitimacy and measures of its enhancement, following the rights of citizens and legal entities. Press publications promote forming the image of prosecution service in the society.