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**CONSULTATIVE COUNCIL OF EUROPEAN PROSECUTORS
(CCPE)**

**Questionnaire with a view of the preparation of Opinion No. 7 on the management of
the means of the prosecution services**

Reply from Montenegro

SUPREME STATE PROSECUTOR'S OFFICE

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:
 - organize the work of state Prosecutor's Office according to the Rules of Procedure of the State Prosecutor's Office.
 - action under the complaints and petitions;
 - operation of the Registry and archives;
 - keeping record
 - make other actions related with proper operation of prosecution administration.

The Ministry of justice is responsible for:

- 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.
 - prescribe the form, manner, procedure and records of official identifications card of State Prosecutors and Deputy State Prosecutors;
 - adopt other acts relevant to the work of State Prosecutor's Office (Article 102 Law on State Prosecution)
3. 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.
 4. Answer on the question 2. include this question.
 5. 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.
 6. 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.
 7. ...
 8. Accountancy of State Prosecutor's Office performs accounting service related to the planning, monitoring, implementation and preparation of a report on the budget.
 9. 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.
 10. Approved budget of the State Prosecutor's Office:
 - 2008. – 4.998.279 eur

- 2009. – 4.538.776 eur
 - 2010. – 5.176.985 eur
 - 2011. – 5.364.839 eur
 - 2012. – 5.704.697 eur
11. State Prosecutor's Office as unique and independent organ should have special budget for which deposit 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).
 12. European crises 2009 – 2011 had influence on State Prosecution budget.
 13. For normal functioning of State Prosecutor's Office is provided workspace that was missing an which is equipped with necessary technical and office equipment and strengthened the administrative capacity of state Prosecutor's Office.
 14. 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.
 15. 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.
 16. There are no possibility for redistribution of financial funds between some State Prosecutor's Office.
 17. 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.
 18. 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.
 19. State Prosecutor's Office has not had problems in securing necessary funds to perform special investigation techniques and measures because the human recourses is provided, which was lacking for such purposes, and there is an possibility to engagement experts in inquest.
 20. Management of resources for investigations is regulated by the mechanisms of internal control in the State Prosecutor's Office.
 21. When the police and other state organs are involved in investigation, they coasts are regulated and determined in the budget those organs.
 22. 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.

23. In investigation cases, especially the more complex and extensive in proving proces, carry out assessments of financial and material resources.
24. 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.
25. The system of goals for State Prosecutor's Office is in Constitution and in Law on State Prosecution and:
 - State Prosecutors prosecute perpetrators of crime and other punishment acts;
 - lodge legal remedies against courts decision, request for the protection of legality against final judgments, if the law has been violated,
 - performed function based on Constitution, law and ratified contracts,
 - in work they are autonomous and independent,
 - function of State Prosecutor is performed in public interest to ensure application of law, respecting and protecting human rights and freedom,
 - function of State Prosecutor shall be performed impartially and objectively,
 - State Prosecutor in exercise of the function adhere to the Constitution, law and State Codes of Ethics,
 - work of State Prosecutor's Office is public unless something different is written in the law,
 - State Prosecutor must truly and completely determine the facts which are important for the adoption of a lawful and proper decision,
 - 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,
 - State Prosecutor are required to abide by the principle of legality of prosecution.
26. 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.
27. Answer as in question 25.
28. 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.
29. 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.
30. ...
31. ...
32. 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.

33. Achievement of objectives is monitored through the annual strategic and analytical reports on the work.
34. Try implementing of reforms in State Prosecutor's Office, increased the budgets funds for the operation of organ.
35. 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.
36. State Audit Office recommendations are aimed to increase the efficiency of the management of funds intended for State Prosecutor's Office.
37. 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.