

**SLOVENIAN ANSWERS
TO THE BUREAU OF THE CCPE QUESTIONNAIRE:
“Role of the public prosecution service outside the field of criminal justice”**

PART I

1. Does the prosecution service of your country have any competencies outside the field of criminal justice?

Yes, it does have some competencies in civil and administrative matters.

2. a. If so, what are these competencies (with regard to, for example, administrative, civil, social and commercial law and/or the functioning and management courts)?

Civil law: public prosecutor can file one of extraordinary judicial remedies in public interest on the proposal of parties. Other than that, public prosecutor has some minor competencies according to the laws mentioned in answer to question 6.b.

Administrative law: in case of violation of public interest, public prosecutor can file ordinary and extraordinary legal remedies. Other than that, public prosecutor has some minor competencies according to the laws mentioned in answer to question 6.b.

b. Please indicate the background explaining their existence.

These competencies are an exemption and represent minor part within public prosecutor's competencies in our country. Vast majority of public prosecutor's competencies are in the field of criminal justice. The main reason for the competencies outside the field of criminal justice is to guard public interest, especially by contributing to the unification of judicial practice.

c. Please indicate the role played by the public prosecutor in exercising these competencies: advisory role - ex officio or upon request -, supervisory role or decision-making role.

In all these cases public prosecutor has supervisory role (he represents public interest).

d. Where public prosecutors have decision-making powers, can their decisions be challenged by any legal remedy? Please indicate the legal remedies provided for.

Public prosecutors in our country have decision-making powers outside the field of criminal justice only in a sense that they can decide, whether they will file an appeal (extraordinary legal remedy) or not. These decisions can not be challenged by any legal remedy.

3. Please give any indication (statistics, if available) of the effective use of these competencies and the workload they entail for the prosecution service as whole.

In year 2006 public prosecutors working outside the field of criminal justice received a total of 2271 cases. Public prosecutors working in the field of criminal justice received in the same

year total of 93462 cases.

4. Does your country envisage any reform in the above-mentioned competencies of the public prosecutor?

There is constant debate about these competencies, particularly about their abolishment, but there are no concrete reforms envisaged at the moment.

PART II

5. Does the public prosecution service have a separate internal organization when it acts outside the field of criminal justice? Please specify.

Yes. There is “Civil and administrative department” within the Supreme State Prosecutor’s Office.

6. Which powers does the public prosecution service enjoy when acting outside the field of criminal justice?

Civil law: *the supreme state prosecutor can file an extraordinary judicial remedy in public interest against finally binding judgments. It is called “a request for the protection of legality” and can be filed in case of substantial violation of civil procedure or material law.*

Administrative law: *in case of violation of public interest, public prosecutor can lodge an appeal against first instance decisions, and file extraordinary legal remedies (reopening of proceedings, demand for annulment, abrogation or nullification of a decision).*

a. Is it vested with a specific authority or does it enjoy the same powers as the other party(ies) to the trial?

Civil law: *only the supreme state prosecutor can file a request for the protection of legality. Other parties may only move for the filing of such request.*

Administrative law: *state prosecutor have the same rights and duties as other parties.*

b. Are there specific rules governing the exercise of these functions? What is the basis of such rules (the law, custom or practice)?

The exercise of these functions is governed by law (State prosecutor Act, Civil Procedure Act, General Administrative Procedure Act, Marriage and Family Relations Act, The Societies Act, Religious Freedom Act, Reciprocity Act, Free Legal Aid Act, Non-litigious Civil Procedure Act and Register of Deaths, Births and Marriages Act).

c. Does it enjoy other rights and duties? Please specify.

He enjoys some minor competencies according to the laws mentioned in answer to question 6.b..

7. Regarding the role of the public prosecution service outside the field of criminal justice:

a. has the European Court of Human Rights taken decisions or handed down judgments on the matter in respect of your country? If so, please indicate the number of the application and the date of the decision or judgment.

No.

b. in your country, has the constitutional court or another court with the authority to rule on the constitutionality of laws, taken decisions or handed down judgments on the compatibility of such a role with the constitution or the basic law? If so, please indicate the references of such decisions and their main thrust.

No.

8. Amongst the competencies of the public prosecution service outside the field of criminal justice which are, in your view, the most important for the reinforcement of rule of law and protection of human rights?

The most important competency is to file a request for the protection of legality (extraordinary legal remedy) in civil cases. With this extraordinary legal remedy, public prosecution service can influence the unification of judicial practice.