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

Compilation of responses to the questionnaire

**for the preparation of the CCPE Opinion No. 19 (2024)
on managing prosecution services
to ensure their independence and impartiality**

Compilation des réponses au questionnaire

***en vue de la préparation de l'Avis No. 19 (2024) du CCPE
sur la gestion des ministères publics
pour garantir leur indépendance et leur impartialité***

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Albania / Albanie

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).
2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).

(Answer questions 1 and 2);

Constitution of Albania: The Constitution establishes the framework for the organization and operation of state institutions, including the prosecution service. It enshrines principles such as the independence of the service. The prosecution service consists in two branches independent from each other. The branch of general jurisdiction and the branch of special jurisdiction. The first one which has several offices such as district, appeal and general prosecution office is managed by the General Prosecutor. The branch of special prosecution is just one and represent the cases in three levels regarding the criminal organizations and corruption. This office is managed by the head of the office with a three-year term.

“Law on the Organization and Functioning of the Prosecution Service”, no.97/2016 as amended: This law sets out in details the structure, organization, and powers of the prosecution service. It defines the roles and responsibilities of prosecutors and other human resources as well.

“Law on the Organization and Functioning of the Institution Fighting Corruption and Organize Crime”, no.95/2016. This Law sets out the functioning, organization and managing of special prosecution office.

Practically, the administration and routine functioning of the prosecution service in Albania involve several key processes:

Financial Management: The prosecution service (each of branches) prepares annual budget proposals based on its operational needs and submits them to the Ministry of Justice and the Ministry of Finance. Once approved, funds are allocated for salaries, operational expenses, training programs, and other essential costs. Financial officers within the prosecution service monitor expenditures ensure compliance with budgetary allocations, and report any discrepancies or irregularities.

Material Management: The prosecution service (each of branches) procures necessary materials, supplies, and equipment through established procurement procedures. Inventory systems are implemented to track the usage, distribution, and maintenance of materials and assets. Maintenance schedules are established to ensure that equipment and facilities remain in optimal condition.

Human Resource Management: The High Council of Prosecutors manage career, disciplinary and movement of prosecutors while the General Prosecutor manage the other human resources

such as administrative staff and other professionals through competitive selection processes. Performance evaluations are conducted periodically to assess individual and organizational performance, identify training needs, and improve efficiency and effectiveness.

3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service¹ in your country?²

In Albania, the Prosecutor General heads the prosecution of general jurisdiction service. The Prosecutor General is the highest-ranking official within the prosecution service of general jurisdiction and is responsible for overseeing its operations, ensuring the proper administration of district, appeal and general prosecution offices. The Assembly (Parliament) upon the proposal of the High Prosecutorial Council elects the Prosecutor General with a 7-year term and the head of the special prosecution office for a 3-year term..

4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:
 - Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?
 - Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)

Article 148 of the Constitution foresees that "The Prosecutor's Office is an independent body, and the internal independence of prosecutors to investigate and prosecute in accordance with the law is respected" and that the Special Prosecutor's Office is independent from the General Prosecutor's Office.

The General Prosecutor the prosecutors of higher levels or the head of the office may issue **general** (not for certain case) and reasoned binding orders and instructions (administrative or procedural in nature) in writing to lower prosecutors and judicial police officers (with the exception of prosecutors of the special prosecution). The heads of the offices may issue nonbinding instructions for certain case which must be in written. – The provisions for these acts are regulated by Articles 6, 38, 46 and 48 of Law No. 97/2016). These acts may be challenged to the High Prosecutorial Council. However, as provided by law, the prosecutor does not assume any responsibility for the complaint unless he acts with malice and gross negligence.

¹ It is important to note that by referring to the head of the prosecution service in the present questionnaire, the highest-level official and/or body (please also see below in footnote No. 3) are meant. It is not meant to include the whole hierarchy of officials with some managerial roles within the prosecution service. However, it is also understood that the highest-level official of the prosecution service may have to delegate part of his/her powers under certain conditions and in some cases. If so, such delegation of powers may also be reflected in the responses to the questionnaire.

² If the country's legislative system delegates the management of the prosecution service to a body (i.e. Council of Prosecutors or other prosecutorial self-governance bodies, or a particular section within the service rather than a particular official), the respondent country is invited to share information on its establishment, functioning and terms of reference.

5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).

In the Republic of Albania, the Ministry of Justice does not directly oversee or have competency within the prosecution service. The prosecution service operates independently from the executive branch, including the Ministry of Justice. This separation of powers is essential for ensuring the independence of the judiciary and the prosecution service, in accordance with principles of the rule of law and the constitutional framework.

While the Ministry of Justice does not have direct authority over the prosecution service, it may have a supportive and coordinating role in matters related to legal reform, policy development, and resource allocation within the broader justice system. Additionally, the Ministry of Justice may work collaboratively with the prosecution service and other justice sector institutions on initiatives aimed at enhancing the efficiency, effectiveness, and integrity of the justice system as a whole.

However, it's important to note that the prosecution service in Albania operates autonomously under the supervision of the High Prosecutorial Council and the Prosecutor General, and its decisions and actions are guided by the law and legal principles rather than directives from the executive branch, including the Ministry of Justice.

6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?
7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?

(Answers to question 6 and 7)

The prosecution service in Albania had incorporated modern means, including electronic tools. While the digitalization process may not be as advanced as in some other countries, there have been efforts to introduce electronic systems and tools to enhance efficiency and effectiveness in the administration of the prosecution service. Some of the specific functions for which electronic means are being or have been used include:

Case Management System have been introduced to streamline the handling of cases within the prosecution service. This system will help prosecutors to organize case files, track case progress, manage deadlines, and collaborate with other stakeholders more efficiently.

Electronic communication tools, such as email and messaging platforms, are used to facilitate communication and collaboration among prosecutors, investigative agencies, and other justice sector stakeholders. These tools help to coordinate activities; share updates, and exchange information more effectively.

Online legal databases and research tools are utilized by prosecutors to access statutes, case law, and legal resources, enabling them to conduct legal research more efficiently and stay updated with relevant legal developments.

Electronic learning platforms and training modules are used to deliver training programs and professional development opportunities to prosecutors and staff members. These platforms allow for flexible and accessible learning experiences, including webinars, online courses, and virtual workshops.

While the digitalization of the prosecution service in Albania may still be a work in progress, there are ongoing efforts and plans to further enhance and expand the use of modern means, including electronic tools, in the administration of the prosecution service. Future initiatives may focus on:

- Integration with Other Justice Sector Systems used by the prosecution service with those used by other justice sector institutions, such as the courts and law enforcement agencies, to facilitate seamless information sharing and interoperability.
- Strengthening cybersecurity measures to protect electronic systems and data against cyber threats and ensure the integrity and confidentiality of prosecutorial information.
- Facilitate access to other government databases to enhance the quality of prosecutorial services provided to the public.

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:

- Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?
- Which body is responsible for the appointment/election of the head of the prosecution service?
- What is the procedure for the appointment/election of the head of the prosecution service?

9. What are the terms of office of the head of the prosecution service?

(Answers to 8 and 9 question)

The General Prosecutor is the Head of the General Prosecution and is responsible for the work of both General Prosecution Office and the Prosecution Offices attached to the Courts of General Jurisdiction of First Level and Appeal.

The General Prosecutor is elected by the three-fifths of the members of the Assembly among the three candidates proposed by the High Prosecutorial Council, for a 7-year mandate without the right of reappointment.

The General Prosecutor is appointed pursuant to Article 148 / a, of the Constitution.

The General Prosecutor represents the prosecution of criminal cases in the High Court as well as in the Constitutional Court, unless the Special Prosecution makes the representation.

The General Prosecutor issues general instructions to both prosecutors of the General Jurisdiction Prosecution Offices and Judicial Police Officers and supervises their implementation. He reports to the Assembly on the state of criminality in the country; requires the High Inspector of Justice to conduct thematic inspections or investigations for individual violations; administers the interception system and exercises other competences according to article 38 of Law No.97/2016 On the organization and functioning of the prosecution in the Republic of Albania.

The procedure for the appointment of the Prosecutor General, involves several steps and considerations:

Formal Qualifications and Eligibility Criteria:

Candidates for the position of Prosecutor General are typically required to possess a law degree and have a significant level of legal expertise and experience. Specific qualifications and eligibility criteria are outlined in the law 97/2016, including requirements related to professional experience, integrity, and ethical standards.

Responsible Body for Appointment:

The appointment of the Prosecutor General is typically the responsibility Assembly upon the proposal of the High Prosecutorial Council.

The High Prosecutorial Council is an independent body responsible for the selection, evaluation, and nomination of candidates for the position of Prosecutor General, as well as other high-ranking prosecutorial positions.

Appointment Procedure:

The procedure for the appointment of the Prosecutor General begins with the establishment of a selection process by the High Prosecutorial Council.

The Council may issue a call for applications or nominations, inviting qualified candidates to apply for the position.

Candidates are evaluated based on their qualifications, experience, professional reputation, and other relevant criteria established by law or regulations.

After the evaluation process, the High Prosecutorial Council submits a list of 3 recommended candidates to the Assembly.

The Assembly reviews the nominations made by the High Prosecutorial Council and votes to elect the Prosecutor General from among the proposed candidates.

The HCP is the responsible body for appointment of the head of special prosecution office. Hi is elected among the prosecutors of that office. The procedure is based on a competition among candidates by providing documents regarding their career achievements and platform delivering on a public process.

10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:

- What are the grounds for such removal?
- Which body can decide on such removal?

- What is the procedure for such removal?

According to the law, the Prosecutor General bear disciplinary responsibility for their conduct and actions in the office.

Article 149/c of the Constitution foresees the Dismissal from the Constitutional Court:

The General Prosecutor and the member of the High Council of Prosecution holds disciplinary responsibility, according to the law.

The Prosecutor General and the member of the High Council of Prosecution are dismissed by the Constitutional Court when:

a) commits serious professional or ethical violations;

b) has been convicted by a final court decision for committing a crime;

3. The Prosecutor General and the member of the High Council of Prosecution are suspended from office by decision of the Constitutional Court when:

a) the measure of personal security is assigned to him "arrest in prison" or "house arrest" for committing a criminal offense;

b) he gains the status of defendant for a serious crime committed intentionally;

c) the disciplinary procedure begins, according to the law.

The HCP is the responsible body for the pre-term removal from office of the head of special prosecution office. The ground and the procedures are the same as for the general prosecutor.

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?

The General Prosecutor or the head of special prosecution office has no any role in recruitment of prosecutors. The prosecutors are appointed by HCP among the candidates that have finished the Magistrate School.

The General Prosecutor and the head of special prosecution office are responsible for recruiting /selection of the other staff correspondently and management of their career.

According to the article 149/a of the Constitution, it is The High Prosecutorial Council that exercise the following powers:

a) Appoints, evaluates, promotes and transfers all prosecutors of all levels;

b) Decides on disciplinary measures against all prosecutors of all levels;

c) Proposes to the Assembly candidates for Prosecutor General in accordance with the law;

ç) Adopts rules of ethics for prosecutors and supervises their observance;

d) Proposes and administers its own budget;

dh) Informs the public and the Assembly on the state of the Prosecution Office;

e) Performs other functions as defined by law.

The law provide that prosecutors may challenge any decision of the head of the office that affect them to HCP while the other staff may challenge to the administrative court.

12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:

- Managing the day-to-day operations and activities of the prosecution service;

The prosecution service is organized as an independent body and operates close to the judicial system. The Prosecution consists of:

- a) General Prosecution Office;
- b) Special Prosecution Office, according to the special law;
- c) Prosecution offices at the courts of appeal of general jurisdiction;
- ç) Prosecution offices at the courts of first level of general jurisdiction.

Management and representation of the prosecution office is performed, respectively, by:

- a) Prosecutor General;
- b) Head of the Special Prosecution Office;
- c) Heads of the prosecution offices at the courts of appeal of general jurisdiction;
- d) Heads of the prosecution offices at the first level courts of general jurisdiction.

The Prosecution service exercises criminal prosecution and represents it in the court on behalf of the state. As an independent body guarantees the progress and the monitoring of its actions and respects the inner independence of the prosecutors for the investigation and prosecution according to law.

The Prosecutor General is the head of the General Prosecution Office and is responsible for the proper functioning of the General Prosecution Office and of the prosecution offices in lower level of general jurisdiction (appeal and first instance).

The Prosecutor General exercises these competences:

- a) Represents the cases in the High Court and in the Constitutional Court, except for the cases where the representation is made by the Special Prosecution Office;
- b) Issues general instructions in writing for prosecutors of the prosecution offices of general jurisdiction and oversees their implementation;
- c) Ensures the proper functioning of the administration of the Prosecution Office of general jurisdiction;
- ç) Proposes and administers the budget of the Prosecution Office of general jurisdiction;
- d) Reports to the Assembly on the situation of crime;
- dh) Issues general instructions in writing for Judicial Police officers in compliance with this law;
- e) Defines the general structure, and standard rules of the organization and functioning of the

prosecution offices of general jurisdiction and approves the organogram and the internal rules of procedure on the functioning of the General Prosecution Office, in accordance with the provisions of Article 20 of this Law;

ë) Represents the Prosecution Office in relations with third parties and mutual assistance in criminal matters of general jurisdiction;

f) Ensures the exercise of legal and constitutional powers of the Prosecution Office;

g) Directs, coordinates and supervises the activities of Judicial Police;

gj) Requires the initiation of investigations on disciplinary misconducts and complaints against judicial police officers;

h) Sends statistical data on criminal prosecution to the Ministry of Justice for the drafting of unified statistics in the field of justice;

i) Requests the High Justice Inspector to carry out thematic inspections or investigations of individual misconducts;

j) Administrates the interception system in accordance with the legislation in force;

k) Performs other duties provided for by law.

3. The Prosecutor General may, while assuming his functions, delegate in writing certain competencies to the directors of directorates, to the Prosecution heads of sections or to the prosecutors of the General Prosecution Office in accordance with the provisions in this law or special laws.

- **Management of case distribution;**

The Prosecutor General shall establish more detailed rules about:

a) The procedures on the allocation of cases, which shall ensure transparency and sufficient verification possibilities;

b) The criteria for the allocation of cases, based on the prosecutors' caseload and specialization; c) The cases and criteria on the re-allocation of cases;

ç) The manner of case monitoring and documentation.

Since head of each prosecution office shall lead and supervise the process of allocation of cases, based on the rules approved by the Prosecutor General regarding the cases in High Court and Constitutional Court this responsibility belongs to the head of Judicial Department.

The Head of Special Prosecution Office shall establish its own rules on the allocation of cases, based on the principle of transparency and objectivity. The High Justice Inspector shall carry out regular inspections on the assignment of cases.

- **Management of financial and material resources of the prosecution service;**

The head of each prosecution office shall take measures to ensure the fulfilment of the administrative functions of the office, including the keeping of registry books and reports, maintenance of protocol and archive, financial and material administration, IT management, the internal division of tasks, the review of complaints and other tasks related to the activities of the prosecution office.

- Representation of the prosecution service internally and externally, including before foreign services and international organisations.

The General Prosecutor represent the prosecution service despite the issues belonging specifically to the Special Prosecution Office for which are represented by the head of that office.

Hi represent the office in person or by delegation to other prosecutors regarding the issues of national nature. Regarding the issues of local nature, the head of the lower offices represents the service.

13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

In Albania, accountability mechanisms exist to ensure oversight and accountability for the head of the prosecution service, also the Prosecutor General. These mechanisms are essential for maintaining the integrity, independence, and effectiveness of the prosecution service. Some of the accountability mechanisms envisaged in Albania for the head of the prosecution service include:

The High Prosecutorial Council is an independent body responsible for overseeing the prosecution service and ensuring accountability of the prosecutors. It makes periodic reports for the parliament regarding the situation of prosecution service.

The High Inspector of Justice has the authority to initiate the disciplinary process against the General Prosecutor and the Head of Special Prosecution Office, in cases mentioned above.

Parliamentary Oversight provides another layer of accountability for the head of the prosecution service. Parliamentary committees may conduct hearings, inquiries, or investigations into the activities of the prosecution service, including the performance of the Prosecutor General.

Judicial Review: Decisions and actions of the head of the prosecution service, including disciplinary measures or administrative issues, may be subject to judicial review by administrative courts or the Constitutional Court. This provides a mechanism for individuals to challenge decisions that are arbitrary, unlawful, or unconstitutional.

Public Scrutiny and Media: The head of the prosecution service may also face accountability through public scrutiny and media reporting. Transparency and openness in the operations of the prosecution service can help ensure public trust and confidence in its leadership.

Overall, these accountability mechanisms work together to ensure that the head of the prosecution service in Albania upholds the rule of law, acts in the public interest, and maintains the highest standards of professionalism and integrity.

Andorra / Andorre

I. ASPECTS GÉNÉRAUX LIÉS À L'ADMINISTRATION DU MINISTÈRE PUBLIC

1. Le fonctionnement du Ministère Public en Andorre est inclus dans l'article 19 de la loi sur le Ministère Public. La gestion des ressources financières, matérielles et humaines du Ministère Public est assurée par le Conseil supérieur de la justice, qui est l'organe directeur et organisateur de l'administration de la justice. Chaque année, vers le mois de mai, un projet de budget est élaboré par toutes les institutions qui composent l'administration de la justice, celui c'est transmis au Conseil supérieur de la justice. Ce dernier organisme analyse les différentes demandes qu'il reçoit puis transmet ce qu'il juge approprié au Gouvernement, afin qu'il soit inclus dans les budgets généraux qui sont approuvés au début de l'année suivante par le parlement. C'est dans cette prévision budgétaire élaborée par le Ministère des Finances qu'il faut expliquer quels sont les besoins personnels et matériels à prévoir pour l'année suivante.

2. Le Ministère Public est réglementé par la Constitution du 1992 (article 93) et par la loi du Ministère Public du 12 décembre 1996. Son fonctionnement est également réglementé par la Loi Qualifiée de Justice du 3 septembre 1993 (articles 88 et suivants) et apparaît également dans d'autres lois qui prévoient ou développent des procédures auxquelles participe.

3. La personne chargée de diriger le Ministère Public est le Procureur Général.

4. Selon l'article 14 de la loi sur le Ministère Public, les procureurs adjoints agissent par délégation du procureur général et sont soumis à son autorité en ce qui concerne l'organisation du travail, le contenu de leurs évaluations, les qualifications et les conclusions juridiques. En cas de divergences, le procureur général confirme ses instructions par écrit. Toutefois, les procureurs adjoints peuvent présenter librement leurs observations orales lors du procès.

Le procureur général peut confier, à titre facultatif, le suivi d'une procédure à un procureur adjoint spécifique. Cette procédure ne peut être soustraite au procureur adjoint initialement désigné que par décision motivée, non susceptible de recours.

Le procureur général est responsable de la fonction disciplinaire à l'égard du personnel du Ministère Public. Il existe une procédure disciplinaire régie par la loi 9/2004, du 27 mai, sur la fonction publique de l'administration de la justice. La décision peut faire l'objet d'un recours conformément à la législation de la juridiction administrative.

5. Le Ministre de la Justice ne joue aucun rôle au sein du Ministère Public en Andorre.

6. Depuis 2014, nous travaillons de manière hybride avec le fichier physique (qui est l'original) et le fichier électronique (tous les rapports et résolutions sont chargés dans un programme informatique), en ce qui concerne les procédures propres du Ministère Public mais aussi dans les procédures judiciaires auxquelles en fait part.

Il existe une loi approuvée qui réglemente le fichier électronique, dont l'entrée en vigueur est prévue le 20/04/2024. Toutefois, son entrée en vigueur sera probablement repoussée en février 2025. Cette loi prévoit que les dossiers judiciaires soient 100% électroniques, pour cela tout ce qui fait partie du dossier doit être numéroté. Des scanners avec lecteur OCR ont été prévus à tous les étages du bâtiment de la Direction de la Justice pour pouvoir numériser les documents et disposer d'un texte traitable. Du côté du Ministère Public, tous ses dossiers doivent être numérotés, à l'exception de certains dossiers qui, en raison de leur volume, n'ont pas pu être

chargés dans le système (car le système n'est pas encore conçu pour permettre cela, mais il est prévu de le permettre dans un futur).

7. Concernant les défis ou les problèmes liés à l'utilisation des moyens électroniques, nous considérons qu'il est nécessaire d'avoir au moins un poste supplémentaire de procureur adjoint pour pouvoir travailler correctement, notamment dans les dossiers liés au crime organisé. Il faudrait également disposer d'effectifs suffisants pour pouvoir garantir une organisation efficace du travail et constituer des équipes de travail solides (1 ou 2 auxiliaires de justice et 1 autre greffier).

II. LA NOMINATION/L'ÉLECTION, LA DURÉE DU MANDAT ET LA RÉVOCATION DU CHEF DU MINISTÈRE PUBLIC

8. Procédure d'élection du Procureur Général.

- Critères d'éligibilité : Les mêmes conditions que pour être Magistrat, c'est-à-dire juges et procureurs ayant au minimum deux mandats accomplis (6 ans chaque mandat) ou juristes ayant effectivement exercé les professions juridiques pendant au moins 15 ans.
- Organe chargé de la nomination : Le Conseil Supérieur de la Justice.
- Modalités de nomination : sur proposition du Gouvernement

9. Le mandat du procureur général est d'une durée de 6 années renouvelable une fois.

10. Procédure de révocation avant l'expiration du mandat du procureur général.

- Motifs de révocation : Cela peut être par démission du procureur général ou seulement à la suite d'une procédure disciplinaire.
- Organe qui décide : Conseil Supérieur de la Justice.
- Procédure : Le Conseil Supérieur de la Justice ouvre un dossier disciplinaire et nomme un instructeur parmi ses membres. Dans un délai maximum de 30 jours ouvrables, le Conseil Supérieur de la Justice doit notifier au procureur général les faits qui lui sont reprochés, doté d'un délai de 10 jours ouvrables pour répondre. Une fois la réponse reçue, les preuves demandées pourront être réalisés dans un délai de 30 jours ouvrables. Le procureur général est alors consulté, qui formule des conclusions dans un délai de 10 jours ouvrables. Passé ce délai, l'instructeur élève le dossier disciplinaire auprès du Conseil Supérieur de la Justice dans un délai de 5 jours ouvrés. Cet organe dicte la résolution correspondante, après la tenue d'une audience orale à laquelle ne participe pas l'instructeur de la procédure.

III. LES FONCTIONS ET LES TÂCHES DU CHEF DU MINISTÈRE PUBLIC

11. Le procureur général fait partie du jury de sélection du concours de procureur adjoint. De même, il fait partie du jury de sélection (lui ou le procureur à qui il le délègue) pour les postes de greffier ou autre personnel attaché au Parquet.

Le procureur général est chargé de réaliser et de superviser l'évaluation du stage des procureurs adjoints ayant rejoint le Ministère Public avec ce statut. Il effectue le contrôle également la période probatoire du greffier de justice qui approuve l'opposition et est attaché au parquet.

Il appartient également au procureur général d'attribuer des responsabilités supplémentaires aux procureurs adjoints (par exemple, des rôles de coordination, qui seraient soumis au Conseil supérieur de la justice avec un rapport préalable du procureur général) ou de désigner des procureurs adjoints comme personnes de contact dans groupes de travail nationaux et supranationaux.

De même, les promotions de rang (en fonction de l'accomplissement du mandat, de la charge de travail et de la formation effectuée) des procureurs adjoints sont soumises au Conseil supérieur de la justice avec un rapport préalable du procureur général.

Les procédures disciplinaires des greffiers judiciaires relèvent également de la responsabilité du procureur général, bien qu'il puisse les déléguer.

Approuve les autorisations administratives et les congés demandés par le personnel du Parquet.

Il peut promouvoir l'ouverture d'une procédure disciplinaire contre un procureur adjoint en le communiquant au Conseil supérieur de la justice, qui est l'organe chargé de revendiquer les responsabilités disciplinaires.

12. Fonctions et tâches du procureur général.

- Gestion des opérations et activités quotidiennes du Ministère public : Il appartient au Procureur général d'organiser le travail interne du Ministère public, tant en termes de procureurs adjoints qu'en termes d'effectifs.

- Gestion de la répartition des procédures : Il appartient également au procureur général de fixer les critères de répartition des procédures entre les procureurs adjoints, soit par la numérotation des dossiers, soit selon la charge de travail ou la spécialisation en la matière.

- Gestion des ressources financières et matérielles : Comme expliqué précédemment, cette gestion s'effectue seulement au niveau du budget prévisionnel qui est transféré au Conseil Supérieur de la Justice pour l'année suivante.

- Représentation interne et externe du Ministère Public, y compris auprès des Ministères Publics étrangers et des organisations internationales : Tout membre du Ministère des Finances représente le Ministère des Finances. Toutefois, selon des critères de spécialisation ou d'égalisation des charges de travail, les différents procureurs adjoints se voient attribuer la représentation du Ministère Public auprès de différentes organisations nationales et internationales. Parfois, par délégation du procureur général, dans d'autres, en l'accompagnant et, dans d'autres, sur nomination écrite.

13. Il existe les mêmes mécanismes de responsabilité que ceux existant à l'égard des procureurs adjoints. Au niveau de la responsabilité disciplinaire, elle est exercée par le Conseil supérieur de la justice.

Il existe une procédure spécifique pour l'exercice des responsabilités civiles et pénales du procureur général en raison de sa qualité (même procédure que pour un juge, un magistrat, etc.).

L'enquête est menée par le « Tribunal de Corts » (1ère instance pénale) et est jugée par la Chambre Criminelle du « Tribunal Superior de Justicia » (2ème instance pénale). En cas d'appel, il est décidé par l'assemblée plénière du « Tribunal Superior de Justicia ».

Armenia / Arménie

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).

The funding of the prosecutor's office is regulated by the Law on the Prosecutor's Office according to which the financing of the Prosecutor's Office is carried out at the expense of funds provided by the state budget. The financing of the Prosecutor's Office is reflected in the budget request and the state budget in a separate line as the Prosecutor's Office of the Republic of Armenia.

If the budget application of the Prosecutor's Office is accepted by the government, it is included in the draft state budget and is submitted to the National Assembly. In case of objections, they are also submitted to the National Assembly along with the draft state budget.

The Government submits to the National Assembly and the Prosecutor General's Office the justification of the objection regarding the budget application.

For the purpose of financing unforeseen costs for ensuring the normal operation of the Prosecutor's Office, a reserve fund of the Prosecutor's Office is planned, which is presented in a separate line of the budget. The size of the reserve fund is equal to two percents of the budget provided for the Prosecutor's Office by the law on the state budget of the given year.

Disbursements from the reserve fund are made by the decision of the Prosecutor General.

In case of insufficiency of resources of the reserve fund of the Prosecutor's Office to ensure the normal activity of the prosecution, Government shall fill the deficit from the reserve fund of the Government.

Prosecutor's Office acquires and implements property and non-property personal rights, as well as other civil law duties within its jurisdiction, through the Secretary General, who is a civil servant.

The Secretary General is responsible for the organisation of the implementation of the powers of the Prosecutor's Office, for the management of human resources, implementation of financial and economic functions and participation in civil and legal relations in accordance with the procedure established by the legislation.

Secretary General bears property responsibility for the damage caused to the state by his fault in accordance with the law.

Secretary General manages the state property attached to the Prosecutor's Office, including financial resources, in accordance with the procedure established by the law, other legal acts and statutes and submits the annual balance sheet of the Prosecutor's Office to the Prosecutor General, who makes a decision on its approval.

The Prosecutor's Office maintains accounting records and submits accounting reports in accordance with the law.

The reliability of the financial statements of the Prosecutor's Office may be subject to re-verification in accordance with the procedure and in the cases established by law.

According to the Law of the Republic of Armenia "On Procurement", the services of "Internal Audit" are purchased, which carry out an independent objective assurance and consulting function, which is aimed at improving the activities of the Prosecutor's Office of the Republic of Armenia. It includes all functions related to the activities of the Prosecutor's office and the results of its activities, including all functions, resources, services, processes and programs.

Financial operations of the Prosecutor's Office are carried out through the treasury system. The General Secretary is responsible for the implementation of financial operations and exercises the powers defined by the law "On the Treasury System".

The property of the prosecutor's office is formed from the property handed over (fixed) to the possession and use of the prosecutor's office in accordance with the procedure established by the legislation. The composition and size of the property to be handed over to the Prosecutor's Office is decided by the Government of the Republic of Armenia.

Procurement for the needs of the Prosecution Office are made in accordance with the law of the Republic of Armenia "On Procurement". The procurement process is coordinated by the Secretary General.

Regarding to the human resources it should be mentioned that there are several types of servants in the Prosecutor's service:

1. Prosecutors, who are autonomous officers,
2. Discretionary positions (Advisers and Assistants to the Prosecutor General, Assistants to the Deputies of the Prosecutor General),
3. Civil servants (these are Secretary General, his/her deputies and employees of supporting professional structural units),
4. Persons providing technical maintenance and other employees under civil contracts.

The categories under points 1, 2 and the Secretary General and his/her deputies (under point 3) are appointed by the Prosecutor General and the remaining civil servants (point 3) and categories under point 4 are appointed by the Secretary General.

Prosecutor General approves the structure of the General Prosecutor's Office and the Military Prosecutor's Office, defines the number of positions and the list of positions in the Prosecutor's Office within the salary fund provided for by law; approves and amends the list of discretionary positions, persons performing technical maintenance, the number of posts and the list of posts.

Secretary General in the cases provided for by law, appoints and dismisses the relevant employees of the Prosecutor's Office, applies incentives to them and imposes disciplinary penalties (in regard to civil servants), submits recommendations to the Prosecutor General regarding the organizational issues of the structural units of the Prosecutor's Office and submits to the Prosecutor General reports on the activities of supporting professional structural divisions.

2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).

Regarding the administrative issues Constitution only stipulates that the Prosecutor's Office is a unified system, headed by the Prosecutor General. Detailed regulations are primarily outlined in the Law on "Prosecution Service" and other relevant laws, supplemented by individual and internal acts established by the Prosecutor General (e.g. the Charter of the Prosecutor's Office).

3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service¹ in your country?²

¹ It is important to note that by referring to the head of the prosecution service in the present questionnaire, the highest-level official and/or body (please also see below in footnote No. 3) are meant. It is not meant to include the whole hierarchy of officials with some managerial roles within the prosecution service. However, it is also understood that the highest-level official of the prosecution service may have to delegate part of his/her powers under certain conditions and in some cases. If so, such delegation of powers may also be reflected in the responses to the questionnaire.

² If the country's legislative system delegates the management of the prosecution service to a body (i.e. Council of Prosecutors or other prosecutorial self-governance bodies, or a particular section within the service rather than a particular official), the respondent country is invited to share information on its establishment, functioning and terms of reference.

In the Republic of Armenia, the Prosecutor General serves as the head of the prosecution service. However, certain aspects of financial and material resource management are conducted by the Secretary General (civil servant). Furthermore, some managerial issues concerning human resources are conducted by the Secretary General.

4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:

- Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?

Prosecutors and prosecutorial staff are bound by the hierarchical structure of the prosecution service, where the Prosecutor General holds the highest position. Therefore, respective acts issued by the Prosecutor General are considered binding on subordinates within the organization.

The decisions, orders and other prosecutorial acts issued by the Prosecutor General are mandatory for prosecutors and prosecutorial staff. As the head of the prosecution service, the Prosecutor General holds authority over the organization and its employees, and his/her directives are expected to be followed in accordance with legal and procedural requirements. Non-compliance with the mentioned acts may result in disciplinary actions.

- Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)

According to the Law on the "Prosecution Service" the following decisions of Prosecutor General can be challenged respectively by the prosecutors or applicants to the position of the prosecutor:

1. reasoned decision on not including the applicant in the list of candidates for prosecutors,
2. decision to uphold the rejection of the appeal regarding the attestation decision made by the Qualification Commission,
3. decision on the disciplinary penalty imposed on him/her.

Prosecutors/applicants affected by these decisions have the right to appeal them to the court. Besides according to the Code on Administrative Proceedings all cases arising from public legal relations, including disputes related to entry to public or alternative service, its implementation, dismissal from service are subject to jurisdiction of the Administrative Court, that is, disputes regarding the transfers of prosecutors can also be appealed to the court.

5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).

N/A

6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?

Document management is conducted by the "MulberryGroupware" electronic document management system, which provides digitalization of internal operations and cross-departmental document flow for organizations. The software provides complete management of

electronic documents and tasks and allows to eliminate heavy paper flows within the organization.

Currently, works are being conducted towards the full implementation of the electronic system of pre-trial criminal proceedings ("e-criminal case"). As of now, the system can be used to register reports, create protocols for initiating criminal proceedings, not initiating criminal proceedings and creating protocols for a several investigative actions.

In addition, the necessary infrastructures for uploading video recordings of investigative actions and setting up the electronic management system have been acquired, in particular, server farms, the management of which has been handed over to the General Prosecutor's Office, and now the results of investigative actions can be stored in the corresponding server farm.

7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?

N/A

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:

- Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?

According to the Constitution of the RA as a Prosecutor General may be elected a lawyer with higher education, having attained the age of thirty-five, holding citizenship of only the Republic of Armenia, having the right of suffrage, with high professional qualities and at least ten years of professional work experience may be elected as Prosecutor General. The law may prescribe additional requirements for the Prosecutor General.

According to the Law on the Prosecutor's Office General Prosecutor should also comply with the following requirements: he or she has obtained a Bachelor's Degree or a qualification degree of a certified specialist of higher legal education in the Republic of Armenia or has obtained a similar degree in a foreign State, the recognition and approval of equivalence whereof have been carried out in the Republic of Armenia as prescribed by law; knows Armenian language.

Besides no restriction provided for by the mentioned law must exist, that is: a person may not be appointed to the position of a prosecutor where: (1) he or she has been declared, through judicial procedure, as having no active legal capacity or having limited active legal capacity; (2) he or she has been convicted of an intentional crime irrespective of whether or not the conviction has been expired or cancelled, whereas in case of a negligent crime — until the conviction is expired or cancelled; (3) he or she has a physical impairment or disease hindering his or her appointment to the position of a prosecutor; (4) he has not undergone the compulsory military service except for the persons having been granted an exemption from such service under the procedure and on the ground provided for by law; (5) his or her criminal prosecution, instituted for an intentional crime, has been terminated or has not been carried out on non-acquittal grounds; (6) he or she holds also the citizenship of another State; (7) he or she has been previously removed from the office of a prosecutor, judge or investigator (head of an investigative division, head of an investigative body) as a result of imposition of disciplinary penalty, provided that one year has not elapsed since the application of the disciplinary penalty;

(8) he or she has been deprived of the right to hold a position in public service by a judicial act having entered into legal force.

- Which body is responsible for the appointment/election of the head of the prosecution service?

The Prosecutor General is elected by the National Assembly, upon recommendation of the competent standing committee of the National Assembly, by at least three fifths of votes of the total number of Deputies.

- What is the procedure for the appointment/election of the head of the prosecution service?

Candidates to the position of the General Prosecutor are nominated by the decision of the faction of the National Assembly.

The question of proposing a candidate to the National Assembly is discussed at the sessions of the competent standing committee. The competent standing committee proposes to the National Assembly one candidate for the relevant post.

9. What are the terms of office of the head of the prosecution service?

The Prosecutor General is elected for a term of six years. The same person may not be elected as Prosecutor General for more than two consecutive terms.

10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:

- What are the grounds for such removal?

The grounds of pre-term removal from office are divided into two groups. One group is the grounds which by the virtue of law (ipso jure) terminate the powers of the Prosecutor General:

- (1) attaining the age of 65 — the maximum age for occupying a position of a prosecutor;
- (2) loss of the citizenship of the Republic of Armenia;
- (3) being declared missing or dead by the court's decision entered into force;
- (4) his or her death;
- (5) occurrence of any of the restrictions for becoming a prosecutor, which are prescribed by Law;
- (6) existence of a criminal judgment of conviction delivered against him or her, having entered into force;
- (7) termination of the criminal prosecution instituted against him or her on a non-acquittal ground;
- (8) submission of a letter of resignation to the National Assembly. In the case of resignation, the powers of the Prosecutor General shall terminate where a second letter of resignation is submitted not later than within a week upon the submission of the first letter of resignation by the Prosecutor General.

The second group of grounds of pre-term removal from office are the cases when powers are terminated not by the virtue of law but on the basis of the decision of the competent authority. The grounds are as follows:

- (1) he or she has become seriously ill which hinders or will hinder the performance of his or her duties for a long period of time;
- (2) has committed a violation of the law or the rules of conduct of prosecutors, which has impaired the reputation of the Prosecutor's Office;
- (3) has violated restrictions and incompatibility requirements prescribed by the Law;

(4) there are other insurmountable obstacles to the exercise of his or her powers.

- Which body can decide on such removal?

In the case of the first group of grounds the Chairperson of the National Assembly shall upon receiving relevant information, disseminate an official message on early termination of the powers of the Prosecutor General.

As for the second group of grounds, National Assembly may dismiss the Prosecutor General from office by at least a three-fifths vote of all Members.

- What is the procedure for such removal?

In cases where the Prosecutor General is subject to pre-term removal as defined by law, a faction retains the right to submit a draft decision of the National Assembly.

The draft decision is deliberated during the National Assembly session in accordance with the procedures outlined by law. Following the main speaker's presentation, the official referenced in the draft, i.e. Prosecutor General, is afforded the opportunity to deliver a speech, respond to questions and provide a concluding statement.

The National Assembly's decision to dismiss the Prosecutor General is made via a secret ballot with at least three-fifths of the votes of the total number of deputies.

(the question and respectively the answer are applicable to the second group of grounds for dismissal)

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?

Recruitment

The list of candidates for prosecutors is filled through an open and closed competition. The open competition is held by the Qualification Commission of the Prosecutor's Office once a year, as a rule. If necessary, an extraordinary open competition may be held upon the assignment of the Prosecutor General. For the purpose of making supplements to the list of candidates for prosecutors, a closed competition may be held during the year, upon the assignment of the Prosecutor General.

The candidacies of the applicants, on which the Qualification Commission gives a positive conclusion, are submitted to the Prosecutor General. The Prosecutor General has the right to include the submitted applicants in the list of candidates for prosecutors. The Prosecutor General makes a reasoned decision on not including the applicant in the list, which the applicant can appeal to a court.

If the candidate for the position of a Deputy Prosecutor General holds the position of prosecutor, he may be appointed as Deputy Prosecutor General by the Prosecutor General, in consultation with the board of the Prosecutor's Office, without a competition. If the position is not filled in this manner, the candidates (candidate) for the Deputy Prosecutor General are selected through a competition by the Qualification Committee. The Prosecutor General appoints one of the candidates selected through this process as the Deputy Prosecutor General.

A slightly different procedure is in place for the selection of prosecutors for the Department for Confiscation of Property of Illicit Origin and the Deputy Prosecutor General coordinating that field. The lists of candidates are exclusively filled through an open competition.

It should be noted that candidates for prosecutors are undergoing an integrity check conducted by Corruption Prevention Commission, which is an autonomous and independent body. The advisory opinions of the latter are taken into account during the recruitment.

Prosecutor General also appoints and dismisses his/her advisors, assistants, assistants of the Deputy General Prosecutors and the Secretary General and the deputies of the latter. Secretary General and his/her deputies are selected through a competition.

Promotions

Deputy Prosecutor General submits petitions to the Prosecutor General regarding the promotions of the prosecutors.

Superior prosecutors³ can also submit proposals to the Prosecutor General or the Deputy Prosecutor General coordinating the relevant field regarding the promotions of prosecutors under their authority;

The promotion lists of prosecutors are formed by the Qualification Commission by the order of the Prosecutor General

1) during the regular attestation of prosecutors.

2) in an extraordinary procedure, when the Prosecutor General submits a proposal to the Qualification Commission to include the prosecutors in one of the promotion lists provided for by the points 1-3 of the part 1 of the article 39⁴ of the Law on the “Prosecution Service”, by presenting a corresponding assessment given by the Prosecutor General or the Deputy Prosecutor General coordinating the relevant field.

The prosecutor is included in the promotion list upon a positive conclusion of the Qualification Commission.

In the promotion lists provided for by the points 4 and 5⁵ of the mentioned article prosecutors are included based on the reasoned report of his immediate superior, by order of the Prosecutor General.

Integrity check conducted by the Corruption Prevention Commission is also a mandatory part of the promotions procedure.

Incentives/ Disciplinary measures

Deputy Prosecutor General submits petitions to the Prosecutor General to provide incentives or subject prosecutors to disciplinary liability.

³ Heads of the Departments of the General Prosecutor Office, Prosecutor of Yerevan city, Prosecutors of the administrative districts of Yerevan, Regional prosecutors, Garrisons military prosecutors

⁴ Promotion lists for the positions of the Head of the Structural Unit of the General Prosecutor's Office, Prosecutor of the city of Yerevan, Deputy Military Prosecutor, Deputy Head of the Structural Unit of the General Prosecutor's Office, Deputy Prosecutor of the City of Yerevan, Prosecutor of the Administrative District of the City of Yerevan, Regional Prosecutor, Military Prosecutor of the Garrison, Senior Prosecutor of the General Prosecutor's Office, Head of the Structural Unit of the Central Military Prosecutor's Office, Prosecutor of the General Prosecutor's Office, Senior Prosecutors of Structural Units of the General Prosecutor's Office, Senior Prosecutor of the Military Central Prosecutor's Office, Deputy Prosecutors of Administrative Districts of Yerevan, Deputy Prosecutors of Regions, Deputy Military Prosecutors of Garrisons.

⁵ Prosecutors of the Structural Units of the General Prosecutor's Office, Senior Prosecutors of the Structural Units of the Military Central Prosecutor's Office, Senior Prosecutors of the Yerevan City Prosecutor's Office, Prosecutors of the Military Central Prosecutor's Office, Prosecutors of Yerevan city Prosecutor's Office, Senior Prosecutors of Military Prosecutor's Offices of Administrative Districts, Regions and Garrisons of Yerevan city, Prosecutors of the Structural unit of Military Central Prosecutor's Office.

Superior prosecutors can submit proposals to the Prosecutor General or the Deputy Prosecutor General coordinating the relevant field on providing incentives or subjecting prosecutors under their command to disciplinary liability.

Proposals regarding incentives and disciplinary liability of civil servants are submitted to the Secretary General of the Prosecutor's Office.

Most types of incentives are applied by the Prosecutor General and some by the official who has the authority to award respective rank.

Disciplinary proceedings against the prosecutor may be initiated by the Prosecutor General and in some cases, prescribed by the law, by the Ethics Commission.

On the basis of his/her or the Ethics Commission's decision to initiate disciplinary proceedings, Prosecutor General creates a Commission of disciplinary proceedings made up of prosecutors or assigns its implementation to one prosecutor.

After the end of the disciplinary proceedings, the question of subjecting the prosecutor to a disciplinary responsibility shall be submitted for consideration to the Ethics Committee. The Ethics Commission examines the matter at the session and decides by secret vote the existence of the fact of disciplinary violation, the question of the prosecutor's guilt in the committed disciplinary violation, and whether a petition has been submitted to impose a disciplinary penalty of dismissal, in this case, also the issue of the possibility of imposing a disciplinary penalty of "dismissal".

In the case of making a decision on the existence of a disciplinary violation and the guilt of the prosecutor, as well as in case of submitting a positive conclusion on the imposition of a disciplinary penalty of "dismissal", within a three-day period, the Prosecutor General shall appoint one of the penalties prescribed by the law.

According to the decision of the Prosecutor General, a prosecutor who committed a disciplinary violation may be exempted from disciplinary punishment, if he committed the disciplinary violation for the first time, regretted it, and there are no consequences of the disciplinary violation.

The issues regarding the possibility of appeal are presented in the answer to the question N4.

Posting

The Prosecutor General may transfer the prosecutor to another position with the same ranking without the latter's consent, except for the cases defined by the law (regarding the Department for Confiscation of Property of Illicit Origin).

Besides, the prosecutor, without his/her consent, under the condition of occupying a position equivalent to or higher than his/her current position, may be assigned to the General Prosecutor's Office, another structural unit of the General Prosecutor's Office or another prosecutor's office for a period of up to one year due to the temporary absence of prosecutors or vacancies in the latter.

12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:

- **Managing the day-to-day operations and activities of the prosecution service;**

Prosecutor General adopts internal and individual legal acts within its jurisdiction, on the recommendation of the board of the Prosecutor's Office; defines the directions of implementation of the powers of the Prosecutor's Office; divides work among his deputies, senior prosecutors and prosecutors of the General Prosecutor's Office; defines the scope of exercising the powers of prosecutors' offices, senior prosecutors and prosecutors of the General Prosecutor's Office; approves and amends the statute of the Prosecutor's Office; approves the structure of the General Prosecutor's Office and the Military Prosecutor's Office; adopts internal

and individual legal acts within its jurisdiction; creates councils, working groups, commissions under the Prosecutor General, defines the order of their activity; determines the number of positions and the list of positions of the prosecutor's office within the framework of the salary fund provided by law; manages and supervises the work of senior prosecutors, (prosecutors) of the Prosecutor General's Office, advisors and assistants to the Prosecutor General; submits proposals to the Government of the Republic of Armenia for the improvement of the legislation related to the activities and exercise of powers of the Prosecutor's Office, as well as submits drafts of normative legal acts for consideration to the Government of the Republic of Armenia; revokes the legal acts issued by deputies, other prosecutors, and the Secretary General if they contravene the legislation of the Republic of Armenia; provides leave to employees of the Prosecutor's Office; performs reception of citizens, discusses complaints and applications brought against prosecutors; submits petitions to the Prime Minister of the Republic of Armenia with a proposal to address the President of the Republic of Armenia regarding awarding higher class ranks to prosecutors and civil servants of the Prosecutor's Office; approves the internal disciplinary rules of the Prosecutor's Office; etc.

- **Management of case distribution;**

Case management issues are regulated by the order of the Prosecutor General adopted in 2017 concerning the order of the allocation of work responsibilities among prosecutors within the system of the Prosecutor's Office of the Republic of Armenia.

The order stipulates that when distributing work duties, consideration must be given to the specialization of the prosecutors based on crime types and/or areas of expertise, as well as their workload.

- **Management of financial and material resources of the prosecution service;**

According to the Law on the "Regulation of administrative legal relations" Prosecutor General exercises supervision over maintenance of the state property attached to or transferred for use to the Prosecutor's Office and approves the annual balance sheet.

The Prosecutor General's responsibilities include, inter alia, reviewing and approving the balance sheets of the Prosecutor's Office, examining the outcomes of performance assessments, approving the estimate of the annual maintenance costs of the Prosecutor's Office and its performance.

- **Representation of the prosecution service internally and externally, including before foreign services and international organisations.**

According to the Charter of the Prosecutor's Office Prosecutor General acts on behalf of the Prosecutor's Office without a power of attorney, and in cases provided by the law, also on behalf of the Republic of Armenia, as well as issues power of attorneys granting the authority to act on behalf of the Prosecutor's Office and in cases provided by law on behalf of the Republic of Armenia, including power of attorneys with the right of re-authorization. He/She represents the Prosecutor's Office in relations with the Prosecutor's Offices of foreign states and other state bodies and international organizations, as well as their representations and ensures cooperation of the Prosecutor's Office with state and local self-government bodies and other organizations.

13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

Annually, by April 1st, Prosecutor General submits to the National Assembly of the Republic of Armenia a report on the Prosecutor's Office's activities during the preceding year. This report encompasses information, statistical data, comparative analyses and conclusions regarding the Prosecutor's Office's performance in each area of responsibility. During a National Assembly session, the report is deliberated upon with the presentation by the Prosecutor General.

The mentioned report is made also available on the Prosecutor's Office website. Annually, by April 1st, the General Prosecutor's Office of the Republic of Armenia publishes on its website also a report on crime investigations. This report should encompass information on the outcomes of investigations conducted in the preceding year, along with statistical data, comparative analyses, and conclusions. A report similar to the mentioned one regarding the investigation of corruption crimes is presented separately.

Austria / Autriche

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).

The budget and the number of posts within the judiciary are allocated to the Federal Ministry of Justice by Law. The Federal Ministry of Justice distributes these means amongst the different sectors of the judiciary (courts, prosecution offices, jailhouses etc) by decree/enactment.

The budget allocated to courts and prosecution offices are administrated by the Courts of Appeal/Higher Regional Courts (Oberlandesgerichte) – respectively by the Supreme Court in relation to the Procurator General's Office – to avoid double structures. The distribution of resources between the courts and public prosecutor's offices is then carried out consensually by mutual agreement.

2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).

It is regulated by law, statutory orders and decrees.

3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service¹ in your country?²

In Austria the prosecutorial system is based on an hierarchical structure, headed by the Federal Minister of Justice (FMJ).

¹ It is important to note that by referring to the head of the prosecution service in the present questionnaire, the highest-level official and/or body (please also see below in footnote No. 3) are meant. It is not meant to include the whole hierarchy of officials with some managerial roles within the prosecution service. However, it is also understood that the highest-level official of the prosecution service may have to delegate part of his/her powers under certain conditions and in some cases. If so, such delegation of powers may also be reflected in the responses to the questionnaire.

² If the country's legislative system delegates the management of the prosecution service to a body (i.e. Council of Prosecutors or other prosecutorial self-governance bodies, or a particular section within the service rather than a particular official), the respondent country is invited to share information on its establishment, functioning and terms of reference.

Public Prosecutor's Offices are established at the seat of every Regional Court dealing with criminal matters. On a second level Offices of Senior Public Prosecutors (Public Prosecutor's Offices at the Court of Appeal – Oberstaatsanwaltschaften) are located at the seat of every Higher Regional Court (Court of Appeal [at Vienna, Graz, Linz, Innsbruck]). At the level of the Supreme Court the Procurator General's Office is established. The Public Prosecutor's Offices are directly subordinate to the Offices of Senior Public Prosecutors. These offices as well as the Procurator General's Office are directly subordinate to the FMJ and bound by instructions.

The Public Prosecutor's Offices, Offices of Senior Public Prosecutors and the Procurator General's Office each are headed by a director (a Chief Prosecutor at the level of Public Prosecutor's Offices and the Offices of Senior Public Prosecutors and the Procurator General at the Procurator General's Office). This head represents the authority externally, supervises the activities of the bodies subordinate to him and issues instructions to them if necessary. In individual cases, he is authorised to take over the official duties of all subordinate bodies himself.

4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:

- Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?

Orders given within the mentioned hierarchical structure are mandatory, basically, except for orders, which do not comply with the law (see below).

- Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)

A public prosecutor who considers an instruction (which is given to him to deal with a particular case) to be unlawful must inform his superior of this before complying with the instruction (unless it is a measure that cannot be postponed due to imminent danger). If a public prosecutor otherwise has reservations about an instruction, he shall inform his superior of his reservations.

The superior then shall repeat his instruction (in writing), otherwise it shall be deemed to have been withdrawn.

If a public prosecutor is convinced that the behaviour required of him is unlawful or unjustifiable or if there are other reasons worthy of consideration, the head of the authority shall, upon written and duly substantiated request, release him from further handling of the case, unless it is a measure that cannot be postponed due to imminent danger.

5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).

Basically see 1 and 3

In the area of handling criminal cases – and in exercising his supervisory powers and powers to issue instructions, to promote the uniform application of the law and to report to legislative bodies, their organs and international organisations – the FMJ may order

in writing that reports should be submitted on certain groups of criminal cases; the FMJ also request reports from the Offices of Senior Public Prosecutors on the handling of individual proceedings.

The FMJ shall examine these reports and the intended course of action on the basis of the reports submitted. However, he may request investigation or criminal files or individual parts of files, in particular in order to clarify justified concerns or indications of incompleteness of the reports submitted. The FMJ shall issue an instruction in any case if the report on decisive facts is unclear, incomplete, contradictory or obviously insufficiently substantiated, if there is a significant contradiction between the information in the report and in the draft judgement, or if a law has been violated or incorrectly applied in the legal assessment of the facts.

Instructions given by the FMJ shall be issued and justified in writing and shall be reported annually to the National Council and the Federal Council (after the proceedings on which the instruction is based have been concluded).

If an instruction is to be issued on the handling of the case in a specific procedure by the FMJ – as well as in criminal cases against supreme executive bodies, members of the Constitutional Court, the Administrative Court, the Supreme Court and the Procurator General's Office as well as if the Federal Minister of Justice deems it necessary due to the extraordinary interest of the public in the criminal case (in particular in the case of repeated and supra-regional media coverage or repeated public criticism of the actions of the Public Prosecutor's Office and the criminal investigation department, or for reasons of bias) – the FMJ shall address an Advisory Council (Weisungsrat).

This council is permanently established at the Procurator General's Office and consists of the Procurator General as Chairman and two other members. Its members are independent in the exercise of their office and are not bound by any instructions.

The Advisory Council shall issue a written statement on the FMJ's draft decision. If the FMJ does not take this statement into account as a result, the statement together with the reasons why it was not taken into account shall in any case be published in the mentioned report to the National Council and the Federal Council.

6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?

Administration of prosecution is based on the use of electronic files and communication throughout all prosecution offices.

7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?

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II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

Preliminary remark: Due to the fact, that in Austria all prosecutors are subordinated to the FMJ, the position of a "Head of the Prosecution Service" in the sense of a General Prosecutor does not exist. Answers of the following questions therefore refer only to the heads of the prosecutorial authorities (Public Prosecutor's Offices, Offices of Senior Public Prosecutors and the Procurator General's Office) subordinate to the FMJ.

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:

- Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?

As all public prosecutors applicants for the post of the head of a prosecution office have to meet the requirements for appointment as a judge. The FMJ may set additional application criteria (such as experience in certain fields [eg. administration]) as part of the authorisation to advertise positions (see below).

- Which body is responsible for the appointment/election of the head of the prosecution service?

The procedure for appointment lies in the responsibility of Personnel Commissions (PC), the FMJ and the Federal President.

PCs are set up at the Federal Ministry of Justice, at the Procurator General's Office and each at the Offices of Senior Public Prosecutors.

The members of these PCs, which consist of four members, are independent and autonomous in the exercise of their duties. All members of a PC must fulfil the requirements for appointment as public prosecutor.

The Head of the Procurator General's Office and his first deputy are ex officio members of the PC established at the Procurator General's Office.

The PC at an Office of Senior Public Prosecutors is chaired by the Head of this office. If the position of a head of one of the Public Prosecutor's Offices in the region (or the position of a Senior Public Prosecutor) is vacant, the most senior head of all Public Prosecutor's Offices in the region subordinate to the relevant Office of Senior Public Prosecutors is another ex officio member (in other cases this would be the head of the Public Prosecutor's Office in whose district the vacant position is located).

The PC at the FMJ is established for a term of five years. It is responsible for submitting the proposal for the appointment of the Heads of the Offices of Senior Public Prosecutors and the Head of the Procurator General's Office.

The PC at the Procurator General's Office is responsible for submitting the proposal for filling the positions at the Procurator General's Office with the exception of the position of its head (the Procurator General).

The PC at an Office of Senior Public Prosecutors is responsible for submitting the proposal for filling the posts to be advertised by its head (including the position of a head of a Public Prosecutor's Office in this region).

The PCs at the Procurator General's Office and at the Offices of Senior Public Prosecutors are established on a permanent basis.

For further details related to the competence of the mentioned PCs within the procedure of appointment please see next question.

- **What is the procedure for the appointment/election of the head of the prosecution service?**

All permanent positions of public prosecutors shall be publically advertised before they are filled.

The FMJ arranges the advertisement of the position of the head of the Procurator General's Office as well as the advertisement of the positions of the heads of the Offices of Senior Public Prosecutors.

Both authorised by the FMJ, the Head of the Procurator General's Office arranges the advertisement of the other permanent positions at this office and the Head of the Office of Senior Public Prosecutors arranges the advertisement of the position of a head of a Public Prosecutor's Office (as well as all other positions) subordinated to him.

The competent PC shall examine the applications received and – if necessary, in a personal interview with the applicant – obtain an impression of the overall personality of the applicant.

After conducting the necessary enquiries and taking into account the results thereof, the PC shall submit a justified proposal to the FMJ.

If the FMJ intends not to follow the PC's appointment proposal, this shall be communicated to the PC in writing, stating the main reasons for this intention.

The PC may then submit a written statement within a period of 14 days.

When submitting his appointment proposal to the Federal President, the FMJ shall include any comments as well as the considerations that have led to a deviation from the ranking of the PC. The PC shall be informed of this in writing.

9. **What are the terms of office of the head of the prosecution service?**

Like all judges and prosecutors the head of a prosecution office holds his position until he reaches the age of retirement.

10. **If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:**

- **What are the grounds for such removal?**

Illness (inability to work) or a conviction because of a criminal offence or a disciplinary offence can be the reason of a removal from office.

- **Which body can decide on such removal?**

As a result of a conviction for certain criminal offences, the loss of office is a mandatory legal consequence.

If the loss of office is the result of a disciplinary conviction, the removal is carried out by a disciplinary court as part of ordinary proceedings.

The Supreme Court acts as the disciplinary court for members of the Procurator General's Office and the Head of the Office of Senior Public Prosecutors (and his first deputies); for other prosecutors the Higher Regional Court (of another region) acts as disciplinary court.

A dismissal for health reasons is subject of the administrative procedure within the hierarchy of the prosecutorial system (see 3).

- **What is the procedure for such removal?**
As a disciplinary measure the removal can only be imposed after formal proceedings have been conducted as part of a court judgement.
Taking into account the nature and seriousness of the alleged breach of duty the office of the accused may be suspended without a court hearing as an interim measure while proceedings are pending (by a formal decision of the disciplinary court for the duration of the proceeding).
In urgent cases the superior of the accused may pronounce an interim suspension until a decision of the disciplinary court in the mentioned way can be reached upon this issue.

A removal of office as a result of inability to work may be imposed by the competent superior authority and may be reviewed by the Federal Administrative Court. For such a decision an expert opinion has to be obtained.

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?

The recruitment/selection of prosecutors is the result of the procedure of appointment – there is no special role for the head of the prosecution service unless he is a member of the personnel commission (see 8).

The recruitment/selection of staff, performance assessments and the awarding of honours or decorations is carried out in consultation with the superior service authority, partly in coordination with the Higher Regional Courts.

For the imposition of disciplinary measures the head may address the disciplinary court and may ask for the initiation of disciplinary proceedings. The prosecutor concerned may appeal against the decision of the disciplinary court within the ordinary remedy-procedure at the Supreme Court.

12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:
 - Managing the day-to-day operations and activities of the prosecution service;
See 3
 - Management of case distribution;

Cases are distributed according to a general, predetermined allocation of duties defined by the head of the prosecution service in coordination with the superior service authority. In individual cases, the head of the prosecution service is authorised to take over the official duties of all bodies subordinate to him himself or – for serious reasons – to entrust the performance of public prosecution duties to a public prosecutor other than the public prosecutor responsible according to the allocation of duties.

- **Management of financial and material resources of the prosecution service;**

The Head of each prosecution office is allocated a budget. Beyond that the management of financial and material resources is basically carried out by the head of a Public Prosecutor's Office in coordination with the superior service authority.

- Representation of the prosecution service internally and externally, including before foreign services and international organisations.

See 3

13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

Depending on the nature of misconduct a head of a prosecution office is – like all other judges, prosecutors and civil servants – accountable for his behaviour within the framework of criminal law, disciplinary law or civil law (director's and officers's liability).

Vienna, 19th February 2024

Michael Leitner m.p.

Bosnia and Herzegovina / Bosnie et Herzégovine

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. The Chief Prosecutor directs the Office administration with the help of a staff in charge of expert, administrative and technical duties headed by an individual named „Registrar“. The Registrar has to assist the Chief Prosecutor in the preparation and execution of the budget, the execution of payment of the personnel of the Prosecution Office and the managing of the logistics of the Office concerning consumption material and technical equipment.

2. The administration of the Prosecution service of Bosnia and Herzegovina is regulated by a special law passed by the Parliament of Bosnia and Herzegovina.

3. The prosecution service named „Prosecutor’s Office of Bosnia and Herzegovina“ is an independent institution of Bosnia and Herzegovina headed by the Chief Prosecutor. The Federation of Bosnia and Herzegovina as well as Republika Srpska and Brcko- District have their own prosecution services ordered to cooperate with the Prosecutor’s Office of Bosnia and Herzegovina.

4. The orders and decisions of the Chief Prosecutor are mandatory for the whole personnel of the Prosecutor’s Office. In case that a member of the Prosecution Office does not agree to a decision of the Chief Prosecutor or the Chief Prosecutor crossed his competences, he could complain to the High Judicial and Prosecutorial Council of Bosnia and Herzegovina. Orders of the Chief Prosecutor could be discussed before any complaint in the frame of the institution of Collegium, which consists of the Chief Prosecutor, his deputies and all prosecutors of the Prosecutor’s Office.

5. The Ministry of Justice of Bosnia and Herzegovina headed by a Minister only ensures the legal conditions for the work of the judiciary institutions at the state level as for example the Prosecutor’s Office and the Court of Bosnia and Hercegovina. Otherwise the Ministry is responsible for the international cooperation in legal and crime affairs. There is not any role of the Ministry in the administration of the prosecution service of the Prosecutor’s Office. But the Prosecutor’s Office is entitled and required- upon its own initiative or upon request- to provide the Presidency and the Council of Ministers of Bosnia and Hercegovina with information on its operations and implementation of the Law on the Prosecutor’s Office.

6. There is not any lack of modern means including electronic ones in the course of the administration of the Prosecutor’s Office. The administration process is completely digitalized.

7. The main challenge in connection with the use of the digitalized administration seems me to be in security protection of sensible information. But details aren’t available.

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. In the Law on the Prosecutor’s Office of Bosnia and Hercegovina aren’t provided any formal qualifications and eligibility criteria of the Chief Prosecutor. But the High Judicial and

Prosecutorial Council decided following criteria for his election: The candidate has to be citizen of Bosnia and Hercegovina, should have served a minimum of 8 years as a prosecutor or judge or advocate after his second state's examination as a lawyer. Last but not least he has to have shown the capacity to lead and represent an administration on state's level. The Chief Prosecutor is selected and appointed by the High Judicial and Prosecutorial Council from the Prosecutors of the Prosecutor's Office. He has a mandate of six years and is eligible for reappointment; however, his mandate is subject to mandatory retirement. Upon expiration of his mandate or his removal of his office the Chief Prosecutor has the right to perform his duty as a Prosecutor. If the Chief Prosecutor is incapacitated or prevented from carrying out his duties, he could be replaced by a Deputy Chief Prosecutor as designated by the High Judicial and Prosecutorial Council.

9. The Chief Prosecutor represents and chairs the Prosecutor's Office as well as the institution of Collegium of Prosecutors. Concerning the budget for his Office he has the right to attend and defend the High Judicial and Prosecutorial Councils proposal at the sessions of the Parliamentary Assembly and its relevant committees whenever budgetary matters affecting his office are discussed or decided.

10. See above sentence no. 8.

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. The recruitment of prosecutors and prosecutorial staff completely is in the hands of the High Judicial and Prosecutorial Council. But the Chief Prosecutor has regularly to assess the prosecutors formally by a special system. The High Judicial and Prosecutorial Council could take into account these assessments in case of an application of a prosecutor for a higher post. The Chief Prosecutor could send a proposal for honoring a prosecutor to the High Judicial and Prosecutorial Council, which has to decide about it or to send it to a higher authority responsible for that kind of honoring. On the other hand disciplinary procedures against the Chief Prosecutor and Prosecutors are in the hands of a special committee of the High Judicial and Prosecutorial Council. Concerning a disciplinary procedure the Chief Prosecutor has the initiative to include the special committee for disciplinary affairs.

12. The day-to-day operations and activities of the prosecutorial service in the Prosecutor's Office in general have to be permitted and supervised by the Chief Prosecutor. But that doesn't inflict the partially independence of the Prosecutors in judicial affairs. The case distribution regularly is managed by a computer program. The management of financial and material resources is given into the hands of the so called Registrar. As mentioned above, the Prosecutor's Office is represented by the Chief Prosecutor. That includes the representation towards all institutions of Bosnia and Hercegovina. The representation towards international legal bodies has to be coordinated with the Ministry of Justice of fundamental national and political principles.

13. There does exist a mechanism of rotation of the chiefs of some higher institutions on the state's level under the constitutional people of Bosnia and Herzegovina, Bosnians, Serbs, Croats and the so called „other people“. The post of the Chief Prosecutor of BiH at the moment has to be occupied by a Serb.

Bulgaria / Bulgarie

Preliminary remark:

1. The Bulgarian Constitution has been rapidly changed in December 2023 – mainly concerning Chapter VI „Judiciary “- including the Prosecutor`s Office of the Republic of Bulgaria (PORB). The key changes are:
 - a. The Supreme Judicial Council (acting until 2023 as a Plenary and two Chambers and responsible both for judges and prosecutors) has been split into 2 separate bodies – Supreme Judicial Council (SJC) and Supreme Prosecutorial Council (SPC).
 - b. The composition of the Supreme Prosecutorial Council has been changed with a clear dominance of the number of the members elected by the Parliament (6) upon the members elected by their colleagues (3).
 - c. The powers of PORB outside the criminal law field have been reduced and its structure has been adapted to the structure of the criminal courts.
 - d. The competences of the Prosecutor General to intervene in any single case have been removed and his/her power to give general guidelines has been restricted to the preliminary investigation.

There is a general idea to achieve a certain decentralization of PORB and to increase the accountability of the prosecution service. Nevertheless, the Prosecutor General remains head of the Supreme Prosecutor`s Office, represents PORB as a system of offices and remains a head of the Supreme Prosecutor`s Office with some powers concerning the management of the whole system.

2. According the amendments of the Constitution the chambers of the previous common Council shall act as a new SJC (only for judges) and – respectively – as a new SPC, until the election of the new bodies according the law.
3. There is a 6-month period in which the secondary legislation (incl. the Judicial system act and procedural codes) should be harmonized with the amendments of the Constitution from December 2023. The work is in progress at the moment.
4. This specific situation implicates the answers of the questionnaire. They are provided mainly according the recent regulation in the Constitution and some provisions of the secondary law which are considered to be inline with the Constitution.

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).

The administration body of the prosecutorial system is the SPC. The Council appoints and decides on the career development of the prosecutors. The Council proposes and executes the budget of the POs. As a system of POs, PORB is a secondary administrator with the budget and is represented by the Prosecutor General who is an ex officio member of SPC and retains certain managerial functions towards PORB as a system.

2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).
The regulation is provided at the level of the Constitution (Chapter VI) and should be developed in the legislation – in the Judicial system act.¹
3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service² in your country?³
The head of the system is the Prosecutor General who is also the administrative head of the Supreme Prosecutor`s Office.
4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:
- Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?
1) Yes – in two situations concerning the execution of prosecutorial powers:
 - a) **When cancelling a decree of a prosecutor from the Supreme Prosecutor`s Office or another prosecutor (in specific situations, provided by law) the decisions/instructions are mandatory in the concrete case.**
 - b) **When issuing a methodological guidelines regulating the way of action in typical situations the directives of the PG are obligatory as a rule. However these are not instructions on the single case but closer to internal abstract regulations.****2) The decision of the PG on managerial matters are obligatory to the prosecutors and the stuff.**
 - Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)
Some of them can be challenged.
The methodological guidelines are issued on the basis of a draft by the Supreme Prosecutor`s Office. According to the amendments of the Constitution the methodical rules, issued by the PG can be subject to a judicial control before the Supreme Administrative Court.
Some of the disciplinary or managerial decisions of the PG can be challenged before the Supreme Prosecutorial Council (SPC) and/or the court. Concerning disciplinary measures of certain gravity towards prosecutors (salary-cut,

¹ See the preliminary remark above.

² It is important to note that by referring to the head of the prosecution service in the present questionnaire, the highest-level official and/or body (please also see below in footnote No. 3) are meant. It is not meant to include the whole hierarchy of officials with some managerial roles within the prosecution service. However, it is also understood that the highest-level official of the prosecution service may have to delegate part of his/her powers under certain conditions and in some cases. If so, such delegation of powers may also be reflected in the responses to the questionnaire.

³ If the country`s legislative system delegates the management of the prosecution service to a body (i.e. Council of Prosecutors or other prosecutorial self-governance bodies, or a particular section within the service rather than a particular official), the respondent country is invited to share information on its establishment, functioning and terms of reference.

suspension, removal from office) the PG has no powers to decide alone. He/she addresses the SPC with a proposal. The decision of the SPC is subject to a judicial review before the Supreme Administrative Court.

5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).

Basically the Minister of Justice has absolutely no powers towards the administration of PORB as a system of POs. The only option for him is to initiate/propose a disciplinary proceeding against a prosecutor before the SPC – if nobody from the Judiciary has done so.

6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?

PORB has implemented an electronic information and case managing system which is a tool for the head of service to monitor the development of the cases and the compliance with the procedural deadlines/terms.

7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?

The ultimate (and very topical) issue is the harmonization of the legislation (Judiciary System Act, Code of criminal procedure, etc.) with the amendments of the Constitution. The process is ongoing and should be finished until June 2024.

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:

- Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?

Eligibility for appointment as an administrative head of the Supreme Court of Cassation, of the Supreme Administrative Court and as Prosecutor General shall be limited to persons of high professional standing and moral integrity and who meet the requirements of having a service record of at least 12 years.

- Which body is responsible for the appointment/election of the head of the prosecution service?

Art. 130 (2) of the Constitution:

The Prosecutor General shall be appointed and released by the President of the Republic on a proposal by the Supreme Prosecutorial Council for a single term of five years.....

What is the procedure for the appointment/election of the head of the prosecution service?

Art. 130 (2) of the Constitution:

Nominations for Prosecutor General may be proposed by three members of the Supreme Prosecutorial Council, as well as by the Minister of Justice. The President may not refuse to decree any such appointment or release upon a second proposal.

9. What are the terms of office of the head of the prosecution service?

Art. 126 of the Constitution:

(1) The structure of the prosecuting magistracy shall correspond to the structure of the courts which try criminal cases.

(2) (Amended, SG No. 106/2023) The Prosecutor General shall represent the prosecuting magistracy and shall head the Supreme Prosecution Office.

(3) (New, SG No. 106/2023) Acting on a motion by the Supreme Prosecution Office, the Prosecutor General shall endorse common methodological rules for the activities of prosecutors, investigating magistrates and other investigating authorities in pre-trial proceedings which shall be appealable before the Supreme Administrative Court according to a procedure established by a law.

It is expected those general powers of the Prosecutor General – provided by the Constitution to be detailed in the Laws which have to be amended until June 2024.

10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:

- What are the grounds for such removal?

Expected to be particularly developed in the Judiciary System Act.

- Which body can decide on such removal?

The Supreme Prosecutorial Council proposes to the President.

- What is the procedure for such removal?

Expected to be particularly developed in the Judiciary System Act.

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and

other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?

The Prosecutor General is an ex officio member in the Supreme Prosecutorial Council (10 members).

With regard to the management of the human resources Council has the power to:

1. appoint, promote, transfer and release prosecutors and investigating magistrates from office;

2. approach the President of the Republic with a proposal to appoint and release the Prosecutor General;

3. periodically appraise prosecutors, investigating magistrates and administrative heads in the prosecuting magistracy system and address matters concerning the acquisition and restoration of tenure status;

4. impose the disciplinary sanctions of demotion and release from office on prosecutors, investigating magistrates and administrative heads in the prosecuting magistracy system;

5. appoint and release administrative heads in the prosecuting magistracy system;

The prosecutor General has the power to propose to the Council on these matters.

12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:

- Managing the day-to-day operations and activities of the prosecution service;
The Prosecutor General heads the PORB as a legal entity and as a system of POs and manages its affairs .

- Management of case distribution;
The Prosecutor General represents PORB as a legal entity and manages its budget manages the case distribution only in the Supreme Prosecutor`s Office. In the other offices this is a task of the local prosecutors – administrative heads. Nevertheless being a head of administrative heads in the system, the Prosecutor general has the power to internally organize the principles of the case management according the law and to exercise some control powers towards the local administrative heads.

- Management of financial and material resources of the prosecution service;
The Prosecutor General is responsible for organising the activities of the PORB and manages its budget and material resources.

- Representation of the prosecution service internally and externally, including before foreign services and international organisations.

The Prosecutor General represents the PORB both internally and externally, including before all national bodies and before foreign services and international organisations.

In this capacity the Prosecutor General has the power to address the Constitutional court:

- to establish unconstitutionality of the laws and other acts passed by the National Assembly, as well as of the instruments issued by the President;**
- to decide on the constitutionality of political parties and associations;**
- to rule on the legitimacy of the election of a President and Vice President of the Republic;**
- to rule on the legitimacy of the election of a National Representative;**

The Prosecutor General is also entitled to address the Supreme Court to issue interpretative rulings on the implementation of the law.

13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

The prosecutor General is obliged to bring to the National Assembly (Parliament) his annual report on the application of the law and on the operation of the prosecuting magistracy and the investigating authorities. The National Assembly may also require, hear and adopt other reports by the Prosecutor General on the operation of the prosecuting magistracy for the application of the law, counteracting crime and implementation of penal policy.

The Prosecutor General is accountable to the Supreme Prosecutorial Council which adopts the annual report before bringing it to the Parliament.

Czechia / Tchéquie

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

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| <p>1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).</p> |
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The management of financial, material and human resources forms the content of the prosecutorial administration.

The tasks of (state) administration can be clearly divided into the following areas:

1) Personnel management

- (a) Determination of the number of prosecutors and other professional and other staff (employees) of the prosecution service,
- (b) Selection of specific prosecutors for the prosecution service,
- (c) career advancement of prosecutors,
- (d) assignment of prosecutors, granting of internships and transfers,
- (e) the appointment and dismissal of chief prosecutors of the prosecution service and their deputies,
- (f) the selection and practice of prosecutorial trainees,
- (g) the organisation of the final examinations of prosecutorial trainees,
- (h) training and education,
- (i) the disciplinary agenda.

2) Economics

- (a) Financing of the prosecution service,
- (b) control of the prosecution service,
- (c) formation and administration of the budget chapter of the prosecution service.

3) Operations

- (a) dislocation of the prosecution service,
- (b) the equipment of the prosecution service,
- (c) information and communication technologies.

4) Organisation of work

- (a) Establishment of the rules of procedure of the prosecution service and amendments thereto,
- (b) monitoring and evaluating the compliance of prosecutors with their duties in terms of dignity, ethics, professional competence and possible delays,
- (c) supervision,
- (d) statistics.

5) Decision-making

- (a) Decision-making on initiatives to review the performance of the administration by the Head of prosecution service,
- (b) handling complaints against the General Prosecutor,

6) Other

(a) Providing security and crisis management,

The fundamental task of the administration is to create the necessary conditions for the proper exercise of the powers of the prosecution service. This involves the creation of the following conditions, which are enumerated here in a demonstrative list: personnel, organisational, economic, financial and educational (positive definition).

The administration (the exercising of administration) **of the prosecution service must not interfere with the exercise of prosecutorial jurisdiction** (its legal powers - criminal and non-criminal). The administration of the prosecution service must not affect the performance of the prosecution services' tasks or be an obstacle to its activities (negative definition).

The bodies of the prosecutorial administration are the Ministry of Justice (as the central body of the prosecutorial administration), Heads of prosecution service (Chief Prosecutor) and their deputies; sometimes the director of the administration is also considered to be the sui generis body of the prosecutorial administration.

The Ministry of Justice is the supreme body of the prosecutorial administration. It is responsible for ensuring the administrative functioning of prosecution offices, organisational, personnel, budgetary matters or information systems.

The Ministry of Justice carries out the administration of the Prosecution Service either **directly or through** the respective **Heads of prosecution service**.

The administration of the prosecution service in matters of **State property and the State budget** shall always be carried out by the Ministry of Justice through the relevant the Head of prosecution service.

The Ministry of Justice is the administrator of the budget chapter for the prosecution system. The Ministry of Justice administers the budget of the entire Ministry and allocates funds to the individual organisational units of the State in their budgets. Note: prosecution services are organisational units of the State.

The administration of the Prosecutor General's Office is carried out by the Ministry through the Prosecutor General. The administration of the High, Regional and District Public Prosecutor's Offices is carried out by the Ministry directly or through the respective Heads of prosecution service; the administration of District prosecution service may also be carried out through Regional Public Prosecutors. Each Head of prosecution service shall administer only the office of which he is the head.

Heads of prosecution service shall be responsible to the Ministry of Justice for the proper performance of the administration of the prosecution service of which they are the head. While retaining their own responsibility, Heads of prosecution service may delegate individual acts of administration of the prosecution service to another prosecutor or another employee of the prosecution service of which they are the head.

In the prosecution system, the senior prosecution service (the superior prosecution service) does not administer matters of the lower prosecution service (the subordinate prosecution

service), with the exception of regional public prosecutors who are administrators for the entire region - they also administer the district prosecution services within their jurisdiction.

2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).
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The administration of the prosecution service is regulated by **the Public Prosecutor's Office Act**.

In addition, these are **instructions of a general nature** (internal normative regulations) issued for the public prosecution system. The issuance of instructions of a general nature is entrusted by law to the Prosecutor General as his exclusive competence. Their main purpose is to unify and regulate procedures within the prosecution system. The instructions are binding.

The Public Prosecutor's Office Act establishes a special authority of the Prosecutor General in the field of administration of the prosecution service to issue *Model organisational rules of the Prosecution service and to unify and control the performance of the filing service of the Prosecution service*.

Heads of prosecution service may issue **measures** in the exercise of prosecutorial administration. The measures shall be binding on subordinate prosecutors and other employees of the public prosecutor's office.

Certain other matters are regulated by agreements. For example, the **Agreement on the Selection and Career Progression of Prosecutors** (concluded between the Minister of Justice and chief prosecutors with personnel competences). **Agreements on the systematisation of the number of prosecutors in district and regional prosecutor's offices** (concluded between the Prosecutor General's Office, regional and district prosecutor's offices). **Agreement on the systematisation of other staff of prosecutors' offices at the Prosecutor General's Office, High Public Prosecutors' offices and regional state prosecutors' offices**.

The Ministry of Justice also issues relevant **instructions and methodologies** relating to the activities of the personnel units of the prosecution service

In ensuring the economic, material and financial operation of the prosecution service the duties of the heads of the organisational units shall apply to the heads of the prosecutors. They are therefore obliged to comply with all the legal provisions applicable to them, and the **instructions of the Ministry of Justice** as administrator of the State budget chapter.

Furthermore, e.g. the instruction of the Ministry of Justice on ensuring information security in the information and communication environment in the Ministry of Justice.

The Ministry of Justice performs other tasks if this Law or special legal regulations in the area of the administration of the public prosecution service so provide. Examples of activities of the Ministry of Justice and the Minister in the field of administration:

- instructions from the Ministry of Justice which implementing certain provisions of the Act on free access to information,
- the performance of the State Statistical Service, including for the public prosecutor's office on the State Statistical Service,

3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service¹ in your country?²

The law stipulates that the Prosecutor General's Office is headed by the Prosecutor General. The High Public Prosecutor heads the High Public Prosecutor's Offices. Regional prosecutors head regional prosecutors' offices, and the Municipal Chief Public Prosecutor heads the Municipal Public Prosecutor's Office in Prague. District public prosecutors head district prosecutors' offices and the Municipal Prosecutor's Office in Brno is headed by the Municipal Chief Public Prosecutor (chief prosecutors).

As mentioned earlier, the administration of the Prosecution service is carried out by the Ministry of Justice. The Ministry of Justice is the central body for the administration of the prosecution service. Its task is to create the conditions for the prosecution service to properly exercise its competences in terms of personnel, organisation, economics, finance and education. It also has the task of supervising the proper performance of the tasks of the prosecution service. This cannot be equated with the superiority of the Ministry (or the Minister of Justice) of Justice in relation to any prosecution service or public prosecutor (as regards the exercising of prosecutorial jurisdiction).

4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:

- Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?

Issuing **instructions of a general nature** is entrusted to the Prosecutor General as his exclusive competence. The instruction is binding on the prosecutor (ex lege) and, if the Prosecutor General so determines, on other employees of the prosecution service.

Heads of prosecution service may, in the exercise of the administration of their prosecution offices, issue **measures** which are binding on subordinates.

- Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)

Failure to comply with an instruction of a general nature may lead to liability for such conduct and, if the conduct fulfils the elements of a disciplinary offence, to disciplinary liability against prosecutors. Of course, an instruction of a general nature may not be followed if it (or

¹ It is important to note that by referring to the head of the prosecution service in the present questionnaire, the highest-level official and/or body (please also see below in footnote No. 3) are meant. It is not meant to include the whole hierarchy of officials with some managerial roles within the prosecution service. However, it is also understood that the highest-level official of the prosecution service may have to delegate part of his/her powers under certain conditions and in some cases. If so, such delegation of powers may also be reflected in the responses to the questionnaire.

² If the country's legislative system delegates the management of the prosecution service to a body (i.e. Council of Prosecutors or other prosecutorial self-governance bodies, or a particular section within the service rather than a particular official), the respondent country is invited to share information on its establishment, functioning and terms of reference.

part of it) becomes outdated due to a change in legislation, a change in established case law, etc.

5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).

As mentioned earlier (Q 2 and 3)

The Ministry of Justice is the supreme body of the prosecutorial administration. It is responsible for ensuring the administrative functioning of prosecution offices, organisational, personnel, budgetary matters or information systems. The Ministry of Justice may issue binding instructions in the area of prosecutorial administration (see in detail the answer on the Q 2.).

This cannot be equated with the superiority of the Ministry (or the Minister of Justice) of Justice in relation to any prosecution service or public prosecutor (as regards the exercising of prosecutorial jurisdiction).

The Ministry of Justice is not superior to the Prosecutor General's Office or to other prosecutor's offices. The Minister of Justice is not superior to the Prosecutor General or other chief prosecutors (as regards the exercising of prosecutorial jurisdiction).

Nevertheless, the Prosecution service is part of the Ministry of Justice's resort, which is the central authority for the administration of the Prosecution Service. The Ministry of Justice and, in certain statutory cases, the Minister of Justice himself continue to hold important powers within the public prosecutor's office, particularly in the areas of personnel, economics and organisational.

The Ministry of Justice (Minister of Justice) cannot issue binding instructions to the public prosecutor (prosecution service). The Minister of Justice is not officially superior to the Prosecutor General and does not supervise the activities of the Prosecution service (as regards the exercising of prosecutorial jurisdiction).

Within six months of a calendar year at the latest the Prosecutor General submits through the Ministry of Justice **a report of the public prosecutor's office's activity for the previous calendar year to the Government** (see the Act no. 283/1993 Coll., on Public Prosecutor's Office, as amended). A report of the public prosecutor's office's activity remains a report of public prosecutor's office; Minister of Justice has a position of submitter (he/she has no right to demand any changes in a report or to give it back to rework (law does not give him/her such a power). In last years the government places a report of the public prosecutor's office's activity on the agenda only for information (as a non-legislative material).

The Minister of Justice may anytime ask any Prosecution service to **provide information on the proceeding state of each case the Prosecution service** is engaged in, if such information is needed to fulfil objectives of the Ministry or if the Minister of Justice needs such information as a member of the Government (see the Act no. 283/1993 Coll., on Public Prosecutor's Office, as amended).

6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?

At present, the prosecution system uses the Information System of the Public Prosecutor's Office ("ISYZ") for both the exercise of its competence (the exercising of prosecutorial jurisdiction) and for actions related to the administration of the prosecution. ISYZ includes registers for individual types of proceedings and recording aids kept at the prosecution office (e.g. the book of custody, the book of deposits, and the filing system).

However, standard "paper" files are also kept at the same time. Thus, in the Czech Republic, we have a hybrid system of keeping the prosecution's agendas (i.e. including agendas related to the administration of the prosecution). ISYZ is a unified but decentralised system used by the entire prosecution system, i.e. a total of 97 individual offices.

In subsequent years, ISYZ has been integrated with other judicial information systems such as ISAS (Information System for Court Administration), CESO (Central Register of Prosecuted Persons) and, in particular, IRES (Information Budget and Economic System). IRES is the information system in which the economic agendas of the prosecution service are kept. Another system used in the personnel administration of the Prosecution service is the Datacentre information system.

These systems are currently operational, technically and conceptually outdated. Nevertheless, modern functionalities such as the possibility of electronic signing (e-signature) or the possibility of electronic delivery by linking to the ISDS (Information System for Data Boxes) have been added to them through gradual development.

Although the employees of the prosecutor's office use the system, all the documents and files of the prosecutor's office are primarily kept in paper form, which makes it very difficult, time-consuming and often impracticable for employees to search for specific information. Due to its documentary form, only one authorised person (e.g. the investigator) has access to the file at any one time. In the event of a need to share the file, documents are copied or the physical file is sent to the person concerned, e.g. resolution of appeals in both criminal and civil proceedings.

The Prosecution service is currently preparing a project for digitisation of the prosecution service. Within the framework of this project, a completely new information system of the prosecutor's office will be developed - ELVIZ (Electronic Information Management of the Prosecutor's Office). The timeframe for the full deployment of ELVIZ is 2026. ELVIZ will be built as a critical information infrastructure from the security point of view.

The new ELVIZ IS will be architecturally integrated with the central elements of the information infrastructure currently being developed by the Ministry of Justice, in particular eSPIS. The eSPIS module will be the basic building block, alongside which the ELVIZ IS will be built as a superstructure for agenda-specific functionalities, so that the system can then be operated in a comprehensive and ergonomic manner.

The impacts of the aforementioned digitisation of the entire agenda of the prosecution service system include:

- complete computerisation of the prosecution's agendas (with the exception of documents containing classified information and documents that cannot be converted in an authorised manner),
- reduction of the material burden of the classic "paper" file management,
- support for complex search and work with documents,
- automatic production of statistics and, last but not least
- the possibility of sharing data with other information systems (interoperability) on the part of the police, courts and other public authorities.

What has been described above in general also applies, of course, to the administration of the prosecution service. From the digitisation of all prosecution agencies, we also expect greater efficiency in the area of administration, greater data exchange between information systems (e.g. with the Ministry of Justice, which is the central body of prosecution administration), greater possibilities of using statistical overviews of the exercise of jurisdiction and thus a basis for more effective management, personnel and organisational decisions.

7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?

The digitisation of the public prosecution's agendas has its clear positives, but also risks that need to be periodically evaluated and measures to reduce or eliminate them need to be taken.

The exercise of competence and the exercise of administration are in some parts so interconnected or linked that there is no reasonable reason to separate them and create different regimes for them, e.g. in terms of data security, access permissions, etc.

Digitisation brings major requirements in terms of electronic security and data protection (including personal data), in particular:

- a properly set access permissions regime
- log management
- secure infrastructure, including content encryption
- ensuring authentication, authorisation and data integrity
- interoperability standards for the information systems of different public authorities

A major challenge for all States is to keep "with the times". The State and its agencies are often unable to keep up with the private sector due to the complexity of the procurement regime. In this regard, there is a need for transparent but contemporary and effective forms of procurement in the ITC sector.

At the level of the central bodies of the prosecution administration, it is necessary to have a clear idea of the architecture of the information systems of the judiciary in a broader sense, it is necessary to have clear rules for the renewal of SW and HW (avoiding components that pose security risks, not only from a technical but also from an international political point of view). These issues are also linked to financing and therefore to the budgetary sphere. A major risk is underfunding in this area and unclear rules on the priorities of individual projects. In the Czech Republic, a major shortcoming is that the state is not able to pay quality IT professionals, and the salary options for state employees are uncompetitive with the private sector. Poorly paid professionals can also become a risk in relation to the high sensitivity of the data that the prosecutor's office works with in the exercise of its competence.

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:

- Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?

Currently, the Prosecutor General is appointed by the Government on the proposal of the Minister of Justice, while other heads of prosecution service (see chief prosecutors) are appointed by the Minister of Justice either on the proposal of the Prosecutor General or on the proposal of the immediately superior heads of prosecution service.

More detailed requirements for the persons of heads of the prosecution service are not set at the legal level, i.e. any prosecutor can be proposed for appointment, the law does not limit their scope. Certain limitations for practice result from the Agreement on Selection and Career Advancement of Prosecutors, which was concluded on 25 June 2018 between the Minister of Justice and heads of prosecution service with personal competence (achieved professional level, ability to manage people and conceptual work, personal qualities and character of the prosecutor, minimum required experience, absence of unrelieved disciplinary action).

The draft amendment to the Public Prosecutor's Office Act, which is currently in the legislative process, proposes the introduction of basic requirements for the person of a head of prosecution service (the requirement for professional knowledge, professional experience and moral qualities guaranteeing the proper performance of the function, the absence of an obliterated disciplinary measure and the minimum required period of experience; the requirement for managerial experience is also emphasised for the Prosecutor General);

- Which body is responsible for the appointment/election of the head of the prosecution service?

Appointment mechanism (determination of the entities authorized to appoint heads of prosecution service, determination of persons proposing candidates for appointment to these positions):

- The Prosecutor General is appointed by the Government, but the Government can only appoint a person nominated by the Minister of Justice;
- other heads of prosecution service are appointed by the Minister of Justice on the proposal of the superior head of prosecution service or the Prosecutor General.

- What is the procedure for the appointment/election of the head of the prosecution service?

The Public Prosecutor's Office Act regulates a simple appointment procedure for high prosecutors, regional prosecutors and the municipal prosecutor in Prague, as well as district prosecutors and their equivalents.

The appointment of these heads of prosecution service requires the agreement of two persons, namely the proposer and the Minister of Justice (as the appointer). The appointment of high, regional and district prosecutors is a direct power of the Minister of Justice; no one else can

replace him in this respect. The law does not lay down further conditions for the appointment of high, regional and district prosecutors.

Aware of the above-mentioned deficit, an Agreement on the Selection and Career Progression of Prosecutors was concluded on 25 June 2018 between the Minister of Justice and heads of prosecution service (the chief prosecutors) with personnel competences. This Agreement is a kind of "temporary" solution, pending the implementation of the relevant legislative change.

In order to increase the transparency of the process of appointment of senior prosecutors by the Minister of Justice (i.e. high, regional and district prosecutors), the draft amendment to the Public Prosecutor's Office Act, which is currently in the legislative process, envisages mandatory selection procedures (the tender). That is, a person who is unsuccessful in the selection procedure will not be able to be appointed to the post of the head of prosecution service.

9. What are the terms of office of the head of the prosecution service?

It is not specified.

The Minister of Justice appoints public prosecutors for an indefinite period upon a proposal of the Prosecutor General. An indefinite period does not mean for life, but means that the period is not limited. If the position is not terminated by other legal reasons, it is terminated by the date of December 31 of the calendar year in which the public prosecutor achieved 70 years of age.

According to the current legislation, the term of office of heads of prosecution service, including the Prosecutor General, are unlimited in time.

A draft amendment to the Public Prosecutor's Office Act is currently in the legislative process. One of the proposed changes is the introduction of the length of the terms of office of heads of prosecution service (7 years for both the Prosecutor General and other heads of prosecution service).

10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:

- What are the grounds for such removal?
- Which body can decide on such removal?
- What is the procedure for such removal?

According to the current legislation, the office of heads of prosecution service, including the Prosecutor General, is unlimited in time (there is no provision limiting the performance of the office to a specific period). The law does not set out any further requirements for a candidate.

The Prosecutor General may be dismissed by the Government on the proposal of the Minister of Justice. Other heads of prosecution service may be removed by the Minister of Justice, who may do so - unless the removal is due to a breach of duty in the performance of administration of the public prosecutor's office(*) - only on the proposal of the head of prosecution service, who is entitled to propose the appointment to the office from which the head of prosecution service is to be removed.

(*) in a case where a serious breach of duty arising from the performance of the office of the head of prosecution service in the exercise of the state administration of the public prosecutor's office is found, the chief prosecutor may be removed by the Minister of Justice in that case without a proposal from the nearest senior prosecutor (the head of prosecution service).

The Prosecutor General may be dismissed without giving any reason.

The dismissal of other senior prosecutors (heads of prosecution service) may be on the grounds of a serious breach of the duties arising from the performance of their duties as a head of prosecution service (not because they have breached a duty as a prosecutor - this would be dealt with under disciplinary liability).

The dismissal of the head of prosecution service is therefore in the nature of a sanction for inadequate performance of the functions of an administrative body; the functions of the prosecutor are not affected

Removal from the office of public prosecutor is also an option as the most severe disciplinary measure. Here, it is linked to the termination of the office of public prosecutor.

The draft amendment to the Public Prosecutor's Office Act, which is currently in the legislative process, also sets out the requirements for the professional and managerial skills of the Prosecutor General and defines the grounds for his dismissal. The Minister of Justice has proposed that if some of these grounds arise, the Cabinet (Government) should not be obliged to remove the Prosecutor General, but should have discretion.

Prior to the expiry of the term of office of heads of prosecution service, the draft amendment to the Public Prosecutor's Office Act provides for the possibility of removing a head of prosecution service only by a decision of a disciplinary court for disciplinary offences consisting of culpable breach of the duties arising from the performance of the office of heads of prosecution service.

The draft amendment to the Public Prosecutor's Office Act also introduces requirements for the professional knowledge, professional experience and moral qualities of chief prosecutors. Candidates will have to fulfil the required period of experience.

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

<p>11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?</p>
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Ministry of Justice and in certain statutory cases, the Minister of Justice himself remains the holder of important powers vis-à-vis the prosecution service, particularly in the area of personnel. In particular, it concerns the number of prosecutors, professional and other staff of the prosecution offices, taking into account the number of cases to be handled.

In the case of the Prosecutor General's Office, the number of prosecutors, professional and other staff shall be determined in agreement with the Prosecutor General.

The Public Prosecutor's Office Act provides for individual heads of prosecutors (heads of prosecution service) - as one of the tasks of the administration of the prosecution service - to ensure the operation of the prosecution service they head, in terms of personnel.

Heads of the prosecution service are involved in ensuring the operation of the respective prosecution service in terms of personnel. Heads of prosecution service ensure the personnel of their prosecutor's offices by submitting proposals for the staffing of these prosecutor's offices with prosecutors.

The prosecution service has prepared the proposal agreement on the selection and promotion of prosecutors. This agreement contains more detailed rules for:

- 1) selection of prosecutors - the content and procedure of the selection procedure and the rules for subsequent the process of appointment of prosecutors,
- 2) transfer of prosecutors - rules and criteria for transfer to a higher prosecutor's office,
- 3) rules and procedure for the appointment of senior prosecutors,
- 4) rules for the appointment of prosecutors to other positions in the prosecution system.

The draft agreement was discussed with the Ministry of Justice and resulted in the signature by the heads of prosecutors with personnel powers and by the Minister of Justice, and thus to its conclusion on 25 June 2018.

The selection procedure for the candidate's practice is announced by the regional prosecutor after consultation with the Ministry of Justice according to the need to fill vacancies in the legal trainee positions. The selection procedure shall be announced on the website of the Ministry of Justice.

The head prosecutor may file a motion to initiate disciplinary proceedings against the relevant public prosecutor. The Prosecutor General (and Minister of Justice also) may bring disciplinary proceedings against any public prosecutor.

In 2013, the systematisation of the prosecution service started. The systematisation is intended to contribute to the even distribution and stability of staff positions in the prosecution system. The systemisation agreements are internal synergy agreements, are not immutable and contain mechanisms for regular reassessment of results.

If the number of staff changes, the Prosecutor General's Office will recalculate (according to the criteria set out in the relevant agreement).

Ministry of Justice (as the central body of the administration of Public Prosecutor's Office - prosecutorial administration) has agreed to the systematisation of posts of individual categories of staff in the prosecution system.

12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:

- Managing the day-to-day operations and activities of the prosecution service; Please, see the answer to Q 1.

- Management of case distribution;

The Head Prosecutor divides the work, i.e. newly contested cases, among the individual prosecutors. Once assigned, a case cannot be removed from a prosecutor without further reason.

If the head of the prosecution service reassigns an agenda for compelling reasons (e.g., to eliminate significant caseload or long-term illness of a prosecutor), he or she will make a brief entry in the file stating the reason.

The head prosecutor assigns the case to individual prosecutors for processing and may also remove it from them and assign it to another prosecutor. This procedure should, however, be exceptional and convincingly justified.

- Management of financial and material resources of the prosecution service;

The Ministry of Justice is the administrator of the budget chapter for the prosecution system. The Ministry of Justice administers the budget of the entire Ministry and allocates funds to the individual organisational units of the State in their budgets. Note: prosecution services are organisational units of the State.

The Ministry of Justice ensures operation of Public Prosecutor's Offices by securing financial and material aspects of operation of Public Prosecutor's Offices within the scope determined by a special legal enactments and by management control (audits).

The Ministry of Justice always administers the State's property and budget through the respective Head of prosecution service.

- Representation of the prosecution service internally and externally, including before foreign services and international organisations.

Yes, the head of prosecution service represents the prosecutor's office internally and externally.

13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

The Public Prosecutor's Office Act divides the responsibility for the administration between the different levels of the prosecution service and the Ministry of Justice, generally entrusting the administration to the head prosecutor.

Each head prosecutor shall exercise the administration only of the office of which he or she is the head.

Heads of prosecution service and their deputies are also bodies of the prosecutorial administration. Heads of prosecution service are responsible to the Ministry for the performance of the administration of the prosecution service they head.

Even in the case of, if the head prosecutor determines the scope of the administration to be exercised by his deputy, it does not relieve his responsibility for the proper performance of the administration. On the other hand, the responsibility for the exercise of the administration is also the responsibility of the deputy head prosecutors, to the extent determined by the head prosecutor.

Head prosecutors are responsible for the performance of the administration of the prosecution service of which they are the head is responsible to the Ministry; regional prosecutors are also responsible for the administration of the district prosecution offices entrusted to them.

Serious breaches of the duties arising from the performance of the duties of heads of prosecution service (high, regional and district prosecutor) would be a consideration to **removal from office**, and if specific misconduct is found, a **proposal to initiate disciplinary proceedings** or a **proposal to assess the capacity to hold the office of prosecutor** would also be considered.

A means of enforcing the responsibility of the head of prosecution service for the proper performance of the administration is the establishment of the principle of **superiority** of the head of prosecution service of individual prosecutor's offices to the prosecutors.

The establishment of **the office of the Director of the Administration** may be considered as another means of exercising responsibility for the performance of the administration. The directors of the administration are responsible for the management and certain other activities related to the administration of the Prosecutor General's Office, High Public Prosecutors' Offices and Regional Public Prosecutors' Offices.

However, the responsibility of the relevant head of prosecution service as the prosecutorial administration body for the proper performance of the administration is not affected by the fact that certain matters of the administration of the prosecution service are carried out by the Director of Administration.

The answers prepared by Jana Zezulová

Denmark / Danmark

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).

Table 1 shows that the estimated total use of financial resources in the The Prosecution Service in 2022 and 2023. Payroll accounts for more than half of the expenses. Other expenses includes expenses related to buildings and other facilities, e.g. rent.

Table 1
Financial resources in the Courts of Denmark and The Prosecution Service

<i>DKK million (2023 price level)</i>	2022	2023
The Director of Public Prosecutions, the three state prosecutors' offices and the Clinic of Forensic Psychiatry	266.1	298.8
Payroll	202.1	205.6
Other expenses	64.0	93.2
- <i>Rent</i>	18.5	20.8
- <i>Other goods and services</i>	44.3	70.9
- <i>Depreciation</i>	1.3	1.5
The Prosecution Service in the police districts	534.4	547.1
Payroll*	534.4	547.1
Other expenses**	-	-
Total	800.5	845.9

Note: The figures are not the final accounting figures for 2023, as these will only be available later. *Excluding payroll expenses of the prosecution offices in the Special Crime Unit, Bornholm Police, Faroe Islands Police and Greenland Police. ** Organizationally and physically, the Prosecution Service in the police districts is placed within the 12 police districts of Denmark. As a result, it is not possible to separate other expenses such as rent etc. from the expenses of the police districts.

Table 2 shows that the number of full-time employees in 2022 and 2023. The table also shows the distribution of employees by employee groups.

Table 2
Human resources in the Courts of Denmark and The Prosecution Service

<i>Full-time employees</i>	2022	2023
The Director of Public Prosecutions, the three state prosecutors' offices and the Clinic of Forensic Psychiatry	313	314
Prosecutors	138	156
Other personnel	175	158
The Prosecution Service in the police districts*	1,080	1,086
Prosecutors	657	668
Other personnel	423	418
Total	1.393	1.400

Note: The figures are not the final figures for 2023, as these will only be available later. *Excluding employees of Faroe Islands Police and Greenland Police.

The above figures regarding the financial and material resources of the Prosecution Service include the payroll expenses and other expenses of the Director of Public Prosecutions, the three state prosecutors' offices and the Clinic of Forensic Psychiatry (Den Centrale Anklagemyndighed). The payroll expenses of the c) do not include payroll expenses of the Prosecution Service in National Special Crime Unit, Bornholm Police, Faroe Islands Police, and Greenland Police.

The above figures regarding the human resources of the Prosecution Service include the full-time employees of the Director of Public Prosecutions, the three state prosecutors' offices and the Clinic of Forensic Psychiatry (Den Centrale Anklagemyndighed) and the Prosecution Service in the police districts (den lokale anklagemyndighed), excluding the Prosecution Service in Faroe Islands Police and Greenland Police.

Most of the employees work in Denmark's police districts, where they appear before the district courts. In addition, the Prosecution Service comprises the state prosecutors' offices, which supervise the police districts and conduct criminal proceedings in the high courts. The senior manager of the Prosecution Service is the Director of Public Prosecutions, who appears as a prosecutor in the Supreme Court.

2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).

The administration of the prosecution service is regulated by law and regulations.

3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service¹ in your country?²

¹ It is important to note that by referring to the head of the prosecution service in the present questionnaire, the highest-level official and/or body (please also see below in footnote No. 3) are meant. It is not meant to include the whole hierarchy of officials with some managerial roles within the prosecution service. However, it is also understood that the highest-level official of the prosecution service may have to delegate part of his/her powers under certain conditions and in some cases. If so, such delegation of powers may also be reflected in the responses to the questionnaire.

Formally and according to article 98 of the Administration of Justice Act, the Minister of Justice is the superior of the public prosecutors and supervises them. The Minister of Justice can determine provisions about the prosecutors' execution of their assignments. The Minister of Justice can give the public prosecutors orders regarding the handling of specific cases, including to begin or continue, refrain from or halt legal process. An order pursuant to this provision to begin or continue, refrain from or halt legal process must be in writing and accompanied by a reason. Furthermore, the speaker of the Danish Parliament must be informed in writing of the order.

However, the Minister of Justice has only made use of the possibility to give orders to the prosecution service twice during the last 30 years, and in practice the Director of Public Prosecutions is heading the prosecution service in Denmark.

4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:

- **Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?**
- **Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)**

According to Article 99 of the Administration of Justice Act, the Director of Public Prosecutions is the superior of the other public prosecutors and supervises them. The Director of Public Prosecutions can determine provisions about the other prosecutors' execution of their assignments. The Director of Public Prosecutions can give the other public prosecutors orders regarding the handling of specific cases, including to begin or continue, refrain from or halt legal process. The Director of Public Prosecutions decides on complaints about decisions made by the State Prosecutors. These decisions cannot be appealed to the Minister of Justice.

5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).

Please, see the answer to question number 3.

6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?

- a. The prosecution service is somewhat digitalised. The prosecution service, in unison with the police aims to be fully digital by 2030. There are currently

² If the country's legislative system delegates the management of the prosecution service to a body (i.e. Council of Prosecutors or other prosecutorial self-governance bodies, or a particular section within the service rather than a particular official), the respondent country is invited to share information on its establishment, functioning and terms of reference.

program development to reach this end. The vision is to be able to send data (especially metadata) directly to the courts and to the correctional service

- b. Currently police and prosecution services are in many cases providing documents in form of pdf-files enabling the handling of the case in court to be conducted on screens where the defendant and any audience can easily follow the proceedings. Furthermore, there is often a need to be able to show video recordings and play wiretapping material.

There are currently a digital functionality in the casemanagement system provided by the police and used by the prosecutors to send few documents such as the indictment to the courts. The actual casematerial cannot be send via this functionality at present and therefore needs to be expanded or changed. At the receiving end – at the courts and at the correctional service – the systems can receive these data. The receiving systems will also need to be expanded further in the future.

- c. In some of the police districts the distribution of cases is handled digitally. This means that the cases are “digitalised” (scanned into pdf) and then forwarded to the prosecutor who will be responsible for assessing the case, writing the indictment, deciding which witnesses to call, sending the case to court or closing the case.

7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?

There are several challenges to an increased digitalisation. Apart from the initial scepticism, there are IT-security issues, there are potentially GDPR – issues and of course technical issues. Currently in the digitalisation of the entire chain of criminal proceedings (from the initial report of a crime to the serving time in prison) there is a need to ensure that all actors develop new system that are able to interact and receive the actual data being sent. This inter-operability between systems is a big challenge to the success of the process.

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:

- **Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?**
- **Which body is responsible for the appointment/election of the head of the prosecution service?**
- **What is the procedure for the appointment/election of the head of the prosecution service?**

The Director of Public Prosecutions is employed as a public servant and the employment conditions are regulated in the Civil Servants Act No. 511 of 18 May 2017 and in the Civil Servants Pension Act No. 510 of 18 May 2017.

The Director of Public Prosecutions must have a master's degree in law from a Danish University. The Director of Public Prosecutions is chosen on the basis of a mandatory public job posting. Prior to the posting of the position, the job posting must be approved by the Government Hiring Committee (consisting of the Prime Minister, the Minister of Defense, the Minister for Foreign Affairs, the Minister for Finance and the Minister for Economic Affairs).

The Minister of Justice assesses all the applications and recommends the best qualified candidate for the position to the Government Hiring Committee, who must approve the choice of the new Director of Public Prosecutions.

After the candidate is approved by the Government Hiring Committee, the candidate will then be appointed in the position by His Majesty the King. It follows from section 1 of the Danish Executive Order No. 371 of 18 May 2004 on the Royal Appointment of Certain Public Servants that employment as public servants in the state and in the national church in positions on pay scale 36 or above happens upon royal appointment.

9. What are the terms of office of the head of the prosecution service?

The Director of Public Prosecutions is appointed for a period of five years with the possibility of reappointment for three more years. It is currently possible to reappoint the same Director of Public Prosecutions.

On 16 January 2024, the Danish Government submitted a draft proposal for a revision of the Civil Servants Act for public consultation. The draft proposes that the Director of Public Prosecutions shall be appointed for a period of ten years without the possibility of extension or reappointment.

10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:

- **What are the grounds for such removal?**
- **Which body can decide on such removal?**
- **What is the procedure for such removal?**

Dismissal or removal of the Director of Public Prosecutions must as any other civil servant be based on a reasoned argument relating to the circumstances of the institution (e.g. insufficient funds or restructuring) or to the conduct of the employee (e.g. lack of aptitude, too much absence due to sickness or cooperation problems).

In regards to professional misconduct, only serious professional misconduct may result in dismissal of a civil servant. Although this condition is not expressly laid down in legislation, it is settled law according to court practice and legal doctrine.

The Minister of Justice decides on the removal of the Director of Public Prosecutions, but must make a recommendation about this to HM the King, who has the final authority to carry out the dismissal.

Before making a recommendation to HM the King, the Minister of Justice must follow the procedure described below:

- The Director of Public Prosecutions must like any other public employee, be given the opportunity to comment on the facts of the case and/or make objections regarding the intended dismissal.
- Furthermore, in regards to civil servants (including the Director of Public Prosecutions) it follows from section 31 of the Civil Servants Act that both the employee and the employee organization having negotiating rights must be given the opportunity to make a statement prior to the implementation of the contemplated dismissal.
- Finally, according to the Civil Servants Act a hearing under the guidance of an independent judge must be held before a civil servant (including the Director of Public Prosecutions) is dismissed for professional misconduct.

Decisions on dismissal of a civil servant may be tried before the courts.

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

- 11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?**

The Director of Public Prosecutions is the chief administrative officer of the prosecution service. The Director of Public Prosecutions sets out the strategic direction for recruitment of prosecutors for the entire prosecution service and is responsible for recruitment of prosecutors for the entire prosecution service in Denmark, including Greenland and the Faroe Islands. The Office of the Director of Public Prosecutions has an HR department, which handles all areas mentioned in Question 11.

- 12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:**

- **Managing the day-to-day operations and activities of the prosecution service;**
- **Management of case distribution;**

The Office of the Director of Public Prosecutions handles criminal cases at the Supreme Court and the Special Appeals Court. The Director of Public Prosecutions is the superior of the other prosecutors and has the professional responsibility for the activities of the public prosecutor throughout the country and supervises the state prosecutors and police directors. The Director of Public Prosecutions also handles complaints about decisions made by the state prosecutors

in the first instance. The Director of Public Prosecutions can lay down regulations and issue orders in specific cases.

- **Management of financial and material resources of the prosecution service;**

The Director of Public Prosecutions manages the funding of The Director of Public Prosecutions, the three state prosecutors' offices and the Clinic of Forensic Psychiatry (Den Centrale Anklagemyndighed).

The Office of the Director of Public Prosecutions distributes the payroll funding for the Prosecution Service in the police districts (den lokale anklagemyndighed). However, the Police Director in each of the police districts manages the overall funding of the Prosecution Service in the police districts. Organizationally and physically, the Prosecution Service in the police districts is placed within the 12 police districts of Denmark.

- **Representation of the prosecution service internally and externally, including before foreign services and international organisations.**

The Director of Public Prosecutions represents the prosecution service internally and externally including before foreign services and international organisations and has the possibility to delegate these powers to other prosecutors.

13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

Please, see the answer to question number 10.

Also, the Police Complaints Authority is an independent authority that handles conduct complaint cases and investigates criminal cases involving police and prosecution service personnel. The Police Complaints Authority has the jurisdiction to handle conduct complaint cases and to investigate criminal cases concerning the different groups of personnel, including prosecutors and the Director of Public Prosecutions.

Yours faithfully,

Kirstine Trolborg
Assistant Deputy Director

Estonia / Estonie

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).

The Prosecutor General directs the Prosecutor's Office.

As regards of managing the human resources the PG determines the division of prosecutors' tasks in the Office of the PG, in District Prosecutors' Offices it is done by the Chief Prosecutors. According to the § 8 (2) of the Statute of Prosecutor's Office the PG manages the work of the District Prosecutor's Offices and the departments of the Office of the Prosecutor General through chief prosecutors and administrative director.

The PG appoints heads of the departments. The PG exercises supervisory control in the Prosecutor's Office.

Prosecutor's Office has a separate budget, which is approved by the Minister of Justice. PG is responsible for the budget.

2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).

The administration of the prosecution service in Estonia is regulated by law – Prosecutor's Office Act and the Statute of Prosecutor's Office established by the Minister of Justice.

3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service¹ in your country?²

Prosecutor General.

¹ It is important to note that by referring to the head of the prosecution service in the present questionnaire, the highest-level official and/or body (please also see below in footnote No. 3) are meant. It is not meant to include the whole hierarchy of officials with some managerial roles within the prosecution service. However, it is also understood that the highest-level official of the prosecution service may have to delegate part of his/her powers under certain conditions and in some cases. If so, such delegation of powers may also be reflected in the responses to the questionnaire.

² If the country's legislative system delegates the management of the prosecution service to a body (i.e. Council of Prosecutors or other prosecutorial self-governance bodies, or a particular section within the service rather than a particular official), the respondent country is invited to share information on its establishment, functioning and terms of reference.

4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:

- Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?

In criminal procedure the prosecutors are independent and are subjected only to the law. Based on the Art 213 (5) of the Code of Criminal Procedure the Prosecutor General may issue general instructions to ensure the legality and efficacy of pre-trial proceedings.

- Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)

The administrative decisions can be challenged based on general rules stipulated in the Administrative Procedure Act. According to the Art 109 of the Administrative Procedure Act if a measure violates the rights of a person, the person may require an administrative authority or court to cancel or terminate the performance of a measure and to eliminate the consequences of the measure and compensate the damages pursuant to the State Liability Act, and the person has recourse to an administrative court pursuant to the procedure prescribed in the Code of Administrative Court Procedure to seek protection of his or her rights.

5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).

According to the Prosecutor's Office Act the § 9 (1) the Ministry of Justice shall exercise supervisory control over the prosecutor's office. The supervisory control over the prosecutor's office does not extend to the activities of the prosecutor's office in planning of surveillance, pre-trial criminal proceedings and representing of public prosecution in court.

According to the § 11 (1) the Prosecutor General shall submit a consolidated activity report of the Prosecutor's Office to the minister in charge of the policy sector once a year.

According to the Statute of Ministry of Justice Art 18 13) the Minister of Justice establishes the Statute of the Prosecutor's Office, the structure of the Office of the Prosecutor General and the District Prosecutor's Offices, decides the number of prosecutors, proposes to the Government the candidate of the Prosecutor General for appointment to the office, appoints to the office Chief State Prosecutors, Chief Prosecutors and State Prosecutors and supervises the Prosecutor's Office.

The Minister of Justice does not issue binding instructions regarding the pre-trial proceedings. The information may be requested in order to conduct supervisory control within the limits stipulated in the law.

6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?

For the administration of the incoming correspondence, appeals, other tasks Estonian government agencies use the information system Delta. For the administration of vacancies, participation of trainings, missions, Estonian governmental agencies use the information system Riigiteenistuja Iseteenindusportaal.

For the pre-trial investigation the Prosecutor's Office uses Prosecutors' information system (PRIS), which is used for division of criminal cases, entails the procedural documents and evidence, is also used for exchanging procedural documents between prosecutors, investigative authorities and court.

7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?

As regards administration of the prosecution service no specific challenges to mention, although there is always room for improvements.

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:

- Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?

The general requirements for prosecutors are:

- must be a citizen of the Republic of Estonia with active legal capacity who has attained at least 21 years of age;
- has acquired in the field of law at least an officially certified Master's degree;
- has proficiency of the Estonian language at the level C1;
- is of high moral character;
- has the abilities and personal characteristics necessary for working as a prosecutor.

Additional requirement for the Prosecutor General is that he or she has to be an experienced and recognised lawyer.

- Which body is responsible for the appointment/election of the head of the prosecution service?

The Government of the Republic appoints the Prosecutor General to the office on the proposal of the Minister of Justice after considering the opinion of the Legal Affairs Committee of the Parliament.

- What is the procedure for the appointment/election of the head of the prosecution service?

See previous answer. The Prosecutor General may be appointed to the office without a public competition.

9. What are the terms of office of the head of the prosecution service?

The Prosecutor General is appointed to the office for a term of five years. He or she may be reappointed to the office for a new term.

10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:

- What are the grounds for such removal?

Disciplinary offence.

- Which body can decide on such removal?
- What is the procedure for such removal?

The Minister of Justice may initiate the disciplinary proceedings against the Prosecutor General. According to the § 33 (1) of the Prosecutor's Office Act a person who initiates disciplinary proceedings shall conduct the preliminary processing of the disciplinary offence. The Minister of Justice shall decide on imposing or not imposing a disciplinary penalty or terminating the disciplinary proceeding if there was no disciplinary offence. In the case of a decision to release the Prosecutor General from service as a disciplinary penalty, the Ministry of Justice shall make such proposal to the Government of the Republic and shall not impose a disciplinary penalty himself or herself.

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?

Prosecutor General proposes to the Minister of Justice the appointment and dismissal of Chief State Prosecutors and Leading Prosecutors, appoints Chief Prosecutors and State Prosecutors. Based on the decision of Prosecutor's Competition Commission appoints Assistant Prosecutors, District Prosecutors and Prosecutors of Special Matters. The Prosecutor General appoints other staff members of the office. Prosecutor General imposes disciplinary penalties, conducts supervisory control. Prosecutor General decides on appeals to the acts of State Prosecutors and Chief Prosecutors.

All the administrative decisions of the Prosecutor General can be challenged based on general rules stipulated in the Administrative Procedure Act (see answer 4.).

12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:

- Managing the day-to-day operations and activities of the prosecution service;

According to the Statute of Prosecutor's Office the Prosecutor General heads the prosecution service, ensures and organises the performance of its tasks.

- Management of case distribution;

According to the Prosecutor's Office Act § 8 (1) the Prosecutor General determines the division of the duties, which will be stipulated in relevant document. The duties shall be divided according to type of criminal offence, offender or other general criteria. A plan for the division of duties may be amended only with compelling reason. In case of practical necessity, the Prosecutor General may designate a prosecutor to deal with a concrete case.

- Management of financial and material resources of the prosecution service;

The Prosecutor General makes proposals to the Ministry of Justice concerning Prosecutors' Offices' budget and ensures the proper management of the budget.

- Representation of the prosecution service internally and externally, including before foreign services and international organisations.

According to the § 8 3) the Prosecutor General represents the Prosecutor's Office and gives authorisations for representing the Office.

13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

The Prosecutor General shall submit a consolidated activity report of the Prosecutor's Office to the Minister of Justice once a year. The term for submission of the reports and the requirements for the reports shall be established by a directive of the Minister of Justice.

The Prosecutor General shall present to the Constitutional Committee of the Parliament each year at the spring session of the Parliament an overview of the performance of the duties imposed on the prosecutor's office by law during the previous calendar year.

In addition to the regular reports specified in subsections 1 and 2 of this section, the Prosecutor General may submit to the Constitutional Committee of the Parliament reports concerning significant issues which have an extensive effect or need prompt settlement and which become known in the course of the activities of the Prosecutor's Office.

Finland / Finlande

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).
 - a. The Office of the Prosecutor General is the central administrative unit of the National Prosecution Authority. For the purposes of organising the operations of the National Prosecution Authority, the country is divided into five prosecution districts. A prosecution district includes one or more municipalities. The Prosecutor General serves as the supreme prosecutor and the supervisor of prosecutors. The National Prosecution Authority operates within the administrative branch of the Ministry of Justice.
 - b. The cases are prosecuted mostly by prosecutors in the prosecution districts. However some very demanding or high profile cases are prosecuted by state prosecutors who work in PGO All prosecutors are competent in the entire state.
 - c. Prosecution receives a certain amount of assets in the government budget and decides how it is used. Most of the assets go to wages of the personnel. The Prosecutor General decides in most cases administrative matters concerning the entire National Prosecution Authority. Administrative matters dealt with in a prosecution district are decided by the Chief District Prosecutor
 - d. The Prosecutor General and the Deputy Prosecutor General are appointed by the President of the Republic on the proposal of the Government. A State Prosecutor is appointed by the Government on the proposal of the Office of the Prosecutor General. A Chief District Prosecutor, a Senior Specialised Prosecutor and a District Prosecutor is appointed by the Office of the Prosecutor General. The Chief District Prosecutors and their deputies are appointed for a fixed term of five year.
2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).
 - a. Constitution and Act on the National Prosecution Authority. Also Provisions on the work arrangements within the National Prosecution Authority are laid down in the rules of procedure of the National Prosecution Authority. The rules of procedure are confirmed by the Prosecutor General. The rules of procedure may contain provisions on the performance of the public officials' duties, their deputies, assignment of criminal matters within a prosecution district, organisation of prosecutors' duties, consideration of matters, and other questions related to the administration of the National Prosecution Authority that are necessary for organising the operations of the Authority.

3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service¹ in your country?²
 - a. Prosecutor General
4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:
 - Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?
 - o Prosecutors are independent in criminal cases assigned to them. PG may not give orders how to handle a specific case assigned to a specific prosecutor. PG gives guidelines in order to enhance the legality and uniformity of prosecutors' activities;
 - Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)
 - o decision not to appoint a person can be challenged by the person in the administrative court.
5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).
 - a. None
6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?
 - a. Prosecution authority works electronically, both prosecution and administration.
7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?
 - a. New CMS might present a challenge in the beginning as also in EI the e-Edes. However these challenges are easily overcome.

¹ It is important to note that by referring to the head of the prosecution service in the present questionnaire, the highest-level official and/or body (please also see below in footnote No. 3) are meant. It is not meant to include the whole hierarchy of officials with some managerial roles within the prosecution service. However, it is also understood that the highest-level official of the prosecution service may have to delegate part of his/her powers under certain conditions and in some cases. If so, such delegation of powers may also be reflected in the responses to the questionnaire.

² If the country's legislative system delegates the management of the prosecution service to a body (i.e. Council of Prosecutors or other prosecutorial self-governance bodies, or a particular section within the service rather than a particular official), the respondent country is invited to share information on its establishment, functioning and terms of reference.

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:

- Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?
 - o The required qualifications for the Prosecutor General and the Deputy Prosecutor General are a Master's degree in Law, other than a Master's degree in International and Comparative Law, the diverse experience necessary for the position, and proven leadership skills and management experience.
- Which body is responsible for the appointment/election of the head of the prosecution service?
 - o the President of the Republic on the proposal of the Government.
- What is the procedure for the appointment/election of the head of the prosecution service?
 - o The Ministry of Justice declares the post open, interviews the relevant candidates and drafts a proposal to the Government. Government decides on the proposal and makes their proposal to the President.

9. What are the terms of office of the head of the prosecution service?

- a. No fixed time. PG can be fired by the Government on proposal of the Ministry of Justice. The reason for that must be "especially substantial". Appeal can be made to the Supreme Administrative Court.

10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:

- What are the grounds for such removal?
 - o especially substantial reason
- Which body can decide on such removal?
 - o the Government
- What is the procedure for such removal?
 - o MoJ will hear the person, draft a proposal to the Government and the Government will decide.

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and

other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?

- a. PG accepts/signs the proposals to Government for appointing State Prosecutors. PG or their deputy decides on appointment of a Chief District Prosecutor, a Senior Specialised Prosecutor and a District Prosecutor
 - b. performance assessments of the Chief District Prosecutors and department heads of PGO are done by PG
 - c. promotions and posting are part of the appointment procedure.
 - d. PG is in charge of disciplinary measures.
12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:
- Managing the day-to-day operations and activities of the prosecution service;
 - a. PG gives guidelines, decides about appointment of prosecutors
 - Management of case distribution;
 - a. only the most important cases where PG has the sole competence to decide about prosecuting a case. PG may however express his opinion also in cases where the decision is made by another prosecutor in PGO.
 - Management of financial and material resources of the prosecution service;
 - a. The Prosecutor General decides administrative matters concerning the entire National Prosecution Authority, i.e. the most important decisions. Consulting with the Head of Administration in other matters.
 - Representation of the prosecution service internally and externally, including before foreign services and international organisations.
 - a. PG meets yearly the PGs of Nordic Countries, Estonia, EU member states, takes part in IAP and Nadal meetings and also the PG meeting of the Baltic Sea States.
 - b. Discusses most important issues with the Head of Police, Customs and Border Guard, has regular meetings with the MoJ.
13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

France

I. ASPECTS GÉNÉRAUX LIÉS À L'ADMINISTRATION DU MINISTÈRE PUBLIC

1. Veuillez décrire brièvement l'administration du fonctionnement courant du ministère public de votre pays (notamment, la gestion des ressources financières, matérielles et humaines du ministère public). **En France, le ministère public (MP) relève, pour son administration, de manière centralisée du ministère la justice (direction des services judiciaires) et, pour certains aspects financiers, du service administratif régional (SAR) établi dans chacune des 36 Cours d'appel. Le chef d'un parquet n'a de ce fait aucune capacité de gestion administrative autonome.**
2. A quel niveau législatif l'administration du ministère public est-elle réglementée ? (par exemple, par la constitution, la législation, les règlements ou d'autres réglementations). **Aux niveaux législatif (loi organique) et règlementaire.**
3. Quel fonctionnaire (c'est-à-dire le procureur général, le procureur en chef, le chef de service ou un autre fonctionnaire du ministère public ou non, par exemple le ministre de la justice) dirige le ministère public¹ dans votre pays² ? **Au plan de sa gestion administrative et financière, le MP français relève des services centraux du ministère de la justice. S'agissant des nominations des membres du MP, les propositions sont faites par le ministre de la justice (direction des services judiciaires) puis soumises pour avis au Conseil Supérieur de la magistrature (CSM). En cas d'avis défavorable, le ministre peut en théorie passer outre, mais une pratique est désormais établie (depuis une dizaine d'années) consistant, pour le ministre, à suivre systématiquement les avis du CSM. S'agissant de la structure hiérarchique du MP français, le chef de parquet peut recevoir du procureur général des instructions (de poursuites, uniquement) dans des dossiers individuels. En revanche, le procureur général ne peut plus être destinataire d'instructions individuelles de la part du ministre depuis une réforme législative de 2013. Le ministre peut toutefois adresser des instructions générales (dites de politique pénale) aux procureurs généraux, chargés de les décliner au plan régional auprès des chefs des parquets relevant de leur autorité.**

¹ Il est important de noter qu'en se référant au chef du ministère public dans le présent questionnaire, il s'agit du fonctionnaire et/ou de l'organe de plus haut niveau (voir également la note de bas de page n° 3 ci-dessous). Il ne s'agit pas d'inclure l'ensemble de la hiérarchie des fonctionnaires exerçant certains rôles de direction au sein du ministère public. Toutefois, il est également entendu que le plus haut fonctionnaire du ministère public peut être amené à déléguer une partie de ses pouvoirs dans certaines conditions et dans certains cas. Si tel est le cas, cette délégation de pouvoirs peut également se refléter dans les réponses au questionnaire.

² Si le système législatif du pays délègue la gestion du ministère public à un organe (c'est-à-dire le Conseil des procureurs ou d'autres organes de l'autonomie de gestion des procureurs, ou une section particulière au sein du ministère public plutôt qu'un fonctionnaire particulier), le pays répondant est invité à partager des informations sur sa création, son fonctionnement et son mandat.

4. Veuillez décrire brièvement la valeur juridique des décisions/ordres/instructions émis par le chef du ministère public, en vous basant sur les questions suivantes :
- Ses décisions/ordres sont-ils obligatoires pour les procureurs et leur personnel ? **Oui.**
 - Peuvent-ils être contestés ? Dans l'affirmative, veuillez décrire brièvement la procédure de contestation (par qui et devant quel(s) organisme(s) ?) **Contestation hiérarchique gracieuse et, pour les décisions relatives à la gestion des magistrats, contestation contentieuse possible devant les juridictions administratives.**
5. Si, en particulier, le ministre de la justice joue un rôle dans l'administration du ministère public dans votre pays, veuillez le décrire brièvement (par exemple, le pouvoir du ministre de la justice de superviser le ministère public, de donner des instructions contraignantes, de demander des informations du ministère public ou d'autres pouvoirs). **Cf. réponse à la question 3 supra.**
6. Des moyens modernes, y compris électroniques, sont-ils utilisés dans le cadre de l'administration du ministère public ? **Oui** Le processus d'administration est-il numérisé dans une certaine mesure ? **Oui** Dans l'affirmative, pour remplir quelles fonctions spécifiques ? **Gestion et suivi des dossiers individuels des magistrats, par exemple.** Si ce n'est pas le cas, est-il prévu d'introduire de tels moyens à l'avenir et pour quelles fonctions ?
7. Quels sont, à votre avis, les défis et/ou problèmes présumés, le cas échéant, dans le cadre de l'administration du ministère public, y compris en ce qui concerne l'utilisation des moyens modernes susmentionnés, notamment électroniques ? **Défi en matière de sécurité des données, mais défi relevé sans trop de difficulté grâce à un système informatique performant et évolutif.**

II. LA NOMINATION/L'ÉLECTION, LA DURÉE DU MANDAT ET LA RÉVOCATION DU CHEF DU MINISTÈRE PUBLIC

8. Veuillez décrire brièvement la procédure de nomination/élection du chef du ministère public dans votre pays, sur la base des questions suivantes :
- Existe-t-il des qualifications formelles et/ou des critères d'éligibilité exigés des candidats au poste du chef du ministère public ? **Oui : les critères d'éligibilité concernent, notamment, l'expérience professionnelle des candidats et leur aptitude à exercer des fonctions d'encadrement et de direction d'un parquet. La direction des services judiciaires du ministère de la justice applique ces critères dans la sélection des candidats proposés au CSM, ce dernier reprenant à son compte ces mêmes critères lors de l'audition des candidats en amont de l'avis que le CSM est ensuite amené à donner (cf. supra réponse à question 3).**
 - Quel est l'organe responsable de la nomination/élection du chef du ministère public? **L'autorité de nomination (absence d'élection du MP en France) est le Président de la République, sur proposition du ministre de la justice après avis du CSM (cf. supra).**

- Quelle est la procédure de nomination/élection du chef du ministère public ? Cf. **supra.**
9. Quelle est la durée du mandat du chef du ministère public ? **Les chefs du MP (procureurs généraux et procureurs de la République) sont limités dans leur mandat à une durée maximale de 7 ans. Ils peuvent néanmoins être nommés, à l'issue, dans de nouvelles fonctions similaires de chef, mais dans un ressort (ville) différent, ce qui fait repartir un nouveau délai de 7 ans.**
10. Le cas échéant, veuillez décrire brièvement la procédure de révocation avant terme (avant l'expiration du mandat) du chef du ministère public, sur la base des questions suivantes :
- Quels sont les motifs d'une telle révocation ? **Des motifs exclusivement disciplinaires (insuffisance professionnelle, faute personnelle,...).**
 - Quel est l'organe habilité à décider d'une telle révocation ? **Le Conseil supérieur de la magistrature (CSM).**
 - Quelle est la procédure à suivre pour cette révocation ? **Renvoi devant le CSM à l'initiative du directeur des services judiciaires (ministère de la justice), le cas échéant après une inspection de fonctionnement ou une enquête administrative conduites par les services de l'Inspecteur Général de la Justice.**

III. LES FONCTIONS ET LES TÂCHES DU CHEF DU MINISTERE PUBLIC

11. Quel est le rôle du chef du ministère public dans le recrutement/la sélection des procureurs et du personnel du ministère public et dans la gestion de leur carrière (par exemple, l'évaluation professionnelle, l'attribution de distinctions honorifiques ou de décorations en reconnaissance de réalisations professionnelles, les promotions, les affectations, la procédure disciplinaire, d'autres questions relatives aux ressources humaines) ? Ses décisions relatives à ces questions et à d'autres peuvent-elles faire l'objet d'un recours par le procureur concerné et, dans l'affirmative, devant quelle instance et selon quelle procédure ? **Contestation hiérarchique gracieuse (auprès du ministre de la justice) et, pour les décisions relatives à la gestion de la carrière, contestation contentieuse possible devant les juridictions administratives.**
12. Veuillez décrire brièvement les fonctions et les tâches du chef du ministère public dans votre pays dans les domaines suivants :
- Gestion des opérations et des activités quotidiennes du ministère public ; **Ces missions quotidiennes de gestion et d'administration interne incombent aux procureurs de la République en leur qualité de chefs de parquet, ainsi qu'aux procureurs généraux (qui sont leurs supérieurs hiérarchiques) en leur qualité de chefs de parquet général (à hauteur de cour d'appel).**
 - Gestion de la répartition des affaires ; **Même réponse que pour la question précédente.**

- Gestion des ressources financières et matérielles du ministère public ; Gestion centralisée auprès du ministère de la justice (direction des services judiciaires), avec délégation pour certains sujets (paiement de la rémunération, frais de déplacement, gestion des arrêts maladie,...) au service administratif régional (SAR) établi dans chacune des 36 cours d'appel et placé sous l'autorité du premier président (supérieur hiérarchique des juges du ressort) et du procureur général (supérieur hiérarchique des magistrats du MP du ressort).
 - Représentation du ministère public en interne et en externe, y compris devant les ministères publics étrangers et les organisations internationales. Les fonctions de représentation peuvent être assurées par les procureurs généraux et par les procureurs de la République, selon une distribution interne convenue entre eux.
13. Veuillez décrire brièvement s'il existe des mécanismes de responsabilité envisagés dans votre pays pour le chef du ministère public. Responsabilité politique du ministre de la justice et responsabilité disciplinaire des procureurs généraux et des procureurs de la République.

Georgia / Géorgie

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. Question: Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).

Reply of the Prosecution Service of Georgia (PSG):

The legislation guarantees the financial independence of the PSG. A reduction of the PSG budget in comparison to the budget for the previous year is only possible with the prior consent of the Prosecutor General. The PSG manages its financial and material resources through its Financial Department, which has the corresponding staff with the relevant financial and legal competence to carry out the tasks. The State Audit Office of Georgia monitors the management of financial and material resources by the PSG.

The PSG Department for Human Management and Development deals with the management of human resources at the PSG. It does the overall administration of the process, which includes providing relevant information and documents to the Career Management, Ethics and Incentives Council and the Prosecutor General for deliberating and deciding on the career issues of the PSG employees. Please see more information about the above-mentioned Council and the management of human resources in the answer to question # 11.

2. Question: At what legislative level is the **administration** of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).

PSG reply: The Constitution of Georgia and the Organic Law of Georgia on the Prosecution Service (*OLPSG*) regulate the administration of the Prosecution Service of Georgia. In the limits and the areas set by the *OLPSG*, the by-laws issued by the Prosecutor General provide additional rules and procedures regarding PSG functioning.

3. Question: What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service in your country?

PSG reply: The Prosecutor General is the head of the Prosecution Service of Georgia.

4. Question: Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:

- Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?
- Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)

PSG reply: The orders of the Prosecutor General of Georgia are mandatory for prosecutors and prosecutorial staff. In line with the *OLPSG*, they, *inter alia*, provide additional rules and procedures regarding the PSG functioning.

The above-mentioned orders do not extend to issues such as initiating, not initiating or terminating a criminal prosecution in individual cases. These matters belong to the competence

of prosecutors who are in charge of the cases. The Prosecutor General has a right to issue written general guidelines for prosecutors, including on the application of discretionary power and requesting pre-trial constraint measures from courts.

The Orders of the Prosecutor General are subject to court appeal by the interested parties.

5. Question: If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).

PSG reply: The Minister of Justice does not have any role in the administration of the PSG.

6. Question: Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?

PSG reply: Since 2010, the PSG operates an electronic criminal case management system. All investigation agencies carry out criminal investigations through this program. The competent investigators and prosecutors access the electronic investigations with usernames and passwords. The key procedural documents are created electronically, e.g. indictments and court motions on the application of coercive measures. The documents made outside of the system, such as written records on search and seizure, crime scene inspections and witness interviews. etc., are uploaded to the program. The electronic criminal case management system incorporates the search engine, which provides a possibility for retrieving different types of data that could be used by investigators and prosecutors for developing leads and coordinating activities with other investigators and prosecutors. The electronic criminal case management system is also used in the process of performance appraisal of prosecutors and PSG investigators.

7. Question: What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?

No major challenges have been identified in the course of the administration of the Prosecution Service. It is a longstanding PSG priority to ensure the constant progress of the system, which includes identifying the areas for improvement and implementing the changes. The most recent demonstration of this was the implementation of all six GRECO Fourth Evaluation Round recommendations concerning prosecutors.

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. Question: Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:

- Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?
- Which body is responsible for the appointment/election of the head of the prosecution service?
- What is the procedure for the appointment/election of the head of the prosecution service?

PSG reply:

Applicable criteria for the appointment of the Prosecutor General

According to Article 16 §1 of the OLPSG, to be eligible for the position of the Prosecutor General, a person must be a citizen of Georgia with higher legal education and no criminal records, who has at least 5 years' experience of working as a judge on criminal cases, as a prosecutor or as a criminal defence lawyer. Alternatively, a person complying with the citizenship, education and no criminal records requirements is also qualified for the appointment, if he/she is a recognized criminal law expert from an academy or a civil society organisation with at least 10 years' experience in the legal profession. In both instances, a good reputation of a candidate, due to his/her integrity and professional qualities, is essential.

Responsible bodies for the appointment of the Prosecutor General

The Parliament of Georgia, upon the nomination of the Prosecutorial Council, elects the Prosecutor General. The Prosecutorial Council is composed of fifteen members. Out of those, the Conference of Prosecutors elects eight members among prosecutors and the PSG investigators, the Parliament elects five members (2 MPs, 2 civil society representatives, one person nominated by the Minister of Justice) and the High Council of Justice elects two judge members.

Procedure for the selection and appointment of the Prosecutor General

No later than 6 months before the expiration of the tenure of the Prosecutor General or immediately, in case of early termination of office, the Prosecutorial Council starts one month consultation with academy, civil society organizations and criminal law experts for the selection of a candidate for the General Prosecutor. Based on the consultations, the Prosecutorial Council selects not less than three candidates the 1/3 of which must be of a different gender.

Then, the Prosecutorial Council votes, by a secret ballot, on each of the selected candidates individually. The candidate, who receives the most votes, but not less than 2/3 of the total composition of the Prosecutorial Council, is elected.

If two or more candidates receive equal votes, the vote of the Chairperson of the Prosecutorial Council is decisive. If none of the candidates receives the required number of votes, the two candidates with the best results are voted for in a second round. If neither of the candidates receives the support of 2/3 of the full composition of the Prosecutorial Council, within a week, the Prosecutorial Council selects other candidates through consulting the academy, civil society organizations and criminal law experts.

When the Prosecutorial Council selects a candidate, it presents him/her to the Parliament of Georgia together with a substantiation. The Parliament of Georgia elects the candidate as a Prosecutor General by a majority of its full composition. If the candidate does not receive the required number of votes, the Prosecutorial Council restarts the selection process.

9. Question: What are the terms of office of the head of the prosecution service?

PSG reply: The term of office of the Prosecutor General is six years without the possibility of re-appointment for consecutive terms.

10. Question: If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:

- What are the grounds for such removal?
- Which body can decide on such removal?
- What is the procedure for such removal?

PSG reply:*Impeachment procedure*

Before the expiration of a mandate, the Prosecutor General can be removed from office through an impeachment procedure. The key actors in this process are the Parliament of Georgia and the Constitutional Court of Georgia.

If the Prosecutor General violates the Constitution of Georgia or there are signs of crime in his/her actions, not less than 1/3 of the full composition of the Parliament has the authority to trigger the impeachment procedure. If the Parliament initiates this process, it sends the matter to the Constitutional Court for review. The Constitutional Court submits its conclusion to the Parliament within a month.

If the Constitutional Court finds a violation of the Constitution of Georgia or signs of crime, within 2 weeks from receiving the Constitutional Court conclusion, the Parliament conducts a discussion and votes on the impeachment. The Parliament impeaches the Prosecutor General if it has the support of a majority of its full composition.

Other Grounds for early termination of office

Apart from the impeachment, the term of the office of the Prosecutor General can be terminated early, if the following grounds exist:

- Personal statement;
- Occupation of a position or the performance of activities incompatible with the status of the Prosecutor General;
- Recognition by a court as a beneficiary of a support, unless otherwise determined by a court decision, recognition as a person with limited legal capacity or as missing, or declared dead;
- Loss of the citizenship of Georgia;
- Death.

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. Question: What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?

PSG reply:**➤ Appointment**

The most common mechanism for the selection of prosecutors and PSG investigators is an internship program. Apart from that, prosecutors can be appointed through competition and in exceptional circumstances, based on the criteria outlined in the OLPSG and justified decision of the Prosecutor General, without internship and competition.

Appointment through internship

The PSG Career Management, Ethics and Incentives Council has a key role in the selection of prosecutors. The Council is composed of 15 members. It includes eight elected prosecutor or/and investigator members of the Prosecutorial Council, the First Deputy Prosecutor General, three Deputy General Prosecutors, the Head of the PSG General Inspectorate, the Head of the PSG Human Resources Management and Development Department and the Head of the PSG Department for Supervision over Prosecutorial Activities and Strategic Development. The

Council is competent in recruiting PSG interns as well as supervising and evaluating the overall selection process.

The Council conducts interviews of candidates (*who successfully passed the written exam*) with a view of assessing their knowledge and compatibility with the requirements of the position and decides by considering their skills and capabilities, competence and experience. The internship candidates, who successfully pass all stages of the internship contest, undergo training organized by the PSG Human Resources Management and Development Department.

The Prosecutor General of Georgia, upon the decision of the Council, appoints the candidates as PSG interns and assigns an internship supervisor. The Prosecutor General also approves the activity programs to be completed during the mentorship process and internship.

The PSG Human Resources Management and Development Department organizes trainings and relevant testing for interns. After the expiration of the internship term, taking into account the internship results, the Council holds interviews and evaluates interns.

The Prosecutor General of Georgia appoints successful interns as prosecutors or PSG investigators.

All decisions made within the scope of the internship procedures should be substantiated and may be appealed in court.

Appointment through competition

The Contest Commission is authorized to hold the competition in the PSG to recruit prosecutors/PSG investigators. The Prosecutor General determines the composition of the Commission.

The Commission shall decide taking into account the candidates' skills, competence, experience and overall compatibility with the job requirements.

Based on the results of the contest, the Chairperson of the Commission submits information about the successful candidates to the Prosecutor General for the appointment. The candidates shall undergo professional training. The PSG Human Resources Management and Development Department is responsible for providing this training. The results of the training are taken into account when appointing the candidates.

After completing all stages successfully, the contestant is appointed to the position.

All decisions made regarding the above-mentioned procedures shall be substantiated and may be appealed in court.

Appointment upon the justified decision of the Prosecutor General of Georgia

In exceptional circumstances, upon the justified decision, the Prosecutor General may appoint a prosecutor or the PSG investigator without an internship and competition. The mechanism is mainly reserved for the employment of experienced former PSG employees.

➤ Promotion

The Career Management, Ethics and Incentives Council plays an important role in the promotion of prosecutors by reviewing the candidates and issuing recommendations. The Prosecutor General may disagree with the recommendation of this Council, but he/she is required to substantiate the dissenting opinion.

In exceptional cases (*for the high-level performance of duties and/or achieving the best results*), the Prosecutor General may promote a prosecutor without a recommendation of the Career Management, Ethics and Incentives Council following the personal application of a prosecutor or reasoned nomination by a head of the structural division of the Prosecution Service or/and the PSG Department for Supervision over Prosecutorial Activities and Strategic Development.

The promotion decision may be appealed in court.

➤ **Performance appraisal**

The performance appraisal of prosecutors and PSG investigators is carried out once in two years by the specialized PSG Department for Supervision over Prosecutorial Activities and Strategic Development. The Prosecutor General is authorized to adopt rules and procedures for the performance appraisal.

The Prosecutors and PSG investigators may appeal the performance appraisal results before the Council of Complaints. The decision of the Council of Complaints may be appealed before the Career Management, Ethics and Incentives Council and its decision can be further appealed in court.

➤ **Disciplinary measures**

In case of suspecting potential disciplinary misconduct of the PSG employee, the PSG General Inspectorate is competent to open an administrative investigation. This includes interviewing people, collecting information and reviewing materials. At the end, the PSG General Inspectorate draws a report containing the findings on whether a person has committed disciplinary misconduct or not.

The Career Management, Ethics and Incentives Council then reviews this report on the hearing. The subject person has a right to be represented by a lawyer, attend the hearing and give an explanation.

The Council decides by the majority of votes whether a person has committed a violation. If he/she was found guilty, the Council also selects the applicable sanction. The decision of the Council is recommendatory for the Prosecutor General, who is competent to formally find a person guilty of a disciplinary violation and impose a sanction. The Prosecutor General might disagree with the Council's recommendation and make a different decision. However, in this case, he/she is required to provide reasons.

The order of the Prosecutor General on the imposition of disciplinary liability may be appealed in court.

➤ **Information regarding awarding honours**

The Prosecutor General is competent to grant awards to the PSG employees, grant or revoke Special State Titles and make nominations for honorary titles and state awards of Georgia.

12. Question: Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:

- Managing the day-to-day operations and activities of the prosecution service;
- Management of case distribution;
- Management of financial and material resources of the prosecution service;
- Representation of the prosecution service internally and externally, including before foreign services and international organisations.

PSG reply: The functions and tasks of the Prosecutor General include overall administrative management of the Prosecution Service, the representation of the prosecution service internally and externally, including before foreign institutions and international organisations, establishing rules for case distribution and managing financial and material resources of the Prosecution Service.

Together with the Prosecutor General, other PSG managers, the PSG competent departments and the PSG councils play a role in the above-mentioned functions and tasks per their mandates and competencies. Please see the replies to previous questions for additional details regarding the role of the Prosecutor General in the appointment, promotion, performance appraisal and discipline of prosecutors, the nature of his/her orders, their effect on individual cases, management of financial and material resources, etc.

Regarding the case distribution, we would like to note that on 28 February 2019, the Prosecutor General issued the Order on Defining Fundamental Principles for Case Distribution by Prosecutor. It sets the criteria for fair and transparent allocation and removal of cases to/from prosecutors and investigators by the superior prosecutor, taking into consideration the number of cases, their difficulty and volume as well as the necessary specialization, competence, experience and skills to prosecute and/or investigate the case. It also gives a list of circumstances in which a superior prosecutor can remove a case from a subordinate prosecutor and requires providing reasons for the decisions.

13. Question: Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

PSG reply: The Prosecutor General submits the PSG Activity Reports to the Parliament (*once a year*) and the Prosecutorial Council (*once in every six months*). The Prosecutor General, the First Deputy Prosecutor General and Deputies of the Prosecutor General present the PSG Activity Reports to the Prosecutorial Council in person. These meetings are livestreamed online. Upon the request of the Parliament, the Prosecutor General is obliged to attend the Parliamentary hearing and report about PSG activities. The PSG Activity Reports include information about the implementation of criminal justice policy, general crime situation, statistical data, protection of human rights, priority areas, etc. The PSG also publishes Activity Reports on its website.

Beyond the legislatively established frequency of reporting, the Parliament and the Prosecutorial Council are both authorised to request the Prosecutor General to submit the PSG Activity Report and attend the respective hearing. This request is obligatory.

Greece / Grèce

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).

ANSWER: The Public Prosecutor's Office is an independent judicial authority (independent from the courts) and the executive authority. It acts uniformly and indivisibly and its mission is the observance of legality, the protection of the citizen and the safeguarding of the rules of public order. The financial management of the General Prosecutor's Office as well as of all the Prosecutor's Offices in Greece is carried out by the Ministry of Justice.

2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).

**ANSWER: A) Constitution, (articles 87 -100 A),
B) Legislation, (Code of Criminal Procedure),
C) By-laws (Law No. 4938/6-6-2022 'Code of the Statute of the Courts and the status of judicial officers'
D) Other regulations, (Internal Rules of Procedure, article 19 of Law No. 938/6-6-2022)**

3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service¹ in your country?²

ANSWER:

- **The General Prosecutor's office of the Supreme Court is headed by the General Prosecutor of the Supreme Court,**
- **Every Prosecution Office in the Territory is headed by the local public prosecutor,**

¹ It is important to note that by referring to the head of the prosecution service in the present questionnaire, the highest-level official and/or body (please also see below in footnote No. 3) are meant. It is not meant to include the whole hierarchy of officials with some managerial roles within the prosecution service. However, it is also understood that the highest-level official of the prosecution service may have to delegate part of his/her powers under certain conditions and in some cases. If so, such delegation of powers may also be reflected in the responses to the questionnaire.

² If the country's legislative system delegates the management of the prosecution service to a body (i.e. Council of Prosecutors or other prosecutorial self-governance bodies, or a particular section within the service rather than a particular official), the respondent country is invited to share information on its establishment, functioning and terms of reference.

- The Prosecution Office at the Court of First Instance of Athens and Thessaloniki and the Prosecution Office at Court of Appeal of Athens are headed by a public prosecutor elected by secret ballot by the plenary sessions (of prosecutors), for a period of two (2) years.

4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:

- Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?

ANSWER:

a) According to article 28 par. 4 of Law No. 4938/2022: “4. Prosecutors are linked by a relationship of hierarchical dependence. Head of all prosecutors is the General Prosecutor of the Supreme Court. The public prosecutor must carry out the orders of his superiors. However, in the performance of his duties and the expression of his opinion he acts independent, obeying the law and his conscience”

b) The right to address orders, general instructions and recommendations relating to the performance of the duties of the prosecutors is exercised as follows:

a. The General Prosecutor of the Supreme Court to all the prosecutors in the Country

b. The Prosecutor of the Court of Appeal (second Instance) and First Instance Courts to the prosecutors, investigating officers, notaries, prosecutors' offices, guards' transfers, mortgages, land registers, registers, ship mortgages, and aircraft, registrars, judicial staff, clerks and bailiffs and unpaid bailiffs

- Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)

ANSWER: No, they can't be challenged

5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).

ANSWER: The Minister of Justice:

- According to article 23 par 1 of Law No. 4938/2022: The Minister of Justice supervises the administration of judicial services.

- According to article 57 par. 3 of Law No. 4938/2022: He has the right to have an access at the personal file of a judicial officer.

- According to article 59 par. 3 of Law No. 4938/2022: He initiates the procedures designated for the assignment and promotion of judges.

- According to article 117 par. 1: he has the right to initiate disciplinary proceedings for any judicial functionary (any member of the Judiciary),

- According to article 123 par. 2 of Law No. 4938/2022: He has the right to appeal against a conviction or acquittal decision of any disciplinary decision (of the Disciplinary Council).

6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?

ANSWER: An integrated Judicial Case Management System for Civil & Criminal Cases exists in the Courts and Prosecution Offices of the Court Districts of Athens, Thessaloniki, Piraeus and Evia. This project was implemented under the Operational Program "Public Sector Reform" of the National Strategic Reference Framework (NSRF) 2014-2020. The implementation of the project started in July 2014 and was completed in January 2019. The extension of the Integrated Judicial Case Management System for Civil and Criminal Cases (CMS) to the rest Courts and Prosecution Offices of the territory is underway through the Recovery & Resilience Facility and is expected to be completed by the end of 2025.

7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?

ANSWER: Judges, Prosecutors and Lawyers of advanced age are not yet familiar to the electronic means

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:

- Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?

ANSWER: According to article 88 par.1 of the Greek Constitution the decision of appointment belongs to the Council of Ministers / Cabinet (government), after suggestion of a competent Committee of the Parliament. He must be one of the ten (10) most senior Vice Prosecutors General of the Supreme Court or of the Vice Presidents and Judges (Areopagites) of the Supreme Court (article 90 par. 5b of the Greek Constitution)

- Which body is responsible for the appointment/election of the head of the prosecution service?

ANSWER: The Council of Ministers (Cabinet)

- What is the procedure for the appointment/election of the head of the prosecution service?

ANSWER: According to article 59 of Law 4938/2022: "The promotion to the position of the General Prosecutor of the Supreme Court of Greece is acted upon by a presidential decree, issued following a proposal of the Council of Ministers.

The Council of Ministers, following the opinion of the Conference of the Presidents of the Parliament and the recommendation of the Minister of Justice, selects the candidates among those who have the legal qualifications. For the position the selection is made among the ten (10) most senior Vice Prosecutors General of the Supreme Court or of the Vice Presidents and Judges (Areopagites) of the Supreme Court, who have at least 2 years of service at the Supreme Court

9. What are the terms of office of the head of the prosecution service?

ANSWER: According to the article 88 par.5 of the Greek Constitution the term of office for the Head of the Prosecution Office may last up to four years or until the retirement age of 67, whichever comes first.

10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:

- What are the grounds for such removal?

ANSWER: According to article 88 par. 4 of the Greek Constitution the removal from the position may take place after a court decision due to a criminal conviction or for a serious disciplinary offence (Conviction by Disciplinary Council). This has never happened, so we have no practical experience, but according to the Greek law the same procedure as for the appointment must be followed.

- Which body can decide on such removal?
- What is the procedure for such removal?

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?

ANSWER: The appointment to the Prosecution Service is completed after an admission examination (written and oral) and graduation from the National School of Judges (Department of Prosecutors). The admission examinations are launched at the National School of Judges by decision of the Minister of Justice. The judges and prosecutors are appointed as Members of the competent Examination Committee upon the proposal of the President and the General Prosecutor of the Supreme Court, respectively.

12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:

- Managing the day-to-day operations and activities of the prosecution service;

ANSWER: He is involved to any issue that concerns the Prosecution Service

- Management of case distribution;

ANSWER: He assigns the cases to the Vice Prosecutors, but he has the right to keep for himself any case he considers very important.

- Management of financial and material resources of the prosecution service;

ANSWER: He decides to ask the financial funds from the Ministry of Justice

- Representation of the prosecution service internally and externally, including before foreign services and international organisations.

ANSWER: This is a right, which belongs to the Chief of the Prosecution Service. But he also has the right to assign his representation to any other Vice Prosecutor.

13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

ANSWER: There isn't any mechanism.

Hungary / Hongrie

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).

The Prosecutor General exercises the employer's rights over prosecution staff, which he has partly delegated to prosecution staff in senior management positions. In the case of non-prosecutorial staff (officials, clerks, blue-collar staff), the latter senior managers exercise the employer's rights. However, only the Prosecutor General is empowered to appoint or remove prosecutors, junior prosecutors, trainee prosecutors and prosecutors' assistants (paralegals). As a general rule, the remuneration of the prosecution staff is determined by law, depending also on the length of service and the place of employment.

The Prosecution Service is almost 100% financed by the central budget, the use of which the Prosecution Service reports in a transparent manner and ensures its lawful implementation. The most important material assets of the Prosecution Service include real estates and IT equipment. The Prosecution Service has 151 offices and because of its organisational structure it covers the entire territory of the country.

2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).

The legal status, duties and functions of the Prosecution Service are laid down in Article 29 of the Fundamental Law of Hungary. The provisions of the Fundamental Law are detailed in two cardinal laws, Act CLXIII of 2011 on the Prosecution Service and Act CLXIV of 2011 on the Status and Career Path of the Prosecutor General, Prosecutors and other Prosecution Employees. A two-thirds majority of the Members of Parliament present is required to adopt and amend the cardinal law. The Prosecutor General also regulates the organisation, operation and competence of the Prosecution Service by means of normative instructions within the framework of the law.

3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service in your country?

The Prosecution Service is headed and managed by the Prosecutor General. The Prosecutor General has delegated certain of his powers to the two Deputy Prosecutors General and the Secretary General, but the exercise of certain powers is reserved to the Prosecutor General (e.g. the management of prosecutorial activity in relation to Parliament).

4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:

- Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?

The Prosecutor General may issue normative instructions and individual instructions. The normative instructions of the Prosecutor General are binding on the prosecution staff. Prosecutors are subordinate to the Prosecutor General and may be instructed only by the Prosecutor General and other senior prosecutors. Prosecutors are obliged to comply with the instructions of the Prosecutor General or the superior prosecutor. The law limits the leadership and management powers of the Prosecutor General by requiring the opinion or consent of prosecutorial bodies (e.g. prosecutorial staff councils, prosecutorial councils) before certain decisions are taken.

- Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)

A prosecutor may bring actions before the courts to enforce claims arising from his/her employment as a prosecutor or from his/her employer's act or failure to act. No legal action may be brought against a decision or failure to act which is within the discretion of the employer's decision-making, unless the employer has infringed the rules of his decision-making. In all cases, it is possible to bring an action before the courts against a decision on the merits in disciplinary matters.

The instruction must be put in writing if the prosecutor so wishes. Until this is done, the prosecutor is not obliged to carry out the instruction, except for urgent measures. The public prosecutor shall refuse to execute an instruction if its execution would constitute a criminal offence or an administrative offence, or may refuse to execute an instruction if its execution would directly and seriously endanger his life, health or physical integrity. If the prosecutor considers the instruction to be incompatible with the law or with his legal convictions, he or she may request in writing that he or she be excused from taking action, stating his or her legal position. This request may not be refused. If the execution of an instruction could unlawfully cause damage or personal injury, and the prosecutor may reasonably anticipate this, he or she shall draw the attention of the person giving the instruction to this fact.

5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).

The Minister of Justice has no authority over the administration of the Prosecution Service, which is an independent constitutional body subject only to the law. The Prosecutor General cannot be instructed directly or indirectly. The Minister of Justice may, through the Government, initiate an amendment of the law on the Prosecution Service before Parliament, in which case he is obliged to seek the opinion of the Prosecutor General.

6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?

The Prosecution Service works with regularly updated electronic information systems (laptop, desktop computer, multifunction printer/scanner). The IT services include Internet access,

electronic mail for rapid information transfer, databases and records to support prosecutorial work. The Prosecution Service pays particular attention to reducing the administrative burden and ensuring the widest possible access to records and registries supporting its work.

The administration is partially digitised. Since 2014, the Prosecution Service has been using the so-called Electronic Records and Document Management System (eIR) for its organisational management. The aim is to achieve paperless, integrated document management and case processing. The system supports all document management functions with an electronic interface, such as filing new cases, assigning, indexing, case processing, archiving, etc. The system ensures full electronic communication channels for sending and receiving documents. The system is now outdated and is in the process of being replaced by a single integrated document and records management system (suitable to serve several fields of expertise).

7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?

The Prosecution Service is obliged to ensure electronic communication in the course of electronic case management. Addressing interoperability challenges in the face of different development solutions is a key issue that can be addressed by implementing a coherent approach to judicial development. In the area of budget and human resource management, the establishment and maintenance of adequate support (development and operational) capacity is also a key organisational challenge, which is essential to ensure a secure operation and to adapt rapidly to the changing technological and regulatory environment.

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:
 - Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?

The Prosecutor General is elected from among the prosecutors. There are strict, specific requirements of the appointment of prosecutors which are set forth by the law. These include, for example, the university degree in law, passing a bar exam, a specified term of professional experience, making a declaration of assets, passing a successful aptitude test and taking an oath. There are also political, economic and personal conflict of interest rules applicable for prosecutors. Moreover, a person may not be elected as Prosecutor General and may not be appointed as prosecutor if he/she has a criminal history, is under the effect of prohibition from engagement in an occupation requiring a law degree, is subjected to a criminal proceeding or to the gravest disciplinary sanction.

- Which body is responsible for the appointment/election of the head of the prosecution service?

The President of the Republic and the Parliament shares authority over the election of the Prosecutor General: the Prosecutor General shall be elected by the National Assembly on the proposal of the President of the Republic.

- What is the procedure for the appointment/election of the head of the prosecution service?

The Prosecutor General shall be elected with the votes of two-thirds of the Members of the Parliament. The Prosecutor General shall be elected by a secret ballot.

9. What are the terms of office of the head of the prosecution service?

The term of office of the Prosecutor General is nine years. The Prosecutor General can be re-elected to another term of office.

10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:

- What are the grounds for such removal?
 1. **Removal from office:** if the Prosecutor General is unable to fulfil the duties arising from his/her mandate for reasons falling beyond his/her control.
 2. **Forfeiture of office:** if the Prosecutor General fails to fulfil his/her duties arising from his/her mandate for reasons falling within his/her control or has committed a crime established in a final and absolute judgment or otherwise becomes unworthy of his/her office.
 3. **Conflict of interest:** if the Prosecutor General fails to eliminate the cause of the conflict of interest in his regard, or refuses or fails to meet the obligation of making a declaration of assets, or supplies any material data or fact falsely in his/her declaration of assets.
 4. **The establishment of criminal liability:** if the court has found the Prosecutor General guilty of a criminal offence and sentenced him/her to imprisonment, custodial arrest, or community service work in its final judgement, or his/her forced medical treatment has been ordered during a criminal proceeding in a final court decision.
- Which body can decide on such removal?

The conflict of interest for the Prosecutor General shall be established by the President of the Republic, and the President of the Republic shall make a proposal for the removal of the Prosecutor General from office or his/her forfeiture of office. The court has the power to establish the criminal liability of the Prosecutor General.

- What is the procedure for such removal?

The Parliament shall pass a decision on the removal from office and the forfeiture of office, which requires a two-thirds majority of all the members of parliament. The criminal liability of the Prosecutor General is established in a criminal proceeding, after his/her immunity is withdrawn. The two-thirds majority of the MPs present is required for the withdrawal of immunity.

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?

Appointment: Candidates can apply for a trainee or junior prosecutor's vacancy, a prosecutor's vacancy of a head prosecutor's vacancy if there is a public call for application for such vacancies. Senior prosecutors exercising the employer's rights make a proposal to the Prosecutor General with regard to the publishing and the assessment of the call for applications. Prosecutors, junior and trainee prosecutors as well as prosecutorial paralegals/assistants are appointed by the Prosecutor General. Within the power delegated to them by the Prosecutor General, senior prosecutors are entitled to appoint non-prosecutor employees of the Prosecution Service.

Evaluation: In order to evaluate their work and professional activities, prosecutors, junior and trainee prosecutors are evaluated several times during their career by the senior prosecutors exercising the employer's rights with regard to them. Persons exercising the employer's rights evaluate the efficiency of junior and trainee prosecutors', non-prosecutor employees' and clerks' work every year. The evaluated person may go to court in case of any erroneous or untrue finding in the evaluation or any other finding that may be injurious to his/her rights.

Transfer: The Prosecutor General or the senior prosecutor exercising the employer's rights may order the temporary transfer of the prosecution employee to another place of employment in the interests of the Prosecution Service or to promote his/her professional development. The Prosecutor General may transfer a prosecutor to the Ministry headed by the Minister responsible for justice for the purpose of participation in the drafting of legal rules or the fulfilment of other duties requiring prosecutorial experience. The Prosecutor General may transfer a prosecutor, on a long-term assignment abroad to work for an international organisation or for the fulfilment of duties of cooperation in justice under the auspices of the European Union. The given prosecutor's consent is needed for long-term assignment abroad and to the transfer to the Ministry of Justice.

Awarding decorations: The Prosecutor General may award decorations to prosecution employees to recognize certain outstanding activities and achievements related to the duties of the Prosecution Service.

Disciplinary power: The senior prosecutor exercising the employer's rights may order a disciplinary proceeding against a prosecution employee if he/she culpably violates his/her official obligations or curtails or jeopardises the prestige of his/her profession with his lifestyle or conduct. A senior prosecutor may impose a disciplinary sanction, or if a graver disciplinary sanction has to be imposed against a prosecutor, the Prosecutor General has the right to impose such a sanction. An appeal against the disciplinary decision may be submitted to the Prosecutor General, and an appeal against the disciplinary sanction imposed by the Prosecutor General or against the Prosecutor General's decision made with regard to the appeal against the disciplinary decision can be filed with the court.

12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:

- Managing the day-to-day operations and activities of the prosecution service;

Prosecutors are subordinate to the Prosecutor General, and the Prosecutor General has the power to instruct them (by normative or by individual instructions). These instructions provide the framework for the daily operation of the Prosecution Service.

- Management of case distribution;

The Prosecution Service is a hierarchically structured organization consisting of four levels. The Office of the Prosecutor General is the highest organ in the Prosecution Service. The Office of the Prosecutor General directs the appellate chief prosecution offices, the chief prosecution offices, the local and local-level prosecution offices. Senior prosecutors direct the individual structural units in the Prosecution Service, they organize the work of those units, coordinate, supervise and control the work and activities of their subordinate employees, and they provide the work conditions. Senior prosecutors exercise the right to issue and sign official documents regarding final decisions and bear responsibility for them. Subordinate prosecutors only draft and prepare those documents.

- Management of financial and material resources of the prosecution service;

The Prosecution Service forms a separate chapter of the budget in the Act on the Central Budget. The Prosecutor General draws up a proposal for and a report on the implementation of the budget of the Prosecution Service, which the Government submits to the Parliament without any changes. The Office of the Prosecutor General is a central budgetary organ and a legal entity which functions and manages its financial resources and assets autonomously.

- Representation of the prosecution service internally and externally, including before foreign services and international organisations.

The Prosecutor General is actively engaged in international activities, he is a regular participant of international conferences and meetings and frequently delivers professional presentations in English. The Prosecutor General and his deputies travel abroad on duty and take part in international events, and they receive high-ranking delegations making official visits in Hungary. The Hungarian national member of the Eurojust is a prosecutor assigned by the Prosecutor General to this post.

13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

The currently effective legislation ensures the accountability of the Prosecutor General. The Prosecutor General is accountable to the Parliament and he/she shall make an annual report on the activities of the Prosecution Service. Members of Parliament may also address questions to the Prosecutor General either verbally or in writing, even in individual cases, which the Prosecutor General is obliged to give explanation or information to. The Prosecutor General is not a political actor, therefore, he does not have any political responsibilities. The Prosecutor General is accorded the same immunity Members of Parliament have.

Ireland / Irlande

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).

The Office of the DPP consists of four divisions: the Directing Division, the Solicitors Division, the Prosecution Support Services Division and the Corporate Services Division

1. [Directing Division](#) – this consists of prosecutors who examine criminal investigation files and decide whether or not to take a prosecution.
2. [Solicitors Division](#) – this consists of prosecutors and legal executives who prepare and conduct cases on behalf of the Director in all courts sitting in Dublin, including the:
 - o District Court
 - o Circuit Court
 - o Superior Courts (Central Criminal Court and Special Criminal Court)
 - o Judicial Review
 - o Appeals Court

This division also includes the Special Financial Unit.

3. [Prosecution Support Services Division](#) – this incorporates the International Unit, the Prosecution Policy and Research Unit (including the library, information and knowledge management services) and the Victims Liaison Unit.
4. [Corporate Services Division](#) – this consists of general civil services grades and professions providing services and supports for the Office in the area of human resources, organisational development, IT, Finance, communications, governance and accommodation. As the questionnaire has a particular focus on this area, we have set out more detail below.

Management of Finances and Human Resources

Section 2(11) of the Prosecution of Offences Act 1974, as substituted by 31 of the Civil Service Regulation (Amendment) Act 2005 vests in the Director the power to appoint staff. Responsibility for the management and discipline of staff of Principal Officer and above also lies with the Director.

The Deputy Director is designated as the Accounting Officer for the Office and has legal authority and responsibility for financial matters in the Office. Government allocates funds each year to the Office. After the end of the year, the Office prepares an account of expenditure and receipts. This is called the Appropriation Account. This Account must be signed by the Accounting Officer and presented for audit to the Comptroller and Auditor General. The Accounting Officer may then be called to appear before the Committee of Public Accounts of Dáil Éireann to give evidence in relation to the money spent.

The Deputy Director has been designated as the appropriate authority in respect of staff of the Office below the grade or rank of Principal Officer. This means that powers with regard to management and discipline of staff of these grades is vested in the Deputy Director.

Further information in relation to our Governance Framework is available on our website at the following link: [Governance-Framework](#)

2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).

The Prosecution system in Ireland is grounded in the Constitution of Ireland and legislation, notably the Prosecution of Offences Act 1974, which established the Office of the Director of Public Prosecutions. The Director is independent in the performance of her functions.

3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service¹ in your country?²

The Director heads up the Prosecution Service and is appointed by the Government under the terms set out in the Prosecution of Offences Act 1974.

4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:

- Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?

Yes

- Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)

Decisions to prosecute can be challenged in the courts through a litigation process known as Judicial Review. Such applications can be made by the accused or his or her defence team.

Decisions not to prosecute can be challenged by victims or families of victims by requesting a review. Such reviews are carried out internally in the Office of the DPP. Further information in relation to this process is available on our website at the following link: [Decisions not to Prosecute](#)

5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to

¹ It is important to note that by referring to the head of the prosecution service in the present questionnaire, the highest-level official and/or body (please also see below in footnote No. 3) are meant. It is not meant to include the whole hierarchy of officials with some managerial roles within the prosecution service. However, it is also understood that the highest-level official of the prosecution service may have to delegate part of his/her powers under certain conditions and in some cases. If so, such delegation of powers may also be reflected in the responses to the questionnaire.

² If the country's legislative system delegates the management of the prosecution service to a body (i.e. Council of Prosecutors or other prosecutorial self-governance bodies, or a particular section within the service rather than a particular official), the respondent country is invited to share information on its establishment, functioning and terms of reference.

supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).

No the Minister for Justice does not have any role in the operation of the Prosecution Service. The Director of Public Prosecutions carries out her functions independently.

6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?

All the legal casework of the Office of the DPP (ODPP) is driven by an integrated case management system (CMS). This is integrated with the ODPP's email system which allows for secure communication with the police, prosecution barristers and the Irish Courts Service.

Most case documentation, including letters and court documents, are generated using templates held within the CMS, merging in data from the relevant case. Workflow, designed for each specific area of the ODPP, pushes each element of a case through its necessary steps, with the ability of lawyers to bring in ad hoc workflow to deal with specific scenarios, where necessary. Outside Dublin, State Solicitors now also run their cases using the ODPP CMS.

ODPP lawyers can access the ODPP CMS securely from court using ODPP laptops. Secure file software allows for electronic materials, including disclosure to the defence, to be shared securely with external stakeholders with whom we don't have secure email communications with, or to transfer large files which would breach email size limits. Other generic tools facilitate electronic redaction and have allowed the ODPP to move increasingly towards electronic means of operations, especially since the dawn of the COVID-19 pandemic.

Within the Criminal Justice Sector, a Criminal Justice Operational Hub is being gradually built which will allow for the secure exchange of structured data between the various stakeholder bodies within the sector, including the Courts Service.

7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?

Increased digitisation is certainly a challenge for the Office, particularly the management and disclosure of large volumes of digital data. We are working with stakeholders and looking at comparative jurisdictions in an effort to assist us in facing these challenges. The increasing complexity of criminal cases and the cross-border nature of crime is also a challenge. We are focusing on the development of specialist staff and optimising our external engagement to deal with the changing criminal justice landscape

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:

- Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?

To be appointed as Director the person must, at the date of his/her appointment, be a practising barrister or a practising solicitor and have practised as a barrister or as a solicitor for at least ten years.

Following his or her appointment, the Director shall be a civil servant in the Civil Service of the State.

[\(Prosecution of Offences Act, 1974, Section 2 \(irishstatutebook.ie\)\)](#).

- Which body is responsible for the appointment/election of the head of the prosecution service?

In terms of the appointment of the Director of Public Prosecutions (head of the Prosecution Service), the Government appoints the candidate proposed by a Committee, as set out in section 2 of the Prosecution of Offences Act 1974 ([Prosecution of Offences Act, 1974, Section 2 \(irishstatutebook.ie\)](#)).

- What is the procedure for the appointment/election of the head of the prosecution service?

A committee is established, when requested by the Taoiseach, to select candidates for appointment to the Office of Director of Public Prosecution.

The committee consists of:

- (I) the Chief Justice,
- (II) the Chairman of the General Council of the Bar of Ireland,
- (III) the President of the Incorporated Law Society,
- (IV) the Secretary to the Government, and
- (V) the Senior Legal Assistant in the Office of the Attorney General.

The committee then informs the Taoiseach of the candidates selected and of their suitability for such appointment.

If the committee is unable to select a suitable candidate, or if the Government decide not to appoint any of the candidates selected by the committee as Director, then either:

- (I) the Government appoints a person to be the Director who was selected or amongst those selected by the committee pursuant to a previous request in relation to that appointment, or
- (II) the Taoiseach shall make a further request to the committee and the Government shall appoint a person to be the Director who was selected or amongst those selected by the

committee pursuant to that request or pursuant to another request in relation to that appointment.

[\(Prosecution of Offences Act, 1974, Section 2 \(irishstatutebook.ie\)\)](#).

9. What are the terms of office of the head of the prosecution service?

The Director shall hold office upon such terms and conditions as may be determined by the Taoiseach after consultation with the Minister for the Public Service. As set out in section 8(a) of the Prosecution of Offences Act 1974 ([Prosecution of Offences Act, 1974, Section 2 \(irishstatutebook.ie\)](#)).

10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:

- What are the grounds for such removal?

Disciplinary offence; criminal offence; incompatibility; illness; or conduct (both in office and generally) which the Committee considers requires their dismissal.

- Which body can decide on such removal?

A Committee consisting of (I) the Chief Justice, (II) the Chairman of the General Council of the Bar of Ireland, (III) the President of the Incorporated Law Society, (IV) the Secretary to the Government and (V) the Senior Legal Assistant in the Office of the Attorney General may submit a report to the Government recommending removal from office. The Government has the ultimate decision.

- What is the procedure for such removal?

On the Government's request, a committee appointed by them and consisting of the Chief Justice, a Judge of the High Court nominated by the Chief Justice, and the Attorney General:

- (i) investigate the condition of health, either physical or mental, of the Director, or
- (ii) inquire into the conduct of the Director (whether in the execution of his/her office or otherwise), either generally or on a particular occasion

The committee may conduct the investigation or inquiry in such manner as it thinks proper, whether by examination of witnesses or otherwise, and in particular may conduct any proceedings in camera and for this purpose shall have all such powers, rights and privileges as are vested in a Judge of the High Court on the occasion of an action. On conclusion of the investigation or inquiry, the committee shall report the result to the Government.

As set out in section 2(9) of the Prosecution of Offences Act 1974 ([Prosecution of Offences Act, 1974, Section 2 \(irishstatutebook.ie\)](#)).

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?

Authority to appoint prosecutors rests with the Director of Public Prosecutions under the [Prosecution of Offences Act 1974](#) as amended by the [Civil Service Regulation \(Amendment\) Act 2005](#). The Director is responsible for the appointment and promotion of prosecutors. State solicitors are currently appointed by the Director, on the basis of a ten-year, renewable, contract for services.

The Director is responsible for the dismissal of prosecutors at the grade of principal officer and above.

As the Office of the Director of Public Prosecutions is a civil service body, all competitions are run in compliance with the Code of Practice for Appointments to Positions in the Civil Service and Public Service. The Codes of Practice are published by the CPSA (www.cpsa.ie). If a candidate is unsatisfied following a selection process, they have a right under the Code to request a review of a decision made during the process or to make a complaint that the selection process followed was unfair. Candidates are also entitled to feedback in relation to their performance in a competition.

The Civil Service [Code of Standards and Behaviour](#) applies to all Prosecutors. On appointment to the ODPP, Prosecutors are asked to familiarise themselves with the Code and sign a confirmation document to confirm they have done so. Any Prosecutor in breach of the Code is liable to disciplinary action, including the possibility of dismissal, in accordance with the provisions of the [2016 Civil Service Disciplinary Code](#) (Circular 19/2016). Employees have a right to appeal a decision in accordance with the appeals process, set out in Part 4 of the Code.

12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:

- Managing the day-to-day operations and activities of the prosecution service;

The primary role and responsibility of the Director arises from the fact that the power to initiate prosecutions for serious criminal offences in Ireland is vested in the Director. While a range of parties, including the Director, may initiate criminal prosecutions in the District Court (minor offences), only the Director may prosecute on indictment (save for those very limited cases where the Attorney General is the indictable prosecutor). In exercising this power, the Director is acting for the People of Ireland rather than acting on behalf of individual victims. The Director's responsibilities with regard to prosecutions on indictment include deciding whether a prosecution should be taken, deciding the charges to be preferred and deciding how the prosecution should be managed. The Director is independent of Government in discharging these functions.

- Management of case distribution;

While the Director takes responsibility for strategic decisions regarding the operation of the Prosecution Service, she delegates the management of case distribution through her Division Heads, the Chief Prosecution Solicitor and Unit Managers.

- Management of financial and material resources of the prosecution service;

The Deputy Director is designated as the Accounting Officer for the Office and has legal authority and responsibility for financial matters in the Office. Government allocates funds each year to the Office. After the end of the year, the Office prepares an account of expenditure and receipts. This is called the Appropriation Account. This Account must be signed by the Accounting Officer and presented for audit to the Comptroller and Auditor General. The Accounting Officer may then be called to appear before the Committee of Public Accounts of Dáil Éireann to answer questions in relation to the money spent.

The Deputy Director has been designated as the appropriate authority in respect of staff of the Office below the grade or rank of Principal Officer. This means that powers with regard to management and discipline of staff of these grades is vested in the Deputy Director.

Further information in relation to our Governance Framework is available on our website at the following link: [Governance-Framework](#)

- Representation of the prosecution service internally and externally, including before foreign services and international organisations.

Staff of the Office appear before the Committee of Public Accounts of Dáil Éireann. Staff of the Office also participate on working groups and committees established by, for example, the Courts Service or the Department of Justice, which are focused on aspects of the Irish criminal justice system. The Office is a participant in the Criminal Justice Sectoral Strategy 2022–2024. Regular face-to-face meetings also take place with investigative organisations who submit files to the Office. In addition, the Office also participates in the work of international organisations whose remit covers aspects of criminal prosecutions, including Eurojust and the European Judicial Network.

13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

As stated above the Director is independent in the exercise of her functions. Accountability for decisions comes through the courts where trials and proceedings take place in public. The Director's decisions are regularly challenged through a variety of High Court and Supreme Court proceedings. Further to that the financial management of the Office is overseen by the Government through Annual Financial Reports and appearances before the Public Accounts Committee.

Italy / Italie

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).

The financial, material, and human resources are assigned by the Ministry of Justice to every prosecution office (at the first instance, appeal and national level).

Each Chief Prosecutor (or General Prosecutor, according to the level of the office) is in charge of the management of all the resources, together with the respective Administrative Manager.

The Chief Prosecutor also verifies the economic viability of investigations importing expenses (wiretapping, videotaping, electronic tailing, expert assistance) regarding to the proportion of the criminal phenomenon being investigated, adopts the necessary service orders to update the planned organizational model, authorizes the assistant prosecutors' vacation requests, supervises safety at work in the office by concluding contracts for this purpose with the competent doctor for health surveillance.

2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).

The status of the public prosecutors is regulated firstly by the Constitution, secondly by law. The administration of the prosecution service is regulated by law.

3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service¹ in your country?²

In Italy the structure of the prosecution service is not properly hierarchical. Therefore, it is not appropriate to indicate any official as "the" head of the prosecution service.

The head of each prosecution office (Chief Prosecutor at the first instance level, Prosecutor General at the appeal or Cassation levels) is in charge of the organizational initiatives.

Some competences are assigned to the Minister of Justice (namely, the allocation of resources to the prosecution offices) and to the High Council of the Judiciary – CSM

¹ It is important to note that by referring to the head of the prosecution service in the present questionnaire, the highest-level official and/or body (please also see below in footnote No. 3) are meant. It is not meant to include the whole hierarchy of officials with some managerial roles within the prosecution service. However, it is also understood that the highest-level official of the prosecution service may have to delegate part of his/her powers under certain conditions and in some cases. If so, such delegation of powers may also be reflected in the responses to the questionnaire.

² If the country's legislative system delegates the management of the prosecution service to a body (i.e. Council of Prosecutors or other prosecutorial self-governance bodies, or a particular section within the service rather than a particular official), the respondent country is invited to share information on its establishment, functioning and terms of reference.

(general resolutions, appointment of Chief and General Prosecutors, transfer of assistant prosecutors).

4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:
 - Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?
The organizational plan and measures issued by the Chief Prosecutor are mandatory for prosecutorial staff. As far as the handling of a case is concerned, the Chief Prosecutor has limited powers, due to the autonomy of the single prosecutor in charge of the case.
 - Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)
Decisions and orders may be amended after hearing prosecutorial staff, who can make comments; the decisions are transmitted to the district judicial council, which shall instruct the case with an opinion for the High Council of the Judiciary (CSM).
5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).
The Minister of Justice has no role in the administration of the prosecution service. However, the Minister has the power to inspect the functionality of judicial services and can initiate disciplinary action in the case of violations of the duties of any prosecutor (or judge).
6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?
Every prosecution office is computerized with programs for managing criminal proceedings (assignment, data search, consultation, public access, etc.), execution of sentences, management of expenses. Data centres are established for investigative wiretapping, as well as computerized databases for storing judicial information. The implementation of digitalization of the entire criminal process (a goal of the national recovery plan, PNRR) is currently underway.
7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?
The most relevant challenge concerns the use of artificial intelligence in the administration of justice.

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:

- Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?
- Which body is responsible for the appointment/election of the head of the prosecution service?
- What is the procedure for the appointment/election of the head of the prosecution service?

As explained under question No. 3, in Italy the structure of the prosecution service is not properly hierarchical. Therefore, it is not appropriate to indicate any official as “the” head of the prosecution service as a whole.

The head of each prosecution office (Chief Prosecutor at the first instance level, Prosecutor General at the appeal or Cassation levels) is appointed by the High Council of the Judiciary (CSM) at the end of a selective procedure based on seniority and merit criteria.

The High Council publishes a notice indicating the vacancy; the candidates must have attended courses of management organized by the High School for the Judiciary. On the basis of an information report by the head of the respective prosecution office, each candidate is firstly evaluated by the district judicial council, which issues an opinion to the CSM. Candidates are requested to elaborate an organizational plan for the requested prosecution office. The procedure is instructed and decided by the CSM at the end of a comparative evaluation of candidates, who can be heard before the decision.

9. What are the terms of office of the head of the prosecution service?

Directive functions are temporary. The appointment of every head of prosecution office is for four years but may be confirmed by the CSM for additional four years.

10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:

- What are the grounds for such removal?
- Which body can decide on such removal?
- What is the procedure for such removal?

The removal of a Chief Prosecutor or a Prosecutor General may result from non-confirmation by the CSM at the end of the four-year term; it can also result either from disciplinary proceedings or from transfer of office due to the so-called environmental incompatibility. All these measures are decided by the CSM and can be challenged before the Supreme Court of Cassation (or, in some cases, before an administrative tribunal).

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?

The Chief Prosecutor does not recruit or select prosecutorial staff, which is assigned to the prosecution offices by the CSM (for deputy and assistant prosecutors) or by the Ministry of Justice (for the administrative staff). The influence that the Chief Prosecutor can exert on the career of the deputy prosecutors and of the assistant prosecutors consists in the report she/he has to make on the individual performance every four years, in view of the professional evaluation of each public prosecutor by the CSM. The report can be challenged by the interested prosecutor, by means of comments that she/he can forward to the district judicial council and to the CSM.

12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:

- Managing the day-to-day operations and activities of the prosecution service;

In every prosecution office, the Chief Prosecutor attends to the daily assignment of cases, receives the prosecutors in charge of single cases to agree on main investigative initiatives, receives heads of the sections and judicial police services to issue directives.

- Management of case distribution;

The Chief Prosecutor attends to the assignment of cases in compliance with the organizational plan, which must include objective criteria for the assignment. She/he can establish teams of prosecutors for cases of greater complexity.

- Management of financial and material resources of the prosecution service;

See answer to question No. 1.

- Representation of the prosecution service internally and externally, including before foreign services and international organisations.

The Chief Prosecutor represents the prosecution office in its relations with other Italian and foreign judicial offices, establishing contacts and information exchanges related to connected investigations. The Chief performs these duties together with the deputy or assistant prosecutors with whom she/he shares investigations of greater importance.

13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

Every public prosecutor is liable civilly, criminally, and disciplinarily for all activities performed. Regarding criminal liability, a special procedural mechanism is provided for assigning jurisdiction to courts belonging to districts other than the one where the prosecutor performs her/his duties.

Latvia / Lettonie

1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).

The Prosecution Office (hereinafter – PO) is a single, centralised three-level system of units under management of the Prosecutor General. In accordance with the Prosecution Office Law the Prosecutor General manages and controls the activities of the PO, determines its internal structure and staff positions according to the allocated funds from the State budget, approves the regulatory enactments adopted by the Council of the Prosecutor General, and directly manages the work of the prosecutors of the Prosecutor General's Office (hereinafter – PGO).

Departments and divisions of the PGO are managed by chief prosecutors of departments and divisions. Chief prosecutors of POs of court districts (judicial regions) manage the work of regional prosecutors and control the operations POs of districts (cities) located in the territory of the region. And the work of prosecutors of a district (city) is managed by the chief prosecutor of the district (city).

Please also see the answer to the Q 12.

2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).

The structure of the PO is set forth in the Prosecution Office Law. The administrative management of the PO is carried out by the Administrative Director Service (hereinafter – ADS), which is the structural unit ensuring the financial and economic activities of the PO (as provided by the Prosecution Office Law). The establishment of the ADS is provided for in the Prosecution Office Law. More detailed functions and tasks of the ADS are stipulated in the internal legislative act issued by the Prosecutor General - the Regulations of the Administrative Director. The Administrative Director further on issues the regulations of all the divisions comprised in the ADS.

3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service¹ in your country?²

Prosecutor General. The structural units of the PO – either departments and divisions of the PGO or the POs of the judicial regions, POs of districts (cities) or the specialized POs are headed by the respective Chief Prosecutors.

4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:

- Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?

¹ It is important to note that by referring to the head of the prosecution service in the present questionnaire, the highest-level official and/or body (please also see below in footnote No. 3) are meant. It is not meant to include the whole hierarchy of officials with some managerial roles within the prosecution service. However, it is also understood that the highest-level official of the prosecution service may have to delegate part of his/her powers under certain conditions and in some cases. If so, such delegation of powers may also be reflected in the responses to the questionnaire.

² If the country's legislative system delegates the management of the prosecution service to a body (i.e. Council of Prosecutors or other prosecutorial self-governance bodies, or a particular section within the service rather than a particular official), the respondent country is invited to share information on its establishment, functioning and terms of reference.

The instructions, orders and resolutions of the Prosecutor General are binding to all prosecutors and employees.

- Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)

- The Prosecutor General's decision to dismiss a prosecutor due to a repeated negative assessment of professional performance may be appealed to the Disciplinary Court, which hears the case in accordance with the procedures set forth in the Law "On Judicial Power" and the Law on Disciplinary Responsibility of Judges;

- The decision of the Prosecutor General or the applied disciplinary penalty can be appealed to the Disciplinary Court.

5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).

No. According to the Prosecution Office Law in his or her activities a prosecutor shall be independent of the influence of other authorities or officials exercising State authority and administration, and shall observe only the rule of law.

6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?

- PO's Information system **ProIS** – the management system of core business processes and support processes, which provides:

- circulation of electronic files (e-file) (in cooperation with investigative authorities, courts and penal enforcement authorities,
- production of electronic case materials (decisions, protocols),
- digitization of materials,
- accumulation of structured metadata about things used for operational control and analysis (reports, automatic controls, operational analysis summaries),
- integration of the electronic signature (ASIC-e) in core business processes and accounting functions,
- issuing electronic resolutions and tasks (both internal and external (for courts and penal institutions)),
- using an e-address (digital analogue of a registered letter service) in communication with the state, municipalities, natural and legal persons - in a secure way, both when receiving and sending letters and rulings.

- Horizon – provides electronification of resource management functions (including circulation of e-invoices).

In general, the process is electronic, and its advantages could be especially appreciated during the COVID-19 pandemic - remote work of prosecutors was ensured.

In the near future, it is planned to provide special tools for remote interrogation of the participants in the case and tools based on artificial intelligence algorithms, which will provide automated audio/video transcription retrieval and automated translation acquisition.

7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?

The most important challenge is to provide that both – prosecutors and other justice sector officials move to an electronic (digital) work environment (*Think digital*). There is a different level

of digitization of processes (both in terms of technical provision and process management) among the institutions of the sector.

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:

- Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?

According to the Prosecution Office Law (Section 36) a person who has attained 40 years of age, who conforms to the requirements of Clauses 1, 2, 4, and 5 of Paragraph one, Section 33 of this Law and who has worked for not less than five years in the office of a judge of the Constitutional Court, a judge of the Supreme Court, a judge of an international court, or a judge of a supranational court, has worked for not less than 10 years in the office of a judge of a regional court, a chief prosecutor, a prosecutor of the judicial region Prosecution Office or PGO, or whose total length of service in the office of a judge or prosecutor is 15 years, may be appointed as the Prosecutor General.

- Which body is responsible for the appointment/election of the head of the prosecution service?

Upon proposal of the Judicial Council, the Prosecutor General shall be appointed to the office by the Saeima (the parliament) for five years.

- What is the procedure for the appointment/election of the head of the prosecution service?

Selection of the candidates for the office of the Prosecutor General takes place in an open competition. A person who conforms to the criteria referred to in Section 36 of this Law may apply himself or herself as a candidate for the office of the Prosecutor General. The Judicial Council approves the by-laws of the competition. After the conformity of candidates with the requirements of this law is ascertained, the Judicial Council, requests the competent State security institution to provide an opinion on the conformity of the candidates with the requirements laid down in the law On Official Secret, for the receipt of a facility security clearance. The procedures and criteria for the evaluation of the candidates for the office of the Prosecutor General are determined by the Judicial Council. The Judicial Council assesses the candidates for the office of the Prosecutor General and select one - the most suitable - from amongst them. Not later than one month before the end of the term of office of the Prosecutor General the Judicial Council advances to the Saeima only the candidate for the appointment - on whom a positive opinion of the competent State security institution is received.

9. What are the terms of office of the head of the prosecution service?

5 years. The same person may be the Prosecutor General for not more than two consecutive terms.

10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:

- What are the grounds for such removal?

Prosecution Office Law:

Section 41.¹ Basis for Dismissal of the Prosecutor General

The Prosecutor General may be dismissed from the office if, in accordance with the procedures laid down in this Law, it is detected that he or she:

- 1) does not conform to the requirements laid down in Section 37 of this Law;
- 2) is a member of a party or a political organisation;
- 3) has not complied with any of the restrictions and prohibitions specified in the law On Prevention of Conflict of Interest in Activities of Public Officials;

- 4) during the performance of duties of service has allowed intentional violation of law or negligence resulting in significant consequences;
- 5) has allowed a shameful act which is incompatible with his or her office.

Section 41.² Termination of Powers of the Prosecutor General

(2) The powers of the Prosecutor General shall terminate if the Saeima removes the Prosecutor General from the office due to his or her state of health which precludes him or her from further performance of duties.

- Which body can decide on such removal?
Saeima
- What is the procedure for such removal?

Section 41.³ Procedures for the Dismissal of the Prosecutor General

(1) The Saeima may dismiss the Prosecutor General from office, if a judge of the Supreme Court specially authorised by the President of the Supreme Court, in carrying out an investigation, has determined any of the bases for removal referred to in Section 41.¹ of this Law and an opinion regarding this has been provided by a Plenary Session of the Supreme Court.

(2) An investigation shall be proposed by the President of the Supreme Court upon his or her own initiative, upon request of one third of the members of the Saeima or the Judicial Council.

(3) The proposal shall indicate:

- 1) a particular fact of a violation specified in Section 41.¹ of this Law;
- 2) if the investigation has been proposed upon request of members of the Saeima - the given name, surname of the members who submitted the proposal and the date of signing the proposal.

(4) If the President of the Supreme Court, upon proposing an investigation, considers that the holding of office by the Prosecutor General may interfere with an objective examination of the issues, he or she shall suspend the Prosecutor General from office until taking of the final decision, and shall determine which of the chief prosecutors of departments of the Office of the Prosecutor General shall perform the duties of the Prosecutor General during this time.

(5) If the basis for dismissal provided for in Section 41.¹ of this Law has been detected, the President of the Supreme Court shall forward the materials of investigation together with his or her and a Plenary Session's opinion to the Saeima for further examination.

(6) If the basis for dismissal provided for in the law has not been detected, the President of the Supreme Court shall inform the Prosecutor General and the members who submitted the proposal thereof.

11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?

The Qualification Commission assesses and gives an opinion on execution of the apprenticeship programme of a candidate for the office of a prosecutor, on the conformity of the knowledge and professional skills of a candidate for the office of a prosecutor and a prosecutor for the office of a prosecutor.

Prosecutors are appointed by the Prosecutor General, for an unlimited term of office, and before the appointment or promotion, the Prosecutors attestation commission delivers an opinion on the suitability of the candidate.

A prosecutor or a candidate for the office of a prosecutor may express objections regarding the aforementioned opinions to the Prosecutor General.

Prosecutor General also takes part in the Awarding Council.

Evaluation of the professional performance of a prosecutor is carried out by the Attestation Commission that is established by the by-law of the Prosecutor General.

12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:

- Managing the day-to-day operations and activities of the prosecution service;

The ADS of the PO is the unit that ensures the financial and economic activity of the PO as well provides technical, organizational and legal support. The Administrative Director of the PO hires employees of the ADS. The Personnel Division of ADS is responsible for personnel management issues of all employees of the PO (prosecutors and employees)). The Finance Division of the ADS is responsible for financial settlement for the purchased goods and services, as well as the payment of remuneration to prosecutors and employees. The Legal Division of the ADS provides the necessary legal support to other structural units, as well as ensures public procurement for the purchase of goods and services for the needs of the PO. The Supply Division of the ADS deals with issues of premises and office equipment and provides service vehicles. The Information and Communication Technology Division of the ADS is responsible for various types of support in the field of ICT. In addition, there are the Document and Archives Management Division, the Internal Security Division, the Communication and Public Relations Division (cooperation with the public and issues of internal communication) and Project and Training Coordination Division.

- Management of case distribution;

Order of the Prosecutor General "On the powers of chief prosecutors" provides that in order to organize, control the work of the structural unit and ensure work discipline, the chief prosecutor distributes tasks and responsibilities to the prosecutors of the structural unit. Therefore, case distribution, considering the specialisation and workload of the prosecutors, is the responsibility of the chief prosecutor of the structural unit.

- Management of financial and material resources of the prosecution service; Please see the answer provided in the 1st subsection of the Q 12.
- Representation of the prosecution service internally and externally, including before foreign services and international organisations.

Prosecutor General as a senior official of the institution represents the PO internally and externally with no separate authorization. Depending on the type of the event, the representation may be delegated to the chief prosecutors of the departments or divisions of the PGO or other structural units.

13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

In accordance with paragraph 5 of Section 23, Prosecution Office Law, the Prosecutor General shall, by 1 March of each year, submit a report to the Saeima on the previous year's achievements and on the priorities for activities of the following year.

Liechtenstein

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service). **The Prosecutor General (in the following text referred to as “PG”) is responsible for managing the prosecution service (in the following text referred to as “PS”). He has an administrative assistant to his side who supervises the non-prosecutorial staff and assists with all matters of budget, human resources etc.**
2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations). **It is regulated by a number of laws and regulations. Some of these laws, like the “Staatsanwaltschaftsgesetz-STAG” deal specifically with the PS, some laws, like the “Finanzhaushaltsgesetz-FHG” or the “Staatspersonalgesetz-StPG” regulate the overall budgetary process for the whole administration, the administration of courts, and questions of human resources.**
3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service¹ in your country?² **The PS is headed by the PG.**
4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:
 - Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff? Internal (meaning towards prosecutors and prosecutorial staff) instructions or decisions are mandatory. **Yes.**
 - Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?) **The prosecutorial staff cannot challenge orders of the PG. As far as orders to prosecutors are concerned it is important to note, that it is the PG only who has the power to make such orders. The ministry or other institutions cannot issue such orders directly to prosecutors. Prosecutors, who deem an order of the PG contrary to the law, can challenge the order in the following manner: Firstly they can resist the order and tell the PG that they deem the order contrary to the law. If there is no imminent danger, they can do this before executing the order. The PG then has to either repeat the order in writing, citing the relevant law or withdraw the order. If the PG does not repeat the**

¹ It is important to note that by referring to the head of the prosecution service in the present questionnaire, the highest-level official and/or body (please also see below in footnote No. 3) are meant. It is not meant to include the whole hierarchy of officials with some managerial roles within the prosecution service. However, it is also understood that the highest-level official of the prosecution service may have to delegate part of his/her powers under certain conditions and in some cases. If so, such delegation of powers may also be reflected in the responses to the questionnaire.

² If the country’s legislative system delegates the management of the prosecution service to a body (i.e. Council of Prosecutors or other prosecutorial self-governance bodies, or a particular section within the service rather than a particular official), the respondent country is invited to share information on its establishment, functioning and terms of reference.

order in writing it is deemed withdrawn. The prosecutor may then either follow the order or ask to be released from the case. The order has to be filed. The prosecutor may make the order public.

5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers). The ministry of Justice (referred to in the following text as “MoJ”) plays an important role in providing financial and human resources to the PS. In the annual budget process the PG proposes the budget. In a budget meeting any open questions are discussed and resolved. The MoJ then presents the proposed budget to the Government in toto. The final decision is in the hands of the parliament. In the past 20 years government and parliament equipped the PS with all necessary financial means. But it has to be stated that the final say in the allocation of the budget lies with parliament, government in toto and the MoJ. As far as prosecutors are concerned the government’s power to terminate the employment of a prosecutor is limited by law to exceptional circumstances. In the past 30 years the government has never made use of this power.
The MoJ has no power to make general instructions about policies like prioritising certain prosecutions, about penalties or other general matters. In individual cases the Minister of Justice also does not have the power to give instructions to the PG. This power is reserved for the government, so the MoJ has to seek a majority in a government meeting. The government’s power to issue an instruction to the PG has important limitations: The law only allows for an order to prosecute, instead of putting down a case or an order for a judgement to be appealed. The government hence can never order a case to be put down, an indictment to be withdrawn or a court verdict not to be appealed. The order by the government hence comes to the effect that an independent court hears the case. The order must be in writing and must give reasons including the relevant articles of the law. The PG may make the order public. In the tenure of the last PG of Liechtenstein, which lasted from August 2000 until November 2023, the government not once made such an order.
The government may ask for information from the PG. As far as individual cases are concerned this right to get informed is reserved to the Minister of Justice and the Primeminister in person. In practise it is given directly and confidentially.
6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions? Yes there are a number of electronic means to assist in the management of the PS. E.g. the whole budgetary process as well as the recruitment of prosecutorial staff or prosecutors is digitalised. Administrative matters are registered and managed digitally.
7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:
- Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service? **Yes. By law, only a person, who is already serving as a prosecutor may be chosen to be the PG. If an external person is chosen, this person has to be appointed as a prosecutor first and then can be made the PG. So an external candidate also has to meet all the legal requirements for the position of a prosecutor, which inter alia is a university degree in law, the Liechtenstein lawyer's exam and the highest professional qualifications and integrity. The position of PG is not a political one as is not seen as such.**
 - Which body is responsible for the appointment/election of the head of the prosecution service? **The government in toto.**
 - What is the procedure for the appointment/election of the head of the prosecution service? **The post is published. Applicants who fulfil the legal requirements are vetted and have to undergo an extensive external assessment procedure. This is followed by at least one interview by the minister of justice assisted by a professional from Human resources. The Minister of Justice may also consult the current PG. Then the minister proposes a candidate to the government, who takes the final decision in toto in a government meeting chaired by the prime minister.**
9. What are the terms of office of the head of the prosecution service? **By law the appointment is unlimited until the legal retirement age is reached (age of 65).**
10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:
- What are the grounds for such removal? **There are only 2 grounds for a preterm removal. Both are regulated in detail by law. (1) The first reason is a permanent or long-lasting inability to fulfil the duties due to a serious physical or mental illness. (2) The second ground for removal could be a disciplinary offence. The removal from office is however the most serious sanction in a disciplinary proceeding and thus is reserved for the most serious offences. An example would be that the PG commits a felony.**
 - Which body can decide on such removal? **In case of an inability to fulfil the duties (1) the government has the power to order the preliminary/provisional removal. "Government" means the collective body of all ministers and the prime minister. After issuing such an order the government has to immediately bring the matter before the President of the Supreme Court who can decide to lift the preliminary/provisional removal and reinstate the PG or decide to remove him permanently. Against the decision of the President of the Supreme Court the PG can appeal to the disciplinary chamber of the Supreme Court. Its decision is final but could be challenged before the Constitutional Court. There are numerous articles in the law regulating the proceeding for such a removal. For (2) the competence lies**

solely with the President of the Supreme Court. His decision can be appealed in the same manner as in (1). The government has no role in the disciplinary proceedings with the exception that it could notify the President of the Supreme Court, if it thinks a disciplinary offence was committed by the PG.

- What is the procedure for such removal? See answer above.

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure? The PG plays a central role in all these matters. His duties and competences include performance assessments, the distribution of the workload, assignment of cases, disciplinary measures, postings etc. In the recruitment of prosecutors the government appoints a prosecutor, but the PG has the right to propose a candidate and practically all instances the government followed his choice. With the exception of disciplinary matters no appeals are foreseen. Disciplinary sanctions imposed by the PG can be appealed against by the prosecutor. The final decision lies with the Supreme Court.
12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:
 - Managing the day-to-day operations and activities of the prosecution service; Many day to day activities are handled by the prosecutors and the administrative staff independently. All new reports and correspondence goes through the PG office before being distributed to the competent prosecutor and a reporting system keeps the PG updated on important developments in cases, arising problems. These measures are possible because of the small size of the country and the PS. At least twice a month the PG and all prosecutors meet for a jour fix where important issues are discussed and decided.
 - Management of case distribution; In a written and detailed order on the distribution of cases ("Geschäftsverteilung") the PG assigns the workload to the prosecutors. This paper is updated whenever necessary, e.g. in the case of hiring an additional prosecutor or when a new field of specialisation is introduced. The PG has the power to assign cases to another prosecutor than the one competent according to the Geschäftsverteilung in cases of recusal or for other reasons like a fair distribution of the workload. The number and type of cases handled by each prosecutor is assessed monthly and yearly in order to distribute the workload as fairly as possible.
 - Management of financial and material resources of the prosecution service; The PG has the power to decide on its usage and spending of the budget allocated by parliament. Every order to pay out money has to be signed by the PG or in his absence by his deputy. The order then gets checked and approved by the the National Audit Office, which is the supreme financial supervisory body and performs its activities independently in accordance with the National Audit Office

Act. The PG makes these decisions independently and does not need the consent of the MoJ. For instance it is in his sole competence to pay for interpreters, experts, travel-expenses for prosecutors etc.

- Representation of the prosecution service internally and externally, including before foreign services and international organisations. The PG represents the PS internally or externally. He may be represented by his deputy. The PG decides whether the PS takes part in domestic or international conferences (e.g. IAP, Conferences of European Prosecutors, the Swiss and the Austrian annual conference of Prosecutors, UNODC events etc.). In some cases the Minister of Justice may delegate the participation in a ministerial conference to the PG.
13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service. Apart from the above described removal from office decisions of the PG in individual cases are subject to judicial review. Also the PG is –to state the obvious- not exempt from criminal prosecution. In case, a decision of the AG (or the PS) causes financial or other damage, the general rules of civil liability apply. Like with all civil servants a claimant cannot sue the AG directly but the state of Liechtenstein. In case a court finds the state liable the government may recover from the AG but only in cases of intent or gross negligence.

Lithuania / Lituanie

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).

The Public Prosecution Service is headed by the Prosecutor General of the Republic of Lithuania and his/her Deputies in accordance with the competences established by the Prosecutor General.

The Public Prosecution Service consists of the Prosecutor General's Office and 5 regional prosecutor's offices. The Prosecutor General's Office is responsible for the administration of the prosecution service, including management of human, financial and material resources, information technologies, and communication with the media.

The activities of the Public Prosecution Service are financed from the State budget. The Prosecutor General is responsible for the economic and financial activities of the Public Prosecution Service, but supervision of this area is delegated to Chancellor of the prosecution service.

2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).

The composition of the Public Prosecution Service and the procedure for appointing/dismissing the Prosecutor General are set out in the Constitution of the Republic of Lithuania.

The status, funding, functions, structure, functioning and control of the Public Prosecution Service, and the grounds for work organisation, as well as the status of prosecutors, their competences, rights and duties, the course of their service, promotion and liability, remuneration, social guarantees, etc. are regulated by the Law on Public Prosecution Service, and other laws. The procedures for dealing with these issues are mostly set in by-laws.

3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service¹ in your country?²

¹ It is important to note that by referring to the head of the prosecution service in the present questionnaire, the highest-level official and/or body (please also see below in footnote No. 3) are meant. It is not meant to include the whole hierarchy of officials with some managerial roles within the prosecution service. However, it is also understood that the highest-level official of the prosecution service may have to delegate part of his/her powers under certain conditions and in some cases. If so, such delegation of powers may also be reflected in the responses to the questionnaire.

² If the country's legislative system delegates the management of the prosecution service to a body (i.e. Council of Prosecutors or other prosecutorial self-governance bodies, or a particular section within the service rather than a particular official), the respondent country is invited to share information on its establishment, functioning and terms of reference.

The head of the Public Prosecution Service of the Republic of Lithuania is the Prosecutor General.

4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:

- **Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?**

Orders, instructions and other legal acts of the Prosecutor General are binding on prosecutors and other staff.

- Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)

Orders issued by the Prosecutor General may be appealed to the court in accordance with the procedure laid down in the Law on Administrative Proceedings.

5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).

Minister of Justice has no role in the administration of the Public Prosecution Service in Lithuania.

6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?

The Integrated Criminal Prosecution System for electronic criminal cases.

7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?

Safety of data and protection against unauthorised access.

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:

- Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?

- at least 35 years of age
- must have unimpeachable reputation

- must speak the official Lithuanian language
 - must hold citizenship of the Republic of Lithuania
 - must have university education and a Bachelor's and Master's Degrees in Law
 - must have at least 10-years-record of service as a prosecutor, and/or a judge, or any other legal work.
- Which body is responsible for the appointment/election of the head of the prosecution service?

The Prosecutor General is appointed and dismissed by the President of the Republic, with the approval of the Parliament, for a period of five years.

- What is the procedure for the appointment/election of the head of the prosecution service?

The Prosecutor General is appointed by the President with the approval of the Parliament. Only these bodies may participate in the process of appointing the Prosecutor General. The President submits to the Parliament a candidate to the position of the Prosecutor General, and the Parliament decides whether or not to approve the nomination; if the Parliament approves the nomination, the President appoints the person as Prosecutor General.

9. What are the terms of office of the head of the prosecution service?

The Prosecutor General is appointed for a term of 5 years, and may not be appointed for more than two consecutive terms in the same office.

10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:

- What are the grounds for such removal?
 - death;
 - election of the Prosecutor General to another post or transfer to another post with his/her consent;
 - resignation;
 - medical condition, because of which Prosecutor General is no longer able to perform the duties;
 - loss of the citizenship of the Republic of Lithuania;
 - breach of oath;
 - conviction.
- Which body can decide on such removal?

The President of the Republic of Lithuania.
- What is the procedure for such removal?

The Prosecutor General is dismissed by the President on the proposal of the Parliament. The President asks the Parliament for approval to dismiss the Prosecutor General, and the Parliament decides whether or not to approve it.

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?

The recruitment, promotion, performance assessment procedures, investigations of possible breaches of ethics are carried out by the commissions, which provide recommendations to the prosecutor general, but all final decisions to appoint, promote, dismiss, award, impose a disciplinary sanctions and other decisions related to human resources are made by the Prosecutor General. These decisions can be appealed to the administrative court.

12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:

- Managing the day-to-day operations and activities of the prosecution service;

The Prosecutor General distributes documents received at the Prosecutor General's Office and tasks to respective departments in accordance with their area of responsibility; supervises activities of the Training division, Communications division, Division of the Defence of Public Interest, Division of Internal Audit, Division of Internal Investigations; makes decisions and issues orders relating to service of prosecutors and other staff (appointment, dismissal, disciplinary responsibility, etc.); participates in drafting related legislative acts in the Parliament; other.

- Management of case distribution;

The prosecutor general does not participate in the distribution of cases. Criminal cases are allocated on the basis of the place where the offence was committed and the qualification of the offence, the location of the prosecutor's office and the territory in which he or she operates, the specialisation of the prosecutor and the prosecutor's caseload.

- Management of financial and material resources of the prosecution service;

The prosecutor General has delegated supervision of day-to-day activities, relating to administration of financial, material resources, documents and IT to the Chancellor of the Prosecution Service.

- Representation of the prosecution service internally and externally, including before foreign services and international organisations.

The prosecution service internally and externally can be represented by the Prosecutor General, his/her deputies or other delegated persons.

13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

The Prosecutor General reports to the President of the Republic and the Parliament on the activities of the Prosecutor's Office in the form of an annual report. The economic and financial activities of the Prosecutor General's Office, territorial prosecutor's offices are subject to control by the State Audit Office and other authorised state institutions.

Luxembourg

I. ASPECTS GÉNÉRAUX LIÉS À L'ADMINISTRATION DU MINISTÈRE PUBLIC

1. Veuillez décrire brièvement l'administration du fonctionnement courant du ministère public de votre pays (notamment, la gestion des ressources financières, matérielles et humaines du ministère public).

La question a pour objet, à bien comprendre, la gestion matérielle du Ministère public, donc celle des ressources humaines, financières et matérielles. Elle ne concerne pas, à bien comprendre, la façon dont l'exécution par le Ministère public de ses missions légales est assurée. La question ainsi comprise, la réponse à elle suppose de distinguer la gestion des ressources humaines de celle des ressources financières et matérielles

Gestion des ressources humaines

Du point de vue de la gestion des ressources humaines il importe de distinguer celle des magistrats du Ministère public de celle du personnel administratif.

Magistrats

Jusqu'à une réforme constitutionnelle et législative de janvier 2023, entrée en vigueur le 1^{er} juillet 2023, les magistrats, y compris ceux du Ministère public, étaient nommés par le Gouvernement.

Depuis cette réforme, ils sont nommés par un organe constitutionnel indépendant, le Conseil national de la justice (composé de 6 magistrats, tous élus par leurs pairs, y compris 2 magistrats du Ministère public, 1 avocat désigné par les barreaux du pays et 2 personnalités extérieures désignées par le Parlement).

Les candidats sont sélectionnés sur base de leurs compétences professionnelles et qualités humaines ainsi que sur base de leur rang dans la magistrature¹.

Les candidats sélectionnés par le Conseil sont obligatoirement nommés par le chef de l'Etat (le Grand-Duc)², qui a de ce point de vue une compétence liée. Le Gouvernement n'a donc aucun pouvoir d'interférence dans les nominations, y compris celles des plus importants postes dans la magistrature, qu'il s'agisse de ceux du siège ou de ceux du Ministère public.

¹ Article 11 de la loi du 23 janvier 2023 sur le statut des magistrats.

² Article 107, alinéa 3, de la Constitution révisée.

Les nominations ont lieu pour des postes dont le nombre et la nature sont définis par la loi³, donc par le Parlement sur proposition du Gouvernement. Il existe donc un cadre légal de postes. Une modification de ce cadre suppose une modification de la loi à décider par le Parlement sur proposition du Gouvernement. Ce cadre est rigide, même si les Gouvernements et Parlements successifs l'ont constamment étendu au cours des dernières décennies, l'adaptant à l'évolution de la population⁴.

Une piste de réflexion consisterait à adopter une loi autorisant le Conseil de décider de modifications du cadre de postes, sur le modèle pratiqué pour les postes ordinaires de fonctionnaires (pour lesquels une commission est pourvue de la compétence d'adapter le cadre aux besoins). Cette solution serait plus flexible et moins lourde que le système actuel.

Personnel administratif

Le personnel administratif des juridictions judiciaires dans leur ensemble, qui est actuellement composé de 656 fonctionnaires et employés, y compris celui du Ministère public, est géré par le Parquet général (donc par le Ministère public près de la Cour supérieure de justice, regroupant la Cour d'appel unique et la Cour de cassation). L'autorité chargée du pouvoir de nomination est le Procureur général d'Etat.

Le recrutement de personnel supplémentaire est à demander par le Parquet général auprès d'une commission interministérielle installée auprès du Ministère des Finances⁵.

Gestion des ressources matérielles

Le financement des ressources, qu'elles soient humaines ou matérielles, des autorités judiciaires, y compris du Ministère public, est assuré par le budget de l'Etat voté annuellement par le Parlement sur proposition du Gouvernement. Ces autorités n'ayant (évidemment) pas de ressources propres, leur financement est donc assuré par les pouvoirs législatifs et exécutifs, du bon vouloir desquels le pouvoir judiciaire dépend en fin de compte pour la satisfaction de ses besoins matériels et humains.

³ La loi modifiée du 7 mars 1980 sur l'organisation judiciaire.

⁴ Le nombre de magistrats judiciaires était en 1980 de **96** tandis qu'il est actuellement, 44 ans plus tard, de **276**. Un récent projet de loi (projet de loi n° 8299) déposé en août 2023 par le Gouvernement précédent (remplacé suite aux élections parlementaires d'octobre 2023) propose d'augmenter le nombre de postes jusqu'en 2028 à **469**. Ces augmentations relativement spectaculaires sont à comprendre dans le contexte de l'augmentation considérable de la population luxembourgeoise, qui, au cours de ces 44 ans, a augmenté d'environ 260.000 habitants à environ 640.000 habitants, auxquels s'ajoutent environ 150.000 salariés transfrontaliers se déplaçant quotidiennement à Luxembourg pour y travailler. Le nombre de magistrats du Ministère public était de **24** en 1980. Il est actuellement de **74**. Si le projet de loi n° 8299 était adopté, il serait en 2028 de **152**.

⁵ Article 76, paragraphe 2, de la loi modifiée 7 mars 1980 sur l'organisation judiciaire.

Dans certains domaines (très matériels et relativement subalternes) les autorités judiciaires se voient confier la gestion de ces ressources budgétaires :

- **les frais de gardiennage (donc de surveillance des bâtiments des juridictions judiciaires par des entreprises privées de sécurité, recrutées sur marché public),**
- **les frais d'électricité, de chauffage, d'eau et d'évacuation des déchets,**
- **les frais de nettoyage (ce dernier étant assuré en partie par un personnel recruté par les autorités judiciaires et en partie par des entreprises de nettoyage recrutées sur marché public),**
- **les frais de matériel de bureau, de matériel informatique, de logiciels et de livres,**
- **les frais d'acquisition et de gestion du parc de voitures de service.**

Cette gestion est assurée, pour l'ensemble des juridictions judiciaires, y compris pour le Ministère public, par le Parquet général (donc par une composante du Ministère public).

Dans les autres domaines les ressources sont gérées par différentes branches de l'administration gouvernementale. Il en est ainsi, à titre d'exemple, de l'acquisition, de la construction ou de la location des bâtiments utilisés par les juridictions judiciaires, y compris le Ministère public, ou de la digitalisation de la justice (sous réserve d'une petite équipe d'informaticiens recrutés par les autorités judiciaires). L'obtention de ressources est, dans ces domaines cruciaux, à négocier par les autorités judiciaires avec le Gouvernement. Ces négociations sont effectuées, pour l'ensemble des juridictions judiciaires, y compris du Ministère public, par le Parquet général (composante du Ministère public).

2. **A quel niveau législatif l'administration du ministère public est-elle réglementée ? (par exemple, par la constitution, la législation, les règlements ou d'autres réglementations).**

La question n° 2 paraît, contrairement à la question n° 1 (qui concernait la gestion des ressources matérielles), viser la façon dont le Ministère public est organisé pour exécuter ses missions légales.

Le Ministère public est composé à Luxembourg de trois entités :

- **deux Parquets près des deux tribunaux d'arrondissement du pays (Luxembourg et Diekirch), y compris, auprès du Parquet du tribunal d'arrondissement de Luxembourg, une Cellule de renseignement financier (compétente en matière de détection de blanchiment d'infractions) et**

- un Parquet près de la Cour supérieure de justice (composée de la Cour d'appel (unique du pays) et de la Cour de cassation), dirigé par le Procureur général d'Etat et dénommé couramment « Parquet général ».

Il comporte actuellement en tout 74 magistrats (sur les 274 que comporte la magistrature judiciaire dans son ensemble).

La façon dont le Ministère public exécute ses missions légales (consistant essentiellement, d'une part, à exercer les poursuites pénales d'infractions et, d'autre part, à assurer le respect de l'ordre public dans le cadre des procédures pendantes devant les juridictions civiles) est définie par la Constitution et par la loi.

- La Constitution garantit l'indépendance du Ministère public dans l'exercice des recherches et poursuites individuelles, tout en réservant au Gouvernement le pouvoir d'arrêter des directives de politique pénale⁶.
- La loi dispose :
 - o que les fonctions du Ministère public sont exercées par l'ensemble des magistrats du Ministère public (qu'il s'agisse de ceux du Parquet général ou de ceux des Parquets près les tribunaux d'arrondissement) sous la surveillance et la direction du Procureur général d'Etat⁷,
 - o que le Procureur général d'Etat a autorité sur tous les magistrats du Ministère public⁸,
 - o que les magistrats des Parquets près les tribunaux d'arrondissement exercent leurs fonctions sous la surveillance et la direction du Procureur d'Etat, chef du Ministère public auprès du tribunal d'arrondissement⁹,
 - o que le Procureur général d'Etat peut enjoindre aux Procureurs d'Etat, par des instructions écrites et versées au dossier de la procédure, d'engager ou de faire engager des poursuites ou de saisir la juridiction compétente de telles réquisitions écrites qu'il juge opportunes¹⁰,
 - o que le magistrat du Parquet est tenu de prendre des réquisitions écrites conformes aux instructions qui lui sont données par le Procureur général d'Etat respectivement par le Procureur d'Etat auquel il est rattaché, mais qu'il développe librement les observations orales qu'il croit convenables au bien de la justice (transcription du principe « *la plume est servie mais la parole est libre* »)¹¹.

⁶ Article 104, paragraphe 2, de la Constitution révisée. Le pouvoir du Ministre de la Justice d'adresser au Procureur général d'Etat des directives de politique pénale est rappelé par l'article 19 du Code de procédure pénale.

⁷ Article 71, paragraphe 1, de la loi modifiée du 7 mars 1980 sur l'organisation judiciaire.

⁸ Article 20, alinéa 1, du Code de procédure pénale.

⁹ Article 71, paragraphe 2, de la loi précitée.

¹⁰ Article 20, alinéa 2, du Code de procédure pénale.

¹¹ Article 16-2 du même Code.

Outre ces règles constitutionnelles et légales, la façon dont est organisée l'exécution par le Ministère public de ses missions légales est déterminée par des circulaires et notes de service émises par le Procureur général d'Etat et, pour leurs Parquets respectifs, par les Procureurs d'Etat.

3. Quel fonctionnaire (c'est-à-dire le procureur général, le procureur en chef, le chef de service ou un autre fonctionnaire du ministère public ou non, par exemple le ministre de la justice) dirige le ministère public¹² dans votre pays¹³ ?

Ainsi qu'il résulte de la réponse à la question n° 2, le Ministère public considéré dans son ensemble est dirigé par le Procureur général d'Etat et les Ministères publics auprès des tribunaux d'arrondissement sont dirigés par les Procureurs d'Etat près de ces tribunaux.

En application du principe d'indivisibilité du Ministère public, le Ministère public auprès de la Cour d'appel (unique du pays) et de la Cour de cassation (formant ensemble la Cour supérieure de justice) est représenté, outre par le Procureur général d'Etat, également par les autres magistrats composant son Parquet¹⁴ et celui auprès des tribunaux d'arrondissement est représenté, outre par le Procureur d'Etat, également par les autres magistrats composant son Parquet¹⁵. Chaque magistrat du Ministère public représente donc, dans l'exercice de ses fonctions, son chef de corps (Procureur général d'Etat ou Procureurs d'Etat). Cette délégation de pouvoir est prévue par la loi et s'applique donc d'office.

4. Veuillez décrire brièvement la valeur juridique des décisions/ordres/instructions émis par le chef du ministère public, en vous basant sur les questions suivantes :

- Ses décisions/ordres sont-ils obligatoires pour les procureurs et leur personnel ?

Les ordres des chefs de corps (Procureur général d'Etat, Procureurs d'Etat) sont obligatoires pour les magistrats de leurs Parquets, sur lesquels ils ont, comme il a été exposé ci-avant dans la réponse à la question n° 2, autorité, ainsi qu'il est prévu par la loi.

Le Procureur général d'Etat est le supérieur hiérarchique du personnel de l'administration judiciaire, toutes juridictions confondues, et dispose ainsi du pouvoir d'émettre des ordres à son égard, qui sont à respecter.

¹² Il est important de noter qu'en se référant au chef du ministère public dans le présent questionnaire, il s'agit du fonctionnaire et/ou de l'organe de plus haut niveau (voir également la note de bas de page n° 3 ci-dessous). Il ne s'agit pas d'inclure l'ensemble de la hiérarchie des fonctionnaires exerçant certains rôles de direction au sein du ministère public. Toutefois, il est également entendu que le plus haut fonctionnaire du ministère public peut être amené à déléguer une partie de ses pouvoirs dans certaines conditions et dans certains cas. Si tel est le cas, cette délégation de pouvoirs peut également se refléter dans les réponses au questionnaire.

¹³ Si le système législatif du pays délègue la gestion du ministère public à un organe (c'est-à-dire le Conseil des procureurs ou d'autres organes de l'autonomie de gestion des procureurs, ou une section particulière au sein du ministère public plutôt qu'un fonctionnaire particulier), le pays répondant est invité à partager des informations sur sa création, son fonctionnement et son mandat.

¹⁴ Article 17, paragraphe 1, du Code de procédure pénale.

¹⁵ Article 22, paragraphe 1, du même Code.

- Peuvent-ils être contestés ? Dans l'affirmative, veuillez décrire brièvement la procédure de contestation (par qui et devant quel(s) organisme(s) ?)

S'agissant des magistrats du Ministère public, il y a lieu de distinguer suivant que les ordres et décisions relèvent ou non de l'exercice des attributions légales du Ministère public.

Dans l'affirmative la loi ne prévoit pas de recours spécifique en cas de contestation d'un ordre. Ces ordres, qui relèvent de l'exercice de l'autorité judiciaire, échappent, en effet, à la compétence des juridictions administratives et un recours n'est pas formellement prévu.

Il existe cependant deux correctifs dans le Code de procédure pénale : d'une part, les instructions, du moins si elles émanent du Procureur général d'Etat à l'encontre des Procureur d'Etat, doivent être écrites et versées au dossier de la procédure¹⁶, de sorte qu'il existe une certaine transparence ; d'autre part, si le magistrat du Ministère public est certes tenu de prendre des réquisitions écrites conformes aux instructions qu'il a reçues de son chef hiérarchique, il développe librement les observations orales qu'il croit convenables au bien de la justice, donc « si la plume est servie, la parole est libre »¹⁷.

Le magistrat du Ministère public reste, en effet, un magistrat, donc ne saurait être assimilé à un fonctionnaire inconditionnellement tenu de respecter les ordres. Il est à ajouter que le Ministère public luxembourgeois entend, dans toute la mesure du possible, privilégier le dialogue et la concertation aux ordres et que les magistrats en question sont traités comme des magistrats (indépendants dans le traitement de leurs dossiers sous réserve du respect des règles de traitement) et non comme des fonctionnaires.

Si des ordres méconnaîtraient, dans un cas donné, les règles déontologiques des magistrats, ils seraient susceptibles de faire l'objet de poursuites disciplinaires sur base des articles 21 et suivants de la loi du 23 janvier 2023 sur le statut des magistrats.

Dans la négative, donc pour toute décision étrangère à l'exercice des attributions judiciaires du Ministère public, s'agissant par exemple de décisions relatives à l'octroi de congés ou de tâches à mi-temps, elles relèvent du contrôle des juridictions administratives. Ces décisions ne sont toutefois, depuis l'entrée en vigueur, le 1^{er} juillet 2023, de la loi du 23 janvier 2023 portant organisation du Conseil national de la justice, plus de la compétence des chefs de corps du Ministère public, mais du Conseil national de la justice qui, aux termes de l'article 17 de la loi précitée, est compétent en matière de recrutement, de formation, de nominations, de déontologie, de discipline, d'absences, de congé, de service à temps partiel, de détachement et de mise à la retraite, donc de toutes les décisions administratives en matière de gestion de la carrière du magistrat.

¹⁶ Article 20, alinéa 2, du même Code.

¹⁷ Article 16-2 du même Code.

S'agissant du personnel de l'administration judiciaire, ce dernier est, comme rappelé ci-avant sous 4, placé sous l'autorité du Procureur général d'Etat. Les éventuels recours applicables dans ce contexte sont ceux du droit administratif et relèvent de la compétence des juridictions administratives.

5. Si, en particulier, le ministre de la justice joue un rôle dans l'administration du ministère public dans votre pays, veuillez le décrire brièvement (par exemple, le pouvoir du ministre de la justice de superviser le ministère public, de donner des instructions contraignantes, de demander des informations du ministère public ou d'autres pouvoirs).

Depuis la révision de la Constitution, entrée en vigueur le 1^{er} juillet 2023, le Ministre de la Justice n'assume plus aucun rôle dans l'organisation ou le fonctionnement du Ministère public. Il n'exerce plus aucune autorité ou surveillance sur les magistrats du Ministère public. Il n'intervient plus dans la nomination des magistrats, y compris des postes les plus importants du Ministère public (les décisions sur les nominations étant prises depuis lors par le Conseil national de la justice, composé de 9 membres, dont 6 magistrats élus par leurs pairs, les décisions de nomination de ce Conseil ne pouvant être remises en cause par le Gouvernement, qui est tenu d'y donner suite).

Le Ministre de la Justice ne conserve plus qu'une seule compétence, qui était jadis prévue, sous une autre formulation, par la loi, mais qui est actuellement consacrée par la Constitution : il peut arrêter des directives de politique pénale¹⁸. Le Ministère public est, en revanche, indépendant dans l'exercice des recherches et poursuites individuelles¹⁹. Il n'existe par ailleurs à Luxembourg aucune pratique, similaire à celle de la France, d'une remontée d'informations par le Ministère public au Ministère de la Justice : ce dernier n'assume plus aucune autorité ou surveillance sur les magistrats du Ministère public, qui font partie de la Justice qui est indépendante et constitue un troisième pouvoir (à côté du pouvoir législatif et exécutif).

Il est à préciser que si, dans l'état du droit antérieur à la révision constitutionnelle de 2023, le Ministère public était placé sous l'autorité et la surveillance du Ministre, auquel la loi conférait le pouvoir de donner des instructions tant générales que dans les affaires individuelles, les Gouvernements successifs se sont abstenus d'exercer ces pouvoirs, de sorte que le Ministère public était, en fait, bien que non en droit, indépendant. La révision constitutionnelle a consacré cette indépendance de fait. Elle reste cependant en retrait par rapport à la pratique antérieure en consacrant, de surcroît dans la Constitution, un pouvoir du Gouvernement d'arrêter des directives de politique pénale. L'avenir révélera si les Gouvernements futurs voudront exercer ce pouvoir (dorénavant de rang constitutionnel) ou continueront, comme par le passé, à s'en abstenir.

6. Des moyens modernes, y compris électroniques, sont-ils utilisés dans le cadre de l'administration du ministère public ? Le processus d'administration est-il numérisé dans une certaine mesure ? Dans l'affirmative, pour remplir quelles fonctions spécifiques ? Si

¹⁸ Article 104, paragraphe 2, de la Constitution.

¹⁹ Idem.

ce n'est pas le cas, est-il prévu d'introduire de tels moyens à l'avenir et pour quelles fonctions ?

Le Ministère public utilise, dans le cadre de son administration, y compris celle des affaires dont il est saisi, des moyens électroniques, telles que des banques de données regroupant les affaires traitées²⁰.

Une numérisation plus poussée est actuellement en voie de préparation. A terme les dossiers du Ministère public devraient être exclusivement traités et conservés de façon informatique, sans support papier (projet « e-justice »). Cette transition s'effectuera d'une façon progressive. Elle est d'autant plus urgente que les services policiers achèveront cette transition dès 2025.

A terme tous les actes de la procédure devraient être établis exclusivement sur support informatique et faire l'objet d'une signature électronique pour en garantir l'authenticité.

7. Quels sont, à votre avis, les défis et/ou problèmes présumés, le cas échéant, dans le cadre de l'administration du ministère public, y compris en ce qui concerne l'utilisation des moyens modernes susmentionnés, notamment électroniques ?

La transition vers le tout-numérique implique des défis budgétaires, humains et législatifs. Elle s'effectue dans un rythme dont la dynamique est perfectible.

En l'état actuel l'utilisation d'outils d'intelligence artificielle n'est pas encore concrètement envisagée. Ces derniers ne se conçoivent pas dans la prise des décisions judiciaires, y compris en matière d'engagement de poursuites pénales ou d'établissement d'actes de procédure. Ces actes et décisions devraient rester sous le contrôle exclusif de magistrats. Leur utilisation se conçoit toutefois, d'une part, dans la préparation de ces actes et décisions et, d'autre part, dans la gestion technique, tant individuelle que collective, des dossiers.

Le plus grand défi de l'administration du Ministère public à Luxembourg est la pénurie de magistrats et de policiers. Celle-ci s'explique devant l'arrière-plan d'une constante pression démographique et d'un accroissement d'une criminalité financière de plus en plus complexe, dans le cadre d'une place financière d'une envergure considérable comparée à celle, modeste, du pays. Le Luxembourg, bien que ne constituant qu'un pays de taille modeste et ne présentant, en partie, qu'une criminalité de province, doit, en matière financière, faire face à des faits criminels qui sont comparables à ceux rencontrés dans les plus grandes capitales, disposant en matière de magistrats et de policiers de ressources humaines

²⁰ Ce traitement a encore récemment fait l'objet d'une loi, intervenue à la suite de contestations politiques sur la qualité de ce traitement dans la pratique antérieure : la loi du 7 août 2023 portant introduction de dispositions spécifiques pour le traitement de données personnelles dans l'application « JU-CHA » (Mémorial, A, 2023, n° 525 du 18 août 2023).

incommensurablement plus abondantes. Cette pénurie implique la recherche de nouveaux créneaux de recrutement (les magistrats doivent actuellement être tous de nationalité luxembourgeoise et maîtriser les trois langues du pays, à savoir le français, l'allemand et le luxembourgeois ; le « marché » des juristes est à Luxembourg très concurrentiels, offrant de nombreux débouchés souvent mieux rémunérés que la magistrature, etc.). Elle oblige de repenser certains aspects de la procédure pénale, qui est devenue, au fil des réformes successives, trop lourde et trop peu effective.

II. LA NOMINATION/L'ÉLECTION, LA DURÉE DU MANDAT ET LA RÉVOCATION DU CHEF DU MINISTÈRE PUBLIC

8. Veuillez décrire brièvement la procédure de nomination/élection du chef du ministère public dans votre pays, sur la base des questions suivantes :

- Existe-t-il des qualifications formelles et/ou des critères d'éligibilité exigés des candidats au poste du chef du ministère public ?

Le chef du Ministère public à Luxembourg est le Procureur général d'Etat près de la Cour supérieure de justice, actuellement, depuis 2015, Mme Martine SOLOVIEFF.

Traditionnellement ce magistrat était choisi par le Ministre de la Justice sans appel de candidature formel. Ce choix était cependant effectué, du moins au cours de décennies passées, sans avoir donné lieu à des nominations qui aient donné lieu à contestation. Il se portait sur des magistrats incontestés du point de vue de leur compétence et de leur rang et sans susciter des craintes au regard de leur indépendance politique.

La procédure de nomination a été profondément modifiée par la récente révision de la Constitution, qui créa un Conseil national de la justice, composé, comme rappelé ci-avant, de 9 membres, dont 6 magistrats élus par leurs pairs, compétent pour la nomination de tous les magistrats, y compris du Procureur général d'Etat.

La loi du 23 janvier 2023 sur le statut des magistrats précise les conditions de nomination.

En cas de vacance des fonctions de Procureur général d'Etat, le Conseil national de la justice détermine le profil recherché²¹. L'appel à candidatures et le profil sont publiés ensemble sur le site internet de la justice²². Les candidats remplissent une notice biographique et indiquent leur expérience professionnelle, acquise avant l'entrée dans la magistrature et, le cas échéant, pendant l'exercice de la fonction de magistrat²³. Les candidatures sont transmises par la voie hiérarchique au président du Conseil²⁴. Le Conseil sollicite l'avis motivé du chef de corps dont le magistrat relève au moment de la présentation de sa candidature et du chef de corps

²¹ Article 5, paragraphe 1, de la loi précitée du 23 janvier 2023 sur le statut des magistrats.

²² Article 5, paragraphe 3, de la loi précitée.

²³ Article 6, paragraphe 1, de la loi précitée.

²⁴ Article 6, paragraphe 2, de la loi précitée.

disposant de la vacance de poste lorsque le magistrat n'était pas membre du Parquet général²⁵. En vue de l'émission de l'avis, les compétences professionnelles et qualités humaines du candidat sont appréciées par le chef de corps dont il relève²⁶. Le candidat peut présenter ses observations dans les dix jours à compter de la communication de l'avis²⁷. Le Conseil national vérifie l'honorabilité du candidat en consultant les inscriptions au casier judiciaire, les décisions judiciaires portant condamnation à des crimes ou délits ainsi que des informations issues de procès-verbaux de police relatifs à des crimes ou délits²⁸. Les candidats sont convoqués à un entretien individuel avec les membres du Conseil²⁹.

Le choix s'effectue sur base des compétences professionnelles et qualités humaines ainsi que sur base du rang du candidat dans la magistrature³⁰.

Cette procédure n'a, jusqu'à présent, pas encore été mise en œuvre pour le poste de Procureur général d'Etat.

La procédure est similaire pour la nomination aux postes de Procureur d'Etat près les tribunaux d'arrondissement, avec la seule différence que l'établissement d'un profil et la convocation à un entretien sont facultatifs.

- Quel est l'organe responsable de la nomination/élection du chef du ministère public?

Le Procureur général d'Etat et les Procureurs d'Etat sont nommés, comme précisé ci-avant, par le Conseil national de la justice.

- Quelle est la procédure de nomination/élection du chef du ministère public ?

La procédure de nomination a été exposée ci-avant.

9. Quelle est la durée du mandat du chef du ministère public ?

La durée du mandat du Procureur général d'Etat ou des Procureurs d'Etat est illimitée.

10. Le cas échéant, veuillez décrire brièvement la procédure de révocation avant terme (avant l'expiration du mandat) du chef du ministère public, sur la base des questions suivantes :

- Quels sont les motifs d'une telle révocation ?

Aucune procédure de révocation spécifique des fonctions de Procureur général d'Etat ou de Procureur d'Etat n'est prévue par la loi.

²⁵ Article 7, paragraphe 1, de la loi précitée.

²⁶ Article 8, paragraphe 1, alinéa 1, de la loi précitée.

²⁷ Article 8, paragraphe 2, alinéa 4, de la loi précitée.

²⁸ Article 9, paragraphe 3, de la loi précitée.

²⁹ Article 10, paragraphe 1, de la loi précitée.

³⁰ Article 11 de la loi précitée.

Les fonctions du Procureur général d'Etat ou des Procureurs d'Etat prennent fin dans deux cas de figure. D'une part, la mise à la retraite pour raisons d'âge, qui a lieu de plein droit lorsqu'ils atteignent l'âge de 68 ans, et celle pour raisons de santé, lorsqu'une affection grave et permanente ne leur permet plus de remplir convenablement leurs fonctions³¹. D'autre part, la mise à la retraite ou la révocation des fonctions à titre de peine disciplinaire³².

- Quel est l'organe habilité à décider d'une telle révocation ?

La mise à la retraite pour raison d'âge ou de santé est décidée par le Conseil national de la justice.

La mise à la retraite et la révocation à titre de peine disciplinaire sont décidées par les juridictions disciplinaires (un Tribunal disciplinaire et une Cour disciplinaire³³, composés de magistrats des ordres judiciaire et administratif nommés par le Conseil national de la justice³⁴), sur réquisition du Conseil national de la justice³⁵.

- Quelle est la procédure à suivre pour cette révocation ?

La mise à la retraite en raison de l'âge est décidée par le Conseil national de la justice sur demande du concerné ou d'office s'il a atteint l'âge légal de retraite (de 68 ans)³⁶. La mise à la retraite pour raisons de santé suppose que le concerné soit soumis à un examen médical par un médecin de contrôle³⁷. Elle est décidée par la Commission des pensions en matière de fonction publique³⁸.

La révocation en tant que sanction disciplinaire suppose l'engagement d'une poursuite disciplinaire par le Conseil national de la justice³⁹, qui délègue un de ses membres pour faire les actes de l'instruction disciplinaire⁴⁰, qui est à accomplir à charge et à décharge⁴¹. A l'issue de l'instruction disciplinaire, l'instructeur disciplinaire communique son rapport au Conseil national de la justice⁴², qui décide soit de classer l'instruction, soit d'ordonner un supplément d'instruction, soit de renvoyer l'affaire devant le Tribunal disciplinaire⁴³. Le Conseil national de la justice délègue un de ses membres pour prendre des réquisitions devant les juridictions disciplinaires⁴⁴. La poursuite disciplinaire est jugée en première instance par le Tribunal disciplinaire, composé de magistrats des ordres judiciaire et administratif de première instance et, en appel, par la Cour disciplinaire, composée de magistrats des deux ordres émanant des juridictions les plus élevés (Cour

³¹ Articles 58 et 59 de la loi précitée.

³² Article 22, points 6° et 7°, de la loi précitée.

³³ Articles 28 et 29 de la loi précitée.

³⁴ Article 30 de la loi précitée.

³⁵ Article 35 de la loi précitée.

³⁶ Article 58 de la loi précitée.

³⁷ Article 59, paragraphe 2, de la loi précitée.

³⁸ Article 59, paragraphe 3, de la loi précitée.

³⁹ Article 35 de la loi précitée.

⁴⁰ Article 36, paragraphe 1, de la loi précitée.

⁴¹ Article 37, paragraphe 1, de la loi précitée.

⁴² Article 44 de la loi précitée.

⁴³ Article 45 de la loi précitée.

⁴⁴ Article 46 de la loi précitée.

supérieure de justice, Cour administrative, Parquet général). La mise à la retraite est la seconde peine disciplinaire la plus grave, la révocation, qui emporte la perte de l'emploi, du titre et du droit à la pension, étant la plus grave⁴⁵.

Il n'existe, en revanche, aucune procédure de révocation pour des motifs de non-satisfaction avec la façon dont le Procureur général d'Etat exerce ses fonctions, du moins tant que ces critiques ne sont pas de nature à être qualifiées de reproches d'ordre disciplinaire d'une gravité à ce point sérieuse qu'ils justifient, à titre de sanction disciplinaire, une mise à la retraite d'office, voire une révocation. Il n'existe, à plus forte raison, aucune procédure de révocation pour des motifs de non-contentement d'ordre politique, qui seraient, par exemple, exprimés par le Gouvernement.

Bref, le chef du Ministère public est, en fait, irrévocable.

III. LES FONCTIONS ET LES TÂCHES DU CHEF DU MINISTERE PUBLIC

11. Quel est le rôle du chef du ministère public dans le recrutement/la sélection des procureurs et du personnel du ministère public et dans la gestion de leur carrière (par exemple, l'évaluation professionnelle, l'attribution de distinctions honorifiques ou de décorations en reconnaissance de réalisations professionnelles, les promotions, les affectations, la procédure disciplinaire, d'autres questions relatives aux ressources humaines) ? Ses décisions relatives à ces questions et à d'autres peuvent-elles faire l'objet d'un recours par le procureur concerné et, dans l'affirmative, devant quelle instance et selon quelle procédure ?

- Rôle en matière de recrutement et promotion des magistrats du Ministère public

La nomination et la promotion des magistrats, y compris de ceux du Ministère public, sont effectuées par le Conseil national de la justice. Le Procureur général d'Etat ou les Procureurs d'Etat ne sont pas d'office membres de ce Conseil, mais ils peuvent se porter candidat aux élections de ses membres, les 6 membres magistrats de ce Conseil (sur 9) étant des magistrats élus par leurs pairs. Actuellement la Procureur général d'Etat est membre élu du Conseil et Présidente de ce dernier. Cette situation est la conséquence de l'élection de la Procureur général d'Etat comme membre du Conseil par les magistrats de son corps électoral (en l'occurrence les magistrats du Parquet général) et de son élection consécutive comme Présidente par les autres membres du Conseil. Dans le cadre de l'exercice de ses missions de membre et Présidente du Conseil elle n'assume cependant pas la fonction de chef du Ministère public. Comme le Procureur général d'Etat et les Procureurs d'Etat ne sont pas des membres d'office du Conseil et que les membres de ce dernier doivent être élus par leurs pairs, une présence de ces magistrats au Conseil n'est que fortuite, donc ne présente pas un caractère de nécessité. Il reste, bien entendu, que, en fait, la présence d'un magistrat du Ministère public au sein du Conseil national de la justice lui permet d'assumer à ce titre, bien que non en qualité de magistrat du Ministère public, un rôle en matière de recrutement et de promotion des magistrats de ce dernier.

⁴⁵ Article 22, points 6° et 7°, de la loi précitée.

Dans le cadre de la procédure de nomination ou de promotion, le Procureur général d'Etat, s'agissant des postes de magistrats du Parquet général, et les Procureurs d'Etat, s'agissant des postes de magistrats de leurs Parquets près les tribunaux d'arrondissement, ont qualité d'intervenir aux fins d'émettre un avis sur les candidats, à savoir sur leurs compétences professionnelles et leurs qualités humaines⁴⁶.

Cet avis est communiqué au candidat, qui peut présenter ses observations⁴⁷.

Il est discuté si les décisions du Conseil en matière de nomination et de promotion sont susceptibles de faire l'objet d'un recours juridictionnel devant les juridictions administratives, la loi ne prévoyant pas formellement un tel recours et le Conseil étant un organe de nature constitutionnelle, se distinguant d'un organe de nature simplement administratif.

- Rôle en matière de recrutement et promotion des autres membres du personnel du Ministère public

Les membres du personnel autres que les magistrats du Ministère public, donc les agents (fonctionnaires et employés publics) de l'administration judiciaire, sont nommés par le Gouvernement sur décision du Procureur général d'Etat, qui constitue à leur égard l'autorité chargée du pouvoir de nomination.

Les décisions en matière de nomination et de promotion de ce personnel sont susceptibles de faire l'objet d'un recours devant les juridictions administratives.

- Rôle en matière d'évaluation professionnelle

En l'état actuel du droit les magistrats ne font pas l'objet d'une évaluation professionnelle formalisée. Il est seulement prévu que leurs chefs de corps ont qualité pour émettre un avis sur leurs compétences professionnelles et leurs qualités humaines dans le cadre de la procédure de nomination/promotion devant le Conseil national de la justice⁴⁸.

Il n'existe par ailleurs actuellement pas en fait d'évaluation professionnelle des agents de l'administration judiciaire.

- Rôle en matière de distinctions honorifiques

Les chefs de corps du Ministère public (Procureur général d'Etat/Procureurs d'Etat) n'ont aucun rôle dans l'attribution des distinctions honorifiques, qui, dans la pratique luxembourgeoise, sont distribuées au sein de la fonction publique par le Gouvernement suivant des règles objectives d'ancienneté de service (ce qui diminue d'autant la valeur intrinsèque de ces distinctions, qui n'honorent pas des mérites personnels).

⁴⁶ Article 8 de la loi précitée.

⁴⁷ Idem.

⁴⁸ Idem.

- **Rôle en matière de poursuites disciplinaires**

Le Conseil national de la justice engage, instruit et poursuit les fautes disciplinaires. Les observations faites ci-avant sous 11, au sujet de la possibilité de voir siéger au Conseil des membres du Ministère public et du rôle qui découle de cette présence dans le cadre des procédures de nomination et de promotion s'appliquent *mutatis mutandis* dans le présent contexte des poursuites disciplinaires.

La loi confère aux chefs de corps, dont ceux du Ministère public (Procureur général d'Etat/Procureurs d'Etat) la mission de dénoncer au Conseil tous les faits parvenus à leur connaissance qui pourraient donner lieu à poursuite disciplinaire contre un magistrat de son Parquet⁴⁹.

Le Procureur d'Etat se voit, par ailleurs, confier la mission d'informer le Conseil d'ouverture d'une procédure pénale contre un magistrat, y compris ceux du Ministère public en général ou de « son » Ministère public.

Les chefs de corps n'assument pas d'autre rôle dans les poursuites disciplinaires.

- **Rôle en matière d'affectation interne**

Il a été vu ci-avant sous 2 que les magistrats du Ministère public sont placés sous la surveillance et la direction du Procureur général d'Etat⁵⁰ et sous son autorité⁵¹ et que ceux des Parquets près les tribunaux d'arrondissement exercent leurs fonctions sous la surveillance et la direction du Procureur d'Etat, chef du Ministère public auprès du tribunal d'arrondissement⁵².

Ces pouvoirs impliquent celui de décider de l'affectation des magistrats de leur Ministère public aux tâches choisies par eux (pour des raisons, ne serait-ce que d'efficacité, de toute évidence de préférence en concertation avec eux) et d'organiser ces tâches.

Ces décisions d'organisation interne ne sont (sous réserve du cas hypothétique d'un excès de pouvoir constitutif d'une faute disciplinaire) pas susceptibles de faire l'objet de voies de recours formelles tandis que, en revanche, le refus par les magistrats de donner suite aux ordres serait constitutif d'une faute disciplinaire. Un magistrat mécontent d'un tel ordre pourrait cependant, à la limite, se plaindre auprès du supérieur hiérarchique de son chef, ce qui, en cas de décision du Procureur d'Etat, serait le Procureur général d'Etat.

12. Veuillez décrire brièvement les fonctions et les tâches du chef du ministère public dans votre pays dans les domaines suivants :

- Gestion des opérations et des activités quotidiennes du ministère public ;

⁴⁹ Article 32 de la loi précitée.

⁵⁰ Article 71, paragraphe 1, de la loi modifiée du 7 mars 1980 sur l'organisation judiciaire.

⁵¹ Article 20, alinéa 1, du Code de procédure pénale.

⁵² Article 71, paragraphe 2, de la loi précitée sur l'organisation judiciaire.

Le chef du Ministère public est à Luxembourg le Procureur général d'Etat.

Il dirige le Parquet auprès de la Cour supérieure de justice (le Parquet général), qui comporte une Cour d'appel (unique) et la Cour de cassation. Le Parquet général intervient auprès de ces deux juridictions.

Il exerce l'action publique auprès de la Cour d'appel, donc représente le Ministère public dans le cadre des appels formés devant elle en matière pénale. Cette intervention a lieu à tous les stades de la procédure pénale, de l'instruction, au jugement au fond jusqu'à l'exécution des peines.

Il assume un rôle de conseil neutre auprès de la Cour de cassation, devant laquelle il conclut dans toute affaire, qu'elle soit pénale ou civile, son rôle étant similaire à celui de l'avocat général devant la Cour de justice de l'Union européenne. Il s'ensuit que, même en matière pénale, il n'exerce pas le rôle de partie poursuivante.

Il coordonne l'action des Procureurs d'Etat en ce qui concerne tant la prévention que la répression des infractions à la loi pénale, ainsi que la conduite de la politique de l'action publique par les Parquets⁵³.

Il est autorité centrale du Grand-Duché dans le cadre de 48 Conventions internationales, donc assume un rôle prééminent en matière d'entraide judiciaire tant pénale que civile.

Il assure l'exécution des peines, donc prend les décisions y relatives⁵⁴, qui sont susceptibles d'être attaquées devant une chambre spécialisée de la Cour d'appel⁵⁵.

Il est l'autorité chargée du pouvoir de nomination à l'égard des 656 membres du personnel de l'administration judiciaire (dans son ensemble, donc y compris le personnel administratif des juridictions judiciaires), qu'il gère avec l'assistance de son secrétariat, qui assume à ce titre une sorte de direction des ressources humaines de ce personnel.

Il dirige 14 services publics différents installés auprès du Parquet général, qui assument en partie des missions dans l'intérêt du justiciable (par exemple le service d'accueil et d'information juridique) ou de l'ensemble des juridictions judiciaires (par exemple le service communication et presse de la justice ou le service informatique de la justice).

Il assume d'autres missions, tels que le suivi des affaires de faillites et de liquidation judiciaire, de celles concernant les mineurs d'âge, la supervision de la gestion des immeubles utilisés par les autorités judiciaires, l'exercice, par certains de ses membres, du rôle de Ministère public auprès de la Cour Benelux, etc.

Il est donc en charge d'une panoplie très large et diversifiée de tâches, qui supposent en partie une spécialisation et, en même temps, une polyvalence très poussées.

⁵³ Article 18, alinéa 2, du Code de procédure pénale.

⁵⁴ Article 669 du même Code.

⁵⁵ Article 696 du même Code.

Le Procureur général d'Etat est chargé d'organiser l'exécution harmonieuse de ces tâches par les 15 magistrats qui composent, avec lui, son Parquet. Il dispose à cet effet d'une équipe très soudée, polyvalente et solidaire, sans quoi l'exercice de ces missions serait illusoire.

- Gestion de la répartition des affaires ;

Le Procureur général d'Etat a notamment pour mission de gérer la répartition des dossiers se rapportant à ces multiples missions. Il délègue, en principe, cette gestion à des avocats généraux de son Parquet, sur base d'un organigramme définissant les tâches de chacun des magistrats.

- Gestion des ressources financières et matérielles du ministère public ;

Le Procureur général d'Etat gère les ressources financières et matérielles du Ministère public en collaboration avec les agents de l'administration judiciaire, qui s'occupent du suivi de ces questions. Il est à cet effet renvoyé à la question 1.

- Représentation du ministère public en interne et en externe, y compris devant les ministères publics étrangers et les organisations internationales.

Le Procureur général d'Etat, assisté de son Parquet, exerce des missions de représentation du Ministère public devant des instances internes ou internationales.

13. Veuillez décrire brièvement s'il existe des mécanismes de responsabilité envisagés dans votre pays pour le chef du ministère public.

Les magistrats, y compris ceux du Ministère public, ne peuvent engager leur responsabilité civile que dans le cadre de la procédure de prise à partie, qui suppose des fautes très graves et doit être autorisée par arrêt de la Cour de cassation⁵⁶ : elle suppose dol, fraude ou concussion ou une loi qui déclarerait les juges responsables à peine de dommages et intérêts, sinon, ce qui n'est pertinent pour les magistrats du Ministère public, un déni de justice. Ces dispositions n'ont pas encore connu d'application.

L'exercice des missions du Ministère public, y compris celui par les chefs de ce dernier, n'est donc pas circonscrit par des règles de responsabilité dissuasives.

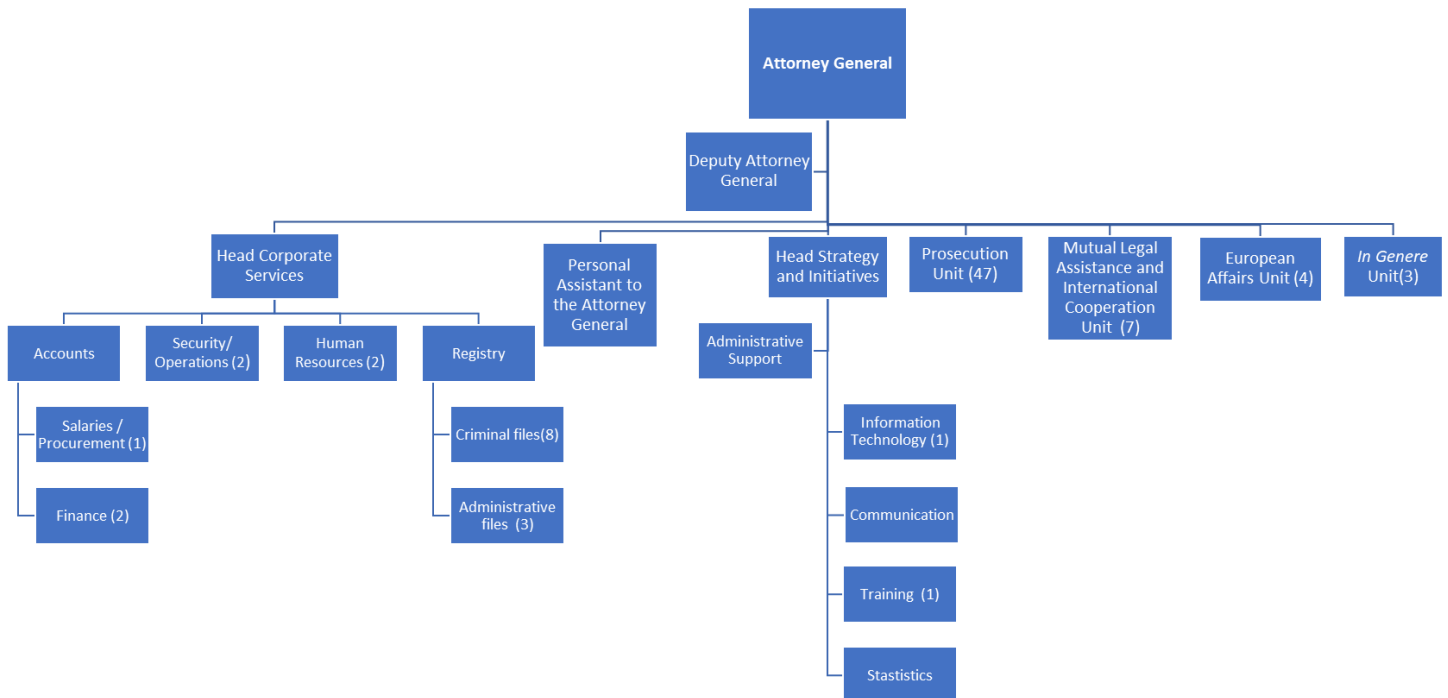
⁵⁶ Articles 639 à 649 du Nouveau Code de procédure civile et 38, point 5°, de la loi modifiée du 7 mars 1980 sur l'organisation judiciaire.

Malta / Malte

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).

In terms of Article 4 of the Attorney General Ordinance, Chapter 90 of the Laws of Malta (<https://legislation.mt/eli/cap/90/eng>), the Office of the Attorney General is established as a government agency consisting of two main sections: legal staff (prosecutors and legal procurators) and administrative staff who are managed by a Head of Corporate Services and Head of Strategy and Initiatives. For ease of reference, kindly refer to the following organigram.



2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).

The administration of the prosecution service is first and foremost regulated by Article 91 of the Constitution of Malta (<https://legislation.mt/eli/const/eng>) which safeguards the Constitutional independence of the Attorney General as the Chief Prosecuting Officer in Malta. In the exercise of his/her duties, he or she shall not be subject to the direction or

control of any other person or authority except for judicial review by a Court of Law. The Office of the Attorney General is further regulated by the Attorney General Ordinance, Chapter 90 of the Laws of Malta. On the other hand, subsidiary legislation 90.01(<https://legislation.mt/eli/sl/90.1/eng>), titled, the Prosecution of Offences (Transitory Provisions) Regulations, stipulate the type of offences that are to be prosecuted by the Attorney General.

3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service¹ in your country?²

As already referred to above, the Attorney General Ordinance specifically mentions the Attorney General as the Chief Prosecuting Officer while the Constitution of Malta safeguards his/her individual judgement. Prosecutions that are not stipulated in subsidiary legislation 90.01 are still being conducted by the Executive Police.

4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:

- **Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?**

Such issue is regulated by the Code of Ethics for Advocates and Legal Procurators at the Office of the Attorney General which can be accessed through the following link: <https://attorneygeneral.mt/code-of-ethics/> .

- **Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)**

As per Article 3(2) of the Code of Ethics, "*In cases of radical disagreement with the decision of the Attorney General, the Advocate or Legal Procurator concerned may ask to be replaced in the patronage of the case*".

5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding

¹ It is important to note that by referring to the head of the prosecution service in the present questionnaire, the highest-level official and/or body (please also see below in footnote No. 3) are meant. It is not meant to include the whole hierarchy of officials with some managerial roles within the prosecution service. However, it is also understood that the highest-level official of the prosecution service may have to delegate part of his/her powers under certain conditions and in some cases. If so, such delegation of powers may also be reflected in the responses to the questionnaire.

² If the country's legislative system delegates the management of the prosecution service to a body (i.e. Council of Prosecutors or other prosecutorial self-governance bodies, or a particular section within the service rather than a particular official), the respondent country is invited to share information on its establishment, functioning and terms of reference.

instructions, to request information from the prosecution services, or other powers).

As stated earlier the Attorney General enjoys constitutional safeguards in the independence of his/her decisions. Consequently, the Minister of Justice does not enjoy any such powers as suggested in this question.

- 6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?**

A Digitalisation Strategy in the Justice Sector is currently being implemented at the Office of the Attorney General. More information on this Strategy can be accessed from the following link: <https://www.coe.int/en/web/cepej/establishing-a-digital-strategy-for-the-maltese-justice-sector1>.

By Act No. IV of 2023 (<https://www.parlament.mt/media/120912/att-iv-criminal-law.pdf>), documents of the proceedings between the Court to the Attorney General are to be transmitted in an electronic format.

- 7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?**

N/A

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

- 8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:**

- **Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?**

In accordance with Article 91 (2) of the Constitution of Malta, to be eligible to apply for the post of Attorney General, that Advocate interested in such post, is required, to have practiced as an Advocate in Malta, for at least 12 years.

- **Which body is responsible for the appointment/election of the head of the prosecution service?**

Article 2(2) of the Attorney General Ordinance stipulates that the Minister for Justice shall establish an Appointment Commission headed by a Chairperson and composed by two to four members. The persons forming part of the Appointment Commission need to be persons respected and trusted by the public and most

importantly, are technically qualified to examine the candidates that applied for such post.

- **What is the procedure for the appointment/election of the head of the prosecution service?**

The appointments' commission, after examining all the candidates would either issue a report with an opinion on each candidate or rank all the candidates in order of preference. This report is eventually submitted to the Prime Minister of Malta who is bound by Article 2(2)(d) of the Attorney General Ordinance to give, "due consideration" to such report before deciding on his recommendation to the President of Malta. Nonetheless, it is up to the President of Malta to appoint the chosen candidate as Attorney General.

9. What are the terms of office of the head of the prosecution service?

In accordance with Article 91(4) of the Constitution, the Attorney General shall vacate his/her Office when he/she attains the age of sixty-five years.

10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:

- **What are the grounds for such removal?**

As per Article 91(5) of the Constitution, the Attorney General can be removed from his/her office if there are grounds of inability perform the functions of her office either because of infirmity of body/mind or any other cause or proved misbehaviour.

- **Which body can decide on such removal?**

The Attorney General can be removed from office by the President of Malta upon a resolution of the House of Representatives supported by at least 2/3 of the members thereof supporting his/her removal.

- **What is the procedure for such removal?**

It is the House of Representatives that regulates the procedure for the presentation of an address and for the investigation and proof of the inability or misbehaviour alleged on behalf of the Attorney General. The procedure is outlined in article 12 of the Commission for the Administration of Justice Act (Chapter 369 of the Laws of Malta). This Act can be accessed through the following link, <https://legislation.mt/eli/cap/369/eng>.

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. **What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g., performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?**

The Collective Agreement signed on 16 December 2022 regulates the recruitment process and promotions within the Office of the Attorney General.

The career path within the Office is as follows: Trainee Lawyer, Lawyer III, Lawyer II, Lawyer I and Senior Lawyer. To progress from a Trainee Lawyer to Senior Lawyer, a total 8 years of service within the Office are required.

It is the Attorney General which presides the interviewing board following a public call for trainee lawyers. Furthermore, the Attorney General will preside the reviewing board convened for those eligible to apply for the promotion from one grade to another.

Performance of trainee lawyers is pegged at 10% of their annual salary, while those in the position of Lawyer III up to a Senior Lawyer are entitled to a performance allowance of 15% of their annual salary. Such performance allowance is based on a performance assessment carried out by the Attorney General herself.

Furthermore, postings within the Office for trainee lawyers and appointed lawyers, are at the discretion of the Attorney General.

On the other hand, human resources issues are managed by the Head of Corporate Services.

In relation to the discipline of lawyers, their immediate superior will counsel employees informally in cases where conduct or performance is marginally below standard with the aim of achieving improvement. However, in more serious cases, or where informal counselling does not achieve the required improvement, formal disciplinary action will be required.

For minor offences such as, late attendance, a verbal warning is given by the Head of Corporate Services or his/her authorised representative who is to be accompanied by a witness.

For serious offences such as, negligence in performance of duties or shoddy or defective work or work output below standard is reported to the Head of Corporate Services. The latter would issue a charge in writing within 15 days of the alleged breach. On the other

hand, the person receiving the charge would have 15 days of the receipt of the charge, to accept the charge or to challenge it.

The Board of Discipline is composed of a chairperson and two (2) Members, one of whom is appointed by the Union and the other by the Agency. The Chairperson is appointed in agreement with the union.

On the other hand, the Appeals Board consists of a Chairperson nominated jointly by the management and the Union, a member nominated by the Agency and a member nominated by the Union and shall be appointed for a term of three (3) years. The composition of the Appeals Board shall be different from the members who sat on the Disciplinary Board.

The Appeal's Board decision is considered as final; however, if that particular employee is found guilty may seek further redress according to the laws of Malta.

12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:

- Managing the day-to-day operations and activities of the prosecution service;

The Attorney General has the overall responsibility of governing the Office of the Attorney General.

- Management of case distribution;

Case distribution is carried out by the Attorney General or by his/her deputy.

- Management of financial and material resources of the prosecution service;

This management aspect falls under the responsibility of the Head of Corporate Services.

- Representation of the prosecution service internally and externally, including before foreign services and international organisations.

Representation of the Office is carried out by the Attorney General, the Deputy Attorney General, Senior Lawyers and other lawyers which are appointed for the task, as the case may be.

13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

It is important to note that the Attorney General takes decisions in his/her own individual discretion without any internal or external influence. Apart from the fact that he/she enjoys Constitutional independence, the Attorney General is first and foremost accountable to the law itself, apart from the fact that his/her accountability stems from the responsibility to uphold the rule of law and serve the interests of justice and the public.

Republic of Moldova / République de Moldavie

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

<p>1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).</p>	<p>The Public Prosecution Service is an autonomous public institution within the judicial authority which, in criminal proceedings and in other proceedings provided for by law, contributes to the respect of the rule of law, the dispensation of justice, the defence of the rights and legitimate interests of the individual and of society.</p> <p>The Public Prosecution Service is independent of the legislative, executive and judicial powers, of any political party or socio-political organisation, and of any other institution, organisation or person.</p> <p>The Prosecutor General organises and implements the system of internal managerial control and bears managerial responsibility for the management of the institution's budget and the public assets under management.</p> <p>The life and property of the prosecutor are subject to compulsory state insurance from the state budget, the respective expenses are provided for in the budget of the Prosecutor's Office.</p> <p>Material damage caused in connection with the prosecutor's work by damaging or destroying his/her property, the property of his/her family members or of his/her close relatives is fully compensated from the Prosecutor's Office budget.</p> <p>The Superior Council of Public Prosecution participates in the preparation of the draft budget of the Prosecutor's Office and endorses it.</p> <p>The Prosecutor's Office is financed from the state budget within the limits of the budgetary allocations approved by the annual budget law.</p> <p>The budget of the Prosecutor's Office is unique and is administered by the General Prosecutor's Office.</p> <p>The budgets of the specialised prosecution offices are reflected separately in the budget of the Prosecutor's Office and are administered by the Chief Prosecutors of the specialised prosecution offices.</p> <p>The budget of the Prosecutor's Office is drawn up, approved and administered in accordance with the principles, rules and procedures laid down in the legislation on public finance and budgetary and fiscal responsibility.</p> <p>Central and local public authorities are obliged to</p>
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	<p>provide prosecutors' offices with service premises. The provision of the prosecutor's offices with forensic technology, telecommunication and computer equipment, means of transport for the service car, with adequate working conditions, in order to protect the health and physical and mental integrity of the prosecutor falls under the responsibility of the General Prosecutor's Office and is carried out from the state budget.</p> <p>The security of the offices and other property of the Prosecutor's Office, the security of its employees, public order in the offices of the Prosecutor's Office, control of persons entering and leaving the offices of the Prosecutor's Office are ensured from the state budget.</p> <p>The Prosecutor's Office (the Public Prosecution Service) is a unique system that includes:</p> <ul style="list-style-type: none">a) the General Prosecutor's Office;b) specialised prosecution offices;c) territorial prosecutors' offices. <p>The total number of prosecutors in the Public Prosecution Service is determined by the Parliament, on the proposal of the Prosecutor General and with the Opinion of the Superior Council of Prosecutors. The number of prosecutors in each prosecutor's office is established by the Superior Council of Prosecutors on the proposal of the Prosecutor General.</p> <p>The structure of the General Prosecutor's Office, the specialised prosecutors' offices and the territorial prosecutors' offices, as well as their residence, is established and modified by the General Prosecutor, with the written consent of the Superior Council of Prosecutors.</p> <p>The Office of the Prosecutor General is headed by the Prosecutor General and his deputies according to the areas of competence established by the Prosecutor General.</p> <p>The General Prosecutor's Office is composed of subdivisions managed by chief prosecutors or civil servants and, where appropriate, their deputies.</p> <p>The Superior Council of Prosecutors is responsible for the appointment, transfer, promotion and disciplinary measures against prosecutors.</p> <p>The Prosecutor General, upon the proposal of the Superior Council of Prosecutors, appoints prosecutors into office.</p>
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<p>2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).</p>	<p>Constitution of the Republic of Moldova (art.art.124-125) Law no. 3/2016 regarding the Prosecutor's Office Law no. 159/2016 regarding specialized prosecutor's offices Criminal Code no. 122/2003 Criminal Procedure Code no. 985/2002 The Prosecutors' Code of Ethics (approved by the Decision of the General Assembly of Prosecutors no. 7/2016) Regulation of the Prosecutor's Office (approved by Order of the General Prosecutor no. 33/3 of 03.05.2022) Activity regulation of the Anticorruption Prosecutor's Office (approved by Order of the General Prosecutor no. 8/28 of 17.02.2017) Activity Regulations of the Prosecutor's Office for Combating Organized Crime and Special Cases (approved by Order of the General Prosecutor no. 7/28 of 17.02.2017) Regulation of the Prosecutor's Office of the autonomous territorial unit of Gagauzia (Găgăuz-Yeri) (approved by Order of the General Prosecutor no. 46/28 of 30.11.2016) Regulation of circumscription Prosecutor's Office (approved by Order of the General Prosecutor no. 25/28 of 04.10.2016)</p>
<p>3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service in your country?</p>	<p>The General Prosecutor and his deputies, according to the established competences, are the heads of the Prosecutor's Office. The heads of the subdivisions of the General Prosecutor's Office are responsible for organising and coordinating the work of the subdivisions which they head in accordance with their established powers. The chief prosecutor of the specialised or territorial prosecutor's office organises and coordinates the activity of the prosecutor's office he/she heads. (Article 12 paragraph (1) of Law No. 3/2016)</p>
<p>4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions: - Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff? - Can they be challenged? If so,</p>	<p>The orders, provisions and indications regarding the organization and coordination of the activity of the Prosecutor's Office, as well as the methodological and regulatory instructions of the prosecutors are binding for the subordinate prosecutors. (Article 12 paragraph (2) of Law No. 3/2016). The procedural hierarchy of the prosecutors and the attributions of the superior hierarchical prosecutor are established by the provisions of the Code of Criminal</p>

<p>please briefly describe the process for challenging them (by whom and before which body or bodies?).</p>	<p>Procedure.</p> <p>The instructions of the hierarchically superior prosecutor are formulated in writing, in accordance with the law, and are binding for hierarchically inferior prosecutors. The lower hierarchical prosecutor may request the reasons for the indications of the higher hierarchical prosecutor.</p> <p>The prosecutor has the right to refuse the execution of an indication that is clearly illegal and has the obligation to contest it with the prosecutor hierarchically superior to the prosecutor who issued it.</p> <p>Individual administrative acts issued by the Prosecutor General (e.g. personnel orders, administrative provisions) can be challenged in the administrative court (Article 191(1) Administrative Code).</p> <p>Procedural acts are contested under criminal procedural law, according to the following order:</p> <p>summary: The actions, inactions and acts of the criminal investigation body can be contested by a complaint addressed to the superior hierarchical prosecutor and submitted within 15 days from the moment of the action, inaction or from when the act became known, either directly to him or to the prosecutor who directs or conducts the criminal investigation, who is obliged to forward it, within 48 hours, to the superior hierarchical prosecutor together with his explanations.</p> <p>The superior hierarchical prosecutor is obliged to examine the complaint and communicate his decision within no more than 15 days after receiving it, through an ordinance.</p> <p>The ordinance issued on the basis of the complaint against the actions, inactions and acts of the criminal investigation body and the prosecutor, or the lack of a solution on it, can be appealed to the investigative judge, within 10 days from the date of receipt of the copy of the ordinance or from the date of expiration the deadline for examining the complaint.</p> <p>The investigative judge will issue a conclusion by which he will either reject the complaint as unfounded, or will establish the merits of the complaint and oblige the prosecutor to liquidate the detected violations and, as the case may be, declare the contested act or procedural action null and void.</p>
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<p>5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).</p>	<p>The Ministry of Justice is the central specialized body of the public administration, subordinate to the Government. It exercises leadership, coordination and control in the fields of competence, carries out state policy in the field of justice and human rights, contributes to maintaining the stability and quality of the normative framework, to its harmonization with international standards, watches over the observance of the principle of the rule of law.</p> <p>At the same time, it is noted that the Minister of Justice is a de jure member of the Superior Council of Prosecutors, thus, based on the principle of cooperation between state bodies, the dialogue on the justice segment is made more efficient.</p> <p>The Prosecutor's Office is an autonomous public institution within the judicial authority that, in criminal proceedings and in other procedures provided for by law, contributes to the observance of the legal order, the administration of justice, the defense of the rights and legitimate interests of the person and society.</p> <p>The Prosecutor's Office is independent from the legislative, executive and judicial powers, from any political party or socio-political organization, as well as from any other institutions, organizations or persons.</p>
<p>6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?</p>	<p><i>Taking into account that the General Prosecutor's Office, according to the special law, is mandated to establish and maintain information systems, registers and databases for the activity of the institution, as well as to collect, analyse and manage data on the activity of the Prosecutor's Office, it will provide concrete and defined information to this question.</i></p>
<p>7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?</p>	<p><i>Taking into account that the General Prosecutor's Office, according to the special law, is mandated to establish and maintain information systems, registers and databases for the activity of the institution, as well as to collect, analyse and manage data on the activity of the Prosecutor's Office, it will provide concrete and defined information to this question.</i></p>

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

<p>8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:</p> <ul style="list-style-type: none"> - Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service? - Which body is responsible for the appointment/election of the head of the prosecution service? - What is the procedure for the appointment/election of the head of the prosecution service? 	<p>A candidate for the position of Prosecutor General may be a person who meets the following conditions:</p> <ul style="list-style-type: none"> - has at least 10 years of professional experience in the field of law, obtained in the jurisdiction of the Republic of Moldova or foreign jurisdictions, including international organizations, of which at least 5 years as a judge, prosecutor, lawyer or prosecution officer; - holds citizenship of the Republic of Moldova; - knows the Romanian language; - a judicial protection measure is not in place for the person; - has a bachelor's degree and a master's degree in law or another equivalent legal qualification recognised by the body responsible for the recognition and equivalence of education and qualifications; - enjoys an impeccable reputation; - has not previously been found guilty of a criminal offence; - enjoys an impeccable reputation; - has not previously been found guilty of a criminal offence; - is medically able to perform the duties of a prosecutor; - has managerial qualities; - in the last three years prior to the announcement of the competition, has not been a member and/or has not carried out activities of a political nature in a political party or socio-political organisation; - has not been a member of the Superior Council of Prosecutors for the last 6 months. <p>A person may not be considered as having an irreproachable reputation and may not be a candidate for the position of Prosecutor General if one of the following circumstances exists:</p> <ul style="list-style-type: none"> - has been released from the positions of prosecutor or judge in national or international courts, criminal prosecution officer, lawyer, public defender, prosecutor's consultant, judicial assistant in court, also in legal specialist positions in the Constitutional Court apparatus, the Superior Council of Prosecutors, the Superior Council of Magistrates, the Ministry of Justice, the Ministry of Internal Affairs, the National Anti-Corruption
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	<p>Centre, the Customs Service or as a full professor of law in accredited higher education institutions, for violations in professional activity during the last 5 years;</p> <ul style="list-style-type: none"> - is an alcohol addict or a user of psychotropic or toxic substances or drugs; - is prohibited from holding a public office or position of public dignity by a finding of the National Integrity Authority.
	<p>The candidate for the position of Prosecutor General is selected on the basis of a public competition organised by the Superior Council of Prosecutors.</p> <p>The candidate with the highest score in the competition shall be proposed to the President of the Republic by the Superior Council of Prosecutors for appointment as Prosecutor General.</p>
	<p>The public competition for the selection of the candidate for the position of Prosecutor General is organised by the Superior Council of Prosecutors and comprises the following stages:</p> <ul style="list-style-type: none"> - pre-selection of candidates on the basis of the applications submitted; - the interview held in front of the Superior Council of Prosecutors. <p>The organisation of the competition is determined by a regulation approved by the Superior Council of Prosecutors.</p> <p>Information on the opening and conduct of the competition is published on the official websites of the General Prosecutor's Office and the Superior Council of Prosecutors at least one month before the closing date for the submission of applications.</p> <p>The Superior Council of Prosecutors will examine, in a closed session, within 20 working days of the deadline for the submission of applications, the applications' content and, by a reasoned decision, decide on the list of candidates who meet the conditions for participation in the competition and set the date or, as the case may be, the dates, time and place of the interview.</p> <p>The interview stage is transmitted online in real time. The Superior Council of Prosecutors will provide media access to the interview session.</p> <p>The candidate for the position of Prosecutor General is evaluated during the interview session on the basis of the evaluation sheet, which includes the following criteria:</p>

	<ul style="list-style-type: none"> - the concept of management and institutional development; - the motivation for accession to the position of Prosecutor General; - professional experience and competence; - capacity for critical analysis and public communication; - institutional engagement in relation to professional values; - integrity, ethics and good reputation. <p>Each member of the Superior Council of Prosecutors attending the interview session receives a nominal evaluation sheet for each candidate interviewed. At the end of each interview, each member of the Council deliberately assesses the candidate by completing the evaluation sheet, giving reasons for the score awarded.</p> <p>The candidate's final score is the average of the total score awarded by all the Council members who evaluated the candidate.</p> <p>The Superior Council of Prosecutors adopts a reasoned decision nominating the candidate with the highest final score on the basis of the evaluation sheets, which it proposes to the President of the Republic for appointment as Prosecutor General.</p> <p>The President of the Republic has the right to reject once the candidacy proposed by the Superior Council of Prosecutors for the position of Prosecutor General in case of undeniable evidence of incompatibility of the candidate with the respective position, violation of the legislation by the candidate or violation of the legal procedures for his selection. The refusal of appointment must be motivated and shall be made within 15 working days from the date of receipt of the proposal.</p> <p>On a repeated proposal of the same candidate, with the vote of 2/3 of the members of the Superior Council of Prosecutors, the President of the Republic issues, within 5 working days, the decree on the appointment of the candidate to the position of Prosecutor General.</p>
<p>9. What are the terms of office of the head of the prosecution service?</p>	<p>The Prosecutor General is appointed for a 7-year term without the right to be reappointed.</p>

<p>10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:</p> <ul style="list-style-type: none"> - What are the grounds for such removal? - Which body can decide on such removal? - What is the procedure for such removal? 	<p>The Prosecutor General may be dismissed by the President of the Republic before the expiry of his term of office in the following cases:</p> <ul style="list-style-type: none"> - submission of a request for resignation; - application of the disciplinary sanction of dismissal from the office of public prosecutor when it has become irrevocable; - registration as a candidate on the list of a political party or a socio-political organisation in elections to Parliament or local government authorities; - is considered medically unfit to perform his duties; - refusal to undergo verification pursuant to Law No 271-XVI of 18 December 2008 on the verification of holders of and candidates for public office; - non-submission of the declaration of assets and personal interests or refusal to submit it, under the terms of Article 27 (8) of Law No 132 dated 17 June 2016 of the National Integrity Authority - the confiscation of unjustified assets by the court, by irrevocable decision. <p>In cases where the act establishing his or her incompatibility or violation of prohibitions is final, the Prosecutor General's dismissal shall be based on an irrevocable court decision or a decision of the Superior Council of Prosecutors.</p> <p>The Prosecutor General may be dismissed from the office before the expiry of his/her term by the President of the Republic, on the proposal of the Superior Council of Prosecutors:</p> <ul style="list-style-type: none"> - if in the framework of the evaluation of the performances carried out according to the legal provisions, it obtains the qualification "unsatisfactory"; - if the Superior Council of Prosecutors adopts the decision to apply the disciplinary sanction of dismissal from office. <p><u>Performance evaluation of the Prosecutor General</u></p> <p>The performance of the Prosecutor General is evaluated by an evaluation commission constituted ad hoc by the Superior Council of Prosecutors.</p> <p>The evaluation is initiated at the request of the President of the Republic or of a minimum of 1/3 of the members of the Superior Council of Prosecutors. It may not take place more often than once every two years and only for the period preceding the date of the evaluation in which the person has actually worked.</p>
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For the same period of activity, no more than one evaluation procedure may be initiated.

The Performance Evaluation Commission of the Prosecutor General shall be constituted within 10 days from initiation of the evaluation procedure. The Commission shall consist of 5 members, at least 2 of whom shall have at least 7 years' professional experience as a prosecutor. The members are proposed as follows:

- one is proposed by the President of the Republic;
- one - by the Ministry of Justice;
- one - by the Superior Council of Magistracy;
- one - by the Superior Council of Prosecutors;
- one - by the Prosecutor General subject to evaluation.

Eligible members of the Evaluation Commission may be persons qualified in law, public management, with at least 10 years' experience in the field of professional activity and an impeccable reputation. The members of the evaluation commission proposed by the President of the Republic and the Ministry of Justice may not be employed in the public service. The membership of the performance evaluation commission of the Prosecutor General may not be held by persons subordinate to the Prosecutor General.

The level of compliance of the General Prosecutor's performance with the requirements for exercising the function is established through the performance indicators established in relation to each evaluation criterion.

The evaluation method and performance indicators shall be determined in detail by a regulation approved by the Superior Council of Prosecutors.

The Evaluation Commission is empowered to interview any prosecutor or other employee of the Office of the Prosecutor, to request and receive from any person written explanations, data and information, including analytical data, to involve independent experts in the evaluation process, to order audit control, including of institutional management. The evaluation commission hears, mandatorily, the Prosecutor General.

Following the evaluation of the Prosecutor General's performance, the Evaluation Commission issues, within 30 days at the latest, a reasoned report proposing one of the following ratings: 'excellent',

	<p>'good', 'unsatisfactory'. The report with the proposed rating, which is of an advisory nature, is submitted to the Superior Council of Prosecutors.</p> <p>The Superior Council of Prosecutors examines the report of the Evaluation Commission and, as a result of the examination, adopts a decision on the attribution of one of the ratings "excellent" "good", "unsatisfactory" or, if it considers that the evaluation carried out by the Commission took place in violation of the procedure and this violation had a determining effect on the results of the evaluation, it adopts a decision to return the report for the repetition of the performance evaluation procedure. When repeating the performance evaluation procedure, the Evaluation Commission is obliged to take into account the objections formulated by the Superior Council of Prosecutors.</p> <p>In case of adoption of the decision regarding the "unsatisfactory" rating, the Superior Council of Prosecutors proposes to the President of the Republic the dismissal of the Prosecutor General.</p>
	<p><u>Disciplinary liability of the Prosecutor General</u></p> <p>The Prosecutor General can be held disciplinary liable under the law, with certain particularities.</p> <p>Depending on the gravity of the misconduct, one of the following disciplinary sanctions may be imposed on the Prosecutor General by decision of the Superior Council of Prosecutors:</p> <ul style="list-style-type: none">- warning;- reprimand;- dismissal from office.- <p>Disciplinary procedures can be initiated by at least 3 members of the Superior Council of Prosecutors, by the President of the Republic following petitions/submissions or, where appropriate, ex officio or by the performance evaluation commission of the Prosecutor General, if there are reasonable suspicions of disciplinary offences foreseen for the position of prosecutor.</p> <p>Verification of the circumstances described in the complaint shall be carried out by a disciplinary committee set up ad hoc by the Superior Council of Prosecutors, whose mandate shall cease once the disciplinary procedure is completed.</p>

	<p>The Disciplinary Commission is formed within 10 days and consists of 5 members, including:</p> <ul style="list-style-type: none">- one is proposed by the President of the Republic;- one by the Ministry of Justice;- one by the Superior Council of Magistracy;- one by the Superior Council of Prosecutors;- one by the Prosecutor General. <p>Members of the Commission must have a recognized professional activity in the field of justice, anti-corruption or human rights and at least 2 of them must have at least 7 years of professional experience as a prosecutor.</p> <p>The activity of the disciplinary commission is assimilated to the inspection of prosecutors. The legal provisions regarding the way of verifying the notification applied in the case of the disciplinary procedure regarding the prosecutors are applied accordingly for the disciplinary procedure started against the Prosecutor General.</p> <p>After completing the verification of the referral regarding the act that may constitute a disciplinary offense, the disciplinary commission issues one of the following reasoned decisions:</p> <ul style="list-style-type: none">- to stop the disciplinary procedure if it does not identify any grounds for disciplinary action;- to submit the material to the Superior Council of Prosecutors, if it identifies grounds for disciplinary liability. <p>The decision to to stop the disciplinary procedure can be appealed by the author of the referral to the Superior Council of Prosecutors within 10 working days from the date of its receipt.</p> <p>The disciplinary case against the General Prosecutor is examined by the Superior Council of Prosecutors similar to the procedure established before the Discipline and Ethics Board.</p> <p>The decision of the Superior Council of Prosecutors regarding the application of the sanction of dismissal from office is transmitted to the President of the Republic.</p>
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III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

<p>11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?</p>	<p>The Superior Council of Prosecutors ensures the appointment, transfer, promotion and disciplinary measures against prosecutors.</p> <p>The appointment, transfer, promotion and dismissal of lower ranking prosecutors is carried out by the Prosecutor General on the proposal of the Superior Council of Prosecutors.</p> <p>Therefore, competitions for the selection of candidates for the post of prosecutor, promotion and transfer are announced by the Superior Council of Prosecutors.</p> <p>The evaluation in these competitions is carried out by the College for the Selection and Evaluation of Prosecutors.</p> <p>The Superior Council of Prosecutors nominates the winners of the competitions and proposes their appointment/promotion/transfer to the Prosecutor General.¹</p> <p>The Prosecutor General has the right to reject the nomination proposed by the Superior Council of Prosecutors for a reasoned decision.</p> <p>If the Superior Council of Prosecutors repeatedly proposes the same candidate by a vote of 2/3 of its members, this proposal becomes obligatory for the Prosecutor General.</p> <p>The decisions of the Superior Council of Prosecutors may be appealed to the Supreme Court of Justice by any person aggrieved by a right within 10 working days from the date on which the decision concerned was communicated to him. Decisions of the Supreme Court of Justice are irrevocable.²</p> <p>Measures for encouraging prosecutors are applied by the order of the Prosecutor General, on the proposal of the Superior Council of Prosecutors.</p> <p>Interim appointments to leading positions in prosecutorial bodies are made by an order of the Prosecutor General. At the first meeting, the Superior Council of Prosecutors approves or rejects the interim appointment by order issued by the Prosecutor General. If the Superior Council of Prosecutors rejects the interim appointment ordered by the Prosecutor General, then the Council shall appoint the interim to the post.</p> <p>The decision on the delegation of the prosecutor is taken by the Prosecutor General and the decision on the secondment of the prosecutor is taken by</p>
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	<p>the Prosecutor General with the written consent of the Superior Council of Prosecutors.</p> <p>The Prosecutor General's orders may be challenged in the court of first instance within 30 days, subject to prior procedure.</p> <p>Disciplinary investigations are conducted by the Prosecutors' Inspection (which is subordinate to the Superior Council of Prosecutors and has functional autonomy).³</p> <p>Subsequently, the disciplinary procedure is examined by the College of Discipline and Ethics, which operates under the Superior Council of Prosecutors.</p> <p>If the decision of the Disciplinary and Ethics Board is contested, then the disciplinary procedure is reviewed by the Superior Council of Prosecutors.</p> <p>In the Prosecutor's Office, in addition to prosecutors, there are civil servants, civil servants with special status and technical staff.</p> <p>The status of civil servants in the Prosecutor's Office is regulated by Law No 158/2008 on the civil service and the status of civil servants, and of technical staff by labour law. Within the framework of these employment relationships, the Prosecutor General exercises the specific powers of employer as prescribed by law.⁴</p> <p>¹ <i>Note.</i> Until November 2023, the performance evaluation of prosecutors and the selection and career of prosecutors were carried out by two separate colleges: the College for the Evaluation of Prosecutors' Performance and the College for the Selection and Career of Prosecutors.</p> <p>² <i>Note.</i> Until August 2023, the decisions of the Superior Council of Prosecutors could be contested under Article 191 of the Administrative Code at the Chisinau Court of Appeal, within 30 days from its communication or notification. Decisions of the Court of Appeal could be contested by appeal to the Supreme Court of Justice, within 30 days of notification of the decision of the Court of Appeal.</p> <p>³ <i>Note.</i> Until November 2023, the Inspection of Prosecutors was under the authority of the Prosecutor General.</p> <p>⁴ <i>Note.</i> The Superior Council of Prosecutors has no powers regarding the labour relations of the staff of the Prosecutor's Office.</p>
12. Please briefly describe the functions and tasks of the head of the prosecution	The Prosecutor General has the following duties:

<p>service in your country in relation to the following:</p> <ul style="list-style-type: none"> - Managing the day-to-day operations and activities of the prosecution service; - Management of case distribution; - Management of financial and material resources of the prosecution service; - Representation of the prosecution service internally and externally, including before foreign services and international organisations. 	<ul style="list-style-type: none"> - represents the Prosecutor's Office in relations with other public authorities, legal entities and individuals in the country and abroad; - on the proposal of the Superior Council of Prosecutors, appoints prosecutors; - exercises control over the activity of prosecutors; - determines the areas of competence (duties) of his deputies; - approves the Regulations of the Prosecutor's Office, which are published in the Official Monitor of the Republic of Moldova; - issues written orders and provisions, approves regulations and methodological recommendations; - orders the establishment and the method of administration of information systems, registers and databases for the activity of the institution; - establishes, with the written consent of the Superior Council of Prosecutors, the internal structure of the prosecutor's offices; - at the request of the Ministry of Justice, submitted in accordance with the provisions of the Law no.151/2015 regarding the Government Agent, verifies if, in administering justice, the judge or, as the case may be, the prosecutor has admitted actions or inactions that meet the constitutive elements of a crime, which have led to the violation of the fundamental rights and freedoms of a person and have resulted in one of the consequences provided for by the Civil Code; - requests consent for the initiation of criminal proceedings or, where appropriate, initiates criminal proceedings in the cases provided for by law; - refers the matter to the Constitutional Court in accordance with the law; - organises and implements the internal management control system and assumes managerial responsibility for the management of the institution's budget and the public assets under management; - performs other duties provided for by law.
<p>13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.</p>	<p>The mechanism for disciplinary action against the Prosecutor General is described in the answer to question 10 of the Questionnaire.</p> <p>The examination of complaints about offences committed by the Prosecutor General is carried out by a prosecutor appointed by the Superior Council of Prosecutors.</p>

	<p>The prosecuting body that has received a referral of offences committed, including offences committed by the Prosecutor General is obliged to send it immediately to the Superior Council of Prosecutors for examination.</p> <p>Criminal proceedings against the Prosecutor General may be initiated only by the prosecutor appointed by the Superior Council of Prosecutors.</p>
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Montenegro / Monténégro

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).

State Prosecution Service in Montenegro is managed by Supreme State Prosecutor, and lower ranked Prosecution Services are managed by Heads of those particular services. Prosecutorial Council ensures autonomy of Prosecutorial Services and inter alia, proposes to the Government budget for functioning of Prosecutorial Service, determines number of state prosecutors, takes care of the education of state prosecutors and heads of state prosecution offices, ensures the use, functionality and uniformity of the Judicial Information System, keeps records of data on state prosecutors and heads of state prosecution offices. However, Heads of each Prosecution Service are responsible for managing their own part of the budget.

The organization of the work of the Prosecution Service includes organization of the prosecutor's departments and sessions, as well as the internal procedures, all of which is regulated by Rulebook on internal procedure issued by Ministry of Justice.

The head of the office is responsible for the performance of the duties of the prosecution service and is obliged to take measures and actions for the efficient and legal performance of the duties.

The head of service organizes work, schedules work and undertakes measures aimed at the orderly and timely execution of work in the office including tasks that ensure proper and timely work of the prosecution service, and in particular: internal scheduling of tasks; consideration of complaints and petitions; keeping prescribed records and reports; office and archive work; financial and material operations, professional, administrative, IT, analytical and other tasks for the work of the Prosecution Service.

2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).

Administration of Prosecution Service and Prosecutorial Council are introduced primarily by Constitution and further elaborated by Law on State Prosecution Service and numerous by-laws.

3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service¹ in your country?²

¹ It is important to note that by referring to the head of the prosecution service in the present questionnaire, the highest-level official and/or body (please also see below in footnote No. 3) are meant. It is not meant to include the whole hierarchy of officials with some managerial roles within the prosecution service. However, it is also understood that the highest-level official of the prosecution service may have to delegate part of his/her powers under certain conditions and in some cases. If so, such delegation of powers may also be reflected in the responses to the questionnaire.

Supreme State Prosecutor heads prosecution service in Montenegro.

4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:

- Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?

Yes.

- Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)

Yes. Head of Prosecution service and state prosecutor has a right to challenge instruction for acting in concrete case and ask for instruction in written form and if the head of the state prosecution or the state prosecutor still believes that the instruction is illegal or unfounded, the head of the state prosecution can, upon his written and reasoned request, release him from further proceedings in that case, if there is no risk of delay, and the case to resolution to another head of the state prosecution, i.e. the state prosecutor.

The state prosecutor cannot be held responsible for the opinion expressed and for the request submitted.

5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).

Minister of Justice can perform inspection supervision in accordance with the annual supervision plan, (regular inspection supervision) as well as as extraordinary inspection supervision on the proposal of the Supreme State Prosecutor, the head of the immediately higher prosecution service or the President of the Prosecutor's Council.

6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?

Yes. We record all administration electronically. However, existing system can not perform the function of generating all inserted data into annual report of performance. We have urgent need to improve the informatic system, adapt it toward our specific needs and implement it, but that requires significant financial resources.

7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?

² If the country's legislative system delegates the management of the prosecution service to a body (i.e. Council of Prosecutors or other prosecutorial self-governance bodies, or a particular section within the service rather than a particular official), the respondent country is invited to share information on its establishment, functioning and terms of reference.

Improving informatic system for managing of data is challenge as well as introducing specific software aimed for expediting investigations.

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:

- Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?

Yes. It is required work experience, namely ten years in legal affairs, of which at least five years as a prosecutor or judge - for the head of the basic state prosecution, 12 years in legal affairs, of which at least eight years as a prosecutor or judge - for the head of the higher state prosecution. Also it is required that only a state prosecutor or a judge who received a good or excellent performance evaluation in the performance evaluation procedure in accordance with the law can be elected as the head of the state prosecution.

- Which body is responsible for the appointment/election of the head of the prosecution service?

Prosecution Council.

- What is the procedure for the appointment/election of the head of the prosecution service?

Candidates for the head of the Prosecution Services, along with their application to the public advertisement, are required to submit a work program containing a vision of the organization of work for a five-year mandate. The content of the work program from paragraph 1 of this article is determined by the Prosecutor's Council.

The criteria for the selection of the head of the state prosecution are:

- evaluation of the work program;
- evaluation of work as a state prosecutor, or a judge
- evaluation of the interview with the candidate.

If two candidates have the same number of points, preference will be given to the candidate who has obtained a higher number of points based on the evaluation of the work. The same person can be elected as the head of the same prosecution service for a maximum of two times.

9. What are the terms of office of the head of the prosecution service?

Five years.

10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:

- What are the grounds for such removal?

The Head of the prosecution service will be removed from duty if contrary to the law, changes the annual schedule of work prosecution service, makes it impossible to carry out supervision in the state prosecutor's office in accordance with the law, behaves inappropriately towards parties and employees of the State Prosecutor's Office, does not submit or submits incomplete or incorrect work reports and other data in accordance with the law, does not act on complaints about the work of state prosecutors, in accordance with the regulations, contrary to the law, confiscates assigned cases, illegalities and irregularities in the performance of the duties of the prosecutor's administration damage the orderly and timely performance of duties and the function of the state prosecutor's office are determined in the process of supervision over the performance of the duties of the prosecutor's office, fails to submit a proposal for determining the disciplinary responsibility of the state prosecutor in the cases prescribed by this law, and knows or should have known that there are reasons for disciplinary responsibility, is temporarily removed from the duties of the state prosecutor, is rated unsatisfactory

- Which body can decide on such removal?

Prosecutorial Council.

- What is the procedure for such removal?

If there is a well-founded suspicion that the state prosecutor could be removed from the office, a proposal can be submitted by the head of the state prosecution, the head of the immediately higher state prosecution, the supreme state prosecutor, The proposal must be submitted, without delay, immediately upon learning of the committed disciplinary offense. The proposal is in writing and contains personal information about the state prosecutor, a factual and legal description of the reason for removal, a proposal for removal and an explanation based on the well-founded suspicion. The Prosecutorial council submits a proposal to the disciplinary prosecutor, no later than five days from the date of receipt of the proposal. The investigation is carried out by the disciplinary prosecutor and disciplinary prosecutor represents the indictment in the procedure for determining responsibility of the state prosecutor. The investigation must be completed within 45 days from the date of submission of the proposal. The disciplinary prosecutor is bound by the factual description of the disciplinary offense from the proposal. The disciplinary prosecutor, after conducting an investigation based on the submitted proposal, may propose to the disciplinary council, i.e. the Prosecutor's Council, to reject the proposal procedural, reject the proposal for determining disciplinary responsibility as unfounded due to the lack of evidence that the state prosecutor committed a offense or submit an indictment proposal for determining the disciplinary responsibility of the state prosecutor. At the hearing, the state prosecutor must be given the opportunity to present his defense in person, in writing, or through a defense attorney of his own choosing. In the process of determining the disciplinary responsibility of the state prosecutor, the Disciplinary Council, i.e. the Prosecutor's Council can decide to:

- 1) reject the indictment proposal as unfounded;
- 2) adopt the indictment proposal and impose a disciplinary sanction.

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?

Head of Prosecution service can affect recruitment or selection of prosecutors and prosecutorial staff. Concerning prosecutorial staff his role is more important since he does the performance assessments of the staff, and concerning prosecutors his role is restricted to being a part of a Commission of performance assessment, but he can initiate disciplinary proceeding against prosecutor when needed.

12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:

- Managing the day-to-day operations and activities of the prosecution service;

Head is responsible for day/to/day operations and activities of administration of prosecution service as for the lawful performance of the Prosecution service.

- Management of case distribution;

Head allocates the cases in accordance with specific rules.

- Management of financial and material resources of the prosecution service;

Head is responsible for proper planning and distribution of allocated financial and material resources.

- Representation of the prosecution service internally and externally, including before foreign services and international organisations.

Yes.

13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

The head prosecution service is responsible for the performance of the duties of the prosecution service and is obliged to take measures and actions for the efficient and legal performance of the duties of the prosecution service.

The head prosecution service organizes work in the prosecution service, schedules work and undertakes measures aimed at the orderly and timely execution of work in the prosecution service. Accountability mechanisms through disciplinary proceeding of proceeding for removal from office.

Netherlands / Pays-Bas

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).

The administration department (the Head Office) plays an important role in the functioning of the organization. The department is responsible for a number of tasks (finance, human resources, information, operations) that ensure the running of the prosecution service. There is also a National Service Center (DVOM). This is a service provider which performs operational management tasks for the Public Prosecution Service in the fields of human resources, finance, information management and facilities management.

2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).

Through legislation: the Law on Judicial Organisation (Wet op de rechterlijke organisatie, Wet RO)

3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service¹ in your country?²

The Board consists of at least three and at most five Prosecutors-General. One of the Prosecutors-General is appointed as President of the Board.

4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:

- Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?

The Board of Prosecutors-General cannot take decisions unless at least three members are present. The Board takes decisions by simple majority vote. In the event of a tie, the President's vote shall be decisive.

The Board can set further rules with regard to its working method and decision-making. The regulations or an amendment thereof will be published in the government gazette.

- Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)

¹ It is important to note that by referring to the head of the prosecution service in the present questionnaire, the highest-level official and/or body (please also see below in footnote No. 3) are meant. It is not meant to include the whole hierarchy of officials with some managerial roles within the prosecution service. However, it is also understood that the highest-level official of the prosecution service may have to delegate part of his/her powers under certain conditions and in some cases. If so, such delegation of powers may also be reflected in the responses to the questionnaire.

² If the country's legislative system delegates the management of the prosecution service to a body (i.e. Council of Prosecutors or other prosecutorial self-governance bodies, or a particular section within the service rather than a particular official), the respondent country is invited to share information on its establishment, functioning and terms of reference.

It depends on the nature of the decision. Most are legally binding and published in the government gazette.

5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).

In principle has the Board of Prosecutors-General exclusive power to exercise the administration of the prosecution service. However, due to the fact that the minister of Justice and Security bears political responsibility for the PPS's conduct and performance and may be called upon to render account to both houses of parliament, the president of the Board meets on a regular basis with the minister in which the president informs the minister. Leading principle in this is that the Public Prosecution Service must have a high degree of independency and must be able to operate on a (wide) distance of the political governance. The minister gives the public prosecution the space needed to exercise the powers granted to the organization, as part of the judicial powers.

Because of the political responsibility the minister has the possibility to give an instruction in an individual case, by issuing an instruction. According to art. 128 RO, if the minister of Justice and Security intends to issue a specific instruction he/she must first give the Board of Prosecutors-General the opportunity to give its reasoned opinion in writing. When issued, the instruction must be in writing and reasoned. An instruction to prosecute a case will be added to the court file of the case, together with the opinion of the Board of Prosecutors-General. In the case of an instruction not to prosecute a particular case or to terminate a criminal investigation, both Houses of Parliament will be notified, and receive the instruction along with the opinion of the Board of Prosecutors-General, unless this notification would be against the interest of the State. Until now no minister ever issued such a directive.

6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?

Yes, the Public Prosecution Service Information Provision (IVOM) supports Public Prosecution Service colleagues in the field of ICT and information provision.

7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?

The following years, IVOM will be working on improvements along three strategic pillars: continuity, professionalization and innovation.

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:

- Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?
 There is a selection commission who will select a member for the Board. In principle, everyone who is eligible to become a prosecutor can apply to become a Board member.
 In this context, it may be reported that certain functions are subject to a screening for involvement in (possibly) criminal activities. There is also a duty to report on ancillary activities.
 Furthermore, there is an independent integrity bureau of the PPS, which supervises the integrity of the PPS.

 - Which body is responsible for the appointment/election of the head of the prosecution service?
 The Board is selected through a job application procedure. Before one can apply to become a Prosecutor-General, one must be eligible to become a prosecutor. To become a member of the Board, there is, thus, a job application. Afterwards a selection commission will select the new Board member.
 After one is selected as member, the council of ministers (“Koninklijk Besluit”) has to formally approve the nomination of an candidate of the minister of Justice and Security to appoint someone as a member of the Board.

 The non-prosecutor member of the Board is selected by the minister of Justice and Security. The dismissal or termination of the non-prosecutor member of the Board is also done by the minister of Justice and Security. The non-prosecutor member of the Board as well as the prosecutor members do not have a limited duration of their mandate.

 - What is the procedure for the appointment/election of the head of the prosecution service?
 See above
9. What are the terms of office of the head of the prosecution service?
 President of the Board for a maximum period of three years by internal selection and with approval of the minister of Justice and Security. The President can be reappointed once.
10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:
- What are the grounds for such removal?
 A disciplinary measure may be imposed on a prosecutor who fails to comply with an obligation imposed on him/her or who is otherwise guilty of dereliction of duty. Dereliction of duty comprises both the violation of any regulation as well as the performance or omission which a responsible prosecutor in similar circumstances should omit or should do.
 - Which body can decide on such removal?
 All members of the Board are dismissed, suspended or terminated by the Supreme Court (Legal Status of Judicial Officers Act).
 - What is the procedure for such removal?
 Independent research from the Procurator-General at the Supreme Court may result in removal. In these cases, however, the head of the prosecution service distances his or herself from the function.

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?

There is almost no role for the head of the prosecution service. He or she lays down the framework for the recruitment together with the other members of the Board. Human resources is a task of one of the members of the Board.

The Board of Prosecutors-General do not have a role in the assessment of the performance of prosecutors. They do have a role in the assessment of the functioning of the Chief prosecutors and their substitutes. The Chief prosecutors are in charge of certain regions. The Chief Prosecutors assess the prosecutors in their region. The role of the Board is only about the functionality of the head prosecutors and their substitutes. They do not assess individual cases done by the head prosecutors or other prosecutors.

12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:

- Managing the day-to-day operations and activities of the prosecution service;

None

- Management of case distribution;

None

- Management of financial and material resources of the prosecution service;

Many

- Representation of the prosecution service internally and externally, including before foreign services and international organisations.

Yes

13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

See question 5, the Minister of Justice bears political responsibility

North Macedonia / Macédoine du Nord

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).

The management of the financial and material resources in the Public prosecutor Office in RNM is centralized. The major payments and expenses, salaries and public supplies are managed by the financial department in the Public prosecutor's office in RNM, although each Public prosecutor's office has their own accountants or departments that manages with the necessary data for the employees, expenses and the supply requests.

The human resources - the working positions in the public prosecution service (administration) are classified in four categories: A- secretaries, B- chief public prosecution servants, C-expert public prosecution servants, and D - helping – expert public prosecution servants. In each category, there are several levels of working positions for public prosecution servants.

The Public prosecutor Office of RNM has an obligation to plan the employments of the public prosecution service. The Public Prosecutor of RNM makes a yearly plan for employment of the public prosecutors servants that is delivered to the Ministry of finance, for approval.

2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).

- The administration of the prosecution service is regulated with the Law on Public Prosecutor Office and the Law on Public prosecution service, and also with by-laws such as: the Rulebook for internal work of the Public prosecutor offices, the Rulebook for systematization of work places of the public prosecution councillors and assistants and the Rulebook for systematization of work places of the public prosecution administration.

3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service¹ in your country?²

1 It is important to note that by referring to the head of the prosecution service in the present questionnaire, the highest-level official and/or body (please also see below in footnote No. 3) are meant. It is not meant to include the whole hierarchy of officials with some managerial roles within the prosecution service. However, it is also understood that the highest-level official of the prosecution service may have to delegate part of his/her powers under certain conditions and in some cases. If so, such delegation of powers may also be reflected in the responses to the questionnaire.

2 If the country's legislative system delegates the management of the prosecution service to a body (i.e. Council of Prosecutors or other prosecutorial self-governance bodies, or a particular section within the service rather than a particular official), the respondent country is invited to share information on its establishment, functioning and terms of reference.

- The head of the prosecution service in Republic of North Macedonia is the Public Prosecutor of the Public Prosecutor's Office of the Republic of North Macedonia.

4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:

- Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?

Yes, the decisions issued by the head of the prosecution service are mandatory.

- Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)

According to the Law on Public prosecutor Office, some decisions of the Head of the prosecution service can be challenged, with an objection or an appeal, submitted by a public prosecutor to the Council of Public Prosecutors. For example, an objection to the decision for grading the work of the public prosecutor can be submitted, or an appeal against the decision for removal from executing the public prosecution function, while a disciplinary or criminal procedure is undergoing against a public prosecutor.

5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).

The Minister of justice has no power to supervise the prosecution service, or to issue binding instructions. According to the Law on Public prosecutor Office, the Public Prosecutor of the Republic of North Macedonia has an obligation to submit the annual report regarding the work of all the Prosecutor offices and the situation with the crime in RNM, to the Ministry of justice, only for introduction.

The Public Prosecutor of the Republic of North Macedonia is responsible for the general conditions in relation to the organisation and the executing of functions of the Public prosecutor office, and for his work and the work of the Public prosecutor Office is answering before the Parliament of Republic of North Macedonia (RNM).

6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?

- Each member of the prosecution service has access to computer and internet for conducting their obligations.
- The citizens can access the Public prosecution Office by submitting emails with complaints or submitting criminal applications, through the official email. Certain communication is conducted by email, but not regarding formal leading of cases, but regarding other organizational matters like applying for trainings, arranging meetings etc.
- E- administration is used in the accountant department, where special computer programs are installed for managing the financial matters and data, in centralized manner.

- The traditional paper process is still present in every area, also in the prosecutorial work, dealing with case files. With the implementation of the Case management system in the Public Prosecution Office of RNM, the public prosecution councillors, assistants and administration have an obligation to participate in loading the files in the system, together with the public prosecutors.

7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?

Regarding the obligation for managing the Case management system and creating electronic files, there is an ongoing process of analysing the IT structure and the computer system of the Public prosecutor office of RNM, as part of the Action plan for conducting developed sector strategy in the judiciary 2024-2028. Better solutions are expected and wider usage of the informatics system.

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:

- **Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?**

Public Prosecutor of the Public Prosecutor's Office of RNM can be appointed a person who has an uninterrupted mandate of at least 10 years as a public prosecutor or as a judge in the area of criminal law.

- **Which body is responsible for the appointment/election of the head of the prosecution service?**

The Parliament of RNM appoints the Public Prosecutor of the Public Prosecutor's Office of RNM.

- **What is the procedure for the appointment/election of the head of the prosecution service?**

The Public Prosecutor of the Public Prosecutor's Office of RNM, on a proposal of the Government of RNM, is appointed by the Parliament of RNM. The Council of public prosecutors of RNM gives an opinion for appointing and discharging the Public Prosecutor of the Public Prosecutor's Office of RNM. If the Council of public prosecutors of RNM does not give a positive opinion for any of the candidates, the Government of RNM cannot determine a proposal for appointing the Public Prosecutor of the Public Prosecutor's Office of RNM. In this case, the Parliament has to repeat the public announcement in the Official Gazette and start the process all over again.

9. What are the terms of office of the head of the prosecution service?

The Public Prosecutor of the Public Prosecutor's Office of RNM is appointed for a period of 6 years, with the right for another re-election.

10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:

– **What are the grounds for such removal?**

1. The function of the Public Prosecutor of the Public Prosecutor's Office of RNM will end pre-term:

- On his own request
- If he loses the citizenship of RNM
- If he permanently loses the capability to perform the function of a public prosecutor
- If he is elected or appointed on another public function
- If he is convicted with judicial verdict that came into force, with an imprisonment of at least 6 months.

2. The Public Prosecutor of the Public Prosecutor's Office of RNM will be discharged from function pre-term:

- In cases of a severe disciplinary breach according to the Law on Public prosecutor Office, such as:
- (severe breach of the public order and peace, and other more serious forms of inappropriate behaviour that undermine the honour of the Public prosecutor Office and his own honour; if he refuses to submit statement regarding his property status according to the law, or the submitted data is not truthful; in case of an obvious breach of rules for exemptions in situations when the public prosecutor knows and should know that there is a ground for exemption according to the law; if he is convicted with judicial verdict that came into force, with an imprisonment of less than 6 months or other sanction for a crime that is a direct result of a proceeding in executing the public prosecution function purposely or with a conscious negligence; if without authorisation betrays classified information, or brings out information and data regarding court cases by which he breaches the obligation for protecting the secrecy of the procedure established by the law or when the public is excluded according to the law; if purposely and without excuse commits large professional error, but the different interpretation of the law and the facts cannot be a ground for establishing responsibility of the public prosecutor)

all of the above - if it is committed with an intent or obvious negligence, by fault of the Public Prosecutor of RNM, without excused reasons and if the breach has caused severe consequences or

- If he is a member of a political party
- **Which body can decide on such removal?**

In all cases, the termination of the function - Public Prosecutor of the Public Prosecutor's Office of RNM is determined by the Parliament of RNM.

– **What is the procedure for such removal?**

1. When the function of the Public Prosecutor of the Public Prosecutor's Office of RNM is going to end pre-term, the cessation of the function of the Public Prosecutor of the Public Prosecutor's Office of RNM is established by the Parliament of RNM.
2. When the Public Prosecutor of the Public Prosecutor's Office of RNM is going to be discharged from function pre-term, the Government of RNM, after receiving an opinion from the Council of public prosecutors, submits to the Parliament of RNM a proposal for discharging the Public Prosecutor of RNM.

An initiative for discharging the Public Prosecutor of RNM can be submitted by the Council of public prosecutors of RNM, in which the reasons, the circumstances and the facts should be named, that lead to the submitting of the initiative.

The Public Prosecutor of RNM has a right to make written statement regarding the proposal of the Government of RNM, for his discharging.

The Government of RNM submits the proposal for discharging the Public Prosecutor of the Public Prosecutor's Office of RNM to the Parliament of RNM, together with the opinion of the Council of public prosecutors.

If the Council of public prosecutors does not deliver an opinion in the prescribed time period (maximum 30 days) it is considered that it does not support the Government proposal.

The Public Prosecutor of RNM has the right to be present on the session before the Parliament and make a statement regarding the proposal of the Government of RNM for his discharging.

The Parliament of RNM decides for the pre-term cessation of the function of the Public Prosecutor of the Public Prosecutor's Office of RNM.

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, and other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?

1. The Public Prosecutor of the Public Prosecutor's Office of RNM is a member of the Council of public prosecutors, ex officio, and within this function he is participating with his vote, in the election of each public prosecutor, at all levels.

The Public Prosecutor of the Public Prosecutor's Office of RNM is also authorized to evaluate and grade the work of the public prosecutors in the Public prosecutor's Office or RNM, the public prosecutors in the four Higher Public Prosecutor offices and the public prosecutors in the Basic Public prosecutor's office for prosecuting organized crime and corruption.

The Public Prosecutor of the Public Prosecutor's Office of RNM can submit a proposal for establishing disciplinary responsibility for all public prosecutors. The disciplinary procedure is conducted by a Commission consisted of five members (four members from the four Higher Public Prosecutor Offices and one member from the Public Prosecutor's Office of RNM). The public prosecutor that is a subject to a disciplinary procedure can submit an appeal against the decision of the disciplinary Commission, before the Council of public prosecutors. All aspects of the disciplinary procedure are prescribed in the Law on public prosecutor office.

2. According to the Law on Public prosecution service, the Public Prosecutor of the Public Prosecutor's Office of RNM forms a Commission for employment selection of the public prosecutorial staff, through public announcement. He also is authorized to form a Commission for promotion selection of the current public prosecutorial staff.

The Commission establishes a list of the best candidates, after which a decision for election is made by the General Secretary in the Public Prosecutor's Office of RNM, or the Chief Public prosecutors in the other Public prosecutor offices that don't have a General Secretary or Secretary. The candidates that are not elected or promoted can appeal this decision to the Council of Public prosecution service. After the decision is final, the Public Prosecutor of the Public Prosecutor's Office of RNM brings a decision for employment or promotion of the public prosecution servant.

The Public Prosecutor of the Public Prosecutor's Office of RNM forms a Commission for conducting a disciplinary procedure against a public prosecution servant, when such proposal is submitted. The Commission proposes a disciplinary sanction if a severe disciplinary breach is made and the decision for disciplinary measure is brought by the General Secretary in the Public Prosecutor's Office of RNM, or the Chief Public prosecutors in the other Public prosecutor offices that don't have a General Secretary. This decision can be appealed to the Council of Public prosecution service.

The Public Prosecutor of the Public Prosecutor's Office of RNM also brings the decision for ending the employment relationship of the Public prosecution servant.

12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:

- Managing the day-to-day operations and activities of the prosecution service;

The managing of the prosecution service in the Public prosecution Office of RNM is a prior responsibility of the General Secretary. In conducting his duties regarding the management of the public prosecution service, he is cooperating with the Public Prosecutor of the Public Prosecutor's Office of RNM, and addressing him with all matters that are in authorization of the Public Prosecutor of RNM.

- Management of case distribution;

The Public Prosecutor of the Public Prosecutor's Office of RNM brings a mandatory instructions regarding the manner in which the electronic distribution of cases is conducted.

The Public prosecutor's Office of RNM can access the electronic files of all cases and supervise the implementation of the electronic record of files.

In that way, the Public Prosecutor of the Public Prosecutor's Office of RNM is following the implementation of the electronic record of files.

- Management of financial and material resources of the prosecution service;

The office space, the material means, the equipment and other working conditions in the Public prosecutors offices are provided by the Government of RNM. The Government of RNM on a proposal of the Public Prosecutor's Office of RNM, brings a Programme with a determined

amount of means, needed for maintaining the office space and the equipment of the Public prosecutors offices.

The realization of this Programme is a duty of the Public Prosecutor's Office of RNM.

Each year, the Public prosecutor of the Public prosecutor's Office of RNM delivers a proposal to the Ministry of finance, for the predicted incomes and expenses and the Budget that is needed for the work of the Public prosecutor office in the upcoming year.

This proposal is based on the regular and extraordinary work conducted by the Public Prosecutor office, the needed number of public prosecutors and public prosecution service, as well as other measurements that are important for establishing the material needs for the work of the Public prosecutor Office.

The proposed Budget for the Public prosecutor's Office of RNM is revised by the Ministry of finance, then the Government of RNM gives an opinion and a proposal, and the Parliament of RNM, votes for it, as part of the state budget.

The management of the financial and material resources in the Public prosecutor Office in RNM is centralized. The major payments and expenses, salaries and public supplies are managed by the financial department in the Public prosecutor's office in RNM, and signed by the Public prosecutor of RNM, although each Public prosecutor's office has their own accountants or departments that manages with the necessary data for the employees, expenses and the supply requests.

- Representation of the prosecution service internally and externally, including before foreign services and international organisations.

The Public prosecutor of the Public prosecutor's Office of RNM has an important role in representing the prosecution office both in national and international level, before foreign services and international organisations. The Public prosecutor of RNM signs all Memorandums for collaboration with the Prosecutor's offices of other states in the region, as well with international institutions such as the OSCE Mission in Skopje or the European Public prosecutor office. Also The Public prosecutor of RNM signs memorandums and protocols for collaboration with national institutions such as the Ministry of interior and the State Revenue Office.

13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

As previously described, in cases of severe disciplinary breaches or a membership in a political party, the Government of RNM submits to the Parliament of RNM, a proposal for discharging the Public Prosecutor of the Public Prosecutor's Office of RNM, together with an opinion of the Council of public prosecutors.

Also, an initiative for discharging the Public Prosecutor of RNM can be submitted by the Council of public prosecutors of RNM.

In these cases, the Parliament of RNM decides for the pre-term cessation of the function of the Public Prosecutor of the Public Prosecutor's Office of RNM.

Additional changes regarding the Overview of the Councils of Prosecutors and other bodies dealing with prosecutorial self-governance in member States of the Council of Europe, concerning Republic North Macedonia

Regarding the Overview of the Council of public prosecutors, I would like to make additional correction that have risen from the changes in the Law on Council of Public prosecutors, from 2011 and 2020, that were not taken in consideration:

The Minister of justice, with the changes in the Law on the Council of Public prosecutors from 2011, is excluded from the composition of the Council and since then he does not have authorizations in the work of the Council.

According to current regulations, regarding the composition of the **Council**, it is consisted of **11 members** (**7** members are from among public prosecutors and **4** members are from among the lines of university law professors, lawyers, former judges from the Constitutional court, international judges and eminent jurists);

From the **7 members among public prosecutors**, one of them is the Public prosecutor of the Public Prosecutor's Office of Republic of North Macedonia who is a member by its function, or ex officio.

- Election/appointment - **six prosecutorial members are elected** by the public prosecutors, on general elections that are conducted in one day in 5 election places (1 member is elected by the prosecutors of the General Prosecutor's Office, from this office; 4 members are elected by the prosecutors of the Higher Public Prosecutors Offices, from their offices or subordinated Public Prosecutor's Offices; 1 member - a public prosecutor that belongs to a minority ethnic group - is elected by all public prosecutors in Macedonia);

The **4 non-prosecutorial** members are elected by the Parliament of Republic in North Macedonia, from the lines of university law professors, lawyers, former judges from the Constitutional court, international judges and eminent jurists, from which two are members that belong to a minority ethnic group in Republic of North Macedonia;

Poland/Pologne

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).

The prosecution service in the Republic of Poland consists of: Public Prosecutor General, National Public Prosecutor, other Deputy Public Prosecutors General, prosecutors of universal organisational units of the prosecution service and prosecutors of the Institute of National Remembrance - Commission for the Prosecution of Crimes against the Polish Nation.

The Public Prosecutor General is the top official of the prosecution service.

The aforementioned universal organisational units of the prosecution service, which are: National Public Prosecutor's Office, Regional Public Prosecutors' Offices [*prokuratury regionalne*], Circuit Public Prosecutors' Offices [*prokuratury okręgowe*] and District Public Prosecutors' Offices [*prokuratury rejonowe*], are headed respectively by: National Public Prosecutor, Regional, Circuit and District Public Prosecutors.

The heads of these units are required to determine their organisational structure, bearing in mind the need for efficient performance of tasks and the detailed division of official duties, taking into account the need for an even workload and the prosecutors' professional experience in handling a particular category of cases.

It is also the responsibility of unit heads to order appropriate measures to ensure the security of their subordinate unit.

With regard to the financial management of the prosecution service, it should be stated that the revenues and expenditures of the universal organisational units of the prosecution service constitute a separate part in the State Budget. The Public Prosecutor General is in charge of this part of the budget.

The situation of the universal organisational units of the prosecution service with regard to cases subject to the jurisdiction of military courts is slightly different. Their activities, including the remuneration of prosecutors for military cases and the salaries of civil servants and other employees in these units, are financed from budgetary funds allocated for the financing of the defence needs of the Republic of Poland.

The financial resources of the prosecution service are managed through planning, monitoring expenditure against the set budget, identifying risks in the planning and spending process and reporting on the performance of expenditure.

2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).

The basic act regulating the administration of the prosecution service is the Act of 28 January 2016 - Law on the Public Prosecutor's Office (Journal of Laws 2023.1360). The Rules of Procedure for the Internal Order of the Universal Organisational Units of the Prosecution Service [*Regulamin wewnętrznego urzędowania powszechnych jednostek organizacyjnych prokuratury*] (Journal of Laws 2023.1115) established by the Minister of Justice by means of a regulation constitute the executive regulation for this Act.

3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service¹ in your country?²

The activities of the Polish prosecution service are directed by the Public Prosecutor General directly or through the National Public Prosecutor and other Deputy Public Prosecutors General. The office of Public Prosecutor General in Poland is held by the Minister of Justice. The existing personal union does not, in terms of competences, abolish the legal separation of these bodies. Furthermore, the service of the Minister of Justice is handled by the Ministry of Justice, while the service of the Prosecutor General is handled by the National Public Prosecutor's Office.

4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:
- Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?
 - Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)

The Public Prosecutor General is the superior of the prosecutors of the universal organisational units of the prosecution service and the prosecutors of the Institute of National Remembrance and manages the activities of the prosecution service by issuing orders, guidelines and instructions. The Public Prosecutor General issues instructions to subordinate prosecutors through the National Public Prosecutor.

Any prosecutor is obliged to carry out the orders, guidelines and instructions of the superior prosecutor. Instructions concerning the content of the procedural action shall be given by the superior prosecutor in writing, and at the request of the prosecutor concerned - with grounds and justification. If there is an obstacle to the delivery of an instruction in writing, it is permissible to deliver this instruction orally, but the superior is obliged to confirm it in writing without delay. The instruction shall be included in the case file.

If a prosecutor disagrees with an instruction regarding the content of a procedural action, they may request that the instruction be amended or that they be excluded from carrying out the action or from participating in the case. The final decision on their exclusion shall be made by

¹ It is important to note that by referring to the head of the prosecution service in the present questionnaire, the highest-level official and/or body (please also see below in footnote No. 3) are meant. It is not meant to include the whole hierarchy of officials with some managerial roles within the prosecution service. However, it is also understood that the highest-level official of the prosecution service may have to delegate part of his/her powers under certain conditions and in some cases. If so, such delegation of powers may also be reflected in the responses to the questionnaire.

² If the country's legislative system delegates the management of the prosecution service to a body (i.e. Council of Prosecutors or other prosecutorial self-governance bodies, or a particular section within the service rather than a particular official), the respondent country is invited to share information on its establishment, functioning and terms of reference.

the prosecutor directly superior to the prosecutor who gave the instruction. The prosecutor shall report such demand in writing giving grounds and justification to the superior who gave the instruction.

5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).

Orders, guidelines and instructions of the Public Prosecutor General (who also acts as Minister of Justice), subject to the reservation described above (l(1)(4)), are binding on prosecutors. Moreover, any guidelines of the Public Prosecutor General, issued at the request of the National Public Prosecutor, on the methodology of conducting pre-trial proceedings are also binding on all bodies authorised to conduct pre-trial proceedings.

6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?

The National Public Prosecutor's Office implemented the central ICT system PROK-SYS in 2021, implementing digitalisation solutions such as digitising files in all universal organisational units of the prosecution service and making them available to parties to proceedings, trial attorneys, experts and bodies cooperating with public prosecutors' offices via the Internet, electronic document circulation and maintaining all record-keeping devices in electronic form, with searchable databases for all authorised users.

The main functions of the PROK-SYS System include:

- 1) Electronic maintenance of all the public prosecutors' offices recording devices (repertories and registers) containing data on registered criminal, civil, administrative, foreign trade, etc. cases (a total of 26 types of cases) including, in addition to basic registration data, data on registered persons, material evidence, experts, costs, preventive measures, property securities, charges and acts, appeals, decisions made in court proceedings, court hearings and other relevant decisions made in the course of the case;
- 2) Collecting and processing data related to incoming and outgoing correspondence and organising the circulation of documents within the public prosecutor's office and between public prosecutors' offices;
- 3) Searching, collating and analysing data processed in the system's databases, using visualisation reports, page-by-page reports and search engines, including the creation of statistical reports and summaries,
- 4) Retrieving data from external registers maintained by external institutions and entering data into registers to which the public prosecutor's office is obliged by law,
- 5) Delivery and dispatch of documentation relating to the obtaining of telecommunications data electronically;
- 6) Possibility of defining and managing new case forms, including forms that allow them to be saved in a database;
- 7) Digitization of files of proceedings conducted by all universal prosecution units, covering cases resulting from statutory as well as non-statutory tasks of the prosecution service;
- 8) Making the digitised files available to authorised parties via the Internet on the File Viewing Portal.

7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?

The greatest challenges facing the modern prosecution service in relation to the use of modern electronic means are:

- the development of legislation and the creation of a system for the maintenance of electronic criminal case files, with a move (in whole or in part) away from paper files and the possibility of performing electronic procedural acts and actions,
- ensuring electronic data exchange between all actors involved in criminal proceedings (in particular between the police, the prosecutors' offices and the courts), with the aim of ensuring one-stop data entry and ensuring electronic document circulation,
- ensuring a high level of cyber security of data and systems and e-services, in relation to diverse threats, including from cybercriminals and APT groups,
- the use of artificial intelligence (including machine learning) to streamline proceedings in the public prosecutors' offices, prepare automated summaries of documents, automated search for cases with a connection based on the subject matter or actors, or to automate specific decisions,
- the possibility of using cloud solutions in the information systems operating in the public prosecutors' offices,
- high maintenance and development costs of IT solutions,
- providing staff resources for IT divisions of the prosecution service and law enforcement agencies, in view of the salary gap between the public and private sectors.

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:
- Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?
 - Which body is responsible for the appointment/election of the head of the prosecution service?
 - What is the procedure for the appointment/election of the head of the prosecution service?

The Minister of Justice is the Public Prosecutor General by law. The appointment of the Minister of Justice, who is a member of the Cabinet, called the Council of Ministers, is done in such a way that the President of the Republic designates the Prime Minister, who proposes the composition of the Council of Ministers. The President of the Republic then appoints the Prime Minister, together with the other members of the Council of Ministers, within 14 days of the date of the first sitting of the Sejm [*the Lower Chamber of the Polish Parliament*] or the acceptance of the resignation of the previous Council of Ministers, and takes the oath of office from the members of the newly appointed Council of Ministers.

The holder of this office must meet the following conditions:

- holding only Polish citizenship and enjoying full civil and civic rights, and having not been validly convicted of an intentional crime prosecuted by public indictment;

- being of impeccable character;
- having completed university legal studies in Poland obtaining a Master's degree or having completed foreign university legal studies recognised in Poland;
- having not performed professional service, worked for or collaborate with state security bodies, or not being a judge who, when ruling, offended the dignity of the office by compromising judicial independence, as established by a final judgment.

The National Public Prosecutor, as the First Deputy to the Public Prosecutor General, is appointed by the Prime Minister at the request of the Public Prosecutor General. The appointment of the National Public Prosecutor requires obtaining an opinion of the President of the Republic of Poland. The National Public Prosecutor is appointed from among the prosecutors of the National Public Prosecutor's Office

9. What are the terms of office of the head of the prosecution service?

The Public Prosecutor General holds office for the duration of their tenure as the Minister of Justice. He or she manages the activities of the prosecution service directly or through the National Public Prosecutor and his or her other deputies. The Public Prosecutor General has the powers and performs the tasks arising from the Acts.

10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:

- What are the grounds for such removal?
- Which body can decide on such removal?
- What is the procedure for such removal?

Removal from the office of Public Prosecutor General occurs simultaneously (automatically) with the removal from the office of Minister of Justice and there is no separate procedure for this. The National Public Prosecutor, as the First Deputy Public Prosecutor General, is removed from these functions by the Prime Minister with the written consent of the President of the Republic of Poland. No normative prerequisites for the removal of the Public National Prosecutor have been formulated.

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?

Prosecutors at all levels of public prosecutors' offices are appointed by the Public Prosecutor General at the request of the National Public Prosecutor. The recruitment of prosecutors is carried out with the participation of the heads of circuit and regional public prosecutors' offices. The Circuit Public Prosecutor shall apply to the Public Prosecutor General for the employment of a prosecutor. The request is sent by official channels through the Regional Public Prosecutor, who may express his/her position on the subject.

In the next phase, the application goes to the National Public Prosecutor, who decides whether or not to present the application to the Public Prosecutor General. The National Public Prosecutor is independent in making such a decision. The applicable legislation does not provide for an appeal procedure against such a decision. If the National Public Prosecutor positively assesses the candidate, he or she submits the request for their appointment to the Public Prosecutor General.

Prior to the appointment of a candidate to a prosecutor's position, the Public Prosecutor General may seek the opinion of the college of the relevant circuit or regional public prosecutor's office on the candidate. The college shall forward their opinion to the Public Prosecutor General within 30 days of receiving the request for opinion. If the opinion is not submitted within this deadline, it shall be assumed that the opinion is positive. The Public Prosecutor General shall not be bound by the opinion of the college. The decision on appointment to a prosecutorial post is the prerogative of the Public Prosecutor General. A candidate for a given prosecutorial position shall not be entitled to appeal against the decision taken by the Public Prosecutor General.

The Prosecution Service Act [*Ustawa Prawo o prokuraturze*] indicates the criteria for the promotion of a prosecutor to a higher level unit. A candidate with at least 8 years of service, including not less than 5 years of service in a position of a prosecutor at a regional or circuit public prosecutor's office, may be appointed to the position of a prosecutor at the National Public Prosecutor's Office. A prosecutor with at least 6 years of service, including not less than 3 years of service in the position of a prosecutor at a circuit public prosecutor's office, may be appointed to the position of a prosecutor at a regional public prosecutor's office. A prosecutor with at least 3 years of service in the position of a prosecutor at a district public prosecutor's office may be appointed to the position of a prosecutor at a circuit public prosecutor's office.

In order to ensure the proper implementation of the statutory tasks of the prosecution service, there is a special procedure in which the Public Prosecutor General, at the request of the National Public Prosecutor, may appoint a prosecutor to perform duties in the National Public Prosecutor's Office, in a Regional Public Prosecutor's Office or in a Circuit Public Prosecutor's Office, bypassing the requirements described above. Prosecutors who show initiative in their work, perform their duties in an exemplary and conscientious manner and make a special contribution to the performance of their official duties may be awarded prizes and distinctions by the Public Prosecutor General or the National Public Prosecutor. The types of awards and prizes and the procedure for their granting shall be determined by the Public Prosecutor General. An award may be a raise in salary or an appointment to an official position in a higher level public prosecutor's office.

The Public Prosecutor General may second a prosecutor at any level to the Ministry of Justice or another organisational unit subordinate to the Minister of Justice, in accordance with the prosecutor's qualifications. Secondment for a period of more than 6 months in a year may take place only with the consent of the prosecutor concerned. The Public Prosecutor General may second a prosecutor, with their consent, to perform activities or conduct training classes at the National School of the Judiciary and the Public Prosecution. Only a prosecutor distinguished by a high level of legal knowledge and demonstrating knowledge of the issues within the scope of their duties may be seconded to the Ministry of Justice or the National School of the Judiciary and the Public Prosecution. The National Public Prosecutor may second a prosecutor to another organisational unit of the prosecution service. Secondment for a period longer than 6 months in a year may take place only with the consent of the prosecutor in question. In justified cases due to staffing needs, the National Public Prosecutor may second a prosecutor without their consent

for a period of 12 months during a year to a public prosecutor's office based in the locality where the seconded person is residing, or to the public prosecutor's office in the locality where the public prosecutor's office being the place of employment of the seconded person is situated.

In the case of the secondment of prosecutors to other public prosecutors' offices, whether of lower or higher rank, the initiative and a relevant request may be made by the Circuit Public Prosecutor or the Regional Public Prosecutor. When the application is made by the Circuit Public Prosecutor, it must be subject to the opinion of the Regional Public Prosecutor. Secondment of a prosecutor to the National Public Prosecutor's Office takes place without the participation of Circuit or Regional Public Prosecutors.

The Act allows Circuit and Regional Public Prosecutors to second a prosecutor to their subordinate prosecution unit for a period of up to 2 months. After this time, further secondment of the prosecutor is decided upon by the National Public Prosecutor only.

The legislation does not provide for the possibility for a prosecutor to appeal against a secondment decision to another public prosecutor's office or of non-renewal of the secondment or of dismissal from the secondment.

With regard to disciplinary matters, the Act confers on disciplinary superiors, i.e. the Public Prosecutor General, the Regional Public Prosecutor and the Circuit Public Prosecutor, the power to impose measures of a quasi-disciplinary nature (a written note, a reprimand), to impose a warning and to initiate disciplinary proceedings and proceedings related to disciplinary proceedings (proceedings concerning the suspension of the prosecutor, reduction of salary).

If a note is made in writing or a shortcoming is pointed out, the prosecutor concerned may, within 7 days, lodge a written objection with the superior prosecutor who has made the note or pointed out the shortcoming. The superior prosecutor may rescind the note or reproach, or refer the case to the disciplinary court for examination. The disciplinary court shall issue a decision upholding the note/pointing out a misconduct or rescinding the note/reproach and discontinuing the proceedings after hearing the disciplinary ombudsman and the prosecutor who received the note/had the misconduct pointed out to them, unless a hearing is not possible.

Prosecutors who commit minor disciplinary offences may be punished with a disciplinary penalty in the form of a warning by their immediate superiors, without the need for disciplinary proceedings. The prosecutor has the right to contest this decision within 7 days of receiving the admonition by addressing an objection to the prosecutor superior to the prosecutor who imposed the disciplinary penalty. The prosecutor superior to the prosecutor who imposed the disciplinary penalty may either rescind the penalty or order further investigation by the competent disciplinary ombudsman, or refer the case to the disciplinary court. Where a case is referred to the disciplinary court, the ruling shall be made after hearing the arguments of both the disciplinary ombudsman and the prosecutor concerned. The decision of the disciplinary court is subject to appeal and the case is heard by the Supreme Court.

When, due to the nature of the prosecutor's disciplinary misconduct, it is necessary for the prosecutor to be immediately removed from their duties, there is the possibility of temporarily suspending the prosecutor for a period of up to six months. The decision on suspension shall be taken by the disciplinary superiors and the prosecutor may appeal against this decision to the disciplinary court. If there are justifiable reasons, the suspension may be extended by the disciplinary court on the request of the disciplinary ombudsman for the necessary period. If the case is referred to the disciplinary court, decisions on whether to extend the suspension are at

the discretion of that court, which also determines the duration of the extension. The parties may appeal against the above decisions, and the disciplinary superior may appeal against the decision to extend the suspension. The disciplinary superior may, at any time, rescind the suspension of the prosecutor by reinstating them.

Where a final authorisation to hold a prosecutor criminally liable is granted or an application for their incapacitation is filed with the competent court, the disciplinary superior has the power to suspend the prosecutor from performing their official duties until the proceedings in the case reach a final conclusion. The decision on suspension may be appealed to the Disciplinary Court acting under the Public Prosecutor General, and the decision of that court on the question of suspension is final.

The disciplinary superior has the power to rescind a prosecutor's suspension in their duties at any time. Moreover, the suspension of a prosecutor from their duties becomes mandatory when the authorisation to prosecute is related to the prosecution of an intentional offence prosecuted by public indictment which carries a penalty of at least 5 years' imprisonment. In such a case, the suspension shall continue without possibility of revocation until the decision in the case becomes final.

In a situation where a prosecutor is temporarily suspended from their functions, the Disciplinary Court acting under the Public Prosecutor General has the possibility, on the basis of a request filed by the disciplinary superior, to reduce the suspended prosecutor's salary to half of its standard amount for the duration of the suspension. The prosecutor has the right to lodge an appeal against the decision to reduce their remuneration.

The Public Prosecutor General has the exclusive right to appoint disciplinary ombudsmen from among the candidates presented by the National Public Prosecutor.

12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:

- Managing the day-to-day operations and activities of the prosecution service;
- Management of case distribution;
- Management of financial and material resources of the prosecution service;
- Representation of the prosecution service internally and externally, including before foreign services and international organisations.

The Public Prosecutor General, as the chief authority of the prosecution service, represents the prosecution service both nationally and before international institutions and organisations. The Public Prosecutor General may provide public authorities, and, in particularly justified cases, also other persons, with information on the activities of the public prosecution service, including information on specific cases, if such information may be important for the security of the state or its proper functioning. The Public Prosecutor General may also provide the media personally, or authorise another public prosecutor to do so, with information from ongoing pre-trial proceedings or concerning the activities of the prosecution service. Classified information is excluded from this scope. The basis for such action must be an important public interest.

The management of financial resources by the Public Prosecutor General encompasses a wide range of activities aimed at the effective use of financial resources allocated to the operation of the prosecution service. It includes, among others:

- Drawing up budgetary plans for the prosecution service, taking into account operational priorities, financial needs and financial limits received,
- Allocation of funds for various purposes, such as staff salaries, equipment procurement, training or operations, and the allocation of funds to subordinate units,
- Regular monitoring of expenditure and control of the prosecution service's budget to prevent fraud and optimise expenditure,
- Preparing regular budgetary and financial reports which present the implementation of the budget including the plan and the expenditure incurred and the objectives achieved.

13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

The Public Prosecutor General is criminally liable for the commission of offences. The Public Prosecutor General may be held criminally liable and temporarily arrested only after the relevant permission is obtained from the disciplinary court. Only urgent actions may be taken until the permission is granted for the Public Prosecutor General to be held criminally liable, and the Prime Minister needs to be notified without delay. In a situation where the Minister of Justice the Public Prosecutor General holds the mandate of a member (a deputy or a senator) of the Parliament of the Republic of Poland, notwithstanding the immunity of the Public Prosecutor General under the provisions of the Prosecution Service Act, they shall be protected by the limitation of legal liability by virtue of their parliamentary mandate.

Portugal

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).

The administration of the routine functioning of the Portuguese Prosecution Service, as regards the management of financial and material resources, is ensured by the Directorate General for the Administration of Justice, a department of the Ministry of Justice entrusted with supporting the functioning of courts.

The management of human resources, however, is ensured by the High Council of the Prosecution Service, who appoints, nominates, transfers and promotes members of the prosecution service (article 21 of the Statute of the Public Prosecution Service – SPPS).

2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).

The administration of the Portuguese Prosecution Service is regulated by the Statute of the Public Prosecution Service – SPPS (Law 68/2019, of August 27), as well as through specific Regulations as, for instance, the Regulation on the Movement of Members of the Public Prosecution Service or the Regulation on Instruments for Mobility and Procedural Management

3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service¹ in your country?²

The Head of the Portuguese Public Prosecution Service is the Prosecutor General, who is also inherently the President of the High Council of the Prosecution Service

4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:

¹ It is important to note that by referring to the head of the prosecution service in the present questionnaire, the highest-level official and/or body (please also see below in footnote No. 3) are meant. It is not meant to include the whole hierarchy of officials with some managerial roles within the prosecution service. However, it is also understood that the highest-level official of the prosecution service may have to delegate part of his/her powers under certain conditions and in some cases. If so, such delegation of powers may also be reflected in the responses to the questionnaire.

² If the country's legislative system delegates the management of the prosecution service to a body (i.e. Council of Prosecutors or other prosecutorial self-governance bodies, or a particular section within the service rather than a particular official), the respondent country is invited to share information on its establishment, functioning and terms of reference.

- Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?
If lawful, the decisions issued by the Prosecutor General are mandatory for members of the Public Prosecution Service and prosecutorial staff, as a consequence of the existing hierarchical relation – article 103 of the SPPS.
 - Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)
A member of the Public Prosecution Service may, in certain circumstances, refuse a given order.
According to article 100 of SPPS, members of the public prosecution service may request their superiors to issue their orders or instructions in writing and such orders or instructions must be issued in writing whenever they are to become effective in a given procedure.
The procedural intervention of the superior prosecutor always takes place within the framework of the SPPS and procedural law.
Members of the public prosecution service must refuse to comply with any unlawful directive, order or instruction and may refuse them on the ground of grave violation of his/her legal conscience. The refusal is made in writing, preceding the presentation of the invoked reasons.
The superior who has issued the directive, order or instruction may call back the proceedings or distribute it to another member of the public prosecution service.
A member of the public prosecution service may not refuse hierarchical decisions taken according to the laws of the procedure. He/she may not refuse as well directives, orders or instructions issued by the Prosecutor General, except on grounds of unlawfulness.
The unjustified use of the possibility to refuse an order or instruction may give rise to disciplinary action under article 215 of the SPPS.
5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).
In Portugal, due to the principle of separation of powers, the Minister of Justice does not exercise any oversight over the public prosecution service. He/she may not issue binding instructions or request information from the public prosecution service, nor have any other kind of interference.
6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?
As far as the administration of the Public Prosecution Service made by the Directorate General for the Administration of Justice is concerned, data are not shared with the public prosecution service.
In courts, proceedings intervened by both judges and public prosecutors are, for the most part, digitalised through an automated system called Citius, run by the Ministry of Justice.

Such a system also allows for the intervention of judicial and prosecutorial staff, as well as lawyers.

Proceedings within the High Council of the Prosecution Service are fully digitalised through a program called Progest, run by the Prosecutor General's Office.

7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?

The administration of the public prosecution service would require more updated and rapid electronic platforms, allowing for a more effective intervention of the members of the public prosecution service.

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:

- Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?

The Prosecutor General (Procurador-Geral da República) is the sole Public Prosecutor subject to nomination by the political power. His/her appointment and removal from office are incumbent on the President of the Republic upon proposal of the Prime Minister (article 133(m) of the Constitution of the Portuguese Republic and article 175(1) of the Statute of the Public Prosecution Service/SPPS).

The choice of the person suitable for the office is neither limited to a particular recruitment area, nor does it have to abide by specific training requirements or curriculum.

However, since the approval of the Constitution of 1976, the appointment of the Prosecutor General has always fallen on judges of the Supreme Court of Justice or members of the Public Prosecution Service (Assistants to the Prosecutor General).

- Which body is responsible for the appointment/election of the head of the prosecution service?

The Prime Minister submits a proposal to the President of the Republic for the appointment of the Prosecutor General.

- What is the procedure for the appointment/election of the head of the prosecution service?

See previous answer.

9. What are the terms of office of the head of the prosecution service?

The terms of office of the Prosecutor General, head of the prosecution service, is 6 years (articles 200/3 of the Constitution and article 175/2 of the SPPS).

10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:

- What are the grounds for such removal?

In principle, the Prosecutor General remains in office, unless both the President of the Republic and the Prime Minister decide to remove him/her.

The grounds may vary since this entails a political decision on the removal of the Prosecutor General from office.

After the 1997 Constitutional revision, which established a term of office of 6 years for the Prosecutor General, there were no pre-terms removals from office relating to the Prosecutor General.

- Which body can decide on such removal?

The Prime Minister may take the initiative to propose to the President of the Republic the removal of the Prosecutor General.

- What is the procedure for such removal?

See previous answer.

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?

The High Council of the Public Prosecution Service, a body integrated in the Prosecutor General's Office, is the highest management and disciplinary body of the Portuguese public prosecution service, through which both the disciplinary competence and the competence to manage the Public Prosecution Service/PPS staff are exercised (article 21(1) of the Statute of the Public Prosecution Service).

Furthermore, it is incumbent on the High Council to appoint, assign, transfer, promote dismiss or remove from office and consider the professional merit of public prosecutors, as well as to take disciplinary action against them except for the Prosecutor General (article 21(2)(a) of the SPPS).

It operates also as appeal body with regard to the decisions taken by the Council of Court Officials in respect of court officials integrated in the PPS career.

The High Council approves the annual plan of inspections and determines the initiation of investigations, inquiries, inspections and disciplinary proceedings against members of the public prosecution.

The Prosecutor General is inherently the head of the High Council of the Prosecution Service. His participation in the appointment of members of the public prosecution relate mainly to the possibility to make proposals for the higher offices within the public prosecution service to the High Council of the Prosecution Service.

The High Council may sit in plenary or in chambers. Decisions taken in chambers may be challenged before the plenary.

The Prosecutor General has the same role as any other member of the High Council. He/she however holds a casting vote.

Decisions of the plenary of the High Council of the Prosecution Service may be challenged before the Supreme Court for Administrative Matters.

12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:

- Managing the day-to-day operations and activities of the prosecution service;
It is incumbent on the Prosecutor General, according to article 19/2/b) of the SPPS to direct, coordinate and exercise oversight over the activity of the public prosecution service, as well as to issue directives, orders, and instructions regarding the activity of members of the public prosecution service.
- Management of case distribution;
As a rule, management of case distribution is made in an automated manner, through an IT system operated within the courts. The Prosecutor General has no intervention in such a procedure.
- Management of financial and material resources of the prosecution service;
Financial and material resources of the prosecution service are not administered by the Prosecution Service but by the Ministry of Justice, through the Directorate General for the Administration of Justice.
- Representation of the prosecution service internally and externally, including before foreign services and international organisations.
According to article 19/2/f) of SPPS, the Prosecutor General ensures the representation of the public prosecution service before the President of the Republic, the Assembly of the Republic (Portuguese Parliament), the Government, as well as before international organizations for which he/she is appointed in the framework of a law or treaty.

13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

The Prosecutor General may be held politically and criminally accountable.

There are however neither mechanisms for administrative accountability, nor for intermediate level political accountability, as appearances before parliamentary hearings.

There is no mechanism for carrying out disciplinary action over the Prosecutor General.

Slovak Republic/République slovaque

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).

The financial, material and human resources of the Public Prosecutor's Office are limited by the budget of the Slovak Republic for the respective year in which the Public Prosecutor's Office has a separate chapter. Within the limits of the budget and financial rules, these resources are managed by the Economic Department of the Prosecutor General's Office of the Slovak Republic and by the economic departments of the Regional Prosecutor's Offices.

2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).

The existence of the Public Prosecutor's Office is briefly enshrined in the Constitution of the Slovak Republic. The administration of the Public Prosecutor's Office is regulated by law, but also by internal orders and instructions of the Attorney General.

3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service¹ in your country?²

The Public Prosecutor's Office in the Slovak Republic is headed by the Attorney General.

4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:

- Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?

The Prosecutor General shall direct and supervise the activities of the Public Prosecutor's Office at all levels. For the performance of the tasks, the Prosecutor General shall issue orders, instructions and other service regulations which are binding on all prosecutors and other employees of the prosecution service.

¹ It is important to note that by referring to the head of the prosecution service in the present questionnaire, the highest-level official and/or body (please also see below in footnote No. 3) are meant. It is not meant to include the whole hierarchy of officials with some managerial roles within the prosecution service. However, it is also understood that the highest-level official of the prosecution service may have to delegate part of his/her powers under certain conditions and in some cases. If so, such delegation of powers may also be reflected in the responses to the questionnaire.

² If the country's legislative system delegates the management of the prosecution service to a body (i.e. Council of Prosecutors or other prosecutorial self-governance bodies, or a particular section within the service rather than a particular official), the respondent country is invited to share information on its establishment, functioning and terms of reference.

The decision/order/instructions of the Attorney General (including other superior prosecutors) shall be binding on the subordinate prosecutors, except if the subordinate prosecutor would commit a criminal offence, misdemeanour, other administrative offence or disciplinary offence. In such a case, the prosecutor is obliged to refuse compliance. The Prosecutor shall also have the right to ask the superior prosecutor to withdraw the assigned case if he considers the instruction of the superior prosecutor to be contrary to the law or to his/her legal opinion. In such a case, the superior prosecutor has the right to perform the acts of the subordinate prosecutor or to decide to do so by another subordinate prosecutor.

The superior prosecutor may not instruct the subordinate prosecutor not to initiate criminal proceedings, to raise an accusation, to make no application for the accused to be taken into custody, to refer the case to another authority, to halt the prosecution, to refrain from bringing an indictment or to bring an ordinary or extraordinary appeal against the accused.

- Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)

In view of the above, there is no need to challenge decisions/orders/instructions.

5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).

The Minister of Justice has no powers in relation to the administration of the Public Prosecutor's Office, except that he is one of the persons entitled to submit a proposal to the Legislative Assembly (National Council of the Slovak Republic – "National Council") for the election of a candidate for the Prosecutor General.

6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?

The Public Prosecutor's Office processes information, personal data and other data (hereinafter referred to as "data") that are necessary for the performance of its tasks laid down by law. The Public Prosecutor's Office shall also process data which are necessary for the performance of the tasks of the European Public Prosecutor's Office pursuant to specific legislation.

The data are part of the Central Information System of the Public Prosecutor's Office (hereinafter referred to as the "Central Information System"). The data in the Central Information System which are necessary for the performance of the tasks of the Public Prosecutor's Office in criminal proceedings shall also contain classified information and sensitive information. The central information system is an information system of public administration

The operation, administration and development of the central information system shall be carried out by the General Prosecutor's Office in cooperation with subordinate prosecutors.

7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?

The Recovery and Resilience Plan of the Slovak Republic, drawn up and approved on the basis of the criteria of Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing a Recovery and Resilience Facility, which includes a new 'judicial map', is currently being implemented. This involves a lot of organizational tasks. Moreover, the dismantling of the Special Prosecutor's Office also partially alters the organisational structure of the Public Prosecutor's Office.

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:

- Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?

A citizen of the Slovak Republic who is optional to the National Council, has reached the age of 40, has a university degree of law of second degree, is at least 15 years active in the legal profession, is of integrity, has not held the post of President of the Slovak Republic, a Member of the National Council, a Member of the European Parliament, a member of the Government, a President, Head, Director or Vice-President of the other central or state administration body with national competence, the State Secretary, the Public Defender of Rights, the Secretary-General of the Service Office, the President of the Self-Governing Region, the Mayor or the Mayor, and his moral characteristics and previous life guarantee that the function of the Prosecutor-General will be properly and honestly performed as Prosecutor General.

- Which body is responsible for the appointment/election of the head of the prosecution service?

The Prosecutor General shall be appointed and dismissed by the President of the Slovak Republic on a proposal from the National Council.

- What is the procedure for the appointment/election of the head of the prosecution service?

Each member of the National Council, the Minister of Justice, the Public Defender of Rights, the Council of Prosecutors of the Slovak Republic, the professional organisation of lawyers (e.g. the Slovak Chamber of Lawyers), the Faculty of Law of the University of the Slovak Republic and the Constitution of the State and the Law of the Slovak Academy of Sciences can submit one proposal to the National Council for the election of a candidate for the Prosecutor General. The proposal must be reasoned and its annexes must be a letter of motivation and a concept for the management and further development of the prosecution service, drawn up by the person proposed to be a candidate for the Prosecutor General.

The election of the candidate for the Attorney General shall be announced by the President of the National Council. Proposals shall be submitted to the Constitutional Committee of the National Council, which shall submit them with its opinion to the President of the National Council. The President of the National Council shall propose the appointment of the candidate for the Attorney General for the next meeting of the National Council.

The Constitutional Law Committee shall discuss proposals for the election of candidates for the Prosecutor General at a public meeting, to which the President of the Republic may be invited, who may be represented at the meeting by a senior official of the Office of the President of the Slovak Republic. The proposed candidate shall be presented in the debate, stating in particular the reasons for applying for the post of Attorney General, his/her work experience, publication activities, attendance at lectures, seminars and scientific conferences and the most significant work results achieved. He then answers questions from the deputies and the President of the Republic or his deputy. At the end of the debate, the Constitutional Committee shall decide whether the proposed candidates meet the conditions required for the performance of the function of the Prosecutor General under a special regulation. The materials included in the proposal for the election of the candidate for Prosecutor General shall be published by the National Council on its website at least 20 days before the meeting of the Constitutional Committee. At the meeting of the Constitutional Committee, the office shall make an audiovisual communication to the public.

The candidate for the appointment of the Attorney General shall be proposed to the President of the Republic by the National Council. The proposed candidate has obtained a majority of the votes of the Members present in the elections. If the candidate has not been elected, a re-election shall be made. The re-election shall be attended by the two nominations which received the largest number of votes.

9. What are the terms of office of the head of the prosecution service?

The term of office of the Prosecutor General shall be seven years.

10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:

- What are the grounds for such removal?

The National Council shall propose to the President of the Slovak Republic that the Prosecutor General should be removed from office if the Prosecutor General has been restricted by a final decision of the Court in legal capacity, has lost the nationality of the Slovak Republic, has been convicted by a final court decision of a criminal offence, has become a member of a political party or political movement, has commenced a post or activity incompatible with the performance of the function of prosecutor, is not fit for medical reasons to perform his duties for more than one year, commits an act which, according to a final decision issued in disciplinary proceedings, is incompatible with the performance of the function of the Prosecutor General, does not have permanent residence in the territory of the Slovak Republic.

- Which body can decide on such removal?

The President of the Slovak Republic shall decide on the dismissal of the Prosecutor General on a proposal from the National Council. Before deciding to remove the Prosecutor General from office, the President may request the opinion of the Council of Prosecutors of the Slovak Republic.

- What is the procedure for such removal?

A proposal for the dismissal of the Prosecutor General may be submitted in writing by at least one fifth of the deputies of the National Council. The proposal shall be submitted to the Constitutional Committee, which shall submit its opinion to the President of the National Council. The President of the National Council shall propose the inclusion of a proposal for the dismissal of the Prosecutor General on the agenda of the next meeting of the National Council. The Prosecutor General shall be given the opportunity to express his or her views on the application for his or her dismissal. A proposal to dismiss the Attorney General shall be approved if more than half of the deputies present have voted in favor. The proposal for the dismissal of the Attorney General shall be submitted by the National Council to the President of the Republic.

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?

The Prosecutor General shall direct and supervise the activities of the Public Prosecutor's Office at all levels. His procedure for selecting prosecutors and prosecutors' staff for the prosecution service and in managing their careers is regulated in detail by law. Prosecutorial councils and selection boards, the majority of whose members are proposed by the Prosecutorial Councils, are significantly involved in decision-making.

The Prosecutor General appoints the Prosecutor to the post without a time limit to the designated Public Prosecutor's Office on the basis of the outcome of the selection procedure. The temporary assignment or transfer of a prosecutor to another public prosecutor's office without his or her consent is possible only if it has been imposed by a disciplinary measure or under strictly limited conditions and with the prior consent of the Prosecutors' Council. Reassignment of a prosecutor to a lower-ranking public prosecutor's office may be granted only if he has been repeatedly informed in writing of this possibility due to insufficient performance of his duties and with the consent of the Prosecutors' Council. Such a decision of the Attorney General shall be subject to review by the Court.

The Prosecutor-General may only transfer a prosecutor to a higher-level prosecutor's office following a selection procedure and in accordance with the principles of the prosecutor's procedure approved by the Prosecutor General and the Council of Prosecutors.

The Prosecutor General shall remove the Prosecutor from office of the Prosecutor if he no longer fulfils the conditions laid down by law for the performance of his or her duties as a Prosecutor or if a disciplinary measure has been definitively imposed on him or if the Prosecutor

temporarily assigned to serve in the European Public Prosecutor's Office has been removed from that office by the Court of Justice of the European Union and the reason for the dismissal seriously jeopardises the credibility of the Public Prosecutor's Office or the good repute of the Public Prosecutor's Office.

The Prosecutor General may remove a prosecutor from office if, for medical reasons, he or she is unable to perform his or her duties for more than one year (this is not the case in the case of a pregnant prosecutor) or if the prosecutor has reached the age of 65.

If the service relationship of a prosecutor is terminated by removal from office of prosecutor, the prosecutor may seek before the administrative court a review of the legality of the decision of the Attorney General in the Administrative Court. This shall not apply if the public prosecutor has been dismissed on the basis of a final disciplinary decision.

The Chief Prosecutor (Head of Unit, Director of Department, District Prosecutor, Regional Prosecutor) is appointed by the Prosecutor General on the basis of a selection procedure and following a prior statement by the Prosecutors' Council. The Regional Prosecutor, the Deputy Regional Prosecutor, the District Prosecutor and the Deputy District Prosecutor are appointed by the Prosecutor General for a five-year term of office. Other senior prosecutors shall be appointed to office without any time limit.

The assessment of a prosecutor is carried out only in the context of a selection or disciplinary procedure or, at the request of a prosecutor, in connection with the termination of the prosecutor's service. The prosecutor shall be evaluated by the head of the competent service office on the basis of supporting documents drawn up by the chief prosecutor. If the public prosecutor disagrees with the content of the assessment drawn up in connection with the selection procedure or the disciplinary procedure, he or she may object to the head of the service office. If the head of the service does not uphold his objections, the Prosecutorial Council shall decide on the objections. If the prosecutor disagrees with the content of the assessment drawn up in connection with the termination of his service, he may object to the head of the service office. If the head of the service does not uphold the objections, the prosecutor may seek the correction of the assessment before the court.

The financial requirements of prosecutors are fixed by law.

Disciplinary proceedings against prosecutors are governed by the Act on the Disciplinary Rules of the Supreme Administrative Court of the Slovak Republic. The disciplinary liability of prosecutors is decided and disciplinary measures are imposed by the Supreme Administrative Court of the Slovak Republic in disciplinary chambers.

A disciplinary motion against a prosecutor shall be entitled to submit at least three-fifths of the deputies of the National Council or the President of the Slovak Republic in the case of the Prosecutor General of the Slovak Republic. The Prosecutor General may make a disciplinary application against all prosecutors, the Public Defender of Rights against any prosecutor who he or she considers, in the performance of his or her duties, has violated the fundamental right or freedom of natural persons and legal persons, the Deputy Prosecutor General against prosecutors of the Prosecutor General's Office and the chief prosecutors who fall within his or her management competence, the competent regional prosecutor against the prosecutor of the regional prosecutor's office, the district prosecutor and the prosecutor of the district prosecutor, and the competent district prosecutor against the prosecutor of the district prosecutor's office.

12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:

- Managing the day-to-day operations and activities of the prosecution service;

The daily processes and activities of the Public Prosecutor's Office take place according to established general rules. They are managed by the chief prosecutors of the individual prosecutors' offices and their organisational components. The hierarchical structure of the Public Prosecutor's Office indicates that a superior prosecutor may also intervene in these proceedings if necessary.

- Management of case distribution;

Cases challenged by the competent prosecutor's office shall be assigned to the competent prosecutor's office by the chief prosecutor's office according to the specialisation and encumbrance of individual prosecutors.

- Management of financial and material resources of the prosecution service;

The financial and material resources of the Slovak Public Prosecutor's Office as a whole are managed by the Economic Department of the Prosecutor General of the Slovak Republic, based on the approved budget, the budgetary rules of the public administration and possible guidelines of the Prosecutor General of the Slovak Republic.

- Representation of the prosecution service internally and externally, including before foreign services and international organisations.

The Prosecutor General of the Slovak Republic or his deputy representatives shall represent the Prosecutor General of the Slovak Republic in relation to the highest representatives of the States. Otherwise, the Public Prosecutor's Office is represented in negotiations with other national and foreign authorities and international organisations by the individual prosecutors to whom it belongs or to whom the agenda to which the negotiation relates is assigned.

13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

As stated in point 11, at least three-fifths of the deputies of the National Council or the President of the Slovak Republic are entitled to file a disciplinary proposal against the Prosecutor General of the Slovak Republic, on which the Supreme Administrative Court of the Slovak Republic is seized.

The Prosecutor General does not enjoy any substantive or procedural protection against prosecution.

The State is liable for damage caused by an unlawful decision of the public prosecutor or his/her maladministration. The same applies to the Attorney General. In cases of compensation for damage caused by an unlawful decision of the public prosecutor or his/her maladministration, the Public Prosecutor's Office shall act on behalf of the State in accordance with a special law. If the Public Prosecutor's Office pays compensation or part of it and the prosecutor's fault

(including the Prosecutor General) has been found in disciplinary proceedings as a serious disciplinary offence or in criminal proceedings, it requests regression from the prosecutor.

Slovenia / Slovénie

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).

The prosecutorial organisation in the Republic of Slovenia consists of the Office of the State Prosecutor General of the Republic of Slovenia, the Specialised State Prosecutor's Office of the Republic of Slovenia and eleven District State Prosecutor's Offices. The funds required for the work of state prosecutors' offices are provided from the budget of the Republic of Slovenia. As direct budget users, state prosecutor's offices participate in the drawing up of their financial plans. A joint financial plan for all prosecutor's offices, in which the State Prosecutorial Council is also included as an independent state body, is prepared by the Office of the State Prosecutor General of the Republic of Slovenia. Based on the Decision of the Government of the Republic of Slovenia, instructions for the preparation of the budget, issued by the Ministry of Finance and needs, notified by the state prosecutor's offices, the Office of the State Prosecutor General of the Republic of Slovenia prepares a breakdown of funds according to budget items. During the year, if necessary, the Office of the State Prosecutor General of the Republic of Slovenia can also redistribute funds between budget items of individual prosecutor's offices and in this way balances the funds and takes care of economical use of useful resources. The allocated funds are used exclusively for the operational needs of the State Prosecutor's Office, mainly for employees' salaries, material costs and for purchase of minor fixed assets. The Director, Director-General and the accounting department of each state prosecutor's office manage the funds for the work of the prosecutor's office. The head of the State Prosecutor's Office is the authorizing officer for the execution of the financial plan. A central accounting and financial service has been established at the Office of the State Prosecutor General of the Republic of Slovenia to coordinate the accounting work of state prosecutors' offices and to coordinate with the ministry responsible for finance.

The State Prosecution Service Act distinguishes between the state prosecutorial administration and justice administration. The state prosecution administration includes decision-making and other tasks which provide the conditions for regular, correct, conscientious and efficient functioning of the State Prosecutor's Office (such as: drawing up annual programmes and annual reports, internal organisation and the organisation of operations of state prosecutors' offices, financial, accounting and material operations, and the management of public procurement procedures...). The matters of state prosecution administration fall within the competence of the head of the State Prosecutor's Office, Director-General and director.

The head of the State Prosecutor's Office, who is always a prosecutor, is responsible for the administrative functioning thereof. Certain tasks of state prosecutorial administration may be independently performed by directors appointed to one or more district state prosecutors' offices (such as management of state prosecution staff and implementation of the regulations on safety and health at work; deciding on the rights, obligations and responsibilities of state prosecution staff; financial, accounting and material operations and the management of public procurement procedures;). Under the authorisation of the head of a District State Prosecutor's Office, the

director may autonomously perform the tasks of state prosecution administration referring to entering, recording and statistical monitoring of cases, office and technical operations, activities associated with tangible assets held in direct use by the state prosecutor's office, concern for and measures aimed at the security of persons, documents and assets of the state prosecutor's office, and other tasks of state prosecution administration except those referring to the performance of state prosecution service.

Matters of justice administration over state prosecution offices are under the responsibility of the Ministry of Justice. Justice administration matters include the provision of general conditions for successful performance of the state prosecution office, in particular: drafting acts and other regulations in the field of the organisation and operation of State Prosecutor's Offices, the status, rights and obligations of state prosecutors and state prosecutorial staff; ensuring education and expert training; ensuring staff, material and technical conditions; provision of premises, including the provision of funds for the rental of rented premises, dealing with supervisory appeals; the collection of statistical and other data on the functioning of state prosecutor's offices; and the performance of other administrative tasks when so determined by law.

The number of state prosecutor posts and the titles for the performance of the state prosecution service at particular state prosecutors' offices are defined by the Minister of Justice through an order on the proposal of the State Prosecutor General, in agreement with the Government and after obtaining the prior opinion of the State Prosecutorial Council. The actual number of prosecutor's planned positions is determined by the personnel plan. The State Prosecutor General adopts a joint personnel plan coordinated with the adopted budget. State prosecutor's offices conclude employment contracts and manage personnel resources in accordance with the joint personnel plan. Calls for applications for vacant state prosecutor posts are advertised by the Ministry of Justice on the proposal of the head of the State Prosecutor's Office, with the prior approval of the State Prosecutor General. The State Prosecutorial Council draws up its final opinion which it submits to the Minister, together with the relevant application in the call and any comments of the candidate or of the head of the State Prosecutor's Office. State prosecutors are then appointed by the Government on the proposal of the Minister of Justice.

2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).

The administration of the prosecution service is regulated through the legislation and by-laws.

3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service¹ in your country?²

¹ It is important to note that by referring to the head of the prosecution service in the present questionnaire, the highest-level official and/or body (please also see below in footnote No. 3) are meant. It is not meant to include the whole hierarchy of officials with some managerial roles within the prosecution service. However, it is also understood that the highest-level official of the prosecution service may have to delegate part of his/her powers under certain conditions and in some cases. If so, such delegation of powers may also be reflected in the responses to the questionnaire.

² If the country's legislative system delegates the management of the prosecution service to a body (i.e. Council of Prosecutors or other prosecutorial self-governance bodies, or a particular section within the service rather than a particular official), the respondent country is invited to share information on its establishment, functioning and terms of reference.

The prosecution service is headed by the State Prosecutor General and the heads of District State Prosecutor's Offices.

4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:

The State Prosecutor General may issue general instructions on the conduct of state prosecutors in dealing with cases. General instructions refer to the uniform application of an Act, the provision of directions and/or unification of prosecution policy, and the provision of information at state prosecutor's offices. The head of a District State Prosecutor's Office may, in the matters within their competence associated with a specific prosecution policy, issue general instructions for the work of state prosecutors in dealing with cases.

- **Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?**

Acting in contravention of the general instructions issued constitutes disciplinary violation.

- **Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)**

No.

5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).

As already explained above (see answer to question 1) the Minister of Justice exercise justice administration. For the purpose of exercising this competence the Ministry may request that state prosecutor's offices submit explanations, data and reports; it may also access files in the premises of state prosecutor's offices and request state prosecutor's offices to provide extracts from the registers and other documents referring to the implementation of a specific matter or type of matters of state prosecution administration. The Ministry does not have and cannot have an influence on the resolution and decision-making process in specific cases. In this respect, the external independence of state prosecutors is guaranteed.

Furthermore, the Minister issues the most important implementing regulation – the State Prosecutorial Rules, which regulates the functioning of the state prosecution offices. The State Prosecutorial Rules are issued by the Minister, following the preliminary opinion of the State Prosecutor General and the State Prosecutorial Council (but the Minister is not bound by their opinion).

Upon the proposal of the State Prosecutor General, the Minister establishes or abolishes an external department of a District State Prosecutor's Office.

The Minister has the power to prescribe by means of an implementing regulation the form and instructions for preparing an annual work programme and the more detailed form of the annual report on the operation of a State Prosecutor's Office.

In agreement with the State Prosecutorial Council, the Minister determines the criteria for the duration of leave of state prosecutors. The Minister determines the procedure and conditions for providing scholarship or grants to state prosecutors.

The Minister performs supervision over the performance of state prosecutorial administration matters. Such justice supervision may be performed directly or indirectly (through the head of District State Prosecutor's Office or through the State Prosecutor General).

The Minister may, for the purpose of exercising their competences or providing answers to the questions of the National Assembly, the National Council of the Republic of Slovenia, the Government, the Court of Auditors of the Republic of Slovenia, the Constitutional Court, the Human Rights Ombudsman and the President of the Republic regarding the work of the State Prosecutor's Office, and for the purpose of informing the general public of the work of the State Prosecutor's Office, request that state prosecutors' offices report to the Ministry on criminal and other cases under their consideration. State prosecutors' offices must submit to the Ministry reports and data on the resolution of a specific case or type of cases, except those that might harm the interests of proceedings, the confidentiality of proceedings and the privacy of persons.

The Ministry of Justice has important powers in personnel matters, especially in the appointment procedures of state prosecutors and the heads of State Prosecutor's Offices (see answers to question 1 and 8). The Minister also appoints or dismisses the director of a particular District State Prosecutor's Office and the director general of the Office of the State Prosecutor General of the Republic of Slovenia.

The number of state prosecutor's posts and titles at particular state prosecution offices is determined by the Minister in agreement with the Government of the Republic of Slovenia, upon the proposal of the State Prosecutor General.

The Minister may submit an initiative for the institution of a disciplinary procedure. The Minister is also entitled to request the initiation of disciplinary proceedings against a particular state prosecutor. The suspension of the State Prosecutor General in the cases provided by law must be proposed by the Minister following the preliminary opinion of the State Prosecutorial Council.

6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?

For the purposes of entering, recording of cases and for office operations the electronic register "prosecutorial administration" is used. To access it, a digital certificate is required.

For the purposes of reporting on the work of the State Prosecutor's Office, statistical monitoring of cases and drawing up annual reports the Power BI tool is used. It obtains data from electronic register "prosecutorial administration" and it displays them in a clear and transparent manner.

Financial and accounting system of the Ministry of finance and direct budget users of the state budget – MFERAC is used for financial, accounting and material operations. It provides a

uniform way of executing the budget and accounting management, cost accounting work and management of personnel records.

The security of documents is ensured with Information Security Management System.

Registration of personnel upon entry is managed by electronic Security Access control.

7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?

Detected challenges in the course of the administration of the prosecution services are: dual CMS (in paper and in digital form), decentralized information system of all stakeholders in the criminal justice chain and lack of commonly agreed standards for digital evidence formats through criminal justice chain.

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:

- **Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?**
- **Which body is responsible for the appointment/election of the head of the prosecution service?**
- **What is the procedure for the appointment/election of the head of the prosecution service?**

The State Prosecutor General is appointed by the National Assembly on the reasoned proposal of the State Prosecutorial Council after obtaining the Government's prior opinion, for a period of six years with the possibility of reappointment. State prosecutors who are under 64 years of age at the time of application and meet the criteria for appointment to the title of supreme state prosecutor may be appointed State Prosecutor General. A state prosecutor who does not hold the title of supreme state prosecutor obtains this by such appointment. The State Prosecutor General is Head of the Office of the State Prosecutor General.

The post of the State Prosecutor General is advertised ex officio by the Ministry not later than six months before the expiry of the term of office or within one month of the expiry of such term of office. Candidates must enclose with their curricula vitae with a description of their professional activities, a six-year strategic work programme for the State Prosecutor's Office, and evidence demonstrating that they meet the conditions. The applications that have not been rejected are submitted by the Ministry to the State Prosecutorial Council, which conducts an oral interview with the candidates. After examining all the applications and conducting the interview, the State Prosecutorial Council draws up a proposal of one or more candidates for appointment to the post of State Prosecutor General. If several candidates are proposed, the State Prosecutorial Council may indicate the preferred candidate. In drawing up the proposal, the State Prosecutorial Council takes into account in particular the strategic work programme for the

State Prosecutor's Office, the candidate's presentation at the oral interview, their professional competence, specialised knowledge and experience, and recommendations and achievements associated with the performance of the state prosecution service. The proposal is served on the candidates. Candidates may submit reasoned comments on the proposal within eight days of its receipt. Within eight days of receipt of the comments or the expiry of the deadline, the State Prosecutorial Council draws up a final proposal and submits it to the National Assembly, together with the application material submitted by all candidates and their potential comments. The National Assembly invites the candidate or candidates proposed by the State Prosecutorial Council to present their strategic work programme and provide any additional clarifications regarding their applications. The presentation is open to the public. In making the appointment, the National Assembly is not bound by the proposal of the State Prosecutorial Council and is not obliged to appoint the proposed candidate.

The heads of district state prosecutor's offices are appointed by the State Prosecutorial Council on the reasoned proposal of the Minister after obtaining the prior opinion of the State Prosecutor General, for a period of six years with the possibility of reappointment. State prosecutors who are under 64 years of age at the time of application and meet the conditions for appointment to the title of higher state prosecutor may be appointed heads of District State Prosecutor's Offices.

The post for the head of the State Prosecutor's Office is advertised by the Ministry of Justice on the proposal of the State Prosecutor General not later than three months before the expiry of the term of office or within one month of the expiry of such term of office. Candidates must enclose with their application their curricula vitae containing a description of their professional activities, a programme for heading the state prosecutor's office, and evidence demonstrating that they meet the conditions. The Minister then holds an oral interview with the candidates and obtains the opinion of the State Prosecutor General on the suitability of each candidate for heading the state prosecutor's office. After examining all the applications, conducting the interview and obtaining the opinion of the State Prosecutor General, the Minister draws up a proposal for the appointment of a candidate to the position of head of a District State Prosecutor's Office. The proposal is served on the candidates and the State Prosecutor General, which may submit reasoned comments. Within eight days of receipt of the comments or the expiry of the deadline, the Minister draws up the final proposal and submits it to the State Prosecutorial Council, together with the application materials of all candidates, their potential comments and the comments of the State Prosecutor General. The State Prosecutorial Council is not obliged to appoint the candidate proposed by the Minister, nor it is bound by the opinion of the State Prosecutor General. Not later than within six months of the date of appointment, the head of a District State Prosecutor's Office must complete a training programme for leadership organised by the Judicial Training Centre, which must obtain the prior approval of the Minister regarding the organisation and content of such training programme. Upon completion of the training, the head of a District State Prosecutor's Office submits the relevant certificate to the State Prosecutorial Council and the Minister. If the head of a District State Prosecutor's Office fails to complete the expert training within the prescribed deadline, their position as head is terminated.

9. What are the terms of office of the head of the prosecution service?

The State Prosecutor General and the heads of District State Prosecutor's Offices are appointed for a period of six years with the possibility of reappointment.

10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:

- **What are the grounds for such removal?**
- **Which body can decide on such removal?**
- **What is the procedure for such removal?**

The head of the State Prosecutor's Office shall be dismissed from their office of head in the following cases:

1. if they do not perform matters of state prosecution administration in accordance with the regulations or if they do not perform them in good time;
2. if they interfere with the autonomy of state prosecutors in their performance of state prosecution service by violating the regulations or in some other manner;
3. if they violate their state prosecutor's duties which makes them unsuitable to perform the leadership function;
4. if the state prosecutor's office that they head fails to achieve the planned effectiveness of prosecution in accordance with the annual work programme of the state prosecutor's office adopted by the head of such state prosecutor's office, for two consecutive years without justification;

A report on the alleged violations or facts is drawn up by the State Prosecutor General on their own initiative or on the request of the State Prosecutorial Council and/or the Minister, whereas for the Office of the State Prosecutor General, such report is drawn up by the president of the State Prosecutorial Council on the request of the State Prosecutorial Council or the Minister.

The president of the State Prosecutorial Council has the right to access the content of the files, records and other documents at the state prosecutor's office regarding the dismissal.

During the dismissal procedure, the head of the State Prosecutor's Office must be given the opportunity to state all the circumstances concerning the reason for dismissal and to respond to the report on alleged violations.

The report on alleged violations and the head's response are submitted to the authority competent for proposing the dismissal.

The State Prosecutorial Council decides on the dismissal of the head of a District State Prosecutor's office on the proposal of the Minister. Prior to making the decision, the State Prosecutorial Council sends the proposal to the State Prosecutor General to obtain their opinion. The dismissal of the State Prosecutor General is decided on by the National Assembly on the proposal of the State Prosecutorial Council. Prior to making the decision, the National Assembly sends the proposal to the Government to obtain its opinion. The authority proposing the dismissal, the head of the State Prosecutor's Office and the authority providing the opinion on the proposal for dismissal must be given the opportunity to express their view on the dismissal proposal directly before the authority deciding on the dismissal.

An administrative dispute may be initiated against the decision on dismissal within eight days of the date of service of the decision. The competent court must decide on the administrative dispute within 30 days of receipt of the action or appeal against such decision.

The dismissal of the head or deputy head of the State Prosecutor's Office does not affect the status, rights, obligations and responsibilities that the dismissed person has as state prosecutor.

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?

In the process of selection of prosecutors, the head of the State Prosecutor's Office draws up a reasoned opinion on the suitability of each candidate for state prosecutor by observing the criteria defined in the Act applicable for the selection and promotion of a state prosecutor. The head of the State Prosecutor's Office may specifically list the candidates considered to be the most suitable for the vacant post and must substantiate their choice. Such opinions are served on the candidates who may provide reasoned comments. In the further opinion-formulating process, the State Prosecutorial Council is not bound by the opinion of the head of the State Prosecutor's Office regarding the suitability of a particular candidate. Based on the conclusions derived from applications in the call and pursuant to the opinion of the head of the State Prosecutor's Office, the State Prosecutorial Council provides an opinion on the proposals for appointment. In such opinion, the State Prosecutorial Council ranks the candidates according to their assessed suitability for appointment and justify the reasons for the ranking. The State Prosecutorial Council serves the opinion on the candidate and the head of the State Prosecutor's Office where the vacant position was advertised. The candidate and the head of the State Prosecutor's Office may submit their reasoned comments on such opinion.

State prosecutors may be transferred to another state prosecutor's office with their prior written consent on the proposal of the State Prosecutor General and in agreement with the heads of both state prosecutors' offices.

State prosecutors may be seconded, including without their consent, to perform the state prosecution service at another state prosecutor's office for full working time or part time, if so required by circumstances which could otherwise jeopardise or prevent the implementation of tasks or responsibilities of such state prosecutor's office in good time, in particular due to an extremely increased workload or elimination of a major backlog. The State Prosecutor General decides on secondment and termination of secondment on the proposal of the head of the State Prosecutor's Office to which the state prosecutor is to be seconded. A seconded state prosecutor may appeal against the decision on secondment within three days of its receipt. The State Prosecutorial Council decides on the appeal, which does not stay the execution, within fifteen days.

The head of the State Prosecutor's Office can provide proposal to the State Prosecutorial Council for the promotion of state prosecutor.

The State Prosecutor General may grant awards to state prosecutors for special achievements or efforts at work and for successfully completed complex projects within their competence and/or implementation of their duties or powers. The Minister of Justice may grant awards to public employees at state prosecutor's offices.

The proposal for the institution of disciplinary proceedings may be filed by the head of the State Prosecutor's Office where the state prosecutor concerned performs their state prosecution service and by the State Prosecutor General. A request for the institution of disciplinary proceedings may be filed by the State Prosecutor General. When the proposal for the imposition of a disciplinary sanction has been filed, the State Prosecutor General may, depending on the nature and seriousness of the alleged disciplinary violation, impose on the state prosecutor the sanction of temporary dismissal from the state prosecution service. The state prosecutor concerned may lodge an appeal with the State Prosecutorial Council against the decision on suspension within fifteen days of receipt of the decision. The appeal does not stay the execution of the decision.

12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:

- **Managing the day-to-day operations and activities of the prosecution service;**
- **Management of case distribution;**
- **Management of financial and material resources of the prosecution service;**
- **Representation of the prosecution service internally and externally, including before foreign services and international organisations.**

The head of State Prosecutors' Offices have administrative and supervisory powers related to the functioning of their state prosecutor's office, i.e. the powers defined by law, and other powers held by the heads of state authorities pursuant to general regulations.

The matters of state prosecution administration within the competence of the head of the State Prosecutor's Office include in particular:

- internal organisation and the organisation of operations of state prosecutors' offices;
- drawing up 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 operations of the State Prosecutor's Office referring to matters of state prosecution administration;
- the issuing and implementation of general instructions;
- dealing with supervisory appeals;
- staff management and implementation of regulations on safety and health at work;
- deciding on the rights, obligations and responsibilities of state prosecutors and state prosecution staff;
- reporting on the work of the State Prosecutor's Office;
- drawing up initiatives and opinions on acts and implementing regulations;
- training and monitoring court case-law and state prosecution case-law;

- entering, recording and statistical monitoring of cases;
- office and technical operations;
- financial, accounting and material operations, and the management of public procurement procedures;
- activities associated with tangible assets held in direct use by the state prosecutor's office;
- concern and measures for the security of persons, documents and assets at the state prosecutor's office; and
- other matters.

Certain listed tasks of state prosecutorial administration may be independently / under the authorisation of the head of a District State Prosecutor's Office performed by directors appointed to one or more district state prosecutors' offices or Director General (for more detailed description see answer to question 1).

All recorded incoming documents are submitted for review to the head of the State Prosecutor's Office or another person authorized to review individual documents, who hands them over to the registrar as soon as possible with an order for further actions.

The head of the State Prosecutor's Office decides on the allocation of the case to an individual prosecutor as the holder of the file in accordance with the annual work schedule. Cases are assigned to state prosecutors by assigning files in which their documentary material is entered and processed. The head of the State Prosecutor's Office may also authorize his deputy or one of the leading departments or other internal organizational units to decide on the allocation of the concerned individual department or internal organizational units.

The Director, Director-General and the accounting department of each state prosecutor's office manage the funds for the work of the prosecutor's office. Budgetary resources for the work of the State Prosecutor's Office are allocated according to the financial plan of the State Prosecutor's Office. The state Prosecutor General decides on the redistribution of funds between state prosecutor's offices. The head of the State Prosecutor's Office is the authorizing officer for the execution of the financial plan. A central accounting and financial service has been established at the Supreme State Prosecutor's Office to coordinate the accounting work of state prosecutors' offices and to coordinate with the ministry responsible for finance.

The State Prosecutor General or another state prosecutor authorized by him may, on his own initiative or at the proposal of the head of the State Prosecutor's Office, make a statement to the public about the work of state prosecutors or the status of an individual case to the extent and in the manner specified in the law governing the State Prosecution Service Act.

At the request of the media, the heads of District State Prosecutor's Offices can independently provide them with information on whether they are handling a particular case and on the status and resolution of the case. Regarding information to the public in matters of special importance, the head of the State Prosecutor's Office must first consult with the State Prosecutor General or another Supreme State Prosecutor, who is authorized to coordinate public information.

The Office of the State Prosecutor General of the Republic of Slovenia is responsible for coordinating the international activities of the Supreme State Prosecutor's Office of the Republic of Slovenia, both in relations with the state prosecutor's offices of other countries and within the framework of international organizations.

13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

The head of the State Prosecutor's Office can be dismissed.

Disciplinary sanctions may be imposed on state prosecutors who violate the state prosecutor's obligations defined by State Prosecution Service Act and the State Prosecutors' Rules, either intentionally or as a result of negligence.

Spain / Espagne

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).

Before addressing the issues outlined in the statement and in order to contextualize the institution, it should be noted that the Public Prosecutor's Office, without prejudice to the functions entrusted to other bodies, has the mission of promoting the action of the judiciary in defense of legality, the rights of citizens and the public interest protected by law. *ex officio* or at the request of the interested parties, as well as to ensure the independence of the Courts and to seek the satisfaction of the social interest before them. The Public Prosecutor's Office is a single body for the entire State and its members are the authority for all purposes, always acting on behalf of the entire institution.

It exercises its functions through its own bodies in accordance with the principles of unity of action and hierarchical dependence and subject, in any case, to those of legality and impartiality.

By virtue of the principle of legality, the Public Prosecutor's Office acts in accordance with the Constitution, the laws and other norms that make up the legal system. In accordance with the principle of impartiality, the Public Prosecutor's Office acts with full objectivity and independence in defence of the interests entrusted to it.

Its ORGANIZATIONAL CHART is as follows:

- Attorney General of the State.
- Attorney General's Office.
- Fiscal Council.
- Board of Court Prosecutors.
- Board of Senior Prosecutors of the Autonomous Communities.
- Prosecutor's Office of the Supreme Court.
- Prosecutor's Office before the Constitutional Court.
- Public Prosecutor's Office of the National High Court.
- Special Prosecutors' Offices, which include the Office of the Prosecutor of the Environment and Urban Planning Chamber
- Public Prosecutor's Office of the Court of Auditors.
- Military Legal Prosecutor's Office.
- Provinces.
- Data Protection Officer.

The Attorney General's Office, headed by the Attorney General, is composed of:

- **The Tax Inspection**

It exercises inspection powers by permanent delegation of the Attorney-General of the State, without prejudice to the ordinary inspection functions of the Senior Prosecutors and the inspection functions of the Chief Prosecutors with respect to the Prosecutors who report to them. It has a Permanent Valuation Section to centralize information on the merit and capacity of prosecutors in order to support the Prosecutorial Council in informing discretionary appointments to the Prosecutor's Office.

- **The Technical Secretariat**

Through its studies, investigations and reports, it is a body of constant support to the Prosecutor General of the State, so that he exercises the highest leadership of the Public Prosecutor's Office, also carrying out the preparatory work for the Board of Chamber Prosecutors. It assists in the planning of the training of prosecutors whose competence is attributed to the Centre for Legal Studies and assumes the functions that the law attributes to the Public Prosecutor's Office in the field of international legal cooperation, within the framework of the foreign policy directives issued by the Government of the nation.

- **The Support Unit**

It carries out representation and institutional relations with the public authorities, as well as communication and citizen service. It is responsible for the analysis and preparation of reports on the organization and functioning of the Public Prosecutor's Office in matters of statistics, information technology, personnel, material resources, information and documentation. In general, it provides support and assistance to the Prosecutor General, the Prosecutors attached to the Prosecutor General's Office, the Prosecutor's Council and the Board of Prosecutors who do not correspond to the Inspectorate or the Technical Secretariat.

- **Specialized Units**

They are responsible for coordinating and supervising the activity of the Public Prosecutor's Office in the following areas:

- International Criminal Cooperation
- Computer Crime
- Alienism
- Environment and Urban Planning
- Minor
- People with Disabilities and the Elderly
- Protection and Guardianship of Victims in Criminal Proceedings
- Road safety
- Occupational Health and Safety
- Violence Against Women

Article 3 of the Statute of the Public Prosecutor's Office defines in sixteen paragraphs the **FUNCTIONS** of the Public Prosecutor's Office, which are, among others, the following:

- Ensure that the judicial function is exercised effectively in accordance with the laws and within the time limits and terms indicated therein, exercising, where appropriate, the pertinent actions, remedies and actions.
- To exercise all the functions assigned to it by law in defense of the independence of judges and courts.
- To ensure respect for constitutional institutions and fundamental rights and public freedoms with all actions required to defend them.
- To bring criminal and civil actions arising from crimes and misdemeanours or to oppose those brought by others, when appropriate.
- To intervene in criminal proceedings, urging the judicial authority to adopt the appropriate precautionary measures and to take steps to clarify the facts, or by directly instructing the proceedings within the scope of the provisions of the Organic Law regulating the criminal responsibility of minors, and may order the Judicial Police to take such steps as it deems appropriate.
- To take part, in defence of legality and the public or social interest, in proceedings relating to civil status and in any other proceedings established by law.
- Ensure the procedural protection of victims and the protection of witnesses and experts, promoting the mechanisms envisaged for them to receive effective help and assistance.
- In the area of criminal responsibility of minors, the functions entrusted to it by specific legislation must be directed towards the satisfaction of the best interests of the child.
- To promote or, where appropriate, provide the international judicial assistance provided for in international laws, treaties and conventions.
 - Prosecution in the criminal justice system.
 - Acting in the Civil Order.
 - Litigation-administrative proceedings.
 - Acting in the social order.
 - Proceedings before the Constitutional Court.
 - Prosecutor's Office of the Supreme Court.

With regard to **BUDGETARY AUTONOMY**, the Attorney General's Office does not have its own budget, which hinders effective decision-making and is a de facto serious limitation of its autonomy.

In Spain, as in other countries such as Germany or Portugal, the Public Prosecutor's Office and the Judiciary are differentiated entities, in which the Judges have greater organizational and functional independence, while **the Prosecutors' Offices depend organically and budgetarily on the Government through the Ministry of Justice**. In the same way, although Judges and Prosecutors pass the same entrance exam, our initial and continuing training depends on the Centre for Legal Studies of the Ministry of Justice, while that of Judges is carried out at the Judicial School, dependent on the General Council of the Judiciary.

In the General State Budget, the budget allocated to the Public Prosecutor's Office has been gradually increased but, in any case, it is far from what would be necessary to

adequately comply with the statutory provision. Within the General State Budget, the items corresponding to the Public Prosecutor's Office are dispersed in various budget programs and the Attorney General's Office has repeatedly conveyed the need to make effective progress in budgetary autonomy as an essential instrument for transparency and accountability to citizens.

With regard to MANAGEMENT and HUMAN RESOURCES, the creation of the FGE Support Unit, which includes staff from the Administration of Justice and the General State Administration, is intended to increase the functional autonomy of the Public Prosecutor's Office. In any case, the provision of human resources, although initially served to begin to develop a new model of action, is now absolutely insufficient, given the degree of development of the Public Prosecutor's Office and the growing need to address new administrative competencies. Consequently, the RPT of the FGE should be revised.

Finally, the Attorney General's Office does not directly manage any contract as an independent contracting authority. Matters affecting the Public Prosecutor's Office are contracted by the Ministry of Justice.

With regard to the PUBLIC PROSECUTOR'S OFFICE OF THE ENVIRONMENT AND URBAN PLANNING CHAMBER, its regulation is provided for in Instruction 4/2007, of 10 April, on the Coordinating Prosecutor for the Environment and Urban Planning and the Environmental Sections of the Public Prosecutor's Offices.

Its creation was provided for in the First Additional Provision of Law 10/2006 of 28 April, amending Law 43/2003, of 21 November, on Forestry and 24/2007, of 9 October, amending Law 50/1981, of 30 December, Regulating the Organic Statute of the Public Prosecutor's Office:

"In the Office of the Attorney-General of the State, there shall be a Prosecutor for offences relating to the planning of the territory and the protection of historical heritage, the environment and forest fires, with the rank of Prosecutor of the Chamber, who shall exercise the following functions:

- a. To carry out the proceedings referred to in Article Five to intervene, directly or through instructions given to the delegates, in those criminal proceedings of special importance assessed by the Attorney General of the State, referring to crimes related to the planning of the territory, the protection of historical heritage, natural resources and the environment, the protection of flora, fauna and domestic animals, and forest fires.*
- b. To exercise public action in any type of procedure, directly or through instructions given to the delegates, when provided for in the different laws and regulations of an environmental nature, demanding the appropriate responsibilities.*
- c. Supervise and coordinate the actions of the specialized environmental sections and collect the appropriate reports, directing the network of environmental prosecutors by delegation of the Attorney General of the State.*
- d. Coordinate the Prosecutors' Offices in environmental matters by unifying the criteria for action, for which purpose it may propose to the Attorney General the issuance of the corresponding instructions and bring together, when appropriate, the Prosecutors who are members of the specialized sections.*

e. Prepare annually and submit to the Attorney General of the State a report on the procedures followed and actions carried out by the Public Prosecutor's Office in environmental matters, which will be incorporated into the annual report presented by the Attorney General of the State.

In order to carry it out properly, it will be assigned a Unit of the Nature Protection Service of the Guardia Civil, as well as, where appropriate, the necessary personnel from the rest of the Security Forces and Corps that have environmental competences, in accordance with Organic Law 2/1986, of 13 March, on Security Forces and Corps. Likewise, the necessary professionals and technical experts may be assigned to assist you on a permanent or occasional basis. The Public Prosecutor's Office may seek the assistance of the forestry or environmental agents of the corresponding public administrations, within the functions that these groups are legally entrusted with."

The ORGANIZATIONAL CHART of the Public Prosecutor's Office of the Environment and Urban Planning Chamber is made up of a Chamber Prosecutor who supervises and coordinates the Environmental Sections at the state level, between the Attorney General of the State and the Chief Prosecutors of the respective Prosecutors' Offices, and modulates the relationship of dependency between the prosecutors assigned to the Environment Section (including the Delegate of the Headquarters) and the respective Chief Prosecutor. 3 Assigned Prosecutors, 3 Officials, and it is also made up of four Attached Units: the SEPRONA Attached Unit of the Civil Guard, the Municipal Police Attached Unit, the Attached Unit of the Forestry Agents Corps and the Technical Unit.

Likewise, at the national level, the staff of Prosecutors in the specialty amounts to 195 prosecutors, of which 51 are Delegates and 144 specialists, a number that includes 14 Liaison Prosecutors and four Coordinating Prosecutors in Castilla y León, Galicia, Catalonia and Extremadura.

2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).

The Public Prosecutor's Office is a body of constitutional relevance and with its own legal personality integrated with functional autonomy in the Judiciary, to which Article 124 of the Spanish Constitution refers in the following terms:

"The Public Prosecutor's Office exercises its functions through its own bodies in accordance with the principles of unity of action and hierarchical dependence and subject, in any case, to those of legality and impartiality."

The basic regulation of the Spanish Public Prosecutor's Office is the Organic Statute of the Public Prosecutor's Office, approved by Law 50/81 of 30 December and amended by Law 24/2007 of 9 October, which reinforces its autonomy and modernises its territorial organisation. The Organic Statute contains the basic regulation of the functions, organization, structure and principles, rules of action, forms of access to and loss of the status of prosecutor, the rights and duties of prosecutors and the disciplinary regime.

As a development of the Organic Statute of the Public Prosecutor's Office, the Regulations of the Public Prosecutor's Office were approved, which are approved by Royal Decree 305/2022, of May 3.

Attached is a link to the consolidated regulatory regulations: <https://www.fiscal.es/documentaci%C3%B3n?q=estatuto+organico+del+ministerio+fiscal&category=100990>

3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service¹ in your country?²

The Attorney-General of the State is the head and representative of the Public Prosecutor's Office. He is appointed and dismissed by the King, on the proposal of the Government, after hearing the General Council of the Judiciary and after an assessment of his suitability by the corresponding Commission of the Congress of Deputies. The three branches of government are therefore involved in their appointment. The choice should fall on Spanish jurists of recognized prestige and with more than fifteen years of effective practice of their profession. It has the character of authority throughout the Spanish territory.

The term of office of the Attorney-General is four years and may be terminated only for reasons specified in the Law, which shall be assessed, where appropriate, by the Council of Ministers. In any case, it ceases with the government that has proposed it.

The Attorney-General acts impartially and independently, without being able to receive instructions or orders from the Government or any other administrative or judicial body. In any case, the Government may ask the Attorney General of the State to take the appropriate action before the Courts in order to defend the public interest. The Attorney-General of the State, after hearing the Board of Prosecutors of the Chamber, shall decide on the viability or admissibility of the action in question. The governing bodies of the Autonomous Communities may address the Public Prosecutor's Office in similar terms through the Chief Public Prosecutor of each Community.

The Attorney-General issues the appropriate orders and instructions to the service, to the internal order of the Institution and to the exercise of prosecutorial functions, which may be of a general nature or refer to specific matters. The general guidelines are essential to maintain the principle of unity of action and are mainly specified through three instruments: Circulars, Instructions and Consultations.

With regard to the Public Prosecutor's Office of the Environment and Urban Planning Chamber and as provided for in Instruction 4/2007 on the Coordinating Prosecutor for the Environment and Urban Planning and the Environmental Sections of the Prosecutor's Offices, the special

¹ It is important to note that by referring to the head of the prosecution service in the present questionnaire, the highest-level official and/or body (please also see below in footnote No. 3) are meant. It is not meant to include the whole hierarchy of officials with some managerial roles within the prosecution service. However, it is also understood that the highest-level official of the prosecution service may have to delegate part of his/her powers under certain conditions and in some cases. If so, such delegation of powers may also be reflected in the responses to the questionnaire.

² If the country's legislative system delegates the management of the prosecution service to a body (i.e. Council of Prosecutors or other prosecutorial self-governance bodies, or a particular section within the service rather than a particular official), the respondent country is invited to share information on its establishment, functioning and terms of reference.

relevance attributed to the position, its connection with the Attorney General of the State, and the urgent need to provide an effective response to the serious conduct that makes up the "*crimes against the environment and urban planning*", justify the legal requirement that the designated Prosecutor belong to the first category of the Public Prosecutor's Career. Thus, the Statute of the Public Prosecutor's Office, following the reform introduced by Law 10/06 of 28 April, provides that "the Prosecutor *General of the State, after hearing the Prosecutorial Council, shall appoint as a delegate, a Prosecutor against offences relating to the planning of the territory and the protection of historical heritage, the environment and forest fires, with the category of Prosecutor of the Chamber*" (Art. 18. quinquies 1.), as indicated above.

The post of Public Prosecutor of the Environment and Urban Planning Chamber is included in article 13 of the Statute: "The Attorney General of the State is assisted in his functions by the Technical Secretariat, the Tax Inspectorate, the Fiscal Council, the Board of Chamber Prosecutors and "the Chamber Prosecutors *that are determined in the staff*". The Prosecutor of the Chamber for the Environment and Urban Planning, as well as the Prosecutor of the Chamber against Violence against Women, the Prosecutor of the Chamber for Occupational Accidents, the Prosecutor of the Chamber coordinating in matters of Road Safety, the Prosecutor of the Chamber coordinating for Foreigners or the Prosecutor of the Chamber for the Support Unit for the Attorney General of the State, they are attached to the Attorney General's Office-Attorney General's Office.

The position of Public Prosecutor of the Environment and Urban Planning Chamber does not imply the exercise of leadership over any "ex novo" fiscal body. The Prosecutor is not at the head of a Special Prosecutor's Office or other organizational structure in which other members of the Public Prosecutor's Office are integrated or incorporated as delegates, as is the case, for example, with the Special Prosecutor's Office for the Suppression of Economic Crimes Related to Corruption or the Special Prosecutor's Office for the Prevention and Suppression of Crimes Related to Drug Trafficking. The Coordinating Chamber Prosecutor for the Environment and Urban Planning has essentially supervisory and coordinating powers, although he also has certain operational powers to intervene directly or through instructions given to delegates, before the Courts of Justice in environmental and urban planning proceedings without the need to resort to the designation procedure provided for in Article 26 of the Statute. so that in his specialized role he intervenes with his own individual responsibility, different from that which he assumes when he joins as a member of the Board of Chamber Prosecutors, a collegiate body of the Public Prosecutor's Office.

This implies, in addition to the classic territorial organization, a functional structuring that streamlines the mechanisms of unity of action with the instruments of direction and coordination of the Attorney General of the State, in addition to providing increasingly specialized training and coordination in the operation of the Prosecutors in charge of specific tasks, even when they belong to different Prosecutors' Offices. This results in an institutional strengthening of the Attorney General's Office as a management centre, with the principles of specialization and vertical coordination as the cornerstones of the organisational change of the Public Prosecutor's Office.

The model places in the hands of the Chamber Prosecutor the responsibility of heading, directing and coordinating the Network of Prosecutors specializing in the environment and urban planning and the Environmental Sections of the territorial Prosecutors' Offices that the law mandates to be constituted according to a homogeneous and pre-

established model that -of course- will take into account the differences in size. Availability of staff and volume of activity.

The figure of the Public Prosecutor for the Environment and Urban Planning, who will coordinate all the actions of the Public Prosecutor's Office in this area, is presented as a valuable synthesis that is nourished by the most usable aspects of the Special Prosecutor's Office model and the advantages of the traditional scheme of organization and operation of the Public Prosecutor's Office. It is necessary, however, to make a significant structural and organisational adjustment, and to articulate the figure of the Chief Prosecutor Delegate and the specialised sections as the axis of institutional reinforcement and modernisation, so as to make it possible to overcome the generalist and horizontal structure of the territorial Prosecutors' Offices.

The Coordinating Prosecutor for the Environment and Urban Planning intervenes by legal imperative (Art. 18 quinquies EOMF) as a delegate of the Attorney General of the State. This is not foreign to the Public Prosecutor's Office. Instruction 1/1987 FGE on "Rules for the internal functioning of the Public Prosecutor's Office" explains that the members of the Public Prosecutor's Office are representatives of the Institution, without prejudice to the fact that this representation is conditioned by the delegation of their respective Head, a delegation that must be related to the latter's powers for the distribution of work. or to give general or particular instructions. Likewise, the aforementioned Instruction 11/05 "*on the principle of effective instrumentalization of the principle of unity of action established in article 124 of the E.C.*" elaborates extensively on the mechanism of action of the delegated Chamber Prosecutors.

As a result of his legal function of supervising and coordinating the Environmental Sections at the state level, the Public Prosecutor for the Environment and Urban Planning is situated between the Attorney-General of the State and the Chief Prosecutors of the respective Prosecutors' Offices, and modulates the relationship of dependency between the prosecutors attached to the Environmental Section (including the Delegate of the Headquarters) and the respective Chief Prosecutor.

Its FUNCTIONS are:

(a) "To carry out the proceedings referred to in article 5 of the Organic Statute of the Public Prosecutor's Office, and to intervene directly or through instructions given to the delegates, in criminal proceedings of special importance assessed by the Attorney-General of the State, relating to offences relating to the planning of the territory and the protection of the historical heritage, natural resources and the environment, the protection of flora, fauna and domestic animals, and forest fires."

b) "To exercise public action in any type of procedure, directly or through instructions given to the delegates, when such action is provided for in the different laws and regulations of an environmental nature, demanding the appropriate responsibilities"

(c) "To supervise and coordinate the activities of the environmental sections and to obtain the appropriate reports, directing the Network of Environmental Prosecutors by delegation of the Attorney-General of the State".

(d) "To coordinate the criteria for action of the various Public Prosecutor's Offices in matters of the environment and urban planning, for which purpose it may propose to the Attorney-General of the State the issuance of the corresponding instructions".

(e) "To prepare annually, and submit to the Attorney-General of the State, a report on the procedures followed and actions carried out by the Public Prosecutor's Office in the field of the environment and urban planning, which shall be incorporated into the annual report submitted by the Attorney-General of the State".

The following are also the duties of the Public Prosecutor of the Environment and Urban Planning Chamber, who assists the Attorney General of the State in the exercise of his functions on the matter of his specialty (Art. 13 Statute), in addition to those specified in this Instruction by reason of the supervisory function:

- Prepare an Annual Report on the activity carried out by the Public Prosecutor's Office in the institutional fight against crimes against the environment and Urban Planning.

- Formulate proposals and legal studies aimed at improving the organizational system of the Environmental Sections that it deems appropriate.

- To intervene in inter-institutional mechanisms for cooperation in the fight against environmental crime in its broadest expression.

- Intervene in community and international bodies and entities that have competence in environmental matters, especially in those cases in which criminal aspects or issues related to the protection of the environment are outlined.

- Participate in the adoption of Protocols and Coordination Agreements with the other bodies involved in the eradication and prevention of crimes against the environment and urban planning, and, where appropriate, know, inform and be informed of those established at the regional or provincial level.

- Maintain the necessary institutional contacts with judicial, police and administrative bodies, bar associations and solicitors, and other groups or entities involved or affected in order to maintain effective cooperation in the legal response to crime against the environment.

- Propose and intervene in the coordination of permanent training courses for prosecutors on the environment and urban planning, participating in the determination of the criteria for the training of specialist prosecutors.

- To participate in the decisions of the Boards of Prosecutors of the Supreme Court that affect the subject matter of their specialization.

- Promote meetings of the Delegates in the Environmental Sections of all or part of the Prosecutors' Offices of the national territory, and of those of the Prosecutors' Offices of the same Autonomous Community, to learn about and debate the problems posed by the ecological matter and to unify criteria, with the knowledge of the Attorney General of the State and the respective Chief Prosecutors.

- To preside, where appropriate, the Boards of Chief Prosecutors that may be convened as hierarchical superior by the Chief Prosecutor of the High Court of Justice to establish positions or maintain unity of criteria on matters of the environment and urban planning (Art.24 pº 5º Statute) in which the Delegates of the respective Environmental Sections will participate. The summons will be brought to the attention of the Public Prosecutor of the Environment and Urban Planning Chamber in advance for the purposes of possible presence. In any case, the minutes with the conclusions reached will be forwarded to you.

- Receiving, answering and following up on those writings on matters within its competence that are sent to the Attorney General of the State by citizens, associations and institutions.

- Cooperate with the European Judicial Network, Iber-RED and Eurojust and other structures aimed at improving international judicial cooperation, in all those aspects that arise in the environment and in which any participation or specialized information in the matter is required. Specifically, on 30 September 2005, the Framework Decision of 12 July 2005 (2005/667/JHA) was published in the Official Journal of the European Union, aimed at strengthening the criminal framework for the suppression of pollution from ships. The framework decision was drawn up following the sinking of the oil tanker *Prestige* and in the context of the directive of 7 September 2005 (2005/35/EEC) on pollution from ships and the introduction of penalties for infringements. Article 9 of the Framework Decision refers to the designation of contact points for the exchange of information referred to in Article 8. Given that the law has an eminently criminal perspective, the Public Prosecutor of the Environment and Urban Planning Chamber would be in the best position to assume this responsibility as a point of contact.

4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:

The Attorney-General of the State is the head of the Public Prosecutor's Office and directs the Attorney-General's Office, and is responsible for issuing the orders and instructions appropriate to the service, the internal order of the Institution and the exercise of prosecutorial functions, which may be of a general nature or related to specific matters. The general guidelines are essential to maintain the principle of unity of action and are fundamentally specified through three instruments that make up the doctrine of the Attorney General's Office:

- **Circulars:** contain general criteria for action and interpretation of rules. They also set guidelines for defining the structure and functioning of the organs of the Public Prosecutor's Office.
- **Instructions:** contain general provisions on action and organization in matters that are more specific and of lesser importance than the Circulars.
- **Consultations:** these resolve the dubious questions that any Prosecutor's Office may raise with the Attorney General on the interpretation of a rule.

- Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?

Prosecutors act in accordance with the principles of impartiality and legality, principles that are not marred by the principle of hierarchical dependence, which is intended to ensure unity of action always in favour of citizens and the rule of law. Any orders or instructions issued must be based on legal and not other criteria and are binding.

- Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)

Mechanisms and legal channels are provided to be able to disagree with an order or instruction that you consider to be contrary to the law or that, for any other reason, is considered inadmissible. This possibility is expressly regulated in article 27 of the Organic Statute of the Public Prosecutor's Office. This article allows, in case of discrepancy with the order of the superior, to bring it to his attention by means of a reasoned report. If the superior wishes to persist with such an order, the issue must be raised and debated in the Board of Prosecutors (made up of all the staff of a Prosecutor's Office) and once it is manifested, the person who issued the order ratifies or modifies it. In addition, the precept expressly states: *"If the superior confirms his instructions, he shall do so in written reasoned with the express release of the responsibilities that may arise from their compliance, or he shall entrust another prosecutor with the dispatch of the matter to which it refers."*

5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).

The Public Prosecutor's Office is an independent institution integrated into the Judicial Branch, it has functional autonomy.

The Ministry of Justice, whose head is the Chief Notary of the Kingdom, is the department of the General Administration of the State to which corresponds, within the scope of the powers conferred upon it by the current legal provisions, the proposal and execution of the Government's policy. for the development of the legal system, especially in matters of criminal, civil, commercial and procedural law; the organization and support policy of the Administration of Justice, as well as cooperation with the autonomous communities in coordination with the other departments competent in the matter; international legal cooperation; the rights of grace and titles of nobility and greatness of Spain and the legal assistance of the State.

Likewise, the head of the Ministry of Justice is responsible for relations with the Spanish Data Protection Agency and with the General Councils of the Legal Profession, the Attorney General's Office and the Social Graduate Colleges of Spain.

The Secretary of State for Justice is the highest body of the department responsible, under the superior authority of the Minister, for coordination and collaboration with the administration of the autonomous communities at the service of justice; the organization, planning, support and cooperation with the Administration of Justice and

the Prosecutor's Office; international legal cooperation and relations with international organizations and the European Union within the scope of the powers of the Ministry of Justice; the promotion of Human Rights within the scope of the Ministry's powers, those related to the location, recovery, administration and realization of effects, goods, instruments and profits from criminal activities and the direction, promotion and management of ministerial powers related to civil status and nationality, notarial public faith, registration rights and the Civil Registry.

Without prejudice to the powers of the head of the Ministry, it is the responsibility of the head of the Secretary of State to participate in the relations of the Ministry with the governing bodies of the General Council of the Judiciary, the Public Prosecutor's Office, those competent in matters of justice of the autonomous communities and the General Councils of the Legal Profession and the Attorney General's Office of the Courts, the relations of the Ministry with the Ombudsman, as well as the relations with the General Council of Notaries and the College of Property Registrars and Commercial Companies of Spain.

Likewise, the Secretary of State for Justice is responsible for the promotion and initiative for the preparation of regulatory projects on the matters within its jurisdiction and those others commissioned by the head of the department, without prejudice to the powers corresponding to the Undersecretariat and the Technical General Secretariat.

The State Attorney General's Office does not have its own budget, so no information can be provided in this regard. It only manages a so-called "fixed fund" dependent on the Ministry of Justice, through which an item is administered to meet current expenses for goods and services of the State Attorney General's Office itself.

6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?

The Office of the Attorney-General's "zero paper" project is proving to be extremely complex because of a computer system that could be greatly improved, especially since it also handles various computer applications that are not interconnected. The implementation of the digital file, aimed at achieving a technologically advanced administration of justice, is an objective that unfortunately has not yet been achieved.

7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?

In Spain – as in other neighbouring countries – a deep reflection is opening up on the characteristics of our Public Prosecutor's Office and the need for its reform, although we are still far from reaching a consensus among the different political forces on how it should be addressed.

The idea that the Public Prosecutor's Office should conduct criminal proceedings has important implications for the functioning of prosecutors' offices, especially in terms of organization and resources.

In short, and in order to advance in the development of the Institution, it is essential to have its own budget and therefore an increase in human and material resources, highlighting in the latter a fast, efficient and interconnected technology.

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:

Access to the public prosecutor's career is carried out in accordance with the principles of merit and ability, by means of a public competition, and it is normally necessary to pass a subsequent period of training and/or to carry out internships in the prosecutor's offices. Once the access procedure has been passed, all systems guarantee the stability of the prosecutor in his or her employment, as a civil servant.

The Attorney-General is appointed and dismissed by the King, on the proposal of the Government, after consultation with the General Council of the Judiciary and after an assessment of his suitability by the corresponding Committee of the Congress of Deputies. The three branches of government are therefore involved in their appointment.

The categories of the prosecutorial career will be as follows:

1. Prosecutors of the Chamber of the Supreme Court, equivalent to Judges of the High Court. The Deputy Prosecutor of the Supreme Court shall have the status of President of the Chamber.

2nd Fiscals, equivalent to Magistrates.

3. Lawyers-Prosecutors, equivalent to Judges.

It will be necessary to belong to the first category to serve the following destinations:

(a) Deputy Public Prosecutor of the Supreme Court, who must also have three years' seniority in that category.

b) Fiscal Jefe Inspector.

(c) Chief Prosecutor of the Technical Secretariat.

(d) Chief Prosecutor of the Support Unit.

(e) Chief Prosecutor of the National High Court.

(f) Chief Prosecutor of the Special Prosecutor's Offices.

(g) Chief Prosecutor of the Public Prosecutor's Office before the Constitutional Court.

(h) Chief Prosecutor of the Court of Auditors.

i) Prosecutor of the Chamber of the Supreme Court.

(j) Prosecutor of the Prosecutor's Office of the Prosecutor's Office.

(k) Such other posts of Chamber Prosecutors as may be determined in the establishment plan in accordance with the provisions of these Regulations.

The Senior Prosecutors of the Autonomous Communities and the Chief Prosecutors of the Provincial Prosecutors' Offices shall have the same status as the Presidents of the High Courts of Justice and the Presidents of the Provincial Courts, respectively.

Finally, it will be necessary to belong to the second category to serve the remaining positions in the Prosecutor's Offices of the Supreme Court, before the Constitutional Court, the Prosecutor's Office of the National High Court, Special Prosecutors' Offices, the Court of Auditors, the Tax Inspectorate, the Support Unit and the Technical Secretariat. Membership in the second category will also be required to serve as Chief Prosecutor and Deputy Prosecutor.

- Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?

The posts corresponding to the first category, those of Prosecutors of the Supreme Court, those of Senior Prosecutors of Autonomous Communities and those of Chief Prosecutors shall be provided by the Government, on the proposal of the Prosecutor General of the State, in accordance with the provisions of article 13 of this Statute. In the same way, the Deputy Prosecutors of the Public Prosecutor's Offices of the Autonomous Communities and the Prosecutors who make up the staff of all those bodies whose head belongs to the first category will be appointed. When the Statutes of Autonomy provide for the existence of the Council of Justice of the Autonomous Community, it must be heard prior to the appointment of the Chief Public Prosecutor of the Autonomous Community.

Once the report of the Council of Justice of the Autonomous Community has been received, the proposed candidate will be communicated to the respective Autonomous Legislative Assembly, so that it can arrange for the appearance of the proposed person before the corresponding Committee of the Chamber, in the terms provided for in its regulations, for the purpose of assessing the merits and suitability of the proposed candidate.

For the posts of Prosecutor of the Supreme Court, Senior Prosecutor of the Autonomous Communities, Prosecutor before the Constitutional Court, Prosecutor of the Court of Auditors and Tax Inspector, it will be necessary to have at least 15 years of service in the career and already belong to the second category.

For the positions of Public Prosecutor of the National High Court and Chief Prosecutor of the Provincial Prosecutor's Office, it will be necessary to have at least ten years of service in the career and already belong to the second category. The same length of service shall be required of the Prosecutors of the Special Prosecutor's Offices and the Deputy Prosecutor of the Technical Secretariat.

For the positions of Prosecutors attached to the Chamber Prosecutors integrated in the Attorney General's Office, it will be necessary to have at least ten years of service in the career, belong to the second category and have a minimum creditable specialization in the subject to which they are assigned.

To be appointed to the post of Chief Area Prosecutor, it will be necessary to belong to the second category.

Two. The Deputy Prosecutor Inspector and the Prosecutors of the Tax Inspectorate shall be appointed for a maximum period of 10 years. Once they cease to hold their posts, they will be assigned, at their choice, to the Public Prosecutor's Office to which they were assigned before occupying the post of Inspectorate or to the Prosecutor's Office of the Autonomous or Provincial Community of Madrid, until they occupy a position in their own right.

Three. The Chief Prosecutor, the Deputy Prosecutor and the Prosecutors of the Technical Secretariat, the Prosecutors of the Support Unit and the Prosecutors attached to the Chamber Prosecutors integrated into the Office of the Prosecutor General of the State shall be appointed and relieved directly by the Prosecutor General of the State, and shall cease to be with him, although they shall continue to exercise their functions until they are relieved or confirmed in their positions by the new Prosecutor General. The appointments referred to in this paragraph, as well as, where appropriate, the corresponding promotion to the first category of the candidate for Chief Prosecutor of the Technical Secretariat, shall be communicated by the Attorney General to the Fiscal Council before submitting the corresponding proposal to the Government, without the provisions of article thirteen and the first paragraph of this article being applicable.

Once relieved or dismissed, the Deputy Public Prosecutor of the Technical Secretariat and the Prosecutors referred to in the preceding paragraph shall be incorporated as secondees, at their choice and until they obtain a permanent position, to the Public Prosecutor's Office of the Autonomous Community or Provincial of Madrid or to the Prosecutor's Office to which they were assigned before occupying a position in the Technical Secretariat. in the Support Unit or before being assigned to the Chamber Prosecutors integrated into the Attorney General's Office.

Four. The Chief Prosecutors of the Sections of the Public Prosecutor's Offices in which they exist shall be appointed and, where appropriate, relieved by a resolution issued by the Prosecutor General of the State, on the reasoned proposal of the respective Chief Prosecutor.

The organizational staff shall determine the maximum number of senior prosecutors that may be appointed in each Prosecutor's Office, taking into account their organizational needs. In order to fill these posts, it will be necessary, prior to the proposal of the corresponding Chief Prosecutor, to make a call among the Prosecutors of the staff. The

proposal shall be accompanied by a list of the rest of the Prosecutors who have applied for the post with the contribution of the alleged merits.

Five. The other tax assignments will be filled by means of a competition among civil servants in the category, taking into account the highest position in the hierarchy. To apply for a new assignment, it will be necessary to remain at least two years in the previous one, provided that the former has been accessed at one's own request, except in the first assignment for those Prosecutors after their entry into the public prosecutor's career once the selection process has been passed, in which case the period will be one year.

Destinations that remain unfilled will be filled by prosecutors who are promoted to the necessary category.

- Which body is responsible for the appointment/election of the head of the prosecution service?

(See previous issue)

- What is the procedure for the appointment/election of the head of the prosecution service?

(See previous issue)

9. What are the terms of office of the head of the prosecution service?

The term of office of the Attorney General of the State shall be four years. Before the end of that term of office, he may cease to be a member only for the following reasons:

- (a) at his own request;
- b) for incurring in any of the incompatibilities or prohibitions established in this Law,
- (c) in the event of incapacity or illness which disqualifies him or her from office,
- (d) serious or repeated failure to perform their duties;
- (e) when the Government that proposed it ceases to exist.

The term of office of the Attorney General may not be renewed, except in cases where the incumbent has held the office for a period of less than two years.

The Deputy Prosecutor of the Supreme Court, the Prosecutors of Chamber A and the other Chief Prosecutors belonging to the first category shall be appointed for a term of five years, after which they shall cease to hold office, unless they are reappointed to that office for successive periods of the same duration. On the expiry of the legal period, if they are not confirmed or appointed to another headship, they shall be assigned to the Office of the Prosecutor of the Supreme Court or to any of the Prosecutor's Offices whose Chief belongs to the first category, retaining in any case their category.

10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:

In Spain, the competence to impose penalties varies according to their severity. The most serious sanctions, such as the sanction of suspension from office, are the responsibility of the Attorney General of the State, while the sanction of dismissal from service is the responsibility of the Minister of Justice, on the proposal of the Attorney General of the State, following a favourable report from the Prosecutor's Council. Decisions of the Chief Public Prosecutor may be appealed to the Prosecutor's Council and decisions of the Attorney-General may be appealed to the Minister of Justice. All decisions of these bodies are subject to judicial review.

- What are the grounds for such removal?

The status of Prosecutor is lost on any of the following grounds:

- (a) Waiver.
- b) Loss of Spanish nationality.
- (c) Disciplinary sanction of dismissal from service.
- (d) Principal or accessory penalty of disqualification from holding public office.
- e) Have incurred in any of the causes of disability.

Two. Active integration into the Public Prosecutor's Office also ceases by virtue of compulsory or voluntary retirement, which will be agreed by the Government in the same cases and under the same conditions as those indicated in the Organic Law on the Judiciary for Judges and Magistrates.

The exercise of tax charges is incompatible:

1. With that of judge or magistrate and with the offices of all kinds in the courts and tribunals of any jurisdictional order.
2. With that of any other jurisdiction, as well as participation in arbitration activities or bodies.
3. With any popularly elected or political designation of the State, Autonomous Communities, Provinces and other local entities and bodies dependent on any of them.
4. With the jobs or positions endowed or remunerated by the State Administration, the Cortes Generales, the Royal Household, Autonomous Communities, provinces, municipalities, and any entities, bodies or companies dependent on one or the other.

5. With any remunerated employment, position or profession, except for teaching or legal research, as well as literary, artistic, scientific and technical production and creation, duly notified to their hierarchical superior, and the publications derived from it, in accordance with the provisions of the legislation on incompatibilities of personnel in the service of the Public Administrations.

6. With the practice of law, except when it concerns the personal affairs of the Public Prosecutor, his spouse or person to whom he is permanently linked by a similar relationship of affection, of the children subject to his parental authority or of the persons subject to his guardianship, with the exercise of the Office of the Public Prosecutor, as well as all types of legal advice, whether paid or not.

The incompatibility with the practice of law shall in any case extend to the conducting, directly or through an intermediary, of those cases in which the Public Prosecutor has intervened as such, even if he has subsequently been placed on leave of absence. In this case, the disciplinary liability regime provided for in the General Statute of the Legal Profession will be applicable to those who practice the profession of lawyer while being involved in cases of incompatibility.

7. With the direct exercise or through an intermediary of any commercial activity. Exceptions are made for the processing and sale of products obtained from one's own property, operations that may be carried out, but without having an establishment open to the public.

8. With the functions of director, manager, administrator, counselor, general partner or any other that involves direct, administrative or economic intervention in public or private companies or companies of any kind.

Members of the Public Prosecutor's Office may not belong to political parties or trade unions or have employment in the service of them, address congratulations or censures to public authorities and officials or official corporations for their acts, or attend any public events or meetings in an official capacity or attributes where this is not appropriate in the exercise of their functions. Likewise, they may not take part in legislative, regional or local elections other than to cast their personal vote.

Faults can be MINOR, SERIOUS and VERY SERIOUS.

Minor offences may only be punished by a warning or a fine of up to three hundred euros or both; serious offences, with a fine of three hundred euros to three thousand euros, and very serious offences, with suspension, forced transfer or separation.

In the imposition of any sanction, the principles of graduation and proportionality in the sanctioning response shall be observed, which shall be aggravated or mitigated in relation to the circumstances of the act and the alleged offender.

Penalties imposed for very serious offences shall be time-barred after two years; those imposed for serious offences, after one year, and for minor offences, within the period provided for in the Penal Code for the statute of limitations for misdemeanours. These limitation periods shall begin to run from the day following the day on which the decision imposing the penalties becomes final.

The penalties that may be imposed on prosecutors for misconduct committed in the exercise of their duties are:

(a) Warning.

b) A fine of up to three thousand euros.

(c) Forced transfer to a Public Prosecutor's Office with a seat at least one hundred kilometres away from the one to which he or she was assigned.

(d) Suspension of up to three years.

(e) Separation.

- Which body can decide on such removal?

The following shall be competent for the imposition of penalties:

1. To impose the warning, the respective Chief Prosecutor.

2. To impose up to the suspension, the Attorney General of the State.

3. In order to impose the dismissal from service, the Minister of Justice, on the proposal of the Attorney General of the State, after receiving a favourable report from the Fiscal Council.

The decisions of the Chief Prosecutor may be appealed to the Prosecutorial Council.

The decisions of the Attorney-General of the State may be appealed to the Minister of Justice.

Decisions of the Fiscal Council and the Minister of Justice that exhaust administrative remedies shall be subject to contentious-administrative appeal before the corresponding Chamber of the National High Court.

- What is the procedure for such removal?

The rehabilitation of prosecutors who have been disciplined shall be governed, as far as applicable, by the provisions of the Organic Law on the Judiciary for Judges and Magistrates.

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in

recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?

The Attorney General's Office, headed by the Attorney General, is headed by the Attorney General, who is the head and representative of the Public Prosecutor's Office. He is appointed and dismissed by the King, on the proposal of the Government, after hearing the General Council of the Judiciary and after an assessment of his suitability by the corresponding Commission of the Congress of Deputies. The three branches of government are therefore involved in their appointment. The choice should fall on Spanish jurists of recognized prestige and with more than fifteen years of effective practice of their profession. It has the character of authority throughout the Spanish territory.

It is made up of:

- **The Tax Inspection**

It exercises inspection powers by permanent delegation of the Attorney-General of the State, without prejudice to the ordinary inspection functions of the Senior Prosecutors and the inspection functions of the Chief Prosecutors with respect to the Prosecutors who report to them. It has a Permanent Valuation Section to centralize information on the merit and capacity of prosecutors in order to support the Prosecutorial Council in informing discretionary appointments to the Prosecutor's Office.

- **The Technical Secretariat**

Through its studies, investigations and reports, it is a body of constant support to the Prosecutor General of the State, so that he exercises the highest leadership of the Public Prosecutor's Office, also carrying out the preparatory work for the Board of Chamber Prosecutors. It assists in the planning of the training of prosecutors whose competence is attributed to the Centre for Legal Studies and assumes the functions that the law attributes to the Public Prosecutor's Office in the field of international legal cooperation, within the framework of the foreign policy directives issued by the Government of the nation.

- **The Support Unit**

It carries out representation and institutional relations with the public authorities, as well as communication and citizen service. It is responsible for the analysis and preparation of reports on the organization and functioning of the Public Prosecutor's Office in matters of statistics, information technology, personnel, material resources, information and documentation. In general, it provides support and assistance to the Prosecutor General, the Prosecutors attached to the Prosecutor General's Office, the Prosecutor's Council and the Board of Prosecutors who do not correspond to the Inspectorate or the Technical Secretariat.

- **Specialized Units**

They are responsible for coordinating and supervising the activity of the Public Prosecutor's Office in the following areas:

- **International Criminal Cooperation**
- **Computer Crime**
- **Alienism**
- **Environment and Urban Planning**
- **Minor**
- **People with Disabilities and the Elderly**
- **Protection and Guardianship of Victims in Criminal Proceedings**
- **Road safety**
- **Occupational Health and Safety**
- **Violence Against Women**

12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:

- Managing the day-to-day operations and activities of the prosecution service;
- Management of case distribution;

(Answered above)

- Management of financial and material resources of the prosecution service;
- Representation of the prosecution service internally and externally, including before foreign services and international organisations.

13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

(Answered above)

Sweden / Suède

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. *Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).*

Please see below.

2. *At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, bylaws or other regulations).*

The administration of the prosecution service is regulated through legislation, by laws and regulations issued by the Prosecutor-General.

3. *What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service in your country?*

The Prosecutor General is Chief Prosecutor under the Government and, in this capacity, is responsible for, and the head of, the public prosecutor service. The Prosecutor General is assisted by the Deputy Prosecutor General.

The Prosecutor General and the Deputy Prosecutor General are appointed by the Government (the Swedish Code of Judicial Procedure Chapter 7, Articles 2-3).

The Prosecutor General is also Sweden's highest-ranking prosecutor and the only public prosecutor who is authorised to take a case to the Supreme Court.

4. *Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:*

- *Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?*

No, they are not mandatory.

The Prosecutor General does not have the mandate, according to the Swedish legislation, to give binding instructions to a prosecutor in a specific case. However, a decision made by a prosecutor at one judicial level can be reviewed by a prosecutor at a higher judicial level. Please see question 12.

The Prosecutor General is authorised to adopt binding rules and guidelines which the prosecutors generally are obliged to follow.

- *Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)*

The decisions of the Prosecutor General in criminal matters cannot be appealed or reviewed due to the fact that the Prosecutor General is the highest prosecutor in Sweden.

However, the Prosecutor General's handlings and decisions in criminal matters can be subject to supervision by the Chancellor of Justice (JK) or the Parliamentary Ombudsman (JO). This can lead to criticism and/or liability for damages. The Chancellor of Justice or the Parliamentary Ombudsman do not have the mandate to change the Prosecutor General's decision.

Other decisions, (i.e., decisions that do not relate to individual cases) for example decisions in employment matters can be appealed to an administrative court.

5. *If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).*

The Minister of Justice does not have any role in the administration of the prosecution service in Sweden.

The Swedish Government has no powers to intervene in a public authority's decisions in specific matters relating to the application of the law or the exercise of its authority. In Sweden this is prohibited by the Instrument of Government, one of the four fundamental laws of the Swedish Constitution.

However, the Government can take general orientation decisions regarding e.g., prioritization of criminal phenomena, Furthermore the Government can, through the regulation letter, oblige the authority to report the outcome for certain types of crimes.

6. *Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?*

The Swedish Prosecution Authority's administration process is digitalised with some minor exceptions.

For example, functions like the financial processes, registration, HR management, salary-, recruitment-, learning management-system, purchasing, procurement and statistics are digitalised.

7. *What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?*

There is always a need to develop new electronic means/IT-tools and modernise the existing systems to empowers the users with flexible and effective IT-tools. At the same time, it is of utmost importance to keep the information in the systems fully secure, which places high demands on information technology and information security.

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:

- Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?

There are no formal requirements. However, the Prosecutor General has normally a background as senior / chief judge.

- Which body is responsible for the appointment/election of the head of the prosecution service?

The Swedish Government.

- What is the procedure for the appointment/election of the head of the prosecution service?

The Prosecutor General is appointed by the government after a non-public process.

9. What are the terms of office of the head of the prosecution service?

The Prosecutor General is employed by a letter of appointment until the regulated retirement age.

10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:

- What are the grounds for such removal?

The Prosecutor General and the Deputy Prosecutor General can be dismissed by the Government.

There are three main reasons why a Prosecutor General may be dismissed from his/her position:

Age: The Prosecutor General must retire at a certain age, as specified by law.

Performance: The Prosecutor General may be dismissed if he/she is not performing his/her duties satisfactorily. This could be due to illness or other reasons.

Misconduct: The Prosecutor General may be dismissed if he/she have seriously violated his/her obligations to his/her employer (the Government).

- Which body can decide on such removal?

The Swedish Government Disciplinary Board for Higher Officials (SAN) is the authority responsible for dismissing the Prosecutor General from his/her position. The Board consists of

five members. The chairperson and the vice-chairperson must be lawyers with experience as judges.

The Government Disciplinary Board for Higher Officials (SAN) is an independent body and tries cases of disciplinary responsibility, prosecution, dismissal, suspension and medical examination with coercion regarding state officials in senior positions, including Public Prosecutors.

The purpose of an examination outside the authority where the employee works and has a higher position is that it cannot be suspected that colleagues are taking unauthorized considerations into account during the examination.

The authority where the employee is employed has a mandate but also an obligation to report cases to the Government Disciplinary Board for Higher Officials.

- *What is the procedure for such removal?*

See above.

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?

The Prosecutor General decides on employment of all Senior Public Prosecutors, Deputy Chief Public Prosecutors and Chief Public Prosecutors. The Prosecutor General decides after a transparent process including a recommendation from The Advisory Board regarding employment issues/matters.

The Prosecutor General's decision can be appealed to the State board of appeal. The board can change the decision or refer the case back to the Prosecution Authority for a new process.

The Advisory Board regarding employment issues/matters

There is an advisory board within the Swedish Prosecution Authority and the Swedish Economic Crime Authority with the task to give advice on the appointment of positions as Senior Public Prosecutor, Deputy Chief Prosecutor and Chief Public Prosecutor. (The Regulation with Instructions for the Swedish Prosecution Authority Articles 19-20 (2015:743))

The board consists of a chairman and a maximum of nine other members. The chairman and at least four other members must be present for advice to be given. When matters of a principled nature or otherwise of greater importance are dealt with, all members should be present.

The chairman and other members of the board and their replacements are appointed by the government for a maximum period of three years.

The board shall consist of staff representatives from the Swedish Prosecution Authority and other representatives of the authority and representatives from the Swedish Economic Crime Authority, the Swedish Police Authority and the Swedish National Courts Administration.

12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:

- *Managing the day-to-day operations and activities of the prosecution service;*

The Prosecutor General is the head of the Swedish Prosecution Authority and is responsible for its overall management. This includes:

- Making decisions on matters related to the governance and control of the Authority.
- Making decisions on certain employments within the Authority. Please see question 11.
- Approving the Authority's annual activity plan.
- Having overall responsibility for the working environment and equal treatment issues at the Authority.
- Responding on behalf of the Authority to requests for comments (i.e., public inquiries) from among others the Government Offices.
- Participating in meetings with other heads of authorities and with the principal (the Ministry of Justice).

Different judicial levels

The Prosecutor General/Deputy Prosecutor General forms the third judicial level within the prosecution service, and the Prosecutor General is the country's highest prosecutor under the Government.

There are three judicial levels at the Swedish Prosecution Authority. This means that a decision made by a prosecutor at one judicial level can be reviewed by a prosecutor at a higher judicial level.

- Public Prosecutors (incl. Chief Public Prosecutors)
- Director of Public Prosecution
- The Prosecutor General

Public Prosecutors and Chief Public Prosecutors work at the first judicial level. As a Public Prosecutor and the chief public prosecutor to whom they report are at the same judicial level, the chief cannot intervene in a decision made by the public prosecutor.

The Prosecutor General reviews decisions made at the second judicial level and exercising other legal supervision over that level. This includes, where necessary, criticizing the handling of individual prosecutors and making statements to the Parliamentary Ombudsman and the Chancellor of Justice on matters of supervision of prosecutors' handling.

Besides that, the Prosecutor General

- Ensure the legality, consistency, and uniformity of the prosecution service's application of the law.
- Have the overall responsibility for the legal governance and supervision of the prosecution service.
- Issues regulations, general advice, and other guidelines to support and guide the legal work of the Authority.

Furthermore, the Prosecutor General

- is the only public prosecutor who can represent the state in the Supreme Court and he/she is responsible for cases of retrial.
- chairs the Personnel Responsibility Board, which decides on matters of dismissal, disciplinary responsibility, etc. and
- initiate preliminary investigations and bring charges against, among others, judges when they can be suspected of crimes in office.

- *Management of financial and material resources of the prosecution service;*

The Swedish Prosecution Authority yearly provides the Ministry of Justice with background budget material, specifying the budget needs for the next year. The work with analyses and estimates of the complete budget proposal is led by the Ministry of Finance, that receives background material from all ministries. The budget proposal is finally submitted by the Government to the Parliament for decision. The Prosecutor General decides on how to divide the budget between different units within the Prosecution Authority.

- *Management of case distribution;*

None except handle cases in Supreme Court.

- *Representation of the prosecution service internally and externally, including before -foreign services and international organisations.*

The Prosecutor General represent the prosecution service internally and externally, including before foreign services and international organisations. This duty can, when necessary, be delegated to other officials at the authority.

13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

The decisions of the Prosecutor General in criminal matters cannot be appealed or reviewed due to the fact that the Prosecutor General is the highest prosecutor in Sweden. Other decisions of the Prosecutor General can be appealed to an administrative court. However, the Prosecutor General's handlings and decisions in criminal matters can be subject to supervision by the Chancellor of Justice (JK) or the Parliamentary Ombudsman (JO). This can lead to criticism and/or liability for damages.

The Prosecutor General does not have criminal immunity. Reports of crimes by the Prosecutor General are investigated by the Chancellor of Justice or the Parliamentary Ombudsman.

The Swedish Prosecution Authority has a whistleblowing function. This allows anyone working within the Authority to report irregularities that are in the public interest. This could include, for example, irregularities that the Prosecutor General is involved in or responsible for. The Prosecutor General has no insight into the whistleblowing function. Whistle-blowers have the right to be anonymous and must not be subject to reprisals.

Please see question 10 regarding the dismissal of the Prosecutor General and the Swedish Government Disciplinary Board.

Switzerland / Suisse

I. ASPECTS GÉNÉRAUX LIÉS À L'ADMINISTRATION DU MINISTÈRE PUBLIC

1. Veuillez décrire brièvement l'administration du fonctionnement courant du ministère public de votre pays (notamment, la gestion des ressources financières, matérielles et humaines du ministère public).

Une bonne partie des réponses qui suivent est tirée du rapport d'évaluation de la Suisse par le GRECO, Quatrième cycle d'évaluation, dans laquelle le Ministère public de la Confédération a fait l'objet d'un examen détaillé. Même si la procédure pénale suisse a été unifiée en 2011 (précédemment, il y avait 29 Codes de procédure pénale différents), il est impossible de décrire tous les systèmes cantonaux dans un tel questionnaire. A l'image de ce qui a été fait par le GRECO, les réponses seront focalisées sur l'organisation du Ministère public de la Confédération (MPC). Sous réserve de menus changements indiqués en couleur verte dans les extraits reproduits dans les réponses qui suivent, les développements figurant dans le rapport du GRECO sont encore actuels.

Cf. Extrait du rapport du GRECO, ch. 191 à 194 p. 47 (Cf. Annexe 1).

Le Ministère public de la Confédération (ci-après MPC) est une autorité de poursuite pénale indépendante qui n'est pas rattachée à un tribunal (art. 16 du Code de procédure pénale (CPP) et art. 1 et 2 al. 1 let. b LOAP⁶⁶). Alors que jusqu'en 2011, les procureurs fédéraux étaient élus par le Conseil fédéral, le mécanisme d'élection a été modifié avec l'entrée en vigueur du CPP unifié le 1er janvier 2011 et tout lien avec l'exécutif a été supprimé. Cette modification visait à garantir une indépendance totale de l'institution. De plus, une autorité de surveillance spécifique au MPC a été instaurée.

Dans le cadre du procès pénal, le MPC est, tout comme les tribunaux, indépendant dans l'application du droit et n'est soumis qu'aux règles du droit (art. 4 al. 1 du CPP). Partant, il est absolument exclu que les autorités politiques puissent s'immiscer dans l'activité concrètement exercée par le Ministère public en matière de poursuites pénales⁶⁷.

Le MPC s'administre lui-même, constitue ses services, engage le personnel nécessaire et tient sa propre comptabilité. Il emploie à l'heure actuelle 282 employés sur quatre sites, y compris 46 procureurs, dont 22 sont des femmes. Le procureur général soumet chaque année son budget, qui est d'environ 75,8 millions de francs (environ 79 millions d'euros), ses comptes ainsi qu'un rapport d'activité à son autorité de surveillance, à l'intention de l'Assemblée fédérale. C'est au Département fédéral des finances (DFF) qu'il incombe de mettre à disposition du MPC les bâtiments dont il a besoin, de les gérer et de les entretenir. Les modalités de collaboration entre le MPC et le DFF reposent sur les mêmes bases que celles qui ont été prévues pour le Tribunal fédéral. Par contre, il appartient au MPC de couvrir de manière autonome ses besoins en biens et prestations dans le domaine de la logistique (art. 16 à 18 LOAP).

Le [procureur général de la Confédération](#) dirige le MPC. Son rôle consiste, avec l'aide de ses deux suppléants et des autres membres de la direction, notamment à assurer le professionnalisme et l'efficacité de la poursuite pénale dans les affaires qui relèvent de la compétence fédérale, à mettre en place une organisation rationnelle et à en assurer le fonctionnement et à veiller à une affectation efficace des ressources humaines, des moyens financiers et de l'infrastructure (art. 9 LOAP). [L'organisation du MPC](#) a été réformée le 1^{er} février 2016, dans un but de simplification et de gain en efficacité.

Extrait rapport du GRECO ch. 199, p. 49

Le MPC est une autorité qui jouit d'une très large indépendance, mais fait néanmoins l'objet d'une [surveillance](#) sous trois angles d'approche différents. D'une part, la haute surveillance du MPC, comme celle des tribunaux de la Confédération, est assurée par l'Assemblée fédérale. D'autre part, le Parlement a désigné une autorité de surveillance spécifique au MPC. Enfin, les tribunaux peuvent être saisis par les parties à la procédure de recours contre les ordonnances du MPC ou d'éventuels dénis de justice.

2. A quel niveau législatif l'administration du ministère public est-elle réglementée ? (par exemple, par la constitution, la législation, les règlements ou d'autres réglementations).

L'administration du MPC est réglée par l'art. 4 du Code de procédure pénale suisse. Elle est en outre réglée par la Loi fédérale sur l'organisation des autorités pénales de la Confédération (LOAP, aux articles 7 à 31). Les rapports de travail et le traitement du procureur général et de ses deux suppléants est réglé dans une ordonnance de l'Assemblée fédérale. Enfin, compte tenu de l'indépendance qui est offerte au MPC, c'est lui-même qui adopte son règlement d'activité et d'organisation et qui le fait publier dans le recueil des lois et règlements fédéral.

Code de procédure pénale suisse art. 4 :

[RS 312.0 - Code de procédure pénale suisse du 5 ... | Fedlex \(admin.ch\)](#)

Loi sur l'organisation des autorités pénales de la Confédération (LOAP), art. 7 à 31 :

[RS 173.71 - Loi fédérale du 19 mars 2010 sur l'o... | Fedlex \(admin.ch\)](#)

Ordonnance de l'Assemblée fédérale concernant les rapports de travail et le traitement du procureur général de la Confédération et des procureurs généraux suppléants :

[RS 173.712.23 - Ordonnance de l'Assemblée fédéra... | Fedlex \(admin.ch\)](#)

Règlement sur l'organisation et l'administration du Ministère public de la Confédération

[RS 173.712.22 - Règlement du 26 février 2021 sur... | Fedlex \(admin.ch\)](#)

Loi sur la responsabilité de la Confédération, des membres de ses autorités et de ses fonctionnaires

[RS 170.32 - Loi fédérale du 14 mars 1958 sur la ... | Fedlex \(admin.ch\)](#)

3. Quel fonctionnaire (c'est-à-dire le procureur général, le procureur en chef, le chef de service ou un autre fonctionnaire du ministère public ou non, par exemple le ministre de la justice) dirige le ministère public¹ dans votre pays² ?

Le MPC est dirigé par le Procureur général de la Confédération et par ses deux suppléants. Il n'est pas rattaché au Département fédéral de Justice et Police et il n'est pas placé sous la tutelle d'un Ministre.

4. Veuillez décrire brièvement la valeur juridique des décisions/ordres/instructions émis par le chef du ministère public, en vous basant sur les questions suivantes :

- Ses décisions/ordres sont-ils obligatoires pour les procureurs et leur personnel ?
Cf. chiffre 198, p. 48 du rapport du GRECO :

Le procureur général, ses deux suppléants et les procureurs en chef sont seuls habilités à donner des instructions relatives à l'ouverture, au déroulement ou à la clôture de la procédure, au soutien de l'accusation ou à l'exploitation des voies de recours (art. 13 LOAP et 17 ROA-MPC⁶⁸). Le procureur général dispose en outre de la faculté d'édicter des directives plus spécifiques nécessaires à l'administration et à la conduite des procédures (art. 13 LOAP et 17 ROA-MPC). Par principe, le procureur général communique par écrit ses directives opérationnelles dans des cas individuels (instructions de procédure, changements de main). Dans les cas d'urgence et lorsqu'un consentement peut être trouvé avec le procureur concerné, le procureur général lui communique ses directives opérationnelles par oral. Des directives ou instructions organisationnelles ou personnelles, qui ne touchent pas aux activités opérationnelles du MPC, sont rendues sans exception par écrit.

- Peuvent-ils être contestés ? Dans l'affirmative, veuillez décrire brièvement la procédure de contestation (par qui et devant quel(s) organisme(s) ?)

Les décisions administratives prises conformément à la Loi sur le personnel et qui touchent un collaborateur peuvent être contestées par un recours devant le Tribunal administratif fédéral.

Compte tenu de l'indépendance dont jouit le Ministère public de la Confédération, les décisions qui toucheraient la conduite de la procédure (instructions du Procureur général) ne peuvent quant à elles pas être contestées. Elles sont généralement prises au niveau en-dessous du Procureur général (par des procureurs en chef ou des procureurs généraux suppléants) afin de permettre aux procureurs de saisir le Procureur général d'une contestation. C'est lui qui aura le dernier mot.

¹ Il est important de noter qu'en se référant au chef du ministère public dans le présent questionnaire, il s'agit du fonctionnaire et/ou de l'organe de plus haut niveau (voir également la note de bas de page n° 3 ci-dessous). Il ne s'agit pas d'inclure l'ensemble de la hiérarchie des fonctionnaires exerçant certains rôles de direction au sein du ministère public. Toutefois, il est également entendu que le plus haut fonctionnaire du ministère public peut être amené à déléguer une partie de ses pouvoirs dans certaines conditions et dans certains cas. Si tel est le cas, cette délégation de pouvoirs peut également se refléter dans les réponses au questionnaire.

² Si le système législatif du pays délègue la gestion du ministère public à un organe (c'est-à-dire le Conseil des procureurs ou d'autres organes de l'autonomie de gestion des procureurs, ou une section particulière au sein du ministère public plutôt qu'un fonctionnaire particulier), le pays répondant est invité à partager des informations sur sa création, son fonctionnement et son mandat.

5. Si, en particulier, le ministre de la justice joue un rôle dans l'administration du ministère public dans votre pays, veuillez le décrire brièvement (par exemple, le pouvoir du ministre de la justice de superviser le ministère public, de donner des instructions contraignantes, de demander des informations du ministère public ou d'autres pouvoirs).

Comme indiqué, le Ministre de la Justice ne joue strictement aucun rôle dans l'administration du Ministère public de la Confédération qui est indépendant.

6. Des moyens modernes, y compris électroniques, sont-ils utilisés dans le cadre de l'administration du ministère public ? Le processus d'administration est-il numérisé dans une certaine mesure ? Dans l'affirmative, pour remplir quelles fonctions spécifiques ? Si ce n'est pas le cas, est-il prévu d'introduire de tels moyens à l'avenir et pour quelles fonctions ?

Le Ministère public de la Confédération est sur le point de finaliser sa mutation digitale. L'ensemble des procédures est digitalisé. Le MPC dispose d'un budget important pour poursuivre sa mue informatique. Il a récemment décidé d'acquérir un logiciel de transcription pour les auditions qui pourront être enregistrées et filmées, sur la base d'une modification du Code de procédure pénale entrée en vigueur au 1^{er} janvier 2024. D'autres outils, notamment des outils qui comprendront des aspects d'intelligence artificielle sont en cours d'évaluation. Dans le cadre d'un projet commun à toutes les administrations de justice suisses (civile, pénale et administrative) et des autorités de poursuite pénale, la communication des décisions et la consultation des dossiers sera unifiée pour toutes ces autorités et devrait entrer en vigueur à partir de 2026 (programme Justitia.Swiss : [Justitia 4.0 – Pour une justice numérique sûre \(justitia40.ch\)](https://www.justitia40.ch)).

Au sein du MPC, des outils informatiques spécifiques sont donc prévus pour soutenir les procédures pénales et sont en particulier destinés aux procureurs, procureurs assistants, experts ou analystes financiers ainsi qu'aux greffiers. D'autres outils profitent à tous les collaborateurs du MPC.

7. Quels sont, à votre avis, les défis et/ou problèmes présumés, le cas échéant, dans le cadre de l'administration du ministère public, y compris en ce qui concerne l'utilisation des moyens modernes susmentionnés, notamment électroniques ?

Les défis les plus importants portent sur l'unification de tous les outils pour toute la chaîne de la poursuite pénale. La police devrait disposer des mêmes outils que les ministères publics, qui eux-mêmes devraient utiliser les mêmes outils que les tribunaux, à toutes les instances. Cela n'est pas toujours aisé à réaliser dans une confédération d'états. Au Ministère public de la Confédération, un programme du nom de Joining Force a été développé dans cette perspective.

Un autre défi consiste à s'entourer des bonnes personnes pour conduire les projets informatiques. Les procureurs ne sont pas formés en priorité pour la conduite des projets de ce type et ils ne disposent pas toujours du temps pour le faire. Les spécificités posées par la loi sur les marchés publics doivent aussi être maîtrisées et respectées.

Compte tenu de l'aspect délicat des données traitées par le MPC, il doit s'assurer que les providers informatiques avec lesquels il travaille s'entourent de précautions suffisantes

pour garantir la meilleure sécurité possible dans le traitement des données et le respect des principes posés par la Loi sur la protection des données.

II. LA NOMINATION/L'ÉLECTION, LA DURÉE DU MANDAT ET LA RÉVOCATION DU CHEF DU MINISTÈRE PUBLIC

8. Veuillez décrire brièvement la procédure de nomination/élection du chef du ministère public dans votre pays, sur la base des questions suivantes :

- Existe-t-il des qualifications formelles et/ou des critères d'éligibilité exigés des candidats au poste du chef du ministère public ?

Cf. rapport du GRECO, chiffre 204, p. 49

L'Assemblée fédérale (chambres réunies) élit le procureur général de la Confédération et les deux procureurs généraux suppléants pour une période administrative de quatre ans, sur proposition de la Commission judiciaire (dont la composition est mentionnée au paragraphe 91). Ils peuvent être réélus jusqu'à avoir atteint l'âge ordinaire de la retraite (fin de l'année civile pendant laquelle le procureur atteint l'âge de 68 ans).

Rapport GRECO chiffres 207 à 209, p. 50 :

Concernant la procédure d'élection, la Commission judiciaire met au concours public les postes vacants. Après avoir sélectionné les candidats et en avoir entendu un certain nombre, elle émet une recommandation d'élection à l'intention des groupes parlementaires ; elle prend sa décision définitive concernant les propositions à faire à l'Assemblée fédérale après avoir pris connaissance des avis des groupes parlementaires.

Les dossiers de candidature doivent comprendre un curriculum vitae, une copie des diplômes et certificats de travail, les coordonnées de personnes de référence (dont au moins deux références professionnelles), une liste des publications, un extrait du registre des poursuites et du casier judiciaire ainsi qu'une photo format passeport. La Commission judiciaire prend contact avec les personnes de référence des candidats qu'elle invite pour une audition.

S'agissant des critères de sélection, la loi exige que les candidats aient la nationalité suisse. Dans la pratique, des critères professionnels (formation juridique, expérience professionnelle, compétences de management et de négociation) et des critères personnels (méthodes de travail, extrait du registre des poursuites pour dettes et du casier judiciaire) ainsi que des critères linguistiques entrent également en ligne de compte. Pour ce qui a trait au Ministère public de la Confédération, les critères politiques ne jouent aucun rôle pour le choix des candidats⁷⁰.

- Quel est l'organe responsable de la nomination/élection du chef du ministère public?

Cf. réponse ci-dessus.

- Quelle est la procédure de nomination/élection du chef du ministère public ?

Rapport du GRECO, chiffre 205, p. 49 et 50.

La Commission judiciaire de l'Assemblée fédérale est compétente pour préparer les réélections. Elle demande aux personnes concernées si elles se représentent pour une nouvelle période administrative et demande aux Commissions de gestion (commissions de surveillance) et à la Délégation des finances si elles ont fait des constatations qui mettent sérieusement en cause l'aptitude professionnelle de ces personnes. A la fin de chaque période administrative, l'Assemblée fédérale (chambres réunies) procède à la réélection du procureur général et de ses deux suppléants pour la nouvelle période administrative, sur proposition de la Commission judiciaire.

9. Quelle est la durée du mandat du chef du ministère public ?

4 ans, et reconduction possible sans limitation du nombre de mandats, jusqu'à l'âge de la retraite (la fin de l'année durant laquelle il atteint ses 68 ans).

10. Le cas échéant, veuillez décrire brièvement la procédure de révocation avant terme (avant l'expiration du mandat) du chef du ministère public, sur la base des questions suivantes :

Rapport du GRECO, ch. 206, p. 50 :

- Quels sont les motifs d'une telle révocation ?
- Quel est l'organe habilité à décider d'une telle révocation ?
- Quelle est la procédure à suivre pour cette révocation ?

Non renouvellement :

La proposition de ne pas réélire le procureur général ou ses suppléants est de la compétence des deux commissions judiciaires des chambres fédérales selon la même procédure que pour une révocation. La procédure et les conditions de révocation ou de non-renouvellement de la direction du MPC sont les mêmes que celles qui s'appliquent aux juges de la Confédération. Concernant les conséquences financières d'un non-renouvellement ou d'une révocation, une indemnité se montant jusqu'à un an de salaire peut être accordée par l'autorité de surveillance. L'indemnité est notamment exclue lorsque la non-réélection ou la révocation est motivée par une violation grave des devoirs de fonction (art. 14a OProcureurs⁶⁹).

Révocation

Le Procureur général et ses suppléants peuvent être révoqués s'ils ont commis une violation grave de leurs devoirs de fonction de manière intentionnelle ou en raison d'une négligence grave (art. 21 let. a. LOAP). Il appartient à l'Autorité de surveillance du MPC de proposer à l'Assemblée fédérale la destitution du Procureur général ou de l'un de ses suppléants. Celle-ci peut aussi lui donner un avertissement ou lui infliger un blâme. Les

décisions de l'Autorité de surveillance peuvent faire l'objet d'un recours devant le Tribunal administratif fédéral (art. 31 LOAP).

III. LES FONCTIONS ET LES TÂCHES DU CHEF DU MINISTÈRE PUBLIC

11. Quel est le rôle du chef du ministère public dans le recrutement/la sélection des procureurs et du personnel du ministère public et dans la gestion de leur carrière (par exemple, l'évaluation professionnelle, l'attribution de distinctions honorifiques ou de décorations en reconnaissance de réalisations professionnelles, les promotions, les affectations, la procédure disciplinaire, d'autres questions relatives aux ressources humaines) ? Ses décisions relatives à ces questions et à d'autres peuvent-elles faire l'objet d'un recours par le procureur concerné et, dans l'affirmative, devant quelle instance et selon quelle procédure ?

Rapport du GRECO, ch. 211 à 220, p. 51 à 53

Les procureurs fédéraux sont nommés par le procureur général pour une période renouvelable de quatre ans, qui débute le 1er janvier suivant le début de la période de législature du Conseil national (art. 20 al. 3 LOAP). Il n'y a aucune limitation de la durée d'activité, les procureurs fédéraux ont la possibilité d'être confirmés dans leurs fonctions jusqu'à l'âge de la retraite (65 ans). Ils sont tacitement reconduits dans leurs fonctions à moins que le procureur général ne rende une décision de non renouvellement, au plus tard six mois avant l'échéance de leur période d'activité (art. 22 al. 2 LOAP en lien avec l'art. 14 al. 2 let. c de la LPers⁷²). Un renouvellement n'exige donc pas une décision formelle. Conformément à la pratique mise en place par le MPC, les procureurs renouvelés dans leurs fonctions reçoivent une confirmation écrite. Un non-renouvellement peut être décidé lorsqu'il existe des motifs objectivement suffisants, comme par exemple en cas de violation grave d'obligations légales ou contractuelles, de manquements dans les prestations ou dans le comportement, d'aptitudes, de capacités ou de volonté insuffisantes pour effectuer le travail convenu dans le contrat (une liste non-exhaustive de motifs est prévue à l'art. 10 al. 3 LPers). Le procureur général revêt la qualité d'employeur des procureurs fédéraux selon le droit du personnel de la Confédération (art. 3 al. 1 let. f LPers). En cette qualité, c'est également lui qui est compétent en matière de promotion et de transfert des procureurs nommés.

Les postes de procureurs vacants font généralement l'objet d'une mise au concours publique (art. 7 LPers). Des exceptions à ce principe sont possibles, par exemple lorsqu'un poste est pourvu à l'interne (art. 22 al. 2 de l'OPers⁷³). Les exigences pour les postes de procureurs sont décrites de manière transparente dans la mise au concours. La procédure de sélection est la même pour un recrutement initial ou une promotion, les collaborateurs du MPC pouvant postuler pour les postes vacants au même titre que des candidats extérieurs.

Le procureur général, le procureur en chef dirigeant une division et le service du personnel participent au processus de sélection des procureurs fédéraux, notamment lors d'entretiens permettant de mesurer l'aptitude des candidats à exercer la fonction. Les critères de sélection comprennent : expérience et capacités professionnelles, formations et diplômes, formations continues effectuées, prestations (qualitative et quantitative), compétences sociales et de direction, aptitude et compétence des candidats à exercer la nouvelle fonction et connaissances linguistiques. Les candidats

sont aussi soumis à un « *assessment* ». Il s'agit de l'établissement d'un profil psychologique, conduit par des psychologues appartenant à une entreprise externe et spécialisée, qui a pour but de déterminer si les candidats sont aptes à exercer la fonction. Les résultats des *assessments* sont pris en considération dans la procédure de nomination et sont dans tous les cas communiqués au candidat. Enfin, pour les candidats internes, les connaissances recueillies lors du *controlling* permanent des procédures, qui est exercé par les deux procureurs généraux suppléants et les procureurs en chef, ainsi que les résultats de l'entretien personnel d'évaluation qui a lieu une fois par an, sont pris en compte (art. 15 OPers).

Les candidats à un poste comportant une fonction dirigeante au MPC sont soumis à un *assessment* spécial de conduite. Celui-ci est conduit par une entreprise externe et aide le procureur général à déterminer si les candidats disposent des capacités de conduite suffisantes.

De manière à vérifier son intégrité, un candidat à un poste de procureur est soumis à un contrôle personnel de sécurité élargi, qui comprend une audition (art. 12 al. 1 OCSP⁷⁴). Celle-ci est menée par le service spécialisé chargé de la sécurité au Département fédéral de la défense, de la protection de la population et des sports (Service spécialisé CSP DDPS). Le Service spécialisé CSP DDPS recueille les données à partir des sources suivantes (art. 20 LMSI⁷⁵):

- les registres des organes de sûreté et de poursuite pénale de la Confédération et des cantons ainsi que du casier judiciaire ;
- les registres des offices cantonaux de poursuites et faillites, ainsi que des contrôles de l'habitant ;
- des enquêtes sur les personnes soumises au contrôle effectuées par les polices cantonales compétentes sur mandat des autorités de contrôle ;
- en demandant aux organes de poursuite pénale compétents des renseignements relatifs à des procédures pénales en cours, closes ou classées ainsi que les dossiers judiciaires et d'instruction concernant ces procédures ;
- par le biais de l'audition de la personne concernée et, si la personne concernée y a consenti, par l'audition de tiers.

Le contrôle consiste à recueillir des données pertinentes pour la sécurité touchant au mode de vie de la personne concernée, notamment ce qui a trait à ses liaisons personnelles étroites et à ses relations familiales, à sa situation financière, à ses rapports avec l'étranger ou d'autres activités qui pourraient présenter un risque pour l'autorité de nomination. Doit notamment être déterminé s'il existe des liens de dépendance négatifs ou s'il existe des risques qui pourraient exposer la personne à un problème de corruption. Le contrôle de sécurité est répété tous les cinq ans et concerne tous les collaborateurs du MPC, sauf le procureur général et ses suppléants. Ces derniers peuvent également demander le contrôle spécifique d'un collaborateur.

Les procureurs sont soumis à une évaluation annuelle effectuée par les procureurs en chef, sur la base de critères écrits. Les questions de conduite des procédures, de célérité et de comportement (qui peuvent également être l'objet du *controlling*), sont discutées à ces occasions. Les personnes évaluées peuvent faire des observations et/ou contester le contenu de leur évaluation auprès du procureur général.

C'est également le procureur général – après consultation du procureur en chef et des

membres de la direction et après avoir discuté avec le procureur concerné – qui décide d'un transfert de lieu de travail ou d'unité opérationnelle, en vertu de sa responsabilité de mettre en place une organisation rationnelle, d'en assurer le bon fonctionnement et de veiller à une affectation efficace des ressources humaines, des moyens financiers et de l'infrastructure (art. 9 al. 2 LOAP).

Au même titre que pour le non renouvellement de fonctions, le procureur général, en sa qualité d'autorité de nomination, dispose de la faculté d'ordonner une révocation. Il peut ainsi révoquer un procureur fédéral avant la fin de sa période de fonction si ce dernier a commis une violation grave de ses devoirs de fonction de manière intentionnelle ou par négligence grave ou s'il n'est durablement plus capable d'exercer sa fonction (art. 21 LOAP).

En cas de litiges liés aux rapports de travail et dans l'hypothèse où aucun accord n'intervient, le procureur général rend une décision (art. 34 al. 1 LPers). Une telle décision de l'employeur peut être attaquée devant le Tribunal administratif fédéral (art. 36 al. 1 LPers).

12. Veuillez décrire brièvement les fonctions et les tâches du chef du ministère public dans votre pays dans les domaines suivants :

- Gestion des opérations et des activités quotidiennes du ministère public ;

Le Procureur général et ses deux suppléants ne conduisent pas eux-mêmes des procédures, même si la loi ne l'exclut pas. Ils assument les responsabilités suivantes :

Conformément à la loi fédérale sur l'organisation des autorités pénales de la Confédération (LOAP)

Art. 9 Procureur général

¹ Le procureur général de la Confédération (procureur général) dirige le Ministère public de la Confédération.

² Il a notamment la responsabilité:

a. d'assurer le professionnalisme et l'efficacité de la poursuite pénale dans les affaires qui relèvent de la juridiction fédérale;

b. de mettre en place une organisation rationnelle et d'en assurer le fonctionnement;

c. de veiller à une affectation efficace des ressources humaines, des moyens financiers et de l'infrastructure.

³ Le procureur général édicte un règlement sur l'organisation et l'administration du Ministère public de la Confédération.

Art. 10 Procureurs généraux suppléants

¹ Le procureur général a deux substituts (procureurs généraux suppléants).

² Les procureurs généraux suppléants jouissent des mêmes compétences que le procureur général lorsqu'ils le remplacent.

Selon le Règlement sur l'organisation et l'administration du Ministère public de la Confédération, les procureurs généraux suppléants remplissent les fonctions suivantes :

Art. 3 Procureur général de la Confédération

¹ Le procureur général de la Confédération (procureur général) dirige le MPC des points de vue technique et organisationnel et en matière de personnel dans le cadre des dispositions légales. Il représente le MPC.

² Il institue les organes permanents suivants:

- a. l'État-major opérationnel du procureur général;
- b. l'État-major de gestion des ressources;
- c. le Comité de sécurité.

³ Il peut confier aux procureurs généraux suppléants, aux chefs de division, aux procureurs fédéraux responsables d'un domaine d'infractions ou aux procureurs fédéraux le soin de traiter certaines affaires de manière autonome.

Art. 4 Procureurs généraux suppléants

¹ Les procureurs généraux suppléants assument notamment les tâches suivantes, en fonction de leur attribution par le procureur général:

- a. assister le procureur général dans la direction du MPC;
- b. effectuer le contrôle opérationnel des procédures menées par le MPC aux fins d'assurer le professionnalisme et l'efficacité de la poursuite pénale dans les affaires qui relèvent de la juridiction fédérale;
- c. diriger l'État-major opérationnel du procureur général et l'État-major de gestion des ressources sur mandat du procureur général;
- d. diriger des procédures sur mandat du procureur général et en assurer le suivi.

² Pour accomplir leurs tâches, les procureurs généraux suppléants ont le droit de donner des instructions conformément à l'art. 13, al. 1, let. a, et 2, LOAP.

³ Ils peuvent accomplir toutes les tâches du ministère public prévues par le code de procédure pénale (CPP)².

⁴ Lorsqu'ils le remplacent (art. 10, al. 2, LOAP), le procureur général suppléant qui occupe la fonction depuis le plus grand nombre d'années a la préséance (principe d'ancienneté), même si les décisions doivent être prises dans la mesure du possible par consensus.

- Gestion de la répartition des affaires ;

Rapport du GRECO, ch. 231, p. 54

Attribution des affaires

Les principes régissant l'attribution des affaires sont notamment contenus à l'art. 12 du ROA-MPC. En substance, le procureur général reçoit les nouvelles affaires et les attribue aux unités organisationnelles pour qu'elles les traitent. Toutes les données relatives aux affaires sont enregistrées dans la base de données du MPC. Le procureur général dispose de deux unités spécialisées pour l'assister dans l'attribution des affaires pour garantir une meilleure efficacité. Premièrement, et en cas de doute sur la compétence (fédérale) du MPC, l'état-major opérationnel du procureur général (OAB) tranche la question ; en cas de conflit entre le MPC et les autorités judiciaires cantonales, c'est le Tribunal pénal fédéral qui statue (art. 28 CPP).

- Gestion des ressources financières et matérielles du ministère public ;

Cf. art. 9 al. 2 let. c LOAP ci-dessus (début de la réponse à la question 12)

- Représentation du ministère public en interne et en externe, y compris devant les ministères publics étrangers et les organisations internationales.

L'art. 3 al. 1 du Règlement sur l'organisation et l'administration du Ministère public de la Confédération C'est au Procureur général qu'il incombe de représenter l'institution à l'interne ou à l'externe, c'ad devant le Parlement, devant les cantons ou devant les médias. C'est aussi le Procureur général qui représente l'institution au niveau international. Il lui est loisible de déléguer certaines tâches de représentation à ses deux suppléants ou à des procureurs spécifiques. Par contre, le Procureur général ne participe pas aux rencontres de coordination nationales ou internationales concernant une ou des procédures spécifiques. Ce sont les procureurs en charge des procédures qui y participent.

13. Veuillez décrire brièvement s'il existe des mécanismes de responsabilité envisagés dans votre pays pour le chef du ministère public.

Le Procureur général et ses suppléant répondent de leurs actes sur la base de trois types de responsabilité.

Responsabilité disciplinaire :

Comme cela a été indiqué sous la question 10, le Procureur général et ses suppléants peuvent être révoqués s'ils ont commis une violation grave de leurs devoirs de fonction de manière intentionnelle ou en raison d'une négligence grave (art. 21 let. a LOAP). Il appartient à l'Autorité de surveillance du MPC de proposer à l'Assemblée fédérale la destitution du Procureur général ou de l'un de ses suppléants. Celle-ci peut aussi lui donner un avertissement au Procureur général ou à l'un de ses suppléants ou leur infliger un blâme. Les décisions de l'Autorité de surveillance peuvent faire l'objet d'un recours devant le Tribunal administratif fédéral (art. 31 LOAP).

Responsabilité pénale :

Du fait de leur élection par l'Assemblée fédérale, le Procureur général et ses deux suppléants bénéficient d'une immunité relative. Celle-ci peut en effet être levée sur la base d'une décision des Commissions judiciaires de chaque chambre du Parlement (art. 14 al. 1 de Loi sur la responsabilité de la Confédération, des membres de ses autorités et de ses fonctionnaires). Dans la mesure où l'immunité est levée, le Procureur général ou le procureur général suppléant concerné peuvent être poursuivis pénalement.

Responsabilité découlant d'un dommage :

La Confédération peut être actionnée en responsabilité pour un fait de son Procureur général ou de l'un de ses deux suppléants, comme pour le fait de tout autre employé du Ministère public de la Confédération (art. 3ss de la Loi sur la responsabilité de la Confédération, des membres de ses autorités et de ses fonctionnaires). Lorsque la Confédération a réparé le dommage, l'art. 7 de dite loi prévoit la possibilité d'une action récursoire contre le fonctionnaire qui a provoqué le dommage en raison d'une négligence grave, ceci même après la résiliation des rapports de travail. Le Procureur général et ses suppléants sont également soumis à la Loi sur la responsabilité et à ses conséquences.

Türkiye

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).

According to our legislation, in localities where there is a court establishment, the Offices of Chief Public Prosecution are established with the name of this locality. A Chief Public Prosecutor and enough number of public prosecutors are assigned in these offices. The Chief Public Prosecutor is responsible for the routine management of prosecution services. Within this framework, human resources, material and financial management affairs are conducted under the supervision and control of the Chief Public Prosecutor by the administrative, financial and technical affairs directorates established within the Office of Chief Public Prosecution in accordance with law within the framework of central budget and the budget allocated by the Ministry of Justice.

2. At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).

The tenure of public prosecutor is secured at the constitutional level and the administration of prosecution services is a matter regulated by law.

3. What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service¹ in your country?²

There is not a country chief public prosecution system in Türkiye. With this aspect, the Chief Public Prosecutor is the head of prosecution services in settlements where there is an office of Chief Public Prosecution (like provinces, cities etc.). The Council of Judges and Prosecutors is responsible and authorised for the personnel affairs (appointment, promotion, leave etc.) of Chief Public Prosecutors.

4. Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:

- Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?

¹ It is important to note that by referring to the head of the prosecution service in the present questionnaire, the highest-level official and/or body (please also see below in footnote No. 3) are meant. It is not meant to include the whole hierarchy of officials with some managerial roles within the prosecution service. However, it is also understood that the highest-level official of the prosecution service may have to delegate part of his/her powers under certain conditions and in some cases. If so, such delegation of powers may also be reflected in the responses to the questionnaire.

² If the country's legislative system delegates the management of the prosecution service to a body (i.e. Council of Prosecutors or other prosecutorial self-governance bodies, or a particular section within the service rather than a particular official), the respondent country is invited to share information on its establishment, functioning and terms of reference.

The decisions taken and the duties and the instructions given by the Chief Public Prosecutors, as the head of the prosecution services, within the scope of the administrative duties they carry out within the geographical borders they work, are binding on related public prosecutors and prosecutorial staff and must be complied with.

- ✓ Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which body or bodies?)

There is not an administrative objection mechanism against the duties given by Chief Public Prosecutors. However, the decisions taken by the Chief Public Prosecutors within the scope of their judicial duty, for example the decision of non-prosecution, can be challenged by the disputing parties before criminal courts of peace.

5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).

The Minister of Justice has the authority to inspect non-judicial administrative affairs of prosecution services through justice inspectors from the profession of judge and prosecutor working in the Ministry of Justice. In this context, the matters such as the management of courthouses, the renovation and furnishing needs, and the supervisions of tenders to be made by the Offices of Chief Public Prosecution are within the scope of administrative affairs. The Minister of Justice can also send circulars on non-judicial administrative matters in order to ensure better provision of prosecution services. Information can be obtained from relevant Offices of Chief Public Prosecution as a basis for press releases to be made to inform public.

6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?

In our country, National Judiciary Informatics System (UYAP) is used for administration of prosecution services. Amelioration works are continuously carried out according to the conditions of service and time.

7. What are, in your opinion, the presumed challenges and/or problems, if any, in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?

As UYAP is a web-based online system, the problems occurring in the use of this modern digital tool can be solved in a short time without disrupting the justice service.

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:

- ✓ Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?

In order to be appointed as Chief Public Prosecutor, objective criteria are required such as having a certain seniority and experience in the profession, positive past promotions and inspection reports and demonstration of success by the related person.

- Which body is responsible for the appointment/election of the head of the prosecution service?

The Council of Judges and Prosecutors is authorised and responsible for the appointment of Chief Public Prosecutors.

- What is the procedure for the appointment/election of the head of the prosecution service?

Every year, the Council of Judges and Prosecutors prepares a schedule within the scope of decree works. According to this schedule, the needs determined by the Secretariat General and the demands received are also taken into consideration. The First Chamber of CJP, composed of 6 members, appoints the candidate who is the most successful among the candidates who have above-mentioned qualifications required to be the Chief Public Prosecutor and who came to the fore with his/her success as the Chief Public Prosecutor.

9. What are the terms of office of the head of the prosecution service?

Although Chief Public Prosecutors do not have a fixed term office determined by law, their term of office is annually evaluated by the Council of Judges and Prosecutors according to the leading decisions prepared at the beginning of each year taking into consideration the needs required by prosecution services.

10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:

- What are the grounds for such removal?

It is possible for the First Chamber of the Council of Judges and Prosecutors to take such a decision taking into account the personnel and needs, the size or characteristics of provinces and districts or the request or excuse of the respective person.

- Which body can decide on such removal?

The First Chamber of the Council of Judges and Prosecutors is authorised to dismiss the relevant Chief Public Prosecutor before the expiry of term of office on the grounds specified in the legislation.

- What is the procedure for such removal?

In accordance with the decision taken by the First Chamber of the Council of Judges and Prosecutors as a result of its evaluation, the relevant Chief Public Prosecutor may be dismissed or appointed to another place in line with the acquis.

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?

Chief Public Prosecutors do not play any role in the recruitment process of public prosecutors to prosecution services. The place of work of a Public Prosecutor on duty is determined by the First Chamber of Council of Judges and Prosecutors in accordance with leading decisions in the light of abovementioned necessary seniority and merits criteria. Chief Public Prosecutors play an active role in determining the individuals to be employed in prosecution services. These personnel are selected by a committee entitled "Justice Commission" through an interview held with among the candidates who have been successful in written and practical exams. Justice Commission is a board consisting of a judge who is the president of the Justice Commission of the relevant locality, the Chief Public Prosecutor and the most senior judge. During the promotion periods, the Chief Public Prosecutors are authorised to prepare a note in which they evaluate the professional competence of public prosecutors they work with and this note is a matter that will shape the career of related person and taken into consideration by the Second Chamber of Council of Judges and Prosecutors in promotion of prosecutors. These notes are preserved in the secret credentials of relevant public prosecutors. Finally, the Chief Public Prosecutors are disciplinary chiefs of the personnel providing prosecution services. As for the Public Prosecutors, the Chief Public Prosecutors can carry out investigations as investigators only if they are appointed by the Council of Judges and Prosecutors. The authority to impose penalties is the duty of the Second Chamber of the Council of Judges and Prosecutors.

12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:

- Managing the day-to-day operations and activities of the prosecution service;

The relevant Chief Public Prosecutors have judicial and administrative tasks within the geographical boundaries of the Office of Chief Public Prosecution. Routine administrative tasks of Chief Public Prosecutors are as follows: management and reparation, renovation and furnishing of courthouses; ensuring that tenders for public procurement are carried out in due form, tasks related to the inspection of prisons, distribution of works among public prosecutors, allocation of incoming works, determination of offices where the personnel providing prosecutorial services will work and representation of the office of Chief Public Prosecution.

- Management of case distribution;

The Chief Public Prosecutors are responsible for distribution among Public Prosecutors of investigation files of judicial incidents occurring within the borders of their places of duty. The Public Prosecutor carries out this duty of distribution through the established bureaus taking into consideration the work load of public prosecutors in a fair way that won't cause accumulation.

- ✓ Management of financial and material resources of the prosecution service;

The duty of provision of financial and material resources required by the prosecution services is also carried out by the Chief Public Prosecutor. These resources are managed by administrative and financial directorates working under the Chief Public Prosecutor paying utmost attention to the use of resources provided within the scope of central budget and the budget allocated to the Ministry of Justice in line with the needs of the relevant locality courthouse.

- ✓ Representation of the prosecution service internally and externally, including before foreign services and international organisations.

The Chief Public Prosecutors, as the head of the courthouse administration of the relevant locality, is authorised to represent the courthouse administration both inside and outside the courthouse. When the courthouse is visited by foreign delegations or in case of a working visit, the Chief Public Prosecutor of the relevant locality hosts the guest delegations and represents the courthouse.

13. Please briefly describe if there are any accountability mechanisms envisaged in your country for the head of the prosecution service.

The Chief Public Prosecutors are obliged to exercise the authorisations granted to them by the Constitution and Law within the limits of the Constitution and Law. Apart from this, in case of unlawful actions of Chief Public Prosecutors, their situation is evaluated before Law observing guarantees granted to prosecutors (and judges) by the Constitution within the framework rules and procedures stipulated by Law.

Ukraine

I. GENERAL ASPECTS RELATED TO THE ADMINISTRATION OF THE PROSECUTION SERVICE

1. *Please briefly describe the administration of the routine functioning of the prosecution service of your country (in particular, management of the financial, material and human resources of the service).*

The organisation and procedure of activities of the prosecution service are determined by the Law of Ukraine "On Prosecution Service". According to paragraph 1 of Article 7 of the Law of Ukraine "On Prosecution Service", the prosecution system of Ukraine consists of: the Prosecutor General's Office; regional prosecutor's offices; district prosecutor's offices; the Specialized Anti-Corruption Prosecutor's Office.

According to Articles 7 and 8 of the Law of Ukraine "On Prosecution Service", the Prosecutor General's Office is a superior prosecutorial authority in relation to regional and district prosecutor's offices, and the regional prosecutor's office is a superior prosecutorial authority in relation to district prosecutor's offices located within the administrative-territorial unit that falls under the territorial jurisdiction of the respective regional prosecutor's office.

The Prosecutor General's Office organises and coordinates the activities of all prosecution services, ensures proper functioning of the Unified Register of Pre-trial Investigations and its maintenance by pre-trial investigation authorities, determines a unified procedure for reporting on the state of criminal unlawfulness and the work of the prosecutor to ensure effective performance of the prosecution functions.

The Prosecution Service is financed from the State Budget of Ukraine and other sources not prohibited by law.

The Prosecutor General's Office (Article 89 of the Law of Ukraine "On Prosecution Service") fulfils the functions of the chief administrator of the State Budget of Ukraine with regard to the financial support of the activities of the prosecution service.

At the same time, according to Article 8-1 of the Law of Ukraine "On Prosecution Service", the Specialized Anti-Corruption Prosecutor's Office is a legal entity under public law, has separate property that is state property, accounts with the authorities that provide treasury services for budgetary funds, a seal with the image of the State Emblem of Ukraine and its own name.

2. *At what legislative level is the administration of the prosecution service regulated? (e.g. through Constitution, legislation, by-laws or other regulations).*

At the constitutional level, the powers of the prosecution service are defined, and it is also stated that the organisation and procedure of activities of the prosecution service are determined by law (Article 131-1 of the Constitution of Ukraine).

The Law of Ukraine "On Prosecution Service" defines the legal basis for the organisation and activities of the prosecution service, the status of prosecutors, the procedure for exercising prosecutorial self-government and the system of public prosecution in Ukraine.

According to Article 1 of the said Law, the prosecution service of Ukraine is a unified system that, in accordance with the procedure provided for by this Law, carries out the functions established by the Constitution of Ukraine in order to protect human rights and freedoms, the general interests of society and the state.

According to Articles 2 and 5 of the said Law, the prosecution service cannot be entrusted with functions not provided for by the Constitution. The functions of the prosecution service are exercised exclusively by prosecutors; their delegation or appropriation by other authorities or officials is not allowed.

The Prosecutor General issues orders on matters within his administrative powers (paragraph 2 of Article 9 of the Law of Ukraine “On Prosecution Service”).

3. *What official (i.e. Prosecutor General, Chief Prosecutor, Head of Service, or another prosecutorial or non-prosecutorial official, for instance, Minister of Justice) heads the prosecution service in your country?*

According to paragraph 3 of Article 131-1 of the Constitution of Ukraine, the prosecution service in Ukraine is headed by the Prosecutor General, who is appointed and dismissed by the President of Ukraine with the consent of the Verkhovna Rada of Ukraine.

According to paragraph 2 of Article 8 of the Law of Ukraine “On Prosecution Service”, the Prosecutor General’s Office is headed by the Prosecutor General, who has a first deputy and no more than 5 deputies, including the Deputy Prosecutor General – Head of the Specialized Anti-Corruption Prosecutor’s Office.

Article 8-1 of the Law of Ukraine “On Prosecution Service” stipulates that the Specialized Anti-Corruption Prosecutor’s Office is headed by the Deputy Prosecutor General – Head of the Specialized Anti-Corruption Prosecutor’s Office.

4. *Please briefly describe the legal force of the decisions/orders/instructions issued by the head of the prosecution service based on the following questions:*

- *Are his/her decisions/orders mandatory for prosecutors and prosecutorial staff?*
- *Can they be challenged? If so, please briefly describe the process for challenging them (by whom and before which authority or authorities?)*

According to Article 17 of the Law of Ukraine “On Prosecution Service”, in the exercise of powers related to the functions of the prosecution service, prosecutors are independent, independently decide on the procedure for exercising such powers, guided by the provisions of the law, and are obliged to follow only such instructions of a higher-level prosecutor that were given in compliance with the requirements of this Article.

Prosecutors of a higher level have the right to give instructions to a prosecutor of a lower level, to approve his adoption of certain decisions and to take other actions directly related to the implementation of the functions of the prosecution service by this prosecutor only within the limits and in the order determined by law. The Prosecutor General has the right to give instructions to any prosecutor.

The issues of organizing the activity of the Specialized Anti-Corruption Prosecutor’s Office are resolved by orders issued by the Deputy Prosecutor General – Head of the Specialized Anti-Corruption Prosecutor’s Office (a person who performs his duties) and are mandatory for prosecutors and other employees of the Specialized Anti-Corruption Prosecutor’s Office.

The issue of appealing is regulated by Art. 17 of the Law of Ukraine “On Prosecution Service”.

Instructions directly related to the implementation of the functions of the prosecution service by a prosecutor, given in a written form within the limits of the powers defined by law, are mandatory for the relevant prosecutor. A written confirmation is provided to the prosecutor who was given an instruction orally.

A prosecutor is not obliged to follow orders and instructions of a higher-level prosecutor, which cause him to doubt the legality, in the case he did not receive them in a written form, as well as those orders or instructions that are clearly criminal. A prosecutor has the right to apply to the Council of Prosecutors of Ukraine with a notification of a threat to his independence regarding giving (issuing) of an order or instruction by a prosecutor of a higher level.

Giving (issuing) an illegal order or instruction or its execution, as well as giving (issuing) or executing an obviously criminal order or instruction entails responsibility provided for by law.

5. If in particular, the Minister of Justice has any role in the administration of the prosecution service in your country, please briefly describe (e.g. the power of the Minister of Justice to supervise the prosecution service, to issue binding instructions, to request information from the prosecution services, or other powers).

The prosecution services have an independent status, the functions of the prosecution service are defined by Art. 131-1 of the Constitution of Ukraine, which is in Section VIII “Justice”. The prosecution services are not subordinate to the Minister of Justice of Ukraine.

6. Are there any modern means, including electronic ones, used in the course of the administration of the prosecution service? Is the administration process digitalised to some extent? If so, to perform what specific functions? If not, are there any plans to introduce such means in future and to perform what functions?

7. What are the likely challenges and/or problems arising in the course of the administration of the prosecution service including as regards the use of the above-mentioned modern means, including electronic ones?

In accordance with the provisions of Art. 214 of the Criminal Procedure Code of Ukraine the Prosecutor General’s Office determines the procedure of forming and keeping the Unified Register of Pre-trial Investigations.

The information system “Unified Register of Pre-trial Investigations” (hereinafter – URPI) is an automated system designed to ensure registration and unified accounting of offenses in the country, decisions made on them, persons who committed them and results of investigation and trial. The register provides an analysis of the state and structure of criminal offenses committed in the country, and operational control over observance of the law during the pre-trial investigation.

The start of a pre-trial investigation involves exclusively the electronic form of fixation. Its conduction is allowed only if the information about the criminal offense is entered into the Unified Register of Pre-trial Investigations.

The specified system is constantly being improved and adapted to new requirements of its users.

The register provides 24-hour and daily work in an online mode for more than 32 thousand users – employees of prosecution services and pre-trial investigation bodies (National Police, SSU, SBI, National Anti-Corruption Bureau of Ukraine and Economic Security Bureau of Ukraine).

The integration service ensures the transmission of messages between the information systems of the Prosecutor General's Office (PGO) and the Ministry of Internal Affairs, transmission of sentences from the automated court document management system in a day.

On the basis of the Register, reporting and information materials on the state of criminal offences as well as reports on the work of pre-trial investigation bodies are automatically generated.

The prosecution services also use:

- The information system "Electronic Document Management System of Public Prosecution Authorities of Ukraine" (hereinafter – IS "SED") is an automated system introduced to automate the processes of preparation and processing of internal and external paper and electronic documents in the prosecution services with the use of an electronic signature.

In 2021, the IS "SED" was connected by integration to the system of electronic interaction of executive authorities (SEV OVV), thanks to which electronic documents will be exchanged between the Prosecutor General's Office, prosecution services and other institutions.

- Information and analytical system "Accounting and Statistics of Public Prosecution Authorities" (hereinafter – IAS OSOP) is an automated system created in 2015-2016 in order to provide an automatic report on the work of the prosecutor and analytical collections to it, created by adaptation of electronic forms of primary registration within the scope of technical support and modernization of the "Unified Register of Pre-trial Investigations".

- Qualified provider of electronic trust services of the prosecution services of Ukraine (hereinafter – KNEDP OPU) (digital signature).

KNEDP OPU is on the Trust List, which contains information about qualified providers of electronic trust services (<https://czo.gov.ua/caregistry>), and provides relevant services to signatories among employees of prosecution services and law enforcement agencies of Ukraine who are users of IS "Unified Register of Pre-trial Investigations".

The comprehensive information protection system of the information and telecommunications system of the Qualified provider of electronic trust services of the prosecution services of Ukraine received a certificate of compliance from the State Service for Special Communications and Information Protection of Ukraine as a result of the conducted examination.

- The information and analytical system "Kadry" ("Personnel") is an automated system created in 2006. In 2018, the updated automated information and analytical system "Kadry-WEB" was introduced into the work of staff units of the Prosecutor General's Office of Ukraine and regional prosecutors' offices, which accumulates all information about the work of the prosecution service employees from the moment of their appointment to their dismissal. Users of the specified system are only employees of staff units.

- Information and telecommunication system of pre-trial investigation "eCase" is a system that ensures the creation, collection, storage, search, processing and transmission of materials and information (data) in criminal proceedings.

The purpose of this system is to automate the processes of pre-trial investigation, including the creation, collection, storage, search, processing and transmission of materials and information (data) in criminal proceedings, as well as processes that meet organizational, management, analytical, information and telecommunication and other needs of users of this system.

Currently, the implementation of the eCase system in the activity of the National Anti-Corruption Bureau of Ukraine, SAPO and the High Anti-Corruption Court of Ukraine is ongoing.

The integration of the eCase system with the Unified Register of Pre-trial Investigations was carried out, and entering of criminal proceedings into the eCase system was implemented.

Regarding the introduction of eCase into the activity of the High Anti-Corruption Court of Ukraine, we inform you that the integration of the system with the electronic court system D3 is currently ongoing. At present, requests have already been approved and forwarded in the system to the High Anti-Corruption Court of Ukraine, namely: the possibility of submitting a search request to the court has been implemented. Preparation for work with the other procedural documents continues.

To ensure the analysis of legal information, the information and analytical system of information search and processing "Complex Information Exchange Management System with Legal Support "LIGA: CORPORATION" (in the "LIGA 360" package) is used.

In the frame of DT4UA project, which is funded by the European Union, the Academy of e-Government (Estonia) announced a tender for the creation of modules of the investigation, escalation, control and analysis management system "SMEREKA" for the Prosecutor General's Office. It should be integrated into the information environment of the Prosecutor General's Office, gradually minimizing the circulation of paper documents in the criminal process.

"SMEREKA" aims to improve coordination and increase the efficiency of the activities of both individual employees and teams formed according to the areas of work, and to improve the analysis of criminal proceedings, as well as to improve procedural management during pre-trial investigation, standardize procedural documents.

II. APPOINTMENT/ELECTION, TERMS OF OFFICE AND REMOVAL OF THE HEAD OF THE PROSECUTION SERVICE

8. Please briefly describe the procedure for the appointment/election of the head of the prosecution service in your country, based on the following questions:

- Are there any formal qualifications and/or eligibility criteria required from the candidates for the post of the head of the prosecution service?*
- Which body is responsible for the appointment/election of the head of the prosecution service?*
- What is the procedure for the appointment/election of the head of the prosecution service?*

According to paragraph 3 of Article 131-1 of the Constitution of Ukraine the Prosecutor General shall be appointed to and dismissed from office by the President of Ukraine with the consent of the Verkhovna Rada of Ukraine.

Under the Article 40 of the Law of Ukraine "On Prosecution Service", to the position of the Prosecutor General may be appointed the citizen of Ukraine who:

- 1) has a higher legal education and at least 10 years of experience in the field of law;
- 2) has a good command in the state language;
- 3) has high moral and practical, professional qualities and organizational skills;
- 4) is lacking circumstances, provided for by paragraph 6 of Article 27 of the Law of Ukraine "On Prosecution Service" (an individual may not be appointed if he/she: is recognized by court as partially incapacitated or legally incapable, suffers diseases preventing from performing the

duties of prosecutor; has an unexpunged or outstanding conviction, or has been charged with an administrative penalty for having committed an offense related to corruption);
5) has no arrear of payment alimony for support of a child, the total amount of which does not exceed the amount of payment for 6 month.

The President of Ukraine forwards the written submission on granting the consent for appointment of a candidate to the position of the Prosecutor General to the Verkhovna Rada of Ukraine. The Rules of Procedure of the Verkhovna Rada of Ukraine establish the procedure for granting consent to appointment of the Prosecutor General by the President of Ukraine.

The decision of the Verkhovna Rada of Ukraine on refusal to grant consent to appoint the Prosecutor General shall be the ground for the written submission of the President of Ukraine on granting the consent for appointment of another candidate.

9. What are the terms of office of the head of the prosecution service?

The term of office of the Prosecutor General shall be 6 years. The same person may not hold an office of the Prosecutor General 2 terms together (paragraph 4 of Article 131-1 of the Constitution of Ukraine, paragraph 2 of Article 40 of the Law of Ukraine “On Prosecution Service”).

According to the Law of Ukraine “On Prosecution Service” the term of office of the Deputy Prosecutor General – Head of the Specialized Anti-Corruption Prosecutor’s Office is 5 years.

10. If applicable, please briefly describe the procedure for the pre-term removal from office (before the expiration of the mandate) of the head of the prosecution service, based on the following questions:

- *What are the grounds for such removal?*
- *Which authority can decide on such removal?*
- *What is the procedure for such removal?*

The pre-term removal from office of the Prosecutor General is being carried out exclusively in cases and on the grounds, determined by the Constitution of Ukraine and the Law of Ukraine “On Prosecution Service” (paragraph 5 of Article 131-1 of the Constitution of Ukraine).

According to clause 25 paragraph 1 of Article 85 of the Constitution of Ukraine, to the authority of the Verkhovna Rada of Ukraine refers the declaring of nonconfidence to the Prosecutor General resulting in his or her resignation from office.

Under Article 42 of the Law of Ukraine “On Prosecution Service” the Prosecutor General shall be dismissed from administrative position by the President of Ukraine under consent of the Verkhovna Rada of Ukraine:

- 1) due to application for pre-term termination of powers in the administrative position on the own will;
- 2) under a motion of the respective authority, conducting the disciplinary proceedings, or of the High Council of Justice;
- 3) in case of having a arrear of payment alimony for support of a child, the total amount of which does exceed the amount of respective payments for 12 month from a day of submission of an executive document for enforcement.

The powers of the Prosecutor General in the administrative position shall be terminated in case of:

- 1) declaring nonconfidence by the Verkhovna Rada of Ukraine to the Prosecutor General resulting in his or her resignation from this administrative position;
- 2) end of term of holding the position of the Prosecutor General.

Dismissal of the Prosecutor General from administrative position or termination of powers of the Prosecutor General on the administrative position shall not terminate his powers as a prosecutor (paragraph 3 of Article 42 of the Law of Ukraine “On Prosecution Service”).

According to Article 41 of the Law of Ukraine “On Prosecution Service” the dismissal from the administrative position, provided for by clauses 1-3 of paragraph 3 of Article 39 of this Law, shall be carried out by the Prosecutor General, and from the administrative position, provided for by clauses 4 and 5 of paragraph 3 of Article 39 of this Law – by the Deputy Prosecutor General – Head of the Specialized Anti-Corruption Prosecutor’s Office (by a person, executing his/ her powers). Dismissal from these administrative positions shall be carried out exclusively on the grounds provided for by paragraph 1 of Article 51 of this Law, as well as in case of the decision of the Commission for evaluation of the inefficiency of activity of the Specialized Anti-Corruption Prosecutor’s Office and the improper performance of duties by the Deputy Prosecutor General - Head of the Specialized Anti-Corruption Prosecutor’s Office (by a person, executing his/ her powers).

The guaranties of independence of the Deputy Prosecutor General - Head of the Specialized Anti-Corruption Prosecutor’s Office shall be ensured by the special order for termination of powers as a prosecutor of the prosecution services.

The powers of the Deputy Prosecutor General - Head of the Specialized Anti-Corruption Prosecutor’s Office as a prosecutor of the prosecution services may not be terminated on the ground, provided for by clause 4 of paragraph 3 of article 51 of this Law and according to procedure, determined by paragraph 2 of article 61 of this Law.

If the respective authority conducting disciplinary proceedings against the Deputy Prosecutor General - Head of the Specialized Anti-Corruption Prosecutor’s Office establishes grounds that may be indicative of the impossibility for further holding the position of a prosecutor of the prosecution services by this person, the authority conducting disciplinary proceedings shall, by its decision, forward copies of the materials of these disciplinary proceedings to the Commission for evaluation for making a relevant decision.

Based on the results of consideration of the materials of disciplinary proceedings in accordance with paragraph 10 of Article 8-1 of the Law of Ukraine “On Prosecution Service”, the Commission for evaluation may take a decision to recommend to the Prosecutor General to terminate the powers of the Deputy Prosecutor General - Head of the Specialized Anti-Corruption Prosecutor’s Office as a prosecutor of the prosecution services in case of committing a disciplinary offense that indicates the impossibility of further holding the position of a prosecutor of the prosecution services.

III. FUNCTIONS AND TASKS OF THE HEAD OF THE PROSECUTION SERVICE

11. What is the role of the head of the prosecution service in the recruitment/selection of prosecutors and prosecutorial staff to the prosecution service and in the management of their career (e.g. performance assessments, awarding honours or decorations in recognition of professional achievements, promotions, posting, imposition of disciplinary measures, other human resources issues)? Can his/her decisions relating to these and other matters be appealed by the prosecutor concerned and, if so, before what body and according to what procedure?

The Prosecutor General's Office is headed by the Prosecutor General who:

- appoints prosecutors to the administrative positions and dismisses them from administrative positions in cases and according to procedure, established by the Law of Ukraine "On Prosecution Service";
- as established by the law, in accordance with the decision of the respective authority on bringing to disciplinary responsibility of a prosecutor, decides on the application to the prosecutor of the Prosecutor General's Office, to the prosecutor of the Regional prosecutor's office of the disciplinary penalty or on the impossibility of further holding the position of the prosecutor by this person;
- appoints to and dismisses from positions of prosecutors of the Prosecutor General's Office in cases and according to procedure, established by the Law of Ukraine "On Prosecution Service";
- within ten days from the date of vacating the position, notifies the relevant authority, carrying out the disciplinary proceeding of the availability of a vacant or temporarily vacant position in the Prosecutor General's Office;
- approves provision on the system of individual evaluation of the quality of performance of prosecutors and the system of evaluation of quality of performance of prosecutors;
- ensures fulfillment of requirements for advanced training of prosecutors of the Prosecutor General's Office;
- determines the procedure for consideration of appeals regarding improper performance of official duties, determined for the respective administrative position by a prosecutor holding an administrative position;
- decides on establishment, reorganization, liquidation, structure and staffing of the prosecution authorities (except for the Specialized Anti-Corruption Prosecutor's Office) within the number and structure specified by this Law;
- exercises other powers provided for by this and other laws, in particular, on the ground of the Regulation on Departmental Incentive Awards of the Prosecutor's Offices of Ukraine, rewards employees of the prosecution services for the conscientious performance of their duties, etc.

The Prosecutor General issues orders on matters according to his administrative powers within his powers, on the basis of and in compliance with the Constitution of Ukraine and the laws of Ukraine. Against the orders of the Prosecutor General may be lodged an appealed to the administrative court according to procedure established by law (paragraph 2 of Article 9 of the Law of Ukraine "On Prosecution Service").

Besides, it should be mentioned that on 08.12.2023 there was adopted the Law of Ukraine No. 3509-IX "On amendments to the Criminal Procedure Code of Ukraine and other legislative acts of Ukraine on strengthening the independence of the Specialized Anti-Corruption Prosecutor's Office" (hereinafter referred to as Law No. 3509-IX), that provides for the reform of the Specialized Anti-Corruption Prosecutor's Office (hereinafter referred to as the SAPO) and its functioning as a legal entity under public law.

According to the updated provisions of paragraph 9 of Article 8-1 of the Law of Ukraine "On Prosecution Service", the Deputy Prosecutor General – Head of the Specialized Anti-Corruption Prosecutor's Office (SAPO):

- appoints and dismisses prosecutors of the SAPO, appoints prosecutors to administrative positions and dismisses them from administrative positions in cases and within the procedure established by this Law;

- within 10 days from the date of their appearance, notifies the relevant authority conducting disciplinary proceedings of the availability of vacant or temporarily vacant positions at the SAPO;
- employs and dismisses employees of the SAPO who are not prosecutors.

The said decisions can be appealed according to the procedure prescribed by the law.

Pursuant to point 7-2 of paragraph one of Article 9 of the Law of Ukraine “On Prosecution Service”, by Order of the Prosecutor General dated 29.12.2021 No. 407, there was approved the Regulation on the system for assessing the performance of prosecutors (hereinafter referred to as the Regulation), which did not enter into force.

This Regulation determines the procedure for assessing the performance of prosecutors at the Prosecutor General’s Office, Specialized Anti-Corruption Prosecutor’s Office, regional, specialised (with the rights of regional), circuit, specialised (with the rights of circuit) prosecutor’s offices, as well as the procedure and the conditions for annual bonuses for prosecutors based on the results of such an assessment.

By Order of the Prosecutor General dated 25.12.2023 No. 336, the mentioned assessment was extended in test mode for the year of 2024.

The reason for conducting the assessment in test mode is the need to automate the process, namely the development of an electronic system for managing the personnel of the prosecution authorities (e-HR), which includes, among other things, the system for assessing the performance of prosecutors.

The development and implementation of the system for individual assessment of the performance of prosecutors and the system for assessment of the performance of prosecutors, the procedure for measuring and regulating the workload of prosecutors, which, in particular, includes international experts/partners, are ongoing; the concept of the system for individual assessment of the performance of prosecutors and standards (criteria and indicators) of such assessment for prosecutors supervising the observance of laws during pre-trial investigation in the form of procedural guidance have been developed and agreed upon.

Professional ethics and behaviour of a prosecutor, functional and managerial competencies, work results (workload), and business activity of a prosecutor will be subject to the assessment.

12. Please briefly describe the functions and tasks of the head of the prosecution service in your country in relation to the following:

- *managing the day-to-day operations and activities of the prosecution service;*
- *management of case distribution;*
- *management of financial and material resources of the prosecution service;*
- *representation of the prosecution service internally and externally, including before foreign services and international organisations.*

According to paragraph 1 of Article 9 of the Law of Ukraine “On Prosecution Service”, the Prosecutor General (besides specified for question 11) also:

- represents the prosecution service in its relations with public authorities, other state authorities, local self-government authorities, individuals, enterprises, institutions and organisations, as well as prosecutor’s offices of other states and international organisations;

- arranges the activities of the prosecution authorities of Ukraine, in particular, defines the limits of powers of the Prosecutor General's Office, regional and circuit prosecutor's offices in terms of performing constitutional functions;
- performs distribution of the responsibilities between the First Deputy and Deputies of the Prosecutor General;
- approves: acts on the internal organisation of the activities of the prosecution authorities, including on electronic document management; the development strategy for prosecution service; regulations on the system for individual assessment of the performance of prosecutors and the system for assessment of the performance of prosecutors; the procedure for measuring and regulating the workload of prosecutors; general methodological recommendations for prosecutors to ensure uniform application of the Ukrainian legislation in the course of prosecutorial activities;
- ensures implementation of the requirements for qualification development of the prosecutors at the Prosecutor General's Office;
- executes other powers provided for by this and other laws of Ukraine.

The Deputy Prosecutor General – Head of the Specialized Anti-Corruption Prosecutor's Office (a person performing his/her duties):

- 1) represents the Specialized Anti-Corruption Prosecutor's Office in relations with state authorities, local self-government authorities, enterprises, institutions and organisations, public associations, international organisations and foreign authorities;
- 2) arranges the activities of the Specialized Anti-Corruption Prosecutor's Office, including by issuing orders and instructions within his/her administrative powers;
- 3) approves the staff list and budget of the Specialized Anti-Corruption Prosecutor's Office;
- 4) performs distribution of the responsibilities between the First Deputy and Deputy Head of the Specialized Anti-Corruption Prosecutor's Office;
- 5) appoints and dismisses prosecutors of the Specialized Anti-Corruption Prosecutor's Office, appoints prosecutors to administrative positions and dismisses them from administrative positions in cases and within the procedure established by the Law of Ukraine "On Prosecution Service";
- 6) determines, after the pre-trial investigation is initiated, the prosecutor who exercises the powers of the prosecutor in a particular criminal proceeding;
- 7) if needed, determines a team of prosecutors who exercise the powers of prosecutors in a particularly complex criminal proceeding, as well as a senior prosecutor of such a team who will guide the actions of other prosecutors;
- 8) employs and dismisses employees of the Specialized Anti-Corruption Prosecutor's Office who are not prosecutors;
- 9) within ten days from the date of their appearance, notifies the relevant authority conducting disciplinary proceedings of the availability of vacant or temporarily vacant positions at the Specialized Anti-Corruption Prosecutor's Office;
- 10) supervises the maintenance and performance of the analysis of statistical data, arranges the study and generalisation of the practice of application of legislation and information and analytical support of subordinate prosecutors in order to improve the quality of the way they perform their functions;

11) takes measures to prevent unauthorised access to the information with limited access, ensures compliance with the legislation on access to public information managed by the Specialized Anti-Corruption Prosecutor's Office, as well as ensures the protection of personal data owned by the Specialized Anti-Corruption Prosecutor's Office;

12) ensures implementation of the requirements for qualification development of the prosecutors at the Specialized Anti-Corruption Prosecutor's Office;

13) executes other powers provided for by the Law of Ukraine "On Prosecution Service" and other laws of Ukraine.

The Deputy Prosecutor General – Head of the Specialized Anti-Corruption Prosecutor's Office exercises the powers of the head of the prosecution authority provided for by the Criminal Procedure Code of Ukraine.

Within the scope of its functions, the Specialized Anti-Corruption Prosecutor's Office conducts international cooperation.

13. Briefly describe the accountability mechanisms for the head of the prosecution service, if any exist in your state.

According to paragraph 2 of article 6 of the Law of Ukraine "On Prosecution Service" every year by April 1, the Prosecutor General submits to the Verkhovna Rada of Ukraine a report on the activities of the Prosecutor's Office, which must, in particular, contain information on:

1) the statistical and analytical data regarding the performance of functions assigned to the prosecution service;

2) the actual number of prosecution services in terms of the number of prosecutors, state officials, other employees, of their qualification improvement, special training, activities of the Training Center of Prosecutors of Ukraine;

3) ensuring the independence of prosecutors, in particular, the number of reports about the threat to the prosecutor's independence received by the Council of Prosecutors of Ukraine, and information on the decisions made based on such reports;

4) ensuring legality and integrity in the activities of the prosecution service (the number of integrity checks of prosecutors, official investigations, disciplinary complaints against prosecutors, information on decisions taken based on the results of their consideration, etc.);

5) the estimates of prosecution services and their implementation;

6) ensuring the activities of prosecutorial self-government authorities;

7) information specified in clauses 1-5 of this part regarding the activities of the Specialized Anti-Corruption Prosecutor's Office;

8) other information related to the results of the activities of the prosecution service.

The Prosecutor General personally reports on the activities of the prosecution services before the Verkhovna Rada of Ukraine at its plenary session. The information about the activities of the prosecution service is published in the national and local print media and on the official websites of the prosecutor's offices.

According to paragraph 10 of article 81 of the Law of Ukraine "On Prosecution Service" every 2 years, but no more often than twice during the term of office of the Deputy Prosecutor General - Head of the Specialized Anti-Corruption Prosecutor's Office, an external independent

assessment (audit) of the effectiveness of the Specialized Anti-Corruption Prosecutor's Office is conducted.

The said evaluation is carried out by the Commission for conducting an external independent assessment (audit) of the effectiveness of the Specialized Anti-Corruption Prosecutor's Office (hereinafter referred to as the Evaluation Commission) consisting of 3 persons appointed by the Prosecutor General on the basis of proposals from international and foreign organizations that, in accordance with international or intergovernmental agreements, provide International technical assistance to Ukraine in the field of preventing and countering corruption. The members of the Evaluation Commission can be persons who have experience of working in pre-trial investigation bodies or the prosecutor's offices or courts or advocacy, including abroad or in international organizations, for at least five years, possessing the necessary knowledge and skills to conduct an evaluation (auditing), and also have an impeccable business reputation. The relevant provisions of the third paragraph of Article 29-1 of the specified Law apply to the procedure for determining the members of the Evaluation Commission, the requirements for the members of the Evaluation Commission, and the procedure for its work. The Evaluation Commission approves and publishes the criteria and methodology for evaluating the effectiveness of the Specialized Anti-Corruption Prosecutor's Office.

To carry out an assessment (audit), the members of the Evaluation Commission have the right to:

- 1) the access to materials of criminal proceedings, procedural guidance of pre-trial investigations in which were conducted by the relevant prosecutors of the Specialized Anti-Corruption Prosecutor's Office and were completed, to other information (documents) in the possession of the Specialized Anti-Corruption Prosecutor's Office, taking into account the restrictions established by the Law of Ukraine "On State Secrets";
- 2) to conduct confidential interviews with the relevant prosecutors of the Specialized Anti-Corruption Prosecutor's Office, the employees of the National Anti-Corruption Bureau of Ukraine, the employees of other state authorities and law enforcement agencies, as well as with other persons who possess the information (the documents) necessary for conducting an assessment (audit), in compliance with the requirements of the Law of Ukraine "On State Secrets";
- 3) to apply to state authorities, any natural or legal persons with a request to provide explanations, documents or information necessary for conducting an assessment (audit);
- 4) to use the help of assistants. Assistants are obliged to ensure the protection and non-disclosure of personal data, information with limited access, which became known to them in connection with the performance of their duties.

The members of the Evaluation Commission are obliged not to disclose the information of the pre-trial investigation and may not interfere in the conduct of the pre-trial investigation.

The conclusion of an independent external evaluation (audit) of the effectiveness of the Specialized Anti-Corruption Prosecutor's Office is considered as adopted if all the members of the Evaluation Commission voted for it. The conclusion of the Commission on conducting the evaluation may contain recommendations to eliminate deficiencies in the work and increase the efficiency of the work of the Specialized Anti-Corruption Prosecutor's Office. The conclusion of the Evaluation Commission is published on the official website of the Prosecutor General's Office within five days after its adoption. The conclusion of the Commission on conducting the assessment must contain a justification for the effectiveness or ineffectiveness of the activity of the Specialized Anti-Corruption Prosecutor's Office. The conclusion about the ineffectiveness of the activity of the Specialized Anti-Corruption Prosecutor's Office, caused by the improper

performance of duties by the Deputy Prosecutor General - Head of the Specialized Anti-Corruption Prosecutor's Office (the person performing his duties), is the basis for early dismissal from this administrative position.

The Prosecutor General's Office provides organizational and technical support for the activities of the Evaluation Commission. Financing of the activities of the Evaluation Commission and its members can be carried out at the expense of attracting international technical assistance.