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

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

**Replies from Armenia**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Answer 9. An IT system is not adopted.

### SECTION III: Resources of the prosecution service

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**SECTION IV: Budget for investigations**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31. Who are parties of the negotiations?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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