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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 Bulgaria

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

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

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

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

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

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

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

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

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

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

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

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

SECTION II: Financial rules and regulations of the prosecution service

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

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

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

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

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

The Council of Ministers submits to the National Assembly the annual draft Law for the State Budget of the Republic of Bulgaria, together with the annual draft budget for the judiciary proposed by the Supreme Judicial Council supported by detailed statement (Art. 364, paragraph 1 from JSA). The National Assembly approves judiciary budget by key indicators of revenue and expenditure and by judicial authorities as a separate part of the state budget (Article 364, paragraph 3 from JSA).

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

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

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

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

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

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

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

SECTION III: Resources of the prosecution service

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

Items in euro

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

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

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

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

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

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

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

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

Introduction of program budgeting approach in Bulgaria aims at more effective allocation of available budget resources and their efficient spending. In program budgeting each proposal for funding particular program or project is supported by analysis including assessment of

costs and benefits. In the best case, projects have clear objectives and measurable indicators for their achievement and after implementation are reported publicly.

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

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

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

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

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

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

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

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

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

Judges, prosecutors, investigators, administrative heads and deputy administrative heads, with the exception of the Chair of the Supreme Court, the Chair of the Supreme Administrative Court and the Prosecutor General, are employed, promoted, demoted, transferred and dismissed by the Supreme Judicial Council according to Art.160 from JSA. The Supreme Judicial Council is a primary administration of budget appropriations.

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

There is a mechanism for redistribution of human resources via transformation of positions between the Prosecutors' Offices in the country. It is made by order of the Prosecutor

General. If necessary magistrates are sent in other Prosecutors' Offices for a certain period /Art.147, paragraph. 1, 2 from JSA/.

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

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

At official need:

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

SECTION IV: Budget for investigations

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

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

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

No.

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

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

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

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

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

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

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

No.

SECTION V: Description of the system of management by results

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

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

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

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

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

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

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

The competent authority is the Supreme Judicial Council.

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

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

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

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

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

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

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

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

31. Who are parties of the negotiations?

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

SECTION VI: Follow-up of results and reporting

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

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

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

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

National strategies adopted by now are for longer periods.

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

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

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

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

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

Yes.

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

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

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

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

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

Activity of the Prosecutor's Office and Investigation Services is reported to the National Assembly by the Prosecutor General with an annual report. The annual report is submitted to

the Supreme Judicial Council which receives ongoing information for the activity of prosecutors during the year. The social impact of prosecutors' work is institutionally evaluated by two independent bodies - the National Assembly and the Supreme Judicial Council.