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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 the Czech Republik

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?

Public prosecutor's office is in accordance to Art. 80 of the Czech Republic's constitution a part of executive power established for representation of the state in proceeding before court in cases stipulated by law. The Act on Public Prosecutor's Office does not explicit stipulate the independence of public prosecutor. Nevertheless, it stipulates that public prosecutor's office performs its competence impartially and ensures the protection of fundamental rights and freedoms, public prosecutor is then - within the performance of its function - obliged to proceed among others impartially and fairly and has to refuse any external interference or other influence, which result could be a breach of these duties. However, there is an obvious effort to incorporation of a greater level of independence of public prosecutors and public prosecutor's office and that mainly in the area of criminal competence.

Public prosecutor does not perform his competence as an independent individual endowed with rights and duties but as a part vertically and horizontally structured system of public prosecutor's office under the influence of all links incl. functional and instance superiority, subordination and surveillance. Also for this activity he undoubtedly needs guarantees of impartiality and high level of independence, since he disposes of substantial powers and has high responsibility. It is so a higher level of independence, not full independence as it is in case of for instance judges, but independence within legal bindings between individual levels of public prosecutor's offices also within each office.

Public prosecutor's service creates to public prosecutor's office conditions for a due performance of its competence, especially in terms of personal, organizational, economic, financial and educational and supervises in a manner and within statutory limits proper performance of tasks entrusted to the public prosecutor's office. The performance of public prosecutor's service shall not disrupt the performance of tasks resulting from its competence. This relates to the Ministry of Justice as a central service authority and also all others service authorities (incl. service directors). By the service of public prosecutor's office shall not be interfered in its competence in such way, he would influence the result of performance of its tasks and also not it would be an obstacle of its activity.

Central service authority of public prosecutor's office is the Ministry of Justice. Authorities of public prosecutor's service are then heads of public prosecutors and their deputies.

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

The Ministry of Justice performs the service of public prosecutor's office vicariously – in the Supreme public prosecutor's service through the supreme public prosecutor, the service of other offices of public prosecutor's offices system can then perform directly or indirectly through the heads of public prosecutors, who head these public prosecutor's offices and with regard to district public prosecutors, also then through regional public prosecutors. The Ministry of Justice organizes, manages and controls the performance of public prosecutor's service conducted by head of public prosecutors. The Ministry deal with complaints against the procedure of public prosecutor's office.

In case the relevant authority of public prosecutor's service detects, that public prosecutor willfully breached duty of public prosecutor or by his act or behavior endangered trust in activity of public prosecutor's office, in its expertise of its procedure or by it he reduced the seriousness and dignity of function of public prosecutor, he will bring a motion for initiation of disciplinary proceeding in accordance with special legal regulation. He will also bring a motion for initiation of proceeding pursuant to special legal regulation in case public prosecutor is ineligible to perform the function.

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

Minister of justice appoints public prosecutors on the basis of supreme public prosecutor's proposal, supreme public prosecutor himself is appointed by the government on the basis of minister of justice's proposal. There are (1.2.2012) in total 1236 public prosecutors to this date in the Czech Republic. Their total planned number is 1272. This number determines the Ministry of Justice on the basis of negotiation with heads of competent public prosecutor's offices (Supreme, high and regional – also for district public prosecutors offices, district public prosecutors can comment the issue of a number of public prosecutors as well).

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 Ministry of Justice performs the public prosecutor's office service in that, it ensures the course of public prosecutor's offices in terms of organizational (e.g. it determines the numbers of public prosecutors, senior officers and professional and other employees of public prosecutor's offices; in Supreme Public Prosecutor's Office in accordance with supreme public prosecutor), it ensures the course of public prosecutor's offices in terms of personal (it determines the methodic of election of legal trainees and methodically manages their acceptance into the employment relationship, it manages and organizes training preparation, especially determines for every regional public prosecutor's office the numbers of legal trainees and decides on counting the period of other legal activity into the training praxis, organizes and ensures professional final exams of legal trainees, organizes and manages professional education of senior officers and other employees of public prosecutor's office), it ensures the course of public prosecutor's offices in that, in ensures financing of their economy and material security, it determines to the regional public prosecutor's offices within the approved budget chapter means of state budget

determined for economy of regional public prosecutor's office and district public prosecutor's offices in his district, minimally in the extent of division of binding indicators given by the Act on State Budget. The Ministry of Finance further organizes, manages and controls the performance of public prosecutor's offices service conducted by heads public prosecutors.

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

The Ministry of Justice performs the service of public prosecutor's office in matters of property of the state and state budget always through competent heads public prosecutors. Organizational body is an accounting unit, if special law or directly the Act on Public Prosecutor's Office so stipulates, the accounting units are the Supreme Public Prosecutor's Office, High and regional public prosecutor's offices.

There is a lot of talk in the Czech Republic recently that public prosecutor's office, which is a part of executive power and resort of the Ministry of Justice, has no independent links to the constitutional authorities, would dispose of an independent budget chapter. Art. 4 of the Recommendation of the Council of Ministers to the member states Rec (2000) 19 on the task of public action in the system of criminal justice would be fulfilled to a greater degree and pursuant to it the states will accept effective measures in order to guarantee public procurators can fulfill their professional duties and responsibility on the basis of corresponding legal and organizational conditions and also material means which are available for them. Such conditions are determined in cooperation with offices representatives of public action. A separation of budget chapter of public prosecutor's office was not realized so far.

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?

The Act on Public Prosecutor's Office § 13a, Art. (1) states: The task of service of public prosecutor's office is creating of conditions for public prosecutor's office for a proper performance its competence, especially in terms of professional, organizational, economic, financial and educational and to supervise in a manner and within the limits determined by this Act for proper performance of the tasks entrusted to public prosecutor's office.

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

The Ministry of Justice administers the budget of whole resort and allocates financial resources to individual organizational state units into their budgets. Every organizational state unit has two budgets - one for the wages of public prosecutors and administration (employees, assistants and support staff) and one for other

material expenditures (resources for functioning of organizational state unit). The Ministry of Justice can regulate (modify) both budgets in the course of the year through so called budget measures on the basis of Ministry's decision and that by an increase or decrease of the budget resources of the organizational state unit.

For the area of investment expenditures, organizational state unit can receive financial resources directly from the Ministry of Justice and that for pre-approved investment plans.

Budget resources of organizational state unit for respective calendar year come out of organizational state unit budgets over the past years and of specific requirements for an increase of organizational state unit's budget for the next calendar year.

Budget information are always available at the beginning of January for the calendar year at the latest.

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

Yes, it is service department and relevant department. In case of the Supreme Public Prosecutor's Office it is budget department, payroll administration and accountancy.

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?*

Yes, the tool is called Information system of state treasury (ISST) and it begins to be applied in praxis currently. ISST administrator is the Ministry of Finance.

Another tool, which will significantly influence budgets, will be a resort system of public procurement (RS CZ), which will be implemented from 1.7.2012. RS CZ administrator is the Ministry for Regional Development.

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.

Expenditures in Euro	2008	2009	2010	2011
Chapter 336 – Ministry of Justice	Value in Euro	Value in Euro	Value in Euro	Value in Euro

Public prosecutor's office in total:	84 110 055,20	89 330 630,80	83 646 547,20	79 208 627,18
In that wages and other personal expenditures *)	54 929 760,80	56 617 904,00	54 023 367,60	51 383 198,40
Mandatory insurance paid by the employer, FKSP	20 133 300,80	20 307 039,20	19 413 003,60	17 996 145,43
Social benefits	0,00	0,00	0,00	0,00
Other materials expenditures	8 622 607,60	10 484 899,20	9 391 380,00	8 733 589,07
Capital expenditures	424 386,00	1 920 788,40	818 796,00	1095 694,28
*) from that employee wages in an employment relationship	14 034 252,68	14 941 711,16	13 802 283,08	13 161 220,52
Wages of public prosecutors	40 874 273,60	41 646 565,92	40 175 748,52	38 165 796,60

Exchange rate - CZK 25/EUR

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.)?*

Resources for public prosecutor's office determines the Ministry of Justice and every public prosecutor's office (Supreme, high and regional) has its legal personality, i.e. it manages independently with allocated resources within its budget. It depends on its own discretion, how it will manage, what kind of budget-wise measures will it elect,

which suppliers will cooperate with etc. Of course, everything has to be in accordance with valid law.

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

Yes, budgets are influenced by the crisis and it leads to a reduction of allocated financial resources for the functioning of public prosecutor's offices and it does not lead to an increase of budgets for wages (that can cause stagnation increase of average earnings of state administration employees).

There are not so many available resources in the area of investment expenditures, which would be needed for necessary reconstruction or assets renewal.

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

It leads to a budget setting into specific budget items within the allocated financial resources at the beginning of calendar year due to the rules determined by the Ministry of Justice. The allocation of financial resources for individual costs accounts of the budget is being implemented through the IRES system in orders module. In case financial resources budgeted in budget item are not sufficient, then so called budget measure has to be implemented and that before the financial resources are spent.

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

There is certainly a connection/relations between the budgets, but only at the level of the Ministry of Justice.

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

There is a certain dependence within the planning of a number of public prosecutors to a number of specialized professions in the area of resort (e.g. to a number of judges) and also a comparison of number of administrative persons in individual resort areas is conducted. So called systematization of jobs number of public prosecutors and other employees of public prosecutor's office processed at the level of the Ministry of Justice.

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 no mechanism at the level of the Supreme Public Prosecutor's Office.

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?

No.

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.

Investigation in the Czech Republic is conducted by the Police of the Czech Republic and costs for the performance of investigative acts and for production of evidences are covered from its budget. Investigative acts are covered from the budget of public prosecutor's office in case they were conducted directly on order of public prosecutor's office, what is conducted in the praxis rarely. Interpreting acts are also covered from the budget of public prosecutor's office, if it is decided on their performance by public prosecutor. Such acts are then covered from budget of public prosecutor's office reserved for specific accounting period. Resources are being obtained ad hoc. In extreme cases it could be possible to ask the Ministry of Justice for budget increase in ad hoc form via budget measure.

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?

I never met with that case.

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

In public prosecutor's offices, which have their own budget (regional, high and the Supreme Public Prosecutor's Office), the consumption of budgetary commitments is controlled. Control continuously be carried out by employees department of administration, control may also make a separate control department of the Ministry of Justice.

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

As already mentioned above, individual acts are paid by the authority which is carried out (in the Czech Republic it is in most cases the Police of the Czech Republic)

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?

High public prosecutor's offices in the Czech Republic have committed specialization on some kind of crime. No, the result of administration this classification currently has no effect, because specializations are applied within individual offices. In the future, foresees the establishment of a relatively independent public prosecutor's office for

prosecution of serious economic crimes and corruption. Establishment of this specialized department will undoubtedly require a budget increase.

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?

Formally no such areas of investigation exist.

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 ?

No.

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?

No.

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

No.

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

No role.

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?

No.

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.

No.

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

No.

31. Who are parties of the negotiations?

No.

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.

No.

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

No.

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

No.

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

No.

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

Internal audit recommendations (if it is established at the level of the the prosecutor's office) are helpful for management of the prosecution.

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

No.