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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

Slovakia

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?*

Prosecution service of the Slovak Republic is independent, hierarchically structured uniform system of state authorities headed by the General Prosecutor, in which individual prosecutors act within relations of subordination and superiority. Prosecutors carry out powers of the prosecution service. Prosecution service has status of an independent institution; its independency is guaranteed by means of constitutional status of the General Prosecutor who is the head of the prosecution service and is appointed and removed from Office by the President of the Slovak Republic upon proposal by the National Council of the Slovak Republic (hereinafter referred to as „National Council“). General Prosecutor has the position of head of central state authority. General Prosecutor may be removed from Office only by the President of the Slovak Republic upon proposal of the National Council provided that statutory prerequisites were met.

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

Prosecution service of the Slovak Republic forms a part of the constitutional system/establishment of the Slovak Republic. General Prosecutor is constitutional official who bears responsibility for activity of any state body which is part of the system of prosecution service of the Slovak Republic. For his activity he is accountable to the President of the Republic as well as to the National Council.

Ministry of Justice had not any direct influence over activity of the prosecution service until effectiveness of the Act No. 220/2011 Coll., amending and supplementing Act 153/2001 Coll. on Public Prosecution Service as amended. That Act (220/2011) has been created by the Ministry of Justice of the Slovak Republic (hereinafter referred to as „Ministry of Justice“). After publication of the wording of the Act 220/2011 in the Collection of Laws of the Slovak Republic, the minister of justice was given power to improperly interfere with the activity of the prosecution service e.g. to appoint one half of the number of members of the Commission for Issuing Opinions on the proposal of which the general prosecutor issues opinions with the view of uniform application of laws and any other generally binding legal regulations binding on any prosecutor; furthermore the minister of justice was given power to

propose appointment of several members of disciplinary commissions, move for commencement of disciplinary proceedings against any prosecutor including General Prosecutor as well as to propose appointment of members of the Commission for Competitive Examination for a position of prosecutor etc.

Upon motion of the General Prosecutor's Office, the Constitutional Court of the Slovak Republic issued its Resolution No. PL ÚS 105/2011 of 28 September, 2011 suspending effectiveness of the provisions of the Act no. 220/2011 Coll. regarding the Act no. 154/2001 Coll. on Prosecutors and Trainee Prosecutors and regulating the above specified powers of the minister of justice. The General Prosecutor's Office has objected/challenged compliance of specific provisions of the Act 220/2011 Coll. with the Constitution of the Slovak Republic, Convention on the Protection of Human Rights and Fundamental Freedoms, International Covenant on Civil and Political Rights as well as with the Charter of Fundamental Rights of the European Union because the objected legal regulation ignores defined constitutional scope, denies independency of the prosecution service and functional autonomy of the General Prosecutor and, as result it negates fundamental principles of the structure of the prosecution service as independent, hierarchically structured uniform system of state bodies headed by the General Prosecutor.

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

Number of employees of the prosecution service is defined in the Act on State Budget approved by the National Council. Ministry of Finance of the Slovak Republic (hereinafter referred to as „Ministry of Finance“) notifies the General Prosecutor's Office binding indicators of the state budget including maximum number of the employees of the prosecution service. Individual prosecutors are appointed and removed by the General Prosecutor.

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.*

Financial and human resources of the prosecution service of the Slovak Republic do not depend of any other institution within the judiciary. The General Prosecutor's Office of the Slovak Republic has separate budget chapter within the state budget. The Government of the Slovak Republic (hereinafter referred to as „Government“) decides in relation to the draft budget for the public administration and after it submits it to the National Council for approval. Any subject within the structure of the state administration (including General Prosecutor's Office) need to have their draft budget approved by the National Council.

Number of employees in the prosecution service is defined in the Act on State Budget and is approved by the National Council.

Information system PATRICIA for the General Prosecutor's Office and STA for Courts were created within the Phare Project SK0008.0101 „Efficient Exchange of Information and Data Processing among Law Enforcement Agencies“ (LEA 1) with the aim to implement electronic intergovernmental exchange of data between the above mentioned systems and the DVS information system in the Ministry of Interior.

The follow up of the intergovernmental LEA Project is represented by the internal information system of the prosecution service (PATRICIA), it has the potential for cooperation with the Ministry of Interior and Courts. In the information system PATRICIA, any registered and statistical information is processed regarding criminal prosecution, the system includes information on prosecutorial decisions and in some cases also texts of their meritorious decisions which are published (without personal identification data) in the web site of the General Prosecutor's Office. Information system PATRICIA includes also basic information on final court decision and related information on remedial measures filed by prosecutor.

Information system PATRICIA enables Courts to search for information on situation/current stage of specific criminal proceedings in the prosecution service and to find out information on valid convictions in the database of the Criminal Register of the General Prosecutor's Office (IS EOO).

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

General Prosecutor's Office has its own chapter within the state budget thus it is independent from other institutions when managing its own budget. Regional and district prosecution offices are fully funded from the state budget i.e. connected to state budget in relation to their income and expenditures by means of the budget chapter of the General Prosecutor's Office.

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?

In the Act no. 153-2001 Coll. on Public Prosecution Service there are not provisions regarding management of financial resources, the chapter about the state budget of the prosecution service is elaborated according to general legal regulation i.e. Act no. 523-2004 Coll. on budgetary rules of public administration as amended. Act no. 153-2001 Coll., on public prosecution service regulates organization and management of the public prosecution service, it defines system/structure of the public prosecution service, seats of individual offices, territorial and material jurisdiction, subordination and superiority relations.

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

Within the meaning of the Section 9, Act no. 523/2004 Coll., on budgetary rules of public administration as amended, the prosecution service represents separate chapter in the State budget. The Section 14 of the said Act regulates budgetary procedure in relation to public administration. Ministry of Finance manages preparation of the draft budget on the basis of proposals approved by the Government by the end of April of current budgetary year. Ministry of finance elaborates draft budget for public administration in co-operation with respective subjects of the public administration (in the course of preparation of the budget for 2012-2014 it happened for the first time that the representative of the General Prosecutor's Office was not invited to attend the discussions). Ministry of finance shall submit the draft budget for public administration to the Government before 15 October of current year unless National Council decides otherwise. Public administration authorities (including General Prosecutor's Office) have the obligation to submit their draft budgets to the National Council for approval in accordance with the Government's decision adopted in the course of discussions regarding their budgets. Draft budget of the General Prosecutor's Office is submitted to the Government before the 15 August of current year; prior to it, the respective official of the General Prosecutor's Office has to plan distribution of resources to subordinated prosecution offices (eight Regional Prosecution Offices and Central Authority i.e. General Prosecutor's Office) including any possible changes in the budget approved by the Government or National Council.

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

Yes, there is the Economic Department in the General Prosecutor's Office; it manages the entire budgetary procedure as well as distribution of funds and has also number of tasks in the field of management of accounts, agenda related to salaries, various payments, financial audit/monitoring, management of files, receiving department and management of other agenda.

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

In the Slovak Republic there is the system of State Treasury which means system of activities ensuring centralization of management of public finances as well as system of relations between the Ministry, State Treasury and agency in order to ensure activities of the system of the State Treasury.

The State Treasury system ensures the following activities:

- a) Realization/implementation of budget of the state administration subjects/authorities,
- b) Management and administration of clients' accounts (including the General Prosecutor's Office),
- c) Implementation of payment operation of clients,
- d) Financial operations in financial market,
- e) Management of current assets of State Treasury,
- f) Risk management,
- g) Management of State debt,
- h) Centralization of accounting information and data necessary for the purpose of assessment of performance of public administration budget according to reports submitted by public administration bodies,
- i) Accounting regarding the turnover of clients' accounts and accounting of operations related to financing of State debt, financing of the deficit of State budget, management of current assets of State Treasury and risk management,
- j) Management of the central registry of property owned by the Slovak Republic.

SECTION III: Resources of the prosecution service

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

Public prosecution's budget for respective years (in Euros) was as follows:

Budget of the prosecution service for 2008:

Expenditures - total amount: 59 254 763

Staff expenditure: 45 341 632

Other types of expenditure: 13 913 131

Budget of the prosecution service for 2009:

Expenditures – total amount: 64 297 693

Staff expenditure: 51 389 495

Other types of expenditure: 12 908 198

Budget of the prosecution service for 2010:

Expenditures – total amount: 64 289 376

Staff expenditure: 52 963 689

Other types of expenditure: 11 325 687

Budget of the prosecution service for 2011:

Expenditure – total amount: 63 614 144

Staff expenditure: 52 802 467

Other types of expenditure: 10 811 677

Staff expenditure may be considered every personal expenditure i. e. expenditure for:

- Salaries, wages, service/public servants incomes, other personal payments,
- Insurance and insurance allowances,
- Current transfers.

Other types of expenditures may be considered expenditures for:

- Goods and services,
- Capital expenditures.

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.)?*

For the current budgetary year 2012 it would be necessary to improve/increase resources for usual/everyday operation of the prosecution service regarding every category of the budget in total amount of app. 11,7 mil. Euros. The prosecution service has not any other possibility only to request the Ministry of Finance to carry out budgetary measure and approve to exceed the expenditure limit under the Section 17, Act no. 523/2004 Coll., on budgetary rules of public administration.

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

Yes, both the current budget for 2012 and future budgets for 2013 and 2014 are affected by the economic crisis of 2009-2011.

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

Instruments from the field of planning and preparing budget from resources are used for drafting proposal for next 3 years budgetary period. For allocation of resources needed for the good functioning of the prosecution service, instruments of operative management are used in the field of financing of needs.

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

As explained in previous answers, the General Prosecutor's Office has its own separate chapter in the State budget, there is not any connection between the budgets allocated to the prosecution service and to the judiciary or law enforcement bodies.

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

Amount of human resources i.e. number of employees in the prosecution service does not depend on any other institutions of the judiciary. Number of employees of the prosecution service is defined in the Act on State Budget which is approved by the National Council. Every year, the Ministry of Finance informs the General Prosecutor's Office its binding indicators of the State budget including limit of number of employees in the prosecution service i.e. prosecutors, civil servants, public servants.

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?*

Yes, there is the system of budgetary measures to be taken by individual prosecution services, this is considered mechanism of rapid reaction allowing quick redistribution of financial resources between different prosecution services according to current needs. Under this system the prosecution service may redistribute financial

means between different categories of the budget. There is also possibility to redistribute funds to different prosecution services within one single category which means that for another, funds have to be reduced. Mechanism of rapid reaction is limited by two factors i.e. amount of the budget (especially in the end of the year) and by defined binding indicators of the budgetary chapter (indicators may not be changed without approval of the Ministry of Finance). Total amount of expenditures is the binding indicator of expenditure from the budget; expenditures for salaries, wages, service incomes and other personal payments as well as capital expenditures.

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?

General Prosecutor does not have any separate/special budget which could allow to take temporary measures when human resources are insufficient in certain prosecution service. In case of need and given that it does not regard prosecutorial position (recruitment of another prosecutor), similar situations are solved by means of concluding temporary contracts. These are operatively covered from the allocated budget of the respective unit/department of the prosecution service concerned.

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 elapsed between submitting a request for resources and the moment when they are actually obtained.

From the point of view of their powers, the prosecution service of the Slovak Republic does not carry out investigations; for this reason there are not any financial means allocated for investigations to it. In the Slovak Republic, Police Forces carry out investigations and their operations are covered from the separate chapter in the State budget i.e. from the budget of the Ministry of Interior of the Slovak Republic (hereinafter referred to as „Ministry of Interior“).

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?

Referring to the answer no. 18, it is not possible to answer this question.

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

It is not possible to answer this question (please see answer no. 18).

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

Police authorities cover expenses for investigations from separate chapter of the State budget allocated to the Ministry of Interior; prosecution service covers performance of their duties from the resources in the separate chapter of the State budget allocated to the General Prosecutor's Office. There is not any cooperation between different chapters of the State budget.

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

Yes, prosecutors in different levels of the prosecution service (regional, district prosecution offices and the General Prosecutor's Office) have the possibility to specialize in various types of crimes (economic crime, crime against property, violent crime, drug related crime, environmental crime, road traffic crime etc.). Specialization contributes to improvement of quality of prosecutorial supervision within pre-trial proceedings especially in relation to the Police. In general, prosecutors supervise proceedings by means of examination of files submitted by investigative authorities, or by means decision-making on remedial measures as well as through direct instructions to the Police. In practice actually, specialization is impossible to apply strictly in the prosecution offices in first instance (district prosecution offices) because there is not sufficient number of prosecutors.

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?*

It is impossible to answer this question (please see answer no. 18).

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?*

Any member of the management adapts his/her work to results achieved. For this reason, any statistically measurable figure is closely monitored e.g. number of cancelled police resolutions due to their unlawfulness or lack of justification, number of diversions of criminal proceedings, number of prosecutor's participations in investigative acts, number of examinations/controls of investigative files within pre-trial proceedings etc.

Superior prosecutor gives instructions to his/her subordinate prosecutors according to conclusions made from the above i.e. he/she issues binding instructions, changes organizational structure, emphasizes the application of some institutes from the Code of Criminal Procedure etc. There had not been major problems found in this system, if there are any, as a rule it was some deviation or mistake made by individual prosecutor.

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

Prosecution service of the Slovak Republic does not use benchmarks of achieved results.

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

Objectives are set by superior prosecutor who also monitors and assesses fulfilment thereof.

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

Please see answer no. 28.

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?*

Under the Slovak legal system, prosecutor supervises over the observance of legality in pre-trial proceedings. Prosecutor is the „*dominus*“ of the preliminary

proceedings, has irreplaceable role and extensive decision-making powers. There is some coordination with the authorities of the Ministry of Interior and the Presidium of the Police Forces but in majority of cases it applies to fulfilment of tasks in specific criminal cases. There is the long lasting problem of the lengthy investigation. Promptness of investigation depends primarily of workload of individual police officer and his theoretical training notwithstanding the fact that the direction/aim of investigation and evidence to be produced/obtained may be specified by prosecutor's binding instructions. In this relation, prosecutor takes measures to improve the situation.

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.*

Any legal regulation regarding optimal workload within prosecution offices does not exist. From this it logically results that allocation of resources has not any correlation with workload. As matter of fact, prosecutors of first instance offices face the major workload, on the other hand they are given the lowest financial estimation.

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

No, setting of objectives in the prosecution service of the Slovak Republic is not based on negotiation system.

31. *Who are parties of the negotiations?*

Please see answer no. 30.

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. Of so, in what areas were these strategies developed? Please comment on the results of these strategies.*

Allocation of resources to prosecution service is carried out within the framework of budgetary process of the public administration and regulated in the Section 14, Act 523/2004 Coll., on budgetary rules of the public administration.

Ministry of Finance governs preparatory works and it directs elaboration of draft budget for public administration, namely draft State budget on the basis of background information approved by the Government (as a rule before the end of April each current budget year). Government decides on draft budget for public administration and it submits it to National Council for approval. Subjects (various institutions and agencies including General Prosecutor's Office) of public administration have to submit their own draft budgets to National Council for approval in accordance with the Government's decision adopted during negotiations on their draft budgets.

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

While establishing their own budget, different departments and units of the General Prosecutor's Office define measurable indicators and they distribute/allocate them to regional prosecution offices. Following/monitoring of fulfilment of these indicators falls within competence of respective departments of the General Prosecutor's Office. On the basis of data provided by different departments/sections of the General Prosecutor's Office, monitoring report is elaborated which is enclosed to the final balance of the budgetary chapter of the General Prosecutor's Office.

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

No, within the prosecution service there have not been implemented any reforms aimed at increasing the budget in last 5 years.

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

Prosecution service is included in the eGovernmentu strategy based on long term objectives of informatization of public administration of the Slovak Republic resulting from the Strategy of Informatization of the Public Administration and from the National Conception of Informatization of the Public Administration.

External financial audit is carried out by the Supreme Audit Office of the Slovak Republic and by the Financial Control Administration. These institutions fulfil tasks imposed by law but are not included in the government strategy.

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

Recommendations of the internal audit of the General Prosecutor's Office are regularly assessed after the implementation of each audit. They are also assessed at least once a year in general and each recommendation is given level/degree of acceptance by the controlled subject. Internal audit summarizes all recommendations not only from point of view of number and extent thereof but also as for their orientation in different fields/areas.

Recommendations of internal audit assess first of all observation of generally binding legal regulations regarding management of funds as well as possible risks of financial management and ways of maximum level of elimination thereof. Recommendations for the audit also aim to improve quality of financial management as well as enhancing quality of operation of management of entire system in order to achieve maximum economy (money saving), efficiency and effectiveness of use of financial resources.

Recommendations of the audit are assessed in following areas:

State owned property management and control system

- recommendations aimed at improvement of quality of legal relations in the field of immovable property, registries thereof, amortization, corrections to be made in order to achieve accordance with law on accounting as well as at more consistent application of control mechanisms as regards property related legal acts.

Contractual/legal relations and system of control

- recommendations aimed at establishing additional control elements to be used while preparing contracts as well as to improvement of quality of internal control system for financial operations in the form property related legal acts.

Accounting, provability, records and registries, balance report, system of control

- recommendations in this area aimed to improve quality of records and registries, improvement of quality of contents of accounting, better quality of supporting documents for inventories, for inventories in the area of real estate and reserves, more accuracy of final balance and achieving of better consistency with legal status/laws.

Financial relations, financial operations and system of control

- recommendations aimed to improve quality of financial flows, achievement of full consistency with laws, and more exhaustive application of preliminary and current/continuous financial controls in relation to several acts of preparation of financial operations by means of control elements.

Tax relations and control system

- recommendations in relation to tax aimed to achieve consistency of financial operations with legal regulations in the area of taxes.

Recommendations of the audit according to level of acceptance thereof

From the point of view of acceptance and partial acceptance of audit recommendations there is 100% success of each audit. Each recommendation has been accepted.

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

In the Slovak Republic there is not any special institution or authority responsible for evaluation of social impact of prosecutor's activities.

Under the Section 11, par. 1, Act no. 153/2001 Coll., on public prosecution service and Section 128, par. 1 in the Act no. 350/1996 Coll., on rules of procedure of the National Council of the Slovak Republic as amended, the General Prosecutor has the obligation to prepare Annual Activity Report on behalf of the Public Prosecution Service of the Slovak Republic and to submit it to the National Council.

The Annual Report includes assessment of performance of prosecutors on each instance of the system, coordination of their work, cooperation and social approach to solution of significant criminal issues and coordination with other law enforcement bodies especially the Police Forces.

Annual Report offers information about situation regarding observance of laws, as well as information about activities performed by the Public Prosecution Service in both criminal and non-criminal field within which each prosecutor performs his/her duties and powers impartially, fairly, respects dignity and fundamental human rights and freedoms without any discrimination. Annual Report also assesses membership of prosecutors in different commissions and public administration bodies, speeches, lectures, publications, appearance in media and providing information to public, participation in conferences, seminars, workshops, cooperation and coordination with other authorities in order to prepare and evaluate programs and action plans aimed at prevention of crime.