

Performance of the Prosecution Services in Latvia

A Comparative Study

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Corrigendum

Page 43:

It has been clarified in between brackets that percentages expressed with relation to immunity of prosecutors (30%) refer to the total of benchmarking countries analysed in the Study.

Page 110:

In Box 6.3., it now reads as “Prosecutor General’s Office.”

Page 125 – Text change:

- After “main function is”, the following text has been added: “to represent the state in protection of public interest (not the state interest)” and “authority” is has been substituted by “administration” of the Ministry of Justice.
- “by Act 14/2002” has been deleted.

Page 126 – Text change:

- After “under labour law”, “contract” has been deleted.
- The references to the Criminal Code and Civil Code have been corrected to refer to the procedural regulations, by including Criminal “Procedure” Code and Civil “Procedure” Code.
- After “perform other specific tasks”, “in protection of public interest” has been added.
- After “responsibility in non-criminal cases”, “(in protection of public interest)” has been added.
- The last sentence has been deleted: “Besides the possibility of becoming a party to civil proceedings, the public prosecution service can recommend that proceedings be brought by the Supreme Public Prosecutor, for instance in paternity denial cases under the Family Act.”

Page 126, 129, 130, 131, 132, 133, 134 – Text change:

All references to the “Supreme Public Prosecutor” of the Czech Republic have been substituted by its correct name, the “Prosecutor General”.

Page 127 – Text change:

- “On the order of” now reads “by”.

Page 129:

- A level has been added to the following list: “district, regional, **high** and supreme levels”.
- After “the government appoints and dismisses the Prosecutor General”, “recommendation” has been substituted by “proposal”.
- After “According to”, “Constitution” has been deleted, and the reference to “act N° 283/1993 on the Public Prosecutor’s Office” has been added.
- After “expressly set down the principle that the Ministry of Justice performs the”, a clarification to the type of administration has been added: “(administration of the public prosecutor’s office)” and “central” has been deleted.
- “Other administration is performed by chief public prosecutors.” has been added at the end of the second paragraph.
- In the fourth paragraph, epigraph a), “of the Czech Republic” has been deleted.
- “that are published in the Collection of Court Decisions and Opinions” has been deleted.
- In the sixth paragraph, substitute “General” Instructions with Instructions “of general nature”; “Ministry of Justice” has been substituted with “Prosecutor General’s Office”; ASPI has been substituted with “various legal information systems”.
- Reference to website of the Public Prosecution has been added “Available at <https://verejnazaloba.cz/nasz/cinnost-nejvyssiho-statniho-zastupitelstvi/pokyny-obecne-povahy/>”

Page 130 – Text change:

- On the fourth paragraph, “recommendation” has been substituted with “proposal”.
- After “The selection of candidate prosecutors”, “(prosecutor trainees)” has been added, and “and other branches of law” has been inserted at the end of the same paragraph.
- In the last paragraph, “The Minister of Justice appoints public prosecutors for an indefinite period upon a proposal of the Prosecutor General. Proposal of Prosecutor General in made on the basis of open competition organized by chief public prosecutor where the place is vacant.” Has been added, and the following phrase has been moved: “The selection of candidates by Regional Prosecutors and the appointment decisions by the Ministry of Justice do not have to be reasoned and are not subject to appeal by unsuccessful candidates.” after the new sentence.
- The sentence “Prosecutors are appointed for an open-ended period, but they can be suspended from duty by the Minister of Justice.” has been deleted.

Page 131:

- “enter” has been substituted by “entered”.

Page 132:

- “internal” has been inserted between “30” and “experts in the prosecution service”.
- After “Negative consequences may be the dismissal from chief positions”, “in the way mentioned above” has been inserted.

Page 133:

- “example” has been included between “For” and “the area of money laundering the said Instruction of General Nature in Annex 1 and 2 stipulates under item I”.
- After “Correspondents”, “for various areas of criminal activity (10 NC total)” has been added and “for fight against corruption and search and seizure of crime proceeds. This was put into practice by a Provision of the Supreme Public Prosecutor no. 25/2011, which established the position of National Correspondents for various areas of criminal activity” has been deleted.

Page 134:

- Delete "Under the previous system, prosecutors, whatever their rank, were appointed on motion of the general prosecutor. However, the 2002 amendment decentralised the right to propose the appointment of lower prosecutors from the general prosecutor to the heads of the local offices."

- The following text has been added to complement this section: "In 2019, on the Draft of amendment of Public Prosecutor's Act prepared with the participation of Prosecutor General's Office, there was consent on some parts of the amendment (to fulfill the recommendations of GRECO), such as for example:

- 1) Introduction of removing of chief public prosecutors (including the Prosecutor General) only in disciplinary proceedings (in court proceedings)
- 2) Introduction of the term of office of chief public prosecutors (in the same length for all chief public prosecutors: 7 years),
- 3) Introduction of basic requirements for the person of the chief public prosecutor (apart from the absence of an unprecedented disciplinary sanction, the requirement for professional knowledge, professional experience and moral qualities guaranteeing the proper performance of the function and the minimum required period of practice); the minimum requirements of the internship are set both for transfer to a higher public prosecutor's office and for assignment to a non-district public prosecutor's office,
- 4) The selection of high, regional and district public prosecutors will take place exclusively through open selection proceedings – open call for candidates – organized by PS (to reduce influence of executive power)

There was a change on the position of Minister of Justice at the end of April 2019, including changes to the draft amendment (without prior consultation with Prosecutor General's Office). Objections to the changes in the amendment from the Prosecutor General's Office are as follows:"

Page 135:

- The following text has been added to complement this section, following the previous page:

"1) Changes go against strategic materials passed by the government to strengthen independence of the prosecution;

2) Changes do not follow the recommendations of GRECO;

3) Changes give more opportunities for executive power how to interfere into the prosecution service;

4) Changes make legal differences for judges and prosecutors without good reasons.

The draft amendment to the Public Prosecutor's Office Act was discussed on 12 September 2019 by the Legislative Council of the Government, which recommended that the bill be approved by the Government of the Czech Republic with certain legislative and technical comments and then submitted to the Parliament of the Czech Republic. At the same time, the opinion contains a statement for the government, which states that the some individual members of the council had conflicting views on some essential parts of the bill (especially on the composition of the selection committee for the positions of chief public prosecutors).

The Legislative Council of the Government is an advisory body of the Government of the Czech Republic in its legislative activities, it evaluates the bill primarily from the point of view of legislative elaboration and compliance with the legal order.

The draft amendment to the Public Prosecutor's Office Act was further discussed by the Anti-Corruption Council of the Government on 2 October 2019, which recommended the Government of the Czech Republic not to approve the bill. The main reason for this decision was that the council considered that the bill in question improperly

increases the executive's intervention in the public prosecutor's office, especially in the area of the selection of chief public prosecutors.

The Anti-Corruption Council of the Government is a permanent advisory body of the Government of the Czech Republic in the area of the fight against corruption and, among other things, also assesses draft legal regulations submitted to the government in terms of corruption risks.

The draft amendment to the Public Prosecutor's Office Act has not yet been included on the agenda of the Government of the Czech Republic.”