

Evaluation Report

Justice Sector Reform Strategy And Action Plan Of Ukraine For 2015-2020

on

Areas of Intervention

- 8.1 Increasing Independence and Autonomy of Prosecutors;
- 8.2 Increased Competence of Prosecutors;
- 8.3 Increased Accountability of PPO;
- 8.5 Increased Transparency of PPO;
- 10.1. Increased Efficiency by Streamlined Competences in Criminal Investigation

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INTRODUCTION

The Report has been developed as a part of the overall JSRSAP¹ evaluation exercise by the PJ and Council of Europe Project Human Rights Compliant Criminal Justice System in Ukraine experts with the support of the project teams. It concerns the results of an assessment carried out by Virginijus SABUTIS,² Lorena BACHMAIER WINTER³, acting as international and Olga DUBINSKA⁴ as national experts respectively. It has been conducted in accordance with the tailored, evaluation area(s)-specific methodology.⁵

The expert team conducted desk research, including legislation and sub-legislation, reports, opinions and other documents prepared by international organisations and Ukrainian NGOs, statistical and other data available publicly or provided by the relevant state agencies. Moreover, a number of meetings was held with the representatives of the public prosecution service, prosecutorial self-governance and support bodies, judiciary, bar, civil society, international organisations etc.

The Report has benefited from the intensive co-operation extended by the Prosecutor General's Office and public prosecutor's offices of regional and local level, National Academy of Prosecutors of Ukraine, Council of Prosecutors of Ukraine, Qualification and Disciplinary Commission of Prosecutors.

The Report presents the baseline of May 2015 and follows the attainment of the outcomes and introduction of measures envisaged by the JSRSAP. It is to be mentioned, that the analysed area is being currently deeply reformed and certain features are of transitional nature (as, for example, some of the functions the prosecution service is currently entrusted with).

This Report also includes a brief overview of adequacy of the JSRSAP itself and of the monitoring undertaken by the responsible institutions.

Finally, the Report presents a number of recommendations both aimed at attainment of the outcomes and going behind them with a view of successful reform of Ukrainian public prosecution service on a long-term perspective.

- The key points and important findings are highlighted (underlined) in the text.
- Recommendations are developed and formulated (in bold) on the basis of relevant findings and deliberations, as well recapitulated at the end of the Report accordingly.

¹ The parts of the Action Plan under consideration are attached to this report. See Annex III.

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⁵ See the assessment-specific activities matrix attached.



ABBREVIATIONS

JSRSAP	Justice Sector Reform Strategy and Action Plan of Ukraine for 2015-2020
MT	JSRSAP monitoring tool
PJ	EU funded Project Support to Justice-related Reforms in Ukraine (PRAVO-JUSTICE)
PPS	Public Prosecution Service
PPO	Public Prosecutor's Office
LPPO	Local Public Prosecutor's Office
RPPO	Regional Public Prosecutor's Office
PG	Prosecutor General
PGO	Prosecutor General's Office
NAPU	National Academy of Prosecution of Ukraine
QDC	Qualification and Disciplinary Commission
CP	Council of Prosecutors of Ukraine
PPS Law	Law of Ukraine "On Public Prosecution Service", 14 October 2014
CPC	Code of Criminal Procedure of Ukraine
FLA	Free Legal Aid
HCJ	High Council of Justice
SC	Supreme Court
VR, Parliament	Verkhovna Rada of Ukraine
SBI	State Bureau of Investigation
NABU	National Anti-Corruption Bureau of Ukraine
SAP	Special Anti-Corruption Prosecutor's Office
NCPA	National Corruption Prevention Agency
CoE	Council of Europe
EUAM	European Union Advisory Mission to Ukraine
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights



BASELINE

Overall state of affairs

As of May 2015, the long-awaited reform of the public prosecution service (PPS) in Ukraine has finally been launched.⁶ When joining the Council of Europe, Ukraine undertook the commitment that *“the role and functions of the Prosecutor’s Office will change (particularly with regard to the exercise of a general control of legality), transforming this institution into a body which is in accordance with Council of Europe standards.* The new Law on Public Prosecution Service (PPS Law), adopted on 14 October 2014 replaced the Law of Ukraine *On the Public Prosecution Service* that entered into effect on 5 November 1991, which had been amended on many occasions since then - particular extensively in 2010 and 2012. The new PPS Law sought to align the Ukrainian PPS with Council of Europe standards. To that end, it provided for the establishment of the prosecutorial self-governance system, regulated access to the profession, promotion, disciplinary proceedings. These and other clauses were aimed at safeguarding the prosecutorial autonomy.

The PPS functions were enshrined in Article 121 of the Constitution of Ukraine adopted on 28 June 1996, and still included the general supervision and representation of interests of persons, despite Ukraine’s commitments, including those taken on admission to the Council of Europe (CoE) to narrow the agency’s functions.⁷ The new PPS Law partly mitigated the situation, providing, *inter alia*, for the implementation of the supervisory function through other institutions; however, in order to accomplish the change in the functions, it was necessary to amend the Constitution of Ukraine. As of May 2015, the amendments were being developed.

The new Code of Criminal Procedure (CPC) (enforced by the Law 4651-VI of April 13, 2012), was adopted on 19 May 2012 and which entered into force on 20 November 2012, provided for a new concept of criminal proceedings, moving towards the adversarial principle (Article 22 CPC), establishing the adequate legal framework to ensure compliance with the human rights safeguards in all the stages of the criminal procedure, etc. As to the PPS, an important part of the CPC concept was the notion of a prosecutor as an independent procedural figure, taking decisions, managing the investigation process, aiming at collecting the evidence both of guilt and innocence, filing the indictment and arguing for the prosecution before the court.

While the new CPC and PPS Law provided the legislative framework for the changes in organisation and operation of Ukrainian PPS, as of May 2015 the PPS Law was not yet in force. It was expected to come into force on 15 July 2015, with the exception of certain provisions, which were to become valid even later.

Moreover, there was a need to develop and enact the relevant sub-legislation, or align the existent regulations. Another acute question as of May 2015 was the practical implementation of new legislation, in line with the relevant standards and best practices.

⁶ The Venice Commission had been highly critical of the law concerning the public prosecutors’ office in Ukraine. Prior to the Law of 2015, the existing law as establishing the prosecutors’ office was described as *“a very powerful institution whose functions considerably exceed the scope of functions performed by a prosecutor in a democratic, law abiding state”*. The office was described as a Soviet-style “prokuratura”. See Venice Commission Opinion On the Draft Law of Ukraine amending the constitutional provisions on the Procuracy CDL-AD(2006)029 at paras. 3 and 4; and the Venice Commission Opinion on the draft law of Ukraine on the Office of the Public Prosecutor, CDL-AD(2009)048).

⁷ When joining the Council of Europe on 9 November 1995, Ukraine undertook the commitment *“the role and functions of the Prosecutor’s Office will change (particularly with regard to the exercise of a general control of legality), transforming this institution into a body which is in accordance with Council of Europe standards”*.



AREA OF INTERVENTION 8.1

INCREASING INDEPENDENCE AND AUTONOMY OF PROSECUTORS

8.1.1. Ensuring greater independence of Public Prosecutor's Office (PPO) from political power.

Address the particular issues/points under relevant outcomes/related to the sub-chapter/group of issues

As of May 2015, the following provisions for the appointment, dismissal and term in office of the Prosecutor General (PG) existed in Ukraine.

First of all, the Constitution of Ukraine, in its then valid version established as follows. The PG is appointed by the President of Ukraine upon consent of the Ukrainian Parliament, Verkhovna Rada of Ukraine (VR). The President can also dismiss the PG, also upon the Parliament's consent. The Parliament can also pass a no-confidence vote against the PG resulting in his or her dismissal. The term in office of the PG was set for five years.

In March 2015, a Constitutional Commission was established to develop the Constitutional amendments. The chapter on PPS was among the parts that were expected to be changed.

Secondly, the new Law on PPS was adopted in October 2014, but not yet in force as of May 2015. It has not changed the main principles for the PG's appointment, dismissal and term in office, as these questions were regulated by the Constitution. However, the Law established the grounds for the dismissal of any prosecutor including the PG: criminal conviction or administrative conviction on corruption charges; loss of citizenship or acquiring citizenship of another state; breach of incompatibility requirement etc. (Article 51 Law PPS). The procedure for the dismissal of PG by the President (upon the VR's consent) provided that it can be done either according to the PG's own will or upon a motion of the Qualification and Disciplinary Commission (QDC) or High Council of Justice (HCJ) (Article 63). In addition, the PG's service shall stop upon the term of office or following a no-confidence vote of the VR (Article 63.2).

It is to be mentioned that the new PPS Law assigned the QDC an important role in the appointment and dismissal of the PG (motion; opinion on professional performance of the PG); however, as of May 2015, this body was not yet operational. What is more, its role under the Law is not fully clear. Moreover, no competition for the PG office and no competence and ethical qualities based ranking system were envisaged by the new Law or by any sub-legislation.

Another relevant document, the Rules of Verkhovna Rada of Ukraine, adopted as a Law in 2010, comprises two Articles governing provision of consent to the President's proposal and the no-confidence vote. Both Articles provide for the participation of the (candidate) PG in the meeting; the President is participating in the meeting where the VR is discussing his/her motion for the appointment or dismissal of the PG. The VR is taking all the decisions mentioned by simple majority; in order to include the question of no-confidence into the Parliamentary agenda, it is to be suggested by not less than 1/3 of the members of the VR.

As of May 2015, the regulatory framework related to the budgetary issues in at the PPS included the new PPS Law and the general regulatory framework applicable for the state agencies. The Budget Code of Ukraine was adopted in 2010 laying foundations for the programme-based budgeting. The annual budget requests were prepared by the Prosecutor General's Office (PGO) on the basis of the suggestions from the regions and the structural

units. The Council of Prosecutors (CP) was not yet established. There was no general strategic plan of the PPS within which the budgeting would have been included either.

As to the performance management systems, while statistical data were regularly collected, no clear targeting procedure was set; no data enabled to calculate the prosecutorial performance and related issues, and the data collected did not influence the budget. No procedure for the review in the number of prosecutors was in place. The PGO conducted no internal research on the scale of activity of prosecutors (functional audit), the rational number of prosecutors performing their functions, and the creation of an effective prosecution structure.

As the PPO functions were defined in the Constitution, Constitutional amendments were necessary to narrow them. However, the new PPS Law provided already for certain fine-tuning. For instance, while the constitutional function of the 'general supervision' was still in place, in the Law it was explained as being implemented through other functions (as listed under Article 26 PPS Law), thus, it was restricted.

8.1.2. Ensuring greater institutional independence of PPO system

As of May 2015, a completely new system of prosecutorial self-governance was introduced in the PPS Law. It comprised the All-Ukrainian Conference of Prosecutors and the Council of Prosecutors of Ukraine. A special "support body" was also envisaged, the Qualification and Disciplinary Commission of Prosecutors, tasked with the career issues and disciplinary proceedings.

However, these bodies had not yet been launched. No preparatory awareness campaign was conducted either.

8.1.3. Ensuring greater functional autonomy of prosecutors from improper internal influence

The first set of Outcomes concerns the new prosecutorial career management introduced by the PPS Law and the role of the QDC and CP in it. As of May 2015, this system was envisaged but the implementation had not yet started.

The second set of Outcomes concerns inspections of lower-level PPOs and such aspects of procedural and administrative autonomy of prosecutors and prosecutorial discretion and instructions of higher-level prosecutors.

The issues of administrative and procedural independence of prosecutors were included in the new Law on PPS (Article 16). In particular, the Law contains Article 17 on the prosecutorial subordination, which, *inter alia*, explicitly obliges the higher-level prosecutors to give orders in writing. As of May 2015, this Law was not yet in force.

The procedural autonomy of a prosecutor was one of the principles of the CPC of 2012. The new CPC provided for some room for prosecutorial discretion, however, the practical implementation of the Code was not fully in line with the principles.

Many areas of the organisation and operation of the PPS were governed by the Orders of the PG. The Order on the Organisation of Work and Management in the Public Prosecutor's Offices of Ukraine adopted in 2011⁸, with further amendments, was still effective in 2015. It provided, among other, for the possibility of higher level PPOs to conduct inspections of lower level offices, including extraordinary inspections. While certain restrictions were set ("when the data available indicate significant drawbacks and errors in the organisation of

8 Order of the PG No. 1gn of 26 December 2011 On the Organisation of Work and Management in the Public Prosecutor's Offices of Ukraine



work or breach of administrative discipline, and the previously taken measures had not had effect”, p. 15.1), the wording was in principle vague enough to allow broad use. It is to be noted that this issue was not regulated on the level of law. Moreover, the same Order established that a priority impact measure with regard to the subordinate bodies and employees, ensuring effective and quality performance, shall be the “provision of practical and methodical assistance” (p. 15). It is to be noted that further clauses of the Order were not distinguishing between the inspections and the “provision of practical and methodical assistance”. For example, the same type of reports was to be drawn following an inspection or the “provision of assistance”, which were to comprise, *inter alia*, the causes of the drawbacks and errors detected and recommendations to eliminate such causes. (p.15.6). Thus, in addition to the inspections, the “provision of practical and methodical assistance” potentially allowed for the interference with prosecutorial autonomy.

As to the outcomes concerning the examination by the CP of complaints on infringements of prosecutors’ independence, as of May 2015 the CP was not yet functioning.

8.1.4. Ensuring greater personal autonomy of prosecutors

As to the remuneration and other social guarantees for prosecutors, the new PPS Law, adopted but not yet in force, set a number of safeguards with regard to the personal autonomy of prosecutors. Among other, it established principles for the remuneration and other social guarantees, material and logistical maintenance. Article 16 “Safeguards of the prosecutorial independence” included these aspects, and two separate Chapters were dedicated to the social and material conditions of prosecutors and other PPO employees and to the organisational maintenance of the PPOs operation, respectively. In particular, the Law set the amount of the salary of prosecutors of different levels.

As to the individual rights and freedoms of prosecutors and other PPO employees, such issues were not regulated in detail. As to the union of PPS employees, it existed but was not active.

As to the role of the CP, this body had not yet been established.

AREA OF INTERVENTION 8.2 INCREASED COMPETENCE OF PROSECUTORS

8.2.1. Development of independent, transparent and objective procedures of selection of prosecutors

8.2.2. Implementation and modernisation of system of initial training of candidates for prosecutors

8.2.3. Modernisation of system of continuing training of prosecutors

As of May 2015 the new procedure for selection of prosecutors, including initial training for candidates, was envisaged by the PPS Law but not yet in force, as were the provisions concerning continuous training. The previous Law established that NAPU conducted continuous training of prosecutors.

8.2.4. Implementation of individual Evaluation of Prosecutors’ Performance (EPP) system for improving career management at PPO

There was no clear EPP system in place. Statistical data was collected with regard to the number of cases processed and the like, but there was no unified and transparent links to the promotion, incitements, continuous training or sanctions.

8.2.5. Implementation of institutional PPO Effectiveness Evaluation (PEE) system for improving institutional role

There was no clear PEE system in place.

AREA OF INTERVENTION 8.3 INCREASED ACCOUNTABILITY OF PPO

8.3.1. Development of internal and external oversight mechanisms to combat and prevent corruption

The new PPS Law provided for the system of annual secret integrity checks (Article 19 PPS Law), with a role of the Internal Security Department (ISD) in it. No special training arrangements or study visits were in place. The anti-corruption legislation that came into force in 2015 (Law No.578-VIII of 2 July 2015 on Corruption Prevention) established general rules for corruption prevention, applicable also to the PPS. It included the system of publicly available declarations. A special body tasked with control over the declarations of assets was to be created, the National Corruption Prevention Agency (NCPA). However, the new legislation was not implemented, and the NCPA was not yet operational. Another body, National Anti-Corruption Bureau of Ukraine (NABU), and investigative body to deal with high-level corruption had only been established in mid-April 2015 and was not operational. In any case, corruption cases of ordinary prosecutors were not within the competence of NABU.

8.3.2. Implementation of clear and foreseeable disciplinary policy and standards of prosecutorial ethics and discipline

The new PPS Law, not yet in force in May 2015, provided for a completely new system of disciplinary proceedings regarding prosecutors, with the necessary set of procedural guarantees, and the possibility of appeal. The central role was assigned to the QDC (Articles 43-64 PPS Law).

Before the establishment of the QDC, the mechanisms of disciplinary liability lacked clarity, foreseeability and unified approach. Thus, supervisors were applying disciplinary sanctions on their subordinates without being restricted by any procedural rules. No obligations to make the disciplinary decisions public were in place. It is widely reported that the disciplinary responsibility was used in detriment to the independence of prosecutors in their decision-making. The Disciplinary Statute of 1991 was valid. The Code of Ethics and Conduct of Prosecutorial Employees was adopted in 2012. Appeal was in principle possible, and the High Council of Justice (HCJ) was competent to hear such appeals; however, in practice, appeal claims were extremely rare.

AREA OF INTERVENTION 8.5 INCREASED TRANSPARENCY OF PPO

8.5.1. Establishment of system of relations with media, to promote access by public to information about PPO

As of May 2015, there was no strategic unified approach for the relationship with media and public. Press-conferences of the PPOs as well as relevant publications were scarce and sporadic. There were no training arrangements for the PPO leadership in this area. Some of the PG's orders were published.

As to the transparency of the QDC and CP, these bodies were not yet established.



The new PPS Law, which was not yet in force, included Article 6 governing provision of information on the operation of PPS. It establishes the PPOs' obligations to inform the society on their activities in the media, obliged the PG and the heads of regional and local PPOs to report periodically at the session of the Parliament or, respectively, the relevant local council providing statistical and analytical data. It is also foreseen that the information on the PPS' operation should be published in printed media and on the official PPO websites. It also provides for the publication of the PPO regulatory documents on the organisation and operation of the PPS. The PPS Law further provides for the publication of the PG's order on the official PGO website.

8.5.2. Increasing transparency of PPO through enhanced and permanent communication with civil society

No planned surveys were undertaken and no strategy for the use of the surveys results for building the communications was in place. No systematic work with the public was built, including the absence of capacity-development of the staff involved in the communication with public.

Both the PGO and the regional public prosecutor's offices (RPPOs) had their websites, however, the presentation of the information at the web-sites was not very user-friendly merely providing news on the PPO achievements written using 'legal' style as well as collection of regulatory documents.

Consultative Council at the PGO was established in 2014 with the participation of the civil society representatives. However, its composition was changed several times.

AREA OF INTERVENTION 10.1. INCREASED EFFICIENCY BY STREAMLINED COMPETENCES IN CRIMINAL INVESTIGATION

10.1.1. Streamlining of duties and powers of each body involved in criminal investigation

As of May 2015, the new CPC already provided for the new model of criminal proceedings, assigning the procedural supervision role to the prosecutors, and separating the role of the investigator. It is to be noted that this model was not fully clear for the criminal proceedings' participants. Moreover, the new PPS Law described the PPS' function differently from the CPC, as the "supervision over observance of legislation by the agencies conducting operative search activities, inquiry, pre-trial investigation".

The CPC established the investigative jurisdiction rules, however, it also included a clause enabling a prosecutor to decide on the competence of the investigative agency over a given case. Among the investigative agencies, the MoI / National Police were competent in most crimes, while several agencies received special jurisdiction: The State Security Service, the bodies competent to investigate the tax-related crimes, the National Anti-Corruption Bureau and the State Bureau of Investigation, the two latter not yet established. One of the new agencies, the NABU was established in April 2015 (the Law on NABU adopted in October 2014 entered into force in January 2015).

Still, the PPS also kept its investigative function. It was included into the transitional provisions of the PPS Law, establishing that the PPO investigators were to keep performing pre-trial investigation until the launch of the SBI but in any case not later than five years from the entry into force of the CPC.

ADEQUACY OF JSRSAP AND ITS PARAMETERS

Overall assessment

Elaborate of the overall adequacy (positive comments + shortcomings) of the set of interventions, structure, indicators, formulations and other parameters of the JSRSAP segment under consideration.

The Areas of Intervention analyzed are relevant from the viewpoint of the components of the PPS reform, as mostly the Actions, Outcomes and Outputs (Measures) envisaged.

The main failure of this strategy, which leads to confusing results and turns the evaluation also into being misleading, is that the level of implementation of the reforms are not adequately contemplated in it. The outputs have to be connected to the general objective sought within the relevant intervention area. For example, regarding the objective “Increase independence of the public prosecutors”, the strategy provides, among other, to carry out several legal reforms. Once the legal reforms are adopted, the compliance of the actions-strategy attainment will be 100%, while the main goal “Increase independence.” may remain missing. In short: complying perfectly with the actions envisaged in the strategy may end up in a quite positive (or not completely negative) assessment, while the situation in reality has not changed. Therefore, the final “accomplishment percentage” only refers to the actions envisaged, but not necessarily to the overall goals achieved. In short: the way the strategy is drafted may show very good evaluation of attainment, while the main goals are not achieved. This may be particularly misleading when only having a look at the matrix. And this is a failure of the strategy itself.

However, almost in every Area, there are lacunae to be mentioned. Some Outputs and Outcomes overlap. Moreover, several provisions of the Plan lost their relevance during the years following the adoption of the JSRSAP.

The chains of Actions, Outcomes and Outputs are on many occasions not harmonised. As to the wording of the Outcomes and Outputs, it is often very broad and includes several different aspects, which makes it difficult to assess the level of attainment – and it is not rare that one aspect is attained and another one is not attained at all.

Moreover, the English version of JSRSAP is far from being perfect. There are many discrepancies between it and the Ukrainian version, some parts are missing in the English one.

Finally, it is to be mentioned that the JRSAP lacks gender perspective.



AREA OF INTERVENTION 8.1 INCREASING INDEPENDENCE AND AUTONOMY OF PROSECUTORS

8.1.1. Ensuring greater independence of Public Prosecutor's Office (PPO) from political power.

Address the specifics of policy formulation concerning particular issues/points under relevant outcomes/related to the sub-chapter/group of issues.

I. Outputs. 1. Reviewed Constitution and statutes as to procedure of appointment, dismissal and terms of PG. 2. Reviewed regulatory framework on enhancing the PG's powers, possibility to engage the panel body to the appointment of the PG.

While the wording of the Outputs concerns three aspects: appointment of the PG, his/her dismissal and term in office, the Outcomes only concern the appointment. However, the dismissal procedure is an important guarantee of the independence of the PG and, consequently, independence of the PPO from political power. Requirements with regard to both appointment and dismissal procedures, as well as concerning the longer term of office of the PG were repeatedly included into the recommendations of the CoE. Moreover, with regard to the wording of the outcome "principle of checks and balances applied when appointing PG", it is to be mentioned that the rules in force as of May 2015 (baseline) already established the participation of both the President and the Parliament in the appointment and dismissal process, based on the checks and balances principle.

II. Output 3. Reviewed regulatory framework on PPO financing, formalising principles of performance-based budgeting and program budgeting by PPO.

The Outcomes regarding the budget process are formulated very broadly, some of them contain several different aspects, which makes it complicated to assess the level of attainment. The Outcomes 6 and 8 overlap, both referring to the roles of the regions in the budgetary planning process.

The Outcomes concerning the use of data and the review of the number of prosecutors are formulated very broadly, some of them contain several different aspects (especially the Outcome 11 on the use of data), which makes it complicated to assess the level of attainment.

The Outcome 13 concerning the scope of the PPO functions in the present wording lacks clear link with the budgeting issues. Moreover, it is fully repeated in 8.4.2, where it is much more in place.

8.1.2 Ensuring greater institutional independence of PPO system

I. Outputs. 1. Reviewed regulatory framework for prosecutorial self-governance system (SGS), including its financing.

First of all, the Outcomes go beyond the suggested Output, as the review of the regulatory framework would not suffice for the attainment of, for example, Outcomes 1 (all bodies within SGS function in practical, effective and sustainable manner) and 2 (Institutional independence of NCP, CP, QDC, their organisational, career and financial capacities ensured by proper staffing, administrative, financial and logistics arrangements), which require implementation measures.

Secondly, under the Ukrainian legislation, the QDC is not deemed to be a prosecutorial self-governance body, thus, wording suggesting it is one of such bodies is not exactly accurate.

Thirdly, the wording of the Outcomes (4) and (5) could be improved. As it stands now, it is a mere repetition of the functions of the CP and the QDC as stated in the PPS Law, and it is unclear what is to be achieved. Thus, more appropriate wording might be “CP/QDCP is effectively implementing the function of...”. These outcomes should also be aligned with outcome (1) to avoid overlapping. It is to be noted, though, that this might be an issue of translation, as the Ukrainian text differs.

Fourthly, a very important issue is to ensure coordinated functioning of the bodies in issue and proper delineation of their competences. This aspect should be added to outcome 1.

II. Outputs. 2. Awareness campaigns for prosecutors at all levels on role, functions and range of responsibilities of SGS.

To attain the Outcome worded as “officials and public has full information...”, campaigns targeting audiences other than prosecutors are necessary. This is especially relevant with regard to the QDC, taking into account its role in disciplinary proceedings.

These Outcomes partly overlap with Intervention Area 8.5, which concerns transparency.

8.1.3. Ensuring greater functional autonomy of prosecutors from improper internal influence

I. Outputs. 1. Reviewed regulatory framework for implementation of specific criteria by CP for candidate selection, and appointment to positions based on results of performance evaluation.

This section comprises career-related Outcomes, which cover numerous aspects of operation of the QDC, CP and other actors. Thus, the Output focusing solely on the regulatory framework for the criteria used by the CP covers only one component of many in need of action.

Several important aspects are overlooked. Thus, it is crucial to ensure unified approach of all the actors involved in the career management, clear understanding of their respective roles and delineation of functions. In the context of independence, implementation of the decisions or recommendations of the QDC and CP by the PG and heads of RPPOs is also crucial. Furthermore, there is also a need to ensure equal treatment on all stages of the prosecutorial career including gender perspective.

Moreover, these Outcomes are overlapping with the Intervention Area 8.2 (competence) and have to be aligned accordingly.

As to the Outcome 15, it is not clear why the CP's decisions are to be published at the PG (in the Ukrainian version – PGO's) website and not on the Council's own website.

II. Outputs. 2. Internal regulations in place, establishing exhaustive list of grounds for inspections of lower prosecutorial bodies by upper ones. 3. Internal guidelines and policies adopted on scope of prosecutorial discretion and enlarging freedom of prosecutor to issue procedural written documents with no agreement of supervisor. 4. Reviewed regulatory framework on procedure of making written orders and giving oral or written instructions by upper-level prosecutors to lower-level prosecutors, in order to ensure independence of prosecutors without risks of disciplinary and hierarchy violations at PPO.

The wording of the Output (2) (and the Outcome (5), providing for the need to ban “improper” inspections by clear guidelines) is limited to the formal inspections. It would be advisable to formulate more broadly, allowing to cover other actions of upper-level PPOs, not formalised but also infringing the autonomy of lower-level offices / prosecutors.



In addition to the Outcome (8) referring to the ban on disciplinary responsibility for non-compliance with oral instructions, another important issue is excluding sanctioning prosecutors for acquittal. While it is positive that the PPS Law contains explicit prohibition to discipline prosecutors in case of acquittal (Article 43), unless there was a deliberate breach of legislation or undue performance, it is still reported that every acquittal may lead to negative consequences for the responsible prosecutors.

III. Outputs. 5. Analysis of complaints on violation of prosecutorial independence included as part of Annual Activity Report of PPO.

The Outcomes are much broader than Output 5, referring to the examination of complaints by the CP and analysis of the complaints. Outcome 9 on examination (and probably also outcome 10 on the analysis) is closely tied to the capacities of the CP and is to be supported by the development of this body.

8.1.4. Ensuring greater personal autonomy of prosecutors

I. Outputs. 1. Reviewed regulatory framework on remuneration, other professional guarantees and social security of prosecutors.

While both Output and Outcomes concern the regulatory framework, the crucial issue to be included is the actual implementation of the relevant safeguards.

II. Outputs. 2. Reviewed regulatory framework on individual freedoms of prosecutors, determining scope and extent of exercise by prosecutors and PPO staff of right to privacy, freedom of conscience, expression, and association, and other individual rights and freedoms

The Outcome (3), which mentions “regular examination” by the CP of complaints concerning legal protection of prosecutors is not fully clear with regard to what exactly is expected to be achieved. In any event, the outputs do not correspond to this outcome, as the regulatory framework is not sufficient to ensure appropriate examination of the complaints.

AREA OF INTERVENTION 8.2 INCREASED COMPETENCE OF PROSECUTORS

8.2.1. Development of independent, transparent and objective procedures of selection of prosecutors

I. Outputs. 1. Itemised procedures of prosecutor selection by QDC. 2. Qualification Examination scope, form, contents and procedure developed jointly with key stakeholders. Qualification Examination formalised by internal regulations, reviewed and updated annually. 3. Reviewed regulatory framework on ensuring proper organisation of special anti-corruption check of candidates for prosecutors. 4. Procedures of competition for filling vacant prosecutor posts developed and approved depending on rating of candidates, reviewed and updated.

This area overlaps with certain Outcomes of Area 8.1 and is to be aligned.

English version of the Outcome 6 (“Competitions for filling vacant positions held by QDC, based on results (score) at Qualification Examination, and results of testing”) is incorrect: Ukrainian version refers to the final testing upon the initial training, while English is not clear.

The need for the unified approach among all bodies involved into the prosecutorial career management is to be mentioned.

Another important issue overlooked is the one of ensuring non-discrimination of candidates. The question of awareness of the selection and increasing the popularity of the prosecutorial career, including among women candidates could also be included.

The Outcome 3 (“Each member and employee at QDC properly trained with participation of national and international counterparts”) is not clear with regard to the training needed; moreover, other capacities of the QDC also need strengthening – such as various tools and secretariat support.

Moreover, an important question of the promotion of prosecutors is omitted, both in the component of appointment to administrative positions and of transfer to higher level PPOs.

8.2.2. Implementation and modernisation of system of initial training of candidates for prosecutors

I. Outputs. 1. Reviewed regulatory framework on status of National Academy of Prosecutors of Ukraine (NAPU) as sole institution for initial training of candidates for prosecutors. 2 Curricula of initial training of prosecutors developed, based on discussions with HEIs, SGS, lawyers and international experts. 3. Curricula of initial training of candidates’ public prosecutors regularly reviewed, updated and disseminated through electronic libraries. 4. System of training of trainers (TOT) for initial training of prosecutors implemented aiming at delimitation between academic and professional approaches. 5. Satisfaction surveys, including for trainees. Trainings of PPO staff carried out regularly, identifying needs in adapting initial training curricula. 6. Format and content of practical assignments and anonymous testing for candidates developed.

The wording of the Outcome 1 focuses on the sufficiency of NAPU’s resources and omits efficiency of their use, which is also important.

The Outcomes 3 and 9 seem to overlap, both speaking about the components of the initial training curricula.

The question of training of newly-appointed holders of administrative positions is omitted.

8.2.3. Modernisation of system of continuing training of prosecutors

I. Outputs. 1. Continuing training curricula harmonised with professional requirements in framework of PPO reform. 2. New system of testing after continuing training course implemented. 3. Ukrainian and foreign lawyers involved as trainers for continuing trainings of prosecutors. 4. Curricula of continuous training of prosecutors regularly reviewed, updated and disseminated through electronic libraries. 5. System of training of trainers (TOT) for continuous training of prosecutors implemented. 6. Satisfaction surveys, including for trainees. Trainings of PPO staff carried out regularly, identifying needs in adapting continuous training curricula. 7. System of incentives to continuous training in place through sending the prosecutors with the best test score result to study visits to foreign institutions.

The Outcomes are very broad; some of them combine several different issues, which makes it difficult to properly assess the level of attainment.

An issue that could have been included is the equal access to the training and equal requirements with regard to the obligatory training throughout the PPOs.

8.2.4. Implementation of individual Evaluation of Prosecutors’ Performance (EPP) system for improving career management at PPO

I. Outputs. 1. Transparent and objective system of individual evaluation of prosecutor’s performance implemented. 2. Reviewed human resources policy, using ratings (score-based)



EPP system for appointments, re-assignments and promotion. 3. Awareness campaigns for prosecutors on new EPP, clarifying role of system in promoting independence, competence and efficiency.

Link of the EPP with continuous training would have been relevant.

8.2.5. Implementation of institutional PPO Effectiveness Evaluation (PEE) system for improving institutional role

I. Outputs. 1. Transparent and objective institutional PPO performance evaluation system (PEE) implemented through carrying out and publishing relevant research and analysis in Annual Activity Reports on PPO. 2. Trainings of PPO employees and CP members on research and analysis, strategic planning, financial planning, and risk management tools. 3. Practice guides and instructions on application of PEE developed, disseminated and regularly reviewed.

The Outcomes are much broader than the Outputs; their grouping is not clear.

AREA OF INTERVENTION 8.3 INCREASED ACCOUNTABILITY OF PPO

8.3.1. Development of internal and external oversight mechanisms to combat and prevent corruption

I. Outputs. 1. Reviewed regulatory framework on responsibilities of PPO Internal Security Department (ISD), including role in conducting annual integrity checks of prosecutors. 2. Reviewed regulatory framework on procedure and mechanism of conduct by ISD of annual integrity checks of prosecutors. 3. Reviewed regulatory framework on asset, income and expenditure declarations of prosecutors. Regular monitoring/verification by ISD conformity of income and expenses of prosecutors, and members of their families, in order to define scope of annual integrity check. 4. Reviewed regulatory framework on immunities of prosecutors.

The wording of this area of intervention partly lost its adequacy, as in 2016 the Internal Security Department was replaced with the newly-established General Inspection (GI), with the status of a department.

The Output 3 covers several different issues making it difficult to assess whether it was implemented; moreover, the Procedure for the Secret Integrity Check of Prosecutors in the Public Prosecutor's Offices⁹ adopted in 2016 regulates this issue differently.

An issue that could have been relevant here, as the new Law on PPS and the new Law on Corruption Prevention have been adopted simultaneously, thus, the analysed period covers the very first stages of the implementation of both Laws, including the adoption of the new regulations and the launching of new agencies. Thus, a very important aspect not to be overlooked is the need to harmonise approaches between the general anti-corruption legislation and specific rules concerning the PPS, and clearly delineate the competences of the internal and external oversight mechanisms.

⁹ Approved by the Order of the PG of 16 June 2016 No. 205.

8.3.2. Implementation of clear and foreseeable disciplinary policy and standards of prosecutorial ethics and discipline

I. Outputs. 1. Reviewed Disciplinary Statute of Prosecutors and relevant procedural regulations to harmonize disciplinary practices with European standards. 2. Reviewed Code of Professional Ethics of Prosecutors, regularly updated and annotated. 3. Practice guides and training materials on ethical training of prosecutors developed, regularly reviewed and disseminated. 4. Online system for filing complaints against prosecutors in place. 5. Statistics on disciplinary cases and ensuring its public accessibility.

The new PPS Law provided a disciplinary framework to replace the Disciplinary Statute, thus, the phrases referring to the latter are not relevant.

The disciplinary responsibility framework established by the PPS Law is only applicable to prosecutors, and not all PPS employees, thus, the question of the responsibility of other employees is a separate one.

Such aspects as the procedural safeguards within the disciplinary proceedings, delineation of functions between the actors engaged and implementation of the decisions in disciplinary proceedings could also be included as outcomes.

AREA OF INTERVENTION

8.5 INCREASED TRANSPARENCY OF PPO

8.5.1. Establishment of system of relations with media, to promote access by public to information about PPO

I. Outputs. 1. Reviewed regulatory framework relationship with media and access to information. 2. Specialised staff responsible for media and public relations at PG press service QDC and CP.

Apart from improving the regulatory framework and building the capacities of the staff involved, it is crucial to ensure that a communication strategy is in place, and that the communications are not sporadic but happen within the set policy, this is to be mentioned.

8.5.2. Increasing transparency of PPO through enhanced and permanent communication with civil society

I. Outputs. 1. Online surveys and questionnaires to determine scope and extent of further PPO reforms. 2. Specialised units at PPO for response to public dissatisfaction and emergency event fully operational, working in timely consultation with representatives of civil society. 3. Consultative Council at PGO fully operational

Apart from media and civil society, an important aspect of the PPO transparency is the communication with 'average' citizens addressing the organisation. While this aspect is partly touched upon in the Outcome 1 ("Websites of all regional prosecutors' offices with a "FAQ" system (feedback)"), other components need changing, too. Thus, the PGO website is an important entry point, not only the regional sites. Moreover, building of a coherent and efficient system of response to the telephone calls, emails, paper mail, messages sent through the website, as well as the communication at social networks is not be overlooked. Finally, the improvement of reception of people physically coming to the PPOs with various requests is also an important component of increase the agency's transparency.

It is also to be mentioned that the wording of this Area of intervention fully overlooks the level of local PPOs, which does not seem correct, as those are the bodies of the PPS closest to



the grassroots organisations, local media or the community in general.

AREA OF INTERVENTION 10.1 INCREASED EFFICIENCY BY STREAMLINED COMPETENCES IN CRIMINAL INVESTIGATION

10.1.1. Streamlining of duties and powers of each body involved in criminal investigation

I. Outputs. 1. Reviewed regulatory framework on bodies involved in criminal investigation.

While the wording of the Output suggests that it concerns only the regulatory framework, the Outcome 1 referring to the “practical and effective...oversight” seem to concern the implementation of the relevant provisions in practice, thus, the suggested output would not suffice for the attainment of the Outcome.

The wording “disciplinary oversight” in the Outcome 1 does not seem fully adequate to the relationship between the PPO and the investigative bodies.

There is also the need to complete the transfer of the investigations from the PPO to the SBI and to finalise other issues related to the PPS ceasing to perform the function of investigation, including the status of (former) PPO investigators.

ACCURACY OF MONITORING OF AND REPORTING ON JSRSAP IMPLEMENTATION

Outline the overall scoring (in % – calculations will be provided), accuracy of monitoring (maintaining the MT) and narrative or other reporting formats on JSRSAP implementation.

Provide analysis, specific examples of inaccuracy, other shortcomings and relevant recommendations. If appropriate, the chapter can be structured in accordance with/mirror the JSRSAP directions/areas concerned.

Administrative measures of the PGO for Monitoring the JSRSAP.

In the PPS, the main foundations of the reform are the adoption of the new PPS Law (in force since 2015, Constitutional amendments of 2017, as well as adoption of the Criminal Procedure Code (2012). In order to achieve its goals, the PGO uses externally developed planning and monitoring tools – JSRS and Action Plan, Road Map and Monitoring tool, and enjoys assistance of external national and international experts and international donors. Nevertheless, in the process of fundamental institutional reform, the position of the majority of chief leaders – the Prosecutor General and all his/her Deputies – is very important. Their contribution should comprise:

- 1) top-management of the PGO communicating with the public and displaying genuine pro-activeness about their desire to execute institutional reorganization and other tasks set by the new Law;
- 2) administrative decisions delegating specific responsibility to the PGO structural units and territorial PPOs, to carry out specific actions under the reform plan and obliging them to monitor the implementation of the actions;
- 3) active dissemination of information by the top-management of the PGO regarding future tasks and goals of restructuring;
- 4) internal and external communication from the top-management of the PGO regarding already implemented measures for the plan;
- 5) system of reports (including interim and annual) by the top-management of the PGO referring to achieved changes and results and the functions performed by the prosecutor's office compared to the baseline (for example, to the beginning of 2015).

The activities of the PGO were more visible during the reorganization of 2016-17, and from thereon this visibility has decreased. Progress made in adopting internal regulations legislation related to the implementation of the objectives of the new Law has decelerated. Coordination and monitoring of the transformation of the PPS was assigned to the Department of International Legal Cooperation, the operational level at the PGO.

The PGO did not issue a single all-encompassing order concerning the distribution of responsibility for the reform after the adoption of the new PPS Law. Any working groups necessary should have been established according to this order. No complete list of working groups was created where nominated prosecutors were appointed with responsibilities and specific deadlines were set regarding the completion of the JSRSAP Outputs and Outcomes.

The working groups established *ad hoc* by separate Orders became inactive due to changes in the composition of the staff or changes of priorities of the management. Eventually, many groups stopped functioning properly and were not renewed. Several groups were es-



established according to the sections of the Reform Road Map, however, these activities also lacked system.

A very important aspect for the implementation of the reform and monitoring of its progress, is the system of communication, both internal and external. The new system of communications, prepared with the help of donors for PGO, was not introduced at the PGO structural units responsible for public relations and communications activities, and new modern communication products, method and other suggestions were not implemented.

New significant amendments to the Law on the Prosecutor's Office adopted in 2019 **require a fundamental review of the goals of the PPS's reform** and the creation of a new list of measures. It is also proposed to establish significantly more effective administrative measures for the implementation of new amendments to the law on the Prosecutor's Office and for the implementation of the JSRSAP Outputs and Outcomes.

JSRSAP Impact Indicators.

It is vital for Monitoring that the general conditions for assessment, as well as the expected results and impact indicators, are used coherently throughout the JSRSAP. The applied JSRSAP results are directly related to the quantitative and qualitative methodologies in a particular area of intervention. The JSRSAP provides 16 14 Impact Indicators for Chapters 8-11.9 of the indicators are used directly or indirectly to evaluate the activities of the prosecutor's office.

Two Impact Indicators are designed to measure societal sensitivity and social attitudes. For this purpose research methodologies included as part of the PPO performance management system or research methodologies by external observers should be applied: "1) User satisfaction surveys attest increased trust of society in PPO in particular, and / or criminal justice system in general (baseline - 2015; + 5% -2016; + 15% - 2018; + 25% - 2020"and 2) "Criminal trial monitoring surveys conducted by external observers attest improvement with regard to the fairness of proceedings (baseline - 2015)".

Four Impact Indicators are aimed at assessing the performance of criminal prosecution functions in the prosecutor's office and is achievable by the effectiveness of the results in accordance with the judgments of the European Court of Human Rights (ECtHR).

In this case, the ECtHR judgments (baseline – 2015) are subject to the methodology of statistical and qualitative assessment: 3) "10% annual decrease in number of structural violations found by ECHR with regard to criminal proceedings"; 4) "5% annual decrease in number of cases at ECtHR establishing divergences in practice of Ukrainian courts in applying national legislation <...> "; 5) "Improved implementation of general measures in view of any ECtHR judgment regarding Ukraine in criminal proceedings" ; 6) "20% annual decrease in findings by COE CM on failure to enforce individual measures in any ECtHR judgment regarding Ukraine in criminal proceedings".¹⁰

Impact Indicators concern effective implementation of the Criminal Procedure Code. These indicators measure the quality of the functions of the prosecutor's office and the length of the procedural actions during the prosecution.

¹⁰ https://www.echr.coe.int/Documents/CP_Ukraine_ENG.pdf

These Impact Indicators are subject to the statistical assessment methodology: 7) “5% annual increase in use of home arrest, electronic surveillance and other forms of alternative preventive measures as proportion to the cases of detention on remand”; 8) “5% annual decrease in overall length of criminal proceedings”; 9) “Pre-trial reports developed”.

JSRSAP Impact Indicators for measuring the functions and activities required by the PPS Law should have been included in the indicators for measuring the implementation of the Long-term Strategic Plan (2015 – 2020), as well as in subsequent annual reports on the activities of the Prosecutor’s Office. However, no such Plan was developed.

It is also to be noted that the PPS does not conduct its own surveys regarding social sensitivity, which is affected by Impact Indicators. Research is conducted only ad hoc by other external institutions. Therefore, it was difficult to detect any progress in the measurement of Impact Indicators during the reform period since 2015.

Assessment and monitoring tools for assessing Impact Indicators JSRSAP, as the activities of the Prosecutor’s Office itself, cannot be considered as properly implemented.

JSRS AP Monitoring Tool and the Road Map of the PPS Reform

The Road Map and the Monitoring Tool are very convenient and understandable tools for ergonomic management of Chapters 8 and 10 of the JSRSAP, addressed directly to the Prosecutor’s Office. The Road Map was prepared by highly qualified experts from the EUAM with the participation of EUDEL, CoE, EU PROJECT and DG NEAR / SGUA.

The structure of the Road Map is logical and rational: “Recommended areas of reforms, Baseline, Expected results, Donor / Responsible department within PGO, Measures to be taken”. Responsibility for the implementation of the Road Map as a whole is focused in one of the structural divisions within the PGO – the Department of International Legal Cooperation. Specific responsibility for the implementation of certain parts of the Road Map has been correctly established. This is indicated by the second structural unit of the PGO in the List of the responsible participants – for example, Human resources management and civil service department; Public and media relations department, etc. It is also important that the list clearly identifies group responsibility of units, which have joint implementation responsibilities.

It is to be noted that some of the measures in the Road Map – “Measures to be Taken” are not very clear, possibly left for later adjustments and additions. For example, 4. Effectiveness, 4.1. Performance-based budgeting the proposed measure is “Assistance in development of proposals for the State budget of Ukraine for 2018”; however, there is no requirement to develop a long-term strategic plan for the PPS, which would determine the Mission, Vision, Priorities and Goals for the service. The Road Map does not include other important components either, e. g., such as development of the workload calculation methodology.

The Monitoring IT tool compiles the Outputs and Outcomes; criteria of progress (development) – discussions, work drafts, draft laws, adopted laws or decisions; and also weight values for progress criteria (in percent). The Monitoring Tool is programmed to make automatic changes. When data are entered, changes occur automatically, as well as the progress on the implementation of Outputs and Outcomes is tracked in percentage change. This is an effective tool for the PGO to monitor the implementation process of the JSRSAP .



It is to be noted that the automatic calculation of the percentage of achievement is accurate only on the basis of the data uploaded into the Monitoring Tool. If the Outcomes are not fully loaded, the percentage cannot represent full implementation levels of the entire JSRSAP. It is recommended that all Outputs and Outcomes are uploaded into the tool, even if they are planned for 2020.

Assessment and monitoring through the Monitoring Tool can be seen as properly implemented. Nevertheless, it is to be underlined that the monitoring conducted by the PGO seems to focus on the implementation of Measures/Outputs, without deeper understanding of the Outcomes to be achieved. Moreover, use of quantitative indicators largely prevails over the qualitative indicators, which makes the assessment of the implementation of the JSRS AP rather superficial.



ATTAINMENT OF RELEVANT JSRSAP OUTCOMES

Describe findings, data, provide analysis based on/according to the assessment results, including by means of referring to the sources/with itemisation with regard to the methods used. Indicate the area/direction/group-specific median score in terms of attainment of the outcomes

AREA OF INTERVENTION

8.1 INCREASING INDEPENDENCE AND AUTONOMY OF PROSECUTORS

8.1.1. Ensuring greater independence of Public Prosecutor's Office (PPO) from political power.

I. Outputs. 1. Reviewed Constitution and statutes as to procedure of appointment, dismissal and terms of Prosecutor General (PG) (40%). 2. Reviewed regulatory framework on enhancing the PG's powers, possibility to engage the panel body to the appointment of the Prosecutor General of Ukraine (0%).

Outcomes: (1) principle of checks and balances applied when appointing PG (100%); (2) increased impartiality and depoliticisation in choosing candidates for office of PG by authorising QDC to hold competition for office of PG according to CoE recommendations (0%); (3) procedure of determining rating of candidate to office of PG established, including his/her competence and ethical qualities (0%).

The Outcome 1 is partly attained; the Outputs 1-2 are partly achieved.

The procedure for the appointment (and dismissal) of the PG provides for the participation of both the President and the Parliament, in line with the checks and balances principle. However, it is to be noted that nothing was changed in their roles compared to the baseline situation. The most important legislative change of the period in issue were the Constitutional amendments with regard to the judiciary, which included the clauses on the PPS.¹¹ These amendments were adopted in June 2016 and came into force on 30 September 2016.¹² However, the articles concerning the PG's appointment remained unchanged; with regard to the dismissal, a provision was added that early dismissal of the PG is only possible in the cases and on the grounds set by the Constitution or the law; the term in office was increased from 5 to 6 years, without possibility to serve two consecutive terms.

The PPS Law was aligned with the Constitutional changes with regard to the term in office. Other changes of the PPS Law during the period in issue concerned the requirements for the holder of the PG position; the requirement to have higher education in law was removed. A new ground for dismissal was added – a certain amount of indebtedness on alimonies to a child. The VR Rules remained as they were.

The following is to be mentioned as a positive result with regard to the dismissal: the new version of the Constitution explicitly mentions that the PG can only be dismissed on one of the grounds set by the legislation, and the PPS Law provides for the exhaustive list of such grounds. This is clearly a safeguard against abuse of power to dismiss the PG, thus, it decreases the political dependence of the office.

¹¹ See Venice Commission Opinion CDL-AD(2014)037 On the Draft Law amending the Constitution of Ukraine submitted by the President of Ukraine on 2 July 2014, 27.10 2014, paras. 39-47.

¹² Law of Ukraine "On Amendments to the Constitution of Ukraine (concerning Justice), No. 1401-VIII, 2 June 2016.



However, the following issues remain unsolved thus hindering the attainment of the Outcomes 2-3 and partly obstructing the Outcomes 1.

Firstly, despite the recommendations, the appointment procedure for the PG remained the same. Namely, the Parliament is voting by simple (and not qualified) majority; there is no competition foreseen; the role of the QDC is not clear, in particular, while the PPS Law provides for the obligatory provision of opinion, there is no explanation as the how and when such opinion should be requested and prepared.

As to the dismissal, while the grounds for the dismissal are set forth by the PPS Law, the right of parliamentary no-confidence vote remained in the new version of Constitution; thus, **the PG remains vulnerable to possible arbitrary dismissal by the VR, which is to be remedied**.

The term in office of the PG was increased but only slightly.

Moreover, no **depolitisation of the position** happened, as there is no **formalised competition** envisaged, and no **procedure for assessment of competence and ethical qualities of the candidates**, the **QDC** is not involved in the appointment procedure; there is no **ranking of candidates** either. No **possibility for public discussion is foreseen either**. **This is to be remedied**.

II. Output 3. Reviewed regulatory framework on PPO financing, formalising principles of performance-based budgeting and program budgeting by PPO. 100%

Outcomes: (4) *Mission statements, objectives and performance targets are made an integral part of annual PPO budgeting process; expenditure plans are linked to commitments of meeting specific objectives and measurable targets (0%)*; (5) *Expenses for maintaining PPO determined in State budget upon requests agreed with Council of Prosecutors and approved by PG (50%)*; (6) *Well justified budgetary requests on part of PPO by using harmonised approach and strengthening of regional capacities in budgetary planning and formulation by prosecution (60%)*; (7) *Program budgeting (MTBF) and performance-based budgeting methodologies with non-financial performance indicators applied in prosecution budget formulation and implementation processes; 80%* (8) *Harmonised approach and strengthened regional capacities in budgetary planning and formulation (60%)*; (9) *Increased quality of public financial management (PFM) by prosecution, optimisation of use of postal, forensic, legal and other services (20%)*; (10) *Single public procurement process in place based on harmonised needs assessment of all prosecution departments (70%)*; (11) *Performance management systems feed in data regularly on case-loads and productivity, setting targets, measuring them, suggesting budgetary adjustments and further policy developments in all matters of PPO organisation; evidence-based approach to any structural reform of PPO institutionalised (0%)*; (12) *Number of prosecutors annually reviewed considering changes in: 1) scope and extent of functions at every level of PPO system, 2) changing workloads; 3) social and political situation etc.; 0%* (13) *Scope of functions of PPO and prosecutors fine-tuned according to Venice Commission recommendations and other European standards and best practices (90%)*.

The Outcomes 5, 6, 7, 8, 10 are partly attained; the Outcome 13 is mostly attained. Other Outcomes are not attained. Output 3 is partly achieved.

While certain progress is definitely visible, it lacks unified strategic approach.



Formally, the process is in line with the programme-based budgeting requirements of the Budget Code of Ukraine and other regulations governing the relevant aspects of the state agencies' operation, as, for example, those governing public procurement. The relevant internal rules are in place.

However, there is no strategic planning present in the operation of the PPO, which would have suggested the mission, vision and performance targets for the relevant period (usually, 5 years). Consequently, the budget requests are prepared based on the needs as indicated by the regional PPOs and the PGO's structural units, and not within a strategic framework. Moreover, there is no unified approach or clear guidelines as to the determination of such needs. The budget process includes several stages: firstly, the PGO sends its proposals to the Ministry of Finance based on the identified needs; secondly, the MoF provides the overall limit number (usually, significantly lower than the calculations of the PGO suggest); thirdly, the PGO recalculates the request to fit within the limit. Such restrictions have to be taken into account, as the limitations to the prosecutorial salaries introduced each year by the Cabinet of Ministers (contrary to the provisions of the PPS Law). Thus, the procedure is far from deriving from the strategic objectives of the PPO in a given period.

The budget requests and other related documents are signed by the first deputy PG who has the status of a senior prosecutor.

The budget of the PPS is organised according to the programmes that are defined in the State Budget Law. For 2019, there are three programmes: general PPS (“prosecutorial and investigative activities, initial and continuous training of prosecutorial staff”), support to the functioning of SAP and support to the activities of the QDC.¹³ The programme passports include such aspects as directions of operation and indicators. The performance criteria are formally included into the planning under the indicators, however, similarly to the budget requests from the regions and unit, there are no guidelines on how to define them. Moreover, all the criteria are quantitative.

While the CP is already fully operational since mid-2017, it has no role in the budgeting process.

As indicated, there is no methodical support or capacity-building from the PGO for the RPPOs.

No analysis of effectiveness of financial management is conducted, including the analysis and resulting optimisation of use of postal, forensic, legal and other services.

The procurement is conducted under the general procedure for the state agencies. The new Law On Public Procurement was adopted in December 2015. However, while both the PGO and the RPPOs are required to follow the procedure, there is no unified approach as to the level where the procurement is to be performed. Rather, it is decided on a case by case basis. No analysis of the efficiency of the approach taken is conducted.

Thus, there is a need **to include the budgeting process into a broader strategic planning scheme. Capacities for programme-based budgeting are to be strengthened on all levels, a unified approach is to be taken, and methodical support is to be provided to RPPOs and PGO units.**

¹³ Law of Ukraine “On the State Budget of Ukraine for 2019”, No. 2629-VIII, 23 November 2018.



Among others, the **issue of possible sources of finance other than the state budget is problematic**. E. g., the prosecutors cannot accept funding by the EUROJUST of their missions to participate in investigative groups. **This is to be remedied.**

There is no automated system of data management. While a lot of data is collected, there is no clear vision as to linking the data to the objectives and to the budgeting. What is more, some of the data collected and used as indicators in the budget-related documents, do not seem really representational. For example, the number of criminal proceedings per prosecutor is calculated by dividing the overall number of proceedings by the number of prosecutors. No qualitative characteristics of the proceedings can be taken into account. Thus, **a unified data management system is to be introduced, with clear understanding of the possibility to use the data collected for planning purposes, including for the budget planning.**

There is no systematic approach towards the number of prosecutors and other employees of the PPOs. The overall number of PPS employees was set by the new Law, however, it is not clear how this number was calculated and whether it corresponds to the present needs. There is no available calculations with regard to the adjustments needed following the change in the PPO functions. Even when the proposals arise to change the number, they are usually not supported by the relevant substantiation. Moreover, there seem to be no proposals with regard to the grounded adjustment of the number based on the developments in the system. An organisational assessment of the PGO was conducted in 2018-2019 with the CoE support, however, its recommendations were not implemented. Thus, **the structure of the PPO staff is to be evaluated, systematic and grounded approach to the periodic review and adjustment of the relevant numbers is to be taken.**

The scope of the functions of PPO was brought in better compliance with the European standards and best practices, including the Venice Commission recommendations,¹⁴ by the Constitutional amendments of 2017. Thus, the general supervision function was fully removed, as was the function of the representation of citizens before the court. The function of the representation of the state was limited to the 'cases set forth by law' (Article 23 PPS Law). However, the wording of the main prosecutorial function, procedural supervision and organisation of pre-trial investigation is not fully harmonised with the CPC, and not completely clear. What is more, while the functions of investigation and supervision over the places of detention (and other aspects of enforcement of criminal judgments) were removed from the prosecutorial functions in the main text of the Constitution, they remained in the transition provisions. It is to be noted that neither the Law on PPS nor the CPC were amended with regard to the functions of the prosecutors following the changes of the Constitution. Thus, the wording on the functions in the Law and CPC differs from the Constitution, which is problematic; it is also reported that internal regulations governing the prosecutors' activities are also not fully in line with the Constitution. Moreover, the structure of the PPO staff was not adjusted taking into account the functional changes. There is a need **to align the PPS Law, the CPC and all the regulations with the current version of the Constitution; a functional audit of the PPS is to be conducted, the current legislative framework and the audit findings are to lay foundations for the restructuring of the PPO.**

¹⁴ Opinion of the Venice Commission on the draft Law on the PPO of Ukraine (CDL-AD(2012)019; and Part II (The prosecution service 2010) of the report of the European Commission for Democracy through Law (Venice Commission) on European standards as regards the independence of the judicial system (Venice Commission's 2010 report on the PPO standards), CDL-AD(2010)040, of 3.1.2011.

8.1.2 Ensuring greater institutional independence of PPO system

I. Outputs. 1. Reviewed regulatory framework for prosecutorial self-governance system (SGS), including its financing (70%).

Outcomes: (1) All bodies within SGS function in practical, effective and sustainable manner (100%); (2) Institutional independence of NCP, CP, QDC, their organisational, career and financial capacities ensured by proper staffing, administrative, financial and logistics arrangements (40%); (3) Delegates to NCP chosen from all prosecutorial bodies and from all PPO levels (100%); (4) CP tasked with ensuring independence of prosecutors, their legal and social status, examination of prosecutors' complaints on threat to independence and enforcement of decisions of SGS bodies (60%); (5) QDC tasked with career development matters, including handling complaints of other persons on prosecutors' improper performance of their duties (100%).

Note. Outcomes 4-5: mistake in the English version – it is “ensuring practical implementation” about the CP and “proper implementation” about the QDC in Ukrainian. We evaluate the Ukrainian wording.

These Outcomes are partly attained, the Output is mostly achieved.

All bodies were established in 2017 and are operational, fulfilling all the functions set forth by the PPS Law. The regulatory framework is in place (thus, the regulations of the bodies were adopted by the Conference of Prosecutors; both QDC and CP have adopted a number of documents governing the implementation of their functions).

However, there is still room for improvement.

Certain safeguards for the institutional independence of the QDC are set forth by the PPS Law. It has a status of a legal entity and a separate bank account, its members work full time and its activities are supported by the secretariat. In practice, however, certain problems arise. Thus, the QDC members receive remuneration as prosecutors (Article 74), including the possibility of the PG to award bonuses. They work in the premises of the NAPU, owned by the PGO. The secretariat of the QDC *de jure* is a structural unit of the PGO, which does not add to the independence of the body. The QDC's correspondence is registered at the PGO's registry. Certain progress was achieved with regard to the budgetary autonomy, although in the State Budget Acts for 2017¹⁵ and 2018¹⁶ the QDC was not mentioned separately. However, the State Budget Act for 2019 provided for a separate sub-entry for QDC (under the general head “PGO”).¹⁷

As to the CP, its status both under the Law on PPS and in practice is definitely weaker. The CP members work ‘on a voluntary basis’, that is, they remain on their positions in the PPOs while expected to fulfil their obligations in the Council in their free time. In practice, this arrangement has caused difficulties, as no provision is made for the change in their workload despite the fact that CP's activities sometimes take significant amount of time.¹⁸ This is decided on a case by case basis by the CP members and their superiors. Moreover, there

¹⁵ Law of Ukraine “On the State Budget of Ukraine for 2017”, No. 1801-VIII, 21 December 2016.

¹⁶ Law of Ukraine “On the State Budget of Ukraine for 2018” No. 2246-VIII, 7 December 2017.

¹⁷ Law of Ukraine “On the State Budget of Ukraine for 2019”, No. 2629-VIII, 23 November 2018.

¹⁸ This was highlighted already in the Needs assessment report on the Council of Prosecutors of Ukraine and the Qualification and Disciplinary Commission of Prosecutors, elaborated within the CoE of September 2017, in which it was already recommended that “The PPO Law should be amended or the Prosecutor General should issue an Order to ensure that time spent by CP members on CP work will be taken into account in their workload as prosecutors.”



is a lacuna with regard to the missions of the CP members they undertake to meet for their sessions. There are no budget arrangements for such missions to be covered. In practice, the following scheme is used: the PGO invites the CP members to Kyiv and the PPOs where they work formalise the trip as a mission from the relevant PPO to the PGO, which can be covered from the allocated budget. However, this scheme does not work to cover missions to the locations other than the capital. Despite significant workload, the CP does not have any secretariat support apart from several PGO employees assigned to assist the body.¹⁹

During the sessions, the CP members meet at the PGO premises. The CP's position as a body lacking strength is detrimental to its formally serious role as the highest prosecutorial self-governance body between the Conferences, and the body envisaged as a protection of the independence of prosecutors.

Another question concerning the independence of the QDC and CP members, rather than the institutional independence of the bodies, is the term in office and the fate of the members upon their term in office. Thus, the QDC consists of both prosecutors and non-prosecutors and is elected for 3 years. Consequently, there is a discussion as to the need to increase the term in office not to allow the prosecutors members returning to their prosecutorial positions during the term in office of the PG as well as the relevant heads of lower-level PPOs. As to the CP, it consists mainly of prosecutors, and the prosecutors holding administrative positions are not eligible for the election to the CP. While the body is elected for a longer term, five years, its members are vulnerable as they stay within the prosecutorial system holding low-level positions, which contrasts with the body's powers with regard to high-ranking prosecutors.

In 2017-2019 both bodies demonstrated development of their capacities, institutional as well as personal. Still, there is room for improvement. The capacities of the QDC are much stronger, which can partly be explained by a stronger position of the body foreseen by the legislation.

As to the Conference of Prosecutors, it has been convened 3 times during the analysed period. The representatives of PPOs of all levels took part. There were questions as to the participation of military prosecutors, however, they took part, too.

It is to be mentioned, that the majority of prosecutors met during the evaluation positively assessed the establishment of the prosecutorial SG and the QDC. They especially underscored the roles of the QDC as a safeguard for their independence.

To ensure proper functioning of the CP and QDC, and, consequently, to strengthen the independence in the PPS, it is recommended to further strengthen the independence of both bodies themselves, ensuring the relevant arrangements for budget allocation, as well as sufficient funding, including independent from the PG; provide for sufficient remuneration of members and staff of the QDC and exclusion of abuses of the system of bonuses with regard to the CP members, as well as ensuring financing of their trips related to the CP activities; providing the bodies with secretarial support directly subordinated to the relevant body and with separate premises. As the CP members are performing this function 'on a voluntary basis' remaining at their prosecutorial positions, it is also crucial to specify on the legislative level that when acting

¹⁹ In the same Needs Assessment report, this deficit was also pointed out and following recommendation was included: "The PPO Law or Regulations should stipulate that appropriate secretarial assistance to the QDCP must be established as a separate entity under the Commission."

as CP members they are not under the instruction of any office of the prosecution service and are only accountable to the Conference of Prosecutors. Moreover, it is to be established that the time spent on the CP-related work is taken into account in the calculation of workload of the CP members by their supervisors at the PPOs.

As to the functions of the QDC and CP, both their distribution by the PPS Law and their practical implementation leave room for discussion. For example, career-related functions are divided between the bodies, while appointment to certain managerial positions remains outside of the competence of any of them; moreover, some provisions are not clear as to the powers of the CP and QDC (e. g., dismissal from administrative positions for improper performance), while others lack clarity as to how exactly the body is to ensure achievement of the relevant aims (e. g., the CP's role in protecting the independence of prosecutors against possible threats).

Thus, there is a need to review the legislative clauses setting forth these functions, to ensure clarity in the regulation of all functions and clear delineation between the bodies concerned. There is also a need to ensure coordinated functioning of the bodies. It may be advisable to concentrate all career-related functions within one body. As to the QDC, it may be advisable to divide it into two chambers, in view of wide scope and variety of the body's functions.

II. Outputs. 2. Awareness campaigns for prosecutors at all levels on role, functions and range of responsibilities of SGS (70%).

Outcomes: (6) Officials and public has full information about responsibilities of prosecutorial SGS bodies, and their decisions (60%).

This Outcome is partly attained, and the Output is partly achieved.

Both the QDC and CP have their web-sites, which are operational. News items are uploaded by both bodies, more actively by the QDC. QDC publishes its motivated decisions in disciplinary proceedings; what is more, the disciplinary hearings are broadcasted online. The CP's decisions are also published, however, they are more formalistic and lack reasoning. The QDC's activities with regard to the career-related issues are less public. While the announcements on the opening of competitions are published, there is no online-broadcasting of interviews or publishing of detailed decisions.

It is to be noted that such difference in the awareness-related activities of both bodies can be explained in the difference in their capacities. Thus, while neither of those enjoy assistance of a communications professional (however, one of the QDC secretariat employees is tasked with the communication-related work), CP's capacities are significantly lower, and, for example, it is the Chair of the CP himself who has to prepare the texts for the web-site.

Both bodies have also held some regional meetings with the prosecutorial community. However, it is to be noted, that the QDC was supported by the EU funding in its regional trips, thus, it cannot be concluded that its own capacities are sufficient to allow such activities. Some QDC members gave interviews to the media on separate occasions.

Still, the public awareness surveys do not show high level of knowledge with regards to the prosecutorial SG; moreover, the survey of prosecutors conducted by the QDC did not show full understanding of the functions of the QDC and CP either.

Thus, while certain progress is achieved, there is room for improvement.

Capacities of both bodies are to be strengthened. Systematic approach is needed, with the development of communication strategies. Capacity building of the members and staff is



advisable. Moreover, the awareness campaigns are to be directed not only at prosecutors but also at lawyers and general public.

8.1.3. Ensuring greater functional autonomy of prosecutors from improper internal influence

I. Outputs. 1. Reviewed regulatory framework for implementation of specific criteria by CP for candidate selection, and appointment to positions based on results of performance evaluation (30%).

Outcomes: (1) Independence of prosecutors ensured through increased impartiality when appointing to positions (40%); (2) Clear and foreseeable internal regulations, establishing criteria of choosing candidates, selection for prosecutors' and their dismissal (60%); (3) All career decisions on basis of merits-based system (70%); (4) Recruitment interviews life-streamed on internet (0%); (12) Software in place for evaluation of the prosecutor candidates' compliance with the established criteria (10%); (13) Ensured right of the head of the prosecutorial body's to which CP recommends a candidate to administrative office, to evaluate the candidates' compliance with the criteria and to bring the conclusions to CP (20%); (15) Ensured public access on the PG's official website to the reasoning part of the CP's recommendation to office (10%); (16) Ensured public access on the PG's official website to the reasoning part of the PG's refusal to appoint to office the candidate recommended by CP (0%).

The Outcomes 1, 2, 3, 15 are partly attained, other Outcomes are not attained; the Output is partly achieved.

The new system of the prosecutorial career management envisaged by the new Law on PPS became operational in 2017. The first waves of recruitment of candidate prosecutors were conducted, the QDC conducted transfer of prosecutors to higher PPOs and the CP performed its role in the appointment to and dismissal from the administrative positions.

However, both the system as set forth by the PPS Law and its implementation are not fully in line with the need to ensure the prosecutors' autonomy from internal influence.

First of all, the PPS Law left certain administrative positions outside of the CP's competence. Thus, it cannot be concluded that the relevant safeguards are in place for all prosecutors in the system.

Moreover, in order to ensure impartial merit-based recruitment and promotion, it is crucial that all the actors involved follow a unified approach and operate on the basis of clear and harmonised criteria. Thus is not yet the case in the PPS. Firstly, there are no competency models in place, except for the profile of a prosecutor of a local PPO adopted by the QDC in 2018.²⁰ Secondly, the actors involved (QDC, CP, PG, heads of RPPOs) do not coordinate their approaches. Thirdly, the roles of the actors are not delineated clearly. There are questions as to the CP's competences with regard to certain positions. Also, the obligations of the PG or head of the RPPOs who are expected to implement the decisions of the QDC and CP by their orders are not defined clearly.

²⁰ Profile for the position "Prosecutor of a Local Public Prosecutor's Office", approved by the QDC Decision No. 231dk-18 of 25 September 2018.

The criteria for the career decisions are included in the PPS Law, however, rather vaguely. The QDC and CP adopted their regulations/procedures,²¹ but lack capacities to develop and implement the criteria in the way that would fully ensure impartial selection based on the merits. The criteria adopted by the CP for the appointment to the administrative positions are not based on the performance evaluation, as there is no such evaluation scheme in place yet.²² Knowledge testing is automated, at least partly, and some general knowledge tests were used occasionally with donors' support. However, there is no software in place to support all types of the evaluation.

Interviews are not envisaged for all the types of career decisions, moreover, they are not livestreamed.

There is no clear role of the head of the PPO to which the CP recommends a candidate.

An important issue, as indicated above there is no clarity as to the obligations of the PG or heads of PPOs who implement the decisions of the QDC by their decisions or act upon the CP's recommendations. For instance, there is no deadline for the decision on appointment or dismissal following the QDC's decision. The rules with regard to the cases when the relevant official rejects the CP's recommendation also lack clarity. This can undermine the QDC/CP's authority.

While the CP's decisions are published on the body's website, they are brief and do not provide for the reasoning.

In addition, it is also to be mentioned, that in addition to the PG, the limitations to the term of office is set for certain administrative positions, but not for all of them. Thus, head of the SPASAP, heads of RPPOs and LPPOs are appointed for 5 years.

Consequently, there is a need to **adopt a unified approach to the prosecutorial career management and clearly define the roles of all the actors involved. In the context of independence, implementation of the decisions or recommendations of the QDC and CP by the PG and heads of RPPOs is also crucial.**

II. Outputs. 2. Internal regulations in place, establishing exhaustive list of grounds for inspections of lower prosecutorial bodies by upper ones. 100% 3. Internal guidelines and policies adopted on scope of prosecutorial discretion and enlarging freedom of prosecutor to issue procedural written documents with no agreement of supervisor. 0% 4. Reviewed regulatory framework on procedure of making written orders and giving oral or written instructions by upper-level prosecutors to lower-level prosecutors, in order to ensure independence of prosecutors without risks of disciplinary and hierarchy violations at PPO 10%.

***Note.** Output 4 - the English wording does not fully correspond to the Ukrainian; the Ukrainian version refers to the internal framework only; the specially focused internal regulations are not in place, but there are some relevant references. We evaluate the Ukrainian wording.*

²¹ Criteria for the Evaluation of Prosecutors for Decision of the Council of Prosecutors of Ukraine on Recommendation for the Appointment of a Prosecutor to the Administrative Position, approved by the CP Decision No. 36 of 31 October 2017.

²² The involvement of the self-governance bodies in the evaluation process was considered particularly important by GRECO since it recommended that there should be periodic performance evaluation of prosecutors within the prosecution service –involving the self- governing bodies – on the basis of pre-established and objective criteria, while ensuring that prosecutors have adequate possibilities to contribute to the evaluation process. See Greco Eval4Rep(2016)9, para. 228; <https://rm.coe.int/grecoeval4rep-2016-9-fourth-evaluation-round-corruption-prevention-in-/1680737207>



Outcomes: (5) *Clear and foreseeable internal guidelines establishing ban on improper inspections of lower-level prosecutors by upper-level prosecutors; any inspection's clear and transparent grounds determined (100%); (6) Enhanced scope of prosecutorial discretion within limits established by law (0%); (7) Obligation of higher level prosecutors to give orders in writing imposed (80%); (8) Ban on disciplinary responsibility of prosecutor for non-compliance with oral order or instruction of higher prosecutor, under condition that CP was informed about incident, with reasoning part included (30%).*

The Outcomes 5, 7 and 8 are partly attained; the Outputs 2 and 4 are partly achieved.

The PPS Law is in force, including the clauses obliging the higher level prosecutors to give orders in writing. The PG's Order of January 2017 governing the work organisation in the PPO contains a clause obliging prosecutors to exclude "restrictions or breaches of autonomy of prosecutors in fulfilment of their powers and deciding of the way to realise these powers" and to give instructions to the lower-level prosecutors, to approve their decisions and to perform other actions directly concerning the implementation of the prosecutorial functions exclusively within the scope and in accordance with the procedure set forth by the law (para. 3.4).²³ However, there are no procedures ensuring compliance with these clauses.

The new disciplinary framework also excludes responsibility for solely failure to comply with an oral instruction. There is, however, no practice of the QDC notifying the CP in case of such complaints.

Thus, there is a need to ensure compliance with the PPS Law with regard to the written instructions of higher-level prosecutors.

The inspections remain an issue. Thus, the above-mentioned Order of the PG on the main principles of organisation of work in the prosecutorial bodies of Ukraine was adopted in January 2017 to replace the previous one. Nevertheless, firstly, the provisions on the inspections are still vague enough. Secondly, the possibilities to use the "provision of organisational and methodical assistance" as inspections in disguise still exist and are reported to be used.

Thus, the regulations on inspections are to be clearer and more restrictive, and the possibilities to use other form of intervention (such as "provision of organisational and methodical assistance") as inspections are to be excluded.

The prosecutorial discretion is not fully followed, in particular, due to the broad use of countersignature of prosecutors' procedural decisions by their superiors; there are **no internal regulations that would reconfirm the principle of discretion and provide prosecutors with guidance on the use of discretion. This is to be remedied.**

III. Outputs. 5. Analysis of complaints on violation of prosecutorial independence included as part of Annual Activity Report of PPO (0%).

Outcomes: (9) *Impartial, timely and independent examination by CP of complaints on violation of prosecutorial independence (100%); (10) Research and analysis conducted regularly of prosecutors' complaints on violation of their independence (0%).*

These Outcomes are partly attained, the Output is partly achieved.

The CP is operational and examining the complaints with regard to the interference with the prosecutorial independence. However, the capacities of the CP to deal with the complaints

23 Order No. 15 of 19 January 2017 "On Main Principles of Work Organisation in the Public Prosecutor's Offices of Ukraine".

are to be strengthened. Moreover, there is no clear procedure or guidelines; although, the CP was working on the development of the relevant document and developed a draft regulation in 2018. Finally, it is not clear what exactly the CP is to undertake to help a prosecutor in case of infringements to their independence. The information on the decisions of the CP was included in the PPO Annual Report for 2018.²⁴ However, the Report only provided the overall number of the CP's decisions adopted in 2018 for the “ensuring of the organisational unity of functioning of the prosecutorial bodies, strengthening their independence and solving the issues of internal operation of the prosecution service”. No analytics or disaggregated data with regard to the complaints on the breaches of the independence was provided. **Capacities of the CP to examine complaints of violation of prosecutorial independence are to be strengthened; there is to be a clear procedure for the consideration of such complaints and clear follow-up mechanisms; research and analysis of the complaints and the follow-up actions is to be undertaken regularly and the findings are to be published.**

IV. Outputs. 6. System of case management fully operational, distributing work-load among prosecutorial bodies and prosecutors (0%)

Outcome: (11) *A clear system of distribution of cases introduced, according to the criteria of the prosecutors' experience and avoiding corruption risks (0%); (11) Operational system of distribution of cases paying due attention to objective factors, such as specialisation and avoiding corrupt practices (30%); (14) System of prosecutors' specialisation according to crime types and other characteristics in place (30%).*

➤ *Outcome 11 is repeated twice with 2 different indicators regarding its achievement. There is only one wording of outcome 11 in the Action Plan regarding the system of distribution of cases – however, here the experts mention two. The first outcome mentioned under #11 actually has the Ukrainian equivalent. The second outcome #11 – does not have anything corresponding to it in the Ukrainian version.*

There is no such system in place. **It is to be remedied. It is also recommended to introduce a specialisation scheme, which would be included into the distribution of cases.**

8.1.4. Ensuring greater personal autonomy of prosecutors

I. Outputs. 1. Reviewed regulatory framework on remuneration, other professional guarantees and social security of prosecutors (0%).

Note. *Ukrainian version is absolutely different – “regular monitoring of the legislation”. We evaluate the Ukrainian wording.*

Outcomes: (1) *Prosecutors and PPO staff are reasonably remunerated and protected through salary and social guarantees established by law, depending on their role, experience and other clear and objective criteria (0%); (2) Social and logistics maintenance of prosecutors and PPO staff is established by law (100%).*

The Outcome 1 is not attained, the Outcome 2 is attained. The wording of the Output 1 is different in Ukrainian and English version, if it is the Ukrainian version to be considered, it cannot be deemed achieved.

²⁴ https://www.gp.gov.ua/ua/vlada.html?_m=publications&_t=rec&id=248318&download_af=2760



Despite the rules for the remuneration set forth by the PPS Law, including explicit mentioning of the amount of salary, these guarantees were neutralised or even left ineffective by other regulations. Thus, the State Budget Acts allowed the Cabinet of Ministers to establish the prosecutors' remuneration within the allocated funding. **It is to be ensured that the prosecutors are remunerated in accordance with the Law.**

It is also to be mentioned that the system of bonuses is widely reported to be abused, detrimentally to the personal autonomy of prosecutors. Thus, as the guarantees with regard to the fixed salaries are not applied, a significant share of the payments received by the prosecutors is paid in bonuses assigned by their superiors (the PG or the head of a RPPO). There are no clear and foreseeable rules as to the calculation of bonuses. What is more, as they are used to compensate for the low salaries, instead of the normal scheme with certain percentage of bonuses paid as an incentive, Ukrainian prosecutors receive by default 100% bonuses. Should their superiors decide that a prosecutor was not acting properly, they deduct bonuses, which can result to the loss of more than a half of the prosecutor's income. Consequently, the system of bonuses is used as disciplinary punishment in disguise, which is obviously harmful in terms of personal autonomy.²⁵ **The incitement system should exclude bonuses or reduce its impact to a minimum.**

Outcome 2 as read literally is attained, as the PPS Law establishing the relevant safeguards is in force. However, **the implementation of the clauses in practice remains questionable, which is to be remedied**

II. Outputs. 2. Reviewed regulatory framework on individual freedoms of prosecutors, determining scope and extent of exercise by prosecutors and PPO staff of right to privacy, freedom of conscience, expression, and association, and other individual rights and freedoms (60%).

Outcomes: (4) Scope and extent of exercise by prosecutors and PPO staff of right to privacy, freedom of conscience, expression, association and other individual rights and freedoms, defined clearly by law (20%); (5) Prosecutors and PPO staff are able to join or form local, regional, national or international professional associations in order to represent their interests and protect their status (100%).

The Outcomes 4 and 5 are partly attained. The Output is partly achieved.

The PPS Law does not regulate in detail the issues of personal rights of prosecutors. Certain aspects of personal rights of prosecutors are covered by the Code of Ethics and Conduct of Prosecutors adopted by the Conference of Prosecutors in 2017,²⁶ Chapter III "Principal Requirements concerning Outside Activities". Thus, a prosecutor is not allowed to belong to a political party, take part in political manifestations or strikes, publicly demonstrate their political views. It is provided that a prosecutor is entitled to decide freely on their attitude to the religion, to take part in the activities of religious organisations which operate lawfully and are not aimed at incitement to racial, political, ethnic or religious hatred; furthermore, a prosecutor shall not allow interfering with their service activities to any religious organisations they may belong to.

²⁵ The Venice Commission has indicated that the disciplinary oversight should not be left to a prosecutor's an immediate superior; Opinion on the Draft Law on the Public Prosecutor's Service of Moldova, CDL-AD(2008)019, at para. 50.

²⁶ Code of Professional Ethics and Conduct of Public Prosecutors, approved by the Conference of Prosecutors on 27 April 2017.

The union of prosecutors is operational, however, it is reported not to be active, and not to deal with the prosecutors' interests and status. The CP is demonstrating some activity in support of the prosecutors.

It is recommended that prosecutors themselves strengthen the activities of the Union of Prosecutors, in order to streamline its structure and set goals and objectives to protect rights and legal interests. And also, the PGO must conclude a Collective Agreement with the Prosecutors' Union.

Outcome: (3) Ensured procedure of compulsory examination of prosecutors' and PPO staff's complaints on violation of their rights due to lack of performance by State of its positive obligations to protect them; regular examination by CP of complaints concerning legal protection of prosecutors (100%).

This Outcome is attained.

The CP is operational and examining the prosecutors' complaints of alleged infringements of independence, including those concerning the improper use of the bonuses system. Moreover, it is taking some actions on its own accord, in particular, with regard to the situation with the prosecutors' salaries and other social guarantees, as well as physical protection of PPOs. However, there is a lack of clear internal procedures to examine prosecutors' complaints. Moreover, the CP's leverages to protect prosecutors are rather weak. Thus, it is mostly sending letters to the PGO, Cabinet of Ministers or other relevant instances. Finally, the prosecutors do not seem to be active in addressing their complaints to the CP. As to the non-prosecutorial staff of the PPO, not all the schemes for the protection of the rights of prosecutors are applicable to them. **There are to be clear procedures in place, and clear follow-up mechanisms. The CP's capacities are to be strengthened. The awareness of the role of the CP in protection of the prosecutors is to be strengthened.**

AREA OF INTERVENTION 8.2 INCREASED COMPETENCE OF PROSECUTORS

8.2.1. Development of independent, transparent and objective procedures of selection of prosecutors

I. Outputs. 1. Itemised procedures of prosecutor selection by QDC (100%). 2. Qualification Examination scope, form, contents and procedure developed jointly with key stakeholders. Qualification Examination formalised by internal regulations, reviewed and updated annually (90%). 3. Reviewed regulatory framework on ensuring proper organisation of special anti-corruption check of candidates for prosecutors (0%). 4. Procedures of competition for filling vacant prosecutor posts developed and approved depending on rating of candidates, reviewed and updated (100%).

Outcomes: (1) Provisions on QDC contain detailed regulations on rights and obligations of QDC when performing its duties for selection of prosecutors (100%); (2) Information on QDC activity and decisions on prosecutors selected available to public on QDC web-site (100%); (3) Each member and employee at QDC properly trained with participation of national and international counterparts (50%); (4) Questions and assignments of Qualification Examination updated annually in order to prevent preparing answers in advance and follow novelties in criminal law and State policy (100%); (5) Detailed procedure in place for special anti-corruption check of candidates for prosecutor in framework of anti-corruption legislation; system of repeated requests for spe-



cial check were candidate is on hold for more than three years without being appointed (100%); (6) Competitions for filling vacant positions held by QDC, based on results (score) at Qualification Examination, and results of testing (0%).

Note. Outcome 6 - English version is incorrect/unclear: Ukrainian version refers to the testing upon the initial training. We evaluate the Ukrainian wording.

These Outcomes are mostly attained, except for Outcome 6. The Outputs are mainly achieved, except for the Output 3.

As the QDC only became operational in mid-2017, there is not enough data to conclude on the attainment of all the Outcomes. The first wave of selection has been completed, the candidate prosecutors selected during the second wave are currently at the initial training; the third wave has just started.

All stages of selection are clear, being established by the PPS Law. The procedures for the selection are developed in the QDC Regulation adopted by the Conference of Prosecutors,²⁷ and further elaborated in the documents adopted by the QDC itself, first of all, the Procedure for Consideration of Issues and Preparation of Materials for the Selection of Candidates for Vacant (Temporarily Vacant) Positions of Prosecutors of Local Public Prosecutor's Offices (June 2017, with further amendments).²⁸ These documents seem to be clear enough; they are available at the QDC web site. It was possible to follow online the process of appointment to vacant positions in local PPOs. **However, the documents would benefit from the peer review both from the point of view of international best practices of the prosecution services and/or judiciary, and from that of modern career management tools, including those used in private sector.**

The QDC members received some relevant training, but it was done with the donors' support, and there is no system of capacity-building in place. **A capacity-building plan for the QDC members and staff is to be established; and their capacities in the area of selection are to be reinforced.**

The Qualification Exam has been reviewed before the second selection. The questions were developed by the NAPU and approved by the QDC. However, it cannot be said that other stakeholders were deeply involved. During the second selection, computerised analytical tests were used; however, they were purchased using donors' assistance. **The methodology to review the Qualification Exam is to be developed and introduced; it should include use of lessons learned of previous selections; it is also advisable to be able to include external professionals. There should be a technical possibility to organise computer testing, including analytical tests.**

The special anti-corruption check is established by the PPS Law and the relevant sub-legislation; however, there is an issue of a collision between the PPS Law and the anti-corruption legislation, which causes problems in practice. **The legal contradictions with regard to the anti-corruption check is to be resolved.**

Appointment to the positions, in accordance with the Law on PPS is based on the ranking, taking into account only the results of the Qualification Exam. The results of the initial

²⁷ Regulation on the Operation of the Qualification and Disciplinary Commission of Prosecutors, approved by the Conference of Prosecutors on 27 April 2017.

²⁸ Procedure for Consideration of Issues and Preparation of Materials for the Selection of Candidates for Vacant (Temporarily Vacant) Positions of Prosecutors of Local Public Prosecutor's Offices approved by the Decision of the QDC No. 6zp-17 of 7 June 2017.

training have no impact on the candidate's place in the ranking. While the idea behind this scheme was to ensure that the QDC as an independent body has sole responsibility for the ranking, in practice it is widely reported to decrease the candidates' motivation to learn actively during the training.

Thus, it could be considered to amend slightly the selection scheme by allocating some weight in the ranking to the results of the final testing upon the initial training. There should be a possibility to appeal against the results.

Awareness with regard to the selection is to be raised, other actions are to be taken aimed at increasing the popularity of the prosecutorial career, including among women candidates. In addition to the initial selection of candidate prosecutors, the whole system of promotion in the PPS (that is, both transfer to the higher-level PPOs and appointment to the administrative positions) is to be fair, merit-based, transparent and built in accordance with the unified approach. Unified competency models and selection/promotion criteria are to be developed jointly and applied by all actors involved, which are to be properly trained and have relevant resources to implement the relevant functions effectively. Detailed procedures and clear evaluation methodology should be followed. The competency models should allow, inter alia, distinguishing clearly between the functions of an "ordinary" or „simple" prosecutor and a prosecutor holding an administrative position. Promotion is to include the assessment of the professional skills, experience, moral and professional qualities of the person, as well her/his readiness to perform the managerial functions or to work in a higher-level PPO. It is important to prevent discriminatory practices, in particular, to encourage promotion of women in the PPS.

8.2.2. Implementation and modernisation of system of initial training of candidates for prosecutors

I. Outputs. 1. Reviewed regulatory framework on status of National Academy of Prosecutors of Ukraine (NAPU) as sole institution for initial training of candidates for prosecutors (100%). 2. Curricula of initial training of prosecutors developed, based on discussions with HEIs, SGS, lawyers and international experts (40%). 3. Curricula of initial training of candidates' public prosecutors regularly reviewed, updated and disseminated through electronic libraries (*Till 2020*). 4. System of training of trainers (TOT) for initial training of prosecutors implemented aiming at delineation between academic and professional approaches (10%). 5. Satisfaction surveys, including for trainees. Trainings of PPO staff carried out regularly, identifying needs in adapting initial training curricula (*Till 2020*). 6. Format and content of practical assignments and anonymous testing for candidates developed (10%).

Outcomes: (1) NAPU possesses sufficient financial, human and organisational resources for initial training of candidates for prosecutors (80%); (2) Initial training programme individualised according to experience and role prosecutor is expected to perform (0%); (3) Curricula of initial training focuses on improvement of practical skills and problem-solving (20%); (4) Curricula annually updated and accessible on NAPU website (100%); (5) Ukrainian and international practitioners, including prosecutors and lawyers, regularly involved as trainers (30%); (6) Anonymity and conformity of assignments and tests to curricula and relevant professional requirements by way of annual updates (20%); (7) Ensured continuous training of researchers at NAPU, increased volume of research&analysis activities (50%); (8) Ensured continuous TOT for initial training of prosecutors, including by their internships in relevant foreign institutions and trainings involving international experts (10%); (9) Well-balanced curricula developed for initial training of prosecutors (20%); (10) Selection procedure for filling



PPO staff includes the stages of training, of professional and psychological training (70%); (11). Curricula annually updated and accessible on NAPU website (100%).

Repeated wording of a result (issue with the ENGL version of the Action plan) as the UKR version has 10 outcomes, not 11.

Initial training of candidate prosecutors makes part of the selection process. The curricula are developed by NAPU, approved by the QDC and implemented by NAPU. The term of the initial training is one year, without a possibility to fine-tune the duration or the curriculum taking into account previous experience of a candidate prosecutor or other factors. The special training is divided into the theoretical part taking place at NAPU and the practical part organised in local PPOs. While in accordance with the Law, the initial training is expected to be practice-oriented, it is reported that NAPU's teaching style is merely theoretic. While some trainers actively use such practice-oriented training tools as cases, simulations etc., most stick to lectures and seminars in the form of the trainees giving answers they were able to prepare in advance to questions, often of theoretic nature. Moreover, the curricula of the initial training is poor on the possibilities to learn modern soft-skills techniques.

As the initial training is now happening for the second time only, it is too early to assess certain aspects. It has been updated for the second wave of candidates, however, it is not clear whether the lessons learned from the training of the first wave were taken into account; the same is true for the final testing. The testing has no impact on the selection process; it is more of a university-style examination. The curricula are accessible at NAPU web site.

NAPU is the sole institution tasked with the special training. It has own premises and as many as about 300 permanent staff members. Its budget is within the general budget of the PGO. While there is no indication that it causes problems of lack of financing, it was reported that the NAPU cannot directly benefit from the donors' support for the purpose of organising study visits. In practice, it seems that the resources of the Academy are not scarce but they are not used rationally. There is no system for involving external trainers, although in practice some NAPU trainers invite prosecutors, lawyers, judges or international experts to take part in the training.

As to the training of the teaching staff of NAPU, they have their continuous training plans, however, there seems to be no clear links to building their capacities to ensure practice-oriented training. Occasional ToTs or other focused training events are usually organised with donors' support. The same is true for the possibilities of study visits to foreign institutions.

NAPU staff seems to be active in research, however, the links of the research with the improvement of the initial training are not clear.

It is recommended to conduct an organisational and functional assessment of organisation and operation of NAPU. The structure and resources of the NAPU, including human, are to be reorganised to ensure efficiency of initial training. Principles of the initial training are to be changed, allowing for the training to prepare the candidate prosecutors for their new job; it is to be practice-oriented and include soft-skills development. Practicing professionals, including prosecutors, judges, lawyers etc. are to be involved. It is advisable also to involve non-lawyers, including external experts, for the soft-skills training. There is to be a possibility of personalised approach, taking into account previous experience of the candidate prosecutor. Besides final testing of individual knowledge, it is advisable to conduct non-personalised entry and exit tests to assess the general dynamics of knowledge, as well as satisfaction surveys. Lessons learned of each initial training cycle are to be taken into account for the development of the curricula for the next cycle. It is advisable

to involve external experts, including foreign, into the development of the initial training curricula. NAPU staff is to be trained in modern adult learning tools and to be able to apply these skills in developing and conducting training; experience sharing from the part of foreign institutions is also advisable.

8.2.3. Modernisation of system of continuing training of prosecutors

I. Outputs. 1. Continuing training curricula harmonised with professional requirements in framework of PPO reform (40%). 2. New system of testing after continuing training course implemented (0%). 3. Ukrainian and foreign lawyers involved as trainers for continuing trainings of prosecutors (10%). 4. Curricula of continuous training of prosecutors regularly reviewed, updated and disseminated through electronic libraries (20%). 5. System of training of trainers (TOT) for continuous training of prosecutors implemented (10%). 6. Satisfaction surveys, including for trainees. Trainings of PPO staff carried out regularly, identifying needs in adapting continuous training curricula (10%).

7. System of incentives to continuous training in place through sending the prosecutors with the best test score result to study visits to foreign institutions (0%).

Note. Outcome 6 - English translation of this Outcome is incorrect. The Ukrainian version is the following: Regular surveys of prosecutors in continuous training, trainers and employers (heads of PPOs) in order to assess the needs to change the content of the curricula for the continuous training of prosecutors. We evaluate the Ukrainian wording.

Outcomes: (1) Content of continuing training curricula reviewed, new courses introduced (20%); (2) Special courses for prosecutors holding management positions to increase skills in HR, strategic planning, budget and financial policy formulation, M&E of subordinated employees' efficiency, PR/communications (10%); (3) Joint courses and seminars with judges and advocates, role plays of court hearings (moot court exercises) (10%); (4) Ukrainian and international practitioners, including prosecutors and lawyers, regularly involved as trainers (40%); (5) Information management systems at NAPU interoperable with those of other justice sector stakeholders and governance bodies, and HEIs (0%); (6) Regular study visits to ECHR, ECJ and prosecutorial bodies of EU MS for prosecutors scoring high in continuous training programme (0%); (7) International trainers and mentors among regular participants in continuous training system (0%); (8) Curricula of continuous training for prosecutors annually updated and discussed publicly among users, taking into consideration the results of Annual Activity Report of PPO, curricula fully accessible at NAPU official website (0%); (9) Ensured TOT for continuous training of prosecutors, including by their internships in relevant foreign institutions and trainings involving international experts (10%).

These Outcomes are mainly not attained, the Outputs are mainly not achieved.

As reported, the continuous training curricula mostly remain the same since 2014, with small adjustments. While they take into account main legislative changes, they are not included in the general reform context, and do not react on the changes in the PPS and the challenges of the reform; there is no clear strategy with regard to further development of continuous training system. Prosecutors participating in these courses confirm the low level of satisfaction, both from the point of view of the methodology and the content.

Moreover, there is no specialised continuous training for managers; no training on internal and external communication, workload, performance evaluation etc. NAPU focuses on the



activities covered by procedural codes, but does not aim at developing of managerial capacities of prosecutors. Some training events on managerial or other soft skills were organised with donors' support on separate occasions.

There is no set system of joint training with other legal professionals including judges, lawyers or investigators. Judges and lawyers are sometimes invited as experts to the training for prosecutors, but this is also far from being a system. Some joint training events are organised by donors. Moot court hearings are used as exercise by some NAPU trainers on their own initiative.

The training courses are not followed by modern testing – to test the knowledge there are mainly university-style exams, and to assess the training itself, questionnaires are used. It is not clear how the results of questioning are taken into account.

The situation with trainers is the same as with the initial training, as many NAPU employees teach both candidate prosecutors and prosecutors. Some interlocutors from PGO reported that they volunteer to act as trainers at NAPU to ensure that lower-level prosecutors are properly trained on their subject. There is no system of incentives for the successful trainees, and visits to foreign institutions are usually sporadic, supported by donors, and linked to the prosecutors' professional activities, not to the continuous training results.

There is no common information management system for different justice sector / legal education institutions.

On a positive note, continuous training activities are organised jointly by regional PPOs and NAPU in the regions, sometimes with participation of PGO prosecutors, lawyers, judges or international experts; there are reports of usefulness of such events.

It is recommended to conduct an organisational and functional assessment of organisation and operation of NAPU. The structure and resources of the NAPU, including human, are to be reorganised to ensure efficiency of continuous training. Principles of the organisation of continuous training are to be changed. The training is to be put into the PPS reform concept, and aim at facilitating the prosecutors' response to the changes and challenges. The training is to include soft skills, and special training for prosecutors holding managerial positions is to be organised, including managerial, communication and other relevant skills. Lessons learned of each training activity are to be taken into account for the development, organisation and conduct of other trainings. It is advisable to involve external experts, including foreign, into the development of the training programmes. It is advisable to conduct joint training events with judges, lawyers, investigators. Instead of or in addition to the final testing of individual knowledge, it is advisable to conduct non-personalised entry and exit tests to assess the general dynamics of knowledge, as well as satisfaction surveys. It is also advisable to introduce a system of incentives for successful trainees including study visits to foreign institutions. NAPU staff is to be trained in modern adult learning tools and to be able to apply these skills in developing and conducting training; experience sharing from the part of foreign institutions is also advisable. Practicing professionals, including prosecutors, judges, lawyers etc. are to be involved as trainers. Experience-sharing between the PPOs, in order to discuss best practices, challenges and ways to respond is to be facilitated. Equal access to the continuous training is to be ensured, including for the PGO and RPPOs. Non-prosecutorial staff of the PPS is also to be trained systematically.

8.2.4. Implementation of individual Evaluation of Prosecutors' Performance (EPP) system for improving career management at PPO

I. Outputs. 1. Transparent and objective system of individual evaluation of prosecutor's performance implemented (0%). 2. Reviewed human resources policy, using ratings (score-based) EPP system for appointments, re-assignments and promotion (0%). 3. Awareness campaigns for prosecutors on new EPP, clarifying role of system in promoting independence, competence and efficiency (0%).

Outcomes: (1) Active participation of SGS, national and foreign professionals in development and implementation of EPP system (80%); (2) Standard procedure of regular (every two years) EPP of every prosecutor by his hierarchical superior (head of PPO body); prosecutors of central PPO office are evaluated by PG and his Deputies (0%); (3) Due relevance given to mixture of quantitative and qualitative standards as part of EPP (0%); (4) Standard sample (template) of questions as part of EPP (0%); (5) Additional questions for prosecutors holding management positions introduced for evaluation of their managerial qualities (50%); (6) Right of prosecutor to appeal against results of EPP to QDC (0%); (7) Results of EPP used by CP when choosing candidates to recommend for particular post, or re-assign (transfer) prosecutor to another post(0%).

These Outcomes are mostly not attained; the Outputs are mostly not achieved.

A working group tasked with the development of EPP was set up at the PGO in 2016. It comprised representatives of different units of the PGO, NAPU, QDC, CP, international organisations. The group developed a number of documents including draft amendments to the PPS Law, and has also worked on the evaluation criteria.

It was then decided to start with the regional pilots, and different pilot EPP projects are implemented in Kharkiv, Lviv and Odesa with the EUAM's support. The awareness campaign was led in the very beginning; regional campaigns held with EUAM's support.

There are complications related to the development and implementation of quantitative and especially qualitative criteria. The statistical data collected are not linked to the objectives, moreover, they are widely reported to be not representative. There is no long-term PPS strategy and no links to the criminal justice policy or functional accountability to the society, thus, there is no understanding of the expected performance of a prosecutor. It is widely reported that not all types of work prosecutors perform can be taken into account for the EPP. Apart from the complications related to the prosecutors tasked with a type of work other than Constitutional functions, all prosecutors have to perform numerous tasks not taken into account in the calculation of workload at all – such as collecting information and preparing reports requested by RPPOs.

In any event, as the system of EPP is not yet launched, no career decisions are based on it.

The functional assessment of the PPS is to be conducted, *inter alia*, to understand the types of tasks the prosecutors perform and their respective share in the workload. The PPS strategic planning is to be introduced. Based on the planning and the findings of the assessment, the EPP system is to be developed, in consultation with the relevant stakeholders and with involvement of foreign best practices. It is to comprise both quantitative and qualitative criteria. The results of the EPP are to be included into the system of career promotion and continuous training. Detailed guidelines to be developed for the use of the new system. The launch and implementation of the EPP is to be accompanied by an awareness campaign.



8.2.5. Implementation of institutional PPO Effectiveness Evaluation (PEE) system for improving institutional role

I. Outputs. 1. Transparent and objective institutional PPO performance evaluation system (PEE) implemented through carrying out and publishing relevant research and analysis in Annual Activity Reports on PPO (0%). 2. Trainings of PPO employees and CP members on research and analysis, strategic planning, financial planning, and risk management tools (*Till 2020*). 3. Practice guides and instructions on application of PEE developed, disseminated and regularly reviewed (*Till 2020*).

1. Outcomes. (1) PPO regularly (till 1st of April) submits its Annual Activity Report, in order to evaluate PPO's efficiency and undertake appropriate measures for improvement, in accordance with Article 6 of the Law of Ukraine "On Prosecution" (100%); (2) Regional PPO units submit their regular reports to PG; local PPO units submit their regular reports to relevant regional PPO units (100%); (3) Due relevance given to mixture of quantitative and qualitative standards as part of PEE (*Till 2020*); (4) Developed sample (content) of typical Annual Activity Report of PPO (30%); (5) Annual Activity Report of PPO is published online (100%); (5) Trainings and seminars organised for analysis & statistics unit staff of PG to increase the quality of analysis and reporting (0%); (6) Trainings and seminars organised for planning unit staff and CP members to increase the competencies in strategic planning, risk assessment and management (0%); (7) PG informs the Parliament on key conclusions of the Annual Activity Report of PPO (100%); (8) Action Plan is developed, risks are defined, mechanisms of their overpassing are determined upon the conclusions of the Annual Activity Report of PPO (0%).

The Outcomes concerning the Annual Activity Report are mostly attained, the outcomes concerning the PEE are not attained. The Output 1 is not achieved.

Annual Reports following a certain template are published every year and presented to the Parliament by the PG. However, the Annual Report contains merely statistical data, without analytical conclusions. Moreover, it is not included into a broader long-term strategy and planning framework, neither are there any benchmarks to compare with other states. There is no system of capacity building of the relevant staff in place.

The PEE system is not developed.

It is recommended to develop the methodology for the preparation of the Annual Report for the VR, defining the structure, content, ways of presenting the information etc.

The report is to comprise, *inter alia*:

- 1) results/ assessment with regard to the Constitutional functions of the PPS;
- 2) results/ assessment with regard to the priorities set for the PPS;
- 3) results/ assessment pertinent to the management of the PPS as a state agency (realisation of the mission, achievements of the reform etc.);
- 4) resources (human, material, financial) necessary to perform the functions and to fulfil the priorities.

With regard to the indicators, the Report is to include;

- 1) quantitative and qualitative indicators of the results;
- 2) annual dynamics indicators/ progress indicators in comparison to the baseline year and previous 5-6 years;



- 3) benchmarking – comparison with other states. The Report is to present both the data and the analytics/ conclusions.

The full version of the Report may comprise around 100 pages; it is to be accompanied by a brief visualised presentation (around 10 pages).

The VR is to define the PPS priorities, to approve the annual assessment of the PPS operation, achievements of the priorities and needs to fulfil the priorities. The priorities defined by the VR will serve as a guidance for the Committee of Ministers for the budget of the PPS for the next year.

The Annual Report is to be included into the strategic planning framework.

In view of the transparency and accountability of the PPS to the society, the Annual Report is to be publicly accessible. This is to include online publication, but also press-briefing, presentation at a discussion forum etc.

The capacities of the staff involved into the preparation of the Report are to be developed accordingly.

2, 3 Outputs and 3 Outcome are underestimated. According to the Plan, PEE should be established by 2020. However, as monitoring shows, PEEs are not subject to analysis, design and production. This raises legitimate doubts about the timeliness of the development, approval and implementation of PEE.

It is recommended that the development of PEE is started immediately.

AREA OF INTERVENTION 8.3 INCREASED ACCOUNTABILITY OF PPO

8.3.1. Development of internal and external oversight mechanisms to combat and prevent corruption

I. Outputs. 1. Reviewed regulatory framework on responsibilities of PPO Internal Security Department (ISD), including role in conducting annual integrity checks of prosecutors (100%). 2. Reviewed regulatory framework on procedure and mechanism of conduct by ISD of annual integrity checks of prosecutors (100%). 3. Reviewed regulatory framework on asset, income and expenditure declarations of prosecutors. Regular monitoring/verification by ISD conformity of income and expenses of prosecutors, and members of their families, in order to define scope of annual integrity check (50%). 4. Reviewed regulatory framework on immunities of prosecutors (100%).

Outcomes: (1) ISD is subordinated and accountable to PG, with requisite degree of operational autonomy (100%); (2) Liability established for ISD staff for non-performance of duties, avoidance of appropriate response to potential or actual offenses, improper examination of declarations or conduct of integrity checks (100%); (3) Annual asset, income and expenditure declarations of all prosecutors accessible online (90%); (4) Regular monitoring/verification of asset, income and expenditure declarations of prosecutors by ISD and National Agency for Prevention of Corruption (50%); (5) Prosecutor asset, income and expenditure declarations accessible online (with the right to privacy and with the need to protect them from undue influence) (90%); (6) Procedures in place for immediate passing of complaints on illegal enrichment of prosecutors from QDC or ISD (0%); (7) Generic standardised data on results of integrity checks, including information on bringing criminal actions against prosecutors, included in PPO Annual



Activity Reports, with due account of relevant personal data protection requirements (0%); (8) No carte blanche (structural) immunities of prosecutors; practical and effective tools for investigation of prosecutorial corruption, including streamlined system of authorisation of special investigative techniques (SITs) against allegedly corrupt prosecutors, while putting in place proper procedural safeguards against executive abuse (100%); (9) Dedicated continuous training curricula for and regular study visits of ISD staff to EU MS, to share best practices (0%).

These Outcomes are partly attained, the Outputs are mainly achieved.

The PPS Law in force as well as general anti-corruption legislation provide the framework for the accountability of the PPS. Sublegislatory framework includes internal PPS regulations governing the GI's activities, as well as documents concerning other mechanisms.

Several internal oversight bodies were established in the PPS. The GI is an autonomous structural unit subordinated directly to the PG. It was established in early 2017 and deals with prevention, detection and investigation of corrupted-related offences committed by prosecutors. Among other, they oversee the so-called secret integrity check.²⁹

This check is provided for by the PPS Law (Article 19). It was long not clear how the relevant provisions are to be interpreted. They require the prosecutors to undergo annual secret integrity checks, to be implemented by the internal security units. Thus, the procedure is supposed to be secret, in the meantime, it is within the responsibility of prosecutors, which does not seem fully coherent. In June 2016 the PG approved the Procedure for the Secret Integrity Check of Prosecutors in the Public Prosecutor's Offices,³⁰ which provides as follows. Prosecutors annually fill in questionnaire; by which they guarantee their integrity. These questionnaires are published online, and anyone can, within 6 months, submit information indicating integrity issues. Should there be information on such issues, the ISD organises internal investigation.

The prosecutors are also obliged to submit online their annual financial declarations. They are subject to responsibility in case of failure to submit the declaration or provision of inaccurate information. The declarations are accessible online, except for the declarations of military prosecutors.

Internal audit service was reorganised in 2018. The PPS is also subject to the scrutiny of the external body, Accounting Chamber, supreme audit service of Ukraine.

In accordance with the anti-corruption legislation, a Commission for the Assessment of Corruption Risks in the Operation of the Public Prosecutor's Offices working on a voluntary basis is developing anti-corruption programmes, monitors their implementation and reports to the State Agency on Corruption Prevention.

Delineation of functions between different agencies, both within and outside the PPS, remains a problematic issue. Thus, certain questions arose with regard to the check of the data indicated by the prosecutors in their financial declarations. It was finally ruled (Resolution of the Supreme Court, October 2018) that this competence belongs to the National Anti-corruption Agency, and not to the QDC.

²⁹ Regulation on the General Inspection of the Prosecutor's General Office of Ukraine, approved by the Order of the PG No. 89 of 20 May 2019.

³⁰ Procedure for the Secret Integrity Check of Prosecutors in the Public Prosecutor's Offices, approved by the Order of the PG No. 205 of 16 June 2016.

The legislation itself is not fully clear, as confirmed by the delineation of functions issue, as well as the above-mentioned secret checks clause.

While anti-corruption issues are included into the special and continuous training curricula, it is not clear whether they correspond to the actual needs of the relevant staff. There is no system of study visits in place.

There is a need to ensure clarity of the regulatory framework governing the anti-corruption issues, including the obligations of prosecutors and responsibility in case of omissions, as well as the roles and functions of the bodies involved, both within and outside the PPS. The approaches are to be harmonised between the general anti-corruption legislation and specific rules concerning the PPS. Guidance is to be provided to the prosecutors of all levels, and the relevant aspects are to be included into the initial and continuous training; development of capacities of staff dealing with anti-corruption issues is to be ensured, including by study visits.

8.3.2. Implementation of clear and foreseeable disciplinary policy and standards of prosecutorial ethics and discipline

Outputs. 1. Reviewed Disciplinary Statute of Prosecutors and relevant procedural regulations to harmonize disciplinary practices with European standards (90%). 2. Reviewed Code of Professional Ethics of Prosecutors, regularly updated and annotated (60%). 3. Practice guides and training materials on ethical training of prosecutors developed, regularly reviewed and disseminated. 50% 4. Online system for filing complaints against prosecutors in place (0%). 5. Statistics on disciplinary cases and ensuring its public accessibility (50%).

Outcomes: (1) Scope and extent of powers of QDC in disciplinary proceedings determined (100%); (2) Ensured accessibility, objectivity and consistency of disciplinary practice at PPO (70%); (3) Applicability and efficiency of disciplinary rules in case of violation of law; consistent, clear and foreseeable disciplinary proceedings concerning responsible prosecutor (60%); (4) Explicit ban of bringing disciplinary responsibility for legitimate exercise of prosecutorial discretion (20%); (5) Principle of proportionality applied when making decision on necessity of sanction and on defining type of sanction (30%); (6) Ensured right of prosecutor or of other PPO employees to get access to his disciplinary case-file, scope and extend of obligations to give access to information on disciplinary proceedings to third parties and public (100%); (7) Single (judicial) avenue for appeals in disciplinary procedure (0%); (8) System of individual incentives in place depending on individual achievements (0%); (9) Developed system of norms of professional ethics of prosecutors and of other PPO employees with clear and foreseeable substantial component; ensured accessible and consistent practice of its application (40%); (10) Repeated or serious violations of ethics amounting to ground for disciplinary responsibility (100%); (11) Online tool for filing complaints against prosecutors, and system of online-reporting to QDC for handling complaints, in place (0%); (12) Public provided access to analytical and statistical data on disciplinary practice at PPO, with account of need to protect presumption of innocence and privacy (60%).

These Outcomes are mostly attained, the Outputs are mainly achieved.

The disciplinary framework, including the powers of the QDC is established by the PPS Law. The QDC is operational, it actively considers complaints. The QDC Regulation, adopted by the Conference of Prosecutors further develops the rules for the disciplinary proceedings.



The QDC published a template for the disciplinary complaint,³¹ which, however, is not compulsory to follow. The legislative framework established procedural guarantees, including the right to provide information or to refuse to do it, to be represented, to appeal etc. The proceedings are based on the adversariality principle. Other positive traits of the disciplinary proceedings are the collegial consideration, automated division of cases and so on.

The rights of the prosecutor subject to the proceedings are explained in the QDC Regulations and include the right to access the case file.

The QDC's decisions on the merits, which include the reasoning, are published on the body's official website, as explicitly set forth by the PPS Law. What is more, the hearings of the QDC are broadcasted online; journalists can also attend the hearings.

An exhaustive list of disciplinary responsibility grounds (including repeated or serious violations of ethics amounting to ground for disciplinary responsibility) and sanctions is established by the PPS Law (Articles 43 and 49 respectively). However, the description of the disciplinary offences is not very clear with regard to the actions covered; as to the sanctions, there are as little as three options, thus, ensuring proportionality is highly problematic. The list of issues to be decided by the QDC is also set forth (Article 46) and includes the *mens rea* and the consequences of the disciplinary offence; however, no details are provided.

The main substantial component for the disciplinary responsibility is set forth by the Code of Professional Ethics and Conduct of Prosecutors. It was adopted by the Conference of Prosecutors in April 2017 and amended in December 2018. However, the question whether the document is sufficiently clear and covers all the relevant matters remains open.

The question of the disciplinary responsibility of the PPS investigators and military prosecutors remains an issue. The responsibility of investigators is not explicitly prescribed by the PPS Law; as to the military prosecutors, they are subject to two parallel disciplinary systems – that of the PPS and that of the military command. Moreover, the Code of Professional Ethics and Conduct of Prosecutors is only applicable to prosecutors. Other employees of the PPOs are not subject to the QDC's scrutiny.

As to the prosecutorial discretion, there is no explicit ban on the use of disciplinary liability in such cases. However, it is to be commended, taking into account the Ukrainian realia, that an explicit ban on disciplinary responsibility for mere acquittal or closure of criminal proceedings by a court is provided.

The QDC reports annually on its activities, including the aggregated information of the disciplinary proceedings. The reports are available on the body's website.³² Moreover, for example, in February 2019 the QDC published on its website a brief note on the typical omissions of the complainants resulting in the refusal to initiate disciplinary proceedings.³³

There is no online tool in place to file complaints, although, the QDCP can be reached by e-mail.

The questions of prosecutorial ethics are included into the prosecutorial training at NAPU.

The QDC's decisions on the merits can be appealed; however, there is still no single judicial remedy. Thus, the Constitution established that the HCJ is competent to review the decisions

³¹ Approved by the Decision of the QDC No. 5zp-17 of 07 June 2017; <https://www.kdkp.gov.ua/page/zrazok-dystsyplinaranoi-skarhy> .

³² <https://www.kdkp.gov.ua/page/zvity-komisij>

³³ <https://www.kdkp.gov.ua/news/declaration/83>



on the disciplinary responsibility of prosecutors. The Supreme Court can, in its turn, review the HCJ's decisions. In the meantime, it is possible to appeal the QDC's decisions directly to the court, which may create certain inconsistencies, that should ideally be corrected.

Despite the evident achievements of the newly-established disciplinary responsibility system, there is certain room for improvement. Besides the lack of clarity with regard to the disciplinary offences and proportionality issues, there are other legislative clauses that are not sufficiently clear or turn out to be problematic in application. For example, the PPS Law provides that any actions or omissions of a prosecutor within criminal proceedings can be appealed solely within the procedure established by the CPC. In order to initiate disciplinary proceedings concerning the breach of an individual's rights or legislative requirements, such breaches are to be established by a decision adopted within the criminal proceedings. However, the CPC limits the grounds for complaint within criminal proceedings to be considered separately, and all other complaints are heard by the judge during the consideration of the criminal case. In the meantime, the limitation period for the disciplinary responsibility is rather short (one year from the alleged violation), thus, such rules in many cases can effectively exclude the responsibility. The short limitation period also hinders the possibility of impose disciplinary responsibility on appeal by the HCJ or the court. Such a problem is solved in other jurisdictions by way of interpretation, establishing that the period of limitations starts running from the moment the judgment is rendered.

Another example is the grounds to refuse to open disciplinary proceedings. While some of those are purely formalistic (e. g. anonymous complaint), others are less obvious (e. g., the disciplinary complaint does not contain concrete data on the presence of the elements of a disciplinary offence). This decision is taken by a single QDC member, it is not subject to appeal, moreover, the decisions to refuse to initiate proceedings are not published. The PPS Law sets deadlines for certain stages of the disciplinary proceeding; however, there is no overall deadline. In practice, the QDC is reported to act without undue delays despite significant workload, nevertheless, regulatory safeguards would be advisable. Other issues include the check of the circumstances of the complaint and, more specifically, the procedural status of the data provided by the GI.

Moreover, there are practical issues detrimental to the QDC's operation with regard to the disciplinary proceedings. One of those is the absence of own secretariat, which is crucial both from the point of view of independence and of workload.

There is no proper system of incentives in place. The system of bonuses is largely abused and, on the contrary, used as a disciplinary responsibility in disguise. Moreover, the new PPS Law eliminated the ranking system, however, those having had the rank before the Law entered into force kept it and are receiving the relevant bonuses, which puts those recruited later in unequal situation.

The regulatory framework on the disciplinary responsibility of prosecutors is to be fine-tuned. The elements of the offences are to be more clearly defined; it is advisable to broaden the range of possible sanctions in order to ensure proportionality. While the PPO investigators exist, their disciplinary responsibility is to be clarified. The procedure for the check of the circumstances of the offence is to be clarified ensuring independence and effectiveness; the possibility of usage of data with different statuses (including those provided by the GI, the data collected in the framework of investigation or operative search etc.) is to be clarified. The grounds to refuse opening of proceedings would also benefit from improvement of the wording. It is advisable to make limitation period longer, at least for the most serious



violations. The situation with the dual appeal is to be clarified. The implementation of the QDC decisions is to be clarified, in order to prevent the situations of possible lengthy implementation. The QDC's capacities are to be strengthened, including by means of its own secretariat. Unified approach among all bodies involved to be ensured (QDC, HCJ, SC). Coordination is to be ensured by the QDC and CP, and a mechanism for transfer of complaints in the competence of another body is to be introduced. Any quasi-disciplinary actions are to be excluded, including the system of bonuses. The remuneration is to be paid in accordance with the PPS Law, and it is advisable not to use any bonuses linked to the performance; the ranking system is also to be fully eliminated. Incitement system should comprise honours, other memorable items, financing of continuous training, including study visits and traineeships in foreign institutions etc.

AREA OF INTERVENTION 8.5 INCREASED TRANSPARENCY OF PPO

8.5.1. Establishment of system of relations with media, to promote access by public to information about PPO

1. Outputs. 1. Reviewed regulatory framework relationship with media and access to information (50%). 2. Specialised staff responsible for media and public relations at PG press service QDC and CP (30%).

Outcomes: (1) PG press service, press offices at QDC and CP provide consistent and user-friendly information through interviews, press releases, online publications etc. (30%); (2) Regular press conferences of PPO and its units (50%); (3) Public access to all PG orders is provided, with exception of those protected by statutory secrecy, and with due account of relevant PDP requirements (30%); (4) Regular publications in media informing public about process of implementation of new legislation and PPO reforms (10%); (5) Qualification of staff responsible for training leaders of the PG to press conferences and for other events involving the media increased (0%).

Note. 1. Outputs - In Ukrainian text "internal framework".

These Outcomes are not attained, except for certain aspects, the Outputs are only partly achieved.

The communication work of the PPO including the highest management seems sporadic. There is no unified approach to the messages, means of communication, regularity etc. There is no coordination between the press-service of the PGO, the QDC and the CP. As reported, the PGO developed its communication strategy with the assistance of the European Union Advisory Mission – Ukraine, and the strategy was approved by the PG. In June 2018 the QDCP also adopted its communication strategy. These documents are however not public.

It also seems that a lot depends on personalities in this area. Thus, for example, some of the top-management of the PGO or QDC members can be active on their personal Facebook page or give interviews, but these activities are not happening within set policy or guidelines.

The press-service of the PGO holds ordinary briefings not less than 4 times per year and sometimes special briefings, which is, however, not a frequent occasion. The RPPOs have their own press-officers. As was reported, representatives of other structural units of the PGO, prosecutors of LPPOs and RPPOs avoid contacts with media.



The PG's orders are mainly published on the PGO website, however, delays are reported, based on allegedly long procedure of the registration at the Ministry of Justice. As not all the orders are subject to the registration, it is possible that some of those are not published.

On some point in 2015, a special page at the PGO official website was dedicated to the implementation of the PPS reform. However, this section was later removed, and as of September 2019 such information is not specifically published.

There is no capacity building programme on the communication issues. Some training activities were held with the donors' support but only sporadically. Moreover, the press-officers are often prosecutors and there is no information on the systematic capacity development for them.

There is a need to take stock of the already developed products, including with the donors' support, and to consider implementation of the recommendations. A strategy for communication / public relations is to be developed, including both internal and external communication, implementation plan including implementation budget. Innovative communication products to be implemented in order to create the "new image of the PPS". The structure of the relevant staff is to be changed: professionals with relevant training and competencies are to lead the area and to work on creating a joint network of the PGO, RPPOs and LPPOs. Two level training programme is to be developed and implemented: for the communication specialists and for the prosecutors, first of all of the high managerial level.

8.5.2. Increasing transparency of PPO through enhanced and permanent communication with civil society

Outputs. 1. Online surveys and questionnaires to determine scope and extent of further PPO reforms (0%). 2. Specialised units at PPO for response to public dissatisfaction and emergency event fully operational, working in timely consultation with representatives of civil society (0%). 3. Consultative Council at PGO fully operational (0%).

Outcomes: (1) Websites of all regional prosecutors' offices with a "FAQ" system (feedback) (20%); (2) Professionals, including sociologists, are involved in assessment of PPO reform, based on results of public surveys (60%); (3) Timely and adequate response by PPO in all communication with public (30%); (4) Advanced communication techniques in place to deal with public (10%).

These Outcomes are not attained, except for certain aspects, the Outputs are not achieved.

The websites of the RPPOs are operational, however there is no developed FAQ sections. They are also not very user-friendly in their provision of information.

There is still no systematic assessment and presentation of PPO reform implementation. There is no response tactics/ guidelines in the PPO, thus, the response is often not timely.

It is also to be noted that the websites of the PPOs including the PGO, of the QDC and CP are not very user-friendly, and the search of information seems very complicated.

Involvement of external professionals, including sociologists, in the assessment of the PPO reform, based on results of public surveys is implemented due to the activity of NGOs and international organisations. The PPO itself does not implement such actions.

The Consultative Council was dissolved in March 2017.

It is to be noted that the donors' assistance allowed to produce findings and recommendations on various transparency components. Thus, a public awareness and perception sur-



vey was conducted in 2018 with CoE support, an in-depth needs assessment of the citizen reception scheme of the PGO, including phone calls was conducted by the CoE in 2017; large-scale EU Project “Pravo-Justice”'s support throughout 2018 was aimed at the development of the *brandbook*, new version of the web-site etc. The results of the findings and recommendations were mostly not used.

There is a need to take stock of the already developed products, including with the donors' support, and to consider implementation of the recommendations. A strategy for communication / public relations is to be developed, including both internal and external communication, implementation plan including implementation budget. Innovative communication products to be implemented in order to create the “new image of the PPS”. The structure of the relevant staff is to be changed: professionals with relevant training and competencies are to lead the area and to work on creating a joint network of the PGO, RPPOs and LPPOs. Two level training programme is to be developed and implemented: for the communication specialists and for the prosecutors, first of all of the high managerial level. In addition, there is a need to develop the system of contacts with citizens, including those physically coming to the PPOs, calling, addressing letters, emails etc. Communication through the social networks is to be developed. Level of awareness is to be regularly assessed and the relevant adjustments to the communication policies are to be made. The PPS reform, including the change in the PPS functions is to be included into the communication with the society. Transparency of the LPPOs is not to be overlooked.

AREA OF INTERVENTION 10.1 INCREASED EFFICIENCY BY STREAMLINED COMPETENCES IN CRIMINAL INVESTIGATION

10.1.1 Streamlining of duties and powers of each body involved in criminal investigation

I. Outputs. 1. Reviewed regulatory framework on bodies involved in criminal investigation (80%).

Outcomes: (1) Practical and effective procedural and disciplinary oversight by PPO over police officers conducting criminal investigations (60%); (2) Clear delineation of mandates of each investigative body dealing with various types of crime, including PPO, MOI, IRS, NACB and other relevant bodies (80%).

The Outcome 2 is mainly attained; the Outcome 1 is partly attained. The Output is mainly achieved.

The Constitutional changes defined the procedural supervision (oversight) function of the PPS. Thus, one of the Constitutional function of the PPS is the “organisation of and procedural supervision over the pre-trial investigation, solving, in accordance with the law other issues during the criminal proceedings, oversight over covert and other investigative and search activities of the law-enforcement agencies”. Still, the transitional provision 9 set forth that the PPS shall continue to implement, in accordance with the legislation in force, the pre-trial investigation function until the agencies assigned the relevant functions by law start functioning. The Law on the State Bureau of Investigation was adopted in November 2015 and entered into force on 1 March 2016. However, the agency was not fully operational till 2018. The deadline for the transfer of investigations from the PPS to the SBI was several times postponed. At present the PPS still continue to perform the investigative function. A



separate issue, the PPO investigators still remain on their position and there seems to be no clear plan with regard to their fate after the final transfer of cases.

The investigative jurisdiction is mainly clear, still, there are instances of disputes or lack of clarity. It is to be mentioned that, for example, SBI's competence is tied to the alleged perpetrator; thus, the moment of the transfer is not always evident.

It is to be mentioned that, while the PPS functions in the criminal proceedings are set forth in the Constitution, neither the PPS Law, nor the CPC are aligned with it; thus, the wording differs in all three documents. The notion of the procedural supervision and especially of the organisation of pre-trial investigation is still not clear, both for the prosecutors and for the investigators. Moreover, the capacities of prosecutors are not sufficient for the effective implementation of the procedural supervision, as well as, according to certain reports, their possibilities of influence on the investigation are limited (e. g., the prosecutors send letters to the investigative agencies stating the drawbacks in investigation, which may remain without reaction).

The main function of the prosecutors in investigation, to organise and to supervise it, is to be defined clearly, the PPS Law and the CPC are to be aligned with the Constitution. Common understanding of this function and its relation to the investigative function, as well as the roles of a prosecutor and an investigator respectively, are to be ensured, both among the prosecutors and among investigators. For this end, broad explanatory endeavours are necessary; it is advisable to introduce uniform guidelines compulsory both for the prosecutors and for the investigators, as well as joint training activities. The delineation between the competence of the investigation agencies is to be clear both in the regulations and in practice.

It is also recommended to design and introduce a (preferably) inter-agency Electronic Case Management System for all actors involved in criminal proceedings and crime detection and prevention, including prosecution, investigative agencies, courts, bar, penitentiary, probation etc., ensuring consistency and interoperability of their institutional and functional components.

There is also the need to complete the transfer of the investigations from the PPO to the SBI and to finalise other issues related to the PPS ceasing to perform the function of investigation, including the status of (former) PPO investigators.

According to observations and feed-back from representatives of different focus group, prosecutors in contemporary Ukrainian society are not well respected. As officers of the state, they do not have a sense of loyalty towards the institution they serve and represent. What is more, they do not have a clear vision of what their identity as prosecutors is.

Prosecutors have every opportunity to work independently according to the criminal proceedings standards set in the Criminal Procedural Code; *de jure* prosecutors can also organize investigation and lead the case completely independently as there are no loopholes in national laws that would prevent from such practices taking place.

However, prosecutors are not morally, nor psychology prepared to fulfil their commitments to conduct work impartially and autonomously, as well as to steer away from external influences. During pre-trial investigation and public prosecution in court, prosecutors coordinate their verdicts with their chief's prosecutors, as often prosecutors are not qualified enough to lead a case on their own. Due to the common practice of selecting "*favorable prosecutors*", because of the constant coordination with immediate supervisors wastes a significant



amount of time on the prosecutor, often resulting in the loss of self-employment. This is especially prevalent in local prosecutors' offices.

Even though prosecutors have freedom of discretion, they are afraid of making autonomous decisions; they usually operate according to procedures of this deeply rooted tradition: if you apprehend a person – you must arrest/detain them, if you arrest/detain a person – the case must proceed to court, if the case proceeds to court – the person has to be convicted. In theory, prosecutors have procedural powers to change this established order of proceedings, yet more often than not they lack moral willingness to do so. Prosecutors depend on their superiors regarding any decisions that involve their salaries, bonuses (which constitute 50 per cent of a prosecutors' salaries), pensions, career prospects, even household related matters (i.e., concerning appointments of apartments), et cetera.

Prosecutors do not fully comprehend their duties regarding how to properly conduct public prosecutions in courts, what the adversarial principle stands for, that prosecutors are the ones responsible for the presence of witnesses and the provision of evidence during trials. During long trials, most prosecutors don't ensure continuous presence of case witnesses. And dependent/compliant judges tend to justify trial postponements by citing fabricated reasons. If trial is presided by a principled judge, more often than not prosecutors will lose the case solely due to the aforementioned reasons of incomprehension of the procedure and the rules of evidence.

It is also a common practice to delegate many prosecutors to oversee a single criminal case that has been handed over to court for public prosecution. In this way every prosecutor involved can partake in the case: often one prosecutor begins the public prosecution, a different one will be present during judicial determination, a third prosecutors will present the closing statements. Yet such practice undermines the status and competence of prosecutors, as well as the effectiveness of their functions in the criminal proceedings.

In order to ensure favorable procedural outcomes, a number of prosecutors appear to resort illicit practices to influence judges. Territorial prosecutors can easily begin a pre-trial investigation citing an unlawful court decision as the reason, thus initiating a long process of persecution of the judge. Even though the name of the specific judge is not mentioned in the decision regarding the initiation of the pre-trial investigation, the *fabula* is able to identify the judge by looking at the name of the judge whose initial case decision provoked such accusations. Even though they are not suspects, in order to avoid risks of criminal persecution (which may take years), judges comply with the prosecutors' informal procedural demands, thus, breaching the principle of the rule of law.

Young prosecutors, who are trained in the National Academy of Prosecutors of Ukraine (NAPU), are not capable of carrying their duties independently after graduation. **The creation of a more comprehensive prosecutors' training system is recommended: prospective prosecutors should have at least two years of legal work experience before entering the NAPU; entry examinations for the NAPU; one year of specialty training; final examinations after the completion of the specialty training; and role appointment after a thorough selection process; traineeship for one or two years under the supervision of a chosen chief-tutor, who is not only able to transmit the idea of prosecutor's independence, but to instil such spirit in the trainees; final professional assessment carried out by a specialized commission.**

After such a training cycle, prosecutors should be ready to perform their duties and have



full discretion, without the need to have any decisions double-checked and countersigned. For the success of this training, it has to be ensured that the NAPU itself does not become a chain of transmission of bad practices or maintenance of the principle of subordination to the superior.

During the specialty training and later on during the refresher courses, teaching about employing competences such as managerial skills during criminal pre-trial investigations is essential. Often prosecutors do not know how to work together as a team, how to delegate tasks for investigators and other members of the team. Prosecutors must learn that everyone working for them is a team member. Thus, a course on team management and leadership must be included in the regular curriculum of the specialty training and refreshers courses.

Even though prosecutors are taught extensively about the procedural conduct during the periods of specialty training and refresher courses, workshops with judges or pre-trial investigators do not take place due to lack of initiative on behalf of the prosecutor's office. It is argued that during such workshops professional secrets may be disclosed, as well as prosecutors may develop close bonds with judges. Due to such procedural incoherence, inconsistency in legal practice occurs: even when the same legal rules are applied in court, they are interpreted differently, thus the outcomes differ. Taking all this into account, new training programs must be developed.



CONCLUSIONS

Outline overall views as to the level of attainment of outcomes envisaged by JSRSAP and recap recommendations

There has been certain progress in terms of attainment of outcomes envisaged by JSRSAP for the areas tackled by the assessment and report.

In general, the progress in the implementation of the reform can be assessed as being at an advanced stage of the middle part of the way. It cannot be assessed higher due to certain uncompleted tasks or actions of insufficient quality.

For instance, area of EPP is on the pilot testing stage; extensive analytical work was done, with the organisation of working groups, broad participation of the representatives of the PPS of different levels and directions, NAPU, QDC, international experts. Pilot models and various products were developed, but were not fully implemented as foreseen by the JSRS AP. In this case, accordingly, it is impossible to award high score.

Similarly, with regard to the budget planning or NAPU many Outputs and Outcomes seem to be completed from the formal point of view. However, deeper analysis of the actual content demonstrates that the products or de facto implementation are not in line with the quality requirements, relevant principles, needs of the PPS as a whole or of the prosecutors.

It is to be noted that the PGO and responsible managers have not undertaken all the steps necessary for the implementation of the reforms plan. Their activities to promote the reforms, initiate changes, delegate responsibilities and achieve the results was limited and rather moderate. This, inter alia, precludes the prosecutors and other PPO employees from understanding the nature of the reform, and does not allow to create conditions for the down-top reform initiatives. Middle-level prosecutors and territorial PPOs cannot implement potential changes in a more autonomous way. Moreover, there is no strategic view in the PPS, and the changes undertaken are not included into a reform/development plan. Various aspects of the reform are implemented separately and lack coherence. As to the JSRS and JSRSAP themselves, there is no sense of ownership in the PPS towards these instruments. Similarly, while the PGO was on some point working on the Roadmap, the document was mainly developed by the donors, and no understanding of the importance of implementing it is seen within the PPS.

According to the expert estimates out of
**47 Outputs and 113 Outcomes of the relevant sections of the JSRSAP,
their median implementation level attains 47 % and 51 % respectively.**

For ensuring enhancement of the reforms and their advancement in the justice sector of Ukraine, in particular, improving relevant framework and its steering mechanisms, the assessment suggested a set of recommendations, which are mentioned in the relevant sections of the present Report and recapitulated, with certain additions, here below.

We do not suggest dividing these recommendations into Short-term and Longer-term, as,

- firstly, only about 50 percent of the Outcomes and Outputs are implemented. A large part Outputs and Outcomes of the JSRSAP has not been realized fully or partially and must be realized during the period until 2020 (unless the plan is changed, of course);



and

- secondly, there are important lacunae and certain incoherences in the plan, which are to be remedied. These deficiencies need to be addressed either through changes to the Outputs and Outcomes or through a new of the JSRSAP. A very important circumstance is a newly adopted PPS Law on 19.9.2019. The changes in the Law are significantly affect the implementation of JSRSAP. Some norms have been directly revoked by of the new articles, and the separately segments of JSRSAP cannot continue to be implemented: e.g. self-management systems QDC, CP, career system, NAPU system. Importantly, the new amendments include a 24-month deadline. However, according to current practice, it is not at all clear which changes are temporary and which may remain permanent. Therefore, recommendations may be both short-term and long-term, depending on the validity of the Law.

Therefore, it is important that the relevant actions continue to be implemented by 2020 and beyond, if the expected results are not achieved on time. While preparing this assessment, on 19 September 2019, the Law No.113-IX “Amending Certain Legal Acts of Ukraine to Take Priority Measures of the Reform of Prosecutor’s Offices” was adopted by the Verkhovna Rada of Ukraine. This Law intends to reform several key points of the PPO Law.

The key points of this amendment are:

- 1) To undertake a complete restructuring of the whole PPS service and a comprehensive cleansing of the prosecution service.
- 2) Suspension of the powers of the Qualifications and Disciplinary Commissions, and transfer of their powers to other bodies to be created (Personnel Commission and HR Commission) on a temporary basis;
- 3) Extension of the powers of the General Public Prosecutor;
- 4) Elimination of the Military Prosecution offices;
- 5) Replacing the National Academy of Prosecutors with the Training Centre of Prosecutors
- 6) Increase of salary of the public prosecutors from 12 minimum wages to 15 minimum wages as of 1 January 2020 with further gradual increase to 25 minimum wages by 1 January 2022.

These amendments will have an impact upon certain of the recommendations included in this evaluation report. However, as the aim of this evaluation is not to take stock of the recently adopted legal reform, only certain adjustments in the final recommendations have been introduced.

Recommendations for the Improvement of JSRSAP

- 1) For the development of the next strategies and action plans, there is a need to ensure greater involvement of the stakeholder institutions of all levels. This will enable better ownership. It is also recommended to involve civil society into the policy development and monitoring.
- 2) There is a need to ensure coherence between the elements of the Plan, as well as within the chain of Actions – Outputs – Outcomes in each Intervention Area.
- 3) The wording of Outcomes and Outputs is to be built in such a way that allows them to be measurable.
- 4) The Plan is to be developed with the account for gender perspective / mainstreaming.



Area-Specific Recommendations

AREA OF INTERVENTION

8.1 INCREASING INDEPENDENCE AND AUTONOMY OF PROSECUTORS

- 1) Detailed regulation of the appointment and dismissal of the PG to be ensured, according to the checks and balances principle. A formalised competition for the position of the PG is to be envisaged, with a procedure for assessment of competence and ethical qualities of the candidates and a ranking of candidates; an independent body, such as the QDC is to be tasked with the competition. A possibility for public discussion is to be foreseen. Political influence on the PG and, consequently, on the PPS in general is to be decreased through the safeguards against arbitrary dismissal. The grounds for the dismissal of the PG are to be clearly established; the no-confidence vote of the Parliament to be eliminated. The role of the QDC is to be defined clearly.
- 2) An effective policy instrument, a Long Term Strategic Plan (Expansion for 5-10 Year), ought to be applied in order to ensure future strategic governance and quality planning at the PGO. The Priorities, as approved by *Rada*, should serve as a guideline in formulating the mission, vision, priority axes, goals and future tasks of PPS, also it will take into account the needs and expectations of society from the activities of the prosecutor's office.
- 3) Development of the Long Term Strategic Plan and the monitoring of its implementation are to be supported through an automated management system. The Plan is to identify performance criteria of different level. For example, international criteria can be used, such as the Freedom Index (Freedom House), the Bertelsmann Transformation Index, (Bertelsmann Foundation) etc.; public trust in the PPS; procedural criteria (number of investigated criminal offences per prosecutor, average overall duration of pre-trial investigation); share of employees leaving the PPS on their own accord etc.
- 4) Mechanisms should be in place allowing representatives of the CP and QDC to participate in the development of the PPS budget proposal; the budget proposal is to be approved by both CP and QDC. There is a need to include the budgeting process into a broader strategic planning scheme.
- 5) The budgeting is to be programme-based in practice, clearly tied to the targets. Capacities for programme-based budgeting are to be strengthened on all levels, a unified approach is to be taken, and methodical support is to be provided to RPPOs and PGO units.
- 6) The issue of possible sources of finance other than the state budget is to be resolved in order to enable prosecutors taking part in international investigative groups or be seconded to international organisations.
- 7) A unified data management system is to be introduced, with clear understanding of the possibility to use the data collected for planning purposes, including for the budget planning.
- 8) Functional audit of the whole PPS system is to be conducted in order to distribute human resources efficiently. This audit should identify duplication of functions, excessive functions, functions overlapping with other institutions, and provide directions for the transformations needed because of the narrowing of the PPS functions (including future removal of the transition functions).

- 9) The structure of the PPO staff is to be evaluated, systematic and grounded approach to the periodic review and adjustment of the relevant numbers is to be taken. Law 113-IX of 19.9.2019 amending the PPO Law provides for a reduction of the total number of public prosecutors to 10.000, so this recommendation has to be understood within this new legal context.
- 10) The findings of the recent organisational assessment of the PGO undertaken with the CoE support are to be taken into consideration.
- 11) The staff structure to be built based on the findings of the audit, and taking into account the following:
 - Ratio of prosecutors holding administrative positions to other prosecutors at all levels – 1:4.5;
 - Ratio of prosecutors to other PPO employees (public servants and others) at all levels – 2:1;
 - The PGO is to perform administrative and methodical functions; its procedural functions are to be minimised; local and regional PPOs (or whatever territorial PPO arrangement is in place) are to perform procedural functions, their managerial functions are to be minimised. The ratio of administrative functions to procedural functions should not be less than 3:1 at the PGO, 1:2 at RPPOs and 1:3 at LPPOs;
 - The PPO employees who do not perform the Constitutional functions of the PPS shall not be prosecutors (as it is now in press-units, HR, audit etc.);
 - The relevant demilitarisation is recommended: the military prosecutors are to be included into the general PPS; uniform and ranks are to be eliminated; the PPS is to be brought closer to the judiciary, and the status of prosecutors – to the status of judges. Amendments introduced in the PPO Law by Law 113-IX of 19.9.2019, already provides for eliminating the military public prosecutors.
- 12) There is a need to align the PPS Law, the CPC and all the regulations with the current version of the Constitution; a functional audit of the PPS is to be conducted, the current legislative framework and the audit findings are to lay foundations for the restructuring of the PPOs.
- 13) To ensure proper functioning of the CP and QDC, and, consequently, to strengthen the independence in the PPS, it is recommended to further strengthen the independence of both bodies themselves, ensuring the relevant arrangements for budget allocation, as well as sufficient funding, including independent from the PG and sufficient remuneration of members and staff of the QDC and exclusion of abuses of the system of bonuses with regard to the CP members, as well as ensuring financing of their trips related to the CP activities; providing the bodies with secretarial support directly subordinated to the relevant body and with separate premises. As the CP members are performing this function 'on a voluntary basis' remaining at their prosecutorial positions, it is also crucial to specify on the legislator level that when acting as CP members they are not under the instruction of any office of the prosecution service and are only accountable to the Conference of Prosecutors. Moreover, it is to be established that the time spent on the CP-related work is taken into account in the calculation of workload of the CP members by their supervisors at the PPOs. There is a need to review the legislative clauses setting forth the functions of the CP and QDC, to ensure clarity in the regulation of all functions and clear delineation between the bodies concerned. There is also a need to ensure coordinated functioning of the bodies. It may be advisable to



concentrate all career-related functions within one body. As to the QDC, it may be advisable to divide it into two chambers, in view of wide scope and variety of the body's functions. Capacities of CP and QDCP with regard to the communication are to be strengthened. Systematic approach is needed, with the development of communication strategies. Capacity building of the members and staff is advisable. Moreover, the awareness campaigns are to be directed not only at prosecutors but also at lawyers and general public. There is a need to adopt a unified approach to the prosecutorial career management and clearly define the roles of all the actors involved. In the context of independence, implementation of the decisions or recommendations of the QDC and CP by the PG and heads of RPPOs is also crucial. According to the Law, the QDC is temporarily deprived of the competences to carry out disciplinary proceedings against PPs, competences that will be *interim* assumed by a personnel commission of the GPO and regional offices. Therefore, the suspension of the functioning of the QDC adopted by the recent Law 113-IX of 19.9.2019 shall be taken into account.

- 14) It is to be ensured that the principles of autonomy/ subordination of prosecutors established by the PPS Law and the CPC are complied with in practice, including the rules on written instructions to lower-level prosecutors. Introduction of additional rules of approval by internal regulations is to be avoided. As an option, one document, such as Competency Rules of PPOs and Prosecutors can be introduced, establishing the jurisdiction and powers of PGO and territorial PPOs and explaining the chains of command both for administrative and procedural subordination.
- 15) The Regulations on inspections of lower-level PPOs by higher-level ones are to be clearer and more restrictive, and the possibilities to use other form of intervention (such as "provision of organisational and methodical assistance") as inspections are to be excluded.
- 16) It is advisable to amend Article 3 of the PPS Law "Principles of the PPO Operation" to refer to the principles governing the activities of a prosecutor personally. In the current version, only principle 5 – independence of prosecutors is built this way. The reference to PPOs instead of a prosecutor is detriment to the sense of personal responsibility and autonomy in decision-taking in criminal proceedings and other tasks. One of the principles is to be the following: "A prosecutor shall decide independently and on their own discretion, in accordance with the law and the principle of reasonability".
- 17) Internal regulations are to be in place that would provide prosecutors with guidance on the use of discretion reinforcing the prosecutors' independence in decision-making. The prosecutor must reach all the procedural decisions in criminal proceedings single-handedly and independently. If a prosecutor consults with a senior prosecutor, the decision is not considered to be concluded single-handedly. For a prosecutor, there cannot be double, triple, etc. systems of control over criminal proceedings, as it is at present. It is to be determined that no countersignature, stamping of the procedural documents is to be allowed; handing a criminal case over to another prosecutor can only be acceptable in exceptional cases. Only if a prosecutor is a *stagiaire* or an intern, can the decisions be made in consultation with their supervisor. It is also to be ensured that a decision of a prosecutor can only be re-assessed once and by only one supervising prosecutor. Any other appeal proceedings are to be conducted by courts.
- 18) Capacities of the CP to examine complaints of violation of prosecutorial independence are to be strengthened; there is to be a clear procedure for the consideration of such complaints and clear follow-up mechanisms; research and analysis of the complaints

and the follow-up actions is to be undertaken regularly and the findings are to be published.

- 19) A system of case management allowing for the distribution of cases is to be introduced. It is also recommended to introduce a specialisation scheme, which would be included into the distribution of cases.
- 20) It is recommended that prosecutors themselves strengthen the activities of the Union of Prosecutors, in order to streamline its structure and set goals and objectives to protect rights and legal interests. It is also recommended that the PGO conclude a Collective Agreement with the Prosecutors' Union.
- 21) It is to be ensured, including by coordination with the Cabinet of Ministers and the Ministry of Finance, that the remuneration of prosecutors is conducted in accordance with the PPS Law. The remuneration should comprise the salary and the supplement for the length of service to the state (not more than 30 %). The possibility of any manager including the PG or any external agent, such as the CoM, to influence the amount of remuneration shall be excluded. There should not be any additional supplements, including bonuses linked to the performance. Incitement system should comprise honours, other memorable items, financing of continuous training, including study visits and traineeships in foreign institutions etc. Law 113-IX of 19.9.2019 provides for an increase of the salary of public prosecutors
- 22) Social and logistics maintenance of prosecutors and PPO staff as established by the PPS law is to be implemented in practice. Clear procedures and follow-up mechanisms are to be set for the consideration of complaints concerning the violation of the rights of prosecutors due to the lack of performance by the state of its positive obligations. The CP's capacities are to be strengthened. The awareness of the role of the CP in protection of the prosecutors is to be strengthened.

AREA OF INTERVENTION

8.2 INCREASED COMPETENCE OF PROSECUTORS

- 1) The regulations concerning selection of prosecutors and other career matters would benefit from the peer review both from the point of view of international best practices of the prosecution services and/or judiciary, and from that of modern career management tools, including those used in private sector. Involvement of international experts in the re-appointment procedure of public prosecutors is envisaged in the recently adopted law amending the PPO Law
- 2) A capacity-building plan for the QDC members and staff is to be established; their capacities in the area of selection are to be reinforced.
- 3) The methodology to review the Qualification Exam is to be developed and introduced; it should include use of lessons learned of previous selections; it is also advisable to be able to include external professionals. There should be a technical possibility to organise computer testing, including analytical tests.
- 4) It would be advisable to slightly amend the selection scheme by allocating certain limited weight in the ranking to the results of the final testing upon the initial training. There should be a possibility to appeal against the results.
- 5) Awareness with regard to the selection is to be raised, other actions are to be taken aimed at increasing the popularity of the prosecutorial career, including among women candidates.



- 6) In addition to the initial selection of candidate prosecutors, the whole system of promotion in the PPS (that is, both transfer to the higher-level PPOs and appointment to the administrative positions) is to be fair, merit-based, transparent and built in accordance with the unified approach. Unified competency models and selection/promotion criteria are to be developed jointly and applied by all actors involved, which are to be properly trained and have relevant resources to implement the relevant functions effectively. Detailed procedures and clear evaluation methodology are to be in place.
- 7) The competency models should allow, inter alia, distinguishing clearly between the functions of an “ordinary” prosecutor and a prosecutor holding an administrative position. Promotion is to include the assessment of the professional skills, experience, moral and professional qualities of the person, as well her/his readiness to perform the managerial functions or to work in a higher-level PPO.
- 8) It is important to prevent discriminatory practices, in particular, to encourage promotion of women in the PPS.
- 9) It is to be set forth by the PPS Law that all administrative positions (except the PG and his/her deputies) are to be filled on the basis of competition, preferably for a five-year term with a possibility to hold the same position in the same PPO for not more than two consecutive terms.
- 10) It is recommended to conduct an organisational and functional assessment of organisation and operation of NAPU. Concept and Strategy of NAPU are to be developed, broadly discussed and approved by the PG.\
- 11) The structure and resources of the NAPU, including human, are to be reorganised to ensure efficiency of initial and continuous training.
- 12) NAPU staff is to be trained in modern adult learning tools and to be able to apply these skills in developing and conducting training; experience sharing from the part of foreign institutions is also advisable. Practicing professionals, including prosecutors, judges, lawyers etc. are to be involved as trainers. It is advisable also to involve non-lawyers, including external experts, for the soft-skills training.
- 13) The training curricula are to be reviewed. Initial and continuous training of prosecutors and other PPS employees is to be organised according to three components:
 - Professional competencies, including practical skills;
 - Personal competencies;
 - Development of a modern PPS: the transformation period.
- 14) NAPU is to conduct focused research of the PPO operation, legislation and draft legislation of the justice sector etc., in order to adjust the curricula accordingly.
- 15) The principles of the initial training are to be changed, allowing for the training to prepare the candidate prosecutors for their new job; it is to be practice-oriented and include soft-skills development. There is to be a possibility of personalised approach, taking into account previous experience of the candidate prosecutor.
- 16) Besides final testing of individual knowledge, it is advisable to conduct non-personalised entry and exit tests to assess the general dynamics of knowledge, as well as satisfaction surveys.
- 17) Lessons learned of each initial training cycle are to be taken into account for the development of the curricula for the next cycle.

- 18) It is advisable to involve external experts, including foreign, into the development of the initial training curricula.
- 19) The principles of the organisation of continuous training are to be changed. The training is to be put into the PPS reform concept, and aim at facilitating the prosecutors' response to the changes and challenges. The training is to include „soft” skills, and special training for prosecutors holding managerial positions is to be organised, including managerial, communication and other relevant skills. Lessons learned of each training activity are to be taken into account for the development, organisation and conduct of other trainings
- 20) It is advisable to conduct joint training events with judges, lawyers and investigators. Instead of or in addition to the final testing of individual knowledge.
- 21) It is also advisable to introduce a system of incentives for successful trainees including study visits to foreign institutions. Experience-sharing between the PPOs, in order to discuss best practices, challenges and ways to respond is to be facilitated. Equal access to the continuous training is to be ensured, both a right and as an obligation, including for the PGO and RPPOs.
- 22) Non-prosecutorial staff of the PPS is also to be trained systematically.
- 23) The functional assessment of the PPS is to be conducted, *inter alia*, to understand the types of tasks the prosecutors perform and their respective share in the workload.
- 24) The PPS strategic planning is to be introduced.
- 25) Based on the planning and the findings of the assessment, the EPP system is to be developed, in consultation with the relevant stakeholders and with involvement of foreign best practices. It is to comprise both quantitative and qualitative criteria. The results of the EPP are to be included into the system of career promotion and continuous training. Detailed guidelines to be developed for the use of the new system. The launch and implementation of the EPP is to be accompanied by an awareness campaign.
- 26) A Methodology for calculation of prosecutorial workload is to be developed. The methodology should include two components: (1) individual workload of a prosecutor, and (2) workload of a territorial PPO or structural unit of the PGO. Such methodology will enable equal workload of prosecutors and fair distribution of tasks.
- 27) Guidelines are to be developed for the specialisation of prosecutors in criminal proceedings. Such guidelines are to define the specialisation in PGO, territorial PPOs and their units, role of prosecutors-managers in the specialisation, as well as rights and obligations of specialised prosecutors. This will enable increasing effectiveness of criminal prosecution, setting clear rules for workload distribution, development of good practices, creating conditions for more focused training, mitigation of corruption risks. The specialisation structure is to be determined by the level of the specialisation – a *specialised PPO/ a specialised unit / a specialised prosecutor*. The specialisation at the PGO is to be conducted through the methodical guidance, without direct involvement into criminal or other proceedings. RPPOs are to have specialised units according to the groups of offences directly participating in the proceedings in the relevant territory, but performing no supervision over LPPOs. Specialisation in LPPOs is to be organised on a personal level (i.e., individual specialisation of prosecutors), or, as an exception, groups of prosecutors of the same specialisation.



- 28) It is recommended to develop the methodology for the preparation of the Annual Report for the VR, defining the structure, content, ways of presenting the information etc. The report is to comprise, *inter alia*:
- results/ assessment with regard to the Constitutional functions of the PPS;
 - results/ assessment with regard to the priorities set for the PPS;
 - results/ assessment pertinent to the management of the PPS as a state agency (realisation of the mission, achievements of the reform etc.);
 - resources (human, material, financial) necessary to perform the functions and to fulfil the priorities.
 - With regard to the indicators, the Report is to include:
 - quantitative and qualitative indicators of the results;
 - annual dynamics indicators/ progress indicators in comparison to the baseline year and previous 5-6 years;
 - benchmarking – comparison with other states.

The Report is to present both the data and the analytics/ conclusions. The full version of the Report may comprise around 100 pages; it is to be accompanied by a brief visualised presentation (around 10 pages). The VR is to define the PPS priorities, to approve the annual assessment of the PPS operation, achievements of the priorities and needs to fulfil the priorities. The priorities defined by the VR will serve as a guidance for the Committee of Ministers for the budget of the PPS for the next year. The Annual Report is to be included into the strategic planning framework. In view of the transparency and accountability of the PPS to the society, the Annual Report is to be publicly accessible. This is to include online publication, but also press-briefing, presentation at a discussion forum etc. The capacities of the staff involved into the preparation of the Report are to be developed accordingly.

AREA OF INTERVENTION

8.3 INCREASED ACCOUNTABILITY OF PPO

- 1) There is a need to ensure clarity of the regulatory framework governing the anti-corruption issues, including the obligations of prosecutors and responsibility in case of omissions, as well as the roles and functions of the bodies involved, both within and outside the PPS. The approaches are to be harmonised between the general anti-corruption legislation and specific rules concerning the PPS. Guidance is to be provided to the prosecutors of all levels, and the relevant aspects are to be included into the initial and continuous training; development of capacities of staff dealing with anti-corruption issues is to be ensured, including by study visits.
- 2) The regulatory framework on the disciplinary responsibility of prosecutors is to be fine-tuned. The elements of the offences are to be clearly defined; it is advisable to broaden the range of possible sanctions in order to ensure proportionality. While the PPO investigators exist, their disciplinary responsibility is to be clarified. The procedure for the check of the circumstances of the offence is to be clarified ensuring independence and effectiveness; the possibility of usage of data with different statuses (including those provided by the GI, the data collected in the framework of investigation or operative search etc.) is to be clarified. The grounds to refuse opening of proceedings would also benefit from improvement of the wording; it is also might be advisable to publish the motivated decisions to refuse opening.

- 3) It is advisable to make limitation period longer, at least for the gravest violations. The situation with the dual appeal is to be clarified. The implementation of the QDC decisions is to be clarified, in order to prevent the situations of possible lengthy implementation or failure to implement by the relevant prosecutor-manager. The QDC's capacities are to be strengthened, including by means of its own secretariat.
- 4) Unified approach among all bodies involved to be ensured (QDC, HCJ, SC). Coordination is to be ensured by the QDC and CP, and a mechanism for transfer of complaints in the competence of another body is to be introduced. Any quasi-disciplinary actions are to be excluded, including the system of bonuses. The remuneration is to be paid in accordance with the PPS Law, and it is advisable not to use any bonuses linked to the performance; the ranking system is also to be fully eliminated. Incitement system should comprise honours, other memorable items, financing of continuous training, including study visits and traineeships in foreign institutions etc.
- 5) It is recommended that prosecutors have opportunities to participate in international initiatives, which will also help prosecutors to develop their capacities in international relations and organisational abilities, and also enable them to legally receive higher remuneration. Legislation and sub-legislation shall establish the following:
 - procedures for delegation (secondment) of prosecutors to the international institutions or foreign state agencies;
 - procedures for the participation of prosecutors in the projects financed by international organisations, European Union etc., or other projects aimed at development and support for democracy.

AREA OF INTERVENTION 8.5 INCREASED TRANSPARENCY OF PPO

- 1) There is a need to take stock of the already developed communication products, including with the donors' support, and to consider implementation of the recommendations.
- 2) A strategy for communication / public relations is to be developed, including both internal and external communication, implementation plan including implementation budget. Innovative communication products to be implemented in order to create the "new image of the PPS".
- 3) The structure of the relevant staff is to be changed: professionals with relevant training and competencies are to lead the area and to work on creating a joint network of the PGO, RPPOs and LPPOs.
- 4) Two level training programme is to be developed and implemented: for the communication specialists and for the prosecutors, first of all of the high managerial level.
- 5) There is a need to develop the system of contacts with citizens, including those physically coming to the PPOs, calling, addressing letters, emails etc. Communication through the social networks is to be developed.
- 6) Level of awareness is to be regularly assessed and the relevant adjustments to the communication policies are to be made. The PPS reform, including the change in the PPS functions is to be included into the communication with the society. Transparency of the LPPOs is not to be overlooked.



AREA OF INTERVENTION 10.1 INCREASED EFFICIENCY BY STREAMLINED COMPETENCES IN CRIMINAL INVESTIGATION

- 1) The main function of the prosecutors in investigation, to organise and to supervise it, is to be defined clearly, the PPS Law and the CPC are to be aligned with the Constitution. Common understanding of this function and its relation to the investigative function, as well as the roles of a prosecutor and an investigator respectively, are to be ensured, both among the prosecutors and among investigators. For this end, broad explanatory endeavours are necessary; it is advisable to introduce uniform guidelines compulsory both for the prosecutors and for the investigators, as well as joint training activities.
- 2) The delineation between the competence of the investigation agencies is to be clear both in the regulations and in practice.
- 3) It is also recommended to design and introduce a (preferably) inter-agency Electronic Case Management System for all actors involved in criminal proceedings and crime detection and prevention, including prosecution, investigative agencies, courts, bar, penitentiary, probation etc., ensuring consistency and interoperability of their institutional and functional components. The following rules are recommended for the creation of the *Integrated Criminal Procedure Information System* (ICPIS):
 - to establish that the ICPIS is aimed at electronic management of data of criminal cases, including procedural and other documents. Actions and procedures of criminal proceedings, as well as serving of procedural documents by electronic means are to be conducted through the ICPIS;
 - electronic data management is to include all types of operation with electronic data by automated or non-automated means: data collection, recording, sorting, systematisation, storage, adaptation, transformation, search, access, use, disclosure for transfer, sharing or other access, comparison or merging with other data, restriction, deletion or destroying;
 - electronic procedural documents are to be composed and entered into the ICPIS by pre-trial investigation agencies, PPOs and courts. They are to be signed by a protected electronic signature having the same legal force as a signature on paper documents, it is to be accepted by courts;
 - draft electronic procedural documents can be prepared in the ICPIS by assistants to investigators under the authority of investigators, by assistant prosecutors or specialists (lawyers) of the PPOs under the authority of prosecutors, by the assistants to the judges, secretaries or other court employees – under the authority of judges;
 - paper procedural documents are to be transferred into the electronic format;
 - a paper case file is to be created simultaneously with the electronic case. Paper copies are to be joined to the file by the investigator;
 - the ICPIS is to be integrated with the relevant information management system of the judiciary.
- 4) There is also a need to complete the transfer of the investigations from the PPO to the SBI and to finalise other issues related to the PPS ceasing to perform the function of investigation, including the status of (former) PPO investigators.



ANNEX I ASSESSMENT-SPECIFIC MATRIX

Note. The table is attached as a separate file.



ANNEX II LIST OF REPORTS, PUBLICATIONS AND OTHER DOCUMENTS REVIEWED

I. Main CoE Recommendations and International Guidelines

1. Recommendation Rec(2000)19 to member States on the role of public prosecution in the criminal justice system (Rec(2000)19);
2. Recommendation Rec(2012)11 to member States on the role of public prosecutors outside the criminal justice system (Rec(2012)11);
3. Joint opinion of the Consultative Council of European Judges (CCJE) and the CCPE on the relations between judges and prosecutors in a democratic society of 18 November 2009 (“Bordeaux Declaration”);
4. The European Guidelines on Ethics and Conduct for Public Prosecutors (“Budapest Guidelines”), Council of Europe, 2005;
5. The Bordeaux Declaration “Judges and prosecutors in a democratic society”;³⁴
6. Opinion No. 3 (2008) of the Consultative Council of European Prosecutors (CCPE) on “The role of prosecution services outside the criminal law field”;
7. Opinion No. 13(2018) of the Consultative Council of European Prosecutor (CCPE) on “Independence, accountability and ethics of prosecutors”;
8. The International Association of Prosecutors Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors³⁵.

II. Reports, opinions, publications

9. Progress Review Methodology of the Justice Sector Reform in Ukraine, Guide & Matrices, Council of Europe, December 2016.
10. Venice Commission Secretariat Memorandum (CDL-AD(2015)043O on the compatibility of the Draft Law of Ukraine on amending the Constitution of Ukraine as to Justice as submitted by the President to the Verkhovna Rada on 25 November 2015 (CDL-REF(2015)047) with the Venice Commission’s Opinion on the proposed amendments to the Constitution of Ukraine regarding the Judiciary as approved by the Constitutional Commission on 4 September 2015 (CDL-AD(2015)027) taken note of by the Venice Commission at its 105th Plenary Session (Venice, 18-19 December 2015)
11. Venice Commission Opinion (CDL-AD(2015)027-e) on the Proposed Amendments to the Constitution of Ukraine regarding the Judiciary as approved by the Constitutional Commission on 4 September 2015 adopted by the Venice Commission at its 104th Plenary Session (Venice, 23-24 October 2015)

³⁴ Opinion No.12 of the Consultative Council of European Judges (‘CCJE’) and Opinion No.4 (2009) of the Consultative Council of European Prosecutors (‘CCEP’).

³⁵ Adopted on 23 April 1999 and subsequently endorsed by the United Nations Commission on Crime Prevention and Criminal Justice (Resolution 17/2, 14-18 April 2008. Also of relevance by analogy are certain standards specifically concerned with judges, namely, the Basic Principles on the Independence of the Judiciary (adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985) and OSCE 2010 Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia (adopted by the OSCE Office for Democratic Institutions and Human Rights and the Max Planck Minerva Research Group on Judicial Independence, 23-25 June 2010).

12. Joint opinion of the Council of Europe Directorate General of Human Rights and Rule of Law and the European Commission for democracy through law (the Venice Commission) on the draft law on the Public Prosecution Service of Ukraine, CDL-AD (2013) 025
13. Council of Europe Opinion on the Criminal Procedure Code of Ukraine (adopted by the Parliament of Ukraine in the final reading on 13 April 2012), DGI (2012) 2.
14. Council of Europe Preliminary comments on the Draft Law of Ukraine “On Amendments to the Law of Ukraine “On the Public Prosecutor’s Office” (To improve the activities of the Qualifications and Disciplinary Commission on Public Prosecutors)”, 2017.
15. Council of Europe Comments on the draft Regulation on the Independence of the Prosecutor of the Council of Prosecutors of Ukraine, 2019.
16. Council of Europe Comments on the Draft Law of Ukraine “On amending the Law of Ukraine “On Public Prosecutor’s Office” regarding performance evaluation of prosecutors)”, 2018.
17. Council of Europe Comments on the draft Code of Professional Ethics and Conduct for the Public Prosecutor’s Office Employees, the draft Regulations on the Proceedings of the Qualification and Disciplinary Commission of Prosecutors, the draft Rules of Procedure of the All-Ukrainian Conference of the Public Prosecutor’s Office Employees and the draft Regulations of the Council of Prosecutors of Ukraine, 2017.
18. Fourth Evaluation Round, Corruption prevention in respect of members of parliament, judges and prosecutors, Adoption: 23 June 2017 Public Publication: 8 August 2017 GrecoEval4Rep(2016)9.
19. Reforms in Ukraine after Revolution of Dignity. What was done, why not more and what to do next. Ivan Miklos Editors Pavlo Kukht, (Strategic Advisory Group for Support of Ukrainian Reforms).
20. Council of Europe Needs Assessment Report on the Council of Prosecutors of Ukraine and the Qualification and Disciplinary Commission of Prosecutors, 2017.
21. National Academy of Prosecutors of Ukraine and Council of Europe Evaluation on the Impact of Human Rights Training Activities of the National Academy of Prosecutors of Ukraine, 2019.
22. Council of Europe Needs Assessment concerning Receipt and Processing of the Citizens’ Addressing of the Prosecutor General’s Office of Ukraine, 2017.
23. Prosecutor General’s Office, Council of Europe. Report upon the Analysis of three Particularities of Organisation and Operation of Local Public Prosecutor’s Offices, 2018.
24. Expert Centre for Human Right Study Report. The Role of the Public Prosecutor at the Pre-Trial Stage of Criminal Proceedings, 2016—2017.
25. Centre for Policy and Legal Reform Report. Disciplinary Responsibility of Public Prosecutors in Ukraine, 2019.
26. Proposed Road Map OF Prosecutorial Reform in Ukraine (drafted by the EUAM with input from the EUDEL, CoE, EU PROJECT and DG NEAR/SGUA), 2018.
27. Prosecutor General’s Office, National Academy of Prosecutors of Ukraine, EUAM. Strategy for the Professional Training of Prosecutorial Staff, 2019.



28. Generalised Statistical and Analytical Data on the Operation of Public Prosecutor's Offices in 2018.
29. Report of the Council of Prosecutors of Ukraine on Fulfilment of the Tasks of Prosecutorial Self-Governance Bodies, State of Financing and Organisational Support of the Public Prosecution Activities, 20 December 2018.
30. Information on the Work Results of the Qualification and Disciplinary Commission of Prosecutors for 2017.
31. Information on the Work Results of the Qualification and Disciplinary Commission of Prosecutors for 2018.
32. Information on the state of lawfulness in Lviv region during 2018, 24.01.2019.
33. Information on the implementation of measures foreseen by the Plan for Implementation of the Strategy for Reforming the Judiciary, Judicial Proceedings and Related Legal Institutes for 2015 – 2020, approved by the Decree of the President of Ukraine No. 276 of 20 May 2015.

III. National legislation

34. Constitution of Ukraine of 28 June 1996.
35. Law of Ukraine "On Amendments to the Constitution of Ukraine (concerning Justice), No. 1401-VIII of 2 June 2016.
36. Criminal Procedure Code of Ukraine, No. 4651-VI of 13 April 2012.
37. Law of Ukraine "On Public Prosecution Service", No. 1697-VII, 14 October 2014.
38. Budget Code of Ukraine, No. 2456-V, 8 July 2010.
39. Law of Ukraine "On Corruption Prevention" No. 1700-VII of 14 October 2014.
40. Law of Ukraine "On National Anti-corruption Bureau of Ukraine" No. 1698-VII of 14 October 2014.
41. Law of Ukraine "On High Council of Justice" No. 1798-VIII of 21 December 2016.
42. Law of Ukraine "On the Rules of the Verkhovna Rada of Ukraine", No.1861-VI of 10 February 2010.
43. Law of Ukraine "On the State Budget of Ukraine for 2017", No. 1801-VIII of 21 December 2016.
44. Law of Ukraine "On the State Budget of Ukraine for 2018" No. 2246-VIII of 7 December 2017.
45. Law of Ukraine "On the State Budget of Ukraine for 2019", No. 2629-VIII of 23 November 2018.
46. Disciplinary Statute of the Public Prosecution Service of Ukraine, approved by the Resolution of the Verkhovna Rada of Ukraine No. 1796-XII of 6 November 1991.
47. Regulation On the Ranks of Employees of Public Prosecutor's Offices of Ukraine, approved by the Resolution of the Verkhovna Rada of Ukraine No. 1795-XII of 6 November 1991.



48. Resolution of the Cabinet of Ministers of Ukraine On Harmonisation of Structure and Conditions for Remuneration of the Employees of Public Prosecutor's Offices No. 505 of 31 May 2012.
49. Procedure for the Payment of Monthly Supplement for the Length of Service to the Prosecutors and Other Employees of Public Prosecutor's Offices No. 1090 of 9 December 2015.
50. Resolution of the Cabinet of Ministers of Ukraine On Remuneration of the Members of the Qualification and Disciplinary Commission of Prosecutors, No. 456 of 4 July 2017.
51. Code of Ethics and Conduct of Prosecutorial Employees, approved by the All-Ukrainian Conference of the Public Prosecution Service Employees on 28 November 2012, adopted by the Order of the Prosecutor General of Ukraine of 28 November 2012 № 123.
52. Code of Professional Ethics and Conduct of Public Prosecutors, approved by the All-Ukrainian Conference of Prosecutors on 27 April 2017.
53. Rules of the All-Ukrainian Conference of Prosecutors, approved by the All-Ukrainian Conference of Prosecutors on 27 April 2017.
54. Regulation on the Operation of the Qualification and Disciplinary Commission of Prosecutors, approved by the All-Ukrainian Conference of Prosecutors on 27 April 2017.
55. Regulation on the Council of Prosecutors of Ukraine, approved by the All-Ukrainian Conference of Prosecutors on 27 April 2017.
56. Criteria for the Evaluation of Prosecutors for Decision of the Council of Prosecutors of Ukraine on Recommendation for the Appointment of a Prosecutor to the Administrative Position, approved by the CP Decision No. 36 of 31 October 2017.
57. Profile for the position "Prosecutor of a Local Public Prosecutor's Office", approved by the Decision of the QDC No. 231dk-18 of 25 September 2018.
58. Procedure for Consideration of Issues and Preparation of Materials for the Selection of Candidates for Vacant (Temporarily Vacant) Positions of Prosecutors of Local Public Prosecutor's Offices, approved by the Decision of the QDC No. 6zp-17 of 7 June 2017.
59. Procedure for the Conduct of the Qualification Examination for Candidate Prosecutors of Local Public Prosecutor's Offices and Methodology of Evaluation, approved by the Decision of the QDC No. 22zp-17 of 2 August 2017.
60. Programmes for Testing and Practical Assignments for Candidate Prosecutors of Local Public Prosecutor's Offices, approved by the Decisions of the QDC Nos. 23dk-17 and 24dk-17 of 13 September 2017.
61. Practical Assignments for Candidate Prosecutors of Local Public Prosecutor's Offices, approved by the Decision of the QDC No. 229dk-17 of 6 December 2017.
62. Methodology for the Testing of Analytical Capacities of Candidate Prosecutors of Local Public Prosecutor's Offices, approved by the Decision of the QDC No. 242dk-18 of 24 October 2018.
63. Procedure for the Competition for the Vacant or Temporary Vacant Positions of Prosecutors by Transfer to a Public Prosecutor's Office of Higher Level, approved by the Decision of the QDC No. 7zp-17 of 17 June 2017.



64. Regulation on Automated System of Disciplinary Complaints Distribution, approved by the Decision of the QDC No. 18zp-17 of 12 July 2017.
65. Recommended template of a disciplinary complaint, approved by the Decision of the QDC No. 5zp-17 of 07 June 2017.
66. Order of the Prosecutor General's Office of Ukraine No. 1gn of 26 December 2011 On the Organisation of Work and Management in the Public Prosecutor's Offices of Ukraine.
67. Order of the Prosecutor General's Office of Ukraine No. 15 of 19 January 2017 On Main Principles of Work Organisation in the Public Prosecutor's Offices of Ukraine.
68. Regulation on the General Inspection of the Prosecutor's General Office of Ukraine, approved by the Order of the Prosecutor General's Office of Ukraine No. 89 of 20 May 2019.
69. Procedure for the Secret Integrity Check of Prosecutors in the Public Prosecutor's Offices, approved by the Order of the Prosecutor General's Office of Ukraine No. 205 of 16 June 2016.
70. Procedure for the Organisation of Work related to Internal Security in the Public Prosecutor's Offices, approved by the Order of the Prosecutor General's Office of Ukraine No. 111 of 13 April 2017.
71. Regulations on the Procedure for Internal Investigations in the Public Prosecutor's Offices, approved by the Order of the Prosecutor General's Office of Ukraine No. 343 of 6 December 2017.
72. Anti-corruption Programme of the Prosecutor General's Office of Ukraine for 2019-2020 approved by the Order of the Prosecutor General's Office of Ukraine No. 38 of 1 March 2019.
73. Procedure for the Organisation of Work with Human Resourced in the Public Prosecutor's Offices of Ukraine, approved by the Order of the Prosecutor General's Office of Ukraine No. 351 of 18 December 2017.
74. Order of the Prosecutor General's Office of Ukraine No. 430 of 30 December 2015 On Organisation of Activities of the Public Prosecutor's Offices of Ukraine for Personal Reception, Consideration of Petitions and Ensuring Access to Public Information No. 430 of 30 December 2015.
75. Order of the Prosecutor General's Office of Ukraine No. 218 of 18 September 2015 On Organisation of Informing the Society on the Operation of the Public Prosecutor's Offices of Ukraine.
76. Regulations on the Procedure for Consideration of Petitions and Inquiries and Personal Reception of Citizens in the Public Prosecutor's Offices of Ukraine approved by the Order of the Prosecutor General's Office of Ukraine No. 357 of 20 December 2017.
77. Order of the Prosecutor General's Office of Ukraine No. 50 of 15 May 2014 On Approval of the Overall Head Count and Personal Composition of the Consultative Council of the Prosecutor's General Office of Ukraine.
78. Order of the Prosecutor General's Office of Ukraine No. 102 of 22 July 2015 On Amending the Personal Composition of the Consultative Council of the Prosecutor's General Office of Ukraine.



79. Order of the Prosecutor General's Office of Ukraine No. 86 of 16 March 2017 On Invalidation of Executive Documents of the Prosecutor General's Office of Ukraine.
80. Order of the Prosecutor General's Office of Ukraine No. 148 of 11 April 2016 On Organisation of Interaction of the Public Prosecutor's Offices of Ukraine with the National Academy of Prosecutors of Ukraine.
81. Regulation On Awarding Bonuses to the Staff of the Public Prosecutor's Offices, National Academy of Prosecutors of Ukraine and Members of the Qualification and Disciplinary Commission of Prosecutors, approved by the Order of the Prosecutor General's Office of Ukraine No. 234 of 9 August 2017.
82. Procedure for the Organisation of Activities of Prosecutors and Investigators of the Public Prosecutor's Offices, approved by the Order of the Prosecutor General's Office of Ukraine No. 51 of 28 March 2019.
83. Order of the Prosecutor General's Office of Ukraine No. 186 of 21 September 2018 On Organisation of the Prosecutors' Activities related to the Representation of the State in Court and Execution of Judgments.
84. Order of the Prosecutor General's Office of Ukraine No. 161 of 20 April 2016 On Organisation of the Prosecutorial Supervision over Compliance with the Legislation during the Execution of Judgments in Criminal Cases and Application of other Measures of Compulsory Nature connected to the Restrictions of Personal Freedom of Citizens.
85. Order of the Prosecutor General's Office of Ukraine No. 4/1 gn of 3 December 2012 On Organisation of the Prosecutorial Supervision over Compliance with the Legislation by the Agencies Conducting Detective Operations.
86. Rules of the Prosecutor General's Office of Ukraine, approved by the Order of the Prosecutor General's Office of Ukraine No. 8 of 18 January 2019.
87. List of the Codes of Structural Units of the Prosecutor General's Office of Ukraine, approved by the Order of the Prosecutor General's Office of Ukraine No. 116 of 2 July 2019.
88. Passports of Budget Programmes for 2019, approved by the Order of the Prosecutor General's Office of Ukraine No. 9b of 12 February 2019.

IV. Official Web-sites

89. PGO: <https://www.gp.gov.ua>
90. NAPU: <http://napu.com.ua>
91. QDC: <https://www.kdkp.gov.ua>
92. CP: <https://rpu.gp.gov.ua>
93. NABU: <https://nabu.gov.ua>
94. NACP: <https://nazk.gov.ua>



ANNEX III EXTRACT FROM JSRSAP

<h3 style="text-align: center;">Chapter 8 Strengthening Public Prosecutor's Office</h3>							
Action		Implementation Deadline			Performance Criteria		
		End of 2016	End of 2018	End of 2020	Measures/Outputs	Responsible Body / Means	Outcomes
Area of Intervention 8.1 Increasing Independence and Autonomy of Prosecutors							
8.1.1	Ensuring greater independence of Public Prosecutor's Office (PPO) from political power				1. Reviewed Constitution and statutes as to procedure of appointment, dismissal and terms of Prosecutor General (PG). 2. Reviewed regulatory framework on enhancing the PG's powers, possibility to engage the panel body to the appointment of the Prosecutor General of Ukraine PPO financing, formalising principles of performance-based budgeting and program budgeting by PPO 3. Reviewed regulatory framework on PPO financing, formalising principles of performance-based budgeting and program budgeting by PPO	PG, MOJ, Parliament / Constitution and statutes amended PG, MOJ, Parliament / Statutes and rules amended PG, MOJ, Parliament / Statutes and rules amended	<ul style="list-style-type: none"> - Principle of checks and balances applied when appointing PG - Increased impartiality and depolitisation in choosing candidates for office of PG by authorising Qualification and Disciplinary Commission (QDC) to hold competition for office of PG according to COE recommendations - Procedure of determining rating of candidate to office of PG established, including his/her competence and ethical qualities - Mission statements, objectives and performance targets are made an integral part of annual PPO budgeting process; expenditure plans are linked to commitments of meeting specific objectives and measurable targets - Expenses for maintaining PPO determined in State budget upon requests agreed with Council of Prosecutors and approved by PG - Well justified budgetary requests on part of PPO by using harmonised approach and strengthening of regional capacities in budgetary planning and formulation by prosecution - Program budgeting (MTBF) and performance-based budgeting methodologies with non-financial performance indicators applied in prosecution budget formulation and implementation processes - Harmonised approach and strengthened regional capacities in budgetary planning and formulation - Increased quality of public financial management (PFM) by prosecution, optimisation of use of postal, forensic, legal and other services - Single public procurement process in place based on harmonised needs assessment of all prosecution departments - Performance management systems feed in data regularly on case-loads and productivity, setting targets, measuring them, suggesting budgetary adjustments and further policy developments in all matters of PPO organisation; evidence-based approach to any structural reform of PPO institutionalised - Number of prosecutors annually reviewed considering changes in: 1) scope and extent of functions at every level of PPO system, 2) changing work loads; 3) social and political situation etc - Scope of functions of PPO and prosecutors fine-tuned according to Venice Commission recommendations and other European standards and best practices

8.1.2	Ensuring greater institutional independence of PPO system			1. Reviewed regulatory framework for prosecutorial self-governance system (SGS), including its financing.	PG, , MOJ, Parliament / Statutes and rules amended, decisions, contracts, job descriptions, placement plans, trainings	<ul style="list-style-type: none"> - All bodies within SGS function in practical, effective and sustainable manner - Institutional independence of NCP, CP, QDC, their organisational, career and financial capacities ensured by proper staffing, administrative, financial and logistics arrangements - Delegates to NCP chosen from all prosecutorial bodies and from all PPO levels - CP tasked with ensuring independence of prosecutors, their legal and social status, examination of prosecutors' complaints on threat to independence and enforcement of decisions of SGS bodies - QDC tasked with career development matters, including handling complaints of other persons on prosecutors' improper performance of their duties - Officials and public has full information about responsibilities of prosecutorial SGS bodies, and their decisions
				2. Awareness campaigns for prosecutors at all levels on role, functions and range of responsibilities of SGS	PG, SGS / Decisions, rules amended, awareness events, publication	
8.1.3	Ensuring greater functional autonomy of prosecutors from improper internal influence			1. Reviewed regulatory framework for implementation of specific criteria by CP for candidate selection, and appointment to positions based on results of performance evaluation	PG, SGS, MOJ, Parliament / Decisions, statutes and rules amended /	<ul style="list-style-type: none"> - Independence of prosecutors ensured through increased impartiality when appointing to positions; - Clear and foreseeable internal regulations, establishing criteria of choosing candidates, selection for prosecutors' and their dismissal, - All career decisions on basis of merits-based system, - Recruitment interviews life-streamed on internet; - Clear and foreseeable internal guidelines establishing ban on improper inspections of lower-level prosecutors by upper-level prosecutors; any inspection's clear and transparent grounds determined, - Enhanced scope of prosecutorial discretion within limits established by law - Obligation of higher level prosecutors to give orders in writing imposed; ban on disciplinary responsibility of prosecutor for non-compliance with oral order or instruction of higher prosecutor, under condition that CP was informed about incident, with reasoning part included - Impartial, timely and independent examination by CP of complaints on violation of prosecutorial independence - Research and analysis conducted regularly of prosecutors' complaints on violation of their independence. - Operational system of distribution of cases paying due attention to objective factors, such as specialisation and avoiding corrupt practices -- Software in place for evaluation of the prosecutor candidates' compliance with the established criteria - Ensured right of the head of the prosecutorial body's to which CP recommends a candidate to administrative office, to evaluate the candidates' compliance with the criteria and to bring the conclusions to CP - System of prosecutors' specialisation according to crime types and other characteristics in place - Ensured public access on the PG's official website to the reasoning part of the CP's recommendation to office - Ensured public access on the PG's official website to the reasoning part of the PG's refusal to appoint to office the candidate recommended by CP
				2. Internal regulations in place, establishing exhaustive list of grounds for inspections of lower prosecutorial bodies by upper ones	PG / Order, instructions, regulations, guidelines	
				3. Internal guidelines and policies adopted on scope of prosecutorial discretion and enlarging freedom of prosecutor to issue procedural written documents with no agreement of supervisor	PG, SGS, MOJ, Parliament / Decisions, statutes and rules amended, instructions, regulations, guidelines	
				4. Reviewed regulatory framework on procedure of making written orders and giving oral or written instructions by upper-level prosecutors to lower-level prosecutors, in order to ensure independence of prosecutors without risks of disciplinary and hierarchy violations at PPO	PG, SGS / Orders, instructions, practice guides	
				5. Analysis of complaints on violation of prosecutorial independence included as part of Annual Activity Report of PPO).	PG, SGS / Orders, instructions, practice guides, risk assessment reports	
				6. System of case management fully operational, distributing work-load among prosecutorial bodies and prosecutors	PG, SGS / Orders, instructions, practice guides, hardware and software in place, trainings, manuals, review reports	

8.1.4	Ensuring greater personal autonomy of prosecutors			1. Reviewed regulatory framework on remuneration, other professional guarantees and social security of prosecutors	PG, SGS, MOJ, Parliament / Decisions, statutes and rules amended, practice guides	- Prosecutors and PPO staff are reasonably remunerated and protected through salary and social guarantees established by law, depending on their role, experience and other clear and objective criteria
				2. Reviewed regulatory framework on individual freedoms of prosecutors, determining scope and extent of exercise by prosecutors and PPO staff of right to privacy, freedom of conscience, expression, and association, and other individual rights and freedoms	PG, SGS, MOJ, Parliament / Decisions, statutes and rules amended, practice guides	- Social and logistics maintenance of prosecutors and PPO staff is established by law - Ensured procedure of compulsory examination of prosecutors' and PPO staff's complaints on violation of their rights due to lack of performance by State of its positive obligations to protect them; regular examination by CP of complaints concerning legal protection of prosecutors - Scope and extent of exercise by prosecutors and PPO staff of right to privacy, freedom of conscience, expression, association and other individual rights and freedoms, defined clearly by law - Prosecutors and PPO staff are able to join or form local, regional, national or international professional associations in order to represent their interests and protect their status
Area of Intervention 8.2 Increased Competence of Prosecutors						
8.2.1	Development of independent, transparent and objective procedures of selection of prosecutors			1. Itemised procedures of prosecutor selection by QDC	PG, QDC, MOJ, Parliament / Decisions, statutes and rules amended, trainings, regulations, guidelines	- Provisions on QDC contain detailed regulations on rights and obligations of QDC when performing its duties for selection of prosecutors - Information on QDC activity and decisions on prosecutors selected available to public on QDC web-site
				2. Qualification Examination scope, form, contents and procedure developed jointly with key stakeholders. Qualification Examination formalised by internal regulations, reviewed and updated annually	QDC, NAPU, PG, HEIs / Decisions, rules amended, trainings, regulations, guidelines	- Each member and employee at QDC properly trained with participation of national and international counterparts - Questions and assignments of Qualification Examination updated annually in order to prevent preparing answers in advance and follow novelties in criminal law and State policy - Detailed procedure in place for special anti-corruption check of candidates for prosecutor in framework of anti-corruption legislation; system of repeated requests for special check were candidate is on hold for more than three years without being appointed
				3. Reviewed regulatory framework on ensuring proper organisation of special anti-corruption check of candidates for prosecutors	PG, QDC, MOJ, Parliament / Decisions, statutes and rules amended	- Competitions for filling vacant positions held by QDC, based on results (score) at Qualification Examination, and results of testing
				4. Procedures of competition for filling vacant prosecutor posts developed and approved depending on rating of candidates, reviewed and updated	PG, QDC, MOJ, Parliament / Decisions, statutes and rules amended	

8.2.2	Implementation and modernisation of system of initial training of candidates for prosecutors			1. Reviewed regulatory framework on status of National Academy of Prosecutors of Ukraine (NAPU) as sole institution for initial training of candidates for prosecutors	QDC, NAPU, PG, HEIs / Decisions, NAPU statutes and rules amended	<ul style="list-style-type: none"> - NAPU possesses sufficient financial, human and organisational resources for initial training of candidates for prosecutors - Initial training programme individualised according to experience and role prosecutor is expected to perform - Curricula of initial training focuses on improvement of practical skills and problem-solving - Curricula annually updated and accessible on NAPU website - Ukrainian and international practitioners, including prosecutors and lawyers, regularly involved as trainers - Anonymity and conformity of assignments and tests to curricula and relevant professional requirements by way of annual updates - Ensured continuous training of researchers at NAPU, increased volume of research&analysis activities - Ensured continuous TOT for initial training of prosecutors, including by their internships in relevant foreign institutions and trainings involving international experts - Well-balanced curricula developed for initial training of prosecutors - Selection procedure for filling PPO staff includes the stages of training, of professional and psychological training - Curricula annually updated and accessible on NAPU website
				2. Curricula of initial training of prosecutors developed, based on discussions with HEIs, SGS, lawyers and international experts	NAPU, SGS, PG, HEIs / curricula amended, decisions, manuals, practice guides	
				3. Curricula of initial training of candidates public prosecutors regularly reviewed, updated and disseminated through electronic libraries	NAPU, SGS, PG / software in place, trainings, curricula	
				4. System of training of trainers (TOT) for initial training of prosecutors implemented aiming at delineation between academic and professional approaches	NAPU, SGS, PG / MOUs, trainings, curricula, practice guides	
				5. Satisfaction surveys, including for trainees. Trainings of PPO staff carried out regularly, identifying needs in adapting initial training curricula	NAPU, SGS, PG / Surveys, analytical reports, curricula amended	
				6. Format and content of practical assignments and anonymous testing for candidates developed	NAPU, SGS, PG, HEIs / manuals, practice guides	
8.2.3	Modernisation of system of continuing training of prosecutors			1. Continuing training curricula harmonised with professional requirements in framework of PPO reform.	QDC, NAPU, PG, HEIs / Decisions, curricula, manuals, practice guides	<ul style="list-style-type: none"> - Content of continuing training curricula reviewed, new courses introduced, aiming, - Special courses for prosecutors holding management positions to increase skills in HR, strategic planning, budget and financial policy formulation, M&E of subordinated employees' efficiency, PR/communications - Joint courses and seminars with judges and advocates, role plays of court hearings (moot court exercises) - Ukrainian and international practitioners, including prosecutors and lawyers, regularly involved as trainers - Information management systems at PPO interoperable with those of other justice sector stakeholders and governance bodies, and HEIs - Regular study visits to ECHR, ECJ and prosecutorial bodies of EU MS for prosecutors scoring high in continuous training programme - International trainers and mentors among regular participants in continuous training system - Curricula of continuous training for prosecutors annually updated and discussed publicly among users, taking into consideration the results of Annual Activity Report of PPO, curricula fully accessible at NAPU official website - Ensured TOT for continuous training of prosecutors, including by their internships in relevant foreign institutions and trainings involving international experts
				2. New system of testing after continuing training course implemented	NAPU, SGS / Decisions, manuals, practice guides	
				3. Ukrainian and foreign lawyers involved as trainers for continuing trainings of prosecutors	NAPU, SGS, PG / trainings, MOUs	
				4. Curricula of continuous training of prosecutors regularly reviewed, updated and disseminated through electronic libraries	NAPU, SGS, PG / software in place, manuals, trainings, curricula	
				5. System of training of trainers (TOT) for continuous training of prosecutors implemented	NAPU, SGS, PG / MOUs, trainings, curricula, practice guides	
				6. Satisfaction surveys, including for trainees. Trainings of PPO staff carried out regularly, identifying needs in adapting continuous training curricula	NAPU, SGS, PG / Surveys, analytical reports, curricula amended	
				7. System of incentives to continuous training in place through sending the prosecutors with the best test score result to study visits to foreign institutions	QDC, NAPU, PG / Decisions, practice guides	

8.2.4	Implementation of individual Evaluation of Prosecutors' Performance (EPP) system for improving career management at PPO			1. Transparent and objective system of individual evaluation of prosecutor's performance implemented.	QDC, CP, NAPU, PG / Decisions, instructions, rules, manuals, standard sample of question, practice guides trainings	<ul style="list-style-type: none"> - Active participation of SGS, national and foreign professionals in development and implementation of EPP system - Standard procedure of regular (every two years) EPP of every prosecutor by his hierarchical superior (head of PPO body); prosecutors of central PPO office are evaluated by PG and his Deputies - Due relevance given to mixture of quantitative and qualitative standards as part of EPP - Standard sample (template) of questions as part of EPP
				2. Reviewed human resources policy, using ratings (score-based) EPP system for appointments, re-assignments and promotion	QDC, CP, NAPU, PG / Decisions, instructions, rules, manuals, practice guides trainings	<ul style="list-style-type: none"> - Additional questions for prosecutors holding management positions introduced for evaluation of their managerial qualities - Right of prosecutor to appeal against results of EPP to QDC - Results of EPP used by CP when choosing candidates to recommend for particular post, or re-assign (transfer) prosecutor to another post
				3. Awareness campaigns for prosecutors on new EPP, clarifying role of system in promoting independence, competence and efficiency	QDC, CP, NAPU, PG / Decisions, awareness events, publications	
8.2.5	Implementation of institutional PPO Effectiveness Evaluation (PEE) system for improving institutional role			1. Transparent and objective institutional PPO performance evaluation system (PEE) implemented through carrying out and publishing relevant research and analysis in Annual Activity Reports on PPO	CP, PG, NAPU / Decisions, orders, instructions, publications	<ul style="list-style-type: none"> - PPO regularly (till 1st of April) submits its Annual Activity Report, in order to evaluate PPO's efficiency and undertake appropriate measures for improvement, in accordance with Article 6 of the Law of Ukraine "On Prosecution" - Regional PPO units submit their regular reports to PG; local PPO units submit their regular reports to relevant regional PPO units - Due relevance given to mixture of quantitative and qualitative standards as part of PEE - Developed sample (content) of typical Annual Activity Report of PPO
				2. Trainings of PPO employees and CP members on research and analysis, strategic planning, financial planning, and risk management tools	CP, NAPU, PGO / Decisions, trainings, publications	<ul style="list-style-type: none"> - Annual Activity Report of PPO is published online - Trainings and seminars organised for analysis & statistics unit staff of PG to increase the quality of analysis and reporting - Trainings and seminars organised for planning unit staff and CP members to increase the competencies in strategic planning, risk assessment and management
				3. Practice guides and instructions on application of PEE developed, disseminated and regularly reviewed	CP, QDC, NAPU, PG / Decisions, instructions, practice guides	<ul style="list-style-type: none"> - PG informs the Parliament on key conclusions of the Annual Activity Report of PPO - Action Plan is developed, risks are defined, mechanisms of their overpassing are determined upon the conclusions of the Annual Activity Report of PPO
Area of Intervention 8.3 Increased Accountability of PPO						
8.3.1	Development of internal and external oversight mechanisms to combat and prevent corruption			1. Reviewed regulatory framework on responsibilities of PPO Internal Security Department (ISD), including role in conducting annual integrity checks of prosecutors	PG, MOJ, Parliament / Decisions, statutes and rules amended	<ul style="list-style-type: none"> - ISD is subordinated and accountable to PG, with requisite degree of operational autonomy - Liability established for ISD staff for non-performance of duties, avoidance of appropriate response to potential or actual offenses, improper examination of declarations or conduct of integrity checks - Annual asset, income and expenditure declarations of all prosecutors accessible online
				2. Reviewed regulatory framework on procedure and mechanism of conduct by ISD of annual integrity checks of prosecutors	PG, MOJ, Parliament / Decisions, statutes and rules amended	<ul style="list-style-type: none"> - Regular monitoring/verification of asset, income and expenditure declarations of prosecutors by ISD and National Agency for Prevention of Corruption; - Prosecutor asset, income and expenditure declarations accessible online (with the right to privacy and with the need to protect them from undue influence.)
				3. Reviewed regulatory framework on asset, income and expenditure declarations of prosecutors. Regular monitoring/verification by ISD conformity of income and expenses of prosecutors, and members of their families, in order to define scope of annual integrity check	PG, MOJ, Parliament, NAPU / Decisions, statutes and rules amended, practice guides, curricula	<ul style="list-style-type: none"> - Procedures in place for immediate passing of complaints on illegal enrichment of prosecutors from QDC or ISD - Generic standardised data on results of integrity checks, including information on bringing criminal actions against prosecutors, included in PPO Annual Activity Reports, with due account of relevant personal data protection requirements - No carte blanche (structural) immunities of prosecutors; practical and effective tools for investigation of prosecutorial corruption, including streamlined system of authorisation of special investigative techniques (SITs) against allegedly corrupt prosecutors, while putting in place proper procedural safeguards against executive abuse
				4. Reviewed regulatory framework on immunities of prosecutors	PPO, MOJ, Parliament / Decisions, statutes and rules amended	<ul style="list-style-type: none"> - Dedicated continuous training curricula for and regular study visits of ISD staff to EU MS, to share best practices

8.3.2	Implementation of clear and foreseeable disciplinary policy and standards of prosecutorial ethics and discipline				1. Reviewed Disciplinary Statute of Prosecutors and relevant procedural regulations to harmonize disciplinary practices with European standards	PG, QDC, CP, MOJ, Parliament / Decisions, Constitution, statutes and rules amended	<ul style="list-style-type: none"> - Scope and extent of powers of QDC in disciplinary proceedings determined - Ensured accessibility, objectivity and consistency of disciplinary practice at PPO - Applicability and efficiency of disciplinary rules in case of violation of law; consistent, clear and foreseeable disciplinary proceedings concerning responsible prosecutor
					2. Reviewed Code of Professional Ethics of Prosecutors, regularly updated and annotated	PG, QDC, CP / Decisions, publications	<ul style="list-style-type: none"> - Explicit ban of bringing disciplinary responsibility for legitimate exercise of prosecutorial discretion; - Mens rea of disciplinary offense (intent or negligence) and consequences or damage taken into consideration when defining disciplinary penalty
					3. Practice guides and trainings materials on ethical training of prosecutors developed, regularly reviewed and disseminated	NAPU, QDC, CP, PG / instructions, practice guides, publications	<ul style="list-style-type: none"> - Principle of proportionality applied when making decision on necessity of sanction and on defining type of sanction - Ensured right of prosecutor or of other PPO employees to get access to his disciplinary case-file, scope and extend of obligations to give access to information on disciplinary proceedings to third parties and public
					4. Online system for filing complaints against prosecutors in place	PG / Decisions, rules, software in place, manuals, trainings	<ul style="list-style-type: none"> - Single (judicial) avenue for appeals in disciplinary procedure - System of individual incentives in place depending on individual achievements
					5. Statistics on disciplinary cases and ensuring its public accessibility	CP, QDC, PG, NAPU / Decisions, publications	<ul style="list-style-type: none"> - Developed system of norms of professional ethics of prosecutors and of other PPO employees with clear and foreseeable substantial component; ensured accessible and consistent practice of its application - Repeated or serious violations of ethics amounting to ground for disciplinary responsibility, - Online tool for filing complaints against prosecutors, and system of online-reporting to QDC for handling complaints, in place - Public provided access to analytical and statistical data on disciplinary practice at PPO, with account of need to protect presumption of innocence and privacy
Area of Intervention 8.5 Increased Transparency of PPO							
8.5.1	Establishment of system of relations with media, to promote access by public to information about PPO				1. Reviewed regulatory framework relationship with media and access to information	PG, SGS / Decisions, rules amended	<ul style="list-style-type: none"> - PG press service, press offices at QDC and CP provide consistent and user-friendly information through interviews, press releases, online publications etc. - Regular press conferences of PPO and its units
					2. Specialised staff responsible for media and public relations at PG press service QDC and CP	PG, NAPU, international experts / Decisions, contracts, job descriptions, placement plans, trainings	<ul style="list-style-type: none"> - Public access to all PG orders is provided, with exception of those protected by statutory secrecy, and with due account of relevant PDP requirements - Regular publications in media informing public about process of implementation of new legislation and PPO reforms - Qualification of staff responsible for training leaders of the PG to press conferences and for other events involving the media increased.
8.5.2	Increasing transparency of PPO through enhanced and permanent communication with civil society				1. Online surveys and questionnaires to determine scope and extent of further PPO reforms	PG, NAPU / Surveys, review reports	<ul style="list-style-type: none"> - Websites of all regional prosecutors' offices with a "FAQ" system (feedback) - Professionals, including sociologists, are involved in assessment of PPO reform, based on results of public surveys - Timely and adequate response by PPO in all communication with public
					2. Specialised units at PPO for response to public dissatisfaction and emergency event fully operational, working in timely consultation with representatives of civil society	PG / Decisions, contracts, job descriptions, placement plans, trainings	<ul style="list-style-type: none"> - Advanced communication techniques in place to deal with public
					3. Consultative Council at PGO fully operational	PG / Decisions, rules amended, review reports	



<p style="text-align: center;">Chapter 10 Increasing Effectiveness of Justice Sector in Fight Against Organised Crime and Corruption</p>						
Action		Implementation Deadline			Performance Criteria	
		End of 2016	End of 2018	End of 2020	Measures/Outputs	Responsible Body / Means
<p style="text-align: center;">Area of Intervention 10.1 Increased Efficiency by Streamlined Competences in Criminal Investigation</p>						
10.1.1	Streamlining of duties and powers of each body involved in criminal investigation				1. Reviewed regulatory framework on bodies involved in criminal investigation	PPO, MOJ, Parliament / Decisions, statutes and rules amended - Practical and effective procedural and disciplinary oversight by PPO over police officers conducting criminal investigations - Clear delineation of mandates of each investigative body dealing with various types of crime, including PPO, MOI, IRS, NACB and other relevant bodies

Evaluation Report

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on

Areas of Intervention

- 8.1 Increasing Independence and Autonomy of Prosecutors;
- 8.2 Increased Competence of Prosecutors;
- 8.3 Increased Accountability of PPO;
- 8.5 Increased Transparency of PPO;
- 10.1. Increased Efficiency by Streamlined Competences
in Criminal Investigation

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