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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**CONSTITUTIONAL PROVISIONS
ON THE PROSECUTION SERVICE
IN COUNCIL OF EUROPE MEMBER STATES**

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I. Introduction

1. This document presents constitutional rules relevant for the issue of the independence of prosecutors.
2. The information is structured according to the distinction made in the Introductory Memorandum of the Rapporteur of the Parliamentary Assembly Committee on Legal Affairs and Human Rights on "*Allegation of politically-motivated abuses of the criminal justice system in Council of Europe member states*" and taking into consideration the existence of four main issues which seem to be of particular interest when assessing the prosecutors' independence: the state bodies entitled to appoint and to dismiss the prosecutors, the hierarchical organisation of the prosecutors' offices, their powers and the problem of the prosecutors' liability when exercising their powers.
3. The provisions presented in this document are the result of a preliminary search in constitutions only. The members are free to ask for amendments to this text.

II. Overview according to 'legal families'

4. As regards **the Common law system**, it should be noted that the Constitution of Cyprus provides expressly in Article 112 para.2 for the independence of the Law Office of the Republic headed by the Attorney-General and by the Deputy Attorney-General and the fact that this office is not subordinated to any ministry. In the same manner, Article 91 para.3 of the Constitution of Malta stipulates that the "*Attorney General shall not be subject to the direction or control of any other person or authority*".
5. In what concerns **the countries belonging to the French legal family**, there are only a few provisions regarding the independence of prosecutors. Article 121a of the Constitution of Croatia expressly provides that "*The Public Prosecutor's Office is an independent and impartial judicial body[...]*". At the same time, many Constitutions of this legal family refer to the principle of hierarchical dependency (case of Andorra, Greece, Spain), while Article 140 of the Turkish Constitution stipulates the public prosecutors' subordination to the Ministry of Justice insofar their administrative functions are concerned.
6. The appointment and dismissal of the chief public prosecutor is, in most of the cases, under the control of the executive and with the participation of a supreme judicial council. However, in Croatia, according to the article 121a of the Constitution, "*The Chief Public Prosecutor of the Republic of Croatia shall be appointed by the Croatian Parliament for a period of four years, upon the proposal of the Government of the Republic of Croatia, with prior opinion of the competent Committee*". Moreover, in the same article it is mentioned that "*the Public Prosecutor's Council shall be elected by the Croatian Parliament.*"
7. The disciplinary authority is exercised by special professional bodies (the Public Prosecutor's Council in Croatia, the Supreme Disciplinary Council in Greece or the Supreme Council of Judges and Public Prosecutors in Turkey) or, in France, upon the opinion of the High Council of the Judiciary.
8. In **the countries belonging to the German legal family**, the independence of the prosecutors is recognised as such in the Constitutions of Italy, Bulgaria, Lithuania and Montenegro.

9. Article 132 para 1 of the Bulgarian Constitution provides that prosecutors *“shall bear no civil or criminal liability for their official actions or for the acts rendered by them, except where the act performed constitutes an indictable intentional criminal offence.”*

10. In what concerns the state bodies entitled to appoint or to dismiss the chief public prosecutor, it would be difficult to detect a common approach. However, if one were to make a comparison with the previous legal families, it seems that there are more countries where the legislative is involved in the election or the appointment of the chief public prosecutor. It is the case of Serbia, Montenegro, Hungary, Albania or Lithuania.

11. The subordinated prosecutors are appointed either by the chief public prosecutor, as in the case of Hungary, either by or upon recommendation of the supreme judicial council or an equivalent body.

12. None of the constitutions of **the Former Soviet Countries** mentions the independence of prosecutors as such. When settling the hierarchical structure of the prosecutor's or procurator's office, the Constitutions of Azerbaijan, Moldova, Armenia, Russia and Ukraine refer to a centralised system, headed by the General Procurator and characterised by the hierarchical or territorial subordination of the other prosecutors' offices.

13. On the other hand, it could be interesting to note that the constitutions of the Former Soviet Countries do not comprise any provisions regarding prosecutors' liability when exercising their powers.

14. The appointment of the General Procurator or General Prosecutor seems to be shared in all the cases between the president of the state and the legislative.

III. Conclusions

15. As a general observation, it should be noted that, irrespective of the system concerned, there is a significant difference between the level of regulation on prosecutors in the different constitutions of the Council of Europe's member states. Thus, many constitutions comprise detailed provisions on the prosecutor's office, as in the case of Greece, Turkey, Serbia or Bulgaria, whereas others only mention that the organisation of state prosecution shall be determined by law. Moreover, in some countries there are no constitutional provisions at all on prosecutors, as in the case of Belgium, Denmark or Iceland. In these countries, the ordinary law regulates all details regarding the prosecutor's office. Without any attempt to generalise, it could be said that the (South) Eastern European countries tend to have more detailed provisions on the prosecutor's office than the Western European countries.

16. Another comment which could be made after the analysis of the constitutional provisions of the Council of Europe member states is that the distinction between the four systems (the Common law system, the French legal family, the German legal family and the Former Soviet Countries' system) does not seem to be so relevant to the issue of prosecutors independence. Thus, the variety of the regulations on the prosecutors' appointment, organisation or liability which characterises every system makes difficult any conclusion on the existence of a real distinction between the Western European systems. However, the peculiarities of the prosecutor's office which are specific to the former communist countries justify a separate analysis of the situation there.

IV. Common Law system

A. Appointment, incompatibilities, transfers, detachements, promotion, retirement and dismissal

1. Cyprus

Cyprus / APPENDIX D - DRAFT CONSTITUTION OF THE REPUBLIC OF CYPRUS / / Article 112

1. The President and the Vice-President of the Republic shall appoint jointly two persons who are qualified for appointment as a judge of the High Court one to be the Attorney-General of the Republic and the other to be the Deputy Attorney-General of the Republic:

Provided that the Attorney-General and the Deputy Attorney-General of the Republic shall not belong to the same Community.[...]

4. The Attorney-General and the Deputy Attorney-General of the Republic shall be members of the permanent legal service of the Republic and shall hold office under the same terms and conditions as a judge of the High Court other than its President and shall not be removed from office except on the like grounds and in the like manner as such judge of the High Court.

2. Malta

Constitution of Malta/ CHAPTER VIII/The Judiciary/Article 91

91. (1) There shall be an Attorney General whose office shall be a public office and who shall be appointed by the President acting in accordance with the advice of the Prime Minister.

(2) A person shall not be qualified to hold office as Attorney General unless he is qualified for appointment as a judge of the Superior Courts.[...]

(4) Subject to the provisions of sub-article (5) of this article, the Attorney General shall vacate his office when he attains the age of sixty-five years.

B. Hierarchical structure; relation with other state bodies

1. Cyprus

Cyprus / APPENDIX D - DRAFT CONSTITUTION OF THE REPUBLIC OF CYPRUS / / Article 112

[...].2. The Attorney-General of the Republic shall be the Head and the Deputy Attorney-General of the Republic shall be the Deputy Head of the Law Office of the Republic which shall be an independent office and shall not be under any Ministry.

2. Malta

Constitution of Malta/ CHAPTER VIII/The Judiciary/Article 91

(3) In the exercise of his powers to institute, undertake and discontinue criminal proceedings and of any other powers conferred on him by any law in terms which authorise him to exercise that power in his individual judgment the Attorney General shall not be subject to the direction or control of any other person or authority.

C. Powers

1. Cyprus

Cyprus / APPENDIX D - DRAFT CONSTITUTION OF THE REPUBLIC OF CYPRUS / / Article 112

[...].3. The Attorney-General and the Deputy Attorney-General of the Republic shall have the right of audience in, and shall take precedence over any other persons appearing before, any court: Provided that the Attorney-General of the Republic shall always take precedence over the Deputy Attorney-General of the Republic.[...]

5. In all matters affecting persons belonging to the Community of the Attorney-General of the Republic or of the Deputy Attorney-General of the Republic, as the case may be, the one belonging to such

Community shall be consulted by the other before any decision is taken by the Attorney-General of the Republic:

Provided that for the prosecutions in the courts exercising criminal jurisdiction composed of judges of one Community, the Attorney-General of the Republic or the Deputy Attorney-General of the Republic, as the case may be, belonging to that Community, shall have the effective charge and responsibility.

Ireland

Ireland / CONSTITUTION OF IRELAND / THE ATTORNEY GENERAL / Article 30.

1. There shall be an Attorney General who shall be the adviser of the Government in matters of law and legal opinion, and shall exercise and perform all such powers, functions and duties as are conferred or imposed on him by this Constitution or by law.[...]

3. All crimes and offences prosecuted in any court constituted under Article 34 of this Constitution other than a court of summary jurisdiction shall be prosecuted in the name of the People and at the suit of the Attorney General or some other person authorised in accordance with law to act for that purpose.[...]

D. Discipline, liability

1. Malta

Constitution of Malta/ CHAPTER VIII/The Judiciary/Article 91 and Article 97

91.[...] (5) Sub-articles (2) and (3) of article 97 of this Constitution shall apply to the Attorney General.

97. [...] (2) A judge of the Superior Courts shall not be removed from his office except by the President upon an address by the House of Representatives supported by the votes of not less than two-thirds of all the members thereof and praying for such removal on the ground of proved inability to perform the functions of his office (whether arising from infirmity of body or mind or any other cause) or proved misbehaviour.

(3) Parliament may by law regulate the procedure for the presentation of an address and for the investigation and proof of the inability or misbehaviour of a judge of the Superior Courts under the provisions of the last preceding sub-article.

Constitution of Malta/ CHAPTER VIII/The Judiciary/Article 101A

101A. (1) There shall be a Commission for the Administration of Justice which shall consist of the President, who shall be the Chairman, and nine other members as follows:

(a) the Chief Justice who shall be Deputy Chairman and shall preside over the Commission in the absence of

the Chairman;

(b) the Attorney General, *ex officio*;

(c) two members elected for a period of four years by the judges of the Superior Court from among themselves;

(d) two members elected for a period of four years by the magistrates of the Inferior Courts from among themselves;

(e) two members appointed for a period of four years as to one by the Prime Minister and as to the other by the Leader of the Opposition, being in each case, a person of at least forty-five years of age, and who enjoys the general respect of the public and a reputation of integrity and honesty;

(f) the President of the Chamber of Advocates, *ex officio*.[...]

(6) (a) The Commission for the Administration of Justice shall at all times have a committee for Advocates and Legal Procurators which shall have such composition, functions, powers and duties as may be assigned to it by law. The Commission shall in the exercise of any of its functions in relation to the professions of Advocates and Legal Procurators act through the said committees in such manner and subject to such review as may be by the said law be provided.

(b) Notwithstanding the provisions of paragraph (a) of this sub-article, the Commission shall refer to the Committee for Advocates and Legal Procurators (hereinafter in this article referred to as "the Committee")

any matter concerning the misconduct of an advocate or legal procurator in the exercise of their profession, and, saving in the case of an appeal, the Commission shall not act otherwise than on receipt of, and in accordance with, the findings of the Committee in any such matter.

So however that, where a report of findings by the Committee has not been submitted to the Commission within two months from the day on which the matter was brought before the Committee, or within such further period or periods as the Commission may allow, which shall in no case, except for very exceptional reasons, exceed a further four months, the Commission shall thereupon itself investigate and determine the matter.[...]

(11) The functions of the Commission for the Administration of Justice shall be:[...]

(e) on the advice of the Committee for Advocates and Legal Procurators to draw up a code or codes of ethics regulating the professional conduct of members of those professions:

Provided that where such advice is not given within such time as the Commission may establish, the Commission may draw up such code or codes without the necessity of such advice:[...]

(g) to exercise, in accordance with any law, discipline over advocates and legal procurators practising their profession;

V. French System

A. Appointment, incompatibilities, transfers, detachments, promotion, retirement and dismissal

1. Andorra

Andorra / Constitution of the Principality of Andorra / TITLE VII JUSTICE / Article 89

1. The Consell Superior de la Justícia, as the organ of representation, direction and administration of the organization of Justice, watches over the independence and proper functioning of the Justice. All its members shall be Andorran nationals.

2. The Consell Superior de la Justícia consists of five members appointed among Andorrans over twenty-five years of age, conversant with the Administration of Justice. One shall be appointed by each Copríncep, one by the Síndic General, one by the Cap de Govern and one by Magistrates and Batlles. They hold office for a six-year term and may not be elected twice consecutively. The Consell Superior de la Justícia is presided over by the member appointed by the Síndic General.

3. The Consell Superior de la Justícia appoints Batlles and Magistrates, exercises disciplinary authority over them and promotes the conditions for the Administration of Justice to carry out its duties with the means available. In order to fulfil this aim it may render its opinion in relation to the drafting of bills affecting the Judiciary or to report on the situation of the latter.

4. The Llei Qualificada concerning the Judiciary shall regulate the functions and jurisdiction of this Consell Superior.

Andorra / Constitution of the Principality of Andorra / TITLE VII JUSTICE / Article 93

2. The Public Prosecution is composed of members appointed by the Consell Superior de la Justícia¹, upon the advice of the Govern, for renewable six-year terms, by persons qualifying to be appointed as Judge. Their legal status shall be regulated by law.[...]

2. Croatia

Croatia / THE CONSTITUTION OF THE REPUBLIC OF CROATIA / IV. ORGANIZATION OF GOVERNMENT / 5. Public prosecutors / Article 121a

[...] The Chief Public Prosecutor of the Republic of Croatia shall be appointed by the Croatian Parliament for a period of four years, upon the proposal of the Government of the Republic of Croatia, with prior opinion of the competent Committee .

On the occasion of assuming the Public Prosecutor's duty for the first time, Deputy Public Prosecutors shall be appointed for a period of five years.

Following the repeated appointment, a Deputy Public Prosecutor shall perform his duty permanently. Deputy Public Prosecutors shall be appointed, relieved of duty and decided upon their disciplinary responsibility by the Public Prosecutor's Council, in compliance with the Constitution and law. The

¹ Consell Superior de la Justícia: Higher Council of Justice.

Public Prosecutor's Council shall be elected by the Croatian Parliament in the manner and procedure determined by the law. The majority of the total number of members of the Public Prosecutor's Council shall come from the Deputy Public Prosecutor's profession. Heads of Public Prosecutor's Offices may not be elected members of the Public Prosecutor's Council.[...]

3. France

France / CONSTITUTION OF 4 OCTOBER 1958 / TITLE VIII ON JUDICIAL AUTHORITY / Article 65

The High Council of the Judiciary shall be presided over by the President of the Republic. The Minister of Justice shall be its ex officio Vice-president. He may deputize for the President of the Republic. The High Council of the Judiciary shall consist of two sections, one with jurisdiction over judges, the other over public prosecutors.

The section with jurisdiction over public prosecutors shall comprise, in addition to the President of the Republic and the Minister of Justice, five public prosecutors and one judge, and the Conseiller d'Etat together with the three prominent citizens referred to in the preceding paragraph.[...]

The section of the High Council of the Judiciary with jurisdiction over public prosecutors shall give its opinion on the appointment of public prosecutors, with the exception of posts to be filled in the Council of Ministers.

[....]

Article 65²

The High Council of the Judiciary shall consist of a section with jurisdiction over judges and a section with jurisdiction over public prosecutors. [...]

The section with jurisdiction over public prosecutors shall be presided over by the Chief Public Prosecutor at the Cour de Cassation. It shall comprise, in addition, five public prosecutors and one judge, as well as the Conseiller d'Etat and the barrister, together with the six qualified, prominent citizens referred to in the second paragraph.

[...]The section of the High Council of the Judiciary with jurisdiction over public prosecutors shall give its opinion on the appointment of public prosecutors.

The High Council of the Judiciary shall meet in plenary section to reply to the requests for opinions made by the President of the Republic in application of article 64. It shall also express its opinion in plenary section, on questions concerning the deontology of judges or on any question concerning the operation of justice which is referred to it by the Minister of Justice. The plenary section comprises three of the five judges mentioned in the second paragraph, three of the five prosecutors mentioned in the third paragraph as well as the Conseiller d'Etat, the barrister and the six qualified, prominent citizens referred to in the second paragraph. It is presided over by the Chief President of the Cour de cassation who may be substituted by the Chief Public Prosecutor of this court.

The Minister of Justice may participate in all the sittings of the sections of the High Council of the Judiciary except those concerning disciplinary matters.

According to the conditions determined by an Institutional Act, a referral may be made to the High Council of the Judiciary by a person subject to trial.

The Institutional Act shall determine the manner in which this article is to be implemented.

² By virtue of the Constitutional Law no. 2008-724 of July 23, 2008, the versions in italics of articles 11, 13, 25 subject to 4° below, 34-1, 39, 44, 56, 61-1, 65, 69, 71-1 and 73 of the Constitution will come into effect in the manner determined by statutes and Institutional Acts necessary for their application;

4. Greece

Greece / THE CONSTITUTION OF GREECE / PARTTHREE ORGANIZATION AND FUNCTIONS OF THE STATE / SECTION V THE JUDICIAL POWER / CHAPTER ONE Judicial Functionaries and Staff / Article 88

1. Judicial functionaries shall be appointed by presidential decree in compliance with a law specifying the qualifications and the procedure for their selection and are appointed for life.

** 2. The remuneration of judicial functionaries shall be commensurate with their office. Matters concerning their rank, remuneration and their general status shall be regulated by special statutes. Notwithstanding articles 94, 95 and 98, disputes concerning all kinds of remunerations and pensions of judicial functionaries and provided that the resolution of the relevant legal issues may affect the salary, pension or fiscal status of a wider circle of persons, shall be tried by the special court of article 99. In such cases, the composition of the court includes the participation of one additional full professor and one additional barrister, as specified by law. Matters relating to the continuation of pending processes before the courts shall be specified by law.

3. A training and trial period for judicial functionaries of up to three years prior to their appointment as regular judges may be provided for by law. During this period they may also act as regular judges, as specified by law.

4. Judicial functionaries may be dismissed only pursuant a court judgment resulting from a criminal conviction or a grave disciplinary breach or illness or disability or professional incompetence, confirmed as specified by law and in compliance with the provisions of article 93 paragraphs 2 and 3.

5. Retirement from the service of the judiciary shall be compulsory upon attainment of the age of sixty five years for all functionaries up to and including the rank of Court of Appeal judge or Deputy Prosecutor of the Court of Appeals, or a rank corresponding thereto. In the case of judicial functionaries of a rank higher than the one stated, or of a corresponding rank, retirement shall be compulsory upon attainment of the age of sixty seven years. In the application of this provision, the 30th of June of the year of retirement shall in all cases be taken as the date of attainment of the above age limit.

** 6. Transfer of judicial functionaries into another branch is prohibited. Exceptionally, the transfer of associate judges to courts of first instance or of associate prosecutors to public prosecutors offices, is permitted, upon request of the persons concerned, as specified by law. Judges of ordinary administrative courts shall be promoted to the rank of Councillor of the Supreme Administrative Court and to one fifth of the posts, as specified by law.

7. Courts or councils especially provided by the Constitution and composed of members of the Supreme Administrative Court and the Supreme Civil and Criminal Court shall be presided over by the senior in rank member.

Greece / THE CONSTITUTION OF GREECE / PART THREE ORGANIZATION AND FUNCTIONS OF THE STATE / SECTION V THE JUDICIAL POWER / CHAPTER ONE Judicial Functionaries and Staff / Article 89

1. Judicial functionaries shall be prohibited from performing any other salaried service or practicing any other profession.

2. Exceptionally, judicial functionaries may be elected members of the Academy or professors or assistant professors of University level schools and they may sit on special administrative courts and on councils or committees, but not on the boards of directors of enterprises or commercial companies.

3. Judicial functionaries may be assigned administrative duties either along with their main duties or exclusively for a specified period of time, as provided by law.

4. Participation of judicial functionaries in the Government is prohibited.

5. The establishment of an association of judicial functionaries shall be permitted, as specified by law.

Greece / THE CONSTITUTION OF GREECE / PART THREE ORGANIZATION AND FUNCTIONS OF THE STATE / SECTION V THE JUDICIAL POWER / CHAPTER ONE Judicial Functionaries and Staff / Article 90

** 1. Promotions, assignments to posts, transfers, detachments, and transfers to another branch of judicial by law.

The tenure of the President of the Supreme Administrative Court, of the Supreme Court and of the Court of Auditors, as well as of the Public Prosecutor of the Supreme Court and of the General Commissioners of administrative courts and of the Court of Auditors may not exceed four years, even if the judicial functionary such this office has not reached the retirement age. Any period of time remaining until completion of the retirement age is calculated as functionaries shall be effected by presidential decree, issued after prior decision by the supreme judicial council. This council shall be composed of the president of the respective highest court and of members of the same court chosen by lot from among those having served in it for at least two years, as specified by law. In the supreme judicial council on civil and criminal justice shall participate the Prosecutor of the Supreme Court as well as two Deputy Prosecutors of the Supreme Court who are appointed by lot from among those having served for at least to years in the Public Prosecutor's Office of the Supreme Court, as specified by law. In the supreme judicial council of the Supreme Administrative Court and of administrative justice shall also participate the General Commissioner of State who serves in them, on issues relating to judicial functionaries of ordinary administrative courts and of the General Commission. In the supreme judicial council of the Court of Auditors shall also participate the General Commissioner of State who serves in it.

In the supreme judicial council shall also participate, without right to vote, two judicial functionaries of the branch to which the changes in service status refer, who must hold the rank of Judge of Appeals or an equivalent rank, and are chosen by lot, as specified by law.

** 2. In the case of judgments concerning promotions to the posts of Councillors of State, Supreme Court Judges, Deputy Prosecutors of the Supreme Court, Councillors of the Court of Auditors, President Judges of Appeals and Prosecutors of Appeals, as well as concerning the selection of the members of the General Commissions of administrative courts and of the Court of Auditors, the council prescribed in paragraph 1 shall be supplemented by additional members, as specified by law. As for the rest, the provisions of paragraph 1 shall also apply in this case.

** 3. Should the Minister of Justice disagree with the judgement of a supreme judicial council, he may refer the matter to the plenum of the respective highest court, as specified by law. A judicial functionary whom the judgement concerns has also the right of recourse, under the conditions specified by the law. For the session of the plenum of the respective highest court as a supreme judicial council of second instance, the provisions of sections three to six of paragraph 1 apply. In the plenum of the Supreme Court, for the cases of the preceding section, the members of the Public Prosecutor's office of the Supreme Court also participate with right to vote.

** 4. The decisions of the plenum, as a supreme judiciary council of second instance, on a matter referred to it and the decisions of the supreme judicial council with which the Minister has not disagreed, shall be binding upon him.

** 5. Promotion to the office of President or Vice-President of the Supreme Administrative Court, of the Supreme Court and of the Court of Auditors shall be effected by presidential decree issued on the proposal of the Cabinet, by selection from among the members of the respective highest court, as specified by law. Promotion to the office of Supreme Court Prosecutor shall be effected by similar decree, by selection from among the members of the Supreme Court and Deputy Public Prosecutors of this Court, as specified by law. Promotion to the office of General Commissioner of the Court of Auditors shall be effected by similar decree, by selection from among the members of the Court of Auditors and of the respective General Commission, as specified by law. Promotion to the offices of General Commissioner of administrative courts shall also be effected by similar decree, by selection from among the members of the respective General Commission and the President Judges of Appeals of the administrative courts, as specified actual pensionable service, as specified by law.

6. Rulings or acts in compliance with the provisions of the present article shall not be subject to remedies before the Supreme Administrative Court.

5. Netherlands

Netherlands/Constitution/ Chapter 3 Parliament/ Section 1 Organization and composition/ Article 57

[...](2) A member of the Parliament may not be a Minister, State Secretary, member of the Council of State, member of the General Chamber of Audit, member of the Supreme Court, or Procurator General or Advocate General at the Supreme Court.

Netherlands/Constitution Chapter 6 The Administration of Justice/ Article 117

- (1) Members of the judiciary responsible for the administration of justice and the Procurator General at the Supreme Court shall be appointed for life by Royal Decree.
- (2) Such persons shall cease to hold office on resignation or on attaining an age to be determined by Act of Parliament.
- (3) In cases laid down by Act of Parliament such persons may be suspended or dismissed by a court that is part of the judiciary and designated by Act of Parliament.
- (4) Their legal status shall in other respects be regulated by Act of Parliament.

6. Spain

Spain / Constitution of Spain / TITLE III / CHAPTER ONE / Article 70

1. The electoral law shall establish grounds for ineligibility and disability for Deputies and Senators, which shall in any case include those who are:[...]
- d) Magistrates, Judges and Public Prosecutors when in office;

Spain / Constitution of Spain / TITLE VI / Article 127

1. Judges and Magistrates, as well as Public Prosecutors, whilst actively in office, may not hold other public office nor belong to political parties or trade unions. The law shall lay down the system and methods of professional association for judges, Magistrates and Prosecutors.
2. The law shall establish the system of disabilities for members of the judiciary, which must ensure their total independence.

Spain / Constitution of Spain / TITLE IX / Article 159

[...]4. Membership of the Constitutional Court is incompatible with: any representative function, any political or administrative office, a management role in a political party or trade union or any employment in their service, a career as a Judge or Prosecutor, and any professional or commercial activity whatsoever.[...]

Spain / Constitution of Spain / TITLE VI / Article 124

[...]4. The State Public Prosecutor shall be appointed by the King on being proposed by the Government, after consultation with the General Council of the judiciary.

7. Turkey

Turkey / The Constitution of the Republic of Turkey / PART TWO FUNDAMENTAL RIGHTS AND DUTIES / CHAPTER FOUR POLITICAL RIGHTS AND DUTIES / III. Provisions Relating to Political Parties / A. Forming Parties, Membership and Withdrawal from Membership in a Party / Article 68.

[...]Judges and prosecutors, members of higher judicial organs including those of the Court of Accounts, civil servants in public institutions and organizations, other public servants who are not considered to be labourers by virtue of the services they perform, members of the armed forces and

students who are not yet in higher education institutions, shall not become members of political parties.[...]

Turkey / The Constitution of the Republic of Turkey / PART THREE FUNDAMENTAL ORGANS OF THE REPUBLIC / CHAPTER ONE LEGISLATIVE POWER / I. The Turkish Grand National Assembly / B. Eligibility to be a Deputy / Article 76.

Judges and prosecutors, members of the higher judicial organs, members of the teaching staff at institutions of higher education, members of the Higher Education Council, employees of public institutions and agencies who have the status of civil servants, other public employees not regarded as labourers on account of the duties they perform, and members of the Armed Forces shall not stand for election or be eligible to be a deputy unless they resign from office.

Turkey / The Constitution of the Republic of Turkey / PART THREE FUNDAMENTAL ORGANS OF THE REPUBLIC / CHAPTER TWO EXECUTIVE / I. President of the Republic / D. Duties and Powers / Article 104.

The President of the Republic is the Head of the State. In this capacity he shall represent the Republic of Turkey and the unity of the Turkish Nation; he shall ensure the implementation of the Constitution, and the regular and harmonious functioning of the organs of State.

To this end, the duties he shall perform, and the powers he shall exercise, in accordance with the conditions stipulated in the relevant articles of the Constitution are as follows:

[...]c) Those relating to the judiciary:

To appoint the members of the Constitutional Court, one-fourth of the members of the Council of State, the Chief Public Prosecutor and the Deputy Chief Public Prosecutor of the High Court of Appeals, the members of the Military High Court of Appeals, the members of the Supreme Military Administrative Court, and the members of the Supreme Council of Judges and Public Prosecutors.

Turkey / The Constitution of the Republic of Turkey / PART THREE JUDICIAL POWER / I. General Provisions / B. Security of Tenure of Judge and Public Prosecutors / Article 139.

Judges and public prosecutors shall not be dismissed, or retired before the age prescribed by the Constitution; nor shall they be deprived of their salaries, allowances or other rights relating to their status, even as a result of the abolition of court or post.

Exceptions indicated in law relating to those convicted for an offence requiring dismissal from the profession, those who are definitely established as unable to perform their duties on account of ill health, and those determined unsuitable to remain in the profession, are reserved.

Turkey / The Constitution of the Republic of Turkey / PART THREE JUDICIAL POWER / I. General Provisions / C. Judges and Public Prosecutors / Article 140.

Judges and public prosecutors shall serve as judges and public prosecutors of courts of justice and of administrative courts. These duties shall be carried out by career judges and public prosecutors. Judges shall discharge their duties in accordance with the principles of the independence of the courts and the security of tenure of judges.

The qualifications, appointment, rights and duties, salaries and allowances of judges and public prosecutors, their promotion, temporary or permanent change of their duties or posts, the initiation of disciplinary proceedings against them and the subsequent imposition of disciplinary penalties, the conduct of investigation concerning them and the subsequent decision to prosecute them on account of offences committed in connection with, or in the course of, their duties; the conviction for offences or instances of incompetence requiring their dismissal from the profession, their in-service training and other matters relating to their personnel status shall be regulated by law in accordance with the principles of the independence of the courts and the security of tenure of judges.

Judges and public prosecutors shall exercise their duties until they complete the age of sixty-five; the age limit, promotion, and the retirement of military judges shall be prescribed by law. Judges and public prosecutors shall not assume official or public functions other than those prescribed by law.[...]

Those judges and public prosecutors working in administrative posts of the justice service shall be subject to the same provisions as other judges and public prosecutors. Their categories and grades shall be determined according to the principles applying to judges and public prosecutors, and they shall enjoy all the rights accorded to judges and public prosecutors.

Turkey / The Constitution of the Republic of Turkey / PART THREE JUDICIAL POWER / II. Higher Courts / B. The High Court of Appeals / Article 154.

[...]The Chief Public Prosecutor of the Republic and the Deputy Chief Public Prosecutor of the Republic of the High Court of Appeals shall be appointed by the President of the Republic for a term of four years from among five candidates nominate for each office by the Plenary Assembly of the High Court of Appeals from among its own members by secret ballot. They may be reelected at the end of their term of office.

The organisation, the functioning, the qualifications and procedures of election of the President, deputy presidents, the heads of division and members and the Chief Public Prosecutor of the Republic and the Deputy Chief Public Prosecutor of the Republic of the High Court of Appeals shall be regulated by law in accordance with the principles of the independence of courts and the security of tenure of judges.

Turkey / The Constitution of the Republic of Turkey / PART THREE JUDICIAL POWER / II. Higher Courts / C. Council of State / Article 155.

[...] The president, chief public prosecutor, deputy president, and heads of division of the Council of State shall be elected by the Plenary Assembly of the Council of State from among its own members for a term of four years by secret ballot and by an absolute majority of the total number of members. They may be re-elected at the end of their term of office.

The organization, the functioning, the qualifications and procedures of election of the president, the chief public prosecutor, the deputy presidents and the heads of division and the members of the Council of State, shall be regulated by law in accordance with the principles of specific nature of the administrative jurisdiction, and of the independence of the Courts and the security of tenure of judges.

Turkey / The Constitution of the Republic of Turkey / PART THREE JUDICIAL POWER / II. Higher Courts / D. Military High Court of Appeals / Article 156.

[...] The President, Chief Public Prosecutor, second presidents and heads of division of the Military High Court of Appeals shall be appointed according to rank and seniority from among the members of the Military High Court of Appeals.

The organisation, the functioning of the Military High Court of Appeals, and disciplinary and personnel matters relating to the status of its members shall be regulated by law in accordance with the principles of the independence of the courts and the security of tenure of judges and with the requirements of military service.

Turkey / The Constitution of the Republic of Turkey / PART THREE JUDICIAL POWER / II. Higher Courts / E. High Military Administrative Court of Appeals / Article 157.

[...]Members of the High Military Administrative Court of Appeals who are military judges shall be appointed by the President of the Republic from a list of three candidates nominated for each vacant office by the President and members of the Court, who are also military judges, by secret ballot and by an absolute majority of the total number of such members, from among military judges of the first category;[...]

The President, Chief Public Prosecutor and head of division of the Court shall be appointed from among military judges according to rank and seniority.

The organisation and functioning of the High Military Administrative Court of Appeals, its procedure, disciplinary affairs and other matters relating to the status of its members shall be regulated by law in accordance with the principles of the independence of the courts and the security of tenure of judges with the requirements of military service.

Turkey / The Constitution of the Republic of Turkey / PART THREE JUDICIAL POWER / III. Supreme Council of Judges and Public Prosecutors / Article 159.

The Supreme Council of Judges and Public Prosecutors shall be established and shall exercise its functions in accordance with the principles of the independence of the courts and the security of tenure of judges.

The President of the Council is the Minister of Justice. The Undersecretary to the Minister of Justice shall be an ex-officio member of the Council.

Three regular and three substitute members of the Council shall be appointed by the President of the Republic for a term of four years from a list of

three candidates nominated for each vacant office by the Plenary Assembly of the High Court of Appeals from among its own members and two regular and two substitute members shall be similarly appointed from a list of three

candidates nominated for each vacant office by the Plenary Assembly of the Council of State. They may be reelected at the end of their term of office. The Council shall elect a deputy president from among its regular members.

The Supreme Council of Judges and Public Prosecutors shall deal with the admission of judges and public prosecutors of courts of justice and of

administrative courts into the profession, appointments, transfers to other posts, the delegation of temporary powers, promotion, and promotion to the first category, the allocation of posts, decisions concerning those whose continuation in the profession is found to be unsuitable, the imposition of disciplinary penalties and removal from office. It shall take final decisions on proposals by the Ministry of Justice concerning the abolition of a court or an office of judge or public prosecutor, or changes in the jurisdiction of a court. It shall also exercise the other functions given to it by the Constitution and laws.

There shall be no appeal to any judicial instance against the decisions of the Council.

The functioning of the Council and methods of performing its duties, the procedure governing election and working methods, the principles relating to the examination of objections within the Council shall be regulated by law.

The Minister of Justice is empowered to appoint judges and public prosecutors with their consent to temporary or permanent functions in the central offices of the Ministry of Justice.

The Minister of Justice may, in cases where delay is deemed prejudicial, confer temporary powers on judges or public prosecutors to prevent the disruption of services, subject to the approval of the Supreme Council of Judges and Public Prosecutors at its first meeting thereafter.

B. Hierarchical structure; relation with other state bodies

1. Andorra

Andorra / Constitution of the Principality of Andorra / TITLE VII JUSTICE / Article 93

3. The Public Prosecution, presided over by the Fiscal General de l'Estat, functions in accordance with the principles of legality, unity and internal hierarchy.

2. Greece

Greece / THE CONSTITUTION OF GREECE / PART THREE ORGANIZATION AND FUNCTIONS OF THE STATE / SECTION V THE JUDICIAL POWER / CHAPTER ONE Judicial Functionaries and Staff / Article 87

[...]

3. Regular judges shall be inspected by judges of a superior rank, as well as by the Public Prosecutor and the Deputy Prosecutor of the Supreme Civil and Criminal Court; Public Prosecutors shall be inspected by the Supreme Civil and Criminal Court judges and Public Prosecutors of a superior rank, as specified by law.

3. Spain

Spain / Constitution of Spain / TITLE VI / Article 124

[...]2. The Office of Public Prosecutor discharges its duties through its own agencies in accordance with the principles of unity of action and hierarchical dependency, subject in all cases to the principles of the rule of law and of impartiality.

3. The organic statute of the Office of the Public Prosecutor shall be regulated by law.[...]

4. Turkey

Turkey / The Constitution of the Republic of Turkey / PART THREE JUDICIAL POWER / I. General Provisions / C. Judges and Public Prosecutors / Article 140.

[...]Judges and public prosecutors shall be attached to the Ministry of Justice insofar as their administrative functions are concerned.[...]

C. Powers

1. Andorra

Andorra / Constitution of the Principality of Andorra / TITLE VII JUSTICE / Article 93

1. The Public Prosecution has the task of watching over the defence and enforcement of the legal system, and the independence of courts, as well as the task of promoting before them the enforcement of the law, in order to safeguard the rights of the citizens and the protection of the general interest.

Andorra / Constitution of the Principality of Andorra / TITLE VII JUSTICE / Article 94

The Judges and the Public Prosecution are in charge of police activities related to judicial matters as provided for by the law.

Andorra / Constitution of the Principality of Andorra / TITLE VIII THE TRIBUNAL CONSTITUCIONAL / Article 102

A constitutional appeal against the acts of public authorities impairing fundamental rights may be lodged by:[...]

c) The Public Prosecution in case of violation of the fundamental right to jurisdiction.

2. Croatia

Croatia / THE CONSTITUTION OF THE REPUBLIC OF CROATIA / III. PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS / 2. Personal and Political Freedoms and Rights / Article 29

[...]Criminal proceedings may only be initiated before a court, upon request of the authorised prosecutor.

Croatia / THE CONSTITUTION OF THE REPUBLIC OF CROATIA / IV. ORGANIZATION OF GOVERNMENT / 5. Public prosecutors / Article 121a

The Public Prosecutor's Office is an independent and impartial judicial body authorised and obliged to act against the perpetrators of criminal and other acts liable to punishment, undertake legal actions in order to protect the property of the Republic of Croatia as well as to submit legal means to protect the Constitution and law.[...]

3. France

France / CONSTITUTION OF 4 OCTOBER 1958 / TITLE X ON THE CRIMINAL LIABILITY OF MEMBERS OF THE GOVERNMENT / Article 68-2

The Court of Justice of the Republic shall consist of fifteen members: twelve Members of Parliament, elected in equal number from among their ranks by the National Assembly and the Senate after each general or partial renewal by election of these Houses, and three judges of the Cour de cassation, one of whom shall preside over the Court of Justice of the Republic.

Any person claiming to be a victim of a serious crime or other major offence committed by a member of the Government in the holding of his office may lodge a complaint with a petitions committee.

This committee shall order the case to be either closed or forwarded to the Chief Public Prosecutor at the Cour de cassation for referral to the Court of Justice of the Republic

The Chief Public prosecutor at the Cour de cassation may also make a referral ex officio to the Court of Justice of the Republic with the assent of the referrals committee

An Institutional Act shall determine the manner in which this article is to be implemented.

4. Greece

Greece / THE CONSTITUTION OF GREECE / PART TWO INDIVIDUAL AND SOCIAL RIGHTS / Article 14

1. Every person may express and propagate his thoughts orally, in writing and through the press in compliance with the laws of the State.

2. The press is free. Censorship and all other preventive measures are prohibited.

3. The seizure of newspapers and other publications before or after circulation is prohibited. Seizure by order of the public prosecutor shall be allowed exceptionally after circulation and in case of:

a) an offence against the Christian or any other known religion.

b) an insult against the person of the President of the Republic.

c) a publication which discloses information on the composition, equipment and set-up of the armed forces or the fortifications of the country, or which aims at the violent overthrow of the regime or is directed against the territorial integrity of the State.

d) an obscene publication which is obviously offensive to public decency, in the cases stipulated by law.

4. In all the cases specified under the preceding paragraph, the public prosecutor must, within twenty-four hours from the seizure, submit the case to the judicial council which, within the next twenty-four hours, must rule whether the seizure is to be maintained or lifted; otherwise it shall be lifted ipso jure. An appeal may be lodged with the Court of Appeals and the Supreme Civil and Criminal Court by the publisher of the newspaper or other printed matter seized and by the public prosecutor.[...]

Greece / THE CONSTITUTION OF GREECE / PART THREE ORGANIZATION AND FUNCTIONS OF THE STATE / SECTION IV The Government / CHAPTER TWO Relations between Parliament and the Government / **Article 86

1. Only the Parliament has the power to take legal action against serving or former members of the Cabinet or Undersecretaries for criminal offences that they committed during the discharge of their duties, as specified by law. The institution of statutory ministerial offences is prohibited.[...]

The duties of public prosecutor in the Special Court and in the Judicial Council of this paragraph are exercised by a member of the Public Prosecutor's Office of the Supreme Court who is chosen by lot together with his deputy. The second and third sections of this paragraph also apply for the members of the Judicial Council, while the second section also applies for the public prosecutor.

5. Spain

Spain / Constitution of Spain / TITLE VI / Article 124

1. The Office of the Public Prosecutor, without prejudice to the functions entrusted to other bodies, has as its mission that of promoting the working of justice in the defence of the rule of law, of citizens' rights and of the public interest as safeguarded by the law, whether ex officio or at the request of interested parties, as well as that of protecting the independence of the Courts and securing through them the satisfaction of social interest. [...]

Spain / Constitution of Spain / TITLE VI / Article 126

The police of the judiciary are answerable to the judges, the Courts and the Public Prosecutor when discharging their duties of crime detection and the discovery and apprehension of criminals, under the terms to be laid down by the law.

Spain / Constitution of Spain / TITLE IX / Article 162

1. The following are eligible to:

- a) lodge an appeal against unconstitutionality: the President of the Government, the Defender of the People, fifty Deputies, fifty Senators, the executive corporate bodies of the Autonomous Communities and, when applicable, their Assemblies;
- b) lodge an individual appeal for protection ("recurso de amparo"): any individual or corporate body with a legitimate interest, as well as the Defender of the People and the Office of the Public Prosecutor.

D. Discipline, liability

1. Croatia

Croatia / THE CONSTITUTION OF THE REPUBLIC OF CROATIA / IV. ORGANIZATION OF GOVERNMENT / 5. Public prosecutors / Article 121a

[...]Deputy Public Prosecutors shall be appointed, relieved of duty and decided upon their disciplinary responsibility by the Public Prosecutor's Council, in compliance with the Constitution and law. [...]

2. France

France / CONSTITUTION OF 4 OCTOBER 1958 / TITLE VIII ON JUDICIAL AUTHORITY / Article 65

[The High Council of the Judiciary] It shall give its opinion on disciplinary measures regarding public prosecutors. When acting in such capacity, it shall be presided over by the Chief Public Prosecutor at the Cour de Cassation.

Article 65³

[...]The section of the High Council of the Judiciary with jurisdiction over public prosecutors shall give its opinion on disciplinary measures regarding public prosecutors. When acting in such capacity, it shall comprise, in addition to the members mentioned in paragraph three, the public prosecutor belonging to the section with jurisdiction over judges.

3. Greece

³ By virtue of the Constitutional Law no. 2008-724 of July 23, 2008, the versions in italics of articles 11, 13, 25 subject to 4^o below, 34-1, 39, 44, 56, 61-1, 65, 69, 71-1 and 73 of the Constitution will come into effect in the manner determined by statutes and Institutional Acts necessary for their application;

Greece / THE CONSTITUTION OF GREECE / PART THREE ORGANIZATION AND FUNCTIONS OF THE STATE / SECTION V THE JUDICIAL POWER / CHAPTER ONE Judicial Functionaries and Staff / Article 91

1. Disciplinary authority over judicial functionaries from and above the rank of member of the Supreme Civil and Criminal Court or Deputy Prosecutor of the Supreme Civil and Criminal Court, or a rank corresponding thereto, shall be exercised by a Supreme Disciplinary Council, as specified by law.

Disciplinary action shall be initiated by the Minister of Justice.

2. The Supreme Disciplinary Council shall be composed of the President of the Supreme Administrative Court as Chairman, and of two Vice-Presidents or Councillors of the Supreme Administrative Court, two Vice-Presidents or members of the Supreme Civil and Criminal Court, two Vice-Presidents or Councillors of the Court of Auditors and two law professors from the Law Schools of the country's universities, as members. The members of the Council shall be chosen by lot from among those having at least three years of service in the respective highest in rank court or law school. Members belonging to the court of which the conduct of one of the judges, prosecutors or commissioners the Council has been called on to judge, shall be excluded. In cases involving disciplinary action against members of the Supreme Administrative Court, the Supreme Disciplinary Council shall be presided over by the President of the Supreme Civil and Criminal Court.

3. The disciplinary authority over all other judicial functionaries shall be exercised, in the first and second instance by councils composed of regular judges chosen by lot, as specified by law.

Disciplinary action may also be initiated by the Minister of Justice.

4. Disciplinary rulings in accordance with the provisions of this Article shall not be subject to remedies before the Supreme Administrative Court.

4. Turkey

Turkey / The Constitution of the Republic of Turkey / PART THREE JUDICIAL POWER / I. General Provisions / G. Supervision of Judges and Public Prosecutors / Article 144.

Supervision of judges and public prosecutors with regard to the performance of their duties in accordance with laws, regulations, by laws and circulars (administrative circulars, in the case of judges), investigation into whether they have committed offences in connection with, or in the course of, their duties, whether their behaviour and attitude are in conformity with their status and duties and if necessary, inquiry and investigations concerning them shall be made by judiciary inspectors with the permission of the

Ministry of Justice. The Minister of Justice may request the investigation or inquiry to be conducted by a judge or public prosecutor who is senior to the judge or public prosecutor to be investigated.

Turkey / The Constitution of the Republic of Turkey / PART THREE JUDICIAL POWER / II. Higher Courts / A. The Constitutional Court / 3. Functions and Powers / Article 148.

[...]The President of the Republic, members of the Council of Ministers, presidents and members of the Constitutional Court, of the High Court of Appeals, of the Council of State, of the Military High Court of Appeals, of the High Military Administrative Court of Appeals, their Chief Public

Prosecutors, Deputy Public Prosecutors of the Republic, and the presidents and members of the Supreme Council of Judges and Public Prosecutors, and of the Audit Court shall be tried for offences relating to their functions by the Constitutional Court in its capacity as the Supreme Court.

The Chief Public Prosecutor of the Republic or Deputy Chief Public Prosecutor of the Republic shall act as public prosecutor in the Supreme Court.

The judgements of the Supreme Court shall be final.[...]

Turkey / The Constitution of the Republic of Turkey / PART THREE JUDICIAL POWER / III. Supreme Council of Judges and Public Prosecutors / Article 159.

The Supreme Council of Judges and Public Prosecutors shall deal with [...] decisions concerning those whose continuation in the profession is found to be unsuitable, the imposition of disciplinary penalties and removal from office.[...]

There shall be no appeal to any judicial instance against the decisions of the Council.[...]

VI. German System

A. Appointment, incompatibilities, transfers, detachments, promotion, retirement and dismissal

1. Albania

Albania / CONSTITUTION OF ALBANIA / Part Three-The Assembly / Chapter II--The Deputies / Article 69

1. Without resigning from duty, the following may not run as candidates or be elected deputies:
 - a. judges and prosecutors; [...]
2. A mandate won in violation of paragraph 1 of this article is invalid.

Albania / CONSTITUTION OF ALBANIA / Part Ten-The Office of the Prosecutor / Article 149

1. The General Prosecutor is appointed by the President of the Republic with the consent of the Assembly.
2. The General Prosecutor may be discharged by the President of the Republic upon the proposal of the Assembly for violations of the Constitution or serious violations of the law during the exercise of his duties, for mental or physical incapacity, for acts and behavior that seriously discredit the position and reputation of the Prosecutor.
3. The other prosecutors are appointed and discharged by the President of the Republic upon the proposal of the General Prosecutor.

2. Bulgaria

Bulgaria / Constitution of the Republic of Bulgaria / Chapter six - Judicial power / Article 129

(1) Judges, prosecutors and investigating magistrates shall be appointed, promoted, demoted, transferred and removed from office by the Supreme Judicial Council.

(2) The Chairman of the Supreme Court of Cassation, the Chairman of the Supreme Administrative Court and the Chief Prosecutor shall be appointed and removed by the President of the Republic on a motion from the Supreme Judicial Council for a period of seven years, and shall not be eligible for a second term in office. The President shall not deny an appointment or removal on a repeated motion.

(3) Having completed a five year term of office as a judge, prosecutor or investigating magistrate, and upon attestation, followed by a decision of the Supreme Judicial Council, the judges, prosecutors and investigating magistrates shall become irremovable. They, including the persons referred to in paragraph 2, shall be removed from office only upon:

1. completion of 65 years of age;
2. resignation;
3. entry into force of a final sentence imposing imprisonment for an intentional criminal offence;
4. permanent de facto inability to perform their duties for more than a year;
5. serious infringement or systematic neglect of their official duties, as well as actions undermining the prestige of the Judiciary.

(5) In cases of removal from office under paragraph 3, point 2 and 4, the acquired irremovably shall be restored upon subsequent appointment to the office of a judge, prosecutor or investigating magistrate.

(6) The heads of the judicial bodies, except for those referred to in paragraph (2), shall be appointed for a period of 5 years and are eligible for a second mandate.

Bulgaria / Constitution of the Republic of Bulgaria / Chapter six - Judicial power / Article 130

1. The Supreme Judicial Council shall consist of 25 members. Sitting on it ex officio shall be the Chairman of the Supreme Court of Cassation, the Chairman of the Supreme Administrative Court and the Chief Prosecutor.[...]

"(6)The Supreme Judicial Council shall:

1. appoint, promote, transfer and remove from office judges, prosecutors and investigating magistrates;
2. impose the disciplinary sanctions "demotion" and "removal from office" to judges, prosecutors and investigating magistrates;
3. organise the qualification of judges, prosecutors and investigating magistrates;
4. adopt the draft budget of the judiciary;
5. determine the scope and the structure of the annual reports referred to in Article 84, point 16.

Bulgaria / Constitution of the Republic of Bulgaria / Chapter six - Judicial power / Article 130a

The Minister of Justice:

[...]3. may make proposals for appointment, promotion, demotion, transfer and dismissal of duties of judges, prosecutors and investigators;

4. shall participate in the organization of the qualification of judges, prosecutors and investigators;

Bulgaria / Constitution of the Republic of Bulgaria / Chapter six - Judicial power / Article 131

Any resolution of the Supreme Judicial Council to appoint, promote, demote, transfer or remove a judge, prosecutor or investigating magistrate, as well as the proposals under Article 129, paragraph 2, shall be passed by a secret ballot.

3. Czech Republic**Czech Republic / Charter of Fundamental Rights and Freedoms / Chapter Four /Article 27;**

[...] (4) The right to strike is guaranteed under conditions set by law; this right doesnot appertain to judges, prosecutors, and members of the armed forces and of security corps.

Czech Republic / Charter of Fundamental Rights and Freedoms / Chapter Six / Article 44;

A law may limit the exercise by judges and prosecutors of the right to business enterprise and other economic activity and of the right listed in Article 20, par. 2;[...]

4. Finland**Finland/ The Constitution of Finland/ Chapter 3 - The Parliament and the Representatives/ Section 27- Eligibility and qualifications for the office of Representative**

[...]The Chancellor of Justice of the Government, the Parliamentary Ombudsman, a Justice of the Supreme Court or the Supreme Administrative Court, and the Prosecutor-General cannot serve as representatives. If a Representative is elected President of the Republic or appointed or elected to one of the aforesaid offices, he or she shall cease to be aRepresentative from the date of appointment or election. [...]

5. Hungary**Hungary / The Constitution of the Republic of Hungary / Chapter II. The Parliament / Article 19.**

[...] (3) Within this sphere of authority, the Parliament shall –[...]

(k) elect the President of the Republic, the Prime Minister, the members of the Constitutional Court, the Parliamentary Commissioners, the President and Vice-Presidents of the State Audit Office, the President of the Supreme Court and the Chief Public **Prosecutor**;[...]

Hungary / The Constitution of the Republic of Hungary / Chapter II. The Parliament / Article 20.

(5) A Member of Parliament may not be the President of the Republic, a member of the Constitutional Court, the Parliamentary Commissioner for Civil Rights, the President, Deputy President or auditor of

the State Audit Office, a judge or public prosecutor, an employee of an organ of the public administration - with the exception of the Members of the Government and Parliamentary State Secretaries - nor a professional member of the armed forces, the police or other security organs. Other cases of incompatibility may be established by statute.

Hungary / The Constitution of the Republic of Hungary / Chapter XI. The Office of the Public Prosecutor / Article 52.

(1) The Chief Public Prosecutor shall be elected by the Parliament upon the recommendation of the President of the Republic; the Deputies to the Chief Public Prosecutor shall be elected on the basis of the recommendation made by the Chief Public Prosecutor.[...]

Hungary / The Constitution of the Republic of Hungary / Chapter XI. The Office of the Public Prosecutor / Article 53.

(1) Public prosecutors shall be appointed by the Chief Public Prosecutor of the Republic of Hungary.
(2) Public prosecutors may not be members of political parties and may not engage in political activities.[...]

6. Lithuania

Lithuania / CONSTITUTION OF THE REPUBLIC OF LITHUANIA / CHAPTER 6 THE PRESIDENT OF THE REPUBLIC / Article 84

The President of the Republic:[...]

11) [...] shall, upon the assent of the Seimas, appoint and dismiss the Prosecutor General of the Republic of Lithuania:[...]

Lithuania / CONSTITUTION OF THE REPUBLIC OF LITHUANIA / CHAPTER 9 THE COURT / Article 118

[...]The Prosecutor General shall be appointed and dismissed by the President of the Republic upon the assent of the Seimas.

The procedure for the appointment and dismissal of prosecutors and their status shall be established by law.

7. Montenegro

Montenegro / THE CONSTITUTION OF THE REPUBLIC OF MONTENEGRO / PART TWO - HUMAN RIGHTS AND LIBERTIES / 3.POLITICAL RIGHTS AND LIBERTIES / Article 54 - Prohibition of organizing

A judge of the Constitutional Court, a judge, a state prosecutor and his deputy, an Ombudsman, a member of the Council of the Central Bank, a member of the Senate of the State Audit Institution, a professional member of the Army, Police and other security services shall not be a member of any political organization.

Montenegro / THE CONSTITUTION OF THE REPUBLIC OF MONTENEGRO / PART THREE - ORGANIZATION OF POWERS / 1.PARLIAMENT OF MONTENEGRO / Article 82 - Responsibility

The Parliament shall:[...]

14)Appoint and dismiss from duty: the Supreme State Prosecutor and State Prosecutors, the Protector of human rights and liberties (Ombudsman), the Governor of the Central Bank and members of the Council of the Central Bank of Montenegro, the President and members of the Senate of the State Audit Institution, and other officials stipulated by the law:[...]

Montenegro / THE CONSTITUTION OF THE REPUBLIC OF MONTENEGRO / PART THREE - ORGANIZATION OF POWERS / 8. STATE PROSECUTION / Article 135 - Appointment and mandate

[...] The Supreme State Prosecutor and state prosecutors shall be appointed and dismissed from duty by the Parliament.

The Supreme State Prosecutor and state prosecutors shall be appointed for the period of five years.

Montenegro / THE CONSTITUTION OF THE REPUBLIC OF MONTENEGRO / PART THREE - ORGANIZATION OF POWERS / 8. STATE PROSECUTION / Article 138 - Incompatibility of duties

Article 138 - Incompatibility of duties

State Prosecutor and Deputy State Prosecutor shall not discharge duties of a Member of the Parliament or other public duties or professionally perform someother activity.

8. Poland

Poland / The Constitution of the Republic of Poland / Chapter IV / DEPUTIES AND SENATORS / Article 103

[...]2. No judge, public prosecutor, officer of the civil service, soldier on active military service or functionary of the police or of the services of State protection shall exercise the mandate of a Deputy.

9. Portugal

Portugal / CONSTITUTION OF THE PORTUGUESE REPUBLIC / PART III / SECTION V / CHAPTER IV / Article 219

Article 219

Functions and status

[...]4. The Public Prosecutors shall be accountable judicial officers, hierarchically graded, and shall be transferred, suspended, retired or dismissed only in the circumstances provided by law.

5. The Attorney-General's Office has the power to appoint, assign, transfer and promote, and to exercise disciplinary control over, Public Prosecutors.

10. Romania

Romania / THE CONSTITUTION OF ROMANIA / Title III – Public Authorities / Chapter VI / Section 2 - The Public Ministry / Article 132 – Status of Public Prosecutors

[...] (2) The office of a Public Prosecutor shall be incompatible with any other public or private office, except that of an academic professorial activity.

Romania / THE CONSTITUTION OF ROMANIA / Title III – Public Authorities / Chapter VI / Section 2 - The Public Ministry / Article 134 – Powers

(1) The Superior Council of Magistracy shall propose to the President of Romania the appointment of judges and public prosecutors, except for the junior ones, according to the law.[...]

11. Serbia

Serbia / CONSTITUTION OF SERBIA / PART TWO – HUMAN AND MINORITY RIGHTS AND FREEDOMS / Article 55 – Freedom of association

Judges of Constitutional Court, judges, public prosecutors, Defender of

Citizens, members of police force and military persons may not be members of political parties.

Serbia / CONSTITUTION OF SERBIA / PART FIVE/ Article 99 – Competences

[...]Within its election rights, the National Assembly shall:

3. appoint the President of the Supreme Court of Cassation, presidents of courts, Republic Public Prosecutor, public prosecutors, judges and deputy public prosecutors, in accordance with the Constitution,

Serbia / CONSTITUTION OF SERBIA / PART FIVE/ Article 105 – Method of decision making in the National Assembly

[...] By means of majority vote of all deputies the National Assembly shall:

12. elect the President of the Supreme Court of Cassation, presidents of courts, Republic Public Prosecutor and public prosecutors and decide on the end of their term of office,

13. elect judges and deputy public prosecutors, in accordance with the Constitution,

Serbia / CONSTITUTION OF SERBIA / PART FIVE/ Article 158 – The Republic Public Prosecutor

The Republic Public Prosecutor shall perform the function of the Public Prosecutor's Office within the rights and duties of the Republic of Serbia.

The Republic Public Prosecutor shall be elected by the National Assembly, on the Government proposal and upon obtaining the opinion of the authorised committee of the National Assembly.

The Republic Public Prosecutor shall be elected for the period of six years and may be re-elected.

Tenure of office of the Republic Public Prosecutor shall terminate if he/she is not re-elected, at his/her own request, upon coming into force of legally prescribed conditions or upon relief of duty for reasons stipulated by the Law.

The decision on termination of tenure of office of the Republic Public Prosecutor shall be adopted by the National Assembly, in accordance with the Law, bearing in mind that it shall pass a decision on relief of duty on the Government proposal.

Serbia / CONSTITUTION OF SERBIA / PART FIVE/ Article 159 – Public Prosecutors and Deputy Public Prosecutors

Public Prosecutors and Deputy Public Prosecutors a Public Prosecutor shall perform the function of the Public Prosecutor's Office.

A Public Prosecutor shall be elected by the National Assembly, on the Government proposal.

Tenure of office of the Public Prosecutor shall last six years and he/she may be re-elected.

A Deputy Public Prosecutor shall stand in for the Public Prosecutor in performing the function of the Public Prosecutor's Office and shall be obliged to act according to his/her instructions.

On proposal of the State Prosecutors Council, the National Assembly shall elect as a Deputy Public Prosecutor the person who is elected to this function for the first time.

Tenure of office of a Deputy Public Prosecutor elected to that function for the first time shall last three years.

In accordance with the Law, the State Prosecutors Council shall elect Deputy Public Prosecutors to permanently perform that function, in that or other Public Prosecutor's Office.

In addition, the State Prosecutors Council shall decide on the election of Deputy Public Prosecutors who permanently perform that function in another or superior Public Prosecutor's Office.

Serbia / CONSTITUTION OF SERBIA / PART FIVE/ Article 161 – and Deputy Public Prosecutor's tenure of office

A Public Prosecutor and Deputy Public Prosecutor may terminate their tenure of office at their own request, upon coming into force of legally prescribed conditions or upon relief of duty for reasons stipulated by the Law. A Public Prosecutor's tenure of office shall terminate even if he/she is not re-elected, and Deputy Public Prosecutor's tenure off office shall terminate if he/she is not permanently elected to that function.

A decision on termination of a Public Prosecutor's tenure of office shall be adopted by the National Assembly, in accordance with the Law, and it shall passa decision on relief of duty on the Government proposal.

A decision on termination of a Deputy Public Prosecutor's tenure of office shall be passed by the State Prosecutors Council.

A Public Prosecutor and Deputy Public Prosecutor may lodge an appeal with the Constitutional Court against the decision on termination of their tenure of office. The lodged appeal shall not include the right to lodge a Constitutional appeal.

The proceedings, grounds and reasons for termination of a Public Prosecutor and Deputy Public Prosecutor's tenure of office shall be regulated by the Law.

Serbia / CONSTITUTION OF SERBIA / PART FIVE/ Article 163 – Incompatibility of prosecutor's function

Public Prosecutors and Deputy Public Prosecutors shall be prohibited to engage in political actions.

Other functions, activities or private interests which are incompatible with the prosecutor's function shall be stipulated by the Law.

Serbia / CONSTITUTION OF SERBIA / PART FIVE/ Article 164 – Status, constitution and election of the State Prosecutors' Council

The State Prosecutors Council is an autonomous body which shall provide for and guarantee the autonomy of Public Prosecutors and Deputy Public Prosecutors, in accordance with the Law.

The State Prosecutors Council shall have 11 members.

The State Prosecutors Council shall be constituted of the Republic Public Prosecutor, the Minister responsible for justice and the President of the authorised committee of the National Assembly as members ex officio and eight electoral members elected by the National Assembly, in accordance with the Law.

Electoral members shall include six Public Prosecutors or Deputy Public

Prosecutors holding permanent posts, of which one shall be from the territory of autonomous provinces, and two respected and prominent lawyers who have at least 15 years of professional experience, of which one shall be a solicitor, and the other a professor at the law faculty.

Tenure of office of the State Prosecutors Council's members shall last five years, except for the members appointed ex officio.

A member of the State Prosecutors Council shall enjoy immunity as a Public Prosecutor.

Serbia / CONSTITUTION OF SERBIA / PART FIVE/ Article 165 – Jurisdiction of the State Prosecutors Council

The State Prosecutors Council shall propose to the National Assembly the candidates for the first election of a Deputy Public Prosecutor, elect Deputy Public Prosecutors to permanently perform that function, elect Deputy Public Prosecutors holding permanent posts as Deputy Public Prosecutors in other Public Prosecutor's Office, decide in the proceedings of termination of Deputy Public Prosecutors' tenure of office in the manner stipulated by the Constitution and the Law, and perform other duties specified in the Law.

12. Slovenia

Slovenia / THE CONSTITUTION OF THE REPUBLIC OF SLOVENIA / PART 4. THE ADMINISTRATION OF THE STATE / G. The Office of the Public Prosecutor / Article 136

Incompatibility of Office of Public Prosecutor The office of Public Prosecutor shall be incompatible with office in any other State body, local government body and any organ of any political party, and with such other offices and activities as may be specified by statute.

B. Hierarchical structure; relation with other state bodies

1. Albania

Albania / CONSTITUTION OF ALBANIA / Part Ten-The Office of the Prosecutor / Article 149

[...]4. The General Prosecutor informs the Assembly periodically on the condition of criminality.

2. Austria

Austria/Constitution/Article 90a

[...]The hierarchical organisation of the prosecutors shall be established by law.

3. Bulgaria

Bulgaria / Constitution of the Republic of Bulgaria / Chapter three - National Assembly / Article 84

The National Assembly shall:[...]

xvi. give a hearing and pass the annual reports of the Supreme Court of Cassation, the Supreme Administrative Court and the Prosecutor General, submitted by the Supreme Judicial Council, on the application of the law and on the activities of the courts, the prosecution office and the investigating bodies [...]

Bulgaria / Constitution of the Republic of Bulgaria / Chapter six - Judicial power / Article 117

[...]2. The judicial branch shall be independent. In the performance of their functions, all judges, court assessors, prosecutors and investigating magistrates shall be subservient only to the law.
3. The judicial branch of government shall have an independent budget.

Bulgaria / Constitution of the Republic of Bulgaria / Chapter six - Judicial power / Article 126
Article 126

1. The structure of the prosecutors' office shall correspond to that of the courts.
2. The Chief Prosecutor shall oversee the legality and provide methodological guidance to all other prosecutors.

Bulgaria / Constitution of the Republic of Bulgaria / Chapter six - Judicial power / Article 130

[...]6)The Supreme Judicial Council shall:

[...]5. determine the scope and the structure of the annual reports referred to in Article 84, point 16.[...]

(7) The Supreme Judicial Council shall give a hearing and pass the annual reports of the Supreme Court of Cassation, the Supreme Administrative Court and the Prosecutor General on the application of the law and on the activity of the courts, the prosecution office and the investigating bodies and shall submit them to the National Assembly.[...]

Bulgaria / Constitution of the Republic of Bulgaria / Chapter six - Judicial power / Article 130a

The Minister of Justice:

1. shall propose a draft budget of the judiciary and submit it to the Supreme Judicial Council for consideration;
2. shall manage the property of the judiciary ;[...]

Bulgaria / Constitution of the Republic of Bulgaria / Chapter six - Judicial power / Article 132A.

(1)An Inspectorate shall be established to the Supreme Judicial Council, which shall be composed of a chief inspector and ten inspectors.

(2) The chief inspector shall be elected by the National Assembly by a majority of two-thirds of the Members for a term of five years.

(3) The inspectors shall be elected by the National Assembly for a term of four years pursuant to the procedure laid down in paragraph 2.

(4) The chief inspector and the inspectors may be re-elected, however not for two consecutive mandates.

(5) The budget of the Inspectorate shall be adopted by the National Assembly within the frames of the budget of the judiciary.

(6) The Inspectorate shall inspect the activity of the judiciary bodies without affecting the independence of judges, court assessors, **prosecutors** and investigating magistrates while performing their duties. The chief inspector and the inspectors shall be independent and shall obey only the law while performing their duties.

(7) The Inspectorate shall act ex officio, on an initiative by the citizens, legal persons or state bodies, including judges, **prosecutors** and investigating magistrates.

(8) The Inspectorate shall submit an annual report on its activity to the Supreme Judicial Council.

(9) The Inspectorate shall send signals, proposals and reports to other state bodies, including the competent judiciary bodies. The Inspectorate shall provide public information about its activity.[...]

4. Estonia

Estonia / CONSTITUTION OF THE REPUBLIC OF ESTONIA / CHAPTER XIII The Courts / Article 151.

The organisation of representation, defense, state **prosecution** and supervision of legality in Court procedures shall be determined by law.

5. Finland

Finland/ The Constitution of Finland/ Chapter 9 - Administration of justice/ Section 104

- The prosecutors

The prosecution service is headed by the highest prosecutor, the Prosecutor-General, who is appointed by the

President of the Republic. More detailed provisions on the prosecution service are laid down by an Act.

6. Hungary

Hungary / The Constitution of the Republic of Hungary / Chapter XI. The Office of the Public Prosecutor / Article 53.

[...](3) The Office of the Public Prosecutor is directed by the Chief Public Prosecutor.

(4) The rules pertaining to the Office of the Public Prosecutor shall be determined by statute.

Hungary / The Constitution of the Republic of Hungary / Chapter II. The Parliament / Article 27.

Members of Parliament may direct a question to the Parliamentary Commissioner for Civil Rights and the Parliamentary Commissioner for the Rights of National and Ethnic Minorities, to the President of the State Audit Office and the Chairman of the National Bank of Hungary, and an interpellation to the Government or any of the Members of the Government, as well as to the Chief Public Prosecutor on any matter which falls within their respective sphere of authority.

7. Italy

Italy / THE CONSTITUTION OF THE ITALIAN REPUBLIC (*) / PART II ORGANISATION OF THE REPUBLIC / Title IV THE JUDICIAL BRANCH / Section I The Organisation of the Judiciary / Article 107

[...]The state **prosecutor** enjoys the guarantees established in his favour by the rules of the judiciary.

Italy / THE CONSTITUTION OF THE ITALIAN REPUBLIC (*) / PART II ORGANISATION OF THE REPUBLIC / Title IV THE JUDICIAL BRANCH / Section I The Organisation of the Judiciary / Article 108

The rules governing the judiciary and the judges are laid out by law. The law ensures the independence of judges of special courts, of state **prosecutors** of those courts, and of other persons participating in the administration of justice.

8. Lithuania

Lithuania / CONSTITUTION OF THE REPUBLIC OF LITHUANIA / CHAPTER 9 THE COURT / Article 118

[...]When performing his functions, the prosecutor shall be independent and shall obey only the law. The Prosecutor's Office of the Republic of Lithuania shall be the Office of the Prosecutor General and territorial prosecutor's offices.[...]

9. Montenegro

Montenegro / THE CONSTITUTION OF THE REPUBLIC OF MONTENEGRO / PART THREE - ORGANIZATION OF POWERS / 8. STATE PROSECUTION / Article 135 - Appointment and mandate

The affairs of the State Prosecution shall be performed by the State Prosecutor. The State Prosecutor shall have one or more deputies.[...]

Montenegro / THE CONSTITUTION OF THE REPUBLIC OF MONTENEGRO / PART THREE - ORGANIZATION OF POWERS / 8. STATE PROSECUTION / Article 136 - Prosecutorial Council

The Prosecutorial Council shall ensure the independence of state prosecutorial service and state prosecutors.

The Prosecutorial Council shall be elected and dismissed by the Parliament. The election, mandate, competencies, organisation and methods of work of the Prosecutorial Council shall be regulated by law.

10. Portugal

Portugal / CONSTITUTION OF THE PORTUGUESE REPUBLIC / PART III / SECTION III / CHAPTER II / Article 163

Article 163 Powers in relation to others organs

[...] The Assembly of the Republic has the following powers in relation to other organs:

h. To elect, by a system of proportional representation, 5 members of the Council of State, 5 members of the High Authority for the Mass Media, and those members of the Superior Council for the Public Prosecution whom the Assembly is empowered to appoint; [...]

Portugal / CONSTITUTION OF THE PORTUGUESE REPUBLIC / PART III / SECTION III / CHAPTER II / Article 165- Partially exclusive legislative powers

1. The Assembly of the Republic has exclusive legislative powers with respect to the following matters, except where legislative power is delegated to the Government:[...]

p. Organisation and powers of the courts, the Public Prosecutors and of non-judicial bodies for alternative dispute resolution, and the status of the judiciary and Public Prosecutors;

Portugal / CONSTITUTION OF THE PORTUGUESE REPUBLIC / PART III / SECTION V / CHAPTER IV / Article 220

1. The Attorney-General's Office is the highest authority in public prosecution and shall have such composition and powers as the law shall determine.

2. The Attorney-General's Office shall be presided over by the Attorney-General and shall contain the Superior Council for the Public Prosecution, which shall include members elected by the Assembly of the Republic and members elected by the Public Prosecutors from among themselves.

3. The Attorney-General shall have a term in office of six years, without prejudice to the provisions of Article 133 (m).

11. Slovakia

Slovakia / THE CONSTITUTION OF THE SLOVAK REPUBLIC / PART TWO / Chapter Five / Article 37

[...] (4) The right to strike shall be guaranteed. The terms thereof shall be provided by law. Judges, **prosecutors**, members of the armed forces, and members and employees of fire and rescue squads shall be disqualified from the exercise of this right.

Slovakia / THE CONSTITUTION OF THE SLOVAK REPUBLIC / PART TWO / Chapter Eight / Article 54

Judges and **prosecutors** may be denied the right of free enterprise and other business activities and the right defined in Article 29, section (2)⁴, [...]

Slovakia / THE CONSTITUTION OF THE SLOVAK REPUBLIC / PART FIVE / Chapter One / Article 77

⁴ The right to establish political parties and political movements and to associate in them.

(1) The mandate of a Member of Parliament is incompatible with offices of the judge, public prosecutor, Public Defender of Rights, member of the armed forces and member of the armed corps and European Parliament.[...]

Slovakia / THE CONSTITUTION OF THE SLOVAK REPUBLIC / PART SIX / Chapter One - THE PRESIDENT OF THE SLOVAK REPUBLIC / Article 102

(1) The President

[...]

s) shall appoint and recall judges of the Constitutional Court of the Slovak Republic, the President and Vice-President of the Constitutional Court of the Slovak Republic; shall accept the oath of judges of the Constitutional Court of the Slovak Republic and the oath of the General Prosecutor

t) shall appoint and recall judges, the Chief Justice and the Deputy Chief Justice of the Slovak Republic, General Prosecutor and three members of the Judicial Council of the Slovak Republic; shall accept the oath of judges. [...]

Slovakia / THE CONSTITUTION OF THE SLOVAK REPUBLIC / PART SIX / Chapter One - THE PRESIDENT OF THE SLOVAK REPUBLIC / Article 103

[...](4) If the President elect is a Member of Parliament, a member of the Government of the Slovak Republic, a judge, a public prosecutor, a member of the armed forces or the armed corps, or a member of the Supreme Audit Office of the Slovak Republic, he or she must resign from his previous office on the day of the election.[...]

Slovakia / THE CONSTITUTION OF THE SLOVAK REPUBLIC / PART EIGHT / Article 150

The Office of public prosecutors shall be headed by the Attorney-General who shall be appointed and recalled by the President of the Slovak Republic on the advice of the National Council of the Slovak Republic.

12. Romania

Romania / THE CONSTITUTION OF ROMANIA / Title III – Public Authorities / Chapter VI / Section 2 - The Public Ministry / Article 132 – Status of Public Prosecutors

(1) Public Prosecutors shall carry out their activity in accordance with the principle of legality, impartiality and hierarchical control, under the authority of the Minister of Justice.[...]

13. Serbia

Serbia / CONSTITUTION OF SERBIA / PART FIVE/ Article 138 – 5. Civic Defender

[...] The Civic Defender shall not be authorised to monitor the work of the National Assembly, President of the Republic, Government, Constitutional Court, courts and Public Prosecutor's Offices.

Serbia / CONSTITUTION OF SERBIA / PART FIVE/ Article 157 – Establishment and organisation

Establishment, organisation and jurisdiction of Public Prosecutor's Office shall be specified by the Law.

The Republic Public Prosecutor's Office shall be the supreme Public Prosecutor's Office in the Republic of Serbia.

14. Sweden

Sweden / The Instrument of Government (1974) / Chapter 11. / Article 6.

The Chancellor of Justice, the Prosecutor General, the central administrative boards and the county administrative boards come under the Government.[...]

C. Powers

1. Albania

Albania / CONSTITUTION OF ALBANIA / Part Three--The Assembly/ Chapter II--The Deputies/Article 73

[...]3. A deputy may be detained or arrested without authorization when he is apprehended during or immediately after the commission of a serious crime. In these cases, the General Prosecutor immediately notifies the Assembly, which, when it determines that the proceeding is misplaced, decides to lift the measure.

Albania / CONSTITUTION OF ALBANIA / Part Ten-The Office of the Prosecutor / Article 148

1. The office of the prosecutor exercises criminal prosecution and represents the accusation in court on behalf of the state. The office of the prosecutor also performs other duties set by law.
2. Prosecutors are organized and operate as a centralized organ attached to the judicial system.
3. In the exercise of their powers, prosecutors are subject to the Constitution and the laws.

2. Austria

Austria/Constitution/Article 90a

The public prosecutors are bodies of judiciary. In the criminal proceedings, they shall perform the function of investigation and accusation.[...]

3. Bulgaria

Bulgaria / Constitution of the Republic of Bulgaria / Chapter six - Judicial power / Article 117

1. The judicial branch of government shall safeguard the rights and legitimate interests of all citizens, legal entities and the state.[...]

Bulgaria / Constitution of the Republic of Bulgaria / Chapter six - Judicial power / Article 127

The Prosecutor's Office shall ensure that legality is observed:

1. by leading the investigation and supervising the legality thereof;
 2. may conduct investigation;
 3. by bringing charges against criminal suspects and supporting the charges in common criminal trials;
 4. by overseeing the enforcement of penalties and other measures of compulsion;
 5. by acting for the rescindment of all illegitimate acts;
 6. by taking part in civil and administrative suits whenever required to do so by law.
- [...]

Bulgaria / Constitution of the Republic of Bulgaria / Chapter eight- Constitutional Court / Article 150

1. The Constitutional Court shall act on an initiative from not fewer than one-fifth of all Members of the National Assembly, the President, the Council of Ministers, the Supreme Court of Cassation, the Supreme Administrative Court or the Chief Prosecutor. A challenge to competence pursuant to paragraph 1 subparagraph 3 of the preceding article may further be filed by a municipal council.

4. Czech Republic

Czech republic/Constitution/ Chapter three-Executive Power/ The Government/Article 80

- (1) State attorneys shall represent public prosecution in penal proceedings; they shall also perform other duties, if the law so provides.
- (2) The position and the jurisdiction of state attorneys shall be defined by law.

5. Finland

Finland/ The Constitution of Finland/ Chapter 10 - Supervision of legality/Section 113 and Section 114

Section 113 - Criminal liability of the President of the Republic

If the Chancellor of Justice, the Ombudsman or the Government deem that the President of the Republic is guilty of treason or high treason, or a crime against humanity, the matter shall be communicated to the Parliament. In this event, if the Parliament, by three fourths of the votes cast, decides that charges are to be brought, the Prosecutor-General shall prosecute the President in the High Court of Impeachment and the President shall abstain from office for the duration of the proceedings. [...]

]Section 114 - Prosecution of Ministers

[...] A Member of the Government is prosecuted by the Prosecutor-General.

6. Hungary

Hungary / The Constitution of the Republic of Hungary / Chapter XI. The Office of the Public Prosecutor / Article 51.

(1) The Chief Public Prosecutor and the Office of the Public Prosecutor of the Republic of Hungary shall ensure the protection of the rights of natural and legal persons as well as organizations without legal personality, and shall steadfastly prosecute any act which violates or endangers the constitutional order, and the security and independence of the country.

(2) The Office of the Public Prosecutor shall exercise powers in relation to investigations as provided for by law, represent the prosecution in court proceedings, and supervise the legality of the implementation of punishments.

(3) The Office of the Public Prosecutor shall contribute to ensuring that everyone complies with the law. When the law is violated, the Office of the Public Prosecutor shall act to uphold the law in the cases and manner specified by statute.

7. Italy

Italy / THE CONSTITUTION OF THE ITALIAN REPUBLIC (*) / PART II ORGANISATION OF THE REPUBLIC / Title IV THE JUDICIAL BRANCH / Section II Rules on Jurisdiction / Article 112

The public **prosecutor** has the duty to exercise criminal proceedings.

8. Lithuania

Lithuania / CONSTITUTION OF THE REPUBLIC OF LITHUANIA / CHAPTER 9 THE COURT / Article 118

Pre-trial investigation shall be organised and directed, and charges on behalf of the State shall be upheld by the prosecutor.

In cases established by law, the prosecutor shall defend the rights and legitimate interests of the person, society and the State.[...]

9. Montenegro

Montenegro / THE CONSTITUTION OF THE REPUBLIC OF MONTENEGRO / PART THREE - ORGANIZATION OF POWERS / 8. STATE PROSECUTION / Article 134 - Status and responsibility

The State Prosecution shall be a unique and independent state authority that performs the affairs of prosecution of the perpetrators of criminal offenses and other punishable acts who are prosecuted ex officio.

10. Poland

Poland /]6*The Constitution of the Republic of Poland / Chapter VIII / THE CONSTITUTIONAL TRIBUNAL / Article 191

1. The following may make application to the Constitutional Tribunal regarding matters specified in Article 188:

1) the President of the Republic, the Marshal of the Sejm, the Marshal of the Senate, the Prime Minister, 50 Deputies, 30 Senators, the First President of the Supreme Court, the President of the Chief Administrative Court, the

Public Prosecutor-General, the President of the Supreme Chamber of Control and the Commissioner for Citizens' Rights,[...]

11. Portugal

Portugal / CONSTITUTION OF THE PORTUGUESE REPUBLIC / PART III / SECTION V / CHAPTER I / Article 207-Juries, public participation and assessors

1. Juries, in such cases and composed as laid down by the law, shall be summoned, at the request of the prosecution or the defence, for the trial of serious crimes, other than those involving terrorism or highly organised crime.[...]

Portugal / CONSTITUTION OF THE PORTUGUESE REPUBLIC / PART III / SECTION V / CHAPTER IV / Article 219

Article 219

Functions and status

1. The Public Prosecutors have the responsibility for representing the State and defending such interests as shall be determined by law. Further, in accordance with the provisions of the following paragraph and the law, they shall participate in the implementation of the criminal policy determined by the organs of self government, instituting criminal proceedings in accordance with the principle of legality and defending democratic legality.

2. The Public Prosecutors shall have a separate status and be autonomous as provided by law.

3. The law shall establish special forms of consultation with the Public Prosecutors in cases of crimes of a strictly military nature.[...]

Portugal / CONSTITUTION OF THE PORTUGUESE REPUBLIC / PART IV / SECTION I / Article 280- Appeals on constitutionality and legality

1. The Constitutional Court has jurisdiction to hear appeals against any of the following court decisions:[...]

3. Where a court refuses to apply a provision of an international convention, any legislation or a regulatory decree, any appeal under paragraph 1(a) or 2(a) must be brought by the Public Prosecution.[...]

5. The Constitutional Court also has jurisdiction to hear appeals against court decisions which apply provisions that it has previously ruled to be unconstitutional or illegal; the Public Prosecution must institute an appeal in all such cases.

12. Romania

Romania / THE CONSTITUTION OF ROMANIA / Title III – Public Authorities / Chapter VI / Section 2 - The Public Ministry / Article 131 – Role of Public Ministry

(1) In the judicial activity, the Public Ministry shall represent the general interests of society and defend legal order, as well as the citizens' rights and freedoms.

(2) The Public Ministry shall discharge its powers through Public Prosecutors, constituted into public prosecutor's offices, in accordance with the law.

(3) The public prosecutor's offices attached to courts of law shall direct and supervise the criminal investigation activity of the judicial police, according to the law.

13. Serbia

Serbia / CONSTITUTION OF SERBIA / PART FIVE/ Article 156 – Status and jurisdiction

Public Prosecutor's Office shall be an independent state body which shall prosecute the perpetrators of criminal offences and other punishable actions, and take measures in order to protect constitutionality and legality.

Public Prosecutor's Office shall perform its function on the grounds of the Constitution, Law, ratified international treaty and regulation passed on the grounds of the Law.

Serbia / CONSTITUTION OF SERBIA / PART SIX – THE CONSTITUTIONAL COURT / Article 172 – and appointment of the Constitutional Court justices

[...] President of the Republic shall appoint five justices of the Constitutional Court from among ten candidates proposed by the National Assembly, and the general session of the Supreme Court of Cassation shall appoint five justices from among ten candidates proposed at a general session by the High Judicial Court and the State Prosecutor Council.[...]

14. Slovakia

Slovakia / THE CONSTITUTION OF THE SLOVAK REPUBLIC / PART EIGHT / Article 149 Article 149

Public prosecutors shall protect the legal rights and interests of the State, individuals, and corporations.

15. Slovenia

Slovenia / THE CONSTITUTION OF THE REPUBLIC OF SLOVENIA / PART 4. THE ADMINISTRATION OF THE STATE / G. The Office of the Public Prosecutor / Article 135

The Office of the Public Prosecutor the Public Prosecutor shall be responsible for the preferment of criminal charges, for prosecuting criminal matters in court and for the performance of such other duties as are prescribed by statute.

The administration and powers of the Public Prosecutor's Office shall be regulated by statute.

16. Sweden

Sweden / The Freedom of the Press Act (1766) / Chapter 9. / Article 2.

The Chancellor of Justice is sole **prosecutor** in cases concerning offences against the freedom of the press. No one other than the Chancellor of Justice may institute pre-judicial inquiries concerning offences against the freedom of the press. Only the Chancellor of Justice and the competent court may approve coercive measures on suspicion that such an offence has been committed, unless otherwise provided in this Act.

The Government shall have the right to report printed matter to the Chancellor of Justice for prosecution on account of an offence against the freedom of the press. It may be laid down in an act of law that public criminal proceedings for offences against the freedom of the press shall be instituted only with the Government's consent.

The Chancellor of Justice shall likewise be sole prosecutor in freedom of the press cases which are not cases concerning offences against the freedom of the press, and in cases otherwise relating to violations of regulations contained in this Act; provisions of law shall however regulate the right of a Parliamentary Ombudsman to act as prosecutor in cases of this nature.

Sweden / The Fundamental Law on Freedom of Expression / Chapter 7. / Article 1.

The rules laid down in Chapter 9, Articles 1 to 4 of the Freedom of the Press Act concerning supervision and prosecution shall apply also with regard to radio programmes and technical recordings, and freedom of expression cases. The Chancellor of Justice may delegate a public prosecutor to act as prosecutor in a freedom of expression case which concerns criminal liability or confiscation on account of unlawful depiction of violence or agitation against a population group in a technical recording. The right to institute public criminal proceedings may not however be delegated when the freedom of expression offence is agitation against a population group.

D. Discipline, liability

Bulgaria / Constitution of the Republic of Bulgaria / Chapter six - Judicial power / Article 130

[...](6)The Supreme Judicial Council shall:

[...]2. impose the disciplinary sanctions "demotion" and "removal from office" to judges, prosecutors and investigating magistrates;

Bulgaria / Constitution of the Republic of Bulgaria / Chapter six - Judicial power / Article 132

1. When exercising the judicial function, the judges, **prosecutors** and investigating magistrates shall bear no civil or criminal liability for their official actions or for the acts rendered by them, except where the act performed constitutes an indictable intentional criminal offence.

Hungary / The Constitution of the Republic of Hungary / Chapter XI. The Office of the Public Prosecutor / Article 52.

[...] (2) The Chief Public **Prosecutor** shall be answerable to the Parliament and shall report on his activities.

1. Montenegro

Montenegro / THE CONSTITUTION OF THE REPUBLIC OF MONTENEGRO / PART THREE - ORGANIZATION OF POWERS / 1. PARLIAMENT OF MONTENEGRO / Article 86 - Immunity

Member of the Parliament shall enjoy immunity.

Member of the Parliament shall not be called to criminal or other account or detained because of the expressed opinion or vote in the performance of his/her duty as a Member of the Parliament.

No penal action shall be taken against and no detention shall be assigned to a Member of the Parliament, without the consent of the Parliament, unless the Member has been caught performing a criminal offense for which there is a prescribed sentence of over five years of imprisonment.

The President of Montenegro, the Prime Minister and members of the Government, the President of the Supreme Court, the President and the judges of the Constitutional Court, and the Supreme State **Prosecutor** shall enjoy the same immunity as the Member of the Parliament.

Montenegro / THE CONSTITUTION OF THE REPUBLIC OF MONTENEGRO / PART THREE - ORGANIZATION OF POWERS / 8. STATE PROSECUTION / Article 137 - Functional immunity

State Prosecutor and Deputy State Prosecutor shall enjoy functional immunity and shall not be held responsible for the expressed opinion or decision made in the performance of the duties thereof, unless this represents a criminal offense.

2. Portugal

Portugal / CONSTITUTION OF THE PORTUGUESE REPUBLIC / PART III / SECTION V / CHAPTER IV / Article 219 - Functions and status

[...]5. The Attorney-General's Office has the power to appoint, assign, transfer and promote, and to exercise disciplinary control over, Public **Prosecutors**.

3. Romania

Romania / THE CONSTITUTION OF ROMANIA / Title III – Public Authorities / Chapter VI / Section 2 - The Public Ministry / Article 133 – Role and Structure

(1) The Superior Council of Magistracy shall guarantee the independence of justice.

(2) The Superior Council of Magistracy shall be comprised of nineteen members, of whom:

- a) fourteen are elected in the general meetings of the magistrates, and validated by the Senate; they shall belong to two sections, one for judges and one for public prosecutors; the first is comprised of nine judges, and the second of five public prosecutors;
- b) two representatives of the civil society, specialists in law, who enjoy a good professional and moral reputation, elected by the Senate; these shall only participate in plenary proceedings;
- c) the Minister of Justice, the President of the High Court of Cassation and Justice, and the General Public Prosecutor of the Public Prosecutor's Office attached to the High Court of Cassation and Justice.

(3) The President of the Superior Council of Magistracy shall be elected for one year's term of office, which cannot be renewed, from among the magistrates listed under paragraph (2) subparagraph a).

- (4) The length of the term of office of the Superior Council of Magistracy members shall be six years.
 (5) The Superior Council of Magistracy shall make decisions by secret vote. (6) The President of Romania shall preside over the proceedings of the Superior Council of Magistracy he takes part in.
 (7) Decisions by the Superior Council of Magistracy shall be final and irrevocable, except for those stipulated under Article 134 paragraph (2).

Romania / THE CONSTITUTION OF ROMANIA / Title III – Public Authorities / Chapter VI / Section 2 - The Public Ministry / Article 134 – Powers

[...] (2) The Superior Council of Magistracy shall perform the role of a court of law, by means of its sections, as regards the disciplinary liability of judges and public prosecutors, based on the procedures set up by its organic law. In such cases, the Minister of Justice, the President of the High Court of Cassation and Justice, and the General Public Prosecutor of the Public Prosecutor's Office attached to the High Court of Cassation and Justice shall not be entitled to vote.

(3) Decisions by the Superior Council of Magistracy as regards discipline may be contested before the High Court of Cassation and Justice.

(4) The Superior Council of Magistracy shall also perform other duties stipulated by its organic law, in order to accomplish its role of guarantor for the independence of the judiciary.

4. Serbia

Serbia / CONSTITUTION OF SERBIA / PART FIVE/ Article 160 – Responsibility

The Republic Public Prosecutor shall account for the work of the Public Prosecutor's Office and his/her own work to the National Assembly.

Public Prosecutors shall account for the work of the Public Prosecutor's Office and their own work to the Republic Public Prosecutor and the National Assembly, whereas Junior Prosecutors shall account for their work to their immediately superior Public Prosecutor as well.

Deputy Public Prosecutors shall be held responsible for their work to the Public Prosecutor.

Serbia / CONSTITUTION OF SERBIA / PART FIVE/ Article 162 – Immunity

A Public Prosecutor and Deputy Public Prosecutor may not be held responsible for the expressed opinion while performing the function of prosecutors, except in cases when a Public Prosecutor or Deputy Public Prosecutor commits a criminal offence by violating the law.

A Public Prosecutor or a Deputy Public Prosecutor may not be detained or arrested in the legal proceedings instituted due to a criminal offence committed in performing the prosecutor's function or service without the approval of the authorised committee of the National Assembly.

5. Slovakia

Slovakia / THE CONSTITUTION OF THE SLOVAK REPUBLIC / PART SEVEN / Chapter One / Article 136

[...] (3) The Constitutional Court shall give its assent to the criminal prosecution or a pre-trial detention of a judge and of the General Prosecutor. The Constitutional Court shall convene disciplinary proceedings regarding the Chief Justice of the Slovak Republic, the Deputy Chief Justice of the Slovak Republic and the General Prosecutor.

(4) If the Constitutional Court refuses its consent, the prosecution or the pre-trial detention shall be precluded for the duration of the function of a Constitutional Court judge, the function of a judge or the function of the

VII. The Former Soviet Countries' System

A. Appointment, incompatibilities, transfers, detachments, promotion, retirement and dismissal

1. Armenia

Armenia / THE CONSTITUTION OF THE REPUBLIC OF ARMENIA / CHAPTER 2 - FUNDAMENTAL HUMAN AND CIVIL RIGHTS AND FREEDOMS / Article 28

[...] The rights to form parties and trade unions and join them may be restricted in a manner prescribed by law for the employees in the armed forces, police, national security, prosecutor's office, as well as judges and members of the Constitutional Court. [...]

**Armenia / THE CONSTITUTION OF THE REPUBLIC OF ARMENIA / CHAPTER 2 -
FUNDAMENTAL HUMAN AND CIVIL RIGHTS AND FREEDOMS / Article 29**

Article 29

Everyone shall have the right to freedom of peaceful and unarmed assembly. Restrictions on exercising these rights by the employees in the armed forces, police, national security, prosecutor's office, bodies as well as judges and members of the Constitutional Court may be prescribed only by the law.

**Armenia / THE CONSTITUTION OF THE REPUBLIC OF ARMENIA / CHAPTER 3 - THE
PRESIDENT OF THE REPUBLIC OF ARMENIA /Article 55**

Article 55

The President of the Republic:[...]

9) shall recommend to the National Assembly the candidacy of the **Prosecutor** General, the Chairman of the Central Bank and the Chairman of Control Chamber. Shall upon the recommendation of the Prosecutor General appoint and release the deputies of the Prosecutor General;

**Armenia / THE CONSTITUTION OF THE REPUBLIC OF ARMENIA / CHAPTER 6 - THE
JUDICIAL POWER / Article 103**

[...] The Prosecutor General shall be appointed by the National Assembly upon the recommendation of the President of the Republic for a six-year term. The same person may not be appointed Prosecutor General for more than two consecutive terms.

In cases prescribed by the law and upon the recommendation of the President of the Republic the National Assembly may by a majority of its votes remove the Prosecutor General from office.

2. Azerbaijan

**Azerbaijan / CONSTITUTION / Third Section. / Chapter VII. Judicial power / Article 133.
Procurator's Office of the Azerbaijan Republic**

[...]III.General Procurator of the Azerbaijan Republic is appointed to his post and dismissed from it by the President of the Azerbaijan Republic, on consent of Milli Majlis of the Azerbaijan Republic.

IV.Deputies of General Procurator of the Azerbaijan Republic, procurators supervising specialized republican procurator's offices, procurator of Nakhichevan Autonomous Republic are appointed to their posts and dismissed from their posts by the President of the Azerbaijan Republic on recommendation of General Procurator of the Azerbaijan Republic.

IV.Territorial and specialised procurators are appointed to their posts and dismissed by General Procurator of the Azerbaijan Republic on agreement with the President of the Azerbaijan Republic.

3. Georgia

**Georgia / THE CONSTITUTION OF GEORGIA / CHAPTER TWO Citizenship of Georgia. Human
rights and Freedoms. / Article 26 Article 26**

[...]5. A person who is enrolled in the personnel of the armed forces, state security offices or the forces of the bodies of internal affairs or a person having been designated as a judge or a prosecutor shall cease his/her membership of any political association.

**Georgia / THE CONSTITUTION OF GEORGIA / CHAPTER THREE: The Parliament of Georgia /
Article 64**

1. In case of the violation of the Constitution, commission of high treason and other criminal offences, not less than one third of the total number of the members of the Parliament shall be entitled to raise the question about the dismissal in accordance with impeachment procedure of the President of the Supreme Court, members of the Government, the Prosecutor General, the President of the Chamber of Control and members of the Council of National Bank.

**Georgia / THE CONSTITUTION OF GEORGIA / CHAPTER FOUR: The President of the Republic.
/ Article 76.1**

The President of Georgia shall nominate a candidate of the Prosecutor General of Georgia before the Parliament for appointment. The authority and a procedure of activity of the Prosecutor's office shall be determined by the Organic law.

4. Moldova

Moldova / The Constitution of the Republic of Moldova / Title III: Public Authorities / Chapter IX: Judicial Authority / Third Section: The Public Prosecution Office / Article 125

- (1) The Prosecutor General is appointed by Parliament following a proposal submitted to the latter by its President.
- (2) The other public prosecutors are subordinated to the Prosecutor General, and appointed by him.
- (3) The public prosecutors receive their mandate for a period of 5 years.
- (4) The office of public prosecutor is incompatible with holding any other remunerated position, be it public or private, except in teaching or scientific research.
- (5) In exercising their powers public prosecutors may submit before the law only.

5. Russia

Russia/Constitution/ Chapter 4. The President of the Russian Federation/Article 83

The President of the Russian Federation shall:[...]

- f. present to the Council of the Federation candidates for appointment as judges of the Constitution Court of the Russian Federation, the Supreme Court of the Russian Federation, the Higher Court of Arbitration of the Russian Federation, as well as a candidate for the post of the Procurator-General of the Russian Federation; appoint judges of other federal courts; [...]

Russia/Constitution/ Chapter 5. The Federal Assembly/ Article 102

1. The jurisdiction of the Council of the Federation includes:

- h. appointment and dismissal of the Procurator-General of the Russian Federation;

Russia/Constitution/ Chapter 7. Judicial Power/Article 129

[...]2. The Procurator-General of the Russian Federation shall be appointed and dismissed by the Council of the Federation upon the proposal of the President of the Russian Federation.

3. The procurators of the subjects of the Russian Federation shall be appointed by the Procurator-General of the Russian Federation by agreement with the subjects.

4. Other procurators shall be appointed by the Procurator-General of the Russian Federation.

5. The powers, organization and the rules of the functioning of the Procurator's Office of the Russian Federation shall be determined by the federal law.

6. Ukraine

Ukraine / CONSTITUTION OF UKRAINE / Chapter IV Verkhovna Rada of Ukraine / Article 85

Powers of the Verkhovna Rada of Ukraine shall include:
[...]

(25)granting consent for the appointment to office or dismissing from office by the President of Ukraine of the **Prosecutor** General of Ukraine; taking a vote of no confidence in the **Prosecutor** General of Ukraine, the result of which shall be his or her resignation from office;[...]

Ukraine / CONSTITUTION OF UKRAINE / Chapter V President of Ukraine / Article 106

The President of Ukraine:[...]

(11) appoints to office and dismisses from office the Prosecutor General of Ukraine, with the consent of the Verkhovna Rada of Ukraine;[...]

Ukraine / CONSTITUTION OF UKRAINE / Chapter VII Procuracy / Article 122

Public prosecution of Ukraine is headed by the Prosecutor General of Ukraine, who is appointed to office and dismissed from office by the President of Ukraine, with the consent of the Verkhovna Rada of Ukraine. The Verkhovna Rada of Ukraine may take a vote of no confidence in the Prosecutor General of Ukraine, which entails his or her resignation from office.

The term of authority of the Procurator General of Ukraine is five years.

B. Hierarchical structure; relation with other state bodies

Armenia / THE CONSTITUTION OF THE REPUBLIC OF ARMENIA / CHAPTER 6 - THE JUDICIAL POWER / Article 103

The Office of the Prosecutor General in the Republic of Armenia represents a unified, centralized system, headed by the Prosecutor General.[...]

1. Azerbaijan

Azerbaijan / CONSTITUTION / Third Section. / Chapter VII. Judicial power / Article 133. Procurator's Office of the Azerbaijan Republic

[...]II. Procurator's Office of the Azerbaijan Republic is an integral centralized body based on subordination of territorial and specialized procurators to General Procurator of the Azerbaijan Republic

2. Moldova

Moldova / The Constitution of the Republic of Moldova / Title III: Public Authorities / Chapter IX: Judicial Authority / Third Section: The Public Prosecution Office / Article 124

[...] (2) The public prosecution system is composed of the General Prosecution Office, territorial prosecution offices and specialized prosecution offices. (3) The structure, powers and activities of the prosecution offices are established by law.

Moldova / The Constitution of the Republic of Moldova / Title III: Public Authorities / Chapter IX: Judicial Authority / Third Section: The Public Prosecution Office / Article 125 Article 125

[...] (2) The other public prosecutors are subordinated to the Prosecutor General, and appointed by him.

3. Russia

Russia/Constitution/ Chapter 3. The Federal Structure/Article 71

The jurisdiction of the Russian Federation includes:[...]

n. judicial system, procurator's office, criminal, criminal procedure and criminal-executive legislation, amnesty and pardoning , civil, civil procedure and arbitration procedure legislation, legal regulation of intellectual property; [...]

Russia/Constitution/ Chapter 7. Judicial Power/Article 129

1. The Procurator's Office of the Russian Federation shall form single centralized structure in which procurators are subordinate to superior procurators and the Procurator-General of the Russian Federation. [...]

4. Ukraine**Ukraine / CONSTITUTION OF UKRAINE / Chapter VII Procuracy / Article 122**

Public prosecution of Ukraine is headed by the Prosecutor General of Ukraine.

C. Powers**Armenia / THE CONSTITUTION OF THE REPUBLIC OF ARMENIA / CHAPTER 6 - THE JUDICIAL POWER / Article 101**

In conformity with the procedure set forth in the Constitution and the law on the Constitutional Court the application to the Constitutional Court may be filed by:[...]

7) courts and the Prosecutor General on the issue of constitutionality of provisions of normative acts related to specific cases within their proceedings;[...]

Armenia / THE CONSTITUTION OF THE REPUBLIC OF ARMENIA / CHAPTER 6 - THE JUDICIAL POWER / Article 103

[...]In conformity with the procedure and cases defined by law the Office of the Prosecutor General shall:

- 1) instigate criminal charges and prosecute;
- 2) oversee the lawfulness of preliminary inquiries and investigations;
- 3) present the case for the prosecution in court;
- 4) bring actions in court to defend the interests of the state;
- 5) appeal the judgments, verdicts and decisions of the courts;
- 6) oversee the lawfulness of discharge of penalties and other means of compulsion.

The Office of the Prosecutor General shall operate within the powers granted by the Constitution and on the basis of the law.

1. Azerbaijan**Azerbaijan / CONSTITUTION / Third Section. / Chapter V. Legislative power / Article 96. Right of legislative initiative Article 96. Right of legislative initiative**

I. Right of legislative initiative in Milli Majlis of the Azerbaijan Republic (right to submit for consideration by Milli Majlis of the Azerbaijan Republic drafts of laws and other questions) belongs to deputies of Milli Majlis of the Azerbaijan Republic, the President of the Azerbaijan Republic, Supreme Court of the Azerbaijan Republic, the Prosecutor's Office of Azerbaijan Republic and Ali Majlis of Nakhichevan Autonomous Republic.

II. Drafts of laws or decrees submitted for consideration by Milli Majlis of the Azerbaijan Republic by the President of the Azerbaijan Republic, Supreme Court of the Azerbaijan Republic, the Prosecutor's Office of Azerbaijan Republic or Ali Majlis of Nakhichevan Autonomous Republic, as legislative initiative, are put to the vote as they are.

III. Amendments in such drafts of laws or decrees are introduced by consent of the body which used the right of legislative initiative.

IV. Drafts of laws or decrees submitted for consideration by Milli Majlis of the Azerbaijan Republic by the President of the Azerbaijan Republic, Supreme Court of the Azerbaijan Republic, the Prosecutor's Office of Azerbaijan Republic or Ali Majlis of Nakhichevan Autonomous Republic, as legislative initiative, are put to the vote in Milli Majlis of the Azerbaijan Republic within two months.

V. If draft of the law or decree has been declared by the President of the Azerbaijan Republic, Supreme Court of the Azerbaijan Republic, the Prosecutor's Office of Azerbaijan Republic or Ali Majlis of Nakhichevan

Autonomous Republic urgent, then above specified term shall constitute 20 days.

**Autonomous Republic urgent, then above specified term shall constitute 20 days.
Azerbaijan / CONSTITUTION / Third Section. / Chapter VII. Judicial power / Article 133.
Procurator's Office of the Azerbaijan Republic**

I. Via procedure and in cases specified by legislation, Procurator's Office of the Azerbaijan Republic exercises control over fulfilment and application of laws; in cases envisaged by legislation it undertakes prosecution and carries out investigation; supports state incrimination in the law court; brings in an action in the law court; remonstrates against decisions of law court.[...]

2. Georgia

Georgia / THE CONSTITUTION OF GEORGIA / CHAPTER TWO Citizenship of Georgia. Human rights and Freedoms. / Article 40 Article 40

[...]2. No one shall be obliged to prove his innocence. A burden of proof shall rest with the prosecutor.

3. Moldova

Moldova / The Constitution of the Republic of Moldova / Title III: Public Authorities / Chapter IX: Judicial Authority / Second Section: The Higher Magistrates' Council / Article 122 Article 122 and Article 123

[...] (2) The President of the Supreme Court of Justice, the Minister of Justice and the Prosecutor General shall de jure belong to the Superior Council of Magistrates.[...]

Article 123

The Higher Magistrates' Council in accordance with regulations established in the organization of the judiciary performs the appointments, transfers, promotions of judges, as well as the disciplinary actions against them.

Moldova / The Constitution of the

Republic of Moldova / Title III: Public Authorities / Chapter IX: Judicial Authority / Third Section: The Public Prosecution Office / Article 124

(1) The Office of the Prosecutor General represents the general interests of society and defends legal order, as well as the rights and freedoms of citizens; it also conducts and implements the enforcement of justice and represents the prosecution in courts of law, in conformance with the stipulations of the law.[...]

4. Russia

Russia/Constitution/ Chapter 5. The Federal Assembly/Article 98

1. Members of the Council of the Federation and deputies of the State Duma shall possess immunity during the whole term of their mandate. They may not be detained, arrested, searched, except for cases of detention at the site of crime. They may not be personally inspected, except for the cases envisaged by the federal law in order to ensure the safety of other people.

2. The issue of depriving immunity shall be solved upon the proposal of the Procurator General of the Russian Federation to the corresponding chamber of the Federal Assembly.

5. Ukraine

Ukraine / CONSTITUTION OF UKRAINE / Chapter VII Procuracy / Article 121

- The Procuracy of Ukraine constitutes a unified system that is entrusted with:
- 1) prosecution in court on behalf of the State;
- 2) representation of the interests of a citizen or of the State in court in cases determined by law;
- 3) supervision of the observance of laws by bodies that conduct detective and search activity, inquiry and pre-trial investigation;
- 4) supervision of the observance of laws in the execution of judicial

decisions in criminal cases, and also in the application of other measures of coercion related to the restraint of personal liberty of citizens.

5) supervision over the respect for human rights and freedoms and over how laws governing such issues are observed by executive authorities, bodies of local self-government and by their officials and officers.

**Ukraine / CONSTITUTION OF UKRAINE /
Chapter VIII Justice / Article 129**

[...]. The main principles of judicial proceedings are:

- 1) legality;
- 2) equality before the law and the court of all participants in a trial; · 3) ensuring that the guilt is proved;
- 4) adversarial procedure and freedom of the parties to present their evidence to the court and to prove the weight of evidence before the court; ·
- 5) prosecution by the procurator in court on behalf of the State;
- 6) ensuring the right of an accused person to a defence;
- 7) openness of a trial and its complete recording by technical means;
- 8) ensuring complaint of a court decision by appeal and cassation, except in cases established by law;
- 9) the mandatory nature of court decisions.[...]