

2024 Rule of Law Report - targeted stakeholder consultation

Fields marked with * are mandatory.

Introduction

The annual Rule of Law Report lies at the centre of the Annual Rule of Law Cycle, which acts as a preventive tool, deepening multilateral dialogue and joint awareness of rule of law issues. So far, four editions of the Rule of Law Report have been published in 2020, 2021, 2022 and 2023.

The Commission would like to invite stakeholders to provide contributions to the 2024 Rule of Law Report. This survey provides information on the type of information and topics that will be covered in the 2024 Rule of Law Report, in order to allow stakeholders to provide input. More targeted input may be requested at a later stage of preparation of the 2024 Rule of Law Report, including in the context of country visits, or bilateral contacts.

The 2024 Rule of Law Report will continue to deepen the assessment under the existing four pillars, and will also follow-up on the implementation of the recommendations to Member States, that were issued as part of the 2023 Rule of Law Report. The contribution to be provided should include **(1) information on measures taken to implement the recommendations addressed to the Member State in the 2023 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter and (2) any other significant developments since January 2023^[1] falling under the ‘type of information’ outlined in section II.**

The input should consist of a short summary, if possible in English, covering the areas referred to below. Legislation or other documents may be referenced with a link. Contributions should focus on significant developments since the last Rule of Law Report both as regards the legal framework and its implementation in practice.

[1] Unless the information was already submitted in the input for the previous Rule of Law

* Newly adopted legislation

Reports.

Type of information

The topics are structured according to four pillars: I. Justice system; II. Anti-corruption framework; III. Media pluralism; and IV. Other institutional issues related to checks and balances. The replies could include aspects set out below under each pillar. This can include challenges, current work streams, positive developments and best practices:

A) Legislative developments

- Legislative drafts currently discussed in Parliament
- Legislative plans envisaged by the Government

B) Policy developments

- Implementation of legislation
- Evaluations, impact assessment, surveys
- White papers/strategies/actions plans/consultation processes
- Follow-up to reports/recommendations of Council of Europe bodies or other international organisations
- Important administrative measures
- Generalised practices

C) Developments related to the judiciary / independent authorities

- Important case law by national courts
- Important decision/opinions from independent bodies/authorities
- State of play on terms, nominations and expired mandates for high-level positions (e.g. Supreme Court, Constitutional Court, Council for the Judiciary, heads of independent authorities included in the scope of the questionnaire [2])

D) Any other relevant developments

-

Respondents are free to add any further information, which they deem relevant; however, this should be short and to the point.

Please also indicate whether the developments reported are linked to the implementation of reforms and investments under the RRP, where applicable.

If there are no changes, it is sufficient to indicate this and the information covered in the contributions for the previous Rule of Law Reports should not be repeated.

[2] Such as: media regulatory authorities and bodies, national human rights institutions, equality bodies, ombudsman institutions, supreme audit institutions and, where they exist, transparency authorities.

About you

* I am giving my contribution as

☐ Academic/research institution

☐ Business association

☐ Civil society organisation/NGO

☐ International organisation

☐ Judicial association or network

☐ Media organisation or association

☐ Public authority or network of public authorities

☒ Other

If "Other", please specify

* Organisation name

GENERAL PROSECUTOR'S OFFICE OF THE KINGDOM OF SPAIN

Main Areas of Work

☒ Justice System

X Anti-corruption

π Media Pluralism

π Other

If "Other", please specify

Please insert an URL towards your organisation's main online presence or describe your organisation briefly:

<https://www.fiscal.es/>

Transparency register number

Check if your organisation is in the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making

* Country of origin

Please add the country of origin of your organisation

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© Argentina

© Armenia

© Australia

© Austria

o Azerbaijan

© Bahamas
o Bahrain
o Bangladesh
u Barbados
© Belarus
C¹ Belgium
o Belize
Benin
o Bhutan
o Bolivia
© Bosnia and Herzegovina
© Botswana
o Brazil
u Brunei Darussalam
© Bulgaria
o Burkina Faso
© Burundi
o Cabo Verde
Ü Cambodia
L? Cameroon
O Canada
o Central African Republic
o Chad
o Chile
© China
u Colombia
L? Comoros
© Congo
© Costa Rica
o Côte D'Ivoire

© Croatia
© Cuba
© Cyprus
© Czechia
© Democratic Republic of the Congo
© Denmark
© Djibouti
© Dominica
© Dominican Republic
Ü Ecuador
Ø Egypt
© El Salvador
Ü Equatorial Guinea
O Eritrea
C? Estonia
Ü Eswatini
© Ethiopia
© Fiji
© Finland
© France
© Gabon
© Gambia
© Georgia
© Germany
© Ghana
© Greece
© Grenada
© Guatemala
© Guinea
© Guinea Bissau

© Guyana
© Haiti
© Honduras
© Hungary
© Iceland
© India
© Indonesia
© Iran
© Iraq
© Ireland
© Israel
© Italy
© Jamaica
© Japan
© Jordan
© Kazakhstan
© Kenya
© Kiribati
© Kuwait
© Kyrgyzstan
© Laos
© Latvia
© Lebanon
© Lesotho
© Liberia
© Libya
© Liechtenstein
© Lithuania
© Luxembourg
© Madagascar

© Malawi
© Malaysia
© Maldives
© Mali
o Malta
C' Marshall Islands
Lí Mauritania
Lí Mauritius
O Mexico
Lí Micronesia
Lí Monaco
Lí Mongolia
C? Montenegro
Lí Morocco
Lí Mozambique
G Myanmar
O Namibia
G Nauru
© Nepal
G Netherlands
O New Zealand
Lí Nicaragua
© Niger
O Nigeria
O North Korea
G North Macedonia
G Norway
G Oman
© Pakistan
© Palau

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Lí Republic of Moldova
Lí Romania
Lí Russian Federation
Lí Rwanda
Lí Saint Kitts and Nevis
Lí Saint Lucia
Lí Saint Vincent and the Grenadines
Lí Samoa
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© Serbia
© Seychelles
© Sierra Leone
© Singapore
© Slovakia
© Slovenia
© Solomon Islands
© Somalia
© South Africa
© South Korea

© South Sudan

X Spain

© Sri Lanka

© Sudan

© Suriname

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© Switzerland

© Syrian Arab Republic

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© Tanzania

© Thailand

© Timor-Leste

© Togo

© Tonga

© Trinidad and Tobago

© Tunisia

© Turkey

© Turkmenistan

© Tuvalu

© Uganda

© Ukraine

© United Arab Emirates

© United Kingdom

© United States of America

© Uruguay

© Uzbekistan

© Vanuatu

© Venezuela

© Viet Nam

© Yemen

© Zambia

© Zimbabwe

First name

Surname

Email address of the organisation

* Publication of your contribution and privacy settings

You can choose whether you wish for your contribution to be published and whether you wish your details to be made public or to remain anonymous.

- ☐ Anonymous - Only your type of respondent, country of origin and contribution will be published. Organisation name, URL, transparency register number, first name and surname given above will not be published. **To maintain anonymity, please refrain from mentioning the name of your organisation and any details from which your organisation and be identified in the rest of your contribution.**

☒ **Public** - Your personal details (Public Prosecutor's Office of Spain).

- ☐ No publication - Your contribution will not be published. Elements of your contribution may be referred to anonymously in documents produced by the Commission based on this consultation.

☒ I agree with the personal data protection provisions.

[Specific privacy statement targeted stakeholder consultation 2024 rule of law report.pdf](#)

Questions on horizontal developments

In this section, you are invited to provide information on general horizontal developments or trends, both positive and negative, covering all or several Member States. In particular, you could mention issues that are common to several Member States, as well as best practices identified in one Member State that could be replicated. Moreover, you could refer to your activities in the area of the four pillars and sub-topics (an overview of all sub-topics can be found below), and, if you represent a Network of national organisations, to the support you might have provided to one of your national members.

Overview topics for contribution

[List of topics 2024 RoL Report.pdf](#)

Please provide any relevant information on horizontal developments here

5000 character(s) maximum

Questions for contribution

The following four pillars (I.-IV.) are sub-divided into topics (A., B., etc.) and sub-topics (1., 2., 3., etc.). For each of the topics and sub-topics, you are invited to provide (1) information on measures taken to implement the recommendations addressed to the Member State in the 2023 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter of the 2023 Rule of Law Report and (2) any other significant developments since January 2023[3]. Please always include a link to and reference relevant legislation/documents (in the national language and/or where available, in English). Significant developments can include challenges, positive developments and best practices, covering both legislative developments or implementation and practices.

If there are developments you consider relevant under each of the four pillars that are not mentioned in the sub-topics, please add them under the section "other - please specify". Only significant developments should be covered.

Information provided in reply to the first question under each pillar, related to the follow-up to the recommendations, does not need to be repeated in subsequent parts of the questionnaire,

but can be cross-referenced in the subsequent questions, where relevant. All other questions are not limited to the recommendations, but as in previous years, cover the entire scope of the Report.

[3] Unless already covered in the input for the previous Rule of Law Reports.

Member State covered in contribution [only one choice possible]

If you wish to submit information concerning several Member States, please fill in the questionnaire separately for each Member State. There is no limit to the number of contributions submitted by a single participant.

- ☐ Austria
- ☐ Belgium
- ☐ Bulgaria
- ☐ Croatia
- ☐ Cyprus
- ☐ Czechia
- ☐ Denmark
- ☐ Estonia
- ☐ Finland
- ☐ France
- ☐ Germany
- ☐ Greece
- ☐ Hungary
- ☐ Ireland
- ☐ Italy
- ☐ Latvia
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Malta
- ☐ Netherlands
- ☐ Poland
- ☐ Portugal
- ☐ Romania
- ☐ Slovak Republic
- ☐ Slovenia
- ☒ Spain

I. Justice System

Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the justice system (if applicable)

On 30 May 2023, the Congress of Deputies and the Senate were unexpectedly dissolved due to the call for early general elections on 23 July (Real Decreto 400/2023, de 29 de mayo). Several ongoing justice-related bills that were at that time under discussion in Parliament were snappily dropped (e.g. Bill on Procedural Efficiency Measures for the Public Justice Service, Bill on digital efficiency measures for the public justice service, Bill on organisational efficiency measures for the public justice service, Draft law on the right of defence, as well as the international cooperation holistic normative package for the amendment of the Judiciary Act on the reciprocity principle, the Criminal procedure Code on undercover agents or the Mutual recognition instruments law aimed at adapting this domestic compilation to EU Regulation 2018/1805, as well as the bill on the joint investigation teams, or the Bill for a stand-alone law against THB).

After last year's poll a new Spanish Parliament was set up on the 17th of August. Afterwards, the 17th of November, the President of the Government was appointed and on the 20th of November, a new Spanish Government was formed. Subsequently, a new process for the appointment of the Spanish Prosecutor General was triggered and the Prosecutor General was renewed and he finally took the office last 23 January 2024.

In 2023 a new law implementing the Directive (EU) 2019/1937 of 23 October 2019 -so-called the Whistleblowing Directive-, was adopted by mean of Law 2/2023 of 20th February 2023, on the protection of persons who report breaches of the law and on combating corruption (published in the Official State Gazette on the 21st February 2023) .

In addition, Royal Decree-Law nº 6/2023 of 19th December, approving urgent measures for the implementation of the Recovery, Transformation and Resilience Plan for the public service of justice, the civil service, local government, and patronage, has been adopted. This regulation contains measures that were contained in the bill on digital efficiency and procedural efficiency measures.

5000 character(s) maximum

A. Independence

Appointment and selection of judges, prosecutors and court presidents (incl. judicial review)
(*The reference to 'judges' concerns judges at all level and types of courts as well as judges at constitutional courts*)

The procedure aimed at selecting candidates for becoming prosecutors is based on a recruitment through a specific exam or a competition. Article 42 of Law 50/1981 on the Organic Statute of Public Prosecutors (hereinafter OSPP) set out the following: "To access the Public Prosecution Service (hereinafter PPS), duly qualified candidates must pass an open competitive examination, which will be same and shared with Judiciary candidates, under the provisions laid down in the Organic Judiciary Act Law 6/1985 (namely Articles 301 to 315 of the hereinafter Judiciary Act). Article 43 of the OSPP also establishes that becoming a member of the PPS is open to any Spanish citizen of legal age (18 years old) who hold a University Degree in law and successfully pass a free competition for access to the Spanish PPS. All candidates must submit a security clearance by mean of an ordinary clean criminal records certificate issued by the Ministry of Justice.

In addition, new Public Prosecutor's Rules of Procedure, adopted the 3rd of May 2022 by mean of the Royal Decree 305/2022 (hereinafter the "Reglamento"), set up a more detailed recruitment rules in Article 25 (in line with Article 301 of Judiciary Act), namely:

1. Entry into the PPS will be based on the constitutional principles of equality, merit, and capacity.
2. The selection process will be carried out through a public call and will guarantee, with objectivity and transparency, equal access to it for all citizens, provided that the necessary

conditions and aptitudes are met, as well as such as the suitability and professional sufficiency of the people selected to perform the functions of the PPS.

3. Entry into the PPS will occur through the first category of "abogado fiscal", by passing a free competition and a selective theoretical and practical course carried out at the Centre for Legal Studies,

4. Those candidates who have successfully passed the exams will be in the position to opt for one or another career (PPS or Judiciary), in accordance with the scoring set by the Selection Commission established by article 305 of the Judiciary Act.

Candidates opting for becoming a Public Prosecutor must then pass an additional training course at the Centre for Legal Studies in Madrid, while those opting to become a Judge must pass a training course at the Judiciary School in Barcelona. After this training period the first ones would become members of the Spanish PPS by taking the corresponding oath and are eventually assigned a position. According to Articles 26 and 27 of the 2022 Reglamento, applicants who successfully have passed the competition exams and opted for the PPS will enter in the Centre for Legal Studies in order to take the initial training course which is a theoretical-practical course of a selective nature. All applicants who have passed the competition will be considered trainee-officials from the moment they chose to be a Public Prosecutor instead of a member of the Judiciary. The indicated course will include a multidisciplinary training program and a period of supervised internships in different Public Prosecution Offices, arranged by the Prosecutor's General Office in collaboration with the Centre for Legal Studies. The organization and duration of the internship period, its circumstances and the destination of the intern Public Prosecutors will be established by the Centre for Legal Studies, in accordance with the proposal of the Prosecutor's General Office, which must be formulated taking into consideration the organization and the service needs of the different prosecutor's offices. During the period of supervised internships, the intern Public Prosecutors will perform assistance and collaboration functions with their tutor Prosecutors.

In addition, Article 27 of the 2022 Reglamento provides that candidate prosecutors who do not

pass the course and those who could not take or complete the given course due to duly justified force majeure may repeat it in the next call for a competition, which they would join with the new promotion, in the terms provided in the Statute of the Autonomous Body, so-called Centre for Legal Studies, approved by Royal Decree 312/2019, of the 26 April. If these candidates fail this second course too, they will be definitively excluded and will be deprived of any expectation of entering into the Public Prosecutor Service based on the selective examinations they had passed (Likewise Article 309 of the Judiciary Act in relation to the Judiciary). So, failure to complete the training course is the only reason for not appointing a candidate as Public Prosecutor and the reasons are linked to the final marking outcome. This result is public but is not under the remit of the appointing authority. In accordance with Article 28 of the Reglamento adopted in 2022 candidate prosecutors are appointed by an Order issued by the Minister of Justice for a lifetime on the basis of the proposal made by the Prosecutor General. They may only be removed from office in the cases provided by law (i.e. as a result of disciplinary proceedings for serious breaches of their duties). So, Minister of Justice does not have the power to reject the appointment of candidate prosecutors and has an obligation by law to follow the proposal to appoint them. Therefore, if a candidate prosecutor is not appointed, it is not up to the appointing authority to provide him/her any reasoned explanation, but he/she can request a review of the resolution on the final marking outcome before the Centre of Legal Studies and eventually appeal this resolution before the Administrative Court.

2022 Reglamento establishes the principle of publicity in the Official Journal (or through other publication means) of the resolutions issued by the Prosecutor General regarding appointments, removals and detachments, as well as the summonses or notices that according to the applicable regulations must be published. In addition, we can find in this piece of legislation a reference to the definition of PPS, and inter alia, its constitutional nature; the guiding principles of the institution and the determination of the legal framework; the various categories that make up the prosecutorial career and the regulation of the acquisition and loss of the status of member of the prosecution service. Also, a more detailed and comprehensive regulation of the different administrative situations, leaves, duties and rights, reassignment measures and substitutions, incompatibilities, prohibitions, and responsibilities of the members of the prosecution service.

Irremovability of judges, including transfers, (incl. as part of judicial map reform), dismissal and retirement regime of judges, court presidents and prosecutors (incl. judicial review)

In accordance with article 28 of the Reglamento adopted in 2022, Prosecutors are appointed by an Order issued by the Minister of Justice for a lifetime on the basis of the proposal made by the Prosecutor General. They may only be removed from office in the cases provided by law (i.e. as a result of disciplinary proceedings for serious breaches of their duties).

Forced transfers are regulated as a disciplinary sanction that can only be imposed in cases of very serious infringements and after the mandatory disciplinary procedure, which is regulated in detail in the Reglamento of 2022.

Decisions in disciplinary proceedings may be appealed before the contentious-administrative jurisdiction.

As regards to the retirement of public prosecutors, Article 32 (2) of the 2022 Reglamento states that: «Active membership of the Public Prosecutor's Office also ceases by virtue of retirement. Prosecutors may only be retired due to age or permanent incapacity to perform their functions. Retirement due to age may be compulsory or voluntary and shall be agreed in the same cases and under the same conditions as those set out in Organic Law 6/1985, of 1 July, for Judges and Magistrates and under the terms established in Title VIII of these regulations».

Organic Statute of Public Prosecutors:

<https://www.fiscal.es/documents/20142/100991/Estatuto+org%C3%A1nico+del+Ministerio+Fiscal+%28Ingl%C3%A9s%29.pdf/6dac20a0-57d2-d865-cd6b-f63c7f924c84?t=1634641814834>

<https://www.fiscal.es/documents/20142/98209/Estatuto+org%C3%A1nico+Ministerio+Fiscal.pdf/cc1c3b43-e8e9-974e-8256-d2c1968cfc51?t=1613988043672>

Royal Decree 305/2022, Public Prosecutor's Rule of Procedure (Reglamento)

https://www.fiscal.es/documents/20142/100991/Reglamento+del+Ministerio+Fiscal+%28Real+Decreto+305_2022%2C+de+3+de+mayo%29.pdf/82cf2e60-3187-7178-f6fc-

5000 character(s) maximum

Promotion of judges and prosecutors (incl. judicial review)

While regular promotion affecting the vast majority of posts is predominantly based on seniority, being the seniority the main criterion for promotion of prosecutors, this is not the case for the rest of discretionary posts related to the highest functions of the Prosecution Service where qualities and merits play a role. Inter alia Chief Prosecutors, including those chairing the higher court's PPOs or Specialised PPOs, as well as Prosecutor General Deputy prosecutors who are the Head of the specialised prosecution Units, are appointed by the Government on a proposal submitted by the Prosecutor General. For those posts the Prosecutor General must previously consult the Prosecution Council (collegiate and representative body of public prosecutors) and the requirements concerning length of service/professional experience gained in the PPS, merit and capacity must be objectively assessed and respected, as provided for in the OSPP.

To increase the transparency of the selection procedure, as of December 2022, the Prosecutor General decided to interview all candidates for discretionary positions taking advantages of current online connections in order to avoid the discrimination that could stem from the unbalance previous case scenario where some of them could have the possibility of being interviewed and others not (mainly candidates outside Madrid) bridging the existing territorial gap. In addition, it was decided to record the sessions of the Prosecution Council to increase the transparency of these hearings.

5000 character(s) maximum

Allocation of cases in courts

5000 character(s) maximum

Independence (including composition and nomination and dismissal of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

5000 character(s) maximum

Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil (where applicable) liability of judges (incl. judicial review)

As already indicated in the report submitted in 2023, by Decree of 20 October 2022, the “Promoter of the Disciplinary Action” was newly appointed, after a competitive selection process and following a report by the Public Prosecutor's Council, in compliance with the provisions of the 2022 Reglamento. The Promoter of the Disciplinary Action has his own legal status and has taken up the exercise of the disciplinary function as a matter of course, having completed the first cases with complete independence.

The setting up of a brand new Spanish Public Prosecutor's Commission of Ethics was also noted in the report submitted by the Spanish General Prosecutors Office to the Commission last year. The Commission of Ethics is composed of seven members, six from the prosecutor's career and a seventh who must be "a person of recognised prestige and proven track record in the academic world of ethics, philosophy of law or moral philosophy". The election of the Commission's members within the PPS is voted by all public prosecutors in active service. The mandate of the Commission's members is four years. The Committee meets as often as the needs of the service and the volume of consultations make advisable and, in any case, must meet at least quarterly. Resolutions are adopted by simple majority.

Once the consultations have been received, they must be resolved within two months. Opinions are issued in accordance with the Code of Ethics of the Public Prosecutor's Office and may not contain reproaches or personal assessments.

Decree of the “Promoter of the Disciplinary Action”:

<https://www.boe.es/buscar/doc.php?id=BOE-A-2022-16905>

Code of Ethics of the Public Prosecutor's Office:

<https://www.fiscal.es/documents/20142/3633648/C%C3%B3digo+%C3%89tico+del+Ministerio+Fiscal.pdf/ed3b2cf8-e0da-c81b-ff4a-22f41cd0d2be?t=1679572859505>

Spanish Public Prosecutor's Commission of Ethics (organisational and operational rules):

<https://www.fiscal.es/documents/20142/3633648/Reglas+de+organizaci%C3%B3n+y+funcionamiento+de+la+Comisi%C3%B3n+de+%C3%89tica+Fiscal.pdf/834cb225-0a0e-1ad2-45d6-8e6dd4df852a?t=1686583651225>

5000 character(s) maximum

Remuneration/bonuses/rewards for judges and prosecutors, including observed changes (significant and targeted increase or decrease over the past year), transparency on the system and access to the information

5000 character(s) maximum

Independence/autonomy of the prosecution service

In accordance with article 124 (4) of the Spanish Constitution, Prosecutor General is appointed and removed by the King, on proposal of the Government, after consulting the General Council of the Judiciary (hereinafter CGPJ).

In 2007, the OSPP was amended (by mean of Law No. 24/2007) to introduce additional safeguards enhancing the independence of the Prosecutor General.

*Namely the legal regime **for appointing and dismissing the Prosecutor General** was modified respecting the legal framework laid down in Article 124 of the Spanish Constitution of 1978. Further amendments followed in 2009 to provide for greater assurances of autonomy to the prosecution service:*

Firstly, the choice must be made from among well-known Spanish jurists with more than 15 years of active professional service.

Secondly, the mandate of the Prosecutor General is limited to four years (non-renewable) adding a closed list of objective and motivated causes for removal and leave of office (Article 31 OSPP). So that the Government has no powers to discharge the Prosecutor General solely at its discretion.

Thirdly, the initial executive's proposal for the appointment of a Prosecutor General, must be subject to consultation with the CGPJ, which checks that the proposed candidate meets the legal requirements (well-known Spanish jurists with more than 15 years of active professional service) and then the candidate must appear before the relevant Committee of the Spanish Parliament before the final appointment by the King.

Finally, the Supreme Court can exercise an ex-post control of the legality of the appointment. So, the three Powers of the Spanish State take part in the Prosecutor General appointment process.

It should be noted that the fact that the Prosecutor General's mandate is not renewable is an important guarantee for his /her independence as pointed out by in the GRECO evaluation report on Spain (dated in December 2013). The non-renewability in office, is aimed to vanish a subliminal and latent desire to please the Executive originated by the approaching term of office.

As regards to the reasons for the dismissal of the Spanish Prosecutor General, Article 31 of the Spanish OSPP states the following:

One. The Prosecutor General's term of office will be four years. In the interim, dismissal could be based on:

- a) his/her own request;*
- b) due to his/he involvement in conflicts of interest or prohibitions legally established;*
- c) due to incapacity or illness that disqualifies him/her for the office;*
- d) gross or repeated dereliction of duties;*
- e) when the Government that nominated him/her leaves power.*

Two. The mandate of the Prosecutor General cannot not be renewed, except where the he/she has been in office for less than two years.

Three. The existence of the causes for dismissal mentioned in paragraphs a), b), c) and d) of the previous item shall be assessed by the Council of Ministers.

Four. The conflicts of interest established for the other members of the Prosecution Service will also be applicable to the Prosecutor General, without prejudice to any powers or duties conferred thereon by other provisions of equal rank.

Five. The Prosecutor General's remuneration will be identical to that of the Chief Justice of the Supreme Court.

Six. If the Prosecutor General is appointed from among prosecutors, the appointment will entail a special-service leave during the mandate.

The 2022 rule of law report recommended that Spain strengthen the status of the Prosecutor General, especially in terms of decoupling the mandate of the Prosecutor General from that of the Government over time.

The coincidence of the duration of the term of office is a consequence of the constitutional model of the Public Prosecutor's Office established in Article 124 of the Spanish Constitution, which configures the proposal for the appointment of the Prosecutor General as a power of the Executive which, according to Article 97 of the Spanish Constitution, directs domestic and foreign policy as well as criminal policy.

Therefore, the debate on the untying of the Prosecutor General's mandate also involves a discussion on the specific model of the Prosecutor's Office as set out in the Constitution. This debate requires a deeper reflection on changing the model established by the Constitution, which, although possible and legitimate, must take into account that it would mean rethinking the system as a whole and its balances. Consider, for example, the fact that, according to the organic statute, the various positions in the Public Prosecutor's Office that are directly appointed by the Prosecutor General also cease with him.

On the other hand, as far as communications between the Government and the Prosecutor General are concerned (written communications), it should be recalled that this was the content of the amendment presented on 16 March 2022 by the Socialist Group to the bankruptcy law bill, aimed at amending article 8 of the OSPP including a new regime for the communications between the Government and the Prosecutor General to be done, in any case, in writing and duly registered. This proposal was welcomed by the European Commission in its 2022 report on the state of the rule of law in the EU -and we quoted-: «In

April 2022, legal amendments were tabled in Parliament providing that relations between the Government and the Prosecutor General will be further regulated. When implemented, this could be considered as a welcome development, as it would reply to concerns raised in the 2020 Rule of Law report and also by GRECO».

However, after having been the subject of great public and media debate, it was not finally passed by the Spanish Parliament.

In any case, it must be assumed that the provision of article 8 OSPP establishes the general framework for institutional relations, but in no case it does recognise the Government's ability to interfere in the actions of the Public Prosecutor's Office, which can only act "ex officio or at the request of the interested parties" (arts. 124 CE and 1 of the OSPP). With that in mind, and within the framework of regular institutional relations, the Government can only "interest" a positive - promote - relevant action, exclusively "for the defence of the public interest". For greater safeguards, the Prosecutor General shall, before deciding on the feasibility or appropriateness of the proceedings, hear the Board of Deputy Chamber Public Prosecutors.

However, it must be highlighted that there has been progress in consolidating the principle of autonomy of the Public Prosecutor's Office and the public perception of said principle, as well as the efficiency and effectiveness of its operation through different measures, as noted in the report submitted in 2023:

1. The acts and provisions of the Prosecutor General are now directly appealable before the Contentious-Administrative Chamber of the Supreme Court, without being subject to *a priori* review before the Executive (art. 12.1.b Law of Contentious-Administrative Jurisdiction).

2. In the area of budgetary autonomy, the Prosecutor General's Office has been developing proposals with the aim of promoting the creation of a specific section within the General State Budget that includes a specific line of budget of the Prosecutor General's Office as the direction and management body of the Public Prosecutor's Office, both for the definition of its needs and for the execution through its own means of the assigned budget. However, this measure is pending has not been implemented.

3. In the area of organizational autonomy and at the initiative of the Procurator General's Office, since December 29, 2022, the Prosecutor General does not have to request authorization from the Ministry of Justice for the transfer of prosecutors in matters under his remit of competences (so-called service commissions). Organisational autonomy was also

strengthened by the approval of Royal Decree 147/2022 of 22 February, which regulates the system of substitutions and support or reinforcement measures in the Public Prosecutor's Office.

4. In terms of training autonomy, although the execution of the training plans corresponds to the Legal Studies Centre, the strategic design of the contents of the initial and continuing training plans corresponds to the General Prosecutor's Office. The Public Prosecutor's Office decides the strategic objectives, priorities, and training content, with the aim of guaranteeing specialized, comprehensive and high-quality training for prosecutors. All members of the Public Prosecutor's Office, as well as professional associations of prosecutors, participate in the preparation of training plans, so that their needs and requests are taken into account; the final design of the training plans corresponds to the Technical Cabinet of the Procurator General's Office. The aim is to create a training centre independent of the Ministry of Justice.

5. The Reglamento of 2022 regulates the disciplinary procedure of prosecutors and the promoter of disciplinary action. By Decree of 20 October 2022, the promoter of the disciplinary action was appointed, after a competitive process and following a report by the Public Prosecutor's Council, in compliance with the provisions of the Regulations on the Prosecutor's Career. The promoter of the disciplinary action has his own legal status and has taken up the exercise of the disciplinary function as a matter of course, having completed the first cases with complete independence.

6. In 2022, an agreement was signed with the Ministry of Justice and the Public Prosecutor's Office regarding the prevention of occupational risks. Through this agreement, the National Health and Safety Commission of the Public Prosecutor's Office was created.

7. The Reglamento created the position of Director of Communication of the Procurator General's Office, freely appointed and relieved by the Procurator General, to carry out functions of trust or special advice in matters of institutional communication and information relations.

8. In terms of relations with citizens, the prosecutor's office offers, through its own transparency portal, the budgetary, statistical and administrative information required by Spanish regulations regarding transparency. Likewise, it autonomously manages all information required by citizens referred to the Public Prosecutor's Office. The Public Prosecutor's Office participates, as a body of constitutional relevance, in the analysis of the

proposals for the modification of the current Transparency Law, for the inclusion of the Prosecutor's Office expressly in the scope of application of the law.

Safeguards for the independence of the Prosecutor General and the Public Prosecutors' functional autonomy

Article 8 (2) of OSPP provides that the Government may ask the Prosecutor General to promote before the Courts appropriate actions in order to defend the public interest". Even in this concrete and limited case scenario, initially linked to the implementation of the criminal policy, "The Prosecutor General, after consulting the Board of Deputy Prosecutors, could decide on the feasibility or suitability of the requested actions and submit his/her decision in a reasoned manner to the Government. In any case, the decision adopted shall be notified "to whom made the request." So, the way the Executive could refer a general request to the Prosecutor General has a legally provided "check & balance" mechanism (put in place in the 2007 amendment of the OSPP law) that allows the prosecutor General to reply in a reasoned and transparent manner any possible unlawful request fulfilling the highest standards of independence in line with EUCJ recent case-law and Recommendation Rec(2000)19 of the Council of Europe on transparency of communication between the Government and the public prosecution.

On the other hand, as regards to the "ad intra" functional autonomy of Spanish PPs when they are carrying impartial investigations and bringing cases to Court, PPs may not receive orders or indications concerning how to discharge their functions except from their hierarchical superiors (Article 55, OSPP). Although ECJ case-law also clearly held that the requirement of independence does not prohibit any internal instructions within the PPO given to public prosecutors by their superiors on the basis of the hierarchical relationship underpinning the functioning of the PPS, let us underline how the functional autonomy of the Spanish PPs has been also enhanced "ad intra" with the mandatory involvement of the Board of Deputy Prosecutors (Junta de Fiscales Jefes de Sala), as High Level Advisory Body of a technical nature chaired by the Prosecutor General and formed by highest ranked prosecutors, whenever the Prosecutor General instructions would be questioned or -likewise- when a concrete Chief Prosecutor's order in connection with ongoing cases is questioned by the Public Prosecutor in charge of the case concerned as he/she considers the order contrary to law or wrongful. In these cases, the Prosecutor could challenge the order by notifying the chief prosecutor in a reasoned report. The chief prosecutor, after consulting the relevant board of prosecutors (at the correspondent PPO) decides whether or not to ratify the instruction/order. If s/he confirms the instruction/order, it must be done in a reasoned, written form expressly

relieving the recipient of any liability stemming from his/her performance or else decide to entrust the matter to another public prosecutor (Article 27 of OSPP).

Furthermore, public prosecutors remain free to orally submit before the court any legal arguments of their choice even if they are under a duty to reflect in writing the instructions received in a given specific case (Article 25, Law 50/1981). As GRECO Report echoes, these provisions are in line with the requirements of Recommendation Rec (2000)19. Moreover, the hierarchical powers of chief prosecutors are to be framed in a broader structure and counterbalanced by the action of the corresponding Board of Deputy Prosecutors (Junta de Fiscales de Sala). So, internal mechanisms are in place to safeguard the functional autonomy of any Spanish Public Prosecutor ensuring that instructions are made with adequate guarantees of transparency and equity despite of the hierarchical principle fully in line with the collegiate, and essentially judicial nature of this body bounded by the law.

Currently, the Prosecutor General has prepared a series of instructions (orders) to increase the individual autonomy of prosecutors. The processing of these instructions will start shortly, as the Prosecutor General has taken his office last 23th January.

Its focus will be on strengthening guarantees, improving the decision-making and criteria formation system of the Public Prosecutor's Office, and providing greater transparency, while ensuring the personal autonomy of prosecutors.

It will be developed, therefore, through the corresponding mechanisms such as accountability, the system for issuing orders and instructions, the system for referrals and substitutions or the Public Prosecutor's right to disagree with a given order issued by his/her superiors, guaranteed to all public prosecutors in Article 27 of the OSPP.

Agreement with the Ministry of Justice and the Public Prosecutor's Office regarding the prevention of occupational risks:

<https://www.fiscal.es/documents/20142/295269/Convenio+de+colaboraci%C3%B3n+entre+el+Ministerio+de+Justicia+y+el+Ministerio+Fiscal+en+materia+de+prevenci%C3%B3n+de+riesgos+laborales.pdf/82cd6a2f-6cd9-c0a4-8712-c43212fc1829?t=1645522464318>

Order delegating powers:

<https://www.boe.es/buscar/doc.php?id=BOE-A-2022-23722>

Independence of the Bar (chamber/association of lawyers) and of lawyers

5000 character(s) maximum

Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

5000 character(s) maximum

B. Quality of justice

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section

2)

Accessibility of courts (e.g. court/legal fees, legal aid, language)

Training in legal language and the rules of style of the Public Prosecutor's Office is another of the fundamental pillars of the Training Plan 2024 of the Public Prosecutor's Office.

Since the Prosecutor General's Office signed the so-called *General Protocol of collaboration for the promotion of a modern legal language and accessible to the public*, on 11 March 2021, an institutional commitment was made to promote the language training for the members of the Public Prosecutor's Office. Public recognition of good practices, the approximation of best practices, bringing legal language closer to the public, the standardisation of legal documents, as well as any other actions in this field, with the aim of modernising and clarifying the legal language, making it accessible and comprehensible to the citizens.

A module on communication and prosecution has also been introduced as there is a growing interest in fostering effective legal communication which meets the criteria of technical rigour and clarity, but which is at the same time understandable, respectful, and empathetic. In short, communication in tune with the times and in line with international standards of legal clarity.

In this respect, there is a specific module in initial training dedicated to legal language and the style guide of the Public Prosecutor's Office.

In the frame of Public Prosecutor's continuous training, different training activities have been

organised in this area (e.g, Modernisation of legal language and oratory; communication workshop for the Public Prosecutor's Office; techniques of verbal and gestural expression for the jury procedure).

At the same time, the Public Prosecutor's Office is working to facilitate access to justice for certain groups, such as people with disabilities.

As regards to the raising awareness campaign on the role of the PPO through the "Accessible Prosecutor's Office" project, disseminates information of the Prosecutor's Office closer to citizens, facilitating the universal accessibility of our website www.fiscal.es , in line with the basic principle that full knowledge of rights is an essential prerequisite for its exercise.

In addition, there are several documents published on the website www.fiscal.es in easy reading format for a better understanding: e.g., guide to access to justice; right to cognitive accessibility in the procedures for the provision of support; information for people with disabilities on the reform of the Civil Code; what is a crime and how to report it; etc.

On the other hand, the Prosecutor's General Office is working on the signing of collaboration agreements with certain entities and groups to facilitate and facilitate their access to justice, e.g., with the Spanish association of people with autism spectrum disorders.

5000 character(s) maximum

Resources of the judiciary (human/financial/material)

(Material resources refer e.g. to court buildings and other facilities. Financial resources include salaries of staff in courts and prosecution offices.)

To date (2024), there are 2,785 prosecutors in Spain, 66,6 % of whom are women.

If all management positions are, taken into account both territorial and central bodies, 45.16% are occupied by women.

These data are very encouraging, since the percentage of women has increased more than seven points compared to 2019 (38% women).

It is worth highlighting the approval of Royal Decree 46/2024, of 16 January, which modifies the staffing table of the Public Prosecutor's Office in order to adapt it to existing needs.

By means of this Royal Decree, 219 third category posts are converted into second category posts, in the organic staff of the Public Prosecutor's Office, approved by Royal Decree 311/2023, of 25 April, which modifies and expands the organic staff of the Public Prosecutor's Office to adapt it to existing needs.

5000 character(s) maximum

Training of justice professionals (including judges, prosecutors, lawyers, court staff, and prosecution offices).

The Prosecutor General's Training Plan is drawn up every year by the Prosecutor General's Office, considering the suggestions and proposals made by of all public prosecutors, specialised prosecutors, and Prosecutors posted at special PPOs (anti-corruption and anti-drugs), and the National Court Prosecutor's Office.

After each training activity, a survey of participants is carried out in order to guarantee the quality of the contents, the materials distributed and the capacity and knowledge of the speakers, as well as their organisation.

The evaluation of the participants in training courses is important when it comes to agreeing on the repetition of these courses in the following years.

Both the evaluation criteria for initial training and the selection criteria for continuing training are published in the Training Plan.

The principles that inspire the Training Plan are training as a right and a duty; equal opportunities; planning; transparency; participation; decentralisation for work compatibility and family reconciliation.

The strategic axes of the Training Plan:

1. Training in gender perspective and equality.
2. Training in the fight against corruption and organised crime.
3. Training in modernisation, change management and leadership.
4. Training in transparency, communication and ethics.
5. Training in the new model of criminal procedure. The investigating prosecutor.
6. Training for specialisation.

7. Training in human rights, the rule of law, comparative, European and international law. New models of justice: mediation, restorative justice and the role of compliance.

In the field of training, recently, agreements have been signed between the General Prosecutor's Office and different organisations, universities and institutions, e.g.:

Collaboration agreement between the Generalitat Valenciana, the University of Valencia and the Prosecutor General's Office, for the development of the University Chair for the application of statistical, economic and machine learning methodologies for the detection of financial crime and money laundering.

Agreement between the State Tax Administration Agency and the Prosecutor General's Office on training, research and publications.

Collaboration agreement between the Public Prosecutor's Office and the Office for the Prevention and Fight against Corruption in the Balearic Islands.

Collaboration agreement between the Public Prosecutor's Office and the Andalusian Office against Fraud and Corruption.

Collaboration agreement and protocol of action between the Public Prosecutor's Office and the Agency for the prevention and fight against fraud and corruption of the Region of Valencia.

Collaboration agreement and protocol of action between the Public Prosecutor's Office and the Anti-Fraud Office of Catalonia.

Collaboration agreement between the Public Prosecutor's Office and the Provincial Treasury of Bizkaia on training, research and publications.

There has also been a firm commitment to online courses and webinars, facilitating access to training for a greater number of prosecutors and favouring work-life balance.

Although the execution of the training plans corresponds to the Legal Studies Centre, the strategic design of the contents of the initial and continuing training plans corresponds to the General Prosecutor's Office. The Public Prosecutor's Office decides the strategic objectives, priorities and training content, with the aim of guaranteeing specialized, comprehensive and high-quality training for prosecutors. All members of the Public Prosecutor's Office, as well as professional associations of prosecutors, participate in the preparation of training plans, so that their needs and requests are taken into account; the final design of the training plans corresponds to the Technical Cabinet of the Procurator General's Office. The aim is to create a training centre independent of the Ministry of Justice.

Decree of the Prosecutor General approving the training plan 2024:

[https://www.fiscal.es/documents/20142/213690/DECRETO+FGE+PLAN+DE+FORMACION.](https://www.fiscal.es/documents/20142/213690/DECRETO+FGE+PLAN+DE+FORMACION)

[pdf/10ad1b0a-8a34-9ced-006a-a5e4d9375c3a?t=1696332434565](https://www.fiscal.es/documents/20142/213690/Plan+de+Formaci%C3%B3n+de+la+Carrera+Fiscal+2024.pdf/280b7f7d-35ec-1a8b-5bf4-9b3600f3738b?t=1696332434565)

The Prosecutor General's Training Plan 2024:

<https://www.fiscal.es/documents/20142/213690/Plan+de+Formaci%C3%B3n+de+la+Carrera+Fiscal+2024.pdf/280b7f7d-35ec-1a8b-5bf4-9b3600f3738b?t=1696332407235>

The Prosecutor General's Training Plan 2023:

<https://www.fiscal.es/documents/20142/293068/PLAN+DE+FORMACIO%CC%81N+2023.pdf/11a40105-30b2-f9a5-59ac-3786e35dfaf5?t=1665994787019>

5000 character(s) maximum

Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, procedural rules, access to judgments online)

In addition to the measures approved in the field of digital efficiency under Royal Decree-Law 6/2023 of 19 December, approving urgent measures for the implementation of the Plan for the Recovery, Transformation and Resilience of the public service of justice, public service, local administration and patronage, as far as the Public Prosecutor's Office is concerned, the Decree of the Prosecutor General of 18 July 2023 creating the electronic headquarters of the Public Prosecutor's Office should be noted.

Until that moment, the Office of the Prosecutor had a web portal that allowed access to published information via the Internet. However, it did not have an electronic office that would allow for a secure framework for communication and interaction with citizens and professionals.

The electronic headquarters of the Public Prosecutor's Office, based on the principles of transparency, publicity, responsibility, quality, security, availability, accessibility, neutrality and interoperability, is configured as its own headquarters, not derived or as a sub-headquarters of another that is owned by an Administration or public body, which is a reflection of the functional autonomy that constitutes a basic principle of our institution.

In this way, the technical means for the development and technological management of the electronic office are provided by the Ministry of Justice, in accordance with the powers it holds, with the Public Prosecutor's Office being the owner of the headquarters.

This electronic office will contain all the actions, procedures and services that require authentication mechanisms for citizens, prosecutors and professionals in their relations with the Public Prosecutor's Office in the administrative and governmental sphere. It may also be carried out those others in respect of which it is decided to include them in the headquarters for reasons of transparency, efficiency and quality in the provision of services.

Decree of the Prosecutor General of 18 July 2023 creating the electronic headquarters of the Public Prosecutor's Office:

<https://www.boe.es/buscar/act.php?id=BOE-A-2023-16737>

5000 character(s) maximum

Use of assessment tools and standards (e.g. ICT systems for case management, court statistics and their transparency, monitoring, evaluation, surveys among court users or legal professionals)

The Public Prosecutor's Office has a personnel management dashboard from which it has a complete view of the state of the staff throughout the national territory in real time.

This tool provides information such as staffing levels, vacancies, reinforcements and the administrative situation of all the prosecutors who make up the staff.

On the other hand, although the budget allocation for replacements and reinforcements for members of the Public Prosecutor's Office is included in the budget of the Ministry of Justice, the ordinary management of these is the responsibility of the Procurator General's Office, so that the decision regarding the approval of both replacements and reinforcements is made autonomously by the Procurator General's Office itself.

To this end, it has a fully digitalised management system for the entire national territory.

5000 character(s) maximum

Geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialization, in particular specific courts or chambers within courts to deal with fraud and corruption cases

5000 character(s) maximum

C. Efficiency of the justice system

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section 2)

Length of proceedings

Data on the estimated average duration of judicial proceedings in Spain can be found on the CGPJ website by type of judicial court and type of proceeding.

<https://www.poderjudicial.es/cgpj/es/Temas/Transparencia/Estimacion-de-los-tiempos-medios-de-duracion-de-los-procedimientos-judiciales/>

5000 character(s) maximum

Other - please specify

5000 character(s) maximum

II. Anti-Corruption Framework

Where previous specific reports, published in the framework of the review under the UN Convention against Corruption, of GRECO, and of the OECD address the issues below, please make a reference to the points you wish to bring to the Commission’s attention in these documents, indicating any relevant updates, changes or measures introduced that have occurred since these documents were published.

Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the anti-corruption framework (if applicable)

5000 character(s) maximum

A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

List any changes as regards relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption and the resources allocated to each of these authorities (the human, financial, legal, and technical resources as relevant), including the cooperation among domestic and with foreign authorities. Indicate any relevant measure taken to effectively and timely cooperate with OLAF and EPPO (where applicable)

The relationship between the EPPO and the Spanish Public Prosecutor's Office is fluid and the cooperation close. In the light of the principle of sincere cooperation, the Spanish PPO and the EPPO support and inform each other with the aim of efficiently combatting the crimes falling under the remit of competence of the EPPO. The Spanish Public Prosecutor's Office has exchanged relevant information with EPPO. Indeed, current figures in last Anticorruption PPO's Annual report are very illustrative of the information flow and shows how well this cooperation works in practice.

Conflicts of competence are not unusual, but rather something that could arise between EPPO and national PPOs as it happens every day between national judicial authorities.

It's important to underline that the relationship between EPPO and national PPOs is not based, institutionally speaking, on the supremacy of the first. It is not about one Prosecutor prevailing over the other. Both are prosecutors with different powers and different scope of competences. It is a matter of competence and not a matter of subordination.

As a reflection of this close collaboration, on 17 May 2023, the commission for the monitoring and coordination of relations between the EPPO and the Spanish Public Prosecutor's Office, created by decree of the Procurator General on 27 June 2022, was set up.

Of all the cases brought to the attention of the Anti-Corruption Prosecutor's Office, the following data should be highlighted:

The EPPO has issued a decree to initiate investigation proceedings by exercising the right of call-back in 10 cases.

In 33 cases the EPPO has issued a decree of non-exercise of the right of call-back, in relation to complaints, court cases and investigative proceedings.

The Anti-Corruption Prosecutor's Office has processed the request for information requested by the EPPO to the Superior, Provincial and Area Prosecutor's Offices in relation to complaints, court cases and investigation proceedings on 15 occasions.

The EPPO has issued 27 decrees agreeing to initiate the investigation in relation to complaints, court cases and investigative proceedings, 9 agreeing not to assume jurisdiction and to refer it to the General Prosecutor's Office for assessment and 31 agreeing not to initiate the investigation and to close it.

5000 character(s) maximum

Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption

Regarding anti-corruption prosecutors, they enjoy the measures to safeguard their autonomy that appear included in the OSPP and that have already been explained, from their immobility to the possibility of exercising disagreements with their hierarchical superiors under article 27 OSPP.

Likewise, it should be remembered that the Procurator General is working on a series of instructions that strengthen the autonomy of prosecutors in the exercise of their functions, as already stated.

5000 character(s) maximum

Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators

Regarding the powers of the Procurator General, Circulars are being prepared that are called to form a true doctrine of the Procurator General's Office in matters of combating corruption

and crimes against public administration.

Political corruption undermines the basic principles of democratic regimes, decreasing citizens' trust in their institutions and, therefore, damaging the rule of law itself.

The Prosecutor General's Office wants to reinforce this fight by providing all prosecutors with a complete doctrinal set that facilitates their work in the investigation and prosecution of the most complex criminal phenomena in this area, unifies criteria for action and safeguards an agile and effective response under the Rule of Law. against criminal phenomena associated with corruption and against crimes against public administration. In short, provide prosecutors with the precise doctrinal tools for their actions, ensuring that any attack against public funds has a criminal response and that the Rule of Law avoids any space of impunity.

The training plan provides for a specific module in initial training on corruption crimes and crimes against public administration, as well as another on economic crimes.

Several training activities dedicated to the subject have been organized in 2024, e.g.:

1. Training days for trainers at the ORGA.
2. Crimes against the Public Administration: fraud in administrative contracting.
3. Money laundering: cross-border pursuit of assets.
4. Specialization course in industrial property matters.
5. Introductory course to specialization in economic crimes.
6. Crimes of fraud against Social Security contributions and benefits and crime of subsidy fraud.
7. Specialization course in precursors of toxic drugs.
8. Confiscation in drug trafficking crimes, a topic of special interest to the recent and upcoming changes to European standards.
9. Cross-border crime and Joint Investigation Teams.
10. Course-Stay in the Tax Agency on economic crime and on tax and customs procedures aimed at prosecutors specializing in crimes economic and contentious-administrative.
11. Meetings of specialists in economic crimes.

The General Prosecutor's Office has signed various collaboration agreements in this matter, e.g.:

Collaboration agreement between the Generalitat Valenciana, the University of Valencia and

the Prosecutor General's Office, for the development of the University Chair for the application of statistical, economic and machine learning methodologies for the detection of financial crime and money laundering.

Agreement between the State Tax Administration Agency and the Prosecutor General's Office on training, research and publications.

Collaboration agreement between the Public Prosecutor's Office and the Office for the Prevention and Fight against Corruption in the Balearic Islands.

Collaboration agreement between the Public Prosecutor's Office and the Andalusian Office against Fraud and Corruption.

Collaboration agreement and protocol of action between the Public Prosecutor's Office and the Agency for the prevention and fight against fraud and corruption of the Region of Valencia.

Collaboration agreement and protocol of action between the Public Prosecutor's Office and the Anti-Fraud Office of Catalonia.

Collaboration agreement between the Public Prosecutor's Office and the Foral Treasury of Bizkaia on training, research and publications.

A regional bill is currently before the Balearic Regional Parliament to abolish the Balearic Office for the Prevention and Fight against Corruption, what is worrying.

5000 character(s) maximum

B. Prevention

Measures to enhance integrity in the public sector and their application (including as regards incompatibility rules, revolving doors, codes of conduct, ethics training)

The Prosecutor's Code of Ethics dedicates a chapter to dealing with conflicts of interest.

In addition, the OSPP regulates a strict regime of incompatibilities and prohibitions for prosecutors (articles 57, 58 and 59) and provides for non-compliance as a very serious disciplinary infraction (art. 62 OSPP).

Articles 123 et seq. of the Reglamento are dedicated to regulating in more detail the regime of incompatibilities of prosecutors and the need to request authorization from the Procurator

General's Office in certain activities.

5000 character(s) maximum

General transparency of public decision-making (including rules on lobbying and their enforcement, asset disclosure rules and enforcement, gifts policy, transparency of political party financing)

5000 character(s) maximum

Rules and measures to prevent and address conflicts of interest in the public sector. Please specify the features and scope of their application (e.g. categories of officials concerned, types of checks and corrective measures depending on the category of officials concerned)

5000 character(s) maximum

If available to you, for the three preceding questions, you are also invited to provide figures on their application, such as number of detected breaches/irregularities of the various rules in place and the follow-up given (investigations, sanctions, etc.).

Measures in place to ensure whistleblower protection and encourage reporting of corruption, including the number of reports received and the follow-up given

As mentioned above the Spanish Whistleblowing Law (Law 2/2023, 20 February, on the protection of persons who report regulatory violations and the fight against corruption) has been already adopted implementing Directive (EU) 2019/1937, of 23 October 2019.

5000 character(s) maximum

Sectors with high-risks of corruption in your Member State:

- Measures taken/envisaged for monitoring and preventing corruption and conflict of interest in public procurement

- List other sectors with high risks of corruption and the relevant measures taken/envisaged for monitoring and preventing corruption and conflict of interest in these sectors (e.g. healthcare, citizen /residence investor schemes, urban planning, risk or cases of corruption linked to the disbursement of EU funds, other), and, where applicable, list measures to prevent and address corruption committed by organised crime groups (e.g. to infiltrate the public sector)

5000 character(s) maximum

Any other relevant measures to prevent corruption in public and private sector

5000 character(s) maximum

C. Repressive measures

Criminalisation, including the level of sanctions available by law, of corruption and related offences, including foreign bribery

As the OECD fourth evaluation report (2022) emphasizes the achievements already achieved by Spain since the previous evaluation, including the better regulation of the crime of foreign bribery, fully compliance with 11 recommendations and are partly in line with other 13. and points out a set of good practices, eg: international cooperation in the investigation of these crimes, making prior contacts with foreign authorities and even moving prosecutors to the countries of execution for the best implementation of international assistance; improving communication between the anti-corruption prosecutor's office and SEPBLANC; opening investigation proceedings based on known facts in the execution of passive rogatory commissions.

5000 character(s) maximum

Data on the number of investigations, prosecutions, final judgments and application of sanctions for corruption offences (differentiated by corruption offence if possible) including for

legal persons and high level and complex corruption cases) and their transparency, including as regards to the implementation of EU funds.

In 2022, the Anti-corruption Prosecutor's Office was involved in 841 legal proceedings, compared to 801 in 2021, 761 in 2020, 7446 in 2019, 678 in 2018 or 609 in 2017.

During 2022, 40 new criminal proceedings were initiated and the Anti-corruption Prosecutor's Office filed 59 indictments, 20 more than in 2021. 27 sentences were handed down, of which were convictions and 7 acquittals.

The most frequent offences for which charges were brought were offences against the tax authorities, social security and smuggling, embezzlement offences, administrative malfeasance, money laundering, bribery, and corporate offences.

Available data for 2023 is being compiled for publication in the annual report of the Public Prosecutor's Office.

5000 character(s) maximum

Potential obstacles to investigation and prosecution as well as to the effectiveness of criminal sanctions of high-level and complex corruption cases (e.g. political immunity regulation, procedural rules, statute of limitations, cross-border cooperation, pardoning)

Regarding the challenges related to delays in investigations and prosecutions of high-level corruption cases and the role of the Specialized Anti-Corruption Prosecutor's Office, note that the concern pointed out on the efficiency in handling high-level corruption cases is, in general terms, directly linked to the boarder scenario of the efficiency of the Spanish judicial system and the model of criminal investigation that we have. As a matter of fact, the authority in charge of the investigation and prosecution is the *Juzgado de Instrucción* which is not specialized, frequently overloaded and not always in the best position to carry out this type of criminal proceedings with real speed. Indeed our Criminal Procedure Code is a XIX Century one.

Anti-Corruption Prosecutor's Office's role is to promote justice before the Investigating Judges and Courts. By doing so since 1996 the Anti-Corruption Prosecutor's Office has certainly enhanced and speed up the investigation and prosecution of high-profile corruption cases in

Spain due to its specialization and predominant multi-disciplinary approach. Furthermore, merits of the most relevant achievements in the fight against corruption in Spain during the last 25 years largely belongs to the work of the Specialised anti-corruption PPO.

The Spanish Anticorruption PPO has been a model for the setting up of Specialized PPO in this field in other member States, like in Poland, Romania, Slovakia, Croatia, and non-member States like Albania, ... in many ways, has been a model for the EPPO too.

The length of the investigations is not only a problem in corruption cases. It is also a reality in complex economic offences and organized crime. Anyway, the length of investigations in complex economic criminality related or not with corruption is one of the main concerns and probably the main challenge of the Spanish judicial authorities.

The delay in finishing these complex investigations is due to many different reasons that cannot be easily summarized but are mainly related to the functioning of the Spanish judicial system, as the investigation and prosecution role are legally allocated to the examining magistrate's court.

Among these reasons we can mention:

- Our judicial system. It is not the best one to face the challenges related to the length of investigations and prosecutions in corruption cases. A new Criminal Procedure Code is an urgent need to overcome the old inquisitive model, changing the whole investigation phase prior to the oral trial.
- The investigations in the APPO are really fast. They have a six months or 12 months term for the investigation, exceptionally extended, and then they bring the case to the judge, with a usually very complete charge or complaint and most of proceedings carried out.
- It is then when the problems start. For several reasons:
 - o Plurality of parties: Of defendants, victims, civil parties, popular accusations and, of course, all of them with a bunch of lawyers
 - o Dilatory procedural strategy facilitated by an oversized appeal system in which each and every judicial ruling can be appealed

- The delay in fulfill the mutual legal assistant in cases which almost always depend on international cooperation.
- The delay in finishing the always needed economic experts reports.
- Furthermore, these cases are carried out by non specialized organs, most of them overloaded and not always in the best position to carry out this type of criminal proceedings with real speed. There are specialized bodies to investigate corruption, economic crimes and money laundry in the police, the tax agency, the prosecutors, the lawyers, of course, but we do not have specialized judges and courts in economic issues.
- When the instruction phase is over, then come the delay in the appointment for trial.

For all this, a radical change is needed in the model in which the prosecutor takes up the investigation under completely different parameters.

5000 character(s) maximum

Information on effectiveness of non-criminal measures and of sanctions (e.g. recovery measures and administrative sanctions) on both public and private offenders

5000 character(s) maximum

Other - please specify

5000 character(s) maximum

III. Media pluralism and media freedom

Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding media pluralism and media freedom (if applicable)

5000 character(s) maximum

A. Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

Measures adopted to ensure the independence, enforcement powers and adequacy of resources (financial, human and technical) of media regulatory authorities and bodies

5000 character(s) maximum

Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies

5000 character(s) maximum

Existence and functions of media councils or other self-regulatory bodies

5000 character(s) maximum

B. Safeguards against government or political interference and transparency and concentration of media ownership

Measures taken to ensure the fair and transparent allocation of state advertising (including any rules regulating the matter)

5000 character(s) maximum

Safeguards against state / political interference, in particular:

- safeguards to ensure editorial independence of media (private and public)
- specific safeguards for the independence of heads of management and members of the governing boards of public service media (e.g. related to appointment, dismissal), safeguards for their operational independence (e.g. related to reporting obligations and

the allocation of resources) and safeguards for plurality of information and opinions

- information on specific legal provisions and procedures applying to media service providers, including as regards granting/renewal/termination of licenses, company operation, capital entry requirements, concentration and corporate governance

5000 character(s) maximum

Transparency of media ownership and public availability of media ownership information, including on direct, indirect and beneficial owners, as well as any rules regulating the matter

5000 character(s) maximum

C. Framework for journalists' protection, transparency and access to documents

Rules and practices guaranteeing journalists' independence and safety, including as regards protection of journalistic sources and communications, referring also, if applicable, to follow-up given to alerts lodged with the Council of Europe's Platform to promote the protection of journalism and safety of journalists

5000 character(s) maximum

Law enforcement capacity, including during protests and demonstrations, to ensure journalists' safety and to investigate attacks on journalists

5000 character(s) maximum

Access to information and public documents by public at large and journalists (incl. transparency authorities where they exist, procedures, costs/fees, timeframes, administrative/judicial review of decisions, execution of decisions by public authorities, possible obstacles related to the classification of information)

5000 character(s) maximum

Lawsuits (incl. SLAPPs - strategic lawsuits against public participation) and convictions

against journalists (incl. defamation cases) and measures taken to safeguard against manifestly unfounded and abusive lawsuits

5000 character(s) maximum

Other - please specify

5000 character(s) maximum

IV. Other institutional issues related to checks and balances

Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the system of checks and balances (if applicable)

5000 character(s) maximum

A. The process for preparing and enacting laws

Framework, policy and use of impact assessments and evidence based policy-making, stakeholders'[1] /public consultations (including consultation of judiciary and other relevant stakeholders on judicial reforms), and transparency and quality of the legislative process both in the preparatory and the parliamentary phase [1] *This includes also the consultation of social partners*

5000 character(s) maximum

Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions)

5000 character(s) maximum

Rules and application of states of emergency (or analogous regimes), including judicial review and parliamentary oversight

5000 character(s) maximum

Regime for constitutional review of laws

5000 character(s) maximum

B. Independent authorities

Independence, resources, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions

(Cf. the website of the European Court of Auditors:
<https://www.eca.europa.eu/en/Pages/SupremeAuditInstitutions.aspx#>)

5000 character(s) maximum

Statistics/reports concerning the follow-up of recommendations by National Human Rights Institutions, ombudsman institutions, equality bodies and supreme audit institutions in the past two years

5000 character(s) maximum

C. Accessibility and judicial review of administrative decisions

Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data)

5000 character(s) maximum

Judicial review of administrative decisions:

- short description of the general regime (in particular competent court, scope, suspensive effect, interim measures, and any applicable specific rules or derogations from the general regime of judicial review)

5000 character(s) maximum

Rules and practices related to the application by all courts, including constitutional jurisdictions, of the preliminary ruling procedure (Art. 267 TFEU)

5000 character(s) maximum

Follow-up by the public administration and State institutions to final (national/supranational, including the European Court of Human Rights) court decisions, as well as available remedies in case of no implementation

5000 character(s) maximum

D. The enabling framework for civil society

Measures regarding the framework for civil society organisations and human rights defenders (e.g. legal framework and its application in practice incl. registration and dissolution rules)

5000 character(s) maximum

Rules and practices having an impact on the effective operation and safety of civil society organisations and human rights defenders. This includes measures for protection from attacks – verbal, physical or online –, intimidation, legal threats incl. SLAPPs, negative narratives or smear campaigns, measures capable of affecting the public perception of civil society organisations, etc. It also includes measures to monitor threats or attacks and dedicated support services

5000 character(s) maximum

Organisation of financial support for civil society organisations and human rights defenders

(e.g. framework to ensure access to funding, and for financial viability, taxation/incentive/donation systems, measures to ensure a fair distribution of funding)

5000 character(s) maximum

Rules and practices on the participation of civil society organisations and human rights defenders to the decision-making process (e.g. measures related to dialogue between authorities and civil society, participation of civil society in policy development and decision-making, consultation, dialogues, etc.)

5000 character(s) maximum

E. Initiatives to foster a rule of law culture

Measures to foster a rule of law culture (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, contributions from civil society, education initiatives etc.)

Other - please specify

*As regards to initiatives aimed to foster a rule of law culture within the European Prosecution Services let us underline the proposal made by the Spanish Prosecutor General in his position of Forum member in 17th Meeting of the Consultative Forum of Prosecutors General and Directors of Public Prosecutions of the Member States of the European Unión held at Eurojust premises in The Hague the 5-6 October 2023. This proposal was submitted for discussion in IV closed-doors Session on issues of common interest under the title “**Independence and autonomy of Public Prosecution Services: Need for EU standards**” with the following wording:*

Background.- *Despite the differences of the existing Criminal justice systems and PPO models throughout EU, as highlighted in Opinion nº 18 , an important convergence factor is emerging in recent years grounded on the requirement of the independence of the prosecution services as a prerequisite for the rule of law and the independence of the judiciary. Namely,*

the CJEU in a recent and well-known case-law stated that a Public Prosecutor can only be considered as (EAW's) issuing "judicial authority" if he/she meets the following three criteria: participates in the administration of justice; acts objectively and whether he/she is independent and is not exposed to any risk of being subject, inter alia, to an instruction in a specific case from the executive. However, a decision by a prosecutor issuing an EAW must be subject to judicial review.

The far-reaching impact of the above-mentioned case-law reaches beyond the scope of the application of international judicial cooperation legal instruments and is also reflected in COM's rule of law reports and recommendations. Namely, in the 2022 Rule of Law Report it is recommended to Strengthen the statute of the Prosecutor General, in particular regarding the separation of the terms of office of the Prosecutor General from that of the Government, taking into account (and I quoted) "European standards on independence and autonomy of the prosecution."

As there are no existing EU standards on this particular topic, it seems that this recommendation is generally referred to the non-binding instruments stemming from the Council of Europe aimed at providing a guidance as regards the independence of prosecutors. It is important to realize that these instruments only serve as soft- law standards and may constitute a basis for judicial and prosecutorial reforms in member States but are not EU standards properly speaking.

In Spain, like in many other countries, discussions on the status of autonomy of the Prosecutor General and the independence of the Public Prosecution Service, in general terms, and more particularly regarding the separation of the terms of office of the PG from that of the Government, is a long-standing relevant issue recently triggered in the context of the assessment released by the Commission by mean of the 2022 rule of law Report. As this issue goes far beyond the EUCJ case-law and reach the level of a key-recommendation made to a EU Member State in the framework of the ongoing peer to peer evaluation exercise put in place by the Commission with the above mentioned unspecified reference to "European standards" which are actually issued outside the EU, the Spanish Forum member submits for discussion in this session of the Consultative Forum the necessity to set up our own EU standards of independence and autonomy of EU Public Prosecution services .

Proposal:

Despite there is no single model in the EU for the institutional set up for Public Prosecutions Services, taking into account the current EU scenario where the autonomy and independence of the prosecution services is an essential elements for the good functioning of the criminal justice system and play a key role in the maintenance of judicial independence with relevant implications in the fight against organised crime, corruption and the protection of the EU financial interest , the Spanish Forum member would like to propose the Forum Members to explore the possibilities of assessing the draft of soft-law and non-binding standards that could serve as basis for guidance for objective, reliable, specific and properly updated reference in relation to independence of the EU prosecution services.

The Spanish Member Forum considers this is an opportunity for the Consultative Forum of Prosecutors General and Director of Public Prosecutions of the Member States of the EU to have its own voice and contribute to the ongoing discussions in relation to this topic that deeply affect our core self-identity, nature and role within the European Freedom Security and Justice Area.

This proposal is aimed at gathering updated information on the functioning of Prosecution Services within the EU on different issues at stake. Namely in relation to the status of Prosecutor Generals and the independence of the prosecution service, adjusting existing Council of Europe well-known standards covered by its opinions and recommendations on the role of Prosecutors in the criminal justice system, to the EU genuine case scenario in line with the Union Law and the EUCJ case-law. Therefore, the Consultative Forum, as informal dialogue structure and the most suitable space for EU Public Prosecutors to discuss and find out a common understanding of common issues could be really instrumental offering EU institutions the best shared-best solutions to implement COM given recommendations in rule of law Reports.

Furthermore, this initiative aims to establish our own prosecutorial scoreboard, likewise the Justice scoreboard of the European Council for the Judiciary Network (ECJN), updating the feedback to be published and provided by the EU national Public Prosecution Services on regular basis.

Last but not least, in terms of the Consultative Forum's mandate, the Forum would be best

positioned to contribute with its own experience in the evaluation of the practical application of the affected mutual recognition legal instruments according to the mechanism established in art. 70 TFEU and, eventually, could also actively participate in the “impact assessment” launched by the European Commission in view of the preparation of new legislative initiatives. For this purpose, a methodology for gathering and compiling information from the EU Public Prosecution Services in close cooperation with the internal bodies of the Council and Eurojust could be established. In order to contribute with its experience, the Consultative Forum should work on the basis of the advisory standards stemming from the Council of Europe bodies, and in particular on the CCPE findings which provide a voice and perspective of serving prosecutors throughout Europe, as relevant contextual framework.

Summing up, the Spanish Member Forum invites the Consultative Forum of Prosecutors General and Directors of Public Prosecutions of the Member States of the European Unión to explore the possibilities to start working in this proposal with the administrative support of Eurojust where an ad hoc working group could be set up aimed at discussing and producing an instrument with common standards at EU level on the autonomy and independence of EU prosecution services.

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