

## PORTUGAL\*

### 1. Institutional Setting<sup>1</sup>

“The prosecution service has nationwide jurisdiction and is hierarchically organised. It is organised into four judicial districts and, within those, into smaller jurisdictions (circumscriptions). The prosecution service is represented nationally by the Chief Public Prosecutor, who is head of the prosecution service (Sect. 219 Constitution). In the districts, the service is represented by an Assistant Prosecutor-General. In each district jurisdiction in turn, there are assistant prosecutors directed by prosecutors of the Republic. The prosecution service is organised hierarchically (Sects. 219 Constitution and 76 Statute)<sup>2</sup>. This means that prosecutors have to follow directives, orders and instructions received from their superiors”<sup>3</sup>.

In the PP organization there are five main hierarchical levels: Chief Public Prosecutor; District Public Prosecutor<sup>4</sup> (Chiefs of each of the four judicial districts, in which the judicial organization is divided); General Public Prosecutor (Supreme Court of Justice and coordinating functions) Public Prosecutor (in specialized courts, such as employment and family courts, coordinating functions and High Courts); Public Prosecutor Assistant (lower courts).

The Public Prosecutor Office (PPO) follows the organization of the courts. This means that they are work alongside a court and organized according to workload.

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\* This summary report is based on the Portuguese National Report on *Information and Communication Technology for the Public Prosecutor's Office* written by Joao Paulo Dias and Rui do Carmo available at: [www.irsig.cnr.it/JAM/](http://www.irsig.cnr.it/JAM/).

<sup>1</sup> This section has been integrated with data provided by Eurojustice, *Country Report Portugal*, available at: [www.eurojustice.org/member\\_states/portugal/country\\_report/2811/](http://www.eurojustice.org/member_states/portugal/country_report/2811/).

<sup>2</sup> Statute of the prosecution service, approved by Law No. 47/86.

<sup>3</sup> See Eurojustice, *Country Report Portugal*, available at: [www.eurojustice.org/member\\_states/portugal/country\\_report/2812/](http://www.eurojustice.org/member_states/portugal/country_report/2812/).

<sup>4</sup> This category only exist by the function they perform. After leaving they became again General Public Prosecutor.

There might be several PPs working in the same court. The cases, nevertheless, are distributed individually and only the hierarchic superior can intervene in a case or take over a case. The PP works alone. There is only one national office and four district departments, specializing in the fight against major crime. In these departments there is a team, coordinated by a superior PP.

As cases arrive, they are distributed among all the PPs in the court. If there is only one PP, all the cases will go to him/her. The superior level has the power to advocate a case. It means that, after justifying the decision in the file, the superior has the power to take over the case. In certain courts, there is also a habit of distributing the cases according to field (drug cases goes to one PP, corruption to another, etc.), but this is not common in most of the courts. In the National and District Departments, there is a distribution by specialisation.

The Public Prosecutors apply for positions in any court where their hierarchic position allows, whether it is in a labour, civil, juvenile, administrative or criminal court. There is no obligation to have had any prior training. The criteria by which they will be evaluated are their last inspection report and the length of time they have served in the profession. Public Prosecutors are appointed by the High Council of Public Prosecutors after a competition and admission to the Centro de *Estudos Judiciais* / Centre for Judicial Studies (which is the school for judges and public prosecutors) and approval after a two year training program. The appointment is for life. Once a year candidates apply, and sit a national exam, in order to enter the Centro de *Estudos Judiciais* / Centre of Judicial Studies. The training course lasts for two years. At the end of the course, the students choose whether they want to be judges or Public Prosecutors (there are a specific number of vacancies for judges or PPs established every year). Once you choose one of these careers, you cannot change (unless you apply again to the Centro of Judicial Studies and start over again).

Only a few positions are filled through nomination by the Chief Public Prosecutor or after the agreement of the High Council of Public Prosecutors, for example the four District Public Prosecutors. The National Department for Investigation and Criminal Action and the four District Departments for Investigation and Criminal Action are also nominated by the Chief Public Prosecutors. The other positions in the hierarchy are filled by appointment, as a result of a competition for the vacant positions.

## **2. ICT for Prosecutors**

### *2.1. Governance*

A special group was recently formed to help build up a specific software for PP. This commission is composed of the director of the DIAP of Lisbon (a well

known PP in the fight against crime, with previous experience as Director-Assistant of the Judicial Police), a representative of the Chief Public Prosecutor, a representative of the High Council of PP and the Ministry of Justice. This commission has the responsibility of adapting a software programme that was recently implemented for judges, known as CITIUS, to the specific needs of the PPs.

The Chief Public Prosecutors' Office does not have the means (financial, technological or human) to work in this field. It may work or try to influence the work and choices of the Ministry of Justice, as is the case of the commission recently set up to adapt CITIUS for PPs.

The Ministry of Justice, through its departments (Department of Planning and Legislative Politics and the Institute for Technologies of Justice), is also in charge of developing the software

## 2.2. *Technological Infrastructures and Applications*

There are no specific applications developed for the PP. The improvements of recent years are in the access to some databases (criminal, car ownership and some information from social security files) or case law databases. The DCIAP<sup>5</sup> and the 4 DIAP's<sup>6</sup> have specific applications (software known as the "Investigation Management System"), but it is only used to handle investigations. Nevertheless, these departments have police officers working with the PP in order to promote the necessary communication.

The aim of the CITIUS programme (see 2.1) for judges is to help in the computerization of files, so that all the necessary procedures are carried out by computer. Among other possibilities, this programme will allow users:

- (a) To draft decisions and sentences, without the need to do it by using paper;
- (b) To sign sentences and judicial decisions, with electronic signatures, by using a smartcard;
- (c) To receive and send the files, electronically, to the administrative services of the court;
- (d) To know, immediately, all the files and in which phase they are at any given moment;
- (e) To manage the files, by creating personalized portfolios;
- (f) To check the file and its history, including all the relevant pieces;
- (g) To set up a personal agenda of proceedings and judgements, with alarm system.

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<sup>5</sup> The Central Criminal Investigation and Prosecution Department (DCIAP) of the Public Prosecutor's Office.

<sup>6</sup> The Criminal Investigation and Prosecution Departments (DIAP).

There is also the *Habilus* programme (designed for clerks of court and for the court's offices), which is connected to the Ministry of Justice. The *Habilus* was the first software built for the courts, a long time ago. This software programme, which has been updated several times, is used to manage all the cases that are in the courts. The *Habilus* programme allows clerks of court to manage the files. This programme can be accessed by the PPs, in particular for executive procedures, the search of files and for statistical purposes (distribution of files, pending cases, etc.). Nevertheless, this programme is now one of the main limitations on the introduction of new software, as a result of its limited interoperability.

E-mail, internet, MSN and Skype (these last two services are not available to every PP and are used, often, for private purposes) are available to PPs. Most of them use e-mail and internet (but only used by those PPs that know how to use them, because there are still PPs that don't know how to use these services). PPs can access personal information on citizens (identity card information), collective information (business or association registration information), criminal records, car ownership records and some social security information (normally, PPs request the clerk of court to gather some of this information).

Jurisprudence/rulings and case law data base are available to prosecutors for preparing cases. Applications and electronic means used for managing and presenting depositions or forensic evidence during pre-trial and trial stages (e.g. evidence camera, retrieval and presentation systems, digital boards, video-conferences etc.) are used very rarely. Video-conferences are sometimes used to hear testimonies. In an investigation or judgement, other electronic devices can be used as evidence. The trials can be recorded if requested by any of those involved (the judge, the PP or one of the interested parties).

Prosecutor's offices are not currently using automated case management systems, although they can access the *Habilus* programme (see 2.1) where they can set up an agenda. But the paper agenda is still on the top. The *Habilus* programme allows users to have information regarding caseload statistics, preparation of documents, and calendaring management. In spite of this, these systems are mainly used by the administrative services.

Normally, case management systems of prosecutors do not exchange data with those used by police, courts, prisons department or other agencies of the criminal justice chain. This may happen in some cases where there can be some exchange of information between, for instance, PPs and police offices. Attorneys or parties do not receive notifications or exchange documents and legal communications electronically with prosecutor's offices, unless there is a particular agreement between the different parties to exchange the information electronically.

There is a department, at the Chief Public Prosecutors Office, with the function of information exchange with international agencies, establishing connections with the courts. But there are no specific applications to do this.

### 2.3. *Critical Issues and Planned Reforms*

There are not many critical issues, because technological systems are not used. Sometimes, there are some limitations due to the fragility of the system or because the systems are out of date. The main critical issue relating to the use of these case management systems is that only the administrative staff use them. The programme is not prepared for the specific functions of the PPs. There have been some improvements in this programme recently, but they are targeted mainly at the administrative side. So, it is expected that the Citius (for judges) and the CITIUS PP will help improve matters, given the advantages of the new software. Because only the CITIUS is being introduced, it is not possible to analyse its benefits. But, as has been seen (2.2), the main features that this program allows do not include interoperability with other databases, which will remain a function of the old *Habilus* program. We will have to wait for the CITIUS PP.