



## Economic and Social Council

Distr.: General  
24 January 2011

Original: English

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### Commission on Crime Prevention and Criminal Justice

#### Twentieth session

Vienna, 11-15 April 2011

Items 5 (d) and 8 of the provisional agenda\*

**Integration and coordination of efforts by the United Nations Office on Drugs and Crime and by Member States in the field of crime prevention and criminal justice: other crime prevention and criminal justice matters**

**Use and application of United Nations standards and norms in crime prevention and criminal justice**

### **Strengthening the rule of law through improved integrity and capacity of prosecution services**

#### **Report of the Secretary-General**

#### *Summary*

The present report provides information pursuant to Commission on Crime Prevention and Criminal Justice resolution 17/2, entitled “Strengthening the rule of law through improved integrity and capacity of prosecution services”, which contains the Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors, developed by the International Association of Prosecutors, as an annex.

The report contains information received from Member States and an overview of the Secretariat’s work in the implementation of the resolution and the use of the Standards annexed to it. The work of the United Nations Office on Drugs and Crime in enhancing the integrity and building the substantive capacity of prosecutors has expanded during the reporting period. The report examines the potential for developing further the technical assistance support provided to Member States in strengthening the integrity and impartiality of their prosecution services and thus fostering and promoting the rule of law and respect for human rights.

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\* E/CN.15/2011/1.



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## I. Introduction

1. The Commission on Crime Prevention and Criminal Justice, in its resolution 17/2, expressed concern that corruption of members of prosecution services undermined the rule of law and adversely affected public confidence in the justice system. It also stated that integrity, independence and impartiality of prosecutors were essential prerequisites for the effective protection of human rights and economic development.

2. Convinced that the Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors, developed by the International Association of Prosecutors (IAP), were complementary to the Guidelines on the Role of Prosecutors,<sup>1</sup> the Commission on Crime Prevention and Criminal Justice acknowledged the important work carried out by international and regional forums, including IAP, in the development and dissemination of standards and measures to strengthen the conduct of members of the prosecution services. More specifically, the Commission:

(a) Requested the United Nations Office on Drugs and Crime (UNODC) to circulate the Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors, annexed to the above-mentioned resolution, to Member States for their consideration and comments;

(b) Also requested UNODC to prepare, by the third quarter of 2008, a structured, verbatim compilation of the comments received from Member States, as an addendum to the Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors;

(c) Invited Member States, consistent with their domestic legal systems, to encourage their prosecution services to take into consideration the Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors and the above-mentioned addendum when reviewing or developing rules with respect to the professional and ethical conduct of members of prosecution services;

(d) Requested UNODC to continue to provide, upon request by Member States, technical assistance, including, as appropriate, material and tools, such as the Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors and the above-mentioned addendum, to allow Member States to strengthen the integrity and capacity of their prosecution services;

(e) Invited Member States and other donors to provide extrabudgetary contributions for the above-mentioned purposes, in accordance with the rules and procedures of the United Nations.

3. In the same resolution, the Commission requested the Secretary-General to report to it at its twentieth session on its implementation. Pursuant to that request, the Secretary-General sent a note verbale dated 26 February 2010 to Governments inviting them to submit information to UNODC on their efforts to implement the

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<sup>1</sup> *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August – 7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. C.26, annex.

resolution. A summary of the responses received is presented in section IV below, while section III presents an overview of the Office's own work in the implementation of the resolution. An overview of international standards governing the conduct of prosecutors is provided in section II.

## **II. Overview of the international standards for the integrity and capacity of prosecution services**

4. The Charter of the United Nations, the Universal Declaration of Human Rights<sup>2</sup> and the International Covenant on Civil and Political Rights<sup>3</sup> enshrine the principles of equality before the law, the presumption of innocence and the right to a fair and public hearing without undue delay by a competent, independent and impartial tribunal established by law. Furthermore, the International Covenant on Economic, Social and Cultural Rights<sup>4</sup> guarantees the exercise of those rights. Thus, those instruments lay down the basic requirements for the integrity and capacity of prosecution services.

5. The United Nations Convention against Corruption,<sup>5</sup> in particular in its article 11, introduces measures relating to the judiciary and prosecution services, stating that the independence of the judiciary and prosecution services plays a crucial role in combating corruption and that States parties should take measures to strengthen integrity and to prevent corruption among members of the judiciary and the prosecution service. Such measures may include rules with respect to the appointment and conduct of members of the judiciary and the prosecution service.

6. The Guidelines on the Role of Prosecutors contain the basic principles regarding the qualifications, status, role and functions of prosecutors, alternatives to prosecution and possible disciplinary proceedings against prosecutors. They are meant to assist Member States in securing and promoting the effectiveness, impartiality and fairness of prosecutors in criminal proceedings, and they should be respected and taken into account by Governments within the framework of their national legislation and practice, and should be brought to the attention of prosecutors, as well as other persons, such as judges, lawyers, members of the executive and the legislature and the public in general.

7. The International Code of Conduct for Public Officials<sup>6</sup> contains, in addition to general principles, measures on conflict of interest and disqualification, disclosure of assets, acceptance of gifts and other favours, confidential information and political activity. The Code applies to public prosecutors.

8. The Basic Principles on the Independence of the Judiciary<sup>7</sup> and the Procedures for the effective implementation of the Basic Principles of the Independence of the

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<sup>2</sup> General Assembly resolution 217 A (III).

<sup>3</sup> General Assembly resolution 2200 A (XXI), annex.

<sup>4</sup> Ibid.

<sup>5</sup> United Nations, *Treaty Series*, vol. 2349, No. 42146.

<sup>6</sup> General Assembly resolution 51/59, annex.

<sup>7</sup> *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August – 6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D.2, annex.

Judiciary<sup>8</sup> are also relevant to prosecutors, as they state that the general prerequisite for the independence of the judiciary is respect for human rights and fundamental freedoms without any discrimination. The Bangalore Principles of Judicial Conduct<sup>9</sup> provide guidance to prosecutors in enhancing and maintaining confidence in the judicial system, of which they form an integral part.

### **III. Technical assistance provided by the United Nations Office on Drugs and Crime**

9. UNODC has been providing technical assistance to enhance judicial integrity. Since the adoption of Commission on Crime Prevention and Criminal Justice resolution 17/2, the Office has expanded its technical assistance portfolio to cover activities aimed at enhancing the integrity of prosecutors and building their capacity in regard to both substantive issues and issues related to integrity and professional conduct. Technical assistance is provided upon the request of a Member State. It also includes development of materials and tools. An overview of UNODC technical assistance in building the capacity of prosecution services during the reporting period is presented in section III below.

#### **A. Programme delivery and training**

##### **Africa**

10. In Nigeria, the Office has been supporting the Government's efforts to strengthen the integrity and capacity of the justice sector's institutions for more than a decade. In 2007, the Office, with the support of a large-scale, European Union-funded project, and in cooperation with the National Judicial Institute, conducted an assessment of the justice sector's integrity and capacity. The assessment covered 10 Nigerian states and involved all justice sector stakeholders, including prosecutors. The results of the assessment were used to develop specific plans of action for justice sector reform, including several measures to strengthen the accountability, integrity and transparency of justice sector operators. At the state level, such measures included the provision of professional ethics training to judges, prosecutors and other court personnel. They also included the establishment of public committees responsible for receiving, reviewing and ensuring proper follow-up to complaints raised by users of courts. At the national level, the issue of prosecutors' compliance with professional standards was also taken into consideration. After extensive consultations, the assessment identified many priorities, including the need to develop a national strategy to combat corruption. Stakeholders also concluded that, to strengthen prosecution services, a special national code of conduct for prosecutors should be developed on the basis international standards. The code would have to be accompanied by implementation measures, such as a more sophisticated system of professional performance evaluation, specific training programmes on professional ethics and the establishment of complaint and oversight systems.

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<sup>8</sup> Economic and Social Council resolution 1989/60, annex.

<sup>9</sup> E/CN.4/2003/65, annex; see also Economic and Social Council resolution 2006/23, annex.

11. In 2009, the UNODC Global Programme against Money-Laundering, Proceeds of Crime and the Financing of Terrorism developed a five-day financial investigation course to address the relationship between law enforcement and prosecutors and to ensure that high-quality information was presented to the courts in cases of terrorist financing or money-laundering charges. In March 2010, UNODC delivered the course in a financial investigation training workshop for over 30 Tanzanian law enforcement officers and prosecutors from the Office of the Director of Public Prosecutions in Dar es Salaam. The workshop was aimed at building the capacity of law enforcement officers and prosecutors in financial investigations.

#### **Asia and the Pacific**

12. In Indonesia, under the project on judicial integrity, UNODC carried out a baseline survey in December 2010 in four provinces, namely, South Sumatra, South-East Sulawesi, Riau and East Java, assessing the quality, timeliness, integrity and accessibility of the justice sector. An action plan had been previously developed in these pilot provinces to improve the functioning of the justice sector. Based on the findings of the assessment, steps will be taken to improve integrity among prosecutors. Those findings have been communicated to the Attorney-General's Office for policy intervention.

13. At the regional level, the UNODC Regional Centre for East Asia and the Pacific is implementing a four-year project called "Towards AsiaJust", which started in January 2010. Its first module is aimed at providing a regional framework to strengthen the rule of law in Asia and the Pacific through increased prosecutorial independence and integrity, as well as increased capacity of prosecutors to respond efficiently to transnational organized crime. The project focuses on the following four areas: Member States' ratification of international conventions and instruments on money-laundering and asset recovery related to transnational organized crime; support for the establishment of legislative and regulatory frameworks; improved prosecutorial capacity to combat money-laundering and perform effective asset recovery; and facilitation of mutual legal assistance in asset recovery.

14. During that project's first year of implementation, UNODC co-hosted, with the Republic of Korea, a high-level prosecutors meeting in Seoul in August 2010. The meeting was attended by high-level prosecutors and anti-money-laundering officials from all Association of Southeast Asian Nations (ASEAN) member States. The declaration adopted by the meeting called for an analytical study, a prosecutor-exchange programme and a regional operational network of prosecutors, to be jointly designed and implemented by the participating States and UNODC. The project is also finalizing an investigation and prosecution manual on asset recovery for law enforcement officials and prosecutors. In 2011, UNODC will start implementing the prosecutor-exchange programme with Indonesia and Thailand, will conduct research on prosecutorial best practices and the prosecutorial role in asset recovery and will start building a prosecutorial network within ASEAN States.

#### **Central Asia**

15. In Kazakhstan, the UNODC Global Programme against Money-Laundering, Proceeds of Crime and the Financing of Terrorism, jointly with the Institute of the Prosecutor General's Office of Kazakhstan, organized a national mock money-

laundering trial for judges and prosecutors in June 2010. The event was part of a four-day training event for members of the Financial Police, the National Security Committee, the Financial Intelligence Unit and the Prosecutor General's Office. Over 40 representatives from various courts and prosecution offices in the capital and in the provinces attended the training event. The objective of the mock trial was to enhance awareness, improve technical skills and facilitate discussion among judiciary and law enforcement officials in relation to issues that would arise in prosecuting a money-laundering offence. Two other training events will be held in Kazakhstan in 2011.

16. In Kyrgyzstan, UNODC implemented the project entitled "Creating demand for accountability in Kyrgyzstan through the General Prosecutor's Office" from 1 December 2007 to 31 May 2010, with funds from the United Nations Democracy Fund. The project's overall objective was to help Kyrgyzstan to combat corruption, which has been paralysing its institutions.<sup>10</sup> The project's method was to increase the General Prosecutor's Office's capacity to deal with corruption by placing an anti-corruption mentor in the institutions. The mentor acted as a policy adviser, including on anti-corruption strategy, developed workplans and training on corruption prevention, public education campaigns, investigative techniques, mutual legal assistance and asset recovery. The General Prosecutor's Office also received support for conducting corruption surveys and legislative reviews.

17. In Afghanistan UNODC has been implementing the project "Strengthening anti-corruption measures in Afghanistan" since August 2007. The project is aimed at strengthening the capacity of the Supreme Court and the Attorney-General's Office to ensure the development of effective measures to fight corruption in Afghanistan and the monitoring of the implementation of the United Nations Convention against Corruption and to assist in the strengthening of key legislation. The project particularly seeks: (a) to support the development of a sustainable broad-based national anti-corruption strategy, in line with the requirements of the United Nations Convention against Corruption, including the establishment of a secretariat responsible for guiding and monitoring its effective implementation; (b) to support the review and drafting of key legislation in accordance with the requirements of the Convention against Corruption; (c) to strengthen the basic capacity, professionalism, accountability and integrity of the Attorney-General's Office, in particular the anti-corruption unit, in accordance with the relevant provisions of the Convention against Corruption; and (d) to enhance the skills and professional knowledge of judges and prosecutors in handling corruption cases. The project has created a code of conduct and professional standards for prosecutors of the Attorney-General's Office, adopted in August 2009. Since then, UNODC, in partnership with the Attorney-General's Office, has been carrying out training for prosecutors. Approximately 1,600 prosecutors had been trained by the end of 2010, and the aim is to train all the country's prosecutors.

18. In Uzbekistan, since March 2010, UNODC has been implementing a national project called "Strengthening anti-corruption measures in Uzbekistan". The project activities are fully supported by the Government of Uzbekistan. As envisaged by the

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<sup>10</sup> Kyrgyzstan's score in the Transparency International Corruption Perceptions Index has deteriorated over recent years and was as low as 1.9 in 2009 ([www.transparency.org/policy\\_research/surveys\\_indices/cpi/2009/cpi\\_2009\\_table](http://www.transparency.org/policy_research/surveys_indices/cpi/2009/cpi_2009_table)).

project, training on professional ethics, integrity and accountability for more than 40 prosecutors representing all levels of the Prosecutor General's Office will be carried out in Tashkent by March 2011. The training is aimed at enhancing the knowledge of Uzbek prosecutors on relevant provisions of the United Nations Convention against Corruption and the United Nations standards and norms, other international standards and best practices of prosecutorial conduct. In June 2011, UNODC will organize a workshop for prosecutors, judges and law enforcement officers on requirements related to the investigation and adjudication of transnational corruption-related offences, with a specific focus on asset forfeiture and recovery (including recognition and enforcement of foreign confiscation orders and requests to seize alleged proceeds of corruption). The workshop will facilitate the establishment of the cooperation network of the law enforcement, prosecutorial and judicial practitioners of Uzbekistan with their counterparts from the countries of the Commonwealth of Independent States and other countries, who will share their experience, good practices and lessons learned in the areas of investigation and adjudication of transnational corruption-related offences. In addition, a study tour will be organized in August 2011 for prosecutors, judges and law enforcement officers to observe successful anti-corruption measures at first hand.

#### **Latin America**

19. In Ecuador, within the project called "Strengthening ethics, good governance and transparency in Ecuador", UNODC is providing technical advice to the prosecution service, as well as other justice sector institutions, on adjustments needed to ensure better monitoring of professional conduct of all officials within the Public Ministry. The project highlights the importance of not just traditional international assistance to improve corruption-related investigations, but in improving internal mechanisms to reduce internal acts of corruption and other breaches of professional conduct. Training and technical advice in the project are also highlighting the importance of avoiding impropriety and the appearance of it. Prosecutors, like judges, must be aware that their actions and conduct in their personal lives have an impact on public perceptions as to whether they exemplify the highest of ethical standards. In 2011, UNODC will also conduct intensive training on how to investigate and prosecute cases involving acts of corruption. The training will include a discussion of the role of prosecutors, including coverage of the IAP Standards.

#### **Middle East and North Africa**

20. In partnership with the United Nations Development Programme (UNDP) Programme on Governance in the Arab Region, UNODC seeks to strengthen the integrity of prosecutors in that region. In this context, there are two initiatives to support the implementation of Commission of Crime Prevention and Criminal Justice resolution 17/2. The first one, which started in 2009, is aimed at developing a computer-based training course on judicial integrity that takes into consideration the international standards and norms on the integrity of the judiciary and prosecutors, including the IAP Standards, while seeking to provide an interactive educational tool to build the basic integrity and accountability of prosecutors. The second initiative, which started in 2010, is aimed at updating the Anti-Corruption Toolkit for prosecutors and adapting it to the Arab context. It seeks to provide prosecutors with the tools and instruments to improve their responses to corruption



and integrity awareness. The initiative will also contextualize the IAP Standards, as one of the most recent integrity tools for prosecutors.

#### **Other technical assistance activities**

21. Regarding substantive areas of work, UNODC has integrated the objective of enhancing the integrity of prosecutorial services into its thematic technical assistance programmes. In the areas of trafficking in persons and smuggling of migrants, this was exemplified by the development of training modules for criminal justice practitioners in 2009 and 2010, with emphasis on the core function and interdependence of prosecutors with other actors in the criminal justice system. There are also specialized modules directed to prosecutors and other substantive modules for more general application. The intent is to build the core capacities of each type of criminal justice actor, but also to reinforce the principle that all actors are functionaries with duties and responsibilities within a criminal justice system. The modules and other technical tools are applied in numerous capacity-building activities for prosecutors. In late 2009, for example, a UNODC assessment of national and regional capacities to prosecute trafficking in persons in Central America provided the basis for the development of a regional master training plan in coordination with the Training Directors of Attorney-General's Offices of Central America. This substantively focused regional initiative for the capacity-building of prosecutors has continued in 2011.

22. UNODC continued to provide technical assistance in the area of anti-corruption under the framework of the Anti-Corruption Mentor Programme. The Programme is aimed at providing specialized expertise through the placement of anti-corruption experts in Government institutions tasked with the control and prevention of corruption. Beneficiaries for the period 2008-2010 included Bolivia (Plurinational State of), Cape Verde, Jordan, Kenya, Tajikistan, Thailand and the Government of Southern Sudan and included capacity-building for corruption investigators and institutional strengthening of investigation institutions.

23. The Global Programme against Money-Laundering, Proceeds of Crime and the Financing of Terrorism Mentor Programme, which has been in place since 2000, assists Member States in building prosecutors' capacity in the areas of money-laundering and detecting proceeds of crime. The programme currently has four mentors and three long-term consultants in the field helping States to meet international standards and to detect, investigate and prosecute money-laundering offences and to recover laundered funds.

24. UNODC is mandated by the Commission on Crime Prevention and Criminal Justice to assist, subject to the availability of extrabudgetary resources, in the preparation of the World Summits of Attorneys General, Prosecutors General and Chief Prosecutors by focusing their themes, controlling the quality of the preparatory substantive work and assisting in servicing the events. In line with this mandate, UNODC contributed substantively to the preparation and organization of the Second (Doha, 2005) and Third (Bucharest, 2009) World Summits and plans to do the same with the Fourth World Summit, to be held in Seoul in 2011. The Summits provided a platform for exchange of views and networking among prosecutors from around the world. Moreover, their reports contained key conclusions and recommendations for improving cooperation between national prosecution services and identifying solutions to address challenges encountered in

their daily practice. Thus, they served as useful benchmarks for the promotion of international standards and principles necessary for the proper and independent prosecution of offences.

25. UNODC is also cooperating with IAP, the only worldwide association of prosecutors, which was established at the United Nations Office at Vienna in June 1995. IAP currently has 140 organizational members and 800 individual members representing every region of the world. The Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors were developed within the association and were approved by IAP in 1999. The standards serve as an international benchmark for the conduct of individual prosecutors and of prosecution services, complementing and expanding the Guidelines on the Role of Prosecutors. The Standards have been disseminated throughout the world by IAP, including at the Twelfth United Nations Congress on Crime Prevention and Criminal Justice, in 2010, and the Third World Summit of Attorneys General, Prosecutors General and Chief Prosecutors, in 2009. Organizational members of IAP are required to subscribe to the Standards when they become members, and several Member States have drawn upon the Standards in compiling their own standards for prosecutors. UNODC cooperation with IAP is aimed at promoting minimum standards for prosecutors all over the world and thus promoting good practice and upholding human rights and the rule of law.

## **B. Development of tools and publications**

26. During the reporting period, UNODC continued developing technical assistance and guidance tools addressing the needs of prosecutorial authorities. Those tools and publications are meant to disseminate standards and norms as well as best practices in the application of the provisions of the Single Convention on Narcotic Drugs of 1961, the Convention on Psychotropic Substances of 1971, the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, the Convention against Transnational Organized Crime and the Convention against Corruption.

### *Addendum to the Standards of Professional Responsibilities and Statement of the Essential Duties and Rights of Prosecutors*

27. In 2008, the Commission on Crime Prevention and Criminal Justice, in its resolution 17/2, requested UNODC to prepare a structured, verbatim compilation of the comments received from Member States on the Standards of Professional Responsibilities and Statement of the Essential Duties and Rights of Prosecutors, as an addendum to them. On 27 June 2008 UNODC sent a note verbale to Member States disseminating the IAP Standards and requesting their comments. On the basis of the replies received from 31 Member States, UNODC prepared an addendum to the Standards of Professional Responsibilities and Statement of the Essential Duties and Rights of Prosecutors, dated 23 November 2010. It is intended to provide guidance to Member States on the use of the IAP Standards in enhancing the integrity and independence of prosecutors. The addendum is available on the UNODC web page.

*Legislative Guide for the Implementation of the United Nations Convention against Corruption*

28. The objective of the *Legislative Guide for the Implementation of the United Nations Convention against Corruption* is to assist States seeking to ratify and implement the Convention by identifying legislative requirements, issues arising from those requirements and various options available to States when developing necessary legislation. Consequently, it is useful for prosecutors who often face challenges of proper interpretation and effective implementation of the relevant provisions.

*Technical Guide to the United Nations Convention against Corruption*

29. The *Technical Guide to the United Nations Convention against Corruption* complements the *Legislative Guide* by focusing on the provision of relevant technical advice and examples of good practices to make the provisions of the Convention more operational.

*Travaux Préparatoires of the negotiations for the elaboration of the United Nations Convention against Corruption*

30. The purpose of the *Travaux Préparatoires of the negotiations for the elaboration of the United Nations Convention against Corruption* is to track the progress of the negotiations of the Convention and provide a comprehensive picture of its background, thus offering a better, in-depth understanding of the Convention. The publication is useful as an additional interpretation tool.

*Asset Recovery Handbook*

31. The *Asset Recovery Handbook: A Guide for Practitioners*, developed in collaboration with the World Bank within the Stolen Asset Recovery (StAR) Initiative, is designed as a guidance tool for prosecutors on how to deal effectively with legal, investigative and practical aspects of asset recovery.

*Stolen Asset Recovery: A Good Practices Guide for Non-Conviction Based Asset Forfeiture*

32. *Stolen Asset Recovery: A Good Practices Guide for Non-Conviction Based Asset Forfeiture* was also developed in collaboration with the World Bank, within the StAR Initiative. It is designed as a practical tool for use by jurisdictions contemplating non-conviction-based asset forfeiture legislation, as envisaged in article 54, paragraph 1 (c), of the Convention against Corruption. The Guide identifies the key legal, operational and practical concepts that a non-conviction-based asset forfeiture system should encompass to be effective.

*Guide for prosecutors' performance in criminal cases in Peru*

33. In Peru, UNODC has developed a practical, innovative and portable guide for prosecutors' performance in criminal cases to assist prosecutors in ensuring consistency and professionalism both prior to and during trial. The guide educates prosecutors on their role, highlighting integrity and professionalism, and guides them through the entire processing of a criminal case. Over 5,000 copies have been

produced for use in Peru. The guide has also been adapted for use throughout Panama.

*Forthcoming practical guide to international cooperation to combat identity-related crime*

34. The forthcoming practical guide to international cooperation to combat identity-related crime will focus on basic information and guidelines on how best to deal with requests for international cooperation in the field of identity-related crime. The guide will be published in early 2011 as part of the handbook on identity-related crime.

*Forthcoming guide on strengthening judicial integrity and capacity*

35. Pursuant to Economic and Social Council resolutions 2006/23 and 2007/22, UNODC is developing a guide on strengthening judicial integrity and capacity. The guide is envisaged to be finalized in 2011.

*Global computer-based training programme*

36. UNODC has been implementing computer-based training for law enforcement agencies since 1998, to the benefit of prosecutors as well. So far, UNODC has developed more than 80 modules aimed at improving the ability of law enforcement officers to combat crimes, such as drug trafficking and production, money-laundering and trafficking in persons. The modules represent more than 100 hours of computer-based training in 18 languages delivered in 52 countries. The training is made up of high-quality voice-overs, graphics, interactive videos and animation, simulation and student tests. UNODC, together with national government agencies, delivers the training in over 300 dedicated computer-based training centres worldwide. The training centres offer both networked and stand-alone training environments. UNODC also trains managers to organize the sessions in each training centre. The UNODC computer-based training global network covers the Russian Federation, Central Asia, Eastern Europe, Latin America, the Caribbean, Africa, East Asia and the Pacific.

37. The computer-based training programme is scheduled to update its global training system and expand its syllabus in 2011-2014. The scale of the expansion will include activities for at least 10 countries (Cambodia, China, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, Philippines, Sri Lanka, Thailand and Viet Nam) in various languages. The new developments will play a key role in building the capacity of law enforcement officers, specialized personnel and other groups and individuals involved in the fight against drugs, crime and terrorism, such as prosecutors.

## **C. Forthcoming developments**

*Mechanism for the Review of Implementation of the United Nations Convention against Corruption*

38. One of the goals of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, according to its terms of reference,

is to help States parties to identify and substantiate specific needs for technical assistance and to promote and facilitate the provision of technical assistance. The Mechanism is the main interface for the delivery and review of technical assistance in the field of anti-corruption. Through the Mechanism, priorities and strategies are to be determined. UNODC, as the secretariat of the Mechanism, will provide technical assistance, subject to the availability of extrabudgetary resources, to assist countries to fill the gaps identified through the review process, or ensure that other assistance providers are made aware of the needs identified by sharing a matrix of technical assistance needs. The first cycle of the process of reviewing implementation will cover chapters III (criminalization and law enforcement) and IV (international cooperation) of the Convention, which include provisions directly linked to prosecution functions, and is thus of relevance to prosecution services.

#### **IV. Information received from Member States**

39. Replies to the note verbale of 26 February 2010 (see para. 3 above) were received from 16 Member States: Algeria, Argentina, Austria, Belarus, Bosnia and Herzegovina, Brunei Darussalam, Bulgaria, Czech Republic, El Salvador, Estonia, France, Germany, Greece, India, Jordan and Malta.

40. The replies covered issues set out in Commission on Crime Prevention and Criminal Justice resolution 17/2 and its annex, as presented below.

##### **A. Status of prosecution services within criminal justice systems**

41. Several countries reported that their prosecution services were an independent State agency that represented and protected the interests of the State in cases entrusted by law. In Belarus the prosecution service was an integrated and centralized system that oversaw, on behalf of the State, the strict and uniform enforcement of laws and regulations of the country and protected the rights and freedoms of citizens, as well as the lawful interests of the State and of businesses, institutions, organizations and voluntary associations. In Bosnia and Herzegovina, the Prosecutor's Office was an independent and separate authority that protected statutory rights and freedoms of citizens and rights and interests of legal persons, thus ensuring constitutionality and legality. Bosnia and Herzegovina stressed that the Prosecutor's Office had external independence as a State body and independence from political power in the State, had a clear internal structure and clearly defined functional relationships between its employees and was bound by law to make a decision on the initiation of criminal prosecution, based on the principle of legality and/or the principle of opportunity.

42. In the Czech Republic, the Public Prosecutor's Act (No. 283/1993 Coll.) established the Public Prosecutor's Office, which consisted of different levels of prosecutors. In Estonia, the Prosecutor's Office was currently a government agency within the Ministry of Justice. A proposed amendment to the Prosecutor's Office Act sought to strengthen the independence of Prosecutor's Office. El Salvador and France also reported on the independence of prosecutors. In Argentina, the Prosecution Services Organic Law (24.946 of 1998) established the system of prosecution services with functional autonomy and financial independence.

43. India highlighted the importance and role of a proper system of prosecution by advising the state governments and union territory administrations to take necessary steps for effective prevention, detection, registration, investigation and prosecution of all crimes within their jurisdiction.

44. The status of prosecutors varied in different jurisdictions. In Algeria, prosecutors had the status of magistrate, whereas in Brunei Darussalam prosecutors were in the category of “legal officer”, which meant a qualified person in the judicial or legal service of the State. In Jordan, the prosecution service was governed by the new Prosecution Act as from 1 June 2010 (Law No. 11 of 2010), which stated that the office of prosecutor would be entrusted to judges subject to the provisions of the Independence of the Judiciary Act.

## **B. Norms and standards governing professional conduct of prosecutors**

45. A variety of laws and other norms and standards governing the professional conduct of prosecutors were reported by Member States. In addition to laws establishing prosecution services and governing their functions, such as the Law on Prosecution Service of Belarus, the Public Prosecutor’s Act of the Czech Republic and the Prosecution Act of Jordan, several Member States also reported on the existence of codes of conduct and other types of standards that regulated the professional conduct of prosecutors.

46. The Code of Honour of Prosecutorial Officials of Belarus, adopted on 27 December 2007, established rules of conduct and standards of professional ethics. In Brunei Darussalam the Advocates and Solicitors (Practice and Etiquette) Rules, which formed part of the Legal Profession Act, governed the conduct of prosecutors in court. In Bulgaria, the Supreme Judicial Council had adopted the Code of Ethics for judges, prosecutors and investigators in May 2009. Estonia has a Prosecutors Ethics Code. The Judicial Code of Conduct adopted by the Jordanian Judicial Council applied to judges and prosecutors and contained principles and values that judges and prosecutors were required to adhere to and apply, including independence and freedom from interference from any other authority. El Salvador had developed in April 2007 a manual of standards of conduct for public prosecutors.

47. Most Member States reported that activities of prosecutors were governed also by their constitutions and/or other relevant legislation, such as the Legal Profession Act of Brunei Darussalam and the Judiciary Act of Bulgaria. Codes of criminal procedure also addressed prosecutors’ duties and ethical behaviour in most of the respondent States. For example, in Greece laws governing public prosecutors included the Constitution, the Criminal Procedure Code, the Criminal Code, the Court By-Laws Code and the Court Officers List.

48. Several Member States also referred to the Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors and stated that they were fully incorporated or reflected in domestic legislation (Belarus, Bulgaria, Estonia, France, Germany and Greece). Malta reported that national legislation, specifically the Criminal Code and the Police Act, required that the national prosecution services take into consideration the IAP Standards. A more

detailed description of how the IAP Standards have been taken into account in national legislation in different Member States is provided in the addendum to the Standards, prepared by UNODC in November 2010.

49. A few respondent States also mentioned special procedures, such as an oath or a solemn declaration, as a means of ensuring the professional conduct of prosecutors. In Algeria, the prosecutor took an oath, whereas in Bosnia and Herzegovina the prosecutor made a solemn declaration to undertake to perform his or her duty conscientiously, diligently, decisively and responsibly. In the Czech Republic, by taking an oath, the prosecutor promised to respect human rights, basic liberties and human dignity and preserve confidentiality.

### **C. Appointment, tenure and conditions of service**

50. General conditions of prosecutors' service were in many Member States governed not only by specific laws, but also by laws regulating public service. In Belarus, the prosecution service constituted public service and, as such, was governed by the Law on Public Service of 14 June 2003. In Algeria, the Statute of Magistrates covered impartiality and neutrality, loyalty, diligence, competence, professional secrecy, good manners and dignity, which apply to both judges and prosecutors.

51. The procedures appointing public prosecutors as well as their tenure of office, varied among the respondent States. In Belarus, the Prosecutor General was appointed by the President of the Republic and, in turn, appointed other prosecutors. Prosecutorial officials were provided with adequate employment conditions to enable them to perform their official duties effectively, including proper remuneration, leave, pension, separation pay, medical treatment and other forms of material and social support. Grounds for termination of employment were provided by law. The Code of Honour of Prosecutorial Officials established that tenure of office reflected special trust on the part of society and State and brought with it high moral and ethical expectations.

52. In Bosnia and Herzegovina, prosecutors were selected in a national competitive examination and appointed for an unlimited period by the High Judicial and Prosecutorial Council. In Bulgaria, tenure and other rights and obligations were provided for by the Judiciary Act. In the Czech Republic, the Minister of Justice appointed the public prosecutor for an indefinite period at the proposal of the Supreme Public Prosecutor. In El Salvador, the public prosecutor was elected by the Legislative Assembly for a period of three years, which was renewable. In Jordan, members of the prosecution service were subject to provisions for disqualification, rejection and withdrawal contained in the Code of Civil Procedure. Conditions of appointment were regulated by the Prosecution Act and based on competence, qualifications and experience. Salaries and other related issues were regulated in Jordan by the Judicial Service Statute (Law No. 121 of 2007).

53. Some Member States also imposed obligations on prosecutors with respect to maintaining and improving their professional skills. In the Czech Republic, a public prosecutor had the obligation to educate himself or herself continuously for the due performance of the position's duties. A prosecutor was obliged to participate in professional training. Similarly, in Belarus, prosecutorial officials were required by

law to maintain the necessary level of competence to enable them to perform their official duties effectively.

54. Argentina, as part of the overall modernization and capacity-building of its prosecution services, launched in May 2008 the “Web campus” of the Public Prosecutor’s Office, aimed at strengthening the capacities of public prosecutors through an e-learning system. It has also launched an online library for prosecutors.

#### **D. Disciplinary measures against prosecutors**

55. Some countries reported that public prosecutors, as public officials, were usually subject to specific disciplinary measures. In Belarus, the Law on Prosecution Service regulated issues related to the rewarding and disciplinary liability of prosecutorial officials. In addition, the Code of Honour of Prosecutorial Officials provided for the legal liability of prosecutors if the provisions of the Code were violated. In Bosnia and Herzegovina, prosecutors were liable to disciplinary proceedings if they had committed statutory violations through intent or negligence. In the Czech Republic, prosecutors bore responsibility for disciplinary violations, i.e. deliberate violations of the public prosecutor’s duties or deliberate behaviour or conduct that diminished trust, reputation or dignity. The Public Prosecutor’s Office Act stipulated disciplinary punishments ranging from reprimand to removal from office. In Estonia, the draft amendment to the Prosecutor’s Office Act specified the provisions for disciplinary liability.

#### **E. Prosecutors’ role in criminal proceedings**

56. Many countries acknowledged the pivotal role prosecutors played in protecting human rights, especially the rights of the accused and victims in criminal proceedings, thus contributing to the fulfilment of the right to a fair criminal trial, as enshrined in the international human rights instruments. Prosecutors’ powers and duties in criminal proceedings varied greatly among respondent States, but common to most jurisdictions was the prosecutor’s role as a guardian of the State’s interests, on one hand, and the guardian of human rights and rights and freedoms of individuals involved in the criminal proceedings, on the other hand.

57. In Belarus, the prosecutor had a duty to respect and protect the rights, freedoms and dignity of citizens in accordance with universally recognized moral principles enshrined in international legal instruments. The prosecutor played a role at pretrial proceedings by monitoring the investigation of offences and the legal compliance of judicial decisions and carrying out preliminary inquiries, and conducted public prosecutions.

58. In Bosnia and Herzegovina, the prosecutor was responsible for conducting investigations. Criminal proceedings could be initiated and conducted only at the prosecutor’s request, and he or she had the legal obligation to prosecute if there was evidence that an offence had been committed, unless the law stipulated otherwise. The prosecutor ensured that no innocent person would be convicted and that criminal sanctions would be imposed on an offender under statutory conditions and procedures. The prosecutor also played an important role in ensuring that the principle of equality of arms was applied throughout the criminal proceedings,



i.e. that each of the parties had an equal opportunity to present its case, including the evidence, under conditions that did not put any party at a substantial disadvantage.

59. In Brunei Darussalam, prosecutors were not authorized by law to participate in the investigation of a crime. The law stipulated that a prosecutor should conduct the prosecution fairly and properly and be able to prove all the facts he or she presented in the case. In Jordan, on the other hand, the prosecutor was the head of the police in his or her area and all police officers should be subject to his or her control. Jordan was aiming at modernizing its criminal justice system to guarantee fair trials and had, on 14 February 2010, launched the Judiciary Development Strategy for 2010-2012, which focused on enhancing the effectiveness of judicial proceedings and sought to institutionalize the specialization of prosecutors' work.

## V. Conclusions and recommendations

60. Even though the status of prosecutors within criminal justice systems varied from country to country, they formed a particular group of public officials, which was entrusted with the exercise of considerable powers. Generally, the public prosecutor had the duty to represent and protect State interests in cases entrusted by law, and he or she had specific tasks to perform in a criminal trial. The prosecutor could also be seen as the guardian of a fair criminal trial, protecting specifically the rights and freedoms of the accused and looking after the interests of the victims.

61. Prosecutors' powers and duties were accompanied by the responsibility to promote and maintain high standards of professional conduct, which was also entailed by the public nature of their activities. Upon assuming their offices, prosecutors undertook those obligations. Prosecutors played a fundamental role in instilling and strengthening public confidence in criminal justice systems.

62. Prosecutors' professional conduct was governed and guided by laws and codes of conduct. The Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors, adopted by the International Association of Prosecutors and acknowledged by the Commission on Crime Prevention and Criminal Justice in its resolution 17/2, had been used by many Member States as guidance to promote fair, effective and impartial prosecution services. They provided a widely accepted yardstick for the professional conduct of prosecutors and were, as such, an important tool for enhancing the integrity of prosecutorial services throughout the world.

63. The reporting period saw an increase in the UNODC technical assistance portfolio in the area of capacity-building of prosecutors. The development of tools and materials and the implementation of a number of projects and programmes provided evidence that there was a need to address the issue of the integrity of prosecution services in support of efforts to enhance the rule of law and the overall integrity and capacity of the justice system. There was also a need to equip prosecutors with the tools and knowledge to effectively respond to various forms of crime, in particular transnational organized crime.

64. In the light of the information provided above, and with a view to strengthening the rule of law, through improved integrity and capacity of prosecution services, the Commission may wish to consider the following measures:

(a) Inviting Member States to continue using the United Nations Guidelines on the Role of Prosecutors as a guiding tool for the organization and operation of their prosecutorial services;

(b) Welcoming the dissemination of the IAP Standards by UNODC, pursuant to resolution 17/2;

(c) Inviting Member States to encourage their prosecution services to take into consideration the United Nations Guidelines on the Role of Prosecutors and the IAP Standards and to draw guidance and inspiration from them when developing codes of conduct or similar instruments for enhancing the integrity and independence of prosecutors;

(d) Requesting Member States to conduct surveys regularly on the integrity of judicial services, including the prosecutor's office;

(e) Inviting Member States to promote a more strategic and proactive role for prosecutors in determining and formulating crime control policies and advising the authorities on legislative reform, given the central role prosecutors play in promoting a fair, transparent and efficient criminal justice system;

(f) Requesting UNODC to continue designing and implementing technical assistance activities, technical guides and other tools, with a view to strengthening the integrity and technical capacities of prosecutors;

(g) Requesting UNODC to work in cooperation with Member States towards the development of implementation measures aimed at assisting Member States in the design and establishment of regulatory frameworks, mechanisms and procedures promoting compliance with the Guidelines on the Role of Prosecutors and the IAP Standards;

(h) Requesting UNODC, in cooperation with Member States, to continue reviewing the implementation of the Guidelines on the Role of Prosecutors and the IAP Standards with a view to identifying good practices and possible implementation challenges, and to guide the development and delivery of technical cooperation.