

PPOs Survey



Presentation

The Intosai-P 50 document outlines the principles of jurisdictional activities of Supreme Audit Institutions (SAIs) empowered with the corresponding mandate, which allows them to rule on the liability of individuals accountable by law in case of irregularities or mismanagement. The same document emphasizes the importance of public prosecutors in this context, highlighting their mission to defend “the public interest and the due application of the law” (item 2.2.3).

This work is the result of an ongoing survey led by the Public Prosecution Office within SAI Brazil (Ministério Público junto ao Tribunal de Contas da União). The survey, conducted among its peers in the SAIs community, is an initiative to strengthen and disseminate common knowledge about the roles, functions, and institutional features of Public Prosecution Offices that officiate before SAIs (hereafter referred to as PPOs).

It is also the result of more intensive interactions between PPOs, which began in 2022 at the XXIV International Congress of Supreme Audit Institutions (Incosai) in Rio de Janeiro, largely due to the incentives and support from the Brazilian presidency of Intosai.

The following pages present relevant information gathered from most of the PPOs engaged in the dialogue. These PPOs, hailing from four continents and twelve countries, include Brazil, Congo, East Timor, France, Greece, Italy, Niger, Morocco, Panama, Portugal, Senegal, and Turkey.

Cristina Machado

Brazilian Prosecutor General

Rodrigo Medeiros de Lima

Member of the Brazilian PPO
(Prosecutor)



Brazil

I Governing legislation

The Public Prosecution Office within the Federal Court of Accounts (MPTCU), according to article 130 of the 1988 Constitution of the Federative Republic of Brazil (CRFB), operates before the Federal Court of Accounts (TCU) in the promotion and defense of the legal and constitutional order, ensuring its due observance in the procedures and striving for its implementation in the decisions of the Court.

Article 130 of the 1988 Constitution of the Federative Republic of Brazil (CRFB), in the chapter addressing the essential functions of Justice, guarantees MPTCU members autonomy and independence to carry out their duties, life tenure, irremovability, and irreducibility of salary.

Law No. 8,443/1992 (Organic Law of the TCU) and, alternatively, Complementary Law No. 75/1993 (Organic Law of the Federal Public Prosecution Office).

I Institutional link

The Public Prosecution Office belongs to the organization of TCU (Brazilian SAI) but has some independence in organizational, administrative, and correctional matters in accordance with its functional guarantees.

There is no institutional link with a broader Public Prosecution Office. MPTCU members form a specific career.

I Composition, number, and type of members

MPTCU is composed of seven members: three deputy prosecutors-general and four prosecutors.

Due to the federalist form of the Brazilian State, each Member State has an independent State Court of Accounts in charge of state and municipal finances. Each subnational Court of Accounts has a Public Prosecution Office (Ministério Público de Contas) before it, not subordinated or institutionally linked with MPTCU.

I Forms of investiture

MPTCU members are all admitted through a public examination procedure that includes tests and certificates. At the President of the Republic's discretion, one is appointed Prosecutor-General for a two-year term, eligible for reappointment.



Brazil

Assignments

I Custos Legis

MPTCU members have the right to present written or oral statements (advice) in all matters subject to the TCU's decision, being mandatory in their legal opinion in some judgments, as well as their presence in the Court's judgment sessions.

I Prosecutory

MPTCU is entitled to make formal complaints whenever it becomes aware of sufficient evidence of irregularity in public management.

I Appeals

MPTCU has wide competence for appeals, always aiming for accurate compliance with the law.

I Inter-institutional

MPTCU is responsible for the dialogue with the bodies of judicial representation of the Federal Public Administration, with the purpose of promoting and monitoring monetary sanctions issued by the TCU. MPTCU also dialogues with other state institutions, especially with the Public Prosecution Offices before the Subnational Courts of Accounts and the Federal Public Prosecution Office (the main body of prosecutors at the Brazilian Federal level, with activities before judicial courts), by participating for example, in forums and working groups aiming to promote common public interest agendas.

I Admin. and correctional competencies

MPTCU is entitled to the organizational, administrative, and disciplinary competencies that are in some way related to safeguarding its constitutionally guaranteed functional independence.

It includes process distribution, resolving assignment conflicts among its members, and managing some human resources matters, such as disciplinary proceedings, vacation and leave granting, promotions, etcetera.



Brazil

Does your Public Prosecution Office have the prerogative of:

1. Taking part and giving its opinion in all deliberative sections of the SAI?

YES NO

▼ Related information

Article 81, II, Law 8.443/1992:

“Art. 81. Competem ao procurador-geral junto ao Tribunal de Contas da União, em sua missão de guarda da lei e fiscal de sua execução, além de outras estabelecidas no Regimento Interno, as seguintes atribuições:

...

II - comparecer às sessões do Tribunal e dizer de direito, verbalmente ou por escrito, em todos os assuntos sujeitos à decisão do Tribunal (...);”

2. Giving its opinion in all cases and matters under the SAI’s jurisdiction and deliberation?

YES NO

▶ 2.1. Is this opinion mandatory in any matter?

YES NO

▼ Related information

According to article 81, II, of Law 8.443/1992, the MPTCU (Public Prosecution Office within the Brazilian Federal Court of Accounts) has the prerogative to “give its opinion, verbally or in writing, on all matters subject to the decision of the Court”, but its opinion is only mandatory “in the processes of taking or rendering accounts and those concerning the acts of admission of personnel and the granting of retirements and pensions”, in addition to requests for consensual solutions before the TCU (Normative Instruction TCU 91/2022).

Nevertheless, the MPTCU is guaranteed the prerogative to give its opinion on any matter subject to the decision of the TCU (Brazilian Federal Court of Accounts). In this regard, all processes in TCU are initially assigned, randomly, to one of the members of the MPTCU, who may request the opportunity to give its opinion when it is not a process of mandatory hearing.

There is a proposal to extend the mandatory participation of the MPTCU in incidents of non-application of law or normative act in violation of the Constitution, in incidents of uniformization of jurisprudence, in conflicts of competence, and in consultations submitted to the TCU, as well as in appeals filed in these processes.



Brazil

3. Requesting for investigative measures from the SAI?

YES NO

▼ Related information

It is possible, provided that it is based on sufficient evidence of irregularities.

Article 81, I, Law 8.443/1992:

“Art. 81. Competem ao procurador-geral junto ao Tribunal de Contas da União, em sua missão de guarda da lei e fiscal de sua execução, além de outras estabelecidas no Regimento Interno, as seguintes atribuições:

I - promover a defesa da ordem jurídica, requerendo, perante o Tribunal de Contas da União as medidas de interesse da justiça, da administração e do Erário;

4. Adopting its own investigative measures, without the intermediation of the SAI, such as requesting information and documents from public authorities?

YES NO

▼ Related information

Precedent from the Brazilian Superior Court of Justice (RMS 51841, decided on April 6, 2021):

“The Public Ministry within the Court of Accounts is a constitutional body whose legal existence has its origin in the Constitution. The constituent legislator granted a “special legal status” to the members of the Public Ministry of Accounts, allowing their functional performance to be exclusive and autonomous in relation to the said Court. Precedents.” (excerpt from the decision’s heading).

5. Taking part/giving its opinion on the SAI’s work/audit program?

YES NO

▼ Related information

Formally, there is no explicit provision. Nor has this participation been observed in practice. Recently, the MPTCU forwarded a normative proposal in this regard.



Brazil

6. Demanding the application of sanctions by the SAI?

YES NO

▶ 6.1. Is the Public Prosecution Office's demand necessary for the application of sanctions by the SAI, including the compensatory sanction (duty to compensate any damage to the public treasury)?

YES NO

▶ 6.2. Are there other legitimated parties to demand the application of sanctions?

YES NO

▼ Related information

The MPTCU can report irregularities to be investigated and their responsible parties, to whom it may request the imposition of sanctions. However, this is not a necessary condition for the imposition of sanctions by TCU.

Any person can report possible irregularities to TCU, and if punishable conduct is found, the TCU can impose the appropriate sanctions, regardless of a specific request from the MPTCU or any other part.

7. Proposing or taking part in initiatives for the consensual resolution of possible irregularities or administrative controversies in order to prevent the repressive/sanctioning action of the SAI?

YES NO

▼ Related information

The TCU Normative Instruction No. 91/2022, which establishes and regulates the procedure for consensual resolution of relevant disputes and prevention of conflicts related to federal public administration bodies and entities within the scope of TCU, provides for the participation and control of the Public Prosecution Office. The Public Prosecutor's Office expresses its opinion on the legality of the proposed consensual solution, developed under the coordination and scrutiny of TCU auditors, prior to its appreciation by the deliberative body of the ISC.



Democratic Republic of Congo

I Governing legislation

The organization and functions of the Public Prosecution Office (Parquet general) within the Court of Accounts of the Democratic Republic of Congo (SAI Congo) are governed by the Constitution and the organic law on the composition, organization, and functioning of the Court. The Prosecutor General is appointed and removed from office by the President of the Republic in accordance with the Constitution.

The Court of Accounts' organic law authorizes the Prosecutor General to use the codes of criminal and civil procedures traditionally used by the judicial courts.

I Institutional link

The organic law provides that the Congolese Cour des comptes “comprend un siège et un parquet”. The Parquet general is, therefore, one of the components of the Court, understood in a broad sense. The Parquet general has collaborative and complementary relations with the Court. The Prosecutor General refers cases that do not relate to financial offenses to the Minister of Justice for submission to the judicial courts.

I Composition, number, and type of members

In addition to the Prosecutor General, the Parquet general currently comprises three First General Attorneys and seven General Attorneys. In addition to these magistrates, the General Prosecutor's Office has a Secretariat consisting of administrative staff. Apart from the central services, the Parquet general has offices before the decentralized chambers of accounts, to be established in the provinces.

I Forms of investiture

All magistrates, both from the Court and the Parquet general, are, in principle, recruited through public competitions. The Prosecutor General, as well as all other magistrates of the Parquet general, are appointed by the President of the Republic. The First General Attorneys and General Attorneys are appointed by the President of the Court from among the presidents of chambers, councilors and referendum councilors to exercise the functions of “officier du ministère public”, for three years renewable once.



Democratic Republic of Congo

Assignments

I Custos Legis & Prosecutory

The Prosecutor General exercises its functions through requisitions, conclusions, opinions, notes and can make complementary oral observations to the various sessions of the formations of the Court.

He/she investigates offenses under financial legislation and refers to the Court operations presumed to constitute mismanagement.

He/she is present or represented in the committees or commissions set up within the Court of Accounts, and in particular in the program and report committee. All reports are communicated to him, especially those concerning discharges, debts, fines, decisions on competence, factual accounting, appeals, cassation appeals, revision appeals and retractions.

I Inter-institutional

The Prosecutor General communicates with administrative and judicial authorities through “notes du Parquet”.

I Admin. and correctional competencies

It is mandatory for the Prosecutor General to be consulted by the President of the Court on all matters relating to the organization of the work of the Court and the destruction of archives.



East Timor

I Governing legislation

The Constitution, article 132;

Law n. 7/2022 (Public Prosecution Service Statute);

Law n. 9/2011 (Organic Law of East Timor Administrative, Fiscal and Accounts Court).

I Institutional link

The Prosecutors who officiate in the financial jurisdiction are part of the Public Prosecution Service (PPS), a hierarchically organized magistracy subordinated to the Prosecutor General of the Republic, which represents the State, carries out criminal prosecution, ensures the defense of minors, absentees and incapacitated persons, defends democratic legality and promotes compliance with Law (Constitution, article 132).

I Composition, number, and type of members

The Office of the Prosecutor General of the Republic is the highest body of the PPS. It is led by the Prosecutor General of the Republic. He/she is accountable to the Head of State and provides annual reports to the National Parliament (Constitution, article 133).

Apart from the Prosecutor General, officiate in the financial jurisdiction:

The Deputy Prosecutor General, and Two prosecutors.

PPS's agents cannot be transferred, suspended, retired, or dismissed except in cases provided by law (Constitution, article 132).

I Forms of investiture

The Prosecutor General is nominated by the President of the Republic for a four-year term;

The Deputy Prosecutor General is nominated for a four-year term;

The prosecutors are nominated for an indeterminate time.



Assignments

I Custos Legis

The Public Prosecutors Office acts as legality inspector, defends the democratic legality and public interest, the courts' Independence, and ensures that the judicial function is exercised in accordance with the Constitution and the Law, under the terms of art. 5 of the Statute and arts. 23 e 39 (n.º 5) of the Organic Law of the Court.

The Public Prosecutor's Office acts ex officio in the Court proceedings, and all reports and opinions approved in verification, control and auditing actions must be delivered to it, and, at its request, all documents that it deems necessary. It also may promote complementary diligences.

I Prosecutory

The Public Prosecutors Office has the power to initiate proceedings for the enforcement of punitive and restorative responsibility, in accordance with the law.

I Appeals

The Public Prosecutors Office has the competence to appeal the decisions of judges, whether they are decisions taken in the preventive inspections or in other procedures. It may also manage an extraordinary appeal for the establishment of jurisprudence.

I Inter-institutional

The PPS is an open institution that requires cooperation with many bodies.

According to article 6 of the PPS's Statute, all public and private entities have a duty to collaborate with the institution, providing documents, information and clarifications requested.

Cooperation with internal control bodies of the Administration is of great usefulness for the effective achievement of financial responsibility.

I Admin. and correctional competencies

The appointment, placement, transfer, and promotion of PPS's agents, as well as disciplinary activity, are responsibility of the Prosecutor General (Constitution, article 132).

I Governing legislation

Human Rights and Citizen declaration, 1789 (article 15 : “la société a le droit de demander compte à tout agent public de son administration”)

Constitution 1958 (article 58-2 : “la Cour des comptes assiste le Parlement dans le contrôle de l’action du Gouvernement. Elle assiste le Parlement et le Gouvernement dans le contrôle de l’exécution des lois de finances et de l’application des lois de financement de la sécurité sociale ainsi que dans l’évaluation des politiques publiques. Par ses rapports publics, elle contribue à l’information des citoyens.”)

Organic Law 01/08/2001 (“loi organique relative aux lois de finances”)

Code des Juridictions financières resulting from all legislative and regulatory provisions (otherwise called CJF). Last modified by ordonnance n°2022-408 du 23 mars 2022.

Current Article L 112-2 of the CJF specifies: “Le procureur général exerce le ministère public près la Cour des comptes, la Cour d’appel financière et les formations communes aux juridictions mentionnées à l’article L. 141-13. Il veille à l’application de la loi. Il met en mouvement et exerce l’action publique.

Il veille au bon exercice du ministère public près les chambres régionales et territoriales des comptes et à la cohérence de l’action publique sur le territoire. Il oriente et coordonne l’action des procureurs financiers. A cette fin, il leur adresse des instructions.

Dans l’exercice de ses fonctions, le procureur général peut être représenté ou assisté par un ou plusieurs magistrats du parquet général.

Lorsqu’une formation commune ne comporte que des membres des chambres régionales des comptes, le procureur général peut confier l’exercice du ministère public à un représentant du ministère public près une chambre régionale des comptes.

Les procureurs financiers, représentant le ministère public près les chambres régionales et territoriales des comptes, assistent le procureur général dans l’exercice de ses fonctions juridictionnelles”

I Institutional link

The Public Prosecution Office (Parquet general) is within the Cour des comptes (“auprès de la Cour des comptes”).

Its members are mostly magistrates of the Cour des comptes and its administrative affairs are managed by the Cour’s general secretariat.

There is no institutional link to other prosecution bodies, but collaborative relationships and the possibility to refer any irregularity discovered to the competent authority.

I Composition, number, and type of members

The Public Prosecution Office (Parquet general) is composed of the General Prosecutor (Procureur general), the First General Advocate (Premier avocat general) and 6 General Advocates or Substitutes, among one is traditionally in detachment from the judiciary system.

France

There are also 25 Prosecutors within the Regional Chambers (Chambres regionales et territoriales des comptes).

Forms of investiture

The General Prosecutor is nominated by decree of the President of the Republic in Minister's Council (décret pris en conseil des ministers).

All members are nominated by decree of the President of the Republic, on proposal of the General Prosecutor.

Assignments

Custos Legis

The General Prosecutor give his opinion on the Cour's annual work programme; on the competence of the Cour when the entity concerned is one where auditing might be optional; on draft proposals pertaining to the organization and operations of the Cour.

The GP helps the auditors during audits by requiring inspection reports, documents from a case in another jurisdiction or requiring the waiver of public secret. It may act against an audited body that would refuse to communicate documents (L1411-5 CJF: "Le fait de faire obstacle, de quelque façon que ce soit, à l'exercice des pouvoirs attribués aux membres et personnels de la Cour des comptes mentionnés aux sections 1 à 5 du chapitre II du titre Ier du présent livre par le présent code est puni de 15 000 euros d'amende. Le procureur général près la Cour des comptes peut saisir le parquet près la juridiction compétente en vue de déclencher l'action publique.").

The GP may comment in his "conclusions" on all reports communicated by the chambers before their deliberation by a panel, contributing in his way to the quality control of the productions of the Cour.

At the request of the Cour or by its own initiative, he can bring to the knowledge of the government any observation concerning legislation and its application ("communications du Procureur general")

Since 2022, the GP Office manages an online tool that enables any citizen to give a report on a possible irregularity. After careful analysis of the reported cases, the GP sends all collected and relevant documents to the chambers of the Court that may be concerned so that these informations can contribute to the elaboration of their work program and priorities.

Prosecutory

The General Prosecutor has prosecutor and appeal functions. He refers any irregularities he wishes to the competent authority.

He brings litigation before the Cour (chamber du contentieux) by way of indictment (réquisitoire) or may defer at the judicial authority concerned.

The Public Prosecution Office (Parquet general) retains the monopoly of public action and therefore request for sanctions.

Appeals

The General Prosecutor may bring an appeal against the decisions of the Cour before the Cour d'appel financière or in "cassation" to the supreme court (Conseil d'Etat).

Inter-institutional

The General Prosecutor may refer any irregularity to the competent judiciary body and has therefore frequent or organized relations with the judicial authority and alerts them about suspicion of criminal infractions.

He also has a constant dialogue with European institutions and regional organizations.

Admin. and correctional competencies

The General Prosecutor has organizational and correctional independence for all matters regarding its staff, while relying on the budgetary and administrative support of the Cour.

Does your Public Prosecution Office have the prerogative of:

1. Taking part and giving its opinion in all deliberative sections of the SAI?

YES NO

▼ Related information

Yes, as part of the quality control of all works emanating from the Court, we do give our opinion and advice at at least 2 steps for each report: "conclusions" on the provisional report and on the draft final report, including observations regarding procedure and content.

2. Giving its opinion in all cases and matters under the SAI's jurisdiction and deliberation?

YES NO

▶ 2.1. Is this opinion mandatory in any matter?

YES NO

▼ Related information

2.1 No, except in jurisdictional matters where we retain the monopoly of taking public action.

3. Requesting for investigative measures from the SAI?

YES NO

▼ Related information

Yes : mandatory for jurisdictional matters ; communication with request for information on other matters (management audits at a pre-jurisdictional level, “précontentieux”)

4. Adopting its own investigative measures, without the intermediation of the SAI, such as requesting information and documents from public authorities?

YES NO

▼ Related information

Yes, the prosecutor general may ask directly for any information through “Communications of the Prosecutor general”, at a pre-jurisdictional level.

5. Taking part/giving its opinion on the SAI’s work/audit program?

YES NO

▼ Related information

Yes, our opinion is requested and must be given, according to the law (Code des juridictions financières). Even though it is not mandatory (we cannot force the SAI to make a specific audit, we are fully involved in the risk analysis process and our alert reportings (signalements) are taken very seriously.

6. Demanding the application of sanctions by the SAI?

YES NO

- ▶ 6.1. Is the Public Prosecution Office's demand necessary for the application of sanctions by the SAI, including the compensatory sanction (duty to compensate any damage to the public treasury)?

YES NO

- ▶ 6.2. Are there other legitimated parties to demand the application of sanctions?

YES NO

▼ Related information

6. Yes, as part as our role as prosecution office in jurisdictional matters only.

6.1 Yes, only the PPO (parquet general) retains the monopoly of public action and therefore request for sanctions.

6.2 Yes, in some cases, creditors have the right to bring a case, for example in cases where a public entity would not have executed a court decision.

7. Proposing or taking part in initiatives for the consensual resolution of possible irregularities or administrative controversies in order to prevent the repressive/sanctioning action of the SAI?

YES NO



Greece

I Governing legislation

Law 4700/2020, articles 112-113, 118-127, 177 and 181

Law 4820/2021, articles 7, 36-42 and 162

Law 4938/2022, articles 37-39

Law 5016/2023, article 29

I Institutional link

The Office of the General Commissioner of the State (OGCS) is an independent judicial authority functioning within the Court in favor of the public interest.

I Composition, number, and type of members

Apart from the General Commissioner of the State, human resources also include a commissioner, 5 Deputy Commissioners, 5 Appeal Judges, and 8 Junior Judges, all graduates of the National School of Judiciary. In addition, the Office's personnel comprise 25 judicial employees.

I Forms of investiture

The General Commissioner of the State, head of the OGCS, is a judge selected by the Ministers' Cabinet among the Court's Vice Presidents or Judge Counsellors.

Assignments

I Custos Legis

Entering an appearance in favor of public interest during the hearing of cases and then submitting an expert opinion upon cases tried; Monitoring the Court's work and function.

I Prosecutory

Submitting a request of imputation against public officials or civil servants in general for damage caused to the State or Public Entities while carrying out their duties;

Submitting a request of imputation against public officials or civil servants in general (mainly Ministers or Members of the Parliament, etc.) for having acquired illegal fortune benefits during their active service;

Monitoring services aiming at fighting fraud and corruption and mandating an audit upon specific public officials' or civil servants' property status.

I Appeals

Applying legal remedies against the Court's decisions.

I Inter-institutional

Cooperating with national and international authorities in fighting corruption.

I Governing legislation

“Organization and the duties of the Public Prosecutor’s Office at the Corte dei conti (Pubblico Ministero presso la Corte dei conti) are ruled by the Code of Accounting Justice (Codice di giustizia contabile), approved by the legislative decree 26 august 2016, n. 174.

We have a General Prosecutor’s Office and twenty-one Regional Prosecutor’s Offices.

The Regional Prosecutor’s Offices are in charge of investigation and actions, before the Regional Chambers of the Corte dei conti, for compensation and recovery for damage caused to public finances, including those of the European Union.

The General Prosecutor’s Office coordinates and directs the Regional Prosecutor’s Offices in their activities.

It also represents the Public Prosecutor before the Appeal Chambers of the Corte dei conti and the Supreme Court of Cassation.”

I Institutional link

“The members of the Public Prosecutor’s Office are magistrates of the Corte dei conti, and the Office itself belongs to the organization of the Corte. It is not institutionally linked to other prosecution bodies, e.g. the Criminal Prosecutor’s Office (with which, however, there are collaborative relationships).”

I Composition, number, and type of members

“The General Prosecutor’s Office is composed by the General Prosecutor, the Adjunct General Prosecutor and, currently, thirteen Vice General Prosecutors.

The Regional Prosecutor’s Offices are chaired by Presidents of Chamber and composed by about one hundred magistrates altogether.

I Forms of investiture

The General Prosecutor, the Adjunct General Prosecutor and the Regional Prosecutors are chosen by the Council of Presidency, the governing body of the Corte dei conti, following an open selection among the Presidents of Chamber.

The other members of the Offices are also assigned by the Council of Presidency.

Assignments

I Custos Legis

In some cases it is entitled to express its advice, in the interest of the law, in accounting and control proceedings, so it also works as a custos legis.

Prosecutory

“The Regional Prosecutor’s Offices are in charge of investigation and actions, before the Regional Chambers of the Corte dei conti, for compensation and recovery for damage caused to public finances, including those of the European Union.

Appeals

Both the General and the Regional Prosecutor can appeal the decisions of the Regional Chambers which totally or partially discharge the defendant. The General Prosecutor is also entitled to challenge before the Supreme Court of Cassation the decisions that decline the jurisdiction of the Corte dei conti.

Inter-institutional

“The General Prosecutor’s Office has a constant dialogue with other national (Government, Criminal Prosecutor’s Office, Police Forces, independent Authorities) and international (European Antifraud Office, European Public Prosecutor’s Office, other SAIs) institutions.”

Does your Public Prosecution Office have the prerogative of:

1. Taking part and giving its opinion in all deliberative sections of the SAI?

YES NO

▼ Related information

Our PPO takes only part in the jurisdictional activity proper, that ordinarily is conducted before the jurisdictional chambers of the Corte, according to the principles of the due process of law, and gives rise to binding judgments.

In some cases, proceedings of the “Control” (Audit) chambers of the Corte may be conducted with all the formalities and structural requirements of trials proper. This happens with the so-called “Equalization judgment” (Parifica), an annual scrutiny of the balance sheets which involves the State and the Regions.

One of the peculiarities of this kind of trial is that the preliminary investigation is conducted by the Chamber, not by the PPO: this is due to the fact that this investigation is, essentially, a financial audit.

The PPO takes part in the judicial phase and gives its opinion and conclusions on the results of the financial audit. Some deliberations issued by the Audit Chambers may be challenged before the Joint Chambers of the Corte. This results in a trial in which the PPO takes part. The PPO is also called to give its opinion on those decisions that involve modifications to the internal organization of the Corte.

2. Giving its opinion in all cases and matters under the SAI's jurisdiction and deliberation?

YES NO

▶ 2.1. Is this opinion mandatory in any matter?

YES NO

▼ Related information

2. As regards the jurisdictional competences of the Corte, the PPO doesn't play any part in relation to the trials concerning pensions. It participates in all the other trials.

2.1. The PPO has a duty to give its opinion in any trials in which its participation is required.

3. Requesting for investigative measures from the SAI?

YES NO

▼ Related information

We are especially entitled to request such measures in the Equalization judgment on the State and Regions' final balance sheets.

4. Adopting its own investigative measures, without the intermediation of the SAI, such as requesting information and documents from public authorities?

YES NO

▼ Related information

We are entitled to adopt such measures in all the proceedings carried out in order to ascertain possible violations and to file the subsequent administrative liability actions (art. 55 – 65 of our procedural law - Codice di giustizia contabile).

5. Taking part/giving its opinion on the SAI's work/audit program?

YES NO

6. Demanding the application of sanctions by the SAI?

YES NO

▶ 6.1. Is the Public Prosecution Office's demand necessary for the application of sanctions by the SAI, including the compensatory sanction (duty to compensate any damage to the public treasury)?

YES NO

▶ 6.2. Are there other legitimated parties to demand the application of sanctions?

YES NO

▼ Related information

6. All the proceedings conducted by way of a due process of law before the jurisdictional chambers of the Corte, which may result in a judgment imposing a sanction or a compensation, entail the mandatory impulse of the PPO.

7. Proposing or taking part in initiatives for the consensual resolution of possible irregularities or administrative controversies in order to prevent the repressive/sanctioning action of the SAI?

YES NO

▼ Related information

Before the action is filed, the PPO doesn't propose nor participate to negotiations aimed at consensually resolving such irregularities and controversies. Anyway, sometimes the people involved in the preliminary investigative proceedings decide to spontaneously repair the damage, in order to prevent the action.

During the trial, the PPO gives its (semi-binding) advice on all requests of application of the so-called "Simplified proceedings" (Rito abbreviato), which entails a bonus on the quantification of the compensation due by the defendant.



Morocco

I Governing legislation

In the field of supreme control over public funds, Morocco adopted the judicial model through the creation of the Supreme Court of Accounts and the regional courts of accounts as financial courts that exercise integrated control through the judicial and non-judicial competences they enjoy.

The Kingdom's Constitution, in Chapters 147 and 148 of it, defined the functions of the Supreme Court of Accounts, while Article 149 defined the tasks of the regional courts of accounts.

In addition to the provisions of the Constitution, the work of the Public Prosecution Office of the Supreme Audit Institution is strictly framed by Law No. 62.99 related to the Code of Financial Courts. This code contains three (3) books.

The procedures framing the modalities of the Public Prosecution's intervention are specified in detail within Law n° 62.99 related to the Code of Financial Courts. Also, the violations subject to the jurisdiction of the Supreme Audit Institution are specified exclusively in the same law;

I Institutional link

In order to exercise its judicial powers in accordance with respect for the constitutional principles of the independence of the judiciary and to ensure a fair trial for litigants, the financial courts have an independent apparatus for the Public Prosecution, whose judges enjoy all the guarantees granted to judges of ordinary courts.

The status of the public prosecution within the SAI: The Public Prosecution is the body entrusted by the legislature to defend the interests of society whenever a certain harm is caused to the latter. It ensures the application and defense of the law and works to assist judges in the performance of their mission, which is reflected in the proper application and interpretation of the law.

The Public Prosecution Office is distinguished by its independence from the presidency of the Supreme Audit Institution in exercising its judicial powers.

I Composition, number, and type of members

(...) the Public Prosecutor of the King has a special secretary and a recording secretary. He is assisted by General advocates (6 general advocates).

As for the regional courts of accounts, the functions of the Public Prosecution are exercised by the King's prosecutors (12) and are assisted by Deputies.

(...) at the level of the SAI, the functions of the Public Prosecution are exercised by the General Prosecutor of the King and assisted by public advocates, and at the level of the regional court of accounts, these tasks are exercised by the Prosecutors with the assistance of a deputy or several deputies.

I Forms of investiture

The General Prosecutor of the King is appointed according to the same formalities as the head of the Supreme Audit Institution, and the administrative status of the head of



Morocco

the SAI and the Public Prosecutor of the King is determined in the two Dahirs of their appointment.

Assignments

I Custos Legis & Prosecutory

The Public Prosecution Office exercises its functions with regard to the judicial competences related to:

- a. Auditing and judgement on accounts;
- b. Discipline related to the budget and finances;
- c. Deciding on appeals filed against decisions and judgments issued by the Council and the Regional Accounts courts;
- d. Referral to the Council of operations that may constitute de facto management.

With regard to the Public Prosecution's exercise of its duties, it intervenes either:

- a. As a main or original party through the prosecution and defense, in which case the Public Prosecution's opinion and position is mandatory, through its intervention mechanisms, whether within the various stages of the judicial procedure or during the ruling sessions. Immediate response to legal defenses and prior access to the data of the file and to the aspects and documents of raising a public lawsuit is one of its manifestations and pillars;
- b. Or as a joined party by expressing opinion and intervention, in which case its presence is optional.

The Public Prosecutor of the King exercises the functions of the Public Prosecution by filing conclusions or petitions or issuing decisions.

The conclusions are written legal opinions that are independent and objective, and their primary goal is to defend the proper application of the law. It is necessary for the continuity of the judicial procedure, as without it this procedure ceases and any judgment issued in its absence is invalid.

Petitions are another mechanism that is more widely used, especially when the Public Prosecution is the initiator of the lawsuit. The Public Prosecution Office intervenes through petitioners in all the jurisdictions entrusted to it.

As for the decisions, they are the actions according to which the Public Prosecution Office exercises its legal powers, mainly represented in the follow-up decision or the memorization decision.

The General Prosecutor of the King also refers to the Council the operations that may constitute de facto management, and requests the head of the Supreme Audit Institution to apply a fine to the agencies that are late in submitting their accounts.

The General Prosecutor of the King attends the sessions (formations) of the Council's bodies, and at that time he can present new observations. He may also appoint a general advocate to represent him in these sessions.



Morocco

I Appeals

Judicial decisions issued by the Supreme Audit Institution are subject to review. Law 62.99 related to the Code of Financial Courts enshrined this right for the Public Prosecution by enabling the General Prosecutor of the King to exercise the right to:

- a. Appealing the final decisions issued in the first instance by the Court;
- b. Appeal in cassation before the Court of Cassation of the final decisions issued on appeal by the Court;
- c. Request a review of the final decisions issued in the first instance and on appeal by the Court in the event that a new element was discovered.

At the regional level, King's prosecutors may also exercise the right to:

- a. Appeal of final judgments issued by the regional courts of accounts;
- b. Request to review the final judgments issued by the regional courts of accounts.

I Inter-institutional

Article 95 repeated of Law n° 62.99 related to the Code of Financial Courts specified how the SAI provides its assistance to judicial bodies, especially with regard to investigations in cases related to public finance, through the supervision of the General Prosecutor of the King at the Council on the exchange of judgments and documents related to popular files before the courts.

(...)the Article 111 of the same Law sets out the procedures for the Public Prosecution's dealings with other institutions (judicial or non-judicial) in the event that the Court discovers acts that may require a disciplinary penalty, and in the case of discovering acts that may require a criminal penalty.

In the first case, the General Prosecutor of the King informs the authority that has the right to discipline with regard to the matter concerned, and this authority must inform the court within a period of six months (6), in a justified statement, of the measures it has taken.

In the second case, the General Prosecutor of the King submits the matter to the Public Prosecutor of the King at the Court of Cassation in order to take what he deems appropriate. The General Prosecutor of the King also informs the authority to which the person concerned belongs.

I Admin. and correctional competencies

When preparing the annual program for the SAI's work, the head of the SAI must coordinate with the Public Prosecutor of the King with regard to matters related to the judicial competences of the agency, while there is no coordination with the Public Prosecution regarding non-judicial tasks in order to ensure its impartiality in exercising its competencies as it is a follow-up authority.

(...) the Public Prosecutor of the King has a special secretary and a recording secretary.

(...) the General Prosecutor of the King coordinates and monitors the work of the Public Prosecutor's Office at the Regional Courts of Accounts.



Morocco

The prosecutors at the regional courts of accounts are required to inform the general prosecutor of the king, through periodic reports, of the progress of the work of the Public Prosecution office at these courts. As well as by informing him of every act that may require a criminal or disciplinary penalty to be taken in its regard.

Does your Public Prosecution Office have the prerogative of:

1. Taking part and giving its opinion in all deliberative sections of the SAI?

YES NO

▼ Related information

-The General Prosecutor's Office does not participate in the management control procedure, which is a non-jurisdictional competence of the Court of Auditors.

-The General Prosecutor's Office issued its written conclusions on the investigation report regarding:

- The verification and judgment of accounts in which the Prosecutor's Office is a joint and not main party to the procedure, which is an inquisitorial procedure;

- Budgetary and financial discipline in which the Prosecutor's Office is a main part of the procedure, which is an adversarial procedure;

-The General Prosecutor's Office monitors the investigation carried out by the reporting advisor, may request additional investigations to be carried out, files its requisitions, attends the judgment sessions, and may address questions to the accused persons.

2. Giving its opinion in all cases and matters under the SAI's jurisdiction and deliberation?

YES NO

▶ 2.1. Is this opinion mandatory in any matter?

YES NO

▼ Related information

2 - In the event of an opinion contrary to that of the General Prosecutor's Office, he may exercise legal remedies in matters of:

- Appeal of judgments rendered by the Court of Auditors at first instance;
- Appeal of judgments rendered by the regional courts of accounts;
- Appeal to cassation of final judgments rendered on appeal by the Court;



Morocco

- Application for review against final judgments rendered at first instance or on appeal by the Court;

2.1 - In matters of budgetary and financial discipline, the participation of the Public Prosecutor's Office in the procedure is obligatory, and non-compliance with this obligation constitutes a procedural defect and may result in the annulment of the judgment

- In matters of verification and judgment of accounts, the opinion of the General Prosecutor's Office is binding for the proper application of the law, and, consequently, in the event that the judgment panel takes a decision contrary to the opinion of the public prosecutor, she must motivate it.

3. Requesting for investigative measures from the SAI?

YES NO

4. Adopting its own investigative measures, without the intermediation of the SAI, such as requesting information and documents from public authorities?

YES NO

▼ Related information

-On the occasion of the study of the referrals, the General Prosecutor's Office may request documents or information concerning the grievances of the persons involved from any authority, independently and without any interference, before deciding the prosecution or the dismissal of the case in accordance with article 58 of the Financial Jurisdictions Code.

5. Taking part/giving its opinion on the SAI's work/audit program?

YES NO

▼ Related information

- The Prosecutor General coordinates with the First President of the Court during the preparation of the annual program of the Court in terms of auditing accounts only (article 8 of the Code of Financial Jurisdictions)

6. Demanding the application of sanctions by the SAI?

YES NO



Morocco

- ▶ **6.1. Is the Public Prosecution Office’s demand necessary for the application of sanctions by the SAI, including the compensatory sanction (duty to compensate any damage to the public treasury)?**

YES NO

- ▶ **6.2. Are there other legitimated parties to demand the application of sanctions?**

YES NO

▼ **Related information**

6. -Through indictments in the event of a delay in the production of accounts or refusal to produce documents or information requested by the reporting magistrates of the seat (the indictment is a procedural act and cannot, therefore, be refused);

-Through the conclusions, the General Prosecutor’s Office may request the imposition of sanctions corresponding to the seriousness of the offenses committed.

6.1 -The General Prosecutor’s Office has the right to request in its conclusions to impose sanctions;

-The refusal to form the conclusions of the General Prosecutor’s Office must be motivated and generally if the General Prosecutor’s Office is not convinced, it can appeal.

- 7. Proposing or taking part in initiatives for the consensual resolution of possible irregularities or administrative controversies in order to prevent the repressive/sanctioning action of the SAI?**

YES NO

▼ **Related information**

-The General Prosecutor’s Office may initiate summary proceedings, in particular those resulting from a judicial procedure, concerning offenses whose cause of their commission is inherent in the non-adaptation of the texts in force to the activity of the organization and in general when it is a fault of the service and not of the person.



Niger

I Governing legislation

The Constitution of 25 November 2010, which institutes the Court of Accounts as the highest jurisdiction of public finances.

The Organic Law n. 2020-035 of 30-07-2020, which determines the attributions, composition, organization and functioning of the Court of Accounts, predicts the institution of a Parquet Général.

I Institutional link

The Court of Accounts of Niger is an SAI that counts with a Parquet Général.

The Parquet Général (Public Prosecution Office within the SAI) takes part in its jurisdictional and non-jurisdictional activities, in accordance with the limits attributed to it by the Organic Law.

The Parquet Général is subordinate to the Minister in charge of Justice.

I Composition, number, and type of members

The Parquet Général comprises the General-Prosecutor, the First General Attorney, General Attorneys (currently five), the Chef de Service du Parquet, and Attachés de Parquet (currently one).

In case of absence or impediment of the General Prosecutor, he/she is replaced by the First Advocate General or, if necessary, by the most senior Advocate General.

I Forms of investiture

The General Prosecutor, the First General Attorney and the General Attorneys are nominated by the President of the Republic of Niger, following suggestions by the minister in charge of Justice.

The Chef de Service du Parquet and the attachés de parquet are nominated by the First President of the SAI after consultation with the General-Prosecutor.

Assignments

I Custos Legis & Prosecutory

a. The Parquet Général ensures the proper application of laws and regulations within the Court of Auditors through its conclusions, requisitions, and opinions.

b. The Parquet Général refers to the Court operations that involve misuse of funds or improper management committed by public officials under the jurisdiction of the Court. It requests the application of fines prescribed by law.



Niger

I Appeals

- Appeals against judgments rendered by the regional Chambers of Auditors; and
- Appeals against final judgments of the Court of Accounts.

I Inter-institutional

The Parquet Général may communicate directly with administrative or judicial authorities through notes from the Parquet. In this context:

- It sends correspondence, upon request of Chamber Presidents, to Directors and Heads of Service of bodies under SAI's jurisdiction, to report irregularities in financial management or to produce documents in the instruction of cases;
- It acts as an intermediary between the SAI and judicial authorities, particularly by notifying them of potential criminal offenses discovered by the SAI during audits (the Public Prosecution Office maintains interlocution with

Public Prosecution Offices before judicial courts, to which it forwards violations to the penal code brought to light within the SAI proceedings).

It monitors, in collaboration with authorized services of the Ministry responsible for Finance, the implementation of Court judgments and decisions.

I Admin. and correctional competencies

On an administrative level, the Prosecutor General administers and disciplines the Parquet Général.



Panamá

I Governing legislation

The Accounts Jurisdiction is a constitutional jurisdiction created by the Constituent Act No. 1 of the 27 of July of 2004.

Since then, Article 281 of the Constitution of Panama states that the Accounts Jurisdiction has national competence and jurisdiction to investigate all the accounts from control employees and agents.

At the same time, Law 67 of the 14 of November of 2008 creates the Accounts General Prosecutor's Office. An independent institution at the functional, administrative and budgetary levels. The Accounts General Prosecutor's Office initiates the patrimonial investigation, based on the audits created by the General Comptroller's Office, in cases where it is believed that an irregularity has been made by any control agent or employee.

(We understand as a Control Agent any person who controls public funds and/or goods. We understand as a Control Employee any public servant who controls public funds and/or goods.)

I Institutional link

The Accounts General Prosecutor's office has independence at the functional, administrative and budgetary levels.

We work alongside the Accounts Court and the General Comptroller's Office to recover the public funds and goods that have been misused.

However, even when they work in the same jurisdiction, there's no institutional link between the three entities.

I Composition, number, and type of members

The Accounts General Prosecutor's Office has one Accounts General Prosecutor who runs the whole institution as its head.

At the same time, the institution has one General Secretary who assists the Accounts General Prosecutor in both operational and administrative matters.

Finally, the law permits the Accounts General Prosecutor to appoint as many deputy prosecutors as needed (or any other public servant) to have an effective investigation.

I Forms of investiture

The Executive Branch appoints the Accounts General Prosecutor, who runs the office in a time frame concurrent with the President's. However, the appointment has to be previously ratified by the Legislative Branch.



Assignments

Custos Legis

The Accounts General Prosecutor must defend the country's interest in any case regarding the misuse of public funds and/or goods. This permit entitles the Accounts Prosecutor to be part of any accounts case, regardless of whether they are a control agent or employee. In other words in all the Account Jurisdiction cases, the Account General Prosecutor must act to defend the state. Therefore, the prosecutor defends the country and the Treasury in all cases, whether against a control agent or a control employee. It means that we must follow and guarantee due process, but we will always fight in favour of the state, never defending the control agent or control employee.

Prosecutory

The Accounts General Prosecutor initiates all investigations regarding any accounts case and presents, in front of the Accounts Court, a document (known in Spanish as Vista Fiscal) that includes all the evidence garnered during the investigation. Once the prosecutor believes they have sufficient evidence, they ask the Accounts Court to start the trial by a public accusation (it is included in the Vista Fiscal).

Appeals

The Account's General Prosecutor can request or appeal for a reconsideration of the decision made by the Account's Court.

Nevertheless, if the Account's Court denies the reconsideration, the Account's General Prosecutor can present a nullity action in front of the Supreme Court of Justice.

Inter-institutional

The Account's General Prosecutor's Office has the legal faculty to request any kind of information from any institution, public or private, that could contribute to the investigation.

At the same time, we have signed frameworks with many different institutions to work alongside them to create mechanisms to prevent corruption and teach them the correct use of public funds and goods.

Admin. and correctional competencies

Based on Law 67 of 2008, the Accounts General Prosecutor is responsible for all administrative matters during their time in office.

The law also states that the Account's General Prosecutor has the legal faculty to appoint or dismiss all the public servants that might be needed to fulfil their duties.



Panamá

Does your Public Prosecution Office have the prerogative of:

- 1. Taking part and giving its opinion in all deliberative sections of the SAI?

YES NO

- 2. Giving its opinion in all cases and matters under the SAI's jurisdiction and deliberation?

YES NO

- ▶ 2.1. Is this opinion mandatory in any matter?

YES NO

▼ Related information

2. Since we're the institution in charge of the investigation process started at the SAI, we have an opinion about the cases as we formulate the documents to prove what we think is the theory of the case, which will tell the Accounts Court that someone is or is not patrimonially responsible, based on the audit received by our SAI and the investigation we later executed.

- 3. Requesting for investigative measures from the SAI?

YES NO

▼ Related information

As we are the institution that investigates within the process started by the SAI, it is not likely we will ask the SAI to further investigate. However, we can ask the SAI to give us complementary information on the audit they presented to us.

- 4. Adopting its own investigative measures, without the intermediation of the SAI, such as requesting information and documents from public authorities?

YES NO

▼ Related information

Law No. 67 of November 2008 states and gives us the faculty to oversee all the measures



Panamá

of investigation regarding public funds and goods, even investigating bank accounts or even asking the accounts court to freeze, confiscate, or seize funds or goods.

5. Taking part/giving its opinion on the SAI's work/audit program?

YES NO

▼ Related information

We receive the audit from the SAI, but we must continue the investigation after they send it to us.

6. Demanding the application of sanctions by the SAI?

YES NO

▶ 6.1. Is the Public Prosecution Office's demand necessary for the application of sanctions by the SAI, including the compensatory sanction (duty to compensate any damage to the public treasury)?

YES NO

▶ 6.2. Are there other legitimated parties to demand the application of sanctions?

YES NO

▼ Related information

6. It is important at this point to clarify that we have two different institutions regarding the account jurisdiction. The SAI (or The Republic's General Comptroller Office) is the one that elaborates the audit to start the accounts process. However, the institution in charge of imposing compensatory sanctions or sanctions to compensate for the damage to the public treasury is the Accounts Court.

6.1. As part of this jurisdiction, we present a document that includes all the information obtained during the investigation, and it is in which we ask the Accounts Court to declare patrimonial responsibility to anyone who created damage to our public treasury and ask for a sanction to compensate for the damage.



Panamá

7. Proposing or taking part in initiatives for the consensual resolution of possible irregularities or administrative controversies in order to prevent the repressive/sanctioning action of the SAI?

YES NO

▼ Related information

We can propose to anyone who might be patrimonial responsible that, to avoid the process, they can sign an agreement and a resolution in which they retribute the damage caused to the public treasury, and if they accept, we don't continue the process.



Portugal

I Governing legislation

The Portuguese Public Prosecution Service (PPS) is a constitutional body entrusted with powers to prosecute, to participate in the implementation of the criminal policy defined by the sovereignty entities, represent the State, and to defend the democratic legality and the interests laid down by the law (Article 219(1) of the Constitution of the Portuguese Republic/CPR).

The PPS has its own statute (Statute of the Public Prosecution Service/SPPS, Law 68/2019), being considered an autonomous magistracy from a procedural standpoint. Such autonomy is expressed through (i) the non-interference of other powers in its operation and (ii) its concept as a distinct magistracy guided by the principle of separation from and parallelism towards the Judiciary (Articles 219(2) of the CPR Articles 2 and 96(1) of the SPPS).

As regards the Court of Auditors, the Public Prosecution Service representation is ruled by the SPPS and Organization and Procedural Law of the Court of Auditors (Law 98/97).

The PPS enjoys autonomy in relation to other bodies of central, regional and local administration. This autonomy is characterized by its adherence to criteria of legality and objectivity and by the exclusive subjection of public prosecutors to the directives, orders and instructions provided for by the law – Articles. 219 of the CRP and 3 of SPPS).

I Institutional link

The Prosecution Office before the Portuguese Court of Auditors is part of the Portuguese Public Prosecution Service (PPS), the national body of Prosecutors with broader legal attributions.

The PPS magistrates are hierarchically subordinated. Their appointment, placement, transfer, and promotion, as well as the exercise of disciplinary action, are the responsibility of the Office of the Prosecutor General of the Republic, the superior organ of the PPS, presided over by the Prosecutor General of the Republic (PGR), and includes the Superior Council of the PPS, chaired by the PGR and comprising of Public Prosecutor's magistrates, other magistrates elected by PPS's magistrates, members elected by the Republic Assembly (Legislative Branch) and appointed by the member of the Government responsible for the area of justice (Article 22 of the SPPS).

I Composition, number, and type of members

It is up to the President of the Republic to appoint and dismiss the RPG, on the proposal of the Government. His/her term lasts for six years (Article 133, paragraph m, of the CPR).

The RPG has the same rank, treatment, and honors as the President of the Portuguese Supreme Court of Justice (Article 110, paragraph 1, of SPPS).

The representation of the PPS before the Court of Auditors is made by the PGR, who can delegate his/her functions to one or more Deputy Prosecutors General on temporary assignment of the RPG and approved by the Superior Council of the PPS; at the regional sections, it is represented by the public prosecutor nominated by the RPG.

Today, there are six Deputy Prosecutors General (Procuradores-Gerais Adjuntos) on temporary assignment before the Court: Vitor da Cruz Melo, José da Silva Ponte, Maria



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Manuela Basílio Luís, Francisco Pinto dos Santos, Paulo de Oliveira Ferreira, and Helena Vera Cruz Pinto.

In regional sections of the Court of Auditors, the PPS is represented by the magistrate designated by the RPG (Article 8 of SPPS and Article 29 of Law 98/97).

The Deputy Prosecutors General placed in the Court of Auditors have the same rank, treatment and honors as the judges who exercise functions there (Article 110, paragraph 3, of SPPS).

The entrance into the PPS career is open to nationals with a degree in law and results from success in training courses or internships.

Assignments

I Custos Legis

The PPS stands out in defending the independence of the courts and ensuring that judicial activities are exercised in accordance with the law.

The PPS intervenes ex officio and in accordance with the procedural rules in the 1st and 3rd Chambers of the Court of Auditors. All reports and opinions approved following verification, monitoring, and audit actions, including the report and opinion on the State General Accounts, must be submitted to it. It may also request the submission of all documents or processes deemed necessary.

The PPS, before the 1st Chamber of the Court of Auditors, expresses its opinion on the issues of legality raised, can appeal the decisions taken there, or issue an opinion on the appeals of directly affected entities (articles 96, 99, Law 98/97).

The PPS can also attend the 2nd Chamber, where it may issue an opinion on the questions of legality raised in the reports, if necessary.

I Prosecutory

Whenever the reports of the Court's control actions, as well as those of the internal control bodies' actions, show facts constituting financial liability, the respective cases are sent to the PPS, who will decide if a jurisdictional procedure is required (article 57, Law 98/97).

Directly affected entities and internal control bodies have subsidiary right of action in these matters (article 89, Law 98/97).

The jurisdictional procedure takes place in the 3rd Chamber, where the PPS can also appeal.

All public and private entities have the duty to collaborate with the PPS, providing documents and giving the information and clarifications requested duly justified according to the competence to be exercised, within the limits of the law, without prejudice to the applicable secrecy regimes.

In case of refusal, untimely or unjustified non-provision of information, the PPS may request the competent court to adopt appropriate coercive measures without prejudice



Portugal

to the application of the sanctions in the civil procedural law for situations of illegitimate refusal to collaborate.

I Appeals

The PPS can appeal the decisions taken before the 1st and 3rd Chambers of the Court of Auditors.

The PPS can manage an extraordinary appeal for the unification of jurisprudence in the face of divergent application of Law. Once admitted, it is forwarded to the PPS for an opinion on the conflicting court decisions and the jurisprudential direction to be established.

Resolutions approving reports on verifying accounts or audits are not subject to appeal (except regarding fixing charges).

When another party, distinct from the PPS, files an appeal, it is forwarded to the PPS for an opinion once admitted.

I Inter-institutional

As part of the PPS, the Prosecution Office before the Court of Auditors' regular relations with other branches of the PPS (e.g., communicating possible criminal and administrative infractions) do not fit as interinstitutional.

I Admin. and correctional competencies

As part of the PPS, the Prosecution Office before the Court of Auditors submits itself to the administrative management of the PPS, including correctional matters.

On the other hand, the Court of Auditors shall ensure administrative support for the representatives of the Public Prosecutor Service. In other words, the PPS, in the exercise of its functions before the Court, benefits from its technical and administrative support (article 30, Law 98/97 and Article 3 of the Court of Auditors Regulation).

Does your Public Prosecution Office have the prerogative of:

I 1. Taking part and giving its opinion in all deliberative sections of the SAI?

YES NO

▼ Related information

According to article 29, no. 4 of the Organization and Procedural Law of the Court of Auditors (OPL) - "The Public Prosecutor Service shall intervene officiously and in accordance with the procedure norms of the 1st and 3rd Chambers and shall be provided with all reports and opinions approved in the sequence of actions of verification, control and auditing at the time of the respective notification. The Public Prosecutor Service may request the



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delivery of all documents or cases which it deems necessary.” Thus, there is an officiously intervention limited to the processes of the 1st (A priori and concomitant control) and 2nd section (concomitant and successive control), being given a copy of the reports approved in the external verifications of accounts and audits, and being able to request the documents and clarifications it deems necessary. And a “Vista” to issue an opinion on the cases of the 2nd Section, immediately before the ordinary weekly session to approve the report, where it can “issue an opinion on the legality of the issues arising from them”. In the 1st Section, it also issues an opinion on concomitant control actions (Article 110 (2) of the Court of Auditors’ Regulation).

2. Giving its opinion in all cases and matters under the SAI’s jurisdiction and deliberation?

YES NO

▶ 2.1. Is this opinion mandatory in any matter?

YES NO

▼ Related information

2. See answer to previous point.

2.1. Within the scope of the procedures of the 1st (A priori and concomitant control) and 2nd Sections (concomitant and successive control), the opinion of the Public Prosecutor Service, when required, is not binding. Regarding the decision to request the judicial procedure for the enforcement of financial liabilities, within the scope of the 3rd Section (judgment of financial liabilities), and other decision-making acts of the Public Prosecutor Service (PPS) in these proceedings, namely for lodging an appeal, the MP has absolute autonomy and is sovereign in its decisions.

3. Requesting for investigative measures from the SAI?

YES NO

▼ Related information

According to article 29, n.º 6 of the OPL - “The Public Prosecutor Service may endeavour all complementary measures deemed necessary with regard to the facts included in the reports sent to them, so as to start possible jurisdictional procedures.”



Portugal

4. Adopting its own investigative measures, without the intermediation of the SAI, such as requesting information and documents from public authorities?

YES NO

▼ Related information

The Public Prosecutor Service may on its own initiative, without the intervention or authorization of the Court, request the information and documents it deems necessary for the investigation of its cases.

5. Taking part/giving its opinion on the SAI's work/audit program?

YES NO

▼ Related information

The Public Prosecutor Service does not intervene in the planning processes of the Court's activity, namely in the preparation of its strategic and annual plan

6. Demanding the application of sanctions by the SAI?

YES NO

▶ 6.1. Is the Public Prosecution Office's demand necessary for the application of sanctions by the SAI, including the compensatory sanction (duty to compensate any damage to the public treasury)?

YES NO

▶ 6.2. Are there other legitimated parties to demand the application of sanctions?

YES NO

▼ Related information

The Public Prosecutor Service has the main competence to bring to section 3 of the Court, proceedings to enforce financial liability of a sanctioning nature, which can give rise to fines, or of a recovery nature, in which restitution of public funds can be demanded, namely, in



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situations of arrears, embezzlement of public money or assets, undue payments, failure to collect revenue for the state and violation of financial rules, including in the field of public procurement, which result in the obligation to compensate. The Public Prosecutor Service is therefore the privileged holder of public financial action to enforce the responsibilities detected by the Court and the Internal Control Bodies (Sectoral Control) in relation to financial offences established in their audit reports, which in this context must be sent to the Court of Auditors.

However, the Public Prosecutor Service declaration confirming that it will not request legal proceedings, gives certain bodies the power to take public action, in order to enforce the financial liabilities stated in the External Verification of Accounts and audit reports, namely:

- The management, superintendence, and guardianship bodies over the “accountants”, responsible, imputed in the reports of the Court control actions - article 89, n. º 1 - b);

- The internal control bodies, but only to enforce the liabilities evidenced and imputed in their own control actions - Article 89, n. º 1- c);

7. Proposing or taking part in initiatives for the consensual resolution of possible irregularities or administrative controversies in order to prevent the repressive/sanctioning action of the SAI?

YES NO

▼ Related information

The legal framework in force in Portugal for establishing and judging financial liabilities does not provide the possibility of a consensual resolution, or through agreements, with those responsible for committing offences, with a view to resolving the processes of judging these offences.

For example, the Public Prosecutor Service cannot propose the cancellation of the procedure, the reduction of fines or amounts to be reimbursed to the public funds, because of commitments/agreements made with those responsible, provided that certain requirements are met, such as their good cooperation in better establishing the facts, the commitment to adopt certain future behaviours, etc.



Senegal

Governing legislation

In Senegal, the organization and the duties of the Public Prosecutor's Office at the Cour des comptes (Parquet général près la Cour des comptes) are ruled by the Constitution and the Organic Law on the Account Court voted by the Parliament in February 28th 1999.

Institutional link

The members of the Public Prosecutor's Office are magistrates of the Cour des comptes, and the Office itself belongs to the organization of the Court. So, there's no institutionally link with the other prosecution bodies, e.g. the Criminal Prosecutor's Office.

Composition, number, and type of members

The General Prosecutor's Office is composed by the General Prosecutor, the Deputy General Prosecutor and the General Advocate.

Forms of investiture

The General Prosecutor is appointed by the President of the Republic. The Deputy General Prosecutor and the General Advocate are appointed by the President of the Republic, by decree, after consulting the High Council of the Cour des comptes. The other members of the Offices are also assigned by the Council of Presidency.

Assignments

Custos Legis

In some cases it is entitled to express its advice, in the interest of the law, in accounting and control proceedings.

Prosecutory & Appeals

The Public Prosecutor's Office within the Cour des comptes has prosecutory and appeal functions.

Inter-institutional

The General Prosecutor's Office has a constant dialogue with other national (Government, Criminal Prosecutor's Office, Police Forces, independent Authorities) and international and regional organizations.



Senegal

Does your Public Prosecution Office have the prerogative of:

1. Taking part and giving its opinion in all deliberative sections of the SAI?

YES NO

▼ Related information

Article 12 of the organic law on the « Cour des comptes » indicates that the General Prosecutor exercises the functions of the Parquet within the Court employing requisitions, conclusions, opinions and notes. He may make additional oral observations at the various sessions of the Court's panels.

He is present or represented in the committees or commissions within the Court. In this capacity, he is a member of the conference of presidents and the reports and programs committee.

2. Giving its opinion in all cases and matters under the SAI's jurisdiction and deliberation?

YES NO

▶ 2.1. Is this opinion mandatory in any matter?

YES NO

▼ Related information

2.1. The General prosecutor does not give his opinion on all matters within the jurisdiction of the Court.

Concerning the reports produced by the chambers, those which must be communicated to it concern discharges, debits, fines, decisions on jurisdiction, de facto management, appeals and appeals for review.

The other reports are communicated to him either at his request or by the decision of the chamber presidents.

Concerning the administrative management of the Court, he is necessarily consulted by the First President on all questions relating to the general organization of the work of the Court.

3. Requesting for investigative measures from the SAI?

YES NO



Senegal

▼ Related information

It is within the competence of the General Prosecutor to refer to the Court operations presumed to constitute de facto management or management errors. It is up to him to initiate any procedure that could give rise to a fine.

4. Adopting its own investigative measures, without the intermediation of the SAI, such as requesting information and documents from public authorities?

YES NO

▼ Related information

It does not belong to the General Prosecutor's Office to investigate. However, in its capacity as a guarantor of the timely production of public management accounts, it has the prerogative to order public accountants to produce their accounts within a fixed deadline.

The General Prosecutor can also communicate directly with the administrative and judicial authorities through General Prosecutor's Office notes.

As part of monitoring the execution of the Court's judgments, especially in matters of fines, the General Prosecutor may send correspondence to the competent authorities to inquire about the status of execution of the Court's decisions.

5. Taking part/giving its opinion on the SAI's work/audit program?

YES NO

▼ Related information

Before setting the annual program, the public prosecutor's office gives its opinion on the orientation note from the First President, which provides indications of the Court's control priorities regarding the strategic plan.

The General prosecutor, a member of the Reports and Programs Committee, participates in the deliberations at the end of which the Court's annual control program is decided.

6. Demanding the application of sanctions by the SAI?

YES NO



Senegal

- ▶ **6.1. Is the Public Prosecution Office's demand necessary for the application of sanctions by the SAI, including the compensatory sanction (duty to compensate any damage to the public treasury)?**

YES NO

- ▶ **6.2. Are there other legitimated parties to demand the application of sanctions?**

YES NO

▼ **Related information**

6.1. For all procedures giving rise to a fine, it is the general public prosecutor's office who is authorized to initiate the procedure.

In matters of judgment of accounts, the chambers initiate the procedure. However, any debit to be pronounced must be preceded by the conclusions of the general prosecutor's office.

6.2. In matters of de facto management, the General Prosecutor may launch the procedure at the request of the Minister in charge of finance, the interested Minister, the legal representatives of local authorities, public establishments and implementation agencies, or senior accountants in charge of administrative clearance.

Regarding to the sanctioning of management errors, requests for prosecution may come from the President of the Republic, the President of the National Assembly, the Prime Minister, the Minister in charge of finance, and the First President of the Court of Auditors.

Regarding the obstruction of the Court's control, the General Prosecutor may take an indictment for the purposes of prosecution at the request of the First President of the Court.

- ▶ **7. Proposing or taking part in initiatives for the consensual resolution of possible irregularities or administrative controversies in order to prevent the repressive/sanctioning action of the SAI?**

YES NO

▼ **Related information**

The texts governing the Court do not provide for such a scenario.



Turkey

| Governing legislation

TCA Law no.6085

Working Regulation on TCA's Office of Chief Prosecutor (2011/28145)

Presidential Decree on Senior Public Officers and Appointment Procedures in Public Institutions and Organizations (Decree No: 3)

| Institutional link

Office of Chief Prosecutor is directly affiliated to the TCA President.

| Composition, number, and type of members

The Office consists of one Chief Prosecutor and 12 prosecutors.

Prosecutors are assigned to Chambers and participate in the trials of the relevant Chamber, as well as the appeal trials of the judgments rendered.

| Forms of investiture

Chief Prosecutor and prosecutors are appointed by the President. The Chief Prosecutor serves a four-year term and may be reappointed. Prosecutors are appointed with no time constraints.

Assignments

| Custos Legis

The Chief Prosecutor attends General Assembly meetings without the right to vote and expresses his opinion. (Art.25/3)

Prosecutors also attend the account trial and express their opinions. (Art.49)

Prosecutors draw up and sign their opinions based on the trial report, supplementary report, appeal, and decision rectification that have been assigned to them. They take part in the account trial without the right to vote and express their opinions.

| Prosecutory

If a criminal act is detected during audits and examinations, the relevant auditor will immediately identify the evidence and notify the TCA Presidency. If the first evidence collected as a result of the examination to be carried out by the chamber commissioned by the TCA President is deemed sufficient for public action, the file is submitted to the TCA's Office of Chief Prosecutor to be sent to the public entity with which the responsible persons are affiliated, or to the Office of Public Prosecutor for direct investigation, depending on the nature of the crime.

The judgments given by the judicial and administrative courts do not prevent the TCA from auditing and adjudicating. (Art.78)



Turkey

I Appeals

Prosecutors file appeal, retrial, and rectification requests with the Chief Prosecutor.

The Office of the Chief Prosecutor has the authority to appeal, rectify, and request explanations for the Chamber decisions, as well as to request corrections to appeal decisions. In addition, under certain conditions, it may request the restitution of the trial.

I Inter-institutional

The accounting units of the entities subject to TCA's account trial send the "TCA Writs Information Form," which shows the collection, cancellation, deduction, and removal of transactions made in cash or on account of receivables based on the TCA writs to the Office of Chief Prosecutor in the first week of January and July of each year.

On the third month of each year, the Office of Chief Prosecutor's informs the Presidency about the execution status of the writs over the years and the actions taken against those who do not comply.

In the case of those who fail to provide an account or the requested account's information, documents, and books, the Office of Chief Prosecutor will notify the entity with which the relevant persons are affiliated for the implementation of the sanctions specified in Article 9 of the Law.

The Office of Chief Prosecutor monitors the implementation of sanctions against the individuals in question and reports the results to the Presidency.

