

## Anti-Corruption Helpdesk Answer

# Integrity in Prosecution: assessing and mitigating corruption risks

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This Helpdesk Answers examines corruption risks of the prosecution authority within the criminal justice process and proposes mitigation strategies to strengthen prosecutorial integrity. Prosecutors exercise significant discretionary power, which, if unchecked, creates opportunities for bribery, favouritism, cronyism and undue influence. These risks manifest throughout the prosecution process and are compounded by the potential for institutional capture by political, corporate, or criminal interests. Case studies from countries like South Africa, Turkey, Mexico, and Colombia illustrate the dangers of prosecutorial misuse. To mitigate these risks, the paper recommends adopting transparent procedural standards, implementing robust internal management and review systems, conducting corruption risk assessments, and ensuring prosecutorial autonomy balanced with oversight.

Caveat: This Helpdesk Answer focuses specifically on the risks of corruption associated with the prosecution authority in the criminal justice process. It does not cover other more general risks that prosecution agencies may face simply because they are part of the broader public sector, such as those related to procurement. Additionally, it excludes corruption risks arising from prosecutors' non-criminal functions (e.g., administrative activities) and from stages of the criminal process where prosecutors may play a role but do not exercise primary control (e.g., the prison system).

## Query

We are currently supporting a national General Prosecutor's Office in strengthening its approach to managing corruption risks. Could you provide examples of international best practices or standards for assessing and mitigating corruption risks, particularly within the work and activities of prosecutors?

### Main points

- Given the high degree of discretionary powers, prosecutors are vulnerable to risks of bribery, favouritism, cronyism and undue influence at every stage from investigation to sentencing.
- Prosecution offices face risks of capture by political, corporate, and organized crime interests, threatening impartial justice.
- Clear, transparent integrity policies based on international standards (for example, UN Havana Guidelines and IAP Standards) are vital to guide prosecutorial conduct.
- Strong management and internal oversight, including team case handling, senior review, and digital case management, support compliance and early detection of misconduct.
- Periodic corruption risk assessments help identify vulnerabilities and guide targeted prevention and enforcement strategies within prosecution services, such as integrity vetting processes through retroactive checks of asset and interest declarations.
- Prosecutorial autonomy and independence must be balanced with effective oversight mechanisms to protect impartiality while ensuring accountability and public trust.

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# Corruption in the criminal justice system

Few responsibilities are more vital to good governance than enforcing laws that protect people's safety and their rights. A fair and effective criminal justice system is the foundation of the rule of law. It ensures accountability, protects communities, and provides the stability needed for societies to grow and prosper. When justice is delivered, public trust is strengthened, development efforts move forward, and essential services can reach those who need them most (UNDP 2012, 56).

Criminal justice systems vary widely across jurisdictions, shaped by different legal traditions, institutional structures, and political contexts. Despite these differences, they all carry out the same core functions: investigation, prosecution and trial, and detention (Messik & Schütte 2015). Multiple authorities, with various degrees of discretion, have the mandate to carry out these functions: from the police and other investigative authorities, to prosecutors, to magistrates or judges. While criminal justice procedures are typically detailed to protect the right to a fair trial, key decisions, such as whether to respond to an incident, pursue a case, or convict someone, still involve discretion, which inherently creates opportunities for corruption (Brooks 2019: 21). Monitoring or overseeing these decisions can be costly, time-consuming, and in some cases, simply not feasible. Moreover, even where formal oversight mechanisms are in place, they can themselves be vulnerable to corruption (Messik & Schütte 2015; 2).

Corruption in the criminal justice system can occur at two distinct levels. When viewed through the lens of principal-agent theory, individual actors such as police officers, prosecutors, judges, or corrections officials may stray from the duties entrusted to them, using their discretion for personal gain. This includes engaging in acts like bribery, where decisions are influenced by private interests rather than the law. From a systemic corruption perspective, entire institutions or functions within the justice system may deviate from the public good embodied in the rule of law. In such cases, institutional or even state capture may occur, where the justice system is no longer used to uphold public safety and legal integrity, but instead serves political, corporate, or criminal interests (Messik & Schütte 2015, Brooks 2019).

Experience from developed countries shows that many forms of corruption occur at every stage of the criminal justice process, but that bribery is the most reported form. This body of evidence finds a constant risk that individual police officers, prosecutors, judges, or corrections officials may trade their decisions for personal gain. Factors such as low pay, poor morale, and weak leadership only increase this risk. This body of evidence also reveals that the likelihood of corruption rises as the threat of incarceration grows. As a

person moves through the criminal justice system, the risk of losing their freedom becomes greater, and so does the incentive to corrupt (Messik & Schütte 2015; 3).

## Data sources for assessing risks

A variety of information sources can support the assessment of corruption risks in the criminal justice system. First, perception and experience surveys, both among the general population and among individuals who have gone through the system, such as those in the inmate population. For example, the Global Corruption Barometer collects data on how people perceive and experience corruption in institutions such as the police and the judiciary. According to the latest global edition, 35% of respondents believed that most or all police officers were corrupt, while 30% said the same about judges (Transparency International 2017).

These perceptions vary significantly across regions. In Latin America, data from 2019 shows that 42% of respondents believed that most or all judges in their country were corrupt, and 45% held the same view of the police (Transparency International 2019). In contrast, the same survey found that in Europe, in 2021, only 14% believed most, or all judges were corrupt, and 11% said the same of the police. Another difference lies in perceptions compared to direct experience of corruption: only 3% of surveyed Europeans reported directly paying a bribe to the police, while 20% said they had used a personal connection to access services or receive better treatment from the police (Transparency International 2021). However, more recent data from Eurobarometer indicates a concerning rise in corruption perceptions in these institutions. According to the 2024 survey, 24% of Europeans believed that bribery, abuse of power, and personal gain are widespread among the police, and 18 % believed the same about the courts (European Commission 2024; 14).

Surveys conducted with inmate populations often provide a more accurate picture of corruption in the criminal justice system, as these individuals have direct experience with its various stages. For example, the latest data from Mexico's National Survey of the Imprisoned Population found that 36% of respondents reported being victims of corruption at least once during their involvement in the criminal justice process. Specifically, 17% experienced corruption in detention centres, 16% at the arrest stage, 14% during prosecution, and 6% within the judiciary (INEGI 2021). This survey focuses on actual experiences of corruption rather than perceptions, recording only whether inmates were personally asked to pay money in exchange for being released, avoiding physical harm to themselves or their families, or having evidence against them altered. Other forms of corruption beyond these specific acts are not captured by the survey (INEGI 2021: 17).

Second, expert assessments of legal and institutional frameworks offer valuable insights into the justice system's vulnerability to corruption, as well as its capacity to prevent and respond to it. One example is the Group of States against Corruption (GRECO), which comprises 47 European States plus Kazakhstan and the United States and was established by the Council of Europe to monitor member states' compliance with its anti-

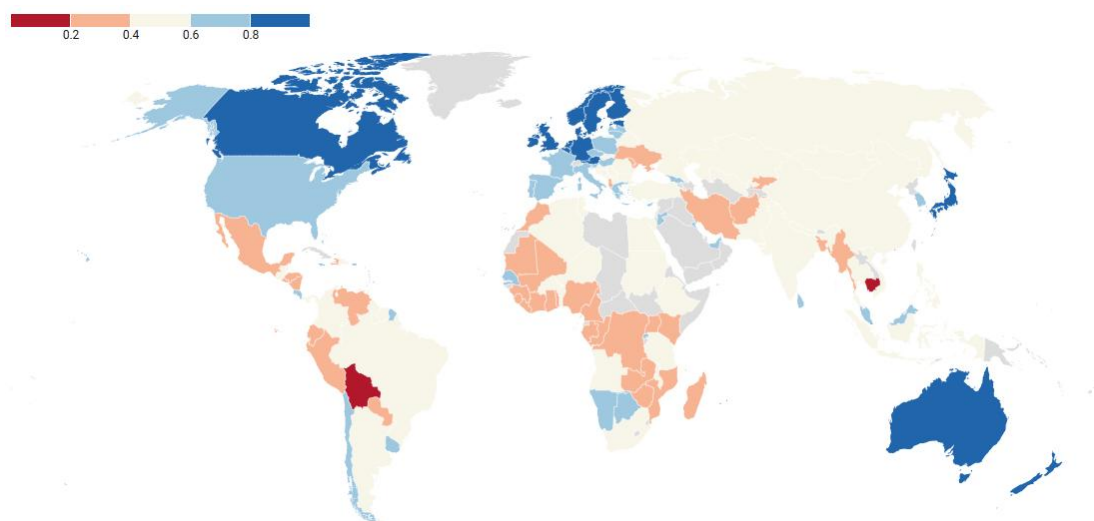
corruption standards. GRECO conducts regular evaluation rounds that focus on specific areas of anti-corruption policy. Its fourth evaluation round assessed corruption prevention measures in two core institutions of the criminal justice system: the judiciary and the prosecution services. This round reviewed both groups using five key priority areas: ethical principles, rules of conduct, and conflicts of interest; prohibition or restriction of certain activities; declaration of assets, income, liabilities, and interests; enforcement of applicable rules; and awareness and training (Council of Europe 2017).

The Istanbul Anti-corruption Action Plan, an OECD peer-review programme for the Anti-Corruption Network for Eastern Europe and Central Asia, supports anti-corruption reforms through country reviews and by monitoring the implementation of recommendations. Among the areas reviewed, two are directly related to preventing corruption risks in the criminal justice process: the independence of the judiciary and the independence of public prosecution services. In assessing judicial independence, the Plan examines indicators that help reduce corruption risks by strengthening institutional safeguards, including judges' tenure, appointment procedures, judicial budgets and remuneration, mandates, and disciplinary processes. For the independence of prosecution services, the assessment includes similar indicators, while also considering whether the assignment of cases among prosecutors is transparent and objective, whether prosecutors have the right to challenge orders received, and whether they are held accountable through impartial decision-making procedures that protect against arbitrariness (OECD 2021: 17-22).

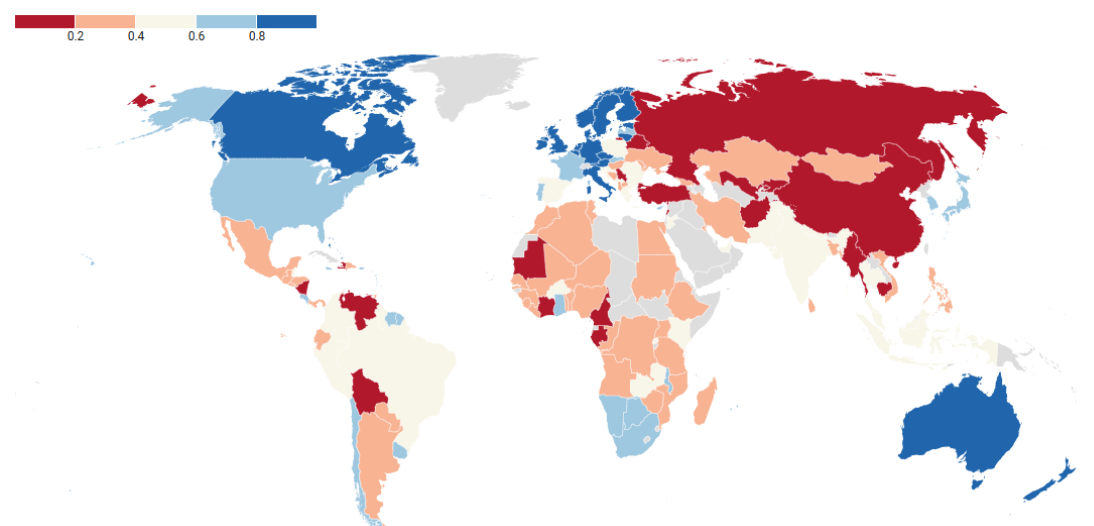
Another relevant example of expert assessments is the World Justice Project's Rule of Law Index, which includes a dedicated factor for evaluating the quality of criminal justice systems. According to the 2024 scores, the strongest systems are found in Denmark, Finland, and Norway, while Venezuela, Bolivia, and El Salvador rank among the weakest. This factor includes specific components that assess whether criminal justice systems are free from corruption (see Map 1), with the lowest scores recorded in Cambodia, Bolivia, and the Democratic Republic of Congo, and the highest in Denmark, Finland, and Norway. It also evaluates the extent of undue government influence (see Map 2), where Nicaragua, Venezuela, and Myanmar score the lowest, and Denmark, Finland, and Canada score the highest (WJP 2024).

**Map 1: Criminal justice system free of corruption**

2024 Rule of Law Index Component Score

*Author's map using data from World Justice Project, 2024.***Map 2: Criminal justice system free of improper government influence**

2024 Rule of Law Index Component Score

*Author's map using data from World Justice Project, 2024.*

A regional comparative methodology based on expert assessment that is worth highlighting is the EU Justice Scoreboard, which contributes to the annual Rule of Law Report prepared by the European Commission. Although the Scoreboard primarily evaluates the efficiency, quality, and independence of justice systems across European Union member states, it also includes key indicators relevant to corruption. Within the independence dimension, it assesses anti-corruption safeguards related to the criminal

justice system, including asset declaration requirements and the procedures for appointing and dismissing prosecutors and judges (European Commission 2024).

Third, sector-specific corruption risk assessments can provide targeted analyses of vulnerabilities within the criminal justice system, including at critical decision points. These assessments are often conducted by international organisations, national anti-corruption agencies, or professional bodies such as associations of judges or prosecutors. Some assessments examine the entire criminal justice system, such as the 2023 Corruption Risk Assessment of North Macedonia conducted by the OSCE Mission to Skopje. Others focus on specific stages of the process, for example the Council of Europe's 2017 corruption risk assessment of the prosecution service in Kosovo. There are also broader evaluations of criminal justice systems where corruption is only one of several areas assessed, such as UNODC's 2011 Assessment of the Criminal Justice System in Ethiopia. Finally, some assessments focus on specific types of crime but still offer insights into the functioning and integrity of criminal justice systems. For example, Transparency International's analysis of criminal justice bodies in Latin America and West Africa examines how effectively these institutions address the risk of infiltration by organised crime linked to drug trafficking (McDevitt & Bullock 2021).

When corruption takes root in the justice system, the consequences are far-reaching. It undermines the system's ability to deliver fair and impartial justice, often leaving victims without redress and allowing offenders to escape accountability. This failure weakens the rule of law and erodes public trust in state institutions. Over time, people may lose faith in formal justice mechanisms altogether, turning instead to informal or even criminal networks. Corruption can also foster impunity, encourage criminal behaviour, and create conditions where crime thrives. These outcomes not only threaten public safety but also present serious challenges to sustainable development, as corruption diverts resources, deepens inequality, and undermines good governance (Kukutschka 2024).

This Helpdesk Answer focuses on the corruption risks of the prosecution authority within the criminal justice process and proposes mitigation strategies to strengthen prosecutorial integrity.



# Corruption risks in prosecution

In most countries, the primary responsibilities of prosecutors within the criminal justice system include providing legal guidance to police investigations, reviewing the evidence to determine whether it is sufficient to support a charge, deciding whether to file a case in court or request further investigation, and ultimately prosecuting criminal cases in court on behalf of the public good (Gramckow 2015: 18). In some jurisdictions, prosecutors may also conduct their own investigations or be responsible for overseeing the execution of sentences, including the supervision of prisons (UNODC 2006). As such, prosecutors are essential to ensuring public safety and holding individuals, corporations, and government officials accountable under the law (Gramckow 2011).

As the Special Rapporteur notes, prosecutors are “essential agents of the administration of justice” who must uphold human rights, protect human dignity, and promote due process to ensure the effective functioning of the criminal justice system. They also serve as gatekeepers to the judiciary and play a vital role in combating impunity (Report of the Special Rapporteur on the independence of judges and lawyers (A/HRC/20/19), para. 93).

Beyond their core prosecutorial functions, prosecutors in many jurisdictions also engage in investigating crimes, supervising compliance with procedural safeguards, making decisions regarding bail, negotiating plea and sentence agreements, and recommending appropriate sentences. Their responsibilities may include diverting offenders to alternatives to prosecution, supporting victims, and overseeing the treatment of persons in custody. Given their strategic role in criminal proceedings, prosecutors are often well positioned to advise on broader criminal justice policy. In some systems, they also represent the public interest and protect vulnerable groups, such as children, persons with disabilities, the elderly, and minorities, in civil or administrative matters (UNODC 2014: 1).

While the extent of their authority varies by jurisdiction, prosecutors generally wield significant power. In common law systems, the prosecution is invariably part of the executive branch. In civil law systems, by contrast, the prosecution may belong to the executive or the judiciary, depending on the country.

## Prosecutorial Discretion

Another key distinction lies in the approach to prosecutorial discretion: some countries follow the opportunity principle, allowing prosecutors to decide whether to pursue a case, while others adhere to the legality principle, which requires prosecution of all cases that meet legal thresholds. While common law countries predominantly follow the

opportunity principle, civil law countries can operate under either model (Hamilton 2011).

This structural divergence shapes prosecutorial practices across legal traditions. In most common law countries, prosecutors have traditionally exercised broad discretion to dismiss cases, select charges, and engage in plea negotiations. Civil law countries, by contrast, have historically adhered to the legality principle, which obliges prosecutors to pursue all criminal cases unless the evidence is clearly insufficient (Gramckow 2015: 18). Under this model, prosecutors are not formally empowered to drop charges or negotiate outcomes. However, in practice, civil law prosecutors often exercise informal discretion, for example by omitting lesser offenses or consolidating multiple charges to streamline proceedings (Gramckow and Monge 2014). Consequently, some degree of flexibility exists in both systems. Regardless of the legal tradition, in democratic settings, prosecutors typically have significant influence over investigations, charge selection, and in some cases, sentencing recommendations (Brooks 2019: 148). This influence is often even more pronounced in autocratic regimes, where institutional checks and balances are weaker (Brinks 2008).

For Gershman (2001), state prosecutors have a duty to pursue the truth and act as ministers of justice, serving as representatives of the state and advancing the public interest. However, both “justice” and the “public interest” are concepts open to interpretation. Within the criminal justice system, Gershman questions whether justice should prioritize punishment, rehabilitation, or a balance of both. Should the public interest be defined by the severity of the crime, the circumstances under which it was committed, or by who the accused or the victim is?

UNODC (2019) identifies five main justifications for criminal punishment: retribution, incapacitation, deterrence, rehabilitation, and reparation. Retribution, arguably the oldest rationale, holds that punishment is justified by the commission of a wrongful act, with the penalty proportionate to the harm caused. Incapacitation focuses on protecting the public from future harm by restricting an offender’s liberty, typically through incarceration. Similarly forward-looking, deterrence aims to prevent future crimes by imposing penalties severe enough to discourage offending. Rehabilitation, by contrast, seeks to reform the offender’s behaviour to prevent reoffending. Finally, reparation is based on the principle that offenders should make amends to victims as a way of repairing the harm caused. The different philosophical foundations of criminal law underscore the inherent ambiguity in prosecutorial decision-making, even when prosecutors are guided by idealistic motivations.

Brooks (2019) offers a more realistic account of how state prosecutors operate, emphasizing that their decisions are shaped more by contextual and institutional pressures than by purely normative ideals. For instance, in the United States, like in other countries, prosecutors are frequently expected to maintain high conviction rates, and failure to do so can jeopardize their chances of re-election. Beyond electoral incentives, prosecutors may also face pressure to satisfy public opinion, law enforcement agencies, colleagues, political allies, or victims. These influences can significantly shape

prosecutorial discretion, even in the absence of overt acts of undue influence or corruption.

Prosecutorial discretion is therefore extremely broad and, in some jurisdictions, nearly absolute, as Banks argues is the case in the United States. He characterizes state prosecutors' power as the "single most un-reviewed exercise of the power of the criminal law available to an individual in the American system of justice" (Banks 2017: 1338). Although prosecution is not the final stage of the criminal justice process and a charge does not guarantee a conviction, the consequences of being prosecuted should not be underestimated. Freedman (1975) made a point that remains salient today: being charged with a crime can severely damage an individual's reputation, cause significant emotional strain, and impose a financial burden, regardless of whether a conviction ultimately occurs.

Unchecked discretionary powers create a breeding ground for corruption risks (Brooks 2019, Gramckow 2015).) When corruption occurs, suspects may flee justice, evade serious charges, or intimidate witnesses with impunity, potentially allowing criminals to escape accountability. On the other hand, individuals may be subjected to prolonged pretrial detention, excessive bail demands, or be charged with more serious offenses than the facts warrant. The consequences are serious, both for communities, where criminals may go free due to irregularities in prosecutions and trials, and for the accused, who may be wrongfully tried and convicted (Gramckow 2015: 18). Corruption can also damage the reputation of prosecution offices and erode public trust in the justice system. If not addressed or if allowed to become systemic, this form of corruption can facilitate organized crime, lead to widespread dysfunction within the criminal justice system, and undermine the public's confidence in justice and the rule of law (Brooks 2019: 132).

Systematic studies on corruption within prosecutors' offices are limited, most international indicators and regularly conducted surveys tend to focus on corruption in the judiciary or police, with comparatively little attention paid to the prosecution service (Gramckow 2015). As a result, there is a notable lack of data to assess the scope or trends of corruption in this stage of the criminal justice process compared to others.

## **Risks of corruption in the prosecution process**

Bribery, threats, cronyism and political interference can occur at any stage of interaction between prosecutors and other key actors in the justice system. These include investigators, suspects, offenders, victims, witnesses, judges and corrections officers (Gramckow 2015). This section of the Helpdesk Answer delineates the common corruption risks that may arise throughout the prosecution process.

## During the investigation process

The first key decision where prosecutorial discretion can be vulnerable to corruption is the decision to pursue or not pursue a case. Ideally, a prosecutor declines to move forward with a case when there is insufficient evidence to secure a conviction, and conversely, proceeds with prosecution when supported by a sound body of evidence. reasons for discontinuing an investigation may extend beyond evidentiary weaknesses. These can include jurisdictional issues, the determination that the conduct is not classified as a criminal offence, the existence of a prior court judgment in the same case (*res judicata*), substantive criminal law considerations such as coercion or insanity, the application of immunity, expiry of the statute of limitations, or the granting of clemency.

However, selective prosecution occurs when this decision is influenced not by legal or evidentiary considerations but by improper motives. For example, prosecutors might neglect their obligation to disclose a conflict of interest and recuse themselves from a case.

The assignment of a specific prosecutor to a case can be influenced by corruption to secure a particular outcome. In some instances, the head of a prosecution unit or agency may deliberately select a trial attorney who is more likely to comply with instructions that are not in line with legal standards or ethical norms. This may include choosing someone known to be lenient, biased, or even directly complicit. In more serious cases, the chosen prosecutor may have received a portion of a bribe or be under pressure from political or criminal actors (Gramckow 2015).

### Box 1: The Spy Tapes Saga

In 2007, Jacob Zuma was charged with corruption and racketeering related to the government arms deal. These charges were based partly on evidence from the corruption trial of his former financial adviser, Schabir Shaik. By 2009, the charges against Zuma were dropped by Mokotedi Mpshe, the Acting National Director of Public Prosecutions (ANDPP), two weeks before the general election.

Mpshe's decision to drop the charges was based in part on the release of "spy tapes" — secret recordings of conversations between Leonard McCarthy, head of the Directorate of Special Operations (Scorpions), and Bulelani Ngcuka, head of the National Prosecuting Authority (NPA). In these tapes, McCarthy and Ngcuka allegedly discussed the timing of bringing charges against Zuma, implying political motives to undermine him given he was at that time a political rival of the sitting president, Thabo Mbeki.

Following the dropping of charges, the Democratic Alliance (DA) sought access to the tapes and related internal documents to review the decision. The NPA resisted disclosing these materials, citing confidentiality agreements with Zuma. The DA then took the matter to the North Gauteng High Court, which initially ruled the DA lacked standing to compel disclosure.

The DA appealed to the Supreme Court of Appeal (SCA), which ruled in favour of the DA, ordering the NPA to hand over the tapes and documents. Despite the ruling, the NPA delayed compliance, prompting the DA to return to court. The North Gauteng High Court then ordered the NPA to produce the tapes and transcripts, rejecting Zuma's claims of confidentiality over the transcripts. The NPA and Zuma appealed again to the SCA, but the court dismissed the appeal and ordered full disclosure, except for specific confidential parts determined by an independent evaluator. The SCA also criticized the NPA for its handling of the matter.

After years of litigation, the DA finally gained access to the tapes and documents. The tapes revealed possible political interference in prosecutorial decisions, specifically regarding the timing and rationale for charging Zuma. This interference led to the dropping of over 700 corruption charges against him, significantly affecting the political and legal landscape of South Africa.

Sources: Corruption Watch 2013; Premhid 2014.

During the investigation process, prosecutors may face bribery or pressure aimed at interfering with the proper handling of a case. In some instances, they may attempt to undermine the investigation by intentionally providing misleading legal advice to investigators, with the goal of discrediting or delaying progress. In more serious cases, prosecutors may collude with investigators to fabricate or conceal evidence, compromising the integrity of the entire process (Gramckow 2015).

Studies from Nigeria and Venezuela have identified evidence tampering during the investigation phase as one of the most common forms of corruption involving prosecutors, often in collaboration with investigating police officers (Buscaglia and Ruiz 2002). These findings are further supported by a United Nations-funded study on complex crimes in 64 member countries, which also highlighted the frequent involvement of prosecutors in manipulating evidence during investigations (Buscaglia and van Dijk 2003).

## During the charging and filing process

During the charging and filing process, prosecutors may manipulate the timeline of a case by either delaying or accelerating its progression. They may interfere with case documentation by altering police records, modifying investigative reports, or intentionally misplacing critical documents. In some instances, prosecutors may accept bribes in exchange for dropping charges altogether or for altering them in ways that reduce their severity or redirect legal outcomes in favour of the accused (Gramckow 2015).

During the pretrial phase, prosecutors may inappropriately accept or deny plea offers based on personal interests or external pressures rather than on legal merit. They may falsify or withhold evidence to influence decisions on pretrial detention or bail, manipulate jury selection to favour a particular outcome, or fail to disclose exculpatory

evidence that could support the defence. In some cases, prosecutors might intimidate witnesses or exert undue influence on other prosecutors or even judges to steer the case toward a desired result (Gramckow 2015).

### **Box 2: Witness Tampering Allegations and Procedural Errors**

As of July 2025, former Colombian president Álvaro Uribe Vélez remains under investigation for witness tampering and procedural fraud, arising from efforts to influence the testimony of Juan Guillermo Monsalve, a former paramilitary who linked Uribe to the formation of illegal armed groups.

Monsalve covertly recorded meetings in prison using hidden cameras embedded in wristwatches. The footage captures Diego Cadena, Uribe's former attorney, and Enrique Pardo Hasche, a fellow inmate, urging Monsalve to alter his testimony in Uribe's favour, offering inducements in return. In one clip, Pardo is heard stating: *"If you switch to the president's side, I guarantee you will receive great things."*

The case was led by Prosecutor Gabriel Jaimes, who acknowledged the recordings' authenticity but alleged, without presenting forensic evidence, that Monsalve and his partner had tampered with them. Jaimes did not interview Uribe or submit the original recording devices for formal examination. Instead, he petitioned for the case's closure.

In May 2022, a criminal court judge rejected Jaimes's request for preclusion, citing procedural deficiencies and the need for further evidentiary review. Shortly thereafter, Jaimes requested reassignment, and the Attorney General's Office initiated the process of appointing a new prosecutor.

Sources: Coronel, 2021; Giordano 2014.

## **During trial and sentencing**

During the trial and sentencing phases, prosecutors may withhold or conceal evidence that could prove the innocence of the accused or exclude exculpatory material that supports their defence. They may coerce offenders or witnesses to provide false testimony or to remain silent, undermining the fairness of the process. Additionally, misleading statements may be made in court to sway judges or juries unjustly (Gramckow 2015).

### **Box 3: Evidence Concealment and Prosecutorial Misconduct in the Ted Stevens Case**

In 2008, U.S. Senator Ted Stevens was convicted of making false statements, following a high-profile corruption trial. A subsequent special investigation revealed systemic prosecutorial misconduct that fatally compromised the case.

The special investigation found that federal prosecutors intentionally withheld key evidence favourable to Stevens, including a note requesting billing for renovations and statements from a foreman supporting his defence. Prosecutors also concealed damaging information about their key witness. These were clear breaches of *Brady* and *Giglio* disclosure rules, which require prosecutors to share evidence that could help the defence or undermine the credibility of prosecution witnesses.

The investigative report described the misconduct as deliberate and exacerbated by management failures within the U.S. Department of Justice. Supervisory oversight was lacking, file management was disorganized, and communication within the prosecution team broke down during trial preparations. While the Justice Department dismissed the charges in 2009, the scandal prompted calls for legislative reform and the implementation of enhanced training for federal prosecutors. Stevens' defence lawyer, condemned the prosecution's conduct as "the worst misconduct we've seen in a generation."

**Sources:** Johnson, 2012.

Another risk at this stage is the potential misuse of plea bargains. A plea bargain is an arrangement between a prosecutor and a suspect or defendant, in which the latter agrees to plead guilty under certain conditions. Either the defence or the prosecutor can initiate the agreement. For the suspect or accused, the primary incentive is to secure a reduced sentence, a suspended sentence, or a non-custodial sentence such as a fine. The outcome typically depends on the seriousness of the offence, the degree of the individual's guilt, and the testimony they can offer to support the investigation. For prosecutors and society, plea bargains provide significant benefits: saving time and resources, ensuring swift punishment, securing compensation for losses or damages, and exposing other offenders (ANTAC 2024).

The concept of plea bargaining originated in the Anglo-American legal tradition. In the United States, most criminal cases are resolved through plea bargains. According to the latest report of the Plea-Bargaining Task Force of the American Bar Association, over ninety percent of all convictions result from plea agreements. The report acknowledges certain advantages of the system, including efficiency, cost savings, predictability, and a mechanism to encourage defendants to cooperate or accept responsibility. However, it also warns that these benefits come at a significant cost. The report notes that the integrity of the criminal justice system is undermined by the overwhelming number of cases resolved through pleas, as police and government misconduct often go unchallenged because so few defendants proceed to pretrial hearings where such misconduct could be examined (ABA 2023).

In corruption cases, plea bargaining can be particularly problematic. Evidence from Nigeria shows that, while the practice has enabled significant asset recoveries, it has also led to reduced prison sentences for elite offenders, undermining public trust in the judiciary and anti-corruption agencies. The same study highlights how political and



economic status can influence outcomes, with wealthy defendants often able to negotiate lenient penalties, while lower-level offenders face full trials and harsher sentences. This selective application has fuelled perceptions of impunity and elite protection, weakening broader anti-corruption efforts and damaging international confidence in Nigeria's legal system (Adebanjo & Aluko 2025).

These concerns extend beyond Nigeria and the United States. Plea bargaining has become central to anti-corruption enforcement in many countries. In Brazil, for example, plea bargain agreements were legalised in 2013 following mass protests, and they have since become a key tool for prosecutors. Since 2014, more than 160 such agreements have been signed by political operatives and business executives accused of crimes such as bribery, obstruction of justice, and laundering state funds, particularly in connection with the Petrobras scandal known as Operation Lava Jato (Wilson Center 2017). A 2019 OECD report further notes that among all forty-four Parties to the Anti-Bribery Convention, non-trial resolution mechanisms such as plea bargains have become the primary means of enforcing anti-foreign bribery laws (OECD 2019).

## Risks of capture of prosecution offices

Corruption within prosecution services can extend beyond isolated or widespread misconduct in individual cases. In its most severe form, it can lead to the systematic capture of the entire prosecution service, or even the state itself. In line with Rose-Ackerman's notion of grand corruption (1996), when the entire prosecution services operate in the interest of a specific group rather than the public good, this constitutes institutional capture. Such capture can fundamentally distort the role of the criminal justice system, transforming it from a mechanism for upholding the rule of law and protecting citizens into a tool for advancing narrow political agendas, shielding corporate actors, or facilitating the objectives of organized crime.

Prosecutorial capture can occur through both formal legal changes and informal mechanisms of control, consistent with Mungiu-Pippidi's (2015) distinction between *de jure* and *de facto* strategies. *De jure* strategies may involve changes to the legal and institutional framework that erode prosecutorial independence. For example, this can include transferring appointment powers to political actors, reducing term limits (or, in some cases, extending term limits), or dissolving oversight bodies. Although such actions may appear legitimate and are often legal, they serve to weaken protections against executive or partisan interference (Messick & Schütte, 2015).

By contrast, *de facto* capture relies on informal networks, coercion, or patronage to influence prosecutorial discretion from behind the scenes. Personnel may be selected based on loyalty rather than merit, and prosecutorial decisions become shaped by extralegal pressures instead of evidence or the public interest. As the previous section illustrates, interference can occur in how investigations are initiated, how evidence is managed, and which cases are prioritized or quietly set aside (Messick & Schütte, 2015).



## Capture by political interests

Perhaps the most emblematic form of prosecutorial capture is that driven by political interests. Political capture often manifests in the misuse of the criminal justice system to target and prosecute opposition leaders, suppress activists, silence members of civil society, support and legalise corporate raids, or cover up State crimes.

The prosecution of Istanbul Mayor Ekrem İmamoğlu exemplifies how the legal system can be captured and weaponized to target political opponents. Having repeatedly defeated candidates backed by President Erdoğan, İmamoğlu emerged as the opposition's leading figure and a significant threat to the ruling party's hold on power. In March 2025, he was arrested on corruption and terrorism charges. The prosecution encompasses a barrage of diverse legal actions, including criminal cases, administrative decisions, and financial investigations, designed to overwhelm and exhaust him and his supporters. This multi-front legal assault serves clear political purposes aimed at diminishing İmamoğlu's political influence. The revocation of his university diploma seeks to disqualify him from running for president, while corruption charges provide grounds for his removal from office under Turkish law (Tecimer 2025). The prosecutor had initially called for İmamoğlu to face up to seven years and four months behind bars, and to be banned from holding public office. In July 2025, İmamoğlu, received an additional 20-month prison sentence for insulting and threatening the city's public prosecutor (AFP 2025).

Scholars have described this coordinated campaign as lawfare, identifying it as a recurring strategy employed by Erdoğan's administration to erode the rule of law and suppress opposition (Aksoy & Çevik 2025; Esen & Gümüştü 2023; Tecimer 2025). The Parliamentary Assembly of the Council of Europe has condemned these actions, calling for İmamoğlu's immediate release, the dropping of all unfounded charges, and the reversal of the diploma revocation, characterizing these moves as politically motivated attempts to intimidate the opposition and stifle pluralism (CoE 2025).

Prosecution can also be captured to silence activists and individuals who stand up against the government. In Guatemala, for example, the Public Prosecutor's Office and judiciary have been instrumentalized to prosecute individuals speaking out against corruption. Between 2007 and 2019, this issue was addressed by the International Commission Against Impunity in Guatemala (CICIG), a highly effective external body that supported national enforcement institutions in reducing impunity for grand corruption and organized crime. Despite its success, the Guatemalan government chose not to renew CICIG's mandate beyond 2019 (Kukutschka 2024). The former chief prosecutor, who collaborated closely with CICIG, now faces charges of embezzlement, perjury, and tax fraud, and has been granted asylum in the U.S. (Moskowitz 2020). A 2023 report by the U.S. Embassy in Honduras further underscores this trend, documenting how high-level officials within the Guatemalan Public Prosecutor's Office were involved in politically motivated criminal charges, particularly against journalists and anti-corruption advocates (U.S. Mission Tegucigalpa 2023).

The prosecutorial power is also harnessed for political objectives aligned with foreign sovereign or geopolitical interests. Building on Jonathan Simon's 2007 argument that American politicians have exploited societally entrenched fears of crime as a governance tool, particularly when such fears are exaggerated or manipulated, Said (2023) identifies three key domains where prosecutorial functions in the United States have consistently been captured by political interests. These include prosecutions related to domestic protests, often used to suppress dissent under the guise of public safety, prosecutions of foreign nationals especially when aligned with broader U.S. foreign policy goals, and prosecutions of foreign government officials, predominantly from Latin American states, where legal proceedings may serve geopolitical interests rather than rule of law principles (Said 2023).

Another example of prosecutorial capture is the use of prosecution services to facilitate or legitimize corporate raids. In Russia, such tactics, known as *reiderstvo*, involve pressuring or seizing businesses with the complicity of corrupt state authorities (Lain 2017). The Russian Prosecutor General's Office has at times played a central role in returning strategic assets to state control. One prominent case involved the oil company Bashneft: in 2014, its owner was placed under house arrest, and a court later ruled that the company's privatization had been illegal. Prosecutors claimed to have uncovered 'significant violations' during Bashneft's 2009 acquisition from the Bashkortostan regional government and accused the owner of money laundering. Shortly afterward, the state-owned oil giant Rosneft acquired a controlling stake in Bashneft in October 2016. The true motivations behind the case remain unclear. Analysts have suggested possible links to Russia's deteriorating economic situation, driven by falling oil prices and Western sanctions, as well as fiscal pressures that may have encouraged the state to reclaim valuable assets. Others point to timing, noting that Bashneft was preparing for an initial public offering in London, which may have been viewed unfavourably by elements within the government (Lain 2017; 12).

The political capture of the Mexican Prosecutor General's Office during the Ayotzinapa case reveals a strategic effort to conceal a state crime. Former Attorney General Jesús Murillo Karam played a central role in fabricating the so-called "historic truth," a false narrative that exclusively blamed criminal groups and local authorities while systematically shielding military and federal officials involved in the abduction, disappearance, and cover-up of 43 students from the Ayotzinapa Rural Teachers' College. This fabricated version relied on statements obtained through torture and ignored critical evidence, deliberately blocking a truthful investigation into the State's direct involvement (COVAJ 2022). By orchestrating and promoting this cover-up, Murillo Karam effectively protected high-ranking authorities including military and federal police from investigation and prosecution. His actions limited accountability and concealed the State's complicity, preserving the impunity of powerful government actors for a crime that, as confirmed by the Commission for Truth and Access to Justice (COVAJ) report, was orchestrated at the highest levels of the State (Brewer 2022).

While prosecutorial capture can serve to advance specific political interests, as these cases have shown, allegations of politically motivated prosecutions may also be

strategically employed by certain actors as a means to evade accountability. For example, in 2024, Donald Trump consistently claimed that his four indictments were politically motivated attempts to prevent him from running in the presidential election. He accused the Biden administration and Democratic prosecutors of politicizing law enforcement, even as he vowed to investigate or prosecute a wide range of political rivals, former intelligence officials, the country's former military chief, prosecutors and judges, tech moguls, members of Congress, and left-wing Americans (Klasfeld & Goodman 2024).

## Capture by corporate interests

Corporate actors may also have a strong interest in exerting undue influence over the criminal justice system, particularly regarding the enforcement of corporate criminal liability. Offenses most frequently subject to such liability include antitrust violations, tax evasion, bribery, various forms of fraud, breaches of anti-money laundering regulations, environmental crimes, and violations of safety requirements.

Nishchal and Søreide (2021) observe that unlike two decades ago, when most corporate crime cases were adjudicated through full court proceedings today such cases are typically resolved through non-trial settlements between corporate defendants and prosecutors. High-profile examples include the Siemens case in the United States and other jurisdictions (DOJ 2008), as well as the Rolls-Royce case in the United Kingdom (SFO 2022).

In these settlement arrangements, prosecutors offer corporations the opportunity to avoid trial in exchange for cooperation. Similarly to plea bargain agreements, this generally involves admitting to the facts of the case, paying a monetary penalty, and agreeing to external compliance monitoring for a fixed period. Prosecutors often scale penalties according to the degree of corporate cooperation, with more lenient outcomes offered to firms that self-report or assist in uncovering wrongdoing (OECD 2019; Alexander & Cohen 2015).

In this context, Nishchal and Søreide describe a type of capture they term "prosecutorial favouritism", a subtler form of influence compared to that that can occur under political capture. Such favouritism may stem from quid pro quo arrangements, including personal favours or future employment opportunities for prosecutors. It may also reflect broader regulatory sensitivities to political or economic pressures, such as the desire to protect national champions or maintain employment, or simply a prevailing pro-business orientation within enforcement bodies (Nishchal & Søreide 2021).

The United States has pioneered this settlement-based enforcement model and remains its most active proponent, both in volume and in developing guidelines to promote consistency and predictability (Buell & Arlen 2020). Other jurisdictions, including several in Europe and Latin America, as well as Australia and Canada, have adopted similar practices, often characterized by less regulatory clarity and transparency (Makinwa & Søreide 2018).

Using data on procedural regulations for non-trial resolutions and enforcement from 26 countries, Nishchal and Søreide (2021) find that the risk of prosecutorial collusion with accused firms is higher in systems marked by longer prosecutorial tenures, limited internal checks and balances, low transparency, and broad discretion. Furthermore, a 2023 study finds that firms subject to deferred or non-prosecution agreements are more likely to commit subsequent regulatory violations than firms convicted through guilty pleas that do not include deferred or non-prosecution agreements (Shirley 2023).

## Capture by organized crime

Capture of prosecution offices is perhaps most insidious when the interest group responsible is organized crime. This form of corruption emerges when prosecutors develop ties with criminal networks, resulting in the selective enforcement of the law, such as when a criminal justice system consistently refrains from prosecuting certain cartel members or other powerful criminal actors (Graham 2019, 23).

For example, in 2012, the Sinaloa Cartel, led by Joaquín “El Chapo” Guzmán, was reported to have systematically infiltrated Mexico’s federal law enforcement and prosecutorial institutions. According to investigative reports, the cartel allegedly paid employees of the Office of Special Investigations into Organized Crime (SIEDO), part of the General Prosecutor’s Office (PGR), to obtain advance information about planned searches and investigations. This intelligence was then relayed to cartel lawyers and operatives. Additionally, cartel members reportedly secured the cooperation of personnel within both the PGR and the Centre for Research and National Security (CISEN), including federal prosecutors. Some of this insider information was allegedly used to manipulate or obstruct legal proceedings in favour of three high-ranking Sinaloa Cartel members who had been arrested (O’Neill McCleskey 2012).

In Colombia, the national prosecutor’s office has faced serious allegations of capture by organized crime, particularly drug trafficking networks. Investigative journalists have documented that elements within the office have collaborated with narco trafficking groups, including tipping them off in advance of targeted assassinations. In some regions, prosecutors have been described as effectively operating under the influence of these criminal organizations. Senior officials have allegedly obstructed investigations into internal corruption, protected subordinates with ties to narco trafficking, and reassigned or retaliated against investigators who refused to comply with efforts to suppress evidence. In one case, classified documents implicating prosecutors in drug-related offenses disappeared while in official transit. Undercover agents who gathered direct evidence of drug smuggling through a major Pacific port faced threats, forced transfers, and disciplinary investigations after refusing to alter their testimony. One agent was later murdered under suspicious circumstances, which colleagues attributed to institutional complicity (Giordano 2024).

Whether through elite political manipulation, corporate collusion, or infiltration by organized crime, prosecution services in many countries have been shown to selectively

apply justice, obstruct investigations, or actively shield powerful actors from accountability. The following section outlines a range of institutional strategies that aim to insulate prosecutorial functions from undue influence, reduce corruption risks, and improve transparency.

# Mitigation strategies

## Strong and transparent integrity and procedural standards

Clear standards for professional behaviour and decision-making are essential for ensuring integrity in prosecution services. Without well-defined rules and procedures, prosecutors and their support staff may lack clarity about what is expected of them, which in turn makes it difficult to identify and address misconduct. In the absence of such standards, the detection of corruption often relies on subjective judgment, except in rare cases where there is clear evidence of bribery or other overt wrongdoing (Gramckow 2015: 21).

It is important to note that there are no legally binding international conventions specifically governing the conduct and responsibilities of prosecutors (Hamilton 2011; 2). However, there are several influential examples of soft law that provide valuable guidance. A foundational document is the United Nations Guidelines on the Role of Prosecutors, adopted in Havana in 1990. These guidelines were developed to support Member States in strengthening the effectiveness, impartiality, and fairness of prosecutors in criminal proceedings (UN 1990). They cover key aspects such as selection and appointment procedures, conditions of service, prosecutorial discretion, the role of prosecutors during criminal proceedings, and the handling of disciplinary actions. Although not binding, the Havana Guidelines remain an important reference point for developing professional and accountable prosecution services worldwide.

The International Association of Prosecutors (IAP) was established in June 1995 at the United Nations offices in Vienna in response to growing concern over the rise of serious transnational crime, particularly drug trafficking, money laundering, and fraud, and a perceived need for stronger international cooperation among prosecutors. One of the IAP's primary goals was to promote and uphold the standards and principles reflected in the Havana Guidelines. In 1999, the IAP adopted the *Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors*. These standards set out the role of prosecutors in criminal proceedings and emphasize the importance of professional conduct, impartiality, and professional autonomy. They also highlight the need for cooperation and institutional support to ensure that prosecutors are empowered to carry out their duties effectively. These standards provide a foundation that can be adapted to different legal traditions, institutional contexts, and levels of development, including in fragile or conflict-affected states (IAP 1999).

Agencies that have adopted the IAP's framework also committed to contribute to a broader culture of collaboration and continuous learning. By sharing experiences and best practices, they help strengthen prosecutorial integrity beyond their own borders. For

example, in 2024, the IAP Secretariat supported a delegation from Moldova as part of a “Model Prosecution Office Study Tour,” conducted under the American Bar Association’s *Supporting Criminal Justice Reform and Strengthening Anticorruption Efforts Program* in Moldova (IAP 2024).

In addition to the Havana Guidelines and the IAP Standards, a noteworthy regional example comes from Europe. The Council of Europe has developed Recommendation Rec (2000)19 of the Committee of Ministers to Member States on the Role of Public Prosecution in the Criminal Justice System. This recommendation urges the governments of member states to base their legislation and practices concerning public prosecution on several core principles. These include clearly defined prosecutorial functions, safeguards to ensure prosecutors can effectively carry out their duties, and a well-balanced relationship between prosecutors and other state institutions such as the executive, legislative, judiciary, and the police. The recommendation also underscores the importance of international cooperation in strengthening prosecutorial roles across borders (CoE 2000).

The Council of Europe has also developed the European Guidelines on Ethics and Conduct for Public Prosecutors, known as the Budapest Guidelines. These Guidelines set out the standards of conduct and professional practice expected of prosecutors, both within the framework of criminal proceedings and in their private lives (CoE 2005). In addition to the Recommendations and Guidelines, the Council of Europe’s Working Group of the Consultative Council of European Prosecutors meets periodically to prepare further reports and opinions (see, for example, CoE 2018).

International standards can then guide national codes or guidelines that national prosecutors must adhere to. For example, the Venice Commission plays a key role in reviewing the legislation governing prosecution services in Council of Europe member states, as well as in 15 additional countries worldwide, providing opinions and reports that can help shape national standards in line with international principles (CoE n.d.).

Standards should be publicly available, routinely integrated into staff training, and reflected in regular evaluations (Gramckow 2015: 21). Publicly sharing such guidelines allows civil society, oversight bodies, and other stakeholders to monitor prosecutorial behaviour and assess compliance. The Crown Prosecution Service in the United Kingdom, for example, makes its decision-making protocols available online, setting clear expectations for both staff and the public (CPS 2015).

Evidence also supports the effectiveness of clear, consistent criteria. Studies have shown that when prosecutorial offices apply uniform standards, particularly for archiving or dropping charges, and subject these decisions to supervisory oversight, the incidence of bribery significantly decreases (Buscaglia and Ruiz 2002).

## Effective management and internal review systems

Even the most comprehensive guidelines and standards for prosecutorial conduct will fall short if they are not supported by robust systems that monitor compliance and flag irregularities. In many countries, including the United States, the United Kingdom, and New Zealand, assessments have shown that despite the existence of clear professional standards, enforcement mechanisms, such as internal review processes and reporting systems, are often weak or inconsistently applied (Wright & Miller 2010; Ridolfi & Possley 2010; HMCPSI 2014).

To prevent corruption and maintain accountability, prosecution agencies must be well-managed and equipped with reliable internal oversight. This is particularly important for cases that involve high financial stakes, organized crime, political influence, or serious offenses. Good practice includes (Gramckow 2015):

- Team-based case handling, which reduces reliance on a single prosecutor and introduces multiple perspectives.
- Senior-level oversight, where experienced prosecutors review all major decisions to ensure consistency and accountability.
- Regular performance audits focusing on decision-making trends and the professional networks individual staff members operate within.

An effective case management system is also central to these efforts. Such systems should track assignments, decisions, timelines, and case outcomes, and generate data that supports early detection of potential misconduct or unusual patterns. While few case studies have formally evaluated these systems in prosecution offices, *goCase*, developed by the United Nations Office on Drugs and Crime, is a widely respected example of an integrated case tracking and management platform (UNODC 2025).

### Box 4: goCASE: Digital Case Management to Reduce Corruption Risks

Developed by UNODC, goCASE is an integrated case management system designed for law enforcement and prosecution agencies. It centralizes investigative data such as documents, interviews, evidence, and intelligence within a secure, role-based platform. Key features include a flexible workflow engine, multilingual interface, investigator checklists, audit trails, and automated alerts. By structuring complex investigations and ensuring accountability, goCASE helps reduce opportunities for misconduct or interference.





Since 2007, it has been deployed in over 25 countries, including Nigeria, Indonesia, Iraq, and Mauritius, strengthening anti-corruption agencies and improving the integrity and transparency of sensitive investigations.

Source: UNODC 2025.

Beyond day-to-day oversight, there is also a need for systemic risk analysis to identify broader vulnerabilities to misconduct.

## Corruption risk assessments in prosecutors' offices

Periodic corruption risk assessments allow institutions to identify patterns, structural weaknesses, and high-risk areas within prosecutorial processes. However, comprehensive efforts to assess corruption risks and identify corruption throughout the prosecution process are rare. An important impediment is the lack of a systematic international framework, beyond high level guidelines, that assists prosecution agencies in creating the policies, processes, and management structures they need to assess corruption risks across all agency functions and develop appropriate prevention, detection, and enforcement mechanisms specific to the agency (Gramckow 2011).

Nationally, most comprehensive corruption risk assessments tend to come from common law countries, likely due to the greater independence and autonomy of prosecution agencies within these systems (Gramckow 2015). A notable example is the Public Prosecution Service for Northern Ireland. Following a fraud and corruption risk assessment conducted in 2013, the agency implemented a range of anti-corruption measures. These include the PPS Code of Prosecutors (PPS 2016), the PPS Anti-Corruption and Bribery Policy (PPS 2018), the PPS Whistleblowing Arrangements (PPS 2019), and the PPS Anti-Fraud Policy and Fraud Response Plan (PPS 2025).

Internationally, several organizations have conducted corruption risk assessments in prosecution services. The Organization of American States (OAS) periodically reports on

corruption risks within prosecutors' offices as part of its evaluations of the implementation of the Inter-American Convention against Corruption in various countries. One example is the 2013 report on Panama, which assessed the existence, adequacy, and effectiveness of the country's legal framework. Based on this evaluation, the OAS made several recommendations. These included strengthening the internal oversight body in the Office of the Attorney General, known as the Control and Oversight Secretariat, by ensuring it has a permanent place within the institution's organizational structure. Other recommendations were more immediate and practical, such as ensuring the Office of the Attorney General's website is regularly updated and that all links in the complaints and transparency sections are functional (OAS 2013).

As noted earlier, GRECO conducted a review of corruption prevention in prosecution services across its member countries as part of its Fourth Evaluation Round, launched in 2012. These reviews provide qualitative assessments of prosecution agencies based on a detailed questionnaire grounded in GRECO's Guiding Principles. They also incorporate additional information from sources such as civil society. In addition, GRECO evaluation teams carry out on-site visits to gain deeper insight. While these reviews offer a valuable overview of integrity systems within prosecution agencies and sometimes reflect public perceptions of corruption, they do not provide quantitative data or detailed analysis of individual agencies. Box 4 presents the GRECO questionnaire on corruption prevention in prosecutors.

### **Box 5: GRECO Questionnaire on Corruption Prevention in Respect of Prosecutor**

#### **24 Prohibition or restriction of certain activities**

**24.1 Please provide the text of the relevant rules in English or French and describe the measures in place, if any, prohibiting or restricting the possibility for prosecutors to:**

- a) act in a particular case in which they have a private interest.
- b) accept gifts (including the definition of gifts, possible value thresholds per item/per donor/per year and the procedures for disposing of or returning unacceptable gifts)
- c) hold posts/functions or engage in accessory activities outside the courts, whether in the private or public sector, whether remunerated or not.
- d) hold financial interests.
- e) be employed in certain posts/functions or engage in other paid or non-paid activities after exercising a prosecutorial function.

**24.2 Please describe the specific rules in place, if any, regarding communication outside the official procedures of a prosecutor with a third party who has approached him/her about a case under his/her purview.**

**24.3 Please describe specific rules in place on the (mis)use of confidential information by prosecutors. Provide the text of the relevant rules in English or French.**

#### **25 Declaration of assets, income, liabilities and interests**

**25.1 Please provide the text of the relevant rules in English or French and describe the measures in place, if any, requiring prosecutors to declare the following:**

- a) assets and the holding of financial interests

- b) sources of income (earned income, income from investments, etc.)*
- c) liabilities (loans from others, debts owed to others, etc.)*
- d) the acceptance of gifts*
- e) the holding of posts and functions or engagement in accessory activities (e.g., consultancy), whether in the private or public sector, whether remunerated or not*
- f) offers of remunerated or non-remunerated activities (including employment, consultancies, etc.) and agreements for future such activities*
- g) any other interest or relationship that may or does create a conflict of interest*

**25.2 Please indicate for each of the items in the previous question:**

- a) if the information to be declared is also required for prosecutors' family members and/or relatives and who is to be considered a family member/relative for this purpose*
- b) when declarations are required and what time period they cover*
- c) to whom / what body the information is to be declared*
- d) if a register is kept of the declarations – both as regards ad hoc and regular declarations – and, if so, what information is contained in this register*
- e) if the declarations are made public and in which way*

**25.3 If there are no specific written rules applicable to prosecutors concerning the declarations referred to in question 25.1, please describe whether unwritten rules (conventional rules, standing practices etc.) for this purpose exist and how they are applied.**

Source: GRECO 2012b.

The Council of Europe has also supported risk assessments focusing on prosecution services in selected Eastern Partnership countries, for example Georgia. In its 2023 GRECO Second Addendum to the Second Compliance Report on Georgia, GRECO welcomes the 2023 amendments to the Law on Combatting Corruption, which expanded the legal framework by broadening the definition of “public official” subject to the asset declaration regime to include all prosecutors. This legislative change directly addresses GRECO’s earlier recommendation.

## Prosecutorial autonomy and oversight

The autonomy of prosecution services is central to international standards, as they protect prosecutorial decision-making from undue influence or capture. Strong professional autonomy enables prosecutors to act impartially and in accordance with the law, without improper pressure from political actors, the police, media, victims, or public opinion. Prosecutorial autonomy is often referred to as independence, which can refer either to the institutional independence of the prosecution service or to the operational independence of individual prosecutors (Hamilton 2011).

Unlike judicial independence, which is generally inherent to the judicial function of judges, prosecutors often enjoy lower levels of institutional and operational independence. While some states draw analogies between the independence of judges and that of prosecutors, the two usually differ in important respects. First, in most

democratic systems, judicial independence is constitutionally protected and considered a fundamental element of the system of checks and balances, an assurance typically not extended to prosecution services. Second, because prosecutors are instrumental in the implementation of criminal justice policies, their actions may be directed or influenced by authorities who are politically accountable for those policies. This operational link can result in varying degrees of subordination, depending on the legal and administrative framework of the state (UNODC 2020).

Two primary institutional models can be identified that shape the degree of prosecutorial autonomy: the hierarchical model and the judicial model. In the hierarchical model, the prosecution service operates under the influence, whether direct or indirect, of the executive or legislative branch, typically through a structured chain of command. In contrast, the judicial model positions prosecutors as part of the judiciary, independent from the executive and legislative powers. Between these two poles, a variety of configurations exist that can shift the system closer to one end or the other (UNODC 2020).

The hierarchical model is headed either by the Minister of Justice or by the Prosecutor General, who serves as an interface between the prosecution system and the political branches. This figure rarely engages in actual prosecution or even in the direction of subordinate prosecutors but usually manages the department in which the prosecution service is located. In some cases, the link between the prosecution service and the political branches is further strengthened when high-ranking prosecutors (chief prosecutors) are appointed by political authorities. Hierarchical systems foster strong mechanisms of accountability, but the influence of political powers on the prosecution service cannot be denied, and the autonomy of prosecutors is inevitably reduced. Examples of countries with hierarchical structures include Canada, the United States, and South Africa (UNODC 2020).

In judicial models, prosecutors are fully separated from the political branches and enjoy the same guarantees as judges. As a consequence, their autonomy is very high: they are not part of a hierarchical structure, and the executive or legislature cannot issue instructions to them. The autonomy is further enhanced in some countries through the presence of self-governing councils in which prosecutors and sometimes judges are represented. All decisions concerning the status of prosecutors, from recruitment to retirement, are concentrated exclusively in the hands of these councils, with no role for political authorities. On the downside, since judges and prosecutors form a single professional body with equivalent status, salary, and career progression, the assimilation of the two roles responsible for criminal initiative and adjudication can undermine the image and role of the judge as an impartial third party. Examples of countries with judicial structures include Italy, Greece, and Portugal (UNODC 2020).

Oversight mechanisms are closely linked to these institutional models. In hierarchical systems, oversight is more formalized and centralized, with senior authorities empowered to supervise and direct prosecutorial conduct. This allows for clearer lines of accountability and robust internal discipline. In judicial models, oversight is exercised

through professional councils that may offer stronger safeguards for autonomy, but they risk reduced operational accountability due to the absence of direct supervision (OECD 2020).

Beyond structural arrangements, prosecutorial autonomy can be strengthened through high qualification and integrity standards. The Venice Commission stresses the importance of ensuring that prosecutors meet rigorous professional and ethical requirements, comparable to those expected of judges (Hamilton 2011). In Germany and France, entry into the prosecution service involves the same competitive legal training and examination processes required for judges (Široký 2020).

Additional requirements can further reinforce the autonomy of prosecution services. For example, in Spain, the 2024 Rule of Law Report notes a planned reform of the statute governing the Prosecutor General. This reform is expected to introduce restrictions preventing individuals who have recently held political office from being appointed as Prosecutor General. It will also prohibit the Prosecutor General from intervening in cases in which they have a personal interest (European Commission 2024, 14).

Another important safeguard for prosecutorial autonomy is the incorporation of integrity vetting into the appointment process for prosecutors. Based on specific legal provisions that grant access to both state and private data, the vetting body collects and reviews all available information on candidates, including their past and current asset declarations. If the analysis raises concerns about potential integrity violations, candidates are required to provide clarifications and supporting evidence, typically through written responses. Once the vetting body establishes reasonable doubts regarding a candidate's integrity, the burden of proof shifts to the candidate. Failure to dispel these doubts or remaining silent results in exclusion from appointment or, in the case of sitting officials, dismissal. If evidence of criminal conduct emerges, the vetting body may refer the matter to law enforcement authorities. In some cases, the vetting process is extended beyond integrity checks to include assessments of professional competence (Hoppe 2023).

In Moldova, for example, the Prosecutor Vetting Commission was established in 2023 to carry out a one-time evaluation of the ethical and financial integrity of specific categories of prosecutors, including senior officials within the General Prosecutor's Office and various specialized prosecutorial units (PVC 2025).

The Venice Commission also emphasizes the necessity to secure proper tenure and appropriate arrangements for promotion, discipline and dismissal (Hamilton 2011; 6). The 2024 Rule of Law Report points to recent achievements in the region regarding these avenues for autonomy. In Czechia, a reform of the prosecution service included safeguards for the dismissal of the Prosecutor General and other chief prosecutors. In Denmark, the Government submitted a proposal to Parliament to strengthen the autonomy of the Director of Public Prosecutions by limiting the maximum mandate for the position (European Commission 2024, 14).

The power of the executive to give instructions to prosecutors in individual cases is a subject of particular attention. In the Netherlands, the debate continues on removing the executive's power to give instructions to prosecutors in individual cases (Hamilton 2011; 8). In Germany, a proposal has been made to introduce further safeguards for the use of the power of both Federal and Länder-level Ministers of Justice to issue instructions to prosecutors in individual cases. In Slovakia, the power of the Prosecutor General to annul decisions of lower-ranking prosecutors remains a concern. In 2024, despite strong concerns raised including by the European Commission, the Slovak Government dissolved the Special Prosecutor's Office, raising concerns both about the immediate impact on cases and the long-term structural impact, putting at risk the efficiency and autonomy of prosecutions (European Commission 2024, 14).

Ultimately, prosecutorial autonomy is essential to upholding the rule of law, but it must be balanced with effective oversight. Independence enables prosecutors to act impartially, while accountability mechanisms ensure integrity and public trust. Striking this balance requires clear safeguards against political interference, transparent procedures, and limits on executive influence.

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