Evaluating prosecutors’ performance: celebrating success and censuring failure

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In present **global** and complex world, the Prosecutor must obtain an **overall performance**.

- More national prosecutors are enforcing **European Union criminal law at national and EU level**, using:
  - Mutual legal assistance instruments
  - Mutual recognition (i.e. European Arrest Warrant),
  - Eurojust
  - Networks of prosecutors (European Judicial Network, Western Balkans Prosecutors Network, SEE-PAG),
  - New investigative techniques (JITs)
  - Sophisticated cyber technologies.
Prosecutors’ performances across European Union (EU) are assessed at 3 LEVELS:

- **1st** against the **EU standards** of the judicial system, in relation to the enforcement of the EU criminal law at national level and the cross-border cooperation in the EU area of freedom, security and justice.

- **2nd** at **national level** prosecutors’ performances contribute to the efficiency of national judicial systems and inter-agencies cooperation.

- **3rd** at **individual level**, each prosecutor is appraised on case-by-case performances or periodically during the entire professional career.
Performance Indicators in each of these three levels built around key and inseparable parameters:

- Independence
- Impartiality
- Quality
- Efficiency

Achieving them prosecutors gain public confidence mutual trust
Modern performance criteria

- Modern and important performance criteria, out of the legal sphere, are introduced to evaluate prosecutor’s professional activities and skills:
  - leadership,
  - management
    - of cases and processes,
    - strategic management,
    - change management,
    - crises management
    - the concept of total quality management (TQM)
  - the use of the IT,
  - proficiency in legal English
  - communication skills with public and media.
The Vision is changing form the 20th Century Classicism

- The first and most important “professional performance charter” is in the codes of procedures and in other relevant laws and regulations.
- A modern quality approach drawn from “innovation sciences”, it’s trivial and abnormal for the justice sector.
- The new quality approach is sticky, and does not fit with the well established quality approach written in legal codes.
- The modern performance approach is a change in the look of courts and prosecution offices, rather than in their fundamental nature.

2009 EIPA Luxembourg, presentation of Mr. Francesco Conti, Researcher
Research Institute on Judicial System, Italy
Quality of justice is not just “legal”

Users
People

Public

Legal

Judges
Prosecutors
Legal Clerks

Managerial

Ministries
Jud. Councils
Court
Admin.

2009 EIPA Luxembourg, presentation of Mr. Francesco Conti, Researcher
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Modern Justice in 21st Century

LAW
Judicial Management
Professional management

Sound Administration

Strategy and planning
Communication

Judicial quality

Prosecution
Courts
Judicial Council

Working procedures
Courts and Prosecution Offices’ Staff

Resources
Due Process

IT
Integrity, independence, impartiality

Parties
Users
Society

Efficiency
Productivity
KEY RESULTS
Key indicators
Quality
Quality of the judicial systems
Task, institutions and actors

**Judicial processes and proceedings**
- High Judicial Councils (Judges and Prosecutors)
- Judiciary
- Prosecutors’ Offices
- Law Enforcement
  - Judges & Prosecutors
  - Law enforcement officers
  - Legal Clerks

**Administration of justice, of systems and activities**
- High Judicial Councils (Judges and Prosecutors)
- Ministry of Justice
- Judicial Training Institutes
  - Judges & Prosecutors
  - Legal Clerks
  - Non-legal clerks
  - Lawyers
  - Legal advisors
  - Linguists
  - Economists
  - Technical Staff
  - Non-legal staff
Whatever the model of the national justice system or the legal tradition in EU **effective prosecution** means:

1) Conducting a fair, impartial, independent and expeditious pursuit

2) Complete administration of evidences, both inculpatory and exculpatory – finding the truth

3) Sound inter-agencies coordination at national level and cross-border partners in judicial cooperation in criminal matters, all involved collaborate professionally

4) Transparency and integrity
Standards of the European Union

1) Guarantee the respect of the procedural rights or the suspected and accused persons (their right to defence and fair trial)
2) Victims’ protection
3) Witnesses protection
4) Appropriate management of the length of judicial proceedings
   number of unresolved cases
   clearance rate - the ratio of the number of resolved cases over the number of incoming cases
   number of pending cases
The Future

- Effective prosecution is indispensable for mutual trust, respect, recognition and execution of judicial decisions taken by the prosecutors form another EU MS
- The on-going EU criminal justice reform
  - extension of the Eurojust competences,
  - establishment of the European Public Prosecutors Office
  - increase the potential of the European Judicial Network in Criminal Matters and of the Joint Investigation Teams,
  - European Investigation Order in force in 2017
will increase significantly the challenges the prosecutors will face in the near future.
Coordinated by Europol
- 34 participating countries, Eurojust, Frontex and INTERPOL

the biggest ever cooperated international law enforcement operation targeting serious and organised crime in the EU and involved actions at hundreds of locations

- 1,146 individuals arrested – 90 THB, 170 illegal migration
- 30 children saved from trafficking
- 599 kg cocaine, 200 kg of heroin seized; 1.8 t of cannabis seized
- 1 million euros in cash confiscated
- 1.5 million packages of cigarettes confiscated
- 17 stolen cars seized
- 1 illegal factory for counterfeited medicines
- **20,000** law enforcement agents
- **300** actions
- Harbours, airports, bus stations, cross points in 34 countries
SUCCESS OR FAILURE?

RESOURCES VS. RESULTS
IMAGE PROMOTION VS. DETERRENT EFFECT
COORDINATED ACTIONS VS LOCAL ENFORCEMENT
RAIDS
Questions?

Thanks for your attention
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