Chapter 1

Introduction

1.1 The central object, scope and general aim of the study

From being a necessary intermediary between the people, the Crown and the judges during the French Ancien Régime, the institution of public prosecutors has become an indispensable state body whose main function in the continental legal tradition is to prosecute criminal offences and represent society before the courts against the persons charged with these offences.¹

This study will be carried out from a comparative and historical perspective in the Czech Republic, France, Poland and the Netherlands. For each country, the organisation and the structure of the public prosecution service (PPS) will first be discussed, then the focus will be on the PPS’s function in the preliminary phase of the criminal process – thus, before the first instance hearing – and in the system of legal remedies against judgements in the criminal justice system.² Such a comparison will be possible because the public prosecution services in these four countries are actually transplants of the same institution. The origins of this transplant in France will be

¹ ‘We have at present an admirable law, namely, that by which the prince, who is established for the execution of the laws, appoints an officer in each court of judicature to prosecute all sorts of crimes in his name; hence the profession of informers is a thing unknown to us.’ Montesquieu 1975.

² In this thesis, the terms PPS, public prosecution service, public prosecution, prosecution authority, public ministry and State prosecution will be used interchangeably. However, in the historical chapter concerning the origins of the PPS, specific terminology such as gens du roi may be used, and Prokuratura will be preferred when referring to the Communist systems.

³ For obvious reasons of focus constraint, the scope of this research will not exhaustively address aspects such as the relationships between the police and public prosecutors and between courts and public prosecutors, the position of the PPS during a court case hearing, the rights and duties of the PPS in the execution of sentences and the supervision of places of detention, or the rights and duties of the PPS in non-criminal cases.
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traced before its organisation, functioning and development are described in Communist Czechoslovakia and Poland. Finally, the current organisation and functioning of the prosecution service in these four countries will be reported.\(^3\)

The aim of this research is to enhance firstly the understanding of human justice through history by tracing different systemic developments of a single institution up to the modern period and secondly, the functioning of several domestic legal institutions established for resolving legal issues common to all countries. In practical terms, this comparison will seek common features in the organisation and functions of the PPS that do not, for example, depend on a country’s political regime. The finding of a common and constant structure to the organisation and the operating principles applied to the PPS could be useful in enhancing judicial cooperation and mutual recognition of judicial decisions, especially between the Member States of the European Union. It could also assist in preparing for the harmonisation of criminal procedure and criminal law in these states to the extent necessary to combat crime and terrorism. The Member States of the European Union set as a basic objective of the Union the establishment of an ‘area of freedom, security, and justice’ in Europe (Article 2 Treaty on the European Union, hereafter EU, as amended by the Treaty of Amsterdam).\(^4\)

The achievement of this objective depends, particularly, on close cooperation between different judicial systems and the approximation, where necessary, of rules on criminal matters (Article 29 EU). Cooperation implies trust between judicial authorities. One way to enhance this trust is to demonstrate that judicial institutions function efficiently in all Member States. Even where there is systemic or legal diversity, we will discover how PPSs function, based on and with respect to the same fundamental principles of law specific to democratic countries.\(^5\)

\(^3\) Although I will not attempt to provide a definition of Communism and Socialism, I noticed that both words and their corresponding adjectives were often used interchangeably in many journal articles written during Poland’s and Czechoslovakia’s Communist periods. This is especially true of the term Socialist Legality, which relates particularly to Communist systems. I will therefore not politically distinguish between the two ideologies in this paper.

\(^4\) For the latest, consolidated version of the Treaties, see OJ 321 E/01 of 29 December 2006.

\(^5\) However, within the Member States of the European Union, Article 6 (1) EU provides: ‘The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States.’
1.2  The use of legal transplants in this study

Watson has defined a legal transplant as⁶

6 The moving of a rule or a system of law from one country
to another, or from one people to another.

Although it is not the purpose of this work either to discuss Watson’s
theory or to explain it, legal transplant terminology is useful in two
particular ways.⁷ Firstly, the public ministry is as such a legal
transplant, and secondly, transplants of other legal institutions have
influenced the public ministry.

The public prosecution service is a legal transplant because it was
created in one country and moved into other legal systems where no
similar institution previously existed. This institution can be split into
two prototypes. The first was conceived during the French Ancien
Régime and evolved into the second prototype, taking its definitive
form after the Revolution. The pre-Revolution prototype influenced
Russia where it became the Prokuratura. Inspired essentially by the
French Ministère Public, Peter the Great created the Russian
Prokuratura in 1722. Catherine the Great and Alexander the First
reformed the institution. It was abolished partly in 1864 and
completely in 1917. In 1922, combining the Petrine, Catherine the
Great’s and Alexander the First’s models, Lenin established the
Prokuratura of the Russian Soviet Federated Socialist Republic.⁸
The post-Revolution prototype – along with the French 1808 Code
d’Instruction Criminelle – was transplanted or has greatly influenced
the criminal justice systems of almost all continental law countries.⁹

Other legal transplants have influenced the PPS in many countries
throughout history. In Russia, the Marxist-Leninist theory of the
rejection of the separation of powers and Soviet legislation moulded
the Prokuratura into an institution equipped with a general political
supervisory role and, naturally, with the prosecution of crimes. After
the Second World War, this Soviet Prokuratura was transplanted
along with the Socialist system into all Communist countries and
particularly into Czechoslovakia and Poland, where the French post-
Revolution prototype was already in place. There too, a combination
of intertwined legal loans influenced the public ministry. On the one

⁷ Watson’s theory on legal transplant has attracted a lot of criticism and
commentary; see for example Kahn-Freund 1974, p. 1; Ewald 1995, p. 489; Ajani
1995, p. 93.
hand, the legislation in place could not be completely erased, and it thus influenced the Soviet transplant, on the other hand, the Soviet legislation was imposed and necessarily influenced the legislation in place. Lately, since the collapse of Communism, the accession process to the European Union has accelerated legal reforms in the domestic criminal justice systems of former Communist nations. In countries with a Socialist system, the separation of powers was re-established and the Soviet Prokuratura abolished. New candidates for membership of the European Union had to borrow massively from Western institutions and regulations in order to adapt their systems to European standards and make their judicial organisation compatible with those of the existing Member States.

1.3 The context of Czech and Polish accession to the European Union

In order to establish a Communist system, Socialist legal systems rejected the idea of the separation of powers and the Western notion of the Rule of Law. A powerful prosecution service was one of the tools contributing to this goal through the strict observance of Socialist Legality. The PPS was not only an institution for prosecuting crimes, but also a political institution supervising the State administration and society. The organisation and functioning of such an institution was, of course, adapted to this situation, which did not always seem compatible with the conditions prevailing in democratic countries governed by the Rule of Law. When the Communist system collapsed, the Czech Republic and Poland, as other previously Socialist countries, reintroduced the principle of the separation of powers into their systems. Therefore, considerable

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11 Academic literature on the subject is extremely abundant, see e.g. Gönenc 2002, p. 83; Pomorski 1989, p. 581.
12 As we will see, Communist countries used the concept of Socialist Legality, which entailed the strict observance of the law of the country by all agencies of the government administration and by individual citizens and in the expression of the interests and the will of the people. However, the one party decision-making process and the absence of a separation between the different functions of the regime – legislative, executive and adjudicative – were incompatible with a number of requirements of modern democracy that imply, in particular, political diversity and the limitation of the government’s power. On the question of the compatibility of the Prokuratura with democratic countries see Edition du Conseil de l’Europe 1996 and Edition du Conseil de l’Europe 1998.
13 However, we should note that the concept of the Rule of Law is vague and covers different notions, which often vary from one legal tradition to another; see e.g. Rosenfeld 2001, p. 1307; Craig 1997, p. 467.
amendments to legislation and State organisation were required. The first steps towards accession to the European Union were undertaken rapidly once the democratisation process started.\textsuperscript{14}

Accession to the European Union implied that the Czech Republic and Poland met the pre-conditions to accession, the so-called Copenhagen criteria set up in 1993:\textsuperscript{15}

- to have stable institutions guaranteeing democracy, the Rule of Law, human rights and respect for and protection of minorities
- to ensure the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union
- to accept the Community \textit{acquis} and be able to take on the obligations associated with membership, including adherence to the aims of political, economical and monetary union

In order to assess and monitor the progress of the candidate countries as they progressed towards accession to the EU, a system of legal and political documents was established and addressed to the candidate countries.\textsuperscript{16}

\begin{itemize}
\item Czechoslovakia and Poland signed an Association Agreement with the European Communities and the Member States on 16 December 1991. After Czechoslovakia’s dissolution, new separate agreements were signed by the Czech Republic and Slovakia in 1993. The Czech Republic and Poland filed their applications to join the Communities on 17 January 1996 and 5 April 1994 respectively. For a clear overview of the history of enlargement, see Kochenov 2007.
\item With regard to the Czech Republic and Poland, particular attention should be paid to:
\begin{itemize}
\item European Commission, Agenda 2000 – Opinion on Poland’s Application for Membership of the European Union, Brussels of 15 July 1997, Doc/97/16; released on the same date: Opinion on the Czech Republic’s Application for Membership of the European Union, Doc/97/17
\item European Commission, Comprehensive Monitoring Reports on Czech Republic’s and Poland Preparation for Membership of 5 November 2003
\item Council Decision of 30 March 1998 on the principles, priorities, intermediate objectives and conditions contained in the accession partnership with the Czech Republic (98/267/EC) and released on the same date as that of the Republic of Poland (98/260/EC)
\end{itemize}
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As early as 1997, the Commission concluded that the Czech Republic and Poland fulfilled the first and second Copenhagen criteria.\(^\text{17}\) Firstly, this opinion implied that the Czech and Polish PPSs and judicial systems were State institutions guaranteeing democracy, the Rule of Law, human rights and respect for and protection of minorities. This transformational challenge was not easy for new countries because there was no clear single model PPS to be adopted and each country had to transform its system with respect to its constitutional traditions, not to mention the fact that there are no official European Union definitions of democracy or the Rule of Law. Secondly, the Commission noted that both countries were in a position to integrate the existing *acquis* in fields related to criminal procedure and criminal law and were able to take on the obligations of membership and integrate the future *acquis* in the fields related to criminal procedure and criminal law. Subsequent legal and political documents broadly traced the candidate countries’ progress in the area of judicial capacity and noted important criminal justice reforms.\(^\text{18}\) Accession negotiations with the Czech Republic and Poland were opened following the political decision made during the Luxembourg European Council in December 1997.\(^\text{19}\) After the conclusion of the negotiations, the Czech Republic and Poland signed the Accession Treaty with the Member States of the Union on 16 April 2003 and accession followed in May 2004.\(^\text{20}\) In order to attain the accession objective, national and foreign experts worked together on the transformation of the *Prokuratura* into a prosecution authority compatible with the democratic principles of law. Although the Conventions of the Council of Europe and the Recommendations adopted by the Committee of Ministers

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of the Council of Europe provided experts with useful models, no existing legislation clearly established such principles.\(^{21}\) A domestic interpretation and implementation of these Conventions and Recommendations was necessary in order for the PPS to mesh properly with all the other parts of the judicial system. The transformation of the Prokuratura meant that candidate countries needed a prosecution authority capable of providing Member States with efficient cooperation and mutual assistance in criminal matters. Here, diversity was particularly challenging because the institution of the public prosecution is central to State sovereignty.\(^{22}\)

Although the notion of the acquis communautaire remains vague and difficult to grasp,\(^{23}\) with regard to the integration of the existing acquis criterion, modifications were easier to make since the acquis consisted of existing legislation, objectives and treaties.\(^{24}\) Before the 1999 Treaty of Amsterdam, candidate countries had to adopt and implement the Council of Europe Conventions in particular, such as the 1950 European Convention for the Protection of Human Rights, the 1957 European Convention on Extradition or the 1959 Convention on Mutual Assistance in Criminal Matters.\(^{25}\) Major issues, such as the right to a fair trial or the balance between the defendant’s rights and the need to ensure effective prosecution,

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\(^{22}\) J. Monar described diversity as ‘a generic denominator for differences between the justice and home affairs systems of the eastern applicant countries on the one hand, and the EU justice and home affairs acquis on the other’, see Monar 2000, p. 33. For example, Article 2 of the Joint Action of 29 June 1998 adopted by the Council of the European Union on the creation of the European Judicial Network (OJ L 191/4 of 7 July 1998) required that The European Judicial Network shall be made up, taking into account the constitutional rules, legal traditions and internal structure of each Member State, of the central authorities responsible for international judicial cooperation and the judicial or other competent authorities with specific responsibilities within the context of international cooperation, both generally and for certain forms of serious crime, such as organised crime, corruption, drug-trafficking or terrorism.’

\(^{23}\) Delcourt 2001.


played an important role in the transformation of the PPS in the candidate countries. The Treaty of Amsterdam established the objective of judicial cooperation between Member States. In particular, intergovernmental instruments were established, such as the Council and Commission Action Plans, and Council Joint Actions. These new instruments led to the adoption of important European legislation in the Justice and Home Affairs domain of the European Union, which also influenced modifications of the PPS. The third pillar *acquis* started to grow particularly strongly after Amsterdam, demanding tremendous efforts from applicant countries to approximate their domestic laws. The creation of Eurojust and the adoption of the European arrest warrant stand out from the examples of *acquis* implementation as innovations which implied the creation of a special division in the organisation of the PPS in every Member State.

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26 The 1992 Maastricht Treaty, i.e. Treaty on European Union, established three approaches to European integration, the so-called three pillars. The first pillar consolidates the three Community Treaties (the 1952 Treaty establishing the European Coal and Steel Community, the 1958 Treaty establishing the European Economic Community and the 1958 European Atomic Energy Community). The second pillar comprises the Common Foreign and Security Policy. The third pillar consists of Justice and Home Affairs and covers areas such as immigration, asylum, the harmonisation of criminal law and criminal procedure, police and judicial cooperation in the detection and prosecution of crime. The 1997 Treaty of Amsterdam moved immigration and asylum policies to the first pillar, keeping police and judicial cooperation alone under the third. On third pillar issues, see Peers 2006.


28 The Action Plan of the Council and the Commission on how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice (OJ C 19/1 of 23 January 1999) adopted by the JHA Council of 3 December 1998 set up strategic guidelines for the implementation of such an area. It was followed in 1999 by a special meeting of the European Council held in Tampere. Among other important resolutions affecting cooperation against crime, the Council agreed on the creation of Eurojust, a specific organisation consisting of ‘national prosecutors, magistrates, or police officers of equivalent competence, detached from each Member State according to its legal system’. Eurojust was established by the Council Decision of 28 February 2002 setting up Eurojust with a view to strengthening the fight against serious crime (OJ L 63/1 of 6 March 2002). The Council also established the principle of mutual recognition in criminal matters as the cornerstone of judicial cooperation in both civil and criminal matters within the Union. As the first measure implementing this principle, the European arrest warrant was adopted by the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190/1 of 18 July 2002).
The vagueness of the pre-accession criteria and national legal diversity makes it very difficult to understand how a public prosecution service should be organised and function in criminal justice in order for a candidate country to be accepted as a Member State of the European Union. This issue is, however, of tremendous importance because the efficient combating of crime and terrorism requires a coherent system of criminal justice in Europe. The legal diversity proper to each Member State should be respected; however, a certain amount of harmonisation in the organisation and the functioning of the PPS might be necessary.

1.4 Formulation of central questions

Regarding the Czech Republic, the Commission notified that

The State Prosecutor is appointed by the government on a proposal by the Minister of Justice, who appoints the other members of the State Prosecutor’s Office. They are subject to the hierarchical authority of the Minister.29

whereas, in the case of Poland, the Commission reported that

There is no clear separation of functions of the Minister of Justice and the Attorney-general. Draft legislation addressing this issue is being discussed within the government. It is aimed at separating the two functions, but the provisions as currently formulated will not result in the Attorney-general becoming more independent. Further initiatives could be considered to address the question of the hierarchical link to a political authority that may influence indirectly and obliquely the activity of the public prosecutor.30

These quotes offer an example of diversity in the structures of the PPSs in existence in applicant countries. While the Commission approved of public prosecutors being subject to the hierarchical authority of the Minister of Justice in the Czech Republic, it disapproved of the Minister of Justice himself holding the functions of general prosecutor in Poland. In the face of this kind of assessment we could ask ourselves why the general prosecutor should be independent of the Minister of Justice? To what extent should the general prosecutor be more independent? Should a

public prosecutor be isolated from all political influence? Can political influence on public prosecutors be abusive? Is the independence of the PPS a safeguard against such abuses? In addition to this, what can the concrete and technical influence of the general prosecutor be on pending criminal cases? What is the situation in existing Member States?  

The answer to these questions is unlikely to be found in any European Regulation or Directive because they depend on the way each State is organised. Neither the European Community nor the European Union has the jurisdiction to decide on how a State or its prosecution service should be organised. Nevertheless, it is to be expected of candidate countries that their PPSs comply to some model. What should this be? Are the respective PPSs of the Member States all the same? To what extent do they differ? Are there European PPS standards? How far can national diversity in the organisation of a PPS and its role in criminal prosecutions extend in a given Member State while at the same time complying with the pre-accession criteria?

1.5 Method

To answer these central questions, a thorough study of the implementation of patterns provided by the Conventions of the Council of Europe and the Recommendations adopted by the Committee of Ministers of the Council of Europe (see above) would have been an option. However, such a method would have been back-to-front and would have risked missing important modifications that might not be related to these instruments. Therefore, I prefer to trace the historical and legal adaptations of the PPS from its inception to its current state.

In order to comply with the aim of the dissertation and the central question, I will have to compare at least two Member States with two acceding countries. Firstly, the two Member States will have to be of the continental legal tradition with comparable PPSs. As the country where the public ministry was borne, the choice of France was obviously inevitable. Given the important similarities between the Dutch and the French systems, the Netherlands seemed well suited to being the second Member State. Secondly, the two acceding countries required Communist experience and involvement in the same wave of accession. Out of the eight old Communist countries,

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31 These issues will not be specifically addressed in this research; for more details see, Marguery 2007, p. 67.
Poland and the Czech Republic turned out to be the most comparable in terms of possessing similar historical French influence, legal systems and language.

The study of the Polish and the Czech systems has been a practical challenge for me because I do not read their languages. In order to analyse these systems I had to rely on existing official translations of legal materials prepared in English or French, and journal articles on issues related to the topics also written in these languages. I made draft translations of laws and articles with the help of accurate translation software and had these translations checked by native speakers. My country reports are based on the analysis of these materials.

I had the great pleasure of meeting a number of specialists in criminal law, public prosecutors and judges from each of the countries in this research. These people provided me with the most accurate assistance and spent a great deal of time answering questions and reading my country reports. Without their help, this study would not have been possible. I would therefore like to express my gratitude to Prof. Dr Jaroslav Fenyk, Dr Tomas Grivna (the Prague Faculty of Law), Prof. A. Murzynowski, Dr M. Rogacka-Rzewnicka and Dr K. Girdwoyń (Warsaw University School of Law and Administration).

English legal terminology was another difficulty I had to cope with. Since English is not my mother language, I had to be very careful when picking a word out of an English dictionary in order to describe a foreign legal notion. Firstly, the differences between the English and the American legal systems could be source of discrepancy. Secondly, words seemingly alike in two different languages could actually be false friends and the meaning of the first might not match the meaning of the second. For example, the American ‘crime’ does not mean the same as the French crime. While the first consists of any activity prohibited by Criminal Law, the second refers only to certain types of grave offences provided for in the French Criminal Code. The word ‘jurisdiction’ in English/American legal terminology is the power of a court to hear and decide a case before it, whereas it means ‘court’ in French. Lastly, a legal concept in one language

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32 I would like to express my gratitude to Marta Nowak-Lulko (professional Polish translator) and Mikulas Prokop (PhD student in law at the University of Groningen). The software used for the Polish translation is ‘English translator 3’ from Techland.

33 I also would like to express my gratitude to my colleagues of Utrecht University, Professor Sacha Prechal and Professor Barbara Kwiatkowska for their respective contribution at reviewing Czech and Polish words used in this book.
bears more than only an objective technical definition; it is also the mirror of the legal system from which it originates. It cannot be understood outside its legal context. For example, the French juge d'instruction and the Dutch rechter-commissaris can both be translated as 'investigating judge' in English although their role is not the same in both systems.

In order to address the difficulty, I have always tried firstly to remain neutral when using English legal terminology since I am not attempting to compare one or more systems with those of North America or England and Wales. The English language is purely used as an instrument to communicate the findings of my research and not to provide definitions referring to the English or American legal systems (nevertheless, where possible, I have always tried carefully to avoid false friends). Even where I have used several dictionaries in order to check a definition, I often provide the original in brackets. In doing so, readers familiar with one or the other system should be able to place a notion within its context.

Secondly, I not only looked for the translation of foreign legal concepts in dictionaries but also took special care to look at their meaning in the legal context. In this context I traced the legal conditions of the notion and its legal consequences (e.g. for the French juge d'instruction 3.2.1 and 3.4.3.2.2, and for the Dutch rechter-commissaris 4.2.1 and 4.4.3.2.1). Here my purpose was not to provide an exhaustive list of conditions and consequences relating to each concept but rather to enumerate those which I deemed relevant for the comparison. Although I took care to avoid oversimplifications by providing as many details as possible, I set limits to the description of the legal context for the relevant concepts. The purpose of the thesis is to give a general outline of how public prosecutors' offices are organised and function within the four systems proposed, not to provide an exact comparison between the criminal procedures of these countries. Therefore, the exactitude of the translations goes as far as was necessary to meet this purpose. For example, in order to say that a prosecutor has the right to halt a criminal proceeding, I mainly use the word dismissal, which literally means 'decide or say that something is not important'. This translation may be more precise in certain situations (e.g. where the consequences of an offence did not cause a grave prejudice or a severe social harm therefore it is not important to prosecute it) than others (e.g. where there is no evidence that a crime has been

34 For a list of dictionaries refer to the bibliography at the end of this book.
committed). However, the important point is to know that a prosecutor has the right to stop a criminal proceeding. The reasons why he takes such a decision can be studied separately.

Finally, native speakers and The Language Centre at the University of Groningen checked the manuscript.\(^{35}\)

Each country report comprises\(^{36}\)

- a brief historical and political overview relating to the criminal justice system
- an overview of each country’s criminal justice system, i.e. the different criminal courts and decisions they make
- the organisation of the public prosecution service, i.e. the structure, hierarchical relationships between the different parts of the service, the rights and obligations of public prosecutors and their disciplinary and penal responsibilities
- the functions of the public prosecution service in the preliminary phase of the criminal process, e.g. the rights and obligations of the service in this phase and the supervision of the superior prosecutors over lower prosecutors during this phase
- the functions of the public prosecution service after the preliminary phase of the criminal process, i.e. the preparation of the indictment, the position of the prosecutor during the hearing and the subsequent forms of review available

The reader may be surprised by the absence of any conclusion at the end of each country report. The most remarkable elements of each report and any possible conclusions are instead discussed in Chapter 9 where I compare all the systems.

Indeed, my discussion compares the similarities and differences between the countries. Since the first International Congress for Comparative Law in 1900, several authors have attempted to compare the world’s legal systems and to group these systems into families, such as the Common Law family, the Romano-Germanic family or the Socialist family.\(^{37}\) Several authors have published important comparative work on criminal law and criminal

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35 I would like to express my gratitude to Ayesha Desousa, Max Ian Avruch and Nissim Kanekar for their precious help.
36 The reports are up to date up to the time of their writing, which is August 2006 for the Polish system, September 2006 for the Czech, October 2006 for the Dutch and November 2006 for the French ones. Nevertheless, on several occasions I have taken certain recent modifications into account.
In order to derive such classification categories, comparatists study foreign systems and try to work out standards and variations within these systems. Such grouping is difficult, especially as each country has its own individual culture, which deeply and uniquely influences the legal system. As a result, attempting to group different national legal solutions under a single heading necessarily carries the risk of drawing parallels between notions that are actually very different. Although I am aware of this risk, it seems to me that comparison is possible and very useful if it is limited to well-defined, specific notions and if the systems have some basic similarities, as with the Netherlands, the Czech Republic, Poland and France which all belong to the continental law group. For example, these countries share the same general principles of law, such as the principle of legality (nullum crimen, nulla poena sine lege), the principle of res judicata, and the principle that there should be a statute limiting the time for prosecution of crimes.

Generally, this kind of comparison can enhance the understanding of human justice. More specifically, it can enhance the understanding of the functioning of a system and, in particular, the functioning of one or several domestic legal institutions aimed at resolving legal issues common to all countries. From a domestic point of view, the use of comparison remains one of the best methods of discovering useful institutions and uncovering the reasons for a system’s malfunction. From a supranational point of view, such as that of the European Union, comparison provides the necessary tools for efficient cooperation and harmonisation. It demonstrates that all Member States give the same level of attention to fundamental principles of justice and human rights. Such a demonstration is necessary to enhance mutual trust. To achieve this objective I followed the same plan for each country report, setting out the organisation of the PPS and its functions within the criminal process. With regard to the organisation of the PPS, I focused on its position within the State organisation, its structure and the relationships within the service. I gathered the comparisons in the functions of the PPS in the criminal process under one heading.

Finally, I came to the conclusion that the organisation of the PPS and its functions in the criminal process converge at certain points.

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although remain very different from one system to another. Where there is diversity, I concluded that differences should not go beyond certain limits.