

Vůjtěch Jan, Holas Jakub, Zeman Petr:

Professiogram for judges and state prosecutors¹

2000 – 2001

ISBN 80-7338-000-5

Extended summary

This task was assigned to the research programme on the instructions of the Ministry of Justice of the Czech Republic. In a letter, the First Deputy Minister formulated the task as follows: “To compile a professiogram for judges and state prosecutors that may be used inter alia for the purposes of selecting applicants for positions as judicial and legal candidates.”. The aim of the work, then, was to prepare two professiograms – for judges and state prosecutors – and special attention had to be given to preparing basic documentation for the purposes of any revision of the selection system for judicial and legal candidates.

The task was performed in two basic stages: a short period of preliminary research, which served as an initial study in the second half of 2000, and the research itself undertaken during 2001. The following summary covers both documents together.

The initial study provides information on professiography as an independent discipline and its possible application and particularly the methodology and techniques used in professiography. A professiogram is a compact, purposive summary of a professiographic study that in our case may provide information for the choice of candidates as well as their preparation, appraisal and motivation, which also applies to judges and state prosecutors.

It proceeded from the hypothesis that applicants for the position of judge or state prosecutor chosen on the basis of profiles of experienced judges and state prosecutors are more likely to succeed in the profession than applicants chosen otherwise. It is also necessary to distinguish the person’s general work capabilities – psychological and special. The structure of the study is also similar. One section is devoted to a quantitative and qualitative analysis of the work performed by judges and state prosecutors and the second to their personal profile; a sample of probationers and respondents is selected from those who exercise their profession without problems, ie at least relatively successfully.

Research methodology

An interdisciplinary approach, typical for professiography, was ensured by the participation of a psychologist, a sociologist and a lawyer. The overall conception and also individual steps were the result of consultation with experienced experts and members of both professions.

¹ Vůjtěch J., Holas J., J. Zeman P. External co-operation: Neumann, J., Špaček, L. Professiogram for judges and state prosecutors: Professiographic study focusing on the selection of candidates and the selection criteria. Prague: ICSP, 2000. 211 pages. Summary.

We attempted, at least within the framework possible, to work with samples of experienced members of both professions with certain representative elements

- in terms of area (Prague, Brno and Ostrava regions)
- in terms of gender (female, male)
- in terms of length of practical experience
- for judges in terms of their remit (criminal and civil, or commercial etc)

Anonymity was preserved 100 % in the research, the members of the research team did not know any member of the groups by name and source documents were marked only with a sequence number. The researchers held a total of twelve meetings with the respondents and probationers, six with judges and six with state prosecutors. The psychodiagnostic part was understandably done personally, and after a break the participants were carefully instructed on how to process other source documentation submitted, which they returned by post. Each meeting lasted ca 3 hours.

As the professionogram is neither general nor comparative (comparing different professions), but focused on a specific purpose, we attempted to follow the steps below:

- to describe and analyse the work activities
- to establish criteria for success in practising the profession
- to formulate preconditions for successful work performance
- to formulate proposals for individual officials
- to establish a suitable set of instruments for selection

On individual methods:

a) Daily snapshot method for time analysis of work activities

Analysis of how members of a particular profession, in our case judges and state prosecutors, spend their working hours, or perhaps time outside working hours too, is fundamental for understanding the structure and also the importance of individual activities. For this reason methods and techniques are used which actually describe the proportion, and sometimes also the sequence of activities in the stipulated categorisation over a certain period. This requirement was worded so that respondents should record where possible two full weeks, ie 10 working days, preferably consecutive, and were also asked to state work performed outside the workplace, at home, outside working hours or at weekends. The problem is that the work of a judge and state prosecutor is from one point of view a complete process where its individual parts and specific activities are not strongly dependent upon each other and often merge into each other so that assignment to the stipulated categories is not easy.

b) Critical Incidents Technique

In the instruction the content of the term key (critical) incident and the procedure for its application were explained. Respondents had 4 months to provide records and return their forms by post.

c) Professionographic questionnaire

This has the same wording for judges and state prosecutors. Its purpose is to ascertain the opinions and attitudes of the respondents, mainly concerning the work and personality of members of their particular profession. It dealt with the following topics:

- the objective aspect of the profession - work (7 points)
- the subjective aspect of the profession - personality (9 points)
- other questions (3 points)

d) Psychodiagnostics

The basic aim in the construction of the test battery is to cover the basic psychological quality requirements based on an expert view on both professional orientations using measurable psychological parameters. The test battery is composed of techniques standardised for the general population and techniques tested experimentally on professional groups with parameters similar to the professional groups studied.

Attention was devoted in particular to personality characteristics, which is also reflected in the structure of the techniques proposed. These were as follows:

NŘ - opinion range; GE - generalisation; 16 PF - personality questionnaire– Cattell (form B); T-10/1 experimental personality questionnaire, T-10/2 self-assessment – personality questionnaire,

T-11 experimental personality questionnaire

Groups of probationers and respondents

The original intention to work with 40 judges and 40 state prosecutors who were to provide comprehensive research material was affected by what was actually feasible. 33 judges and 37 state prosecutors took part in the psychodiagnostic examination, and 19 judges and 21 state prosecutors returned completed psychographic questionnaires. Time snapshots and the key incidents technique in particular showed a lower return because of the relatively high demands they made on time.

The resulting report contains:

A historical introduction, a general section (assignment, possible application, subject of research, study structure, methodology and work procedure), then the results of empirical findings, additional information such as a comparison of psychological profiles of the selected intellectual professions, information on the state of the matter under investigation in selected European countries, followed by actual psychograms of the professions studied and their comparison and finally a paper on the issue of selection of candidates, a concluding summary and recommendations.

The report has 9 appendices; Appendix 1 is the initial study and the other appendices constitute source material for the empirical research.

Findings obtained from the empirical research:

- Analysis of time spent during work activity on a daily snapshot basis.
Activities were divided on an expert basis into 14 categories for judges and 15 categories for state prosecutors. Respondents kept ongoing records on a prepared form for two full weeks. These were collected and processed for 100 days, ie 51,590 minutes for judges and 188 days for state prosecutors, ie 91,300 minutes. It can be seen from this that on average judges have working hours of 9 hours and state prosecutors have working hours of 9 hours and 12 minutes.

Judges: individual specific activities can be broken down into a number of levels in terms of the proportion (%) of total time from the longest to the shortest.

Level I (21 %) - court hearings

Level II (5% to 12 %) - preparing decisions, studying documents, preparing court hearings
Level III (8 % to 3%) - decision-making, lost time, administration and organisation, professional study, general study, non-working time, actions to be performed after a verdict has been delivered, consultations and meetings

Level IV (0.6 % to 0.5 %) - lectures, teaching and publication activities, advisory work, training and seminars

State prosecutors: specific activities broken down into a number of levels according to share of total time monitored:

Level I (23 %) - court hearings

Level II (16 % - 12 %) – studying files, decision-making, supervision in preliminary proceedings including reviews

Level III (7 %) - lost time

Level IV (4 % - 2 %) – general study, administration and organisation, non-working time, professional study, consultations, performing actions (prior to and during criminal prosecutions), analyses, proposals for a court, advisory work, training, seminars

Level V (1 %) – supplying due legal remedies, lectures, teaching and publication activities

- Critical Incidents Technique according to Flanagan is used to establish the essentials of the profession. A small number of incident records was obtained – 25 for judges, 29 for state prosecutors. Most cases related to the private and personal life of both judges and state prosecutors, affecting judges mostly negatively and state prosecutors mostly positively.
- The targeted professiographic questionnaire, identical for both professions and designed to ascertain opinions and attitudes, has 19 points. The results of the findings are used in formulating the professiogram. Its content covers the objective and subjective aspects of work and the profession.
- Psychodiagnostics
6 techniques were applied to both professions; 3 of these standardised (opinion range, generalisation, personality – Cattell 16 PF – form B as the basic technique) and 3 experimental.

A total of 33 judges and 37 state prosecutors from three regions, proportionately male and female, were tested, for judges on both civil and criminal cases. The report contains detailed results including graphs for the specific techniques with a commentary.

- Professiographic questionnaire
One of the central questions in the analysis of a particular profession is what personality characteristics, traits and habits the person should have to be able to practise this profession successfully and well. Respondents had the task of stating any five features they wished which they considered as most fundamental for practising the profession of judge.

Evaluation of the replies produced the following rank order for judges:

- resolve

- high moral principles, integrity, honesty
- sense of justice
- intelligence, logical thinking
- ability to deal with people, communication skills, empathy

Evaluation of the replies produced the following rank order for state prosecutors:

- resolve
- sense of responsibility
- prudence, patience, assertiveness
- conscientiousness, meticulousness
- high moral principles, integrity, honesty
- sense of justice

The questionnaire also dealt with:

- motivating factors for exercise of profession (for judges the most powerful motivating factor was independence, for state prosecutors work content and its social prestige)
- how satisfying the respondent found the work (the level of satisfaction was higher for judges)
- what are unpleasant moments in the professions examined (for judges these are first of all work overload and bad information in the media, for state prosecutors also poor standard of work in the media)
- how satisfied they are with their working environment, interpersonal relations in the workplace and standard of computer technology in the workplace
- what proportion of their working hours they are forced to devote to activities which are unnecessary for practising their profession and could be done by a less qualified person, and what these activities are specifically (for judges this is actions to be performed after a verdict has been delivered, and for state prosecutors completing statistical statements)
- the opinions of respondents on raising their professional qualifications (judges feel that deepening their knowledge of jurisprudence is the most important item, state prosecutors knowledge of languages)

Contribution to formulating the qualifications profile of a judge or state prosecutor on the basis of professional opinions.

This refers to the source material obtained from the PHARE seminar attended chiefly by lawyers and other professionals who formulated the aptitudes, skills, behavioural characteristics and preconditions necessary for successful practice of these professions.

Summary of information according to importance and frequency of incidence:

1. Knowledge of the law, legislation including its application, expertise
2. Communication
3. Organisation and management
4. Character, integrity
5. Decision-making
6. Endurance (and relaxation)

The professiographic study also includes information on the issue studied in selected European countries

The comparative study concerns Denmark, France, Estonia, Italy, Ireland, Germany, The Netherlands, Norway, Austria, Slovenia, Spain, Sweden, Switzerland, the Ukraine and Great Britain, ie 15 countries. Among other things it concentrated on the requirements for judicial candidates, their selection, the length of the candidate's practical experience, the candidate's own preparation, preconditions for the appointment of a judge, judicial examinations, the authority appointing the judge, the education and training of the judge and the career of a judicial counsel.

Professiogram of judges and state prosecutors

We consider it appropriate to deal with the professiograms of both professions in the same structure, for there is a high degree of conformity (this also applies, for example, to education and training). It will be sufficient to point out the differences.

Concise and fundamental characteristics of both professions concern the workplace, type of work, degree of variation within the work, types of work motivation, personal contacts, degree of complexity and demanding nature of the work, degree of neuro-psychological burden and individual emotional stress.

Essence of the profession of judge: independent and just decision-making in court cases and due reasoning.

Essence of the profession of state prosecutor as a representative of the state – prosecutions before a court – this is “performance of supervision in preliminary proceedings” and “action leading to the detection and conviction of an offender and bringing him/her before a court and thereby ensuring that he/she receives a just punishment” (These statements come from the respondents of both professional categories. In the case of judges the statements are explicit; with state prosecutors they are not so clear cut.)

Psychological and qualifications model profile

The instruments used make it possible to formulate a profile from two standpoints: how a judge or state prosecutor is at present and how he/she should be.

Basic characteristics of a judge as a whole:

Very important factors in sequence:

- self-assurance, self-confidence
- character, personal moral strength, honesty
- intelligence
- stability, maturity, constancy, balance
- self-control, strong will, social precision

other important factors: -self-sufficiency, independent decision-making powers,
- mental relaxation, calmness

Basic characteristics of a state prosecutor:

Very important factors in sequence:

- intelligence
- character, personal moral strength, honesty
- mental relaxation, calmness
- stability, maturity, constancy, balance
- self-control, strong will

other important factors: - self-assurance, self-confidence

The following factors seem to be irrelevant for both professions:

- reserve – friendliness
- dominance – submission
- carefree nature – gravity
- adventurousness – shyness
- refinement – tenacity
- suspicion – trust
- loftiness – practicality

it can be seen from the above that there are no major differences in the two profiles uvedeného

Skills

Above all rhetoric, communication techniques, questioning techniques, social skills in an assertive type of behaviour, presentation and personal presentation, use of computers and other office equipment

On the issue of selecting candidates

This issue was designed to represent, in accordance with the narrower assignment, the outcome of the entire research. Reference was already made in the introductory study to two principal questions, essential for the conception of the whole candidate selection system:

- to conduct selection of candidates for the function of judge and state prosecutor separately, as hitherto, or jointly?
- to conduct selection on a decentralised or a centralised basis?

The advantages and disadvantages of a combination of all solutions were considered for both questions.

Principal possible approaches to the selection solution:

- according to “common sense” – experience and intuition of experts who conduct the selection (greatest threat of inconsistency and subjectivity)
- selection conducted “mechanically” according to the instruments used in the professionographic study
- selection based on a synthesis of findings focused on the fundamental decisive selection criteria

(We favour this method, even though it has not been clearly worked out with regard to the necessary instruments)

Selection process:

This is not a single act but a process with subsequent steps. Whether it is a matter of joint selection for both functions or a smaller unit, the selection must always be of the optimal personalities for the particular function.

- Steps:
- introductory formal proceedings (obligatory details) - 1st screening
 - psychological examination – broad - 2nd screening
 - structured interview
 - evaluation of all source documents
 - decision of the committee where all information, including diagnostics, forms source material for the decision

Selection criteria

- a) qualifications – based on definition of the required skills; in particular, the professional capability of the probationer with regard to knowledge of law (as well as study results)
- b) psychological – personality traits derived from professionograms
Decisive for both professions are: character, intelligence, maturity, and also for judges calm self-confidence and for state prosecutors a relaxed demeanour and ease

The report also contains a “derived profile of a judicial candidate” and “a derived profile of a legal candidate” as can be seen from the diagnostic part of the research focusing on the personality. The derived profiles are expressed in ten components and two tables with each graph specifying the bands within which the tested aspirants for the position of candidate should be placed in the results. (In the event that the instruments used in the research are applied).

The conclusion of the study contains a summary and recommendations relating in particular to the function and position of psychodiagnostics in the selection process. The postscript draws attention to the apparently most concise professionogram, as very fittingly formulated by Socrates: “A judge should have four qualities – to listen politely, to answer wisely, to consider sensibly and to decide impartially”.

