

UCIEX



SPECIALIZED UNIT
IN INTERNATIONAL
COOPERATION
AND EXTRADITION
UCIEX



MINISTERIO DE JUSTICIA
PÚBLICO
PUBLIC PROSECUTOR'S
OFFICE

www.ministeriopublico.cl
CHILE



Chile's system of justice derives from the legal traditions of continental Europe. As such, civil cases are primarily resolved through written proceedings. Until recently, this was also true for criminal cases. However, in December 2000, a new criminal procedure was introduced, based on charges filed by an independent prosecutorial agency and oral, public trials.

Under the previous, inquisitorial system, a single judge was responsible for investigating a case, pressing charges and pronouncing a verdict. Proceedings were secret and in writing. Under the new criminal procedure, however, the tasks of investigating, charging and adjudicating have been separated. A new government body has been created, the **Office of the Public Prosecutor (OPP)**, headed by a National Prosecutor or Attorney General. The OPP is responsible for investigating crimes and pressing charges. Adjudication is undertaken by Oral Trial Courts, while Guarantee Judges ensure that participants' constitutional rights are protected during the process.

The Office of the Public Prosecutor is an autonomous agency enshrined in the Constitution, independent of any other State authority. Its functions are: 1) to investigate events that may form the basis of a crime, an individual's criminal participation in such events as well as the circumstances that may serve to prove the innocence of a person facing criminal charges; 2) to take the case to trial in oral, public proceedings, if warranted, following the procedures established by law; and 3) to service and protect victims and witnesses of crime. The most senior official in the OPP is the National Prosecutor. Under the National Prosecutor are sixteen Regional Prosecutors (one each in twelve of Chile's administrative regions, plus four in the Santiago Metropolitan Region). Within each region, in turn, local public prosecutor's offices are led by assistant prosecutors.

Further information about the structure and functions of the Office of the Public Prosecutor can be found at www.minpublico.cl.

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The criminal procedure reform also gave rise to the **Office of the Public Defender**, a functionally and territorially decentralized service with autonomous legal status and independent funding which reports to the President of Chile through the Ministry of Justice. This body is tasked with providing legal defense to people who do not have a lawyer and have been accused of a felony, crime, or misdemeanor falling under the jurisdiction of a criminal court. The most senior official in this body is the National Defender.

Guarantee Courts and **Criminal Oral Trial Courts** are additional innovations introduced with the reform. The Guarantee Courts, which act independently, are responsible primarily for: a) authorizing investigative measures which might affect individuals' rights; b) adjudicating in simplified proceedings, when applicable; c) overseeing the enforcement of sentences; d) ensuring the protection of people who have committed an offence but are not criminally responsible (e.g., individuals with mental disorders); and, e) conducting hearings during the investigative stage and resolving any ancillary matters that may arise during that period.



International Affairs at the OPP

International Legal Cooperation and the Role of the Public Prosecutor

In a globalized world, countries are called to coordinate efforts to grapple with shared challenges. This includes cooperation in the field of justice, where nations face a realm of concerns stemming from the phenomena associated with the rising mobility of people and goods. In this context, Chile has signed a series of international agreements and put appropriate regulations in place to address key aspects of international legal cooperation in the criminal arena.

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International assistance or cooperation in the area of criminal justice consists of specific measures offered by one State to another to assist in prosecuting crimes in the most effective, efficient manner possible.

Extradition refers to the handing over by one country to another of an individual who has been accused or convicted of a crime, so that the receiving country can bring the individual to trial or enforce a sentence, if applicable.

With its criminal procedure reform and the creation of the Office of the Public Prosecutor, Chile has significantly streamlined and enhanced its criminal procedures. At the same time, the OPP has become the primary facilitator and resource for international legal matters and extradition.

The requests and letters rogatory traditionally presented by foreign missions in Chile to the Ministry of Foreign Affairs and subsequently executed by the Supreme Court – a process which at times took up to two years – now fall under the exclusive purview of the Office of the Public Prosecutor. The OPP can resolve these matters without further intervention by the courts, unless authorization from a judge is required under Chilean law due to the nature of the proceedings. In the latter case, the OPP takes appropriate action immediately upon notification of the request to facilitate processing.

While continuing to proceed through the channels established by international agreements, foreign missions are encouraged to maintain ongoing contact with the Office of the Public Prosecutor on these matters, so that future needs may be anticipated and errors avoided in the formulation and presentation of documents.

Presently, requests to foreign countries for international assistance in criminal cases are presented by the National Prosecutor on behalf of the OPP, in accordance with Chilean law and applicable international treaties.

When the OPP Intervenes

Since Chile's new criminal justice system was phased-in gradually, requesting States need to look at the date of events before presenting their petitions, as follows:

Assistance on international criminal matters

The Office of the Public Prosecutor directly processes all foreign requests (with legal authorization when the rights of third parties are involved) related to offenses occurring **after December 16, 2000**. If the offense was committed prior to this date, the Ministry of Foreign Affairs will present the case file to the Supreme Court.

Extradition

Chile's Office of the Public Prosecutor represents the interests of requesting States in all extradition petitions arising from offenses taking place **after June 16, 2005**. If the crime was committed before this date, the procedures of the former system apply and the Office of the Public Prosecutor does not intervene. Processing of the latter cases is the sole responsibility of the Supreme Court. The requesting State may be represented by a private attorney or an Embassy representative.

Who to Contact at Chile's Office of the Public Prosecutor

Unidad Especializada en Cooperación Internacional y Extradiciones (UCIEX)

[Specialized Unit in International Cooperation and Extradition]

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Functions of the Specialized Unit in International Cooperation and Extradition (UCIEX)

The UCIEX is primarily tasked with:

1. Centralizing and coordinating mutual assistance requests from abroad on crime-related issues (such as petitions for information on criminal records, travel records, property and goods, financial movements, companies, and controlled delivery of drugs).
2. Providing advisory support to Chile's Public Prosecutors in investigations with international implications.
3. Providing advisory support and representation to States presenting extradition requests.
4. Maintaining ongoing contact and cooperation with international networks dealing with criminal justice in which Public Prosecutors participate (including the OAS; Iber Red; the Meetings of Ministers of Justice and Attorneys General of the Americas [REMJA]; the Ibero-American Public Prosecutors' Training Network [RECAMPI]; the International Association of Prosecutors [IAP]; GAFISUD; and the Ibero-American Association of Public Prosecutors [AIAMP], whose current President is Chile's National Prosecutor, Guillermo Piedrabuena).
5. Organizing training initiatives conducted by Chilean prosecutorial officials in other countries and by foreign officials in Chile (in cooperation, *inter alia*, with Germany, Argentina, Bolivia, Colombia, China, Paraguay, South Africa, the United States, France and the United Kingdom).
6. Providing advisory support to the National Prosecutor and managing international relations for the OPP.

For further information about UCIEX and its work, please refer to the publication *Conexión Internacional*, available on-line at www.minspublico.cl in the section *Quiénes Somos / Inv. Especializada / Revista UCIEX*.