

Structure of the Public Prosecution Office in Jordan

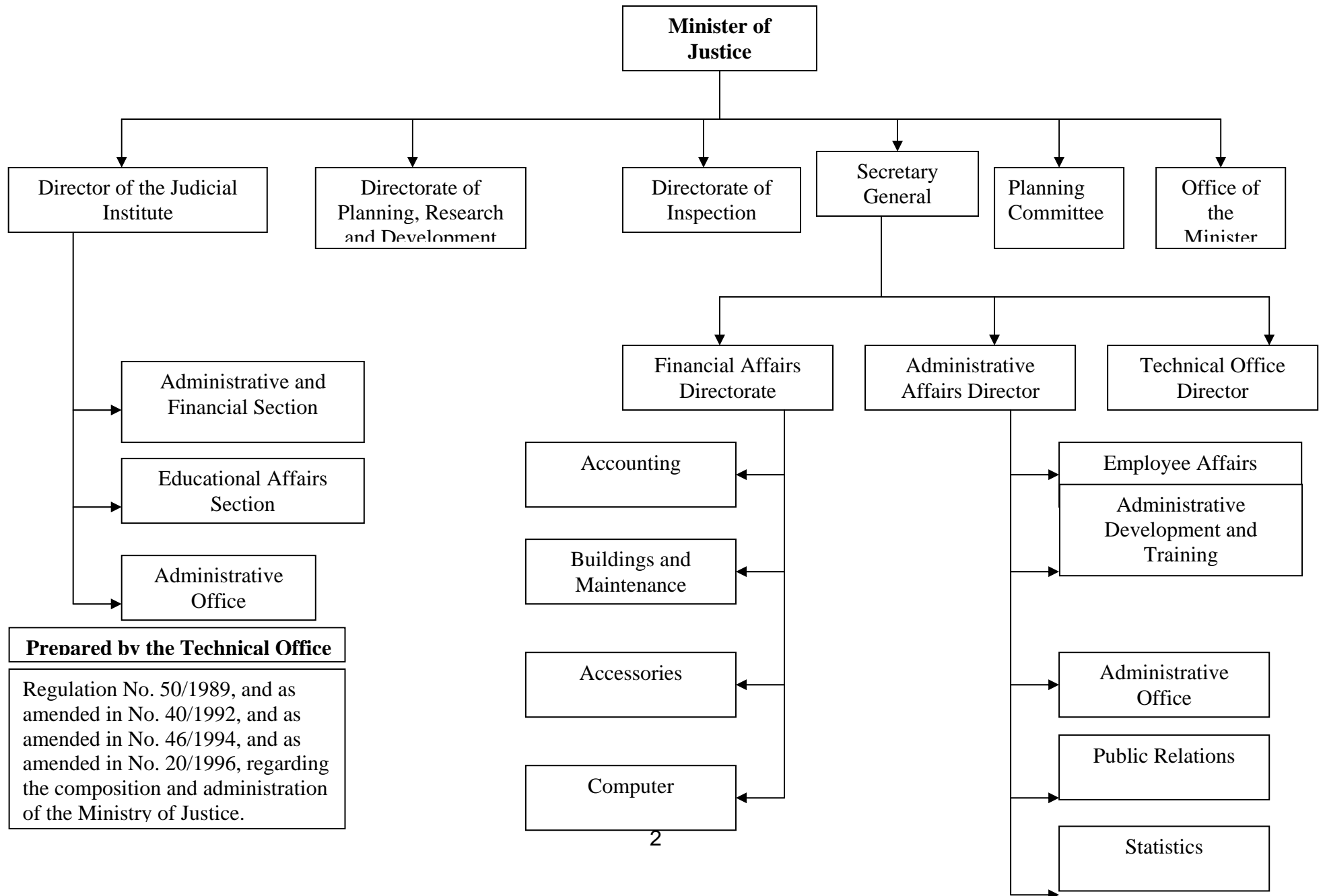
A. Departments and Sections of the Ministry of Justice.

B. Courts: There are three types: (Article 99 of the Constitution)

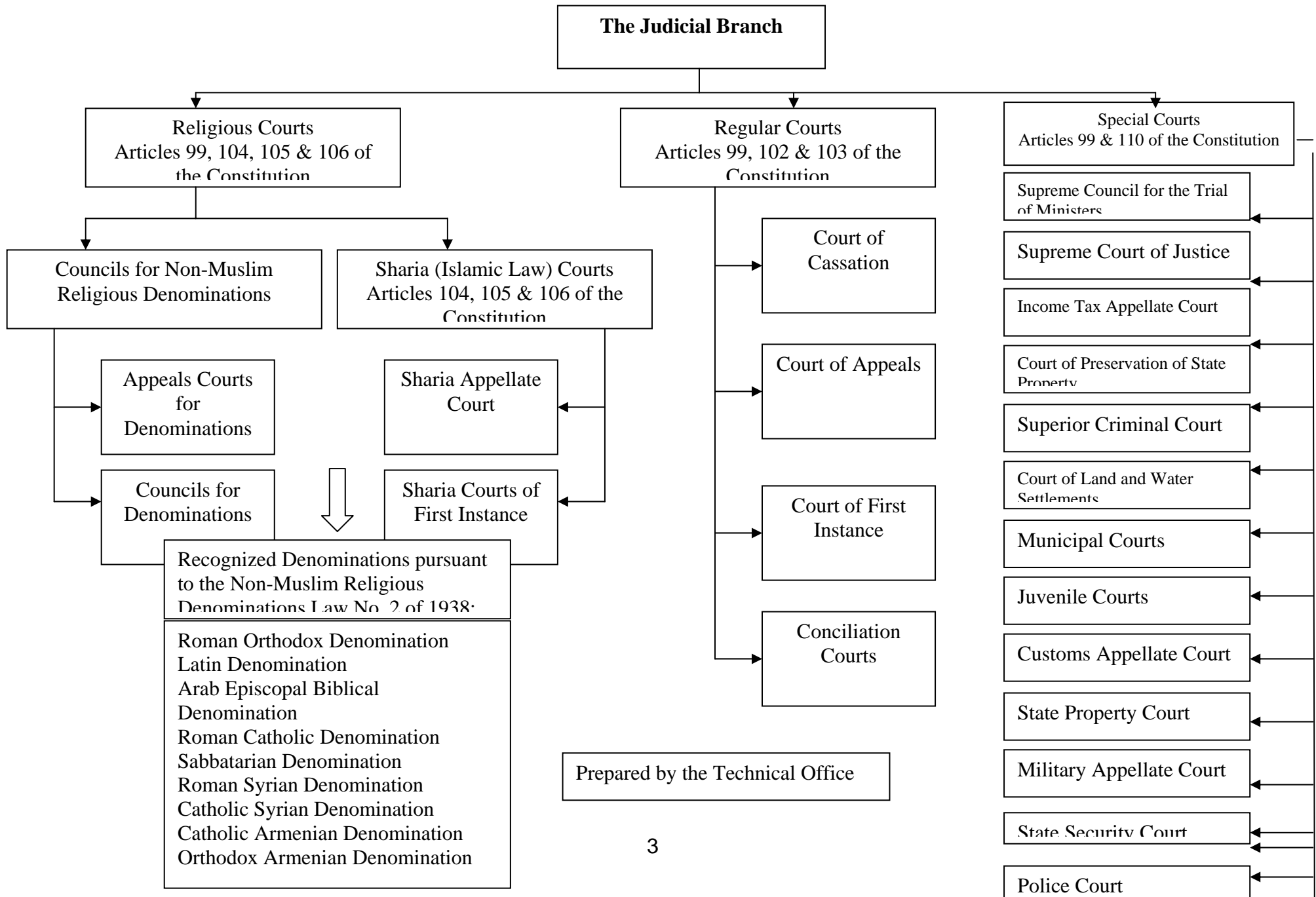
- Regular Courts
- Religious Courts
- Special Courts

The types, levels, sections, jurisdictions, and methods of administration of the courts shall be provided for in a special law, which law shall provide for the establishment of a supreme court of justice.

A. Organizational Structure of the Ministry of Justice



B. Types of Courts



Ordinary Criminal Courts, called Regular Courts. They are:

1. Conciliation Courts. They are presided over by a single judge. The law does not require that prosecution be represented there (Article 167 of the Criminal Procedure Code). These courts hear all violations, crimes involving perjury and false oaths arising from conciliation cases, and misdemeanors punishable by law with a prison term not to exceed two years, except misdemeanors perpetrated against state security, and misdemeanors for which a special provision states that courts other than the conciliation courts shall hear them (Article 5 of the Conciliation Courts Law).

2. Courts of First Instance: Each court is composed of a presiding judge and a number of judges. The public prosecution is represented before it by one or more judges called (Public Prosecutor) (Article 14 of the Criminal Procedure Code and Article 14/G of the Law Regarding the Composition of Regular Courts). Their jurisdiction is follows:

In their first instance capacity, they convene with a single judge when they hear misdemeanor cases that are outside the jurisdiction of the conciliation court judge.

In their criminal capacity, they convene with two or three judges when they hear criminal cases that fall outside the jurisdiction of the superior criminal court pursuant to its law (Article 5 of the Law Regarding the Composition of Regular Courts, and in misdemeanor cases associated with the felony referred to them in accordance with the indictment (Article 14 of the Criminal Procedure Code).

In their appellate capacity, they convene with two judges. The cases appealed before them are certain judgments rendered by the conciliation courts, which involve indignity imprisonment for violations, misdemeanor imprisonment for a period not to exceed one month or a misdemeanor fine not to exceed thirty dinars (Articles 5 of the Law Regarding the Composition of Regular Courts and 28 of the Conciliation Courts Law).

3. Courts of Appeals. There are three courts in the cities of Amman, Irbid and Mu'an. Each court is composed of a presiding judge and a number of judges that is set according to need. The court convenes with at least three judges (Articles 6 & 7 of the Law Regarding the Composition of Regular Courts). In every appeals court, a judge is appointed, known as (the Prosecutor General), supported by a number of assistants (Article 13 of the Criminal Procedure Code). The cases brought before it are all judgments rendered by courts of first instance, in their capacity as first instance and criminal courts with respect to felonies, misdemeanors and violations, as well as judgments and decisions for which there is a special provision stated in any other law that allows for the appeal thereof (Article 256 of the Criminal Procedure Code).

4. The Court of Cassation in Amman. It is composed of a chief justice and a number of justices as needed. It convenes with at least five justices in its regular panel, and a chief justice and eight justices in its general panel (Article 9 of the Law Regarding the Composition of Regular Courts). It hears challenges and appeals brought against judgments or decisions that are cassated before it, and which are issued by the appeals court in criminal cases, and hears challenges and appeals brought against judgments and decisions for which any law provides for the cassation thereof (Article 10 of the Law Regarding the Composition of Regular Courts), and decisions to preclude trial issued by the Prosecutor General in criminal cases (Article 27 of the Criminal Procedure Code).

At the Court of Cassation, the public prosecution shall be presided over by a judge known as (Chief of the Public Prosecution), and is assisted by one or more assistants as the need may be (Articles 14 of the Law Regarding the Composition of Regular Courts and 12 of the Criminal Procedure Code).

B. Special Criminal Courts:

1. Superior Criminal Court. It consists of a presiding judge who are at least a category II grade, and a number of judges who are at least a category III grade. The work of the public prosecution before such court is handled by a special panel consisting of an Prosecutor General and assistants and public prosecutors as required. The court convenes with three judges (Article 3 of the Superior Criminal Court Law) with the presence of the public prosecutor. Its jurisdiction is to hear the following criminal cases:

1. Murder crimes as set forth in Articles 326, 327, 328, 330 & 338 of the Penal Code.
2. Crimes involving rape, indecent assault, and criminal kidnapping, as provided for in Articles 292 & 302 of the Penal Code.
3. Attempt to commit the above crimes (Article 4 of the Superior Criminal Courts Law).

2. Police Court. It convenes with a presiding judge and at least two members. The work of the public prosecution in these courts is handled by a special panel composed of a (judicial counselor) and his assistants, public prosecutors, investigative bodies and public prosecutors. Its jurisdiction is to review crimes committed by those affiliated with public security (Articles 83-85 of the Public Security Law). Sentences issued with respect to felonies are appealable before the Court of Cassation.

3. Juvenile Courts. The Juvenile Law states as follows:

- A. The court that hears charges attributed to any juvenile shall be the juvenile court.
- B. The court of conciliation, in its capacity as a juvenile court, shall have the jurisdiction to adjudicate violations, misdemeanors, and measures for protection and care.
- C. The court of first instance, in its capacity as a juvenile court, shall have the jurisdiction to adjudicate felony crimes.
- D. If the offense is attributed to a juvenile with an adult accomplice, then the juvenile shall be tried along with the adult before the court that has jurisdiction to try the latter.

This is in accordance with the procedures followed by juvenile courts with regard to juveniles. There is no specialized public prosecution in juvenile cases. The public prosecution at regular courts shall assume the job of prosecuting juvenile crimes.

4. Military Courts. There are two types:

A) Military Councils / One or more Standing Military Courts / Single-Judge Court

B) Unit Commander Court / One or more Provisional Military Courts / Military Appellate Court (in accordance with the Provisional Law Regarding the Composition of Military Courts). The jurisdiction of these courts is to hear any case involving crimes committed by military personnel, whether military or ordinary crimes.

5. The Supreme Council. Its jurisdiction is to try ministers for crimes attributed to them arising from their performance of their duties. Articles 56-61 of the Constitution set forth its composition and the trial process. The Council of Representatives shall have jurisdiction to impeach ministers. One of its members shall be appointed to bring the accusation and support it before the Supreme Council.

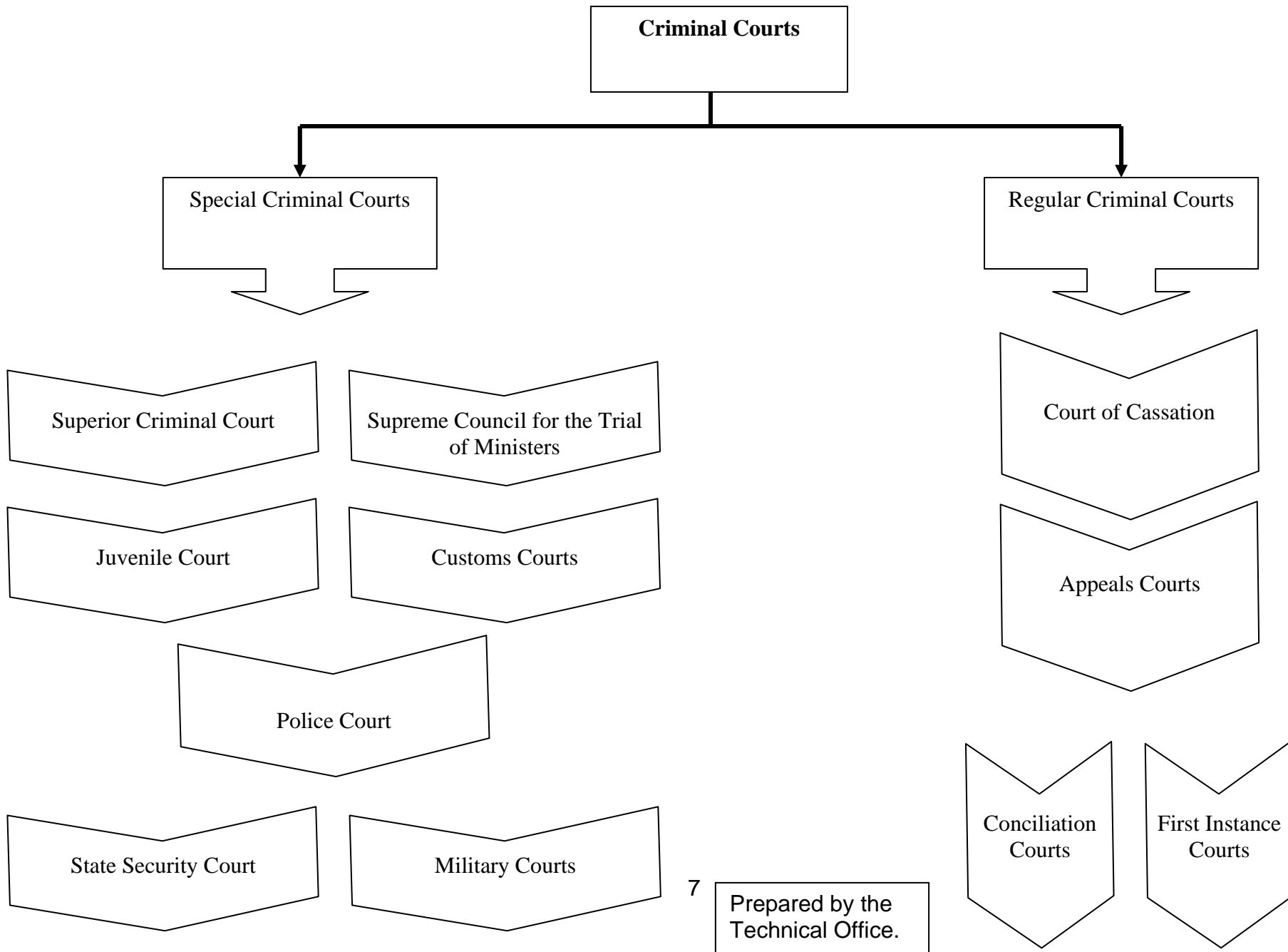
6. State Security Court. The prime minister shall have the right to create one or more special courts, known as state security courts, each of which shall be composed of three civilian judges and/or military judges appointed by the prime minister upon the minister of justice's assignment of the civilians and chairman of the joint chiefs of staff's assignment of military judges (Article 2 of the State Security Law). The public prosecution shall be represented before it by a public prosecutor and one or more assistants and a number of public prosecutors (Article 7 of the State Security Law). Sentences issued by the State Security Court in felony cases shall be appealable at the Court of Cassation.

7. Customs Courts. They are as follows:

Customs Court of First Instance. It convenes with a single judge.

Customs Court of Appeals. It convenes with a panel of three judges and judgments issued by it are appealable at the Court of Cassation where specified by law. The job of customs public prosecution shall be undertaken by one or more public prosecutors.

Structure of Criminal Courts

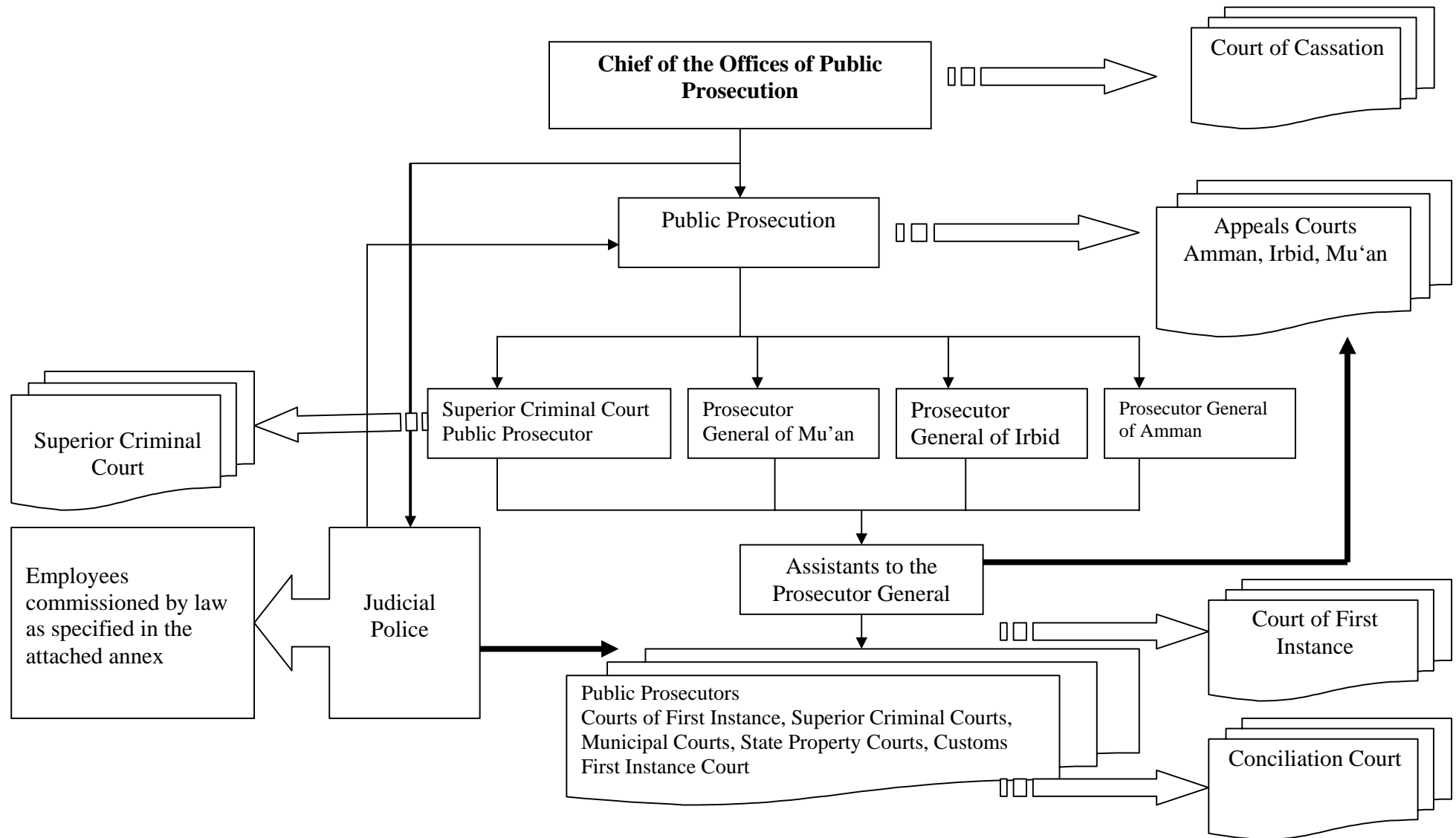


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The function of the public prosecution before the regular courts shall be performed by:

- A. The chief of the public prosecution or the chief of the offices of public prosecution at the Court of Cassation, assisted by one or more assistants as needed.
- B. The Prosecutor General at the Court of Appeals, supported by a number of assistants.
- C. Public prosecutors, who perform the function of public prosecution before courts of first instance and conciliation courts.
- D. Judicial police, which performs functions under the supervision of the chief of the offices of public prosecution, each within its jurisdiction as set forth in the Criminal Procedure Code and in related laws.

Structure of the Office of Public Prosecution



Article 14 of the Law Regarding the Composition of Regular Courts, No. 17 of 2001

The Public Prosecution body shall be composed as follows:

- A. A judge shall be appointed at the Court of Cassation, and shall be named the Chief of the Public Prosecution. He shall perform the function of the prosecution before the Court of Cassation.
- B. A judge shall be appointed at the Court of Appeals, and shall be named the Prosecutor General. He shall exercise all the powers granted him as set forth in the Criminal Procedure Code and other laws.
- C. One or more judges shall be appointed at every Court of First Instance, and shall be named Public Prosecutor.
- D. A public prosecutor may be appointed at any conciliation court.
- E. The chief of the public prosecution and the Prosecutor General shall have assistants who shall have the same powers vested in them.

Article 15 of the Law Regarding the Composition of Regular Courts, No.17 of 2001

- A. The representatives of the public prosecution, each within his jurisdiction, shall undertake the responsibility of initiating and pursuing criminal action, in accordance with the provisions set forth in the Criminal Procedure Code and other laws.
- B. The Prosecutor General or public prosecutor, each within his jurisdiction, shall have the right to delegate any police officer, in his capacity as a judicial police, to exercise the functions of the prosecution before the First Instance Courts and Conciliation Courts, generally or temporarily, as needed. The delegated officer must follow the instructions given to him by the Prosecutor General or the public prosecutor.
- C. The chief of the office of public prosecution and the Prosecutor General shall have the right to delegate any one of their assistants or any public prosecutor to argue and pursue any case brought before any court, except the court in which he is delegated to represent the public prosecution, if it appears to him that this case is of special significance that so requires this action.

Prepared by the Technical Office.

A Description of the Procedures of Criminal Prosecution

First: In felonies: The initial investigation is mandatory. The public prosecutor, in his capacity as an investigator, approaches a case in the following ways:

By himself: In his capacity as someone who combines the functions of prosecution and initial investigation. This is with respect to felonies of which he has personal knowledge based on information or a complaint received from the victim or an arrest conducted by the judicial police.

Based on an order from one of his superiors or the Minister of Justice.

A claim personally presented by the party that is harmed as a result of the crime, and on the basis that such claim is complete in form and substance. This compels the public prosecutor to take on a public rights case and a personal rights case.

Referral of the case to him through the appointment of experts (see Article 322 *et.seq.* of the Criminal Procedure Code).

Referral of the case to him by way of transfer (see Article 328 *et.seq.* of the Criminal Procedure Code).

After he is finished with the investigation, he issues one of the following decisions:

Decision to Preclude Trial: This occurs when it appears to the investigating public prosecutor that the act does not constitute an offense, or that there was no evidence to prove that the party complained against is the one who committed the offense. He then sends the case file immediately to the Prosecutor General.

Decision to Dismiss Trial: If the investigating public prosecutor finds that the offense is dismissible on the basis of any one of the reasons to dismiss. He then sends the case file immediately to the Prosecutor General.

Decision to Require Trial: If the investigating public prosecutor finds that the act constitutes a criminal offense and that there is enough evidence to refer the complained-against party to court. He then sends the case file immediately to the Prosecutor General.

When the Prosecutor General reviews the three above decisions, he shall do the following:

If he finds that the decision is correct, he approves it, and it becomes final. If he finds that the public prosecutor's decision to require trial in a felony case is correct, a felony indictment is issued.

If the Prosecutor General finds that the public prosecutor's decision is not correct, he shall vacate it and shall himself issue another decision.

If the Prosecutor General sees that additional investigations in the case are required, he shall order the return of the case file to the public prosecutor to complete what is missing.

The decision to require trial in a misdemeanor or violation. The case file is referred directly to the court of jurisdiction to try the party against whom the complaint was brought.

Decision of Lack of Jurisdiction.

Decision to not hear the case: In the event there exists a permanent or temporary restriction.

Decision to suspend action on the case: If the public prosecutor finds that the occurrence took place by an act of God or that the perpetrator of the crime is unknown.

Second: In misdemeanors over which the court of first instance has jurisdiction, in its capacity as an initial court composed of a single judge.

The investigation therein is mandatory. The investigating public prosecutor takes on the case following the same methods indicated in felonies.

Third: In misdemeanors and violations over which the conciliation court has jurisdiction: The initial investigation is not mandatory. The public prosecutor has the choice of either conducting the investigation or referring the case file to the conciliation court without conducting an investigation.

Trial in Felony Cases:

The case comes under the authority of the criminal court in the following manner:

By virtue of an indictment issued by the Prosecutor General or whomever is acting in his stead.

By way of appointment of experts.

By way of transferring the case and criminal trials with respect to the defendant in two types:

A trial where the defendant is present, which is the lesser. An *absentia* trial, which is the exception.

Trial in First Instance Misdemeanors:

The case comes under the authority of the first instance court in the following manner:

Decision requiring trial issued by the public prosecution. Decision to appoint experts.

Decision to transfer the case.

The trial is conducted either in the presence of the defendant or *in absentia*, or what is equivalent to having the defendant present.

Trial in Conciliation Cases:

The case comes under the authority of the conciliation court:

Direct case: from the public prosecution or from the victim

Complaint by the victim (Article 37 of the Conciliation Courts Law)

Report of the Judicial Police (Article 37 of the Conciliation Courts Law)

Decision requiring trial issued by the public prosecution.

By way of appointment of experts.

By way of transfer of the case.

The trial is conducted either in the presence of the defendant or *in absentia* or what is equivalent to having the defendant present. .

A Description of the Course of a Criminal Trial Before the Public Prosecution and the Investigative Judiciary

After a public case comes under the authority of the investigating public prosecutor (as previously mentioned in item 66), the following procedures are taken:

The complained-against party and the person responsible for the money, and the personal claimant, and their attorneys, shall have the right to be present in all the investigation procedures, except during the hearing of witness testimony.

When the complained-against party appears before the public prosecutor, the prosecutor shall confirm his identity and read him the charge attributed to him and ask him to answer the charge, while advising him of his right not to answer the charge except in the presence of an attorney. This advice is recorded in the minutes of the investigation. If the complained-against party declines to retain an attorney or did not bring an attorney within a period of twenty-four hours, the investigation will go on without him. In urgent cases where there is fear of losing evidence, and based on a decision justifying such action, the complained-against party may be questioned about the charge attributed to him prior to calling his lawyer to attend, provided that such lawyer shall have the right thereafter to review his client's statement.

The public prosecutor carries out the functions of evidence gathering. In so doing, he executes such procedures as traveling to the scene, doing visual examination, inspection, seizure, and hearing witness' statements, and seeking the assistance of experts and written evidence and proof, or any other means of evidentiary value.

In misdemeanors, the public prosecutor shall have the right to issue memoranda to produce evidence, *subpoenas duces tecum*, arrest and release.

After the public prosecutor has conducted all the necessary procedures and investigative processes, with the purpose of arriving at the truth, he shall issue his decision to take action on the investigation in the manner stated in Item 66.