



State Comptroller of Israel | Annual Report 71C | 2021

The Local Government

Activities of Offices of the Municipal Prosecutor in Several Local Councils



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Background

Prosecutors on behalf of local authorities take part in formulating the authority's enforcement policy and in setting and implementing the municipal prosecution policy. In their capacities as criminal prosecutors, municipal prosecutors act as representatives of the Attorney-General and manage the legal proceedings pursuant to the Attorney-General's directives but while maintaining prosecutorial independence. Municipal prosecutors' certification and work procedures are regulated pursuant to the Attorney-General's directives. The Department for Guiding Prosecutors Certified on Behalf of the Attorney-General engages in training, certifying and guiding them.

Local authorities enact bylaws to enable them to carry out their roles, take action according to their authority and regulate their departments' procedures for providing services to residents and safeguarding public health, welfare and security. The head of a local authority may certify employees of the local authority as municipal supervisors authorized to supervise compliance with the local authority's bylaws.



Key figures

127,126

The number of tickets issued in the five audited local councils in the years 2015–2019.

36%

The average ratio of tickets that were either cancelled or converted to a warning.

22%

The average ratio of ticket cancellation applications out of all tickets issued. The average ratio of requests for a trial was 1%.

38%

The average ratio of overdue tickets not yet referred to enforcement proceedings.

96%

Of the tickets issued in the years 2015–2019 in Azur, Beit Dagan, Gedera and Ganei Tikva were parking tickets. In Kochav Yair, approximately 84% of the tickets were issued in respect of dog control violations.

NIS**570,469**

Sum of uncollected fines in the five audited local councils in the years 2015–2019 that give rise to a concern that they are bad debts due to the statute of limitations. 77% of the above are bad debts in Gedera.

44%

Average ratio of ticket cancellation applications, out of the 1,885 filed applications, that are waiting for prosecutors' decisions in Beit Dagan and in Kochav Yair.

2.5 years

The cumulative period during which Kochav Yair had no municipal prosecutor between 2015 and 2019.

Audit actions



From October 2019 to October 2020, the Office of the State Comptroller intermittently audited the office of the municipal prosecutor in the following local councils: Azur, Beit Dagan, Gedera, Ganei Tikva and Kochav Yair-Tzur Yigal ("Kochav Yair"). Supplementary audits were performed in the Department for Guiding Prosecutors Certified on Behalf of the Attorney-General in the Ministry of Justice ("Prosecutor Guidance Department").



Key findings



Tickets during an election year – In 2018, when elections for local councils were held, the number of tickets issued in four local councils dropped significantly compared to 2017: in Beit Dagan – 86% decrease; in Gedera – 48% decrease; in Ganei Tikva – 61% decrease; and in Kochav Yair – 22% decrease.



Ticket cancellations – An average of approximately 36% of the tickets issued in the years 2015–2019 and for which ticket cancellation applications were filed, were indeed cancelled or converted to a warning. In Azur and in Gedera, the ratio was higher than 54%. This high ratio and the significant disparity between the local councils may attest to a policy of leniency among prosecutors or, alternatively, deficiencies in the municipal supervisors' work – deficiencies that require the provision of additional training and instruction to municipal supervisors. Criteria for converting tickets into warnings were not defined in the directives to municipal prosecutors. The municipal prosecutors in Kochav Yair, Gedera and Ganei Tikva acted with *ultra vires* by reducing the original sums of fines.



Timeframe until a municipal prosecutor's decision is issued – In Azur, Gedera and Ganei Tikva, the municipal prosecutors issued approximately 80% of their decisions within six months of the ticket cancellation application date. In Kochav Yair and Beit Dagan, the municipal prosecutors issued only 21% and 38%, respectively, of their decisions within six months.



Ticket cancellation applications not yet handled by the prosecutor – In Beit Dagan and Kochav Yair, approximately 47% and 40%, respectively, of all ticket cancellation applications filed in the years 2015–2019 are still waiting for prosecutors' decisions. These ratios vastly exceed the ratios in the other local councils, which were between 0.5% and 2%. In Kochav Yair, 41% of ticket cancellation applications that are still awaiting a decision were filed in the years 2015–2018.



Acceptance of ticket cancellation applications filed after the deadline – Anyone issued a ticket (fine) may file an application to cancel it within 30 days. On average, approximately 21% of the applications accepted by prosecutors in the audited local councils had been filed after 120 days. In Gedera and Ganei Tikva, more than 30% of the accepted applications had been filed after 120 days.



Freezing of tickets and concerns about conflicts of interest – At the directive of the municipal prosecutor in Kochav Yair, eight tickets issued in the years 2017–2018 were classified as "frozen" even though no ticket cancellation applications from the recipients were found, and three tickets issued in 2015 to a second-degree relative of



his were frozen. The prosecutor's connections to the recipients of these tickets could place him in a situation of concern about conflicts of interest.



Certification of a municipal prosecutor – For two and a half years out of the five years audited, Kochav Yair had no municipal prosecutor, even though services of the office of the municipal prosecutor were included in the fee that the local council paid to the municipal legal services.



Fine collection enforcement proceedings – An average of approximately 38% of the overdue tickets have not yet been referred to enforcement proceedings as of July 2020, in Gadera and Kochav Yair, 54% and 47% respectively, of the overdue tickets have not yet been referred to enforcement proceedings. In Gadera and Beit Dagan, the ratio of bad debts out of all fines issued prior to July 2019 was approximately 36% and 19%, respectively – significantly higher than the ratio in the other audited local councils.



Prosecutors' reports to the Prosecutor Guidance Department – The municipal prosecutors in Azur, Beit Dagan, Ganei Tikva and Kochav Yair submitted partial annual activity reports to the Prosecutor Guidance Department.



The Kochav Yair local council published its enforcement and supervision data for 2019 and for the first half of 2020 on its website in January and in July, 2020, respectively.

Key recommendations



The local councils should make sure that their supervision and enforcement departments operate constantly, in an egalitarian manner and in compliance with the law even during election years, in order to maintain public order and quality of life of their residents.



In order to optimally achieve the purpose of imposing fines, and in order not to detract from its deterrent effect and effectiveness, the competent authority should handle fine cancellation applications or requests for trials as soon as possible after the offense was committed and collect the fines. The municipal prosecutors should take action to shorten their decision-making timeframes for cancellation applications. The local councils should take action to collect fine debts within the timeframe specified in the Attorney-General's directives, while providing adequate service to citizens and avoiding delays in collection that may result in fines becoming bad debts or, alternatively, in citizens facing a situation whereby it will be difficult for them to pay their long overdue debt.



The Office of the State Comptroller recommends that the Prosecutor Guidance Department: issue rules about the timeframe for prosecutors to reach decisions with regard to fine cancellation applications; formulate criteria for converting tickets into



warnings; and formulate directives to municipal prosecutors accordingly, including with regard to registration for the purpose of monitoring. It is also recommended that the rules regarding prosecutors' authority to reduce fines be clarified.



The Kochav Yair local council should make sure that it has a certified prosecutor available at all times. The prosecutor of Kochav Yair should consult with the Prosecutor Guidance Department about topics for which interest arise about conflict of interests and comply with the Department's instructions. The Beit Dagan local council should complete its recruitment of municipal supervisors as well as the process of certifying its municipal prosecutor.



The Office of the State Comptroller recommends that the Prosecutor Guidance Department monitor the submission of all reports by the municipal prosecutors as required. It is also recommended that it create an online interface with the local authorities' computerized systems, in order to receive prosecutors' reports and at least create online forms that municipal prosecutors will be required to complete and submit to it, while assimilating controls that will alert if reports are not submitted or if partial reports are submitted. It is also recommended that the Ministry of Justice take action as soon as possible to fill the vacancies in the Prosecutor Guidance Department, so that it can accomplish its important tasks.



Prosecutors' decisions regarding ticket cancellation applications issued in the audited local authorities, 2015–2019

	Azur	Beit Dagan	Gedera	Ganei Tikva	Kochav Yair	Average of all audited local councils
Rejected applications	41.87%	35.26%	37.49%	64.70%	27.13%	41.29%
Accepted applications	22.54%	16.18%	13.52%	12.34%	25.61%	18.04%
Tickets converted to warnings	32.15%	0.06%	41.28%	16.16%	0.91%	18.11%
Tickets for which the fine was reduced	2.84%	1.41%	5.54%	5.76%	6.10%	4.33%
Applications still undecided by the prosecutor	0.52%	47.08%	2.17%	1.04%	39.94%	18.15%

Summary

An effective, continuously operating municipal prosecutor's office can help improve the quality of life of the local authority's residents by maintaining law and order and cleanliness. Despite the importance of municipal prosecutor's offices maintaining their independence, the audit findings specified in this report illustrate the need for supervision and control over their activities. The local councils, the municipal prosecutors and the Prosecutor Guidance Department should examine the deficiencies reported in this report, draw conclusions from them and take action to rectify them. The collection and analysis of data by the Prosecutor Guidance Department can help it ascertain the need for systemic and specific directives in order to promote uniformity and improve the effectiveness of the municipal prosecutors' work.