

**Answers to the questionnaire for the preparation of the
Opinion No. 10 of the CCPE**

1. According to the accusational principles a criminal investigation cannot neither be initiated nor proceeded without a decision of a prosecutor. Following these principles there is a division of basic functions which are entrusted different legal subjects. The prosecutor's mission is to lead the investigation against criminals, the suspected criminal has to defend himself or make use of the help of an advocate, but the function of sentencing is handed over to the Court.
2. The prosecutor leads the investigation but the police, in some cases in concert with other investigational institutions, is entrusted to inform the prosecutor on duty as soon as it is aware of the beginning of a criminal act. Through the whole criminal proceeding the police acts under the command and control of the acting prosecutor.
3. The prosecutors are educated and instructed in special centers for education of prosecutors. From time to time there are courses together with the police. It also could happen that there are organised special trainings of the police led by a prosecutor.
4. The relationship between prosecutors and the police is determined by the Law of Criminal Proceeding and the Law on Police.
5. The Law on Criminal Proceeding contains priorities of investigational measures.
6. The prosecutor orders the priorities of every investigation.
7. Every investigation is lead by a prosecutor.
8. Complaints against the police has to be handed over to the prosecutor but the police has the right to complain against the orders of the prosecutor too. The latter has to be decided within the hierarchy of the prosecutorial service.
9. There is not any autonomy of the police during the conduct of criminal investigation. The procedures for the conduct binds the police quite strict to the leading prosecutor.
10. No.
11. Who is responsible and competent to investigate within the body of the police or other institutions for investigation is laid down in its instructions to the Law on Police
12. The prosecutors are responsible to monitor the

compliance of the police with the orders of the prosecutorial service. In case of any violation of the orders the prosecutor turns to the head of police.

13. The prosecutors are not responsible for to control the respect for the law by the police but has to initiate an investigation in case there is any violation by the police.
14. The police as well as the prosecutors are bound to the obligations of the Law of Criminal Proceedings.
15. In that Law is provided too, in what way have to be carried out interrogations by the order of prosecutor and the procedure of arresting suspected criminals.
16. During the criminal investigation the prosecutor supervises the proceeding of the police, proposes adequate measures to the police and controls what has been ordered by the Court. The prosecutor also controls the seizure of the pieces of evidence and its safekeeping. In addition the prosecutor is responsible to get the testimony of the suspected person as well as of the witnesses of the prosecution.
17. Whilst only a judge is entrusted to undertake sanctions against a policeman the prosecutor can issue an accusation against a policeman in case that he has violated the orders given by a prosecutor.
18. The profession of a prosecutor as well as of a policeman is a practical one. Therefore the close cooperation between these two different state's functions is usually determined by an appropriate organisation laid down in modern laws. But it is always challenged by a lack of professionalism, dual sided misunderstandings, personal animosity and last but not least by political affairs the smaller a country is the more. The only answer could be an enhancement of education and practical training with the aim of better effectiveness in the name of justice.