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**THE RELATIONSHIP BETWEEN PUBLIC PROSECUTORS
AND THE POLICE IN FINLAND**

Report by
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The relationship between the prosecutors and the police in Finland: some remarks and recent developments

Independent police, independent prosecutors

The police and the prosecutors in Finland operate separately, under the administration of two different Ministries. The police are administered by the Ministry for the Interior, which provides also the funding for policing. In contrast, the prosecution service falls within the administrative sector of the Ministry of Justice, and has in many ways more operative independence than the police have. For instance, the Minister of Justice has no authority to intervene in individual cases dealt with by the prosecutors, nor otherwise to control the operations of the prosecution service. Under the Constitution of Finland, the control authority lies with the Prosecutor General, an official independent of other administration.

As regards operations, it is to be noted that the police are as a rule in charge of the pre-trial investigation of offences. The prosecutors serve as heads of investigation only on such occasions where the suspect of the offence is a police officer, no matter whether the suspicion pertains to the person's conduct in office or a more personal type of offence. Nevertheless, the prosecutors have in all cases the right to order the necessary supplementary investigations and to provide also certain other direction to a pre-trial investigation.

The necessity of co-operation

In general, it is of course a given that the prosecutors and the police must be capable of effective co-operation also in Finland. This is necessary because society can allocate only limited resources for the realisation of criminal liability. Especially in extensive cases, it is absolutely essential to concentrate on what is important. The participation of the prosecutor in the pre-trial investigation and the exercise of co-operation during the investigation will make it possible to avoid the frustration and delays that often are connected to supplementary investigation orders after the completion of the primary investigation.

Finnish criminal procedure is based on the premise that the pre-trial investigation serves as the preparation for the main hearing of the case, which takes place in court; as a rule, there is no other preparatory stage. Hence, the record of the pre-trial investigation is a major instrument for the prosecutor when he or she prepares for the trial. From this starting point, it is not enough that the crime is merely solved during the pre-trial investigation. As a matter of fact, it is absolutely essential that the investigation is also properly carried out and that the record is properly drawn up. The prosecutor, as an expert in criminal procedure, can co-operate with the police, thereby informing the investigating officer of his and her views as to the direction the investigation should take. For instance, the prosecutor's opening statement in the trial lays out the case in its entirety for the court; the preparation of the opening statement may well begin already at the pre-trial stage. It is of course clear that the need for this kind of co-operation is at its greatest in extensive and legally complex cases.

Major development project under way

In order to improve police-prosecutor co-operation over and above the current level, the Finnish Prosecutor General and National Police Commissioner have recently launched a major development project; the implementation of the development work plan, now under preparation, is intended to begin already this autumn. The project steering group is composed of high-ranking prosecutors and police officers. The first task is to prepare an extensive study of concrete development needs from the beginning to the end – from the discovery of a crime to the issue of a final judgment – and then to draw up a development work plan based on the findings in the study.

In practice, development will be pursued through a wide variety of measures. One of the most important challenges that we face is to achieve an adjustment in attitudes. There is an obvious need for training, and also for development discussions and development plans, especially at the local level. And of course, we cannot forget to follow up on the implementation of all these plans. Finally, we will probably also be needing some additional administrative regulations.

The development project will speed up also the measures that are needed on the national level for the definition of operative principles for the police and the prosecutors separately. If not for other reasons, then at least for reasons of synergy, it might be sensible to prepare these principles together, with a

pooling of resources and also of innovative capacity, as it were. As noted, the implementation of the development work plan begins already this autumn. The development work, however, will continue well into 2006.

Effects of the new European instruments

The recent new EU instruments enhancing co-operation in criminal matters have already changed, and will change further, the traditional division of competences between the police and the prosecutors in Finland. The change has been fast indeed – all has happened in just a couple of years. As you all know, we are looking at a constant stream of new framework decisions and drafts again emphasising the role of the judicial authorities, which means that our system is also constantly subject to at least some international pressure for change.

According to the law in force in Finland, the police have similar competence regarding coercive measures as have the prosecutors. Also in practice, the decisions on searches and seizures are normally made by police officers acting as heads of pre-trial investigation. However, over the past years, the implementation of a number of EU instruments relating to mutual recognition has resulted in the prosecutors having exclusive competence to decide matters which earlier could be decided also by the head of the pre-trial investigation, in other words, a police officer. The prosecutor is the main operator in matters relating to the European Arrest Warrant; similar development can be foreseen in the preparation of the implementation of the framework decision on the freezing of assets or evidence. Hence, it is clear that the necessary adaptation to the new provisions arising from international legal co-operation, and thereby also the internalisation of a new legal culture, are clearly yet new challenges for the co-operation of the prosecutors and the police today.