



**Answers from Finland**

CCPE (2015)1

**CONSULTATIVE COUNCIL OF EUROPEAN PROSECUTORS (CCPE)**

**Questionnaire for the preparation of the Opinion No. 10 of the CCPE on the relationship between prosecutors and police and/or other investigation bodies**

**A. *Relationship between prosecutors and the police***

1. Please briefly describe the relationship between prosecutors and the police or other investigation body in your country.

In Finland, pre-trial investigation bodies and prosecutors work within the administrative branches of the various ministries. They have independent organisations and separate appropriations (budget). However, the investigation of an operational criminal matter requires collaboration between the pre-trial investigation authorities and prosecutors.

In Finland, pre-trial investigations are performed by the police. The pre-trial investigation authorities include not only the police but also the Border Guard, Customs and military authorities. The public prosecutor directs a pre-trial investigation if a police officer is suspected of committing an offence in the performance of his or her official duties. Consequently, the pre-trial investigation authorities are, as a rule, responsible for conducting pre-trial investigations. However, the prosecutor actively participates in pre-trial investigations. The pre-trial investigation authority is obliged to notify the public prosecutor that an investigation has been opened in the case of an offence, with the exception of cases that are petty or clear. The pre-trial investigation authority may discuss the circumstances connected with the suspected offence informally with the public prosecutor before submitting a notification.

However, the pre-trial investigation authority is responsible for assessing whether an offence has been committed, and whether a pre-trial investigation should be initiated. If the pre-trial investigation authority deems it appropriate to waive a pre-trial investigation or to discontinue an investigation completely or partially, a proposal on this must be submitted to the public prosecutor, who decides on the matter.

Upon the request of the prosecutor, the pre-trial investigation authority must conduct a pre-trial investigation or conduct a pre-trial investigation procedure. In other respects too, the pre-trial investigation authority must comply with the orders issued by the public prosecutor regarding the consideration of prosecution and court proceedings.

After the completion of the pre-trial investigation, the prosecutor decides on all pre-trial investigation measures.

Although, as a rule in Finland, the pre-trial investigation authority is the head of any pre-trial investigation, the pre-trial investigation authority and the prosecutor collaborate in the investigation of a case in accordance with the Criminal Investigation Act. The prosecutor must ensure that the matter is sufficiently clarified during the pre-trial investigation, to avoid any need to conduct a further investigation, that would delay the process following the completion of the pre-trial investigation. Before closing the investigation, the pre-trial investigation authority must consult the prosecutor.

The prosecutor plays a key role in considering whether it is necessary to require the use of coercive measures in connection with the investigation. Although the pre-trial investigation authority is competent in terms of requiring the use of coercive measures, in many cases the public prosecutor must be notified if such a demand is presented. However, upon the closure of an investigation, competence in terms of requiring the use of coercive measures is transferred solely to the public prosecutor.

2. Is there any dialogue with the prosecutor concerning the work of the police or other investigation body?

Please see the response in paragraph 1. Pursuant to the Criminal Investigation Act, the pre-trial investigation authority and the public prosecutor must cooperate in operational matters.

Since these actors are mutual, key stakeholders, regular cooperation meetings are also held on issues other than those involving operational criminal matters. These are organised at both local and central government level. Joint training is also provided.

3. Is the prosecutor involved in training the police or other investigation body?

Yes. The Finnish Prosecution Service cooperates on a regular basis in training with the police, Customs and Border Guard and the military authorities. Prosecutors provide training for cooperating authorities. The pre-trial investigation authorities are welcome to attend training sessions provided by public prosecutors. Joint training sessions are also arranged. For example, in 2013, broad-based joint training was organised on the reforms of the Criminal Investigation Act and Coercive Measures Act that entered into force on 1 January 2014.

## **B. Existing legal provisions and regulations**

4. Is any relationship between prosecutors and investigation bodies determined by law or other provisions? Please describe briefly.

Chapter 5 of the Criminal Investigation Act lays down provisions on the public prosecutor's and pre-trial investigation authority's obligation to cooperate.

### ***Chapter 5 – Cooperation between the criminal investigation authority and the public prosecutor*** ***Section 1 – Notification to the prosecutor***

*The criminal investigation authority shall inform the public prosecutor without delay of a matter in which a police officer is a suspect in an offence, unless the matter is to be dealt with as a summary penal fine or summary penal judgment matter. In addition, the public prosecutor shall be notified of an offence that has come under investigation, and the criminal investigation and the prosecutorial authorities have jointly decided on the basis of their competence that notice shall*

*be given of such offences, or the public prosecutor has requested that notice be given of such offences.*

**Section 2 – The competence of the public prosecutor in the criminal investigation**

*(1) On the request of the public prosecutor, the criminal investigation authority shall conduct a criminal investigation or perform a criminal investigation measure. Also otherwise the criminal investigation authority shall comply with orders given by the public prosecutor intended to ensure clarification of the matter in the manner referred to in Chapter 1, section 2.*

*(2) After a matter has been transferred to the public prosecutor following the conclusion of the investigation, the public prosecutor decides on criminal investigation measures.*

*(3) Chapter 2, section 4 contains provisions on the function of the public prosecutor as head investigator.*

**Section 3 – Obligation to cooperate**

*(1) The criminal investigation authority shall, in the manner required by the nature or scope of the matter, notify the public prosecutor of the conducting of a criminal investigation and of circumstances connected with criminal investigation measures and otherwise of progress in the investigation. If the criminal investigation authority has notified the public prosecutor of the opening of an investigation in an offence, the head investigator shall, before concluding the criminal investigation, hear the public prosecutor on whether the matter has been clarified sufficiently in the manner referred to in Chapter 1, section 2, if the nature or scope of the matter require that the public prosecutor be heard, or if the intention is to conclude the criminal investigation without submitting the matter to the prosecutor. The Coercive Measures Act contains provisions on the notification obligation concerning the use of coercive measures.*

*(2) The public prosecutor shall participate to the extent necessary in the criminal investigation in order to ensure that the matter is clarified in the manner referred to in Chapter 1, section 2.*

*(3) The criminal investigation authority and the public prosecutor shall discuss questions relating to the arrangement of cooperation in the criminal investigation.*

Provisions on the authorities' conduct in pre-trial investigations are laid down in Chapter 2, section 1 of the Criminal Investigation Act. Accordingly, pre-trial investigations are conducted by the police. As provided in special acts, the pre-trial investigation authorities include the police, the Border Guard, Customs and military authorities. The public prosecutor participates in pre-trial investigations alongside the pre-trial investigation authorities, but does not constitute a pre-trial investigation authority. Further individual provisions regarding the distribution of authority between the pre-trial investigation authority and the public prosecutor are included in legislation such as the Coercive Measures Act and the Criminal Investigation Act.

Further to the above, the Finnish Prosecution Service and pre-trial investigation authorities' central administration authorities have issued orders and instructions on cooperation during pre-trial investigations.

**C. Responsibility of the prosecutor for setting priorities for investigating offenses**

5. How are priorities in starting criminal investigations in your country determined?

Pre-trial investigations are more or less compulsory in Finland: The Criminal Investigation Act requires that the pre-trial investigation authority conduct an investigation when there is reason to suspect that an offence has been committed. By law, pre-trial investigations must be conducted without undue delay. Pre-trial investigation measures may, however, be placed in order of priority and even postponed based on a decision by the head investigator.

The pre-trial investigation authority, not the prosecutor, decides on the priorities referred to in the question. With respect to operational issues, the pre-trial investigation authorities plan

their work carefully and may target investigation resources at solving certain types of crime in particular.

An estimate of the measures and resources appropriate to solving each particular offence is made on each occasion. Should the pre-trial investigation authorities not wish to conduct an investigation or wish to discontinue one, they must submit a proposal on the matter to the public prosecutor, who will make a decision on the matter. Please see response 6 on the other possibilities available to the prosecutor in influencing the performance of a pre-trial investigation.

6. Do prosecutors or the prosecution service in a direct way have an influence on this?

In most cases, it is the pre-trial investigation authority, not the prosecutor, that takes the decision to initiate a pre-trial investigation (incl. the prioritisation of cases).

However, the prosecutor has sole authority to investigate if a police officer is suspected of committing an offence in the performance of his or her official duties. In the case of such offences, the Finnish Prosecution Service has sole authority over deciding which cases will be investigated and at what stage.

However, pursuant to the Criminal Investigation Act, in all cases the prosecutor may order the initiation of a pre-trial investigation even in a case where a pre-trial investigation authority has refused to do so in the first instance. In principle, the prosecutor therefore has the opportunity to influence the prioritisation of matters.

***D. Responsibility of the prosecutor during the investigation***

7. Are prosecutors responsible for the conduct of investigations in your country? If no, who is responsible for that?

Pre-trial investigations are conducted by the pre-trial investigation authorities: as a rule, the police. Most criminal cases fall within the sphere of pre-trial investigations conducted by the police. In certain cases, however, investigations are conducted by the Border Guard, Customs or military authorities.

Offences committed by police officers in the performance of their official duties are an exception to this rule. In such cases, the public prosecutor conducts the investigation.

8. When does the prosecutor receive a complaint (as soon as the complaint is filed, or after the investigation has been conducted by the police)?

The pre-trial investigation authorities are obliged to notify the prosecutor of any offences reported for investigation. Such a notification must be submitted as soon as the pre-trial investigation authority has investigated the suspected offence to the extent necessary to demonstrating probable cause to suspect that an offence has been committed and that a pre-trial investigation must be conducted. Such a notification must be submitted well in advance, so that the investigation and related measures can be considered, planned, targeted and scheduled in cooperation with the public prosecutor. Should urgent measures be necessary with respect to the case, the prosecutor must be informed of this without delay.

The pre-trial investigation authority need not submit a notification to the prosecutor on initiating the investigation of a petty offence in which the circumstances require no

clarification, and where no particular need to discuss such an offence with the prosecutor has arisen.

9. What is the degree of autonomy of the police or other investigation body, if any, during the investigation?

When acting as the heads of the investigation, both the pre-trial investigation authority and the prosecutor are autonomous and independent.

The pre-trial investigation authority's independence resides in the fact that no party, such as the public prosecutor, may order that a pre-trial investigation initiated be discontinued or interrupted. A pre-trial investigation may only be waived, discontinued or restricted upon a proposal by the head investigator. After a pre-trial investigation has been initiated, it may be interrupted based on a decision by the head investigator if no-one is suspected of the offence and if clarification of the case is not possible.

10. Does the prosecutor have the power to prevent or stop an investigation?

As a rule, no.

The only exception is an offence committed abroad. In cases where the investigation of an offence committed abroad requires a prosecution order by the Prosecutor-General, the prosecutor is the authority which decides on whether an investigation should be initiated. In the case of an offence committed abroad, the pre-trial investigation authority may therefore be willing to initiate an investigation but the prosecutor may decide otherwise, either because Finnish law cannot be applied to the case, or because an investigation of the case by the Finnish authorities would not be appropriate.

11. How is it decided which service of the police or other investigation body, if any, is competent to investigate?

Finland's 11 police departments are responsible for e.g. the investigation of offences committed in their geographical area. The investigating unit in each case is basically determined on the basis of the so-called principle of regional responsibility, i.e. each police department investigates offences committed in its geographical area.

If an offence occurs in the areas of several police departments, the departments may agree among themselves on how best to conduct the investigation. Particularly in extensive series of property offences involving the areas of several police departments, the National Bureau of Investigation's criminal intelligence and analysis unit may prepare a so-called proposal on investigation arrangements. Such a proposal describes the series of offences in question and includes a proposal, with grounds, on which police unit could most expediently conduct the pre-trial investigation. The National Police Board ultimately decides on which investigation unit will be involved.

In addition to police departments, the National Bureau of Investigation conducts pre-trial investigations in Finland.

The NBI's primary task is to prevent and uncover organised and other crime of the most serious nature and, as a rule, to investigate such crime. In addition, the NBI investigates any other, separately defined crimes of the most serious nature of which it has become aware. The National Police Board has issued an order on this issue.

The Border Guard, Customs and military authorities have internal orders of their own on the determination of the investigating unit. These, too, mainly follow the principle of regional responsibility.

12. If the prosecutor leads the police or other criminal investigation in your country, does the prosecutor have the power to monitor compliance with his/her instructions? If so, please briefly describe.

In administrative terms, the prosecutor is not the supervisor of the pre-trial investigation authority, nor has the public prosecutor any disciplinary authority over investigation authorities.

The public prosecutor will head up a pre-trial investigation if it is suspected that a police officer has committed an offence in the performance of his or her official duties. In such cases, the prosecutor issues orders on all pre-trial investigation measures.

The prosecutor may also issue orders to the investigation authorities in other operational matters. Under the Criminal Investigation Act, the public prosecutor may order that a pre-trial investigation be initiated and an investigation measure be performed. The prosecutor may also issue other orders pertaining to the pre-trial investigation, in order to ensure the appropriate consideration of charges and presentation of the case in court.

As a rule, the public prosecutor decides on initiating the pre-trial investigation of any offence committed abroad.

The pre-trial investigation authority is obliged to comply with any orders issued by the public prosecutor.

However, it should be noted that the Finnish Prosecution Service does not have its own investigation resources. All concrete investigation measures are therefore performed by pre-trial investigation authorities acting under the auspices of other administrative branches. The public prosecutor has no authority to define the resources available to the pre-trial investigation authority or the schedule for a measure which the public prosecutor has ordered. Should disputes arise, they should be resolved under the obligation to collaborate set forth in the Criminal Investigation Act.

**E. *Responsibility of the prosecutor for the respect of the law***

13. Is it a responsibility of the prosecutor to control respect for the law by the police or other investigation body, if any? If yes, at which stage and by which means of control?

In the first instance, the pre-trial investigation authority ensures the legality and appropriateness in other regards of the pre-trial investigation. The prosecutor is not responsible for ensuring that the pre-trial investigation authority abides by the law. This does not, however, relieve the prosecutor of responsibility for ensuring that the pre-trial investigation is conducted in compliance with the law while respecting basic and human rights. The prosecutor must be able to provide grounds demonstrating the objectivity and accuracy of the pre-trial investigation material. The public prosecutor may not refer to any other type of material in support of any charges brought.

**F. *Common principles concerning the police***

14. Are there written regulations concerning the conduct of criminal investigations by the police or other investigation body?

Yes. Provisions on conducting a pre-trial investigation are laid down in the Criminal Investigation Act, and provisions on employing coercive measures are set forth in the Coercive Measures Act. In addition, under section 4 of the Act on police administration (Laki poliisin hallinnosta 110/1992), the National Police Board has issued several orders and instructions related to conducting a pre-trial investigation

The Border Guard, Customs and military authorities have also been issued with orders and instructions on conducting a pre-trial investigation.

15. What are these regulations about? (for instance, the way to carry out interrogations, deprivation of liberty etc.)

Please see the previous response.

**G. General control over police**

16. What is the general control system of the police or other investigation body, if any (internal/external?) Does the prosecutor play a role in this system?

The Internal Audit Unit operates as part of the National Police Board and is directly subordinate to the National Police Commissioner. In addition, the National Police Board's legality control department ensures the legality of conduct throughout the police administration. All police units have a legal unit, one of whose tasks is to ensure the legality of all conduct in the police unit in question.

The Border Guard, Customs and military authorities have their own internal control systems. In addition to the aforementioned, the supreme guardians of the law, the Parliamentary Ombudsman and the Chancellor of Justice, exercise control over the law enforcement authorities.

The public prosecutor is not involved in supervising the operations of the pre-trial investigation authorities. The prosecutor adopts a more concrete role when the police are suspected of violating the law during their activities. In such an event, the case is referred to the public prosecutor for the consideration of performance of a pre-trial investigation.

17. Is the prosecutor competent to take sanctions?  
No.

**H. Conclusions**

18. What are the major challenges in relations between prosecutors and investigation bodies in your country?

Pursuant to the Criminal Investigation Act, the public prosecutor has extensive powers to participate in pre-trial investigations, to issue its own statements as guidance for decision-making and to issue instructions on the performance of an investigation. The challenge for prosecutors lies in allocating sufficient time for managing issues at the investigation stage. Most of a prosecutor's time is usually taken up with the consideration of charges and overseeing cases in court. Improvements could also be made with respect to the timely and sufficiently comprehensive reporting of cases to prosecutors by the pre-trial investigation authorities. Improvement is also required in the planning of pre-trial investigations (incl. the preparation of a written investigation plan), the final discussion between the prosecutor and

pre-trial investigation authorities before an investigation is closed, and the transfer of a case to the prosecutor.

Although the prosecutor may order that a pre-trial investigation be initiated and investigation measures be performed, it is the pre-trial investigation authority that decides on the resources to be allocated to the task and on the timing of measures. While most cases are handled without problems, implementing a prosecutor's order may prove challenging in practice.