



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 the Republic of Slovenia the police are independent of the public prosecutor's office in organisational terms, while closely linked with it in the discharge of their tasks, above all during the pre-trial procedure. The police are a body attached to the Ministry of the Interior and are an agency of the executive branch of power. The police are an agency engaged in the detection of crime, and the prosecutor is the only agency engaged in the ex officio prosecution of criminal offences.**

**The police must gather data and information and decide whether there is a case for police investigation. The prosecutor can take part in deciding the kind and extent of investigative measures after the police have informed him of grounds for suspicion that a specific criminal offence has been committed or a specific person has committed it.**

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

**In the majority of cases the moment when the prosecutor starts sharing responsibility for correct investigation in the pre-trial procedure is the moment when the police inform him that a specific crime has been committed and the prosecutor takes up the directing, i.e. begins to cooperate with the police, is present during police activities, provides the police with proposals and directs the pre-trial procedure. If the prosecutor is to direct the work of the police in the pre-trial procedure, he must be informed of their activity. The police inform the prosecutor of all cases in which well-founded reasons for suspicion that a crime has been committed exists. The police officers are obliged to refer to prosecutors all information on relevant circumstances that prosecutors can be comprehensively informed on factual situation in a particular case.**

**A prosecutor may in exercising his authority set directions for work of police and military police, work of members of a joint investigation team, work of other competent**

national authorities and institutions working in the area of taxes, customs, financial operations, securities, protection of competition, prevention of money laundering, prevention of corruption, prevention of illicit drugs and inspection. A prosecutor directs their work by giving mandatory instructions, expert opinions and proposals for collecting information and the implementation of measures within their competence.

Heads of the competent Prosecutor's Offices may establish a specialised investigation team in particular cases of complex criminal offences, especially in the area of the economy, corruption and organised crime that demand longer and directed operations of a number of authorities and institutions. A Specialised investigation team is led and directed by a prosecutor. The operative manager, who is a criminal police officer, leads the operations of the team in performing investigative and other tasks. Thus, the responsibility is shared for timely, efficient and proper performing of their duty between the prosecutor and the operative manager.

In the case which is the subject to the pre-trial procedure, investigation or court proceedings in one or more countries, the police and prosecutors may also cooperate with the authorities of other countries Slovenia within the framework of the joint investigation team (JIT).

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

A prosecutor may be invited to police training in order to set presentations to the police officers on the particular topics. The police officials are frequently invited to the annual training of prosecutors.

**B. Existing legal provisions and regulations**

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

Yes. It is determined in the Criminal Procedure Act, the State Prosecutor's Office Act, the Police Tasks and Powers Act, the Police Organisation and Work Act and in the Decree on the cooperation of the state prosecutorial service, Police and other competent state bodies and institutions in detection and prosecution of perpetrators of criminal offences and operation of specialised and joint investigation teams. Joint investigations teams are determined in the Cooperation in Criminal Matters with the Member States of the European Union Act

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

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

The Prosecution Policy that has defined types of cases that are given priority has been adopted by the State Prosecutor General of the Republic of Slovenia. The police have their own priorities set in their annual guidelines that are coordinated with the Office of the State Prosecutor's Office.

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

Yes. The Prosecution Policy is adopted by the State Prosecutor General.

**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?

**Preliminary investigation (pre-trial procedure) is conducted by the police and may be directed by a prosecutor (see the answer to the 2<sup>nd</sup> question). After the prosecutor files a demand for an investigation to the court, the investigation judge decides on opening a judicial investigation. The investigation judge is responsible for the conduct of further judicial investigation. In general sense of responsibility the prosecutor is treated as a master (dominus litis) of the pre-trial procedure.**

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)?

**When a victim files a complaint, the police notify the prosecutor. The police conduct preliminary investigation. After the investigation the police send a criminal complaint (criminal report) with victim's complaint and collected evidence to the prosecutor.**

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

**The police must carry out their tasks in conformity with the principle of legality and deal with all the events and occurrences characteristic of crimes that are prosecutable ex officio. The police must gather data and information and decide whether there is a case for police investigation. In cases, the state prosecutor is not informed at the outset of the activities of the police or the initial information available to them, except where the police wish to consult him. The decision whether or not to take police measures still rests with the police.**

**The state prosecutor can take part in deciding the kind and extent of investigative measures after the police have informed him of grounds for suspicion that a specific criminal offence has been committed or a specific person has committed it.**

**When a preliminary investigation is directed by the prosecutor, her or his instructions are obligatory to the police, but when executing the instructions the police has their professional autonomy within the framework of the rules of criminalist tactics, techniques and methods.**

**When a specialised investigation team is established, it is leaded and directed by the prosecutor.**

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

**Not in the phase of pre-trial police investigation. Between and after the judicial investigation is introduced by a special court warrant, the prosecutor may issue a declaration to withdraw his demand for judicial investigation.**

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

It is provided by the Police Organisation and Work Act.

National Bureau of Investigation (NBI) is specialised criminal investigation unit within the Police, established for the detection and investigation of most complex criminal offences, in particular: economic crime, corruption and organised crime. The general director of the Police adopts upon the motion of the director of the NBI the internal document setting down which investigations are conducted by the NBI. NBI conducts an investigation in all cases when an initiative for an investigation is received by the head of the Specialised State Prosecutor's Office or the head of a district prosecutor's office.

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.

**Yes. When the prosecutor directs the preliminary investigation, the police have to inform and notify her or him on the executed activities and the results. When a specialised investigation team is established, all the information, documents and evidence has to be shared with the prosecutor and when necessary the members exchange information in coordination meetings.**

**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?

**The Ministry of Interior and internal police supervision are responsible to control respect for the law by the police.**

**Mostly all the police activities are determined in the Article 148 of the Criminal Procedure Act:**

**Article 148**

**(1) If grounds exist for suspicion that a criminal offence liable to public prosecution has been committed, the police shall be bound to take steps necessary for discovering the perpetrator, ensuring that the perpetrator or his accomplice do not go into hiding or flee, detecting and preserving traces of crime or objects of value as evidence, and collecting all information that may be useful for the successful conducting of criminal proceedings.**

**(2) With a view to executing the tasks from the preceding paragraph the police may: seek information from citizens; inspect transportation vehicles, passengers and luggage; restrict movement within a specific area for a specific period of time; perform what is necessary to identify persons and objects; send out a wanted circular for persons and objects; inspect in the presence of the responsible person specific facilities, premises and documentation of enterprises and other legal entities, and undertake other measures necessary. The facts and circumstances established in individual actions which may be of concern for criminal proceedings, as well as the objects found and confiscated, shall be indicated in the record, or an official note shall be made thereon.**

**(3) The police may summon citizens. In summoning them it shall be bound to indicate the reason for this. It may only forcibly bring a citizen who has failed to appear after**

***being summoned if the citizen has been alerted to that possibility in the summons. In performing actions under the provisions of this Article, the police may not examine citizens as accused persons, witnesses or experts, except for the suspect in the instance referred to in Article 148.a of this Act ...***

**A person against whom an action or measure from the second and third paragraphs of the Article 148 has been undertaken shall be entitled to lodge an appeal with the competent public prosecutor within three days.**

**The Department for the Investigation and Prosecution of Officials with Special Authorisations which is a self-dependent internal organisational unit of the Specialised State Prosecutor's Office, has exclusive territorial and *ratione materiae* jurisdiction to deal with criminal offences committed by police officers.**

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

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

**A criminal investigation conducted by the police shall be conducted in accordance with the Criminal Procedure Act, the Police Task and Powers Act and internal police instructions.**

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

**About all police activities (i.e. performing of house searches, interrogation of suspects and witnesses, performing of covert investigative measures etc. )**

***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 general, comprehensive, systematic and planned supervision and control system of the police is performed by the Ministry of Interior. The Ministry controls the legality and professionalism of police work and whether basic human rights and freedoms are respected when carrying out police powers.**

**Prosecutor does not play role in the general control system of the police, except the competences of the Department for the Investigation and Prosecution of Officials with Special Authorisations (see the answer to the 13. question). Some tasks may be performed when a person against whom an action or measure from the second and third paragraphs of the Article 148 lodges an appeal with the competent public prosecutor.**

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?

**The major challenges are a comprehensive system of exchange of information between the police and prosecutor's office, sharing the responsibility of a proper pre-trial investigation, police respecting the prosecutor's instructions, directions and legal opinions in particular investigations.**