

Strasbourg, 7 February 2012

CCPE(2011)7

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

**Questionnaire with a view of the preparation of Opinion No. 7 on the management of the means of
the prosecution services**

Replies from Liechtenstein

Answers to Section I:

1. The Liechtenstein Prosecution Service (Prosecution Service) reports to the Liechtenstein Government (Government).
As to objective independence, the Government may give instructions to the Chief Prosecutor. However, such instructions must not be for shelving a report, for the discontinuation of proceedings, for the withdrawal from prosecution through *Diversion* (withdrawal from prosecution due to certain actions by the suspect, such as community service), for the withdrawal of the indictment, or for refraining from appeals that are disadvantageous for the accused (Art 8 *Staatsanwaltschaftsgesetz* [StAG, Act Concerning the Prosecution Service]). In practice, however, no such instructions were or are given.
As to personal independence, prosecutors are employed for the time until they have reached the age threshold for ordinary retirement (Art 34 (1) StAG). It is possible for prosecutors to be assigned by the Government to a department or an office of the Liechtenstein administration, but only subject to their consent and to approval by the Chief Prosecutor (Art 48 StAG). The Government may terminate employment for major operational or economic reasons, in particular if funding is no longer available. In that case, the position of the prosecutor must be removed from the establishment plan (Art 50 Abs 1 StAG).
2. The Chief Prosecutor must forthwith report to the Government member competent for the Prosecution Service and to the Prime Minister on any criminal cases that are of particular public interest. Criminal proceedings against members of the Diet, of the Government, or against persons exercising the function of head or member of the municipal council of a Liechtenstein municipality must be reported, unless any connection with the suspect's political activities can be excluded (Art 13 StAG).
These reports form a possible basis for the above-mentioned instructions by the Government to the Chief Prosecutor; however, such instructions do not happen in practice.
3. The position of a prosecutor in the establishment plan must be approved by the Liechtenstein parliament (Diet). The prosecutor is then employed by the Government into that position by entering into a written employment contract. Vacant positions for prosecutors must be advertised by the Government in the official organs of publication for free application. The Chief Prosecutor must comment to the Government as to the suitability of applicants, and if there are several applicants, submit a proposal with grounds for filling the vacancy, which proposal the Government is not bound to follow (Art 32 StAG).
4. The staffing of the Prosecution Service depends on the establishment plan, which is resolved by the Diet. Also, there is the above-mentioned possibility of termination (Art 50 (1) StAG).
As to financial resources, the Prosecution Service's budget must be approved by the Government. The Prosecution Service has sufficient financial means to fulfil the duties given to it by the law.
5. The Prosecution Service is independent as to its budget, but is subject to the usual financial control, in particular as to the correctness of its accounting.

Answers to Section II:

6. The StAG does not contain any such provisions. The Prosecution Service is subject to the general rules of the Liechtenstein administration.
7. The Prosecution Service must address its budget applications to the Finance Unit, to the Office of Staff and Organisation, and to the Ministry of Justice at the Government. The budget is resolved by the Government.
8. Since the Prosecution Service is such a small authority, financial matters are handled by the Chief Prosecutor and his assistant.
9. There is a central IT system, which is operated by the Liechtenstein Cashier.

Answers to Section III:

10. The budgets of the Prosecution Service for the years 2008 to 2011 were as follows:
2008: total amount CHF 2,186,000.--, of these CHF 2,076,000.-- for staff,
2009: total amount CHF 2,615,000.--, of these CHF 2,393,000.-- for staff,
2010: total amount CHF 2,582,000.--, of these CHF 2,380,000.-- for staff,
2011: total amount CHF 2,618,000.--, of these CHF 2,431,000.-- for staff.
11. As far as the question is comprehensible: the Prosecution Service has enough financial resources, so that further measures would be unnecessary and inexpedient, given the small size of the Prosecution Service as an authority.
12. There were no effects, with negligible exceptions.
13. The question is incomprehensible.
14. No.
15. No.

16. Financially speaking, the Government and the Diet may approve supplementary loans with regard to the budget.
As to staffing, the fixed-term employment is possible for a period of no more than three years, and in justified cases that term may be extended by no more than another two years (Art 34 (2) StAG).
17. No.

Answers to Section IV:

18. No time is spent in this regard because the Prosecution Service has enough funds available for travelling, translations and any further costs, so that in financial terms, no prior approval is necessary for the Prosecution Service's activities.
19. No.
20. No.
21. The budget of the Prosecution Service is absolutely independent from those of other law enforcement authorities, in particular the Liechtenstein Police. Any costs incurred by the Liechtenstein Police through actions carried out at the request of the Prosecution Service is accounted for in the Liechtenstein Police's own budget.
22. There is a certain degree of specialisation in the Prosecution Service. However, since the Prosecution Service is such a small authority, every prosecutor must be able to carry out all types of work incurred.
23. There are no fields of investigation that take priority in their access to financial resources because due to the duties given to it by the law and due to the principle of legality, the Prosecution Service must examine all facts known to it for relevance in criminal terms. Human and financial resources are adequate for this.

Answers to Section V:

24. No.
25. to 31. No (see 24.).

Answers to Section VI:

32. No.
33. No.
34. No.
35. The Prosecution Service is not concerned by such strategies of the Government.
36. These are not necessary.
37. No.

Vaduz, on 08.03.2012

Dr. Frank Haun
Deputy Chief Prosecutor