



**LIETUVOS RESPUBLIKOS GENERALINĖ PROKURATŪRA
PROSECUTOR GENERAL'S OFFICE OF THE REPUBLIC OF LITHUANIA**

To: Secretariat of the
Consultative Council of
European Prosecutors (CCPE)

14 April 2015, our ref. No. 14.2- ~~1590~~(14.1-904/15)
In reply to the letter of 27 February 2015

By e-mail only:

Anna.KHROMOVA@coe.int

**RE: QUESTIONNAIRE FOR THE PREPARATION OF THE OPINION NO. 10 OF THE
CCPE ON THE RELATIONSHIP BETWEEN PROSECUTORS AND POLICE AND/OR
OTHER INVESTIGATION BODIES**

To Whom It May Concern,

The Prosecutor General's Office of the Republic of Lithuania pays its due respect to you and hereby sends you the answers to the questionnaire for the preparation of the Opinion No. 10 of the CCPE on the Relationship between Prosecutors and Police and/or Other Investigation Bodies.

ENCLOSED, *5* pages.

Yours faithfully,

Prosecutor General

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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.

When directing the course of pre-trial investigation, prosecutors give instructions, within the limits of their competence, to pre-trial investigation authorities with regard to carrying out of certain procedural actions, and also verify the lawfulness and validity of procedural actions and decisions by pre-trial investigation authority officers.

2. Is there any dialogue with the prosecutor concerning the work of the police or other investigation body?
Prosecutor directing the pre-trial investigation and the pre-trial investigation officer conducting the pre-trial investigation maintain contacts with each other: coordinate procedural actions, deadlines for their execution, course of investigation, results thereof, deal with issues that might arise.
3. Is the prosecutor involved in training the police or other investigation body?
Legal acts do not provide for such obligation, however, in practice the prosecutors often lecture officers of pre-trial investigation authorities, joint trainings are being organised.

B. Existing legal provisions and regulations

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

Article 164 Paragraph 1 of the Code of Criminal Procedure of the Republic of Lithuania (hereinafter referred to as CCP of RL) stipulates that pre-trial investigation shall be carried out by pre-trial investigation officers. The prosecutor shall organise and direct the course of pre-trial investigation. The prosecutor may decide to conduct the entire pre-trial investigation or part thereof by himself.

Article 170 Paragraph 2 of CCP of RL (Powers of prosecutor while carrying out pre-trial investigation) provides that in cases where the pre-trial investigation or separate actions thereof are being carried out by pre-trial investigation officers, the prosecutor shall be obliged to control how the pre-trial investigation is going on. Paragraph 3 stipulates that the prosecutor shall give mandatory orders to pre-trial investigation officers, revoke their decisions which are unlawful or invalid, and entrust the criminal intelligence subjects with the task of using methods or means of collecting criminal intelligence information whereby the rights of a person as specified under Article 44 Paragraph 9 of this Code are not restricted.

Article 172 Paragraph 1 of CCP of RL (Rights and duties of pre-trial investigation officers) When carrying out a pre-trial investigation, the pre-trial investigation officer shall have the right to carry out all actions specified under this Code with the exception of those which may only be implemented by a prosecutor or a pre-trial judge. Paragraph 2 of this Article lists the following duties of a pre-trial investigation officer: to carry out all the necessary procedural actions so as to promptly and thoroughly disclose the criminal offences; to comply with all instructions given by the prosecutor; to inform the prosecutor about the course of pre-trial investigation at the time specified by the latter.

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

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

The Criminal Procedure Code of the Republic of Lithuania provides that an investigation has to be carried out in all cases when attributes of a criminal offence are identified. Besides, investigations covered by the Description of the Pre-Trial Investigations Carried out by the Police (as approved by the order of the Prosecutor General of the Republic of Lithuania and the Police Commissioner General of Lithuania) are prioritized on the basis of the gravity and threat degree of a criminal offence.

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

Yes. Prosecutor may influence the priority of the investigation and can decide on the transfer of pre-trial investigation following the territorial principle and the subject matter. The criminal law of the Republic of Lithuania provides that all criminal offences have to be investigated.

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?

Prosecutor is entitled to carry out the entire pre-trial investigation or separate pre-trial investigation actions by himself. Paragraph 2: in cases where the pre-trial investigation or separate actions thereof are being carried out by pre-trial investigation officers, the prosecutor shall be obliged to control how the pre-trial investigation is going on (Article 170, Paragraphs 1-2 of CCP of RL).

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)?

As soon as the complaint is filed. In accordance with the provisions of Article 62 Paragraph 2 of CCP of RL (Appealing against procedural actions and decisions by pre-trial investigation officer),

the complaint is filed to the prosecutor either directly or through the pre-trial investigation officer whose procedural actions or decisions are being appealed against. Paragraph 3 of this Article states that the pre-trial investigation officer must refer the thus received complaint as well as his explanations related thereto to the prosecutor within one day from the day of the receipt of the aforementioned complaint.

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

In accordance with the provisions of Article 172 Paragraph 1 of CCP of RL, pre-trial investigation officer shall have the right to carry out all actions specified under CCP with the exception of those which may only be implemented by a prosecutor or a pre-trial judge.

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

Prevent: a prosecutor or a pre-trial investigation officer, upon receiving a complaint, an application or a report and in relevant cases clarification thereof, shall refuse to initiate a pre-trial investigation only in cases where the specified data about a criminal offence are evidently untrue or where the presence of circumstances defined under Article 3 Paragraph 1 of this Code (i.e. circumstances under which the criminal proceedings are not possible) is clearly evident. For the purposes of clarification of data presented in the received complaint, application or report a number of actions which are not related to procedural constraint measures may be carried out, such as:

- Inspection of the scene of the event;
- Interviews of witnesses of the event;
- Demand for data or documents to be supplied by state or municipal enterprises, establishments, organisations, or by the applicant or by the person in whose interests such a complaint, application or report has been filed;
- Interviews of the applicant or the person in whose interests such a complaint, application or report has been filed.

Such procedural actions must be completed within the shortest time span possible but the term of their completion must not exceed the period of 10 days (Article 168 Paragraph 1 of CCP of RL).

Stop: in accordance with the provisions of Article 3¹ Paragraph 1 of CCP of RL (Suspension of pre-trial investigation in cases where the person having committed the crime has not been identified), in cases where all the relevant procedural actions have been conducted and all possibilities to identify the person having committed the crime have been exhausted during the pre-trial investigation but such person has not been identified yet, the pre-trial investigation may be suspended on the grounds of a reasoned decision by the prosecutor. The prosecutor's decision to suspend the pre-trial investigation may be appealed against in accordance with the procedure defined under Article 63 of this Code within the term of seven days from the day when the copy of such a decision has been served upon the aggrieved person or representative thereof.

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

The prosecutor may assign the task of conducting pre-trial investigation into any type of criminal offence or individual pre-trial investigation actions to the police, however, with regard to the

functions prescribed in the laws governing the operations of different institutions, *Recommendations On Distribution of Crime Investigation to Pre-Trial Investigation Authorities* (approved by the Order of the Prosecutor General of the Republic of Lithuania) contains a list of authorities which, as recommended, are to be entrusted with the task of carrying out investigations into specific criminal offences.

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.

The prosecutor shall verify the lawfulness and validity of procedural decisions and actions of any officer from a pre-trial investigation authority. Article 170 Paragraph 2 of CCP of RL obliges the prosecutor to control the course of pre-trial investigation in cases where the pre-trial investigation or individual actions thereof are being conducted by pre-trial investigation officers.

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?

Article 170 Paragraph 2 of CCP of RL: in cases where pre-trial investigation or individual actions thereof are being conducted by pre-trial investigation officers, the prosecutor must control how the pre-trial investigation is being proceeded with. Paragraph 3 of this Article entitles the prosecutor to revoke unlawful or invalid decisions made by the pre-trial investigation officer, and this is applicable during the entire term of the pre-trial investigation.

F. Common principles concerning the police

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

Pre-trial investigation is being conducted and organised in accordance with the procedure prescribed by CCP of RL, additionally some questions are specified in the recommendations of the Prosecutor General.

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

These are various recommendations approved by the Order of the Prosecutor General, e.g. on the commencement of pre-trial investigation and procedures for registration thereof; on the procedures for monitoring the compliance with the conditions set by constraint measures (with the exception of arrest); on the interviews of minor witnesses and minor victims; methodical recommendations on the specificity of organisation of pre-trial investigation into criminal offences committed on racial, nationalist, xenophobic, homophobic or any other grounds of discriminatory nature, direction of such pre-trial investigations and conduct thereof, 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?

External: prosecutor directing pre-trial investigation – in cases where pre-trial investigation or individual actions thereof are being conducted by pre-trial investigation officers, the prosecutor shall be obliged to control the course of pre-trial investigation. Paragraph 3 stipulates that the prosecutor shall give mandatory orders to pre-trial investigation officers, revoke their decisions which are unlawful or invalid <...> (Article 170 Paragraphs 2 and 3 of CCP of RL).

Internal: the head of a pre-trial investigation authority or branch thereof, shall, within the limits of his/her competence: organise and control the conduct of pre-trial investigation actions; ensure that the pre-trial investigation officers subordinate to him/her carry out pre-trial investigations within the shortest terms possible and duly disclose criminal offences; organise and control the compliance with the instructions or assignments by the prosecutor in respect of procedural actions and decisions.

17. Is the prosecutor competent to take sanctions?

Prosecutor ensures legitimacy of procedural actions, i.e. revokes unlawful or ungrounded decisions made by pre-trial investigation officers, and can initiate disciplinary proceedings against the pre-trial investigation officer.

H. Conclusions

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

Major challenges occur only as a result of heavy workload of prosecutors and pre-trial investigation officers.