



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.

The prosecution service is a judicial authority independent from the courts and the executive power; it acts in a uniform and indivisible manner. Prosecutors are associated by a relationship of hierarchical dependence and their supervisor is the prosecutor at the Supreme Court. Police authorities must immediately execute the orders of prosecution authorities. Preliminary inquiries and investigations are conducted by order of the prosecutor at the magistrate court and under his direction, while the prosecutor at the court of appeal is the highest authority in interrogations.

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

There is dialogue, in the sense of cooperation for the most effective performance of the task of maintaining legality, protecting citizens and safeguarding the rules of public order.

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

The prosecutor is not involved in training the police or other investigation body, except when prosecutors teach in police academies.

B. Existing legal provisions and regulations

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

The key legislative instrument that determines the relationship between prosecutors and investigation bodies is the Code of Penal Procedure.

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

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

As a rule, priorities are determined on the basis of the seriousness of the offences, taking into account their gravity, the prejudice caused by their commission, the prejudiced legal interest and the time of commission.

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

It is primarily the prosecutors, by a relevant order, who determine whether to investigate the said offences.

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?

The mandate of the prosecutors comprises the tasks referred to in points A.1 and 2 above, and their duties also include the supervision of searches conducted in the context of investigations.

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 prosecutor undertakes cases ex officio following a lawsuit, complaint or other information, provided however that no action (lawsuit only from the victim) or petition is required for the specific offence.

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

The police and other investigation officers always act autonomously, under the direction and the instructions, as the case may be, of the prosecutor.

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

Only on specific legal grounds (e.g. non-filing or withdrawal of a complaint).

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

By special laws that govern the internal operation of the police and the relevant provisions of the Code of Penal Procedure.

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 directs preliminary inquiries and preliminary investigations and gives appropriate instructions if so required; he/she also inspects the compliance of police and other investigation authorities therewith.

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 prosecutor controls respect for the law both in the context of conducted searches and, in general, by giving orders, instructions and opinions on legal matters addressed by police and other investigation authorities in the discharge of their duties.

F. Common principles concerning the police

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

There are regulations and instructions in the context of the internal structure and operation of police and other investigation authorities, which, however, do not deviate from the provisions of the Constitution, the Code of Penal Procedure and the provisions of the applicable special penal laws.

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

These regulations do not abrogate the provisions of the Code of Penal Procedure, which is the key legislative instrument that governs in detail the preliminary and main investigation procedure, determines the conditions of arresting suspects, the detention of defendants in remand 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?

An Internal Affairs Agency operates within the police, headed by a higher officer. A prosecutor at the court of appeal is appointed supervisor of these agencies in Athens and Thessaloniki; however, he/she is not the official chief of these police authorities, but supervises the investigation tasks of the latter.

17. Is the prosecutor competent to take sanctions?

The prosecutor is not competent to impose disciplinary sanctions.

H. Conclusions

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

The major challenge is improving cooperation between them. Finally, it should be noted that the establishment of judicial police would make an important contribution to effectively and rapidly dealing with serious crime.