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**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 Finland**

## SECTION I: Status of the prosecution services in the state administration

1. Please specify the status of the prosecutor and the prosecution service in your state. Is it an autonomous institution? If yes, how is this autonomy guaranteed?

The prosecution service is part of the jurisdiction and/or the judicial system in Finland. Prosecutors have independence and autonomy, guaranteed by legislation. In this sense, the position of prosecutors is very similar to that of judges. In 1995, a new, united prosecution service, entirely independent of the police organisation, was established in Finland. The Act on the Prosecution Service (13.5.2011/498), which entered into force on 1 January 2012, further emphasises the independence and autonomy of prosecutors. Its section 7, subsection 1 issues the following provision: 'A prosecutor has independent and autonomous power to consider charges.' Provisions on the prosecution service are also laid down in Chapter 9 (Administration of justice) of the Constitution of Finland. Most of the provisions of said chapter concern judges and the court system. According to section 2, subsection 3 of the Act on the Prosecution Service, the prosecution service belongs to the administrative branch of the Ministry of Justice. This does not permit deductions to be made about which sector of government the prosecution service belongs to, since general administrative matters concerning the court system as well are handled by the Department of Judicial Administration of the Ministry of Justice.

2. Does the ministry of justice or another authority govern the activity of the prosecution service? If so, how?

The Ministry of Justice, or any other government body, does not have authority over the internal matters of the prosecution service, or over individual prosecutions. A prosecutor's independence and autonomy means that no one can give orders to a prosecutor on how he/she should decide an individual, pending criminal case. No other person than the case's prosecutor him/herself can, for example, decide on whether or not to press charges. Neither can anyone order the prosecutor to judge the evidence, nor interpret the provisions of a law, in a certain manner. Regarding interpretation of the law, a prosecutor is obligated to observe the law in a similar manner to, for example, a judge.

A prosecutor's independence and autonomy means, among other things, that the police officer who carried out the pre-trial investigation cannot coerce the prosecutor to press or not to press charges in the case investigated by the officer. This is not contradicted by the fact that the prosecutor and pre-trial investigation authority often cooperate during the pre-trial investigation, when the officer in charge of the investigation and the prosecutor naturally also discuss whether charges are likely to be pressed in the case. Regarding a prosecutor's independence and autonomy, it is of vital importance that, according to section 15, subsection 2 of the Criminal Investigations Act, a police officer must, if requested to by the prosecutor, conduct a pre-trial investigation or additional investigations and follow the orders given by the prosecutor to safeguard the objectives of the pre-trial investigation. A prosecutor therefore has the authority to give orders to the officer in charge of the investigation, but not vice versa.

The only quarter that can influence a prosecutor's decision-making is the highest prosecution authority, i.e. the Prosecutor General (or the Deputy Prosecutor General). But even he/she cannot order a prosecutor to decide an individual case in a certain way, but must rather exercise his/her right provided for in section 10 of the Act on the Prosecution Authority to take over the case. The following provision is issued in the law: 'The Prosecutor General can take over a case belonging to a prosecutor subordinate to him/her, or order a subordinate to pursue a charge the Prosecutor General has decided to bring. The Prosecutor General can also order a subordinate to consider charges for the case.' (This is the clearest, and possibly only, example of a situation where a prosecutor's independence and autonomy is different from a judge's independence and autonomy.)

The Prosecutor General is also independent and autonomous of other governmental authorities, based on the aforementioned legal provisions.

The organisational independence and autonomy of the prosecution service is increased by the fact that its funding is based on its own subsection in the state budget, approved by Parliament in the Finance Act each year. Also, the fact that the Office of the Prosecutor General handles indemnity matters concerning the prosecution service increases the prosecution service's autonomy to a certain extent.

3. Which authority is responsible for the creation of prosecutor positions?

The Office of the Prosecutor General establishes all public offices, within the bounds of the appropriations granted, and places them in the local prosecution offices.

4. Please indicate if there is any connection between the prosecution service and the Ministry of Justice or another public authority in terms of financial and human resources, IT facilities etc. If so, please describe how this connection works.

The Ministry of Justice grants an appropriation to the prosecution service, within the bounds of which the Office of the Prosecutor General decides on using the money for various purposes. The procurement and maintenance of ICT systems has been concentrated in the hands of the ICT Service Centre for the Judicial Administration (OTTK). The prosecution service pays OTTK for the ICT services it provides. The payments are in proportion to use.

5. Is the prosecution service independent from other institutions when implementing and managing its own budget?

The Ministry of Justice grants an appropriation to the prosecution service, within the bounds of which the Office of the Prosecutor General decides on using the money for various purposes in the prosecution service.

## **SECTION II: Financial rules and regulations of the prosecution service**

6. Does the law governing the prosecution service include provisions on financial management and on the executive's obligation to provide it with the necessary infrastructure?

Financial provisions are included in the Finance Act. There are no legislative or regulatory decrees on the prosecution service at this level. The Ministry of Justice's Financial Rule gives more detailed instructions on recording expenses, etc.

7. Please describe how and when the budget of the prosecution service is managed (preparation, distribution of funds between the budget lines).

The government approves the general spending limits for the coming year each March. Spending limits are only approved by administrative branch (judicial administration) at this time. The Ministry of Justice gives spending limits to the prosecution service on this basis. Based on the proposed spending limits, the Office of the Prosecutor General prepares the next year's draft budget in April–May. The Office of the Prosecutor General can, for a justified reason, propose that the spending limits be exceeded. At the end of May, the Ministry of Justice gives its draft budget to the Ministry of Finance. The matter is negotiated during the summer, both between public servants and by the entire government in the 'government budget session'. The draft budget is then considered in Parliament. The prosecution service has its own subsection in the final budget proposal, in which Parliament approves the final budget. The Ministry of Justice cannot, of its own accord, increase or reduce the prosecution service's appropriation.

8. Is there a specific department within the prosecution service responsible for the management of resources?

The Office of the Prosecutor General's administrative unit is responsible for these matters inside the prosecution service. There is a Chief District Prosecutor, deputy chiefs and a Judicial Secretary in each prosecution office who have responsibility for matters of this nature in the prosecution service.

9. Is there a national and/or centralised IT system for managing, monitoring and evaluating the budget of the prosecution services? *Does this system include a mechanism for increasing the efficiency of the resource management?*

The prosecution service receives up-to-date statistics from a separate data system. The data is transferred from the financial systems proper to the statistics database each day. Realisation figures are thus always available. This system has been a great help in planning and monitoring operations.

### SECTION III: Resources of the prosecution service

10. Please specify the amount of budget of the prosecution service for 2008, 2009, 2010 and 2011 (€ equivalent), indicating the distribution between staff expenditure and other types of expenditure.

	2008	2009	2010	2011
Staff expenditure	30,958,240	31,539,679	33,073,589	34,030,809
Expenditure on premises	3,297,053	3,888,493	3,879,280	3,956,888
IT	1,245,113	1,413,134	1,704,792	1,660,314
Other	2,976,090	2,937,971	2,893,240	2,809,888

11. *In your jurisdiction, what resources would you improve access to, and how would you do that (e.g. through partnership agreements, joint investigations, redistribution of resources etc.)?*

The new Criminal Investigations Act, which will enter into force in 2014, will set additional tasks for prosecutors. As a result, prosecutors will have to devote more time to pre-trial investigations. This increase in tasks will require additional resources. If additional resources are not granted, the required resources will have to be taken from other activities. Therefore, prosecutors should be granted additional resources to manage the increased number of pre-trial investigation tasks, if possible.

12. Are the current or future budgets of the prosecution service affected by the 2009-2011 economic crisis?

The general economic situation has affected the state budget. The prosecution service does its part to contribute to the state's general need to cut costs. The prosecution service has, however, been regarded as a core function of the state, and treatment has therefore been gentle compared to what many other agencies have received.

13. *What instruments are used to allocate resources needed for the good functioning of the prosecution service?*

The prosecution service uses 'spending limits'. This means that the available resources are distributed between the prosecution offices based on realised working hours. The method of calculating working hours has been the subject of extensive discussions between prosecution office chiefs. Changed circumstances require that the method of calculation be updated to make the result as fair as possible. This system has received general approval.

14. Is there any connection between the budgets allocated to the prosecution service and to the judiciary or to law enforcement bodies?

There are no direct dependencies between the budgets of courts and that of the prosecution service, for example. Their appropriations are defined in separate subsections. Both of the aforementioned budgets belong to the Ministry of Justice's administrative branch and they will be reviewed together if saving obligations have been set for the Ministry of Justice, for example.

15. Do human resources of the prosecution service depend on other institutions of the judiciary (e.g. Judicial Council, National Schools of Clerks)?

See the response to question 14.

16. In your jurisdiction, is there any mechanism of rapid reaction which could allow a quick redistribution of means (financial or human resources, logistics) between prosecution services, according to the needs of the system?

The system enables the rapid transfer of resources from one prosecution office to another. Prosecutors have competence across the entire country, which allows rapid re-evaluations to be made. These kinds of measures should, however, only be carried out for extremely well-justified reasons, or confidence in the system may deteriorate and prosecution office chiefs may lose their commitment to long-term work.

17. Does the General Prosecutor (or equivalent institution) have a specific budget for taking interim/temporary measures in situations when, within a certain prosecution service, human resources are insufficient?

The Office of the Prosecutor General has not reserved resources for unexpected eventualities. The local prosecution offices are such large units today that they can manage even unexpected situations. However, the Office of the Prosecutor General has the possibility to render assistance with smaller appropriations and by transferring cases to a different prosecution office.

#### **SECTION IV: Budget for investigations**

18. What steps are required in order to obtain direct access to the resources needed for investigations? Please assess the period of time that elapses between submitting a request for resources and the moment when they are actually obtained.

The funding of pre-trial investigations does not belong to the prosecution service in Finland. Prosecutors do not have competence in these matters.

19. Have you ever faced the risk that special investigative techniques (e.g. communication interceptions, legal-genetic expertise, computer search) could not be applied in due time because of insufficient resources? Have insufficient resources in general affected the performance of criminal investigation in normal cases?

See response to question 18.

20. Is the resource management performed by the prosecution services during their investigations controlled? Please specify.

See response to question 18.

21. What is the resource management procedure when various agencies are involved in the investigation procedure (e.g. the police)?

Each office is responsible for itself. If a case involves several prosecution offices, the Chief District Prosecutors will, in the first instance, coordinate prosecution activities. If necessary, the Office of the Prosecutor General will decide where and by whom prosecution activities and related pre-trial investigation work will be done.

22. Is it possible for prosecutors to specialise in certain type of crimes? If so, what kind of effect it has had on the results of the prosecution service?

Prosecutors can currently specialise in the following types of crime: 1) financial crime, 2) narcotics offences and organised crime, 3) offences in public office, military offences and corruption, 4) crimes targeting special persons (i.e. mostly crimes committed against women and children), 5) environmental offences, 6) computer crime, abuses of the freedom of speech. In addition, it is possible to specialise in 7) international cases and in questions concerning procedural law and the general part of the Criminal Code. Specialisation has been regarded as necessary both in fields where there are many criminal cases (e.g. financial crime and narcotics offences), and in fields where there are comparatively few criminal cases (e.g. environmental offences and abuses of the freedom of speech). Specialisation is justified by the fact that special expertise helps a prosecution office cope better with handling groups of cases requiring special expertise. There is a general consensus in the prosecution service on the benefits of specialisation, even though these benefits are not easily measured by objective standards. The government invests extensively in preventing financial crime ('the grey economy') such as tax fraud and abuse of various forms of financial aid. For this purpose, the prosecution service has also been granted extra funds to specifically increase the number of prosecutors specialised in financial crime. This also creates a certain need in the prosecution service to demonstrate the results produced by the extra resources directed at financial crime. The problem is that no particularly efficient indicators exist for this (for example, counting prison years sentenced is not one).

23. Are there areas of investigation that have priority access to financial or material resources? If so, how and by whom is this priority established?

A specific appropriation has been allocated to fighting the grey economy in recent government negotiations, for example. This appropriation was divided between the authorities that participate in this work in connection with normal budget negotiations. Thus, the prosecution service also received its share. The prosecution service will allocate 25 prosecutors to fighting the grey economy in 2012.

## **SECTION V: Description of the system of management by results**

24. Do you have a system of management by results? (Please specify.) If yes, is there any problem with this system ?

The Finnish Government has a performance guidance system. This means that Parliament grants a common operating appropriation to certain operations, e.g. the prosecution service, and sets general targets that the operations should achieve.

25. What kind of objectives are set for the prosecution service, if such a system of objectives exists? Does your system use benchmarks of achieved results?

Both qualitative and quantitative targets are set for the prosecution service. The most important quantitative targets are related to the time it takes to consider charges. Charges should be considered in a timely manner. Targets have been set for the average time taken to consider charges, and for no case to remain in consideration for very long (more than six months or a year). Qualitative targets have been related to cooperation between the prosecutor and pre-trial investigation authority during pre-trial investigations, increasing the level of knowledge on certain crime phenomena and using new process methods such as written procedure or limiting the pre-trial investigation.

26. Which authority/authorities is/are competent to set these objectives?

At the highest level, Parliament, but the more concrete performance targets are set in negotiations between the Ministry of Justice and the Office of the Prosecutor General. Performance targets are set for local prosecution offices in negotiations between the Office of the Prosecutor General and the prosecution office in question.

27. What role does the prosecution service play in setting these objectives?

A proposal for the following year's performance targets is prepared within the prosecution service. The final targets have been set in negotiations between the ministry and the Office of the Prosecutor General. Based on this preparatory work, the government proposes higher-level targets for the prosecution service to Parliament, which then approves them.

28. Are the objectives coordinated between all authorities of the criminal procedure? If such coordination exists, how does it influence the activities of the prosecution service?

Within the Ministry of Justice, the permanent secretary is responsible for coordinating the targets for the entire crime chain. Meetings are held between the permanent secretaries of the Ministry of Justice and the Ministry of the Interior, which are also attended by public servants and representatives of the prosecution service. The targets of all actors involved in the handling of criminal cases are coordinated at these meetings.

29. Are there regulations in your system as regards the optimal workload within prosecution offices? if yes, is the allocation of resources correlated with the workload? Please provide examples.

Provisions on an optimal workload have not been issued in any decree. The prosecution service has, however, been paying attention to well-being at work, which includes this matter as well. Well-being is surveyed each year, and the results are used in the management of the prosecution service.

30. Is the setting of objectives based on a negotiation system?

The system is based on negotiations.

31. Who are parties of the negotiations?

The parties are the Ministry of Justice and the Office of the Prosecutor General.

## **SECTION VI: Follow-up of results and reporting**

32. Please indicate if there are any national strategies implemented in your state regarding the resources allocated to the judicial system, including the prosecution service. If so, in what areas were these strategies developed? Please comment on the results of these strategies.

The Ministry of Justice has approved a strategy on criminal policy, which includes considerations like this as well. The government's general strategies for each term are approved in the Government Programme. The prosecution service has also recently approved its own strategy.

33. Is the attainment of objectives followed up yearly? How?

The prosecution service draws up an annual report each year, and a biannual interim report every six months. In these documents, it is evaluated whether the performance targets that were set have been attained. If targets have not been attained, the most important reasons for this are assessed. Local prosecution offices draw up corresponding reports.

34. Have any reforms been implemented during the last 5 years aimed at increasing the budget of justice?

Parliament decides on the budget for the prosecution service when it approves the Finance Act. Therefore, the size of the budget is in the hands of the political leadership. If the question refers to legislative reforms that have sought to cut down the workload of the judicial system so that it can better concentrate on its core functions, the limitation of the right to appeal a district court's decision in a court of appeal was addressed in the last five years.

35. Is the prosecution service included in the government strategies for enhancing the efficiency of public institutions (e.g. e-governance, external financial audit)?

The general strategies concerning the prosecution service are included in the Government Programme and the strategies of the Ministry of Justice.

36. How would you assess internal audit recommendations within the prosecution service?

There is internal auditing in the prosecution service. It is used to chart the risks related to operations each year, and to evaluate the chance that they will be realised. Corrective measures are then devised based on the evaluation.

37. Is the social impact of the prosecutors' activities evaluated? If yes, by whom?

The social impact of prosecutors' activities is usually evaluated to be quite significant. The injunctions and commands of the law would remain empty phrases if law-breakers were not prosecuted and sentenced to punishment. Even though prosecutors' activities have a significant impact, it is quite difficult to measure it using objective indicators. The social impact of prosecutors' actions can, however, be measured rather objectively by equality in handling time and uniformity of decisions in criminal cases. The requirement for a fair trial demands that the handling times of cases are not unreasonably drawn out. For this part, the activities of prosecutors can be evaluated by monitoring handling times and identifying the reasons behind delays. The purpose of monitoring the uniformity of decisions is to seek to control that prosecutors decide similar cases in a similar way throughout the country. In this respect, surveys are carried out on how many police investigations result in prosecution in various parts of the country. The figures of individual prosecution offices are compared with the national average. If substantial differences are discovered, the reasons behind them will be investigated in more detail. Acceptable reasons may exist for the variations, such as the fact that crimes investigated by the police are of a different nature in different parts of the country. In such a case, the activities of prosecutors fulfil the requirement of uniformity despite the difference in the statistics. The final evaluation is made by the Office of the Prosecutor General. Prosecutors' activities are, however, also evaluated by other parties, e.g. research institutes and individual researchers.