

Finland / Finlande

1. What are the general official measures taken for reacting to and implementing the decisions of international courts and treaty monitoring bodies?

The decisions in general are disseminated to prosecutors using the Prosecution intranet. Should the decision be particularly important for a particular group of prosecutors, they are also informed by email. The independence is such a basic knowledge and deeply rooted to prosecutors that decisions concerning this topic have so far without a few exceptions not been disseminated.

2. Based on your answer to the 1st question, what are the measures taken particularly for the practical independence of the prosecution services and individual prosecutors? Can you give examples?

In the basic training of prosecutors (5 separate trainings of 3-5 days each) prosecutors' role and independence are a part of the training. (We are not quite sure we understood the question.)

3. Are these measures reflected in the law or in the prosecution policy or debate?

The constitution states the independence of the Prosecutor General. In the Act on National Prosecution Authority the independence is clearly stated (section 2) as follows: "The National Prosecution Authority is, independently and autonomously, responsible for organising the prosecutorial activities in Finland". Prosecutor General may not interfere with the prosecutor's handling of a criminal case, but he may take over a case from a subordinate prosecutor or designate a subordinate prosecutor to prosecute a case in which the Prosecutor General has decided that a charge is to be brought. In addition, the Prosecutor General may designate a subordinate prosecutor to consider charges (the Act section 11). This Act is in force since 1 October 2019. In the previous act prosecutors' independence was state in almost the same words.

4. If yes, then were there any changes in the prosecution system as a consequence of such measures?

No

5. Are there also national decisions of the Supreme or Constitutional Courts, or any other highest judicial body at national level, dealing with the question of independence of prosecutors?

No

6. Does the prosecution system in your country belong to the judiciary?

No, Prosecution Authority is separate.

7. Are prosecutors and prosecution services independent or autonomous from the executive and legislative branches of state power?

Yes

8. Is there a Council of Prosecutors or a similar equivalent body which can be considered as a mechanism to monitor and ensure prosecutorial independence, including in the way in which the prosecution services operate?

No

9. How many of its members are elected by their peers, and does the prosecution policy or the debate within the judiciary produce any impact on the election of the members of the Council of Prosecutors?

10. Who has the initiative of disciplinary proceedings?

In respect of other public officials of the National Prosecution Authority than the Prosecutor General and the Deputy Prosecutor General, the Office of the Prosecutor General decides on their dismissal, changing their public-service position into a part-time one, summary termination of their public-service employment relationship, their layoff, their suspension from office, and on issuing a warning to them. The information for which the disciplinary proceedings start may come to the Office of the Prosecutor General in various ways.

The decision to prosecute a prosecutor for a crime in office is made by the Chancellor of Justice.

11. Are prosecutors appointed for life or do they have to fulfil successive terms? Of how many years?

Prosecutors are mostly appointed for life. Only Chief District Prosecutors are appointed for a fixed term of five years (unless there are special reasons for appointing them for a shorter term). Also the task of deputies for the Chief District Prosecutors is for five years, but their appointment as prosecutor is for life.

12. Are the rules regarding appointment, transfer, promotion and discipline of prosecutors similar to those of judges?

No.

13. May the government instruct the prosecution services, for instance, to prosecute or not to prosecute? Are instructions general or specific in nature? Are they given in writing? Can the prosecution challenge them?

They may not with the exception of the prosecution of members of Government, Chancellor of Justice, his deputy, Ombudsman and his deputy for offences committed in office. In these cases the order to prosecute is given by the . Also prosecution of the President of the Republic for high treason or crime against humanity is ordered by the Parliament with majority of $\frac{3}{4}$ of the MPs. In these exceptional cases the Prosecutor General would herself/himself prosecute.

14. Are the instructions of superior prosecutors given in writing to those under their supervision? Can these instructions be challenged or refused?

Instructions how to prosecute in a particular case may not be given. General guidelines are given and they are always in writing. As they are only guidelines, they are not binding but rather issued to help the prosecutors in their work.

15. Which are, if any, the main initiatives in terms of training to strengthen the awareness about the de facto dimension of the prosecutorial independence?

Prosecutors seem to be very well aware of their independence. We have not felt the need to stress this in other ways except in the basic training.

16. To what extent the media cover the decisions of international courts and treaty bodies as regards the practical independence of prosecutors?

Only if Finnish people are involved in the cases and not always even then.

17. To what extent the prosecutor offices interact with the broad public as regards the decisions of international courts and treaty bodies related to the practical independence of prosecutors?
They don't.

MAIN QUESTION

Do you know about any judgments or decisions of the European Court of Human Rights or of the Court of Justice of the European Union, or of any other international court which refer to or in any way touch upon the independence (and preferably went on to highlight its elements):

- a) of prosecutors;
- b) of the judiciary or the justice system as a whole;
- c) of judges.

If you know about any such judgments or decisions, the CCPE Bureau and the Working Group will be very grateful to you if you indicate their titles and also, if possible, the numbers of paragraphs or sections in these judgments and decisions where such references or indications are made. These judgments and decisions may concern any country, not only your country.

C-508/18, C-82/19, C-509/18 (all these given 27 May 2019) and C-627/19 (12.12.2019)

Questions

IN YOUR COUNTRY:

1. What are the general official measures taken for reacting to and implementing the decisions of international courts and treaty monitoring bodies?
2. Based on your answer to the 1st question, what are the measures taken particularly for the practical independence of the prosecution services and individual prosecutors? Can you give examples?
3. Are these measures reflected in the law or in the prosecution policy or debate?
4. If yes, then were there any changes in the prosecution system as a consequence of such measures?
5. Are there also national decisions of the Supreme or Constitutional Courts, or any other highest judicial body at national level, dealing with the question of independence of prosecutors?
6. Does the prosecution system in your country belong to the judiciary?

6bis Are there any parallels between the independence of judges and independence of prosecutors, or the latter is considered separately, if considered at all?

They are considered separately. The constitution states the independence of the Prosecutor General. In the Act on National Prosecution Authority the independence is clearly stated (section 2) as follows: "The National Prosecution Authority is, independently and autonomously, responsible for organising the prosecutorial activities in Finland".

7. Are prosecutors and prosecution services independent or autonomous from the executive and legislative branches of state power?

7bis Is the interaction of prosecutor offices with courts, police, investigation authorities and other actors in criminal procedure based on the principle of prosecutorial independence and how?

Yes. Prosecutors' decisions may not be affected by other actors. This does not hinder a good cooperation with other actors.

8. Is there a Council of Prosecutors or a similar equivalent body which can be considered as a mechanism to monitor and ensure prosecutorial independence, including in the way in which the prosecution services operate?

9. How many of its members are elected by their peers, and does the prosecution policy or the debate within the judiciary produce any impact on the election of the members of the Council of Prosecutors?

10. Who has the initiative of disciplinary proceedings?

11. Are prosecutors appointed for life or do they have to fulfil successive terms? Of how many years?

12. Are the rules regarding appointment, transfer, promotion and discipline of prosecutors similar to those of judges?

13. May the government instruct the prosecution services, for instance, to prosecute or not to prosecute? Are instructions general or specific in nature? Are they given in writing? Can the prosecution challenge them?

14. Are the instructions of superior prosecutors given in writing to those under their supervision? Can these instructions be challenged or refused?

14bis What is the system of allocation, re-allocation and management of cases and is it based on objective and transparent criteria respecting the independence of prosecutors?

While allocating, the cases are allocated in a manner where prosecutors will have the same amount of work. Some cases, depending on the specialization skills needed and how demanding the case is, are allocated to special prosecutors. Special prosecutors prosecute the most demanding cases irrespective of their geographical location. Other prosecutors are given mostly cases in their own district. Re-allocation or a case might happen because of a longer vacation or illness. Also, if PG has repealed the decision (to not prosecute, in most cases) of a district prosecutor the head of the district is asked to allocate the case to another prosecutors. Sometimes the suspects wish to get rid of a certain prosecutor and make a complaint to PG. These hardly ever lead to re-allocation of a case. The independence of prosecutors are respected.

15. Which are, if any, the main initiatives in terms of training to strengthen the awareness about the de facto dimension of the prosecutorial independence?

15bis Is the concept of prosecutorial independence reflected in the code of ethics and professional conduct of prosecutors? If such code exists in your country, could you please inform how it was prepared and adopted, and provide its copy in English or French if available.

Please, find attached the ethical code of the National Prosecution Authority of Finland. The code was drafted by a working group led by a State Prosecutor (the current PG) and four

other prosecutors from different local and national prosecution offices. The code was then confirmed by the PG of the time and distributed to the personnel.

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17. To what extent the prosecutor offices interact with the broad public as regards the decisions of international courts and treaty bodies related to the practical independence of prosecutors?