

## **MAIN PROBLEMATICS AND RECOMMENDATIONS CONCERNING “INDEPENDENCE, ACCOUNTABILITY AND ETHICS OF PROSECUTORS”**

### **TURKEY**

Prosecutors in Turkey fulfill two main types of tasks, namely administrative and judicial. In respect of their administrative tasks, they are responsible to the Ministry of Justice, which does not create a negative affect on the independence of the judiciary in Turkey since as mentioned, the tasks have an administrative nature. The main problematics regarding the topic are about judicial tasks of the prosecutors. In Turkey, though, prosecutors benefit from the legal guarantees granted to judges while conducting their judicial tasks.

Firstly, it is difficult to provide geographical guarantee to prosecutors in Turkey since the geographical and socio-economic development level of each geographical region in the country varies. Currently it is compulsory for prosecutors to work in each of the available judicial localities for a certain period, yet CJP takes into consideration of the current locality of the prosecutor while appointing them next locality. Also, we continue our efforts to provide them with geographical guarantee by changing regulations.

The fact which can be considered as a shortcoming regarding the legislations regulating the judicial activities of the prosecutors is, though, the absence of the conditions for the withdrawal of prosecutors from their cases when necessary. The problems which arise due to this shortcoming, however, can be solved via an administrative procedure, without any interference to the independence of prosecutors and to the soundness of investigations with the sentiment of the prosecutor concerned, or with the appeal of the parties concerned. In addition, this issue has been clearly emphasized in our codes of judicial ethics which will be declared in the upcoming months.

Our recommendations with reference to the CCPE Opinion No. 13 are as follows:

Ensuring the accountability of prosecutors is of critical importance in determining the goals aimed to be achieved via the independence of prosecutors. For this reason, both the international and the national legislations, as well as the codes of ethics for prosecutors, must be determined in a way that can protect the vital balance between the independence and the accountability of prosecutors. Otherwise, neither of the goals set for the independence and the accountability of prosecutors will be achieved.

Thus, with a view to the protection of this balance, both administrative and judicial sanctions must be envisaged in the legislations to prevent the external actors and activities from violating the independence of prosecutors, and to hold the prosecutors violating the national and international legislations responsible.

Another element that needs to be mentioned within the context of the independence of prosecutors is the judicial police. Since the judicial police is responsible for fulfilling the decisions taken by prosecutors, these units must be structured under the umbrella of prosecution services in order for their independence and impartiality to be ensured.

In addition, in the course of their admission process, as well as their pre-service and in-service trainings, prosecutors must be subject to a fair assessment in respect of their independence and accountability, and the assessment must be made in accordance with the human rights. The training process must be devised in such a way that all prosecutors can internalize the national and international legislations, as well as the ethical principles.

The fulfillment of the activities regarding the supervision of the judicial tasks prosecutors perform, as well as their appointment and promotion by independent bodies is yet another criteria to ensure the independence of prosecutors.

Naturally, the influence of an irrelevant authority on the judicial tasks performed by prosecutors will have a negative impact on the independence of prosecutors.

Ensuring that prosecutors work under a reasonable workload is also important for their independence in respect of their jurisdiction in assessing the evidence obtained.

To conclude, the ethical principles will be guiding in protecting the sensitive balance between the independence and the accountability of prosecutors. The achievement of the goals set for both the independence and the accountability of prosecutors depends on the effective practice of the national and international legislations which are determined by taking into consideration the human rights, democracy, and the necessities of a pluralist society. Independent judicial police units, effective training provided for prosecutors, the supervision of the judicial tasks that prosecutors perform, as well as their appointment and promotion by an independent body, and ensuring that prosecutors work under a reasonable workload are key factors that play an important role in ensuring the independence of prosecutors.