

Waiting lists for Forensic Examination

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Executive Summary

Two institutions perform expert analyses in criminal matters: Bureau of Forensic Medicine of Estonia in the area of government of the Ministry of Justice and Forensic Service Centre in the area of government of the Ministry of Internal Affairs. The role of forensic institutions is to carry out expert analyses and examinations necessary for investigators, and so provide prosecutors and judges with necessary information for criminal proceedings.

In 2004, a total of 7,709 expert analyses were conducted in the 26 different analysis types in Forensic Service Centre (FSC). The institution employed 110 people and 27 million kroons was spent on expert analyses. In the Bureau of Forensic Medicine of Estonia (BFME), a total of 6,460 expert analyses were conducted in eight different analysis types. The institution employed 80 people and 22 million kroons were spent on expert analyses.

In criminal proceeding, more and more expert analyses are ordered, which is why waiting lists for expert analyses have lengthened and criminal proceedings with expert analyses take more time. Thanks to long criminal proceedings, the state can not ensure administration of justice within a reasonable time limit and thus, people's trust in legal system can decrease.

The audit inspected, which expert analysis types have critical waiting lists, what is the duration of finished and unfinished expert analyses, what is the cause for the waiting lists and what can be done to shorten the duration of expert analyses.

Main conclusions

Long waiting lists for DNA and fingerprint examinations prevent the administration of justice from taking place within a reasonable time limit and jeopardise people's trust in legal system.

FSC considers conducting an expert analysis within a month after receiving the order as a standard. Actually, getting expertise results takes from a few days to 1.5 years. FSC's DNA and fingerprint examinations are the longest expertises, one third of them was finished during the first month. In these cases, most of the time is spent on waiting in line, conducting the examination itself does not require that much time.

Demand for DNA examinations is bigger than forensic institutions' capacity to conduct them.

In the period of 2002–2004, the demand for DNA examinations has multiplied by seven. If in 2002, all orders were completed, then in 2003 and 2004, less than half of the ordered expert analyses were completed. Arising from this, there were 5,061 unfinished DNA expert analyses in FSC at the end of 2004. On condition that they receive no new orders for analyses, FSC's DNA laboratory has to work for two years and four months to shorten the current waiting list.

Conducting DNA expert analyses needs additional investments. Although FSC and BFME's DNA laboratories have managed to multiply the capacity for conducting expert analyses within a relatively short time, they have not been able to meet the ever increasing demand and the waiting lists get longer and longer. As of the end of November, 2005, there were 6,504 DNA expert analyses on FSC's waiting lists. To reduce the amount of DNA expert analyses on the waiting list and meet the demand, new jobs have to be created in DNA laboratory and investments made into technology.

There are a thousand expert analyses in the waiting list without a clear explanation what they are needed for.

There are about 1,000 expert analyses in the list waiting for DNA and fingerprint examinations in Forensic Service Centre, although the criminal proceedings they're based on have been terminated because it is not possible to establish the offender. It is not known whether the termination of a criminal proceeding was unfounded or whether the order for expert analysis was not cancelled after the termination, and thus the need for such analyses remains unclear. As the cancellation of the orders for expert analyses and notifying state forensic institutions of this matter is not timely, analyses are conducted whose result may prove to be unnecessary.

The quality of ordering expert analyses is not good. In spite of trainings and the existence of instructions, the experts do not follow the requirements laid down for the preparation of examination ruling and presenting examination materials. 2/3 of DNA and fingerprint examination rulings and 1/3 of

the rulings of forensic medical examinations of the deceased contained errors. Almost half of the materials of fingerprint and DNA examinations were defective. Later correction of mistakes requires a lot of time and the waiting list will lengthen because of that. Conducting an expert analysis will be harder because of the defective preparation of examination rulings and presentation of materials.

Main proposals

- The Minister of Justice and Minister of Internal Affairs should find additional funds for the Bureau of Forensic Medicine of Estonia and Forensic Service Centre in order to increase the capacity of conducting DNA expert analyses. Otherwise it will not be possible to shorten the waiting list for DNA expert analyses and meet the demand for these analyses. Because of this, criminal proceedings with DNA examinations will take a long time.
- The Minister of Justice and Minister of Internal Affairs should evaluate the use of state forensic institutions' resources also in those examination types not covered by the audit. Evaluating periodically comparable information about the duration of analyses, waiting lists and work capacity of experts, it is possible to transfer resources between different examination types.
- In cooperation with state forensic institutions, the Minister of Justice and Minister of Internal Affairs should lay down deadlines for expert analyses, based on the priority and degree of the criminal matter and the nature of the person held in custody. For example, 90% of DNA examinations ordered for crimes in the first degree could be completed within 30 days. Clear deadlines give state forensic institutions a basis for estimating their expenditure and thus a more effective and efficient functioning.
- The Minister of Justice and Minister of Internal Affairs should carry out an inventory of expert analyses on FSC's waiting list. As a result of the inventory, the examination rulings in all criminal matters where proceedings have been terminated and the expert analysis is unnecessary have to be cancelled and state forensic institutions have to be informed of this immediately. When it is clear that the expert analysis is necessary, the ruling terminating the criminal proceeding has to be cancelled. Inventory helps to prevent examinations that have become unnecessary, saving time and money and expediting the conduct of necessary examinations.
- The Minister of Justice should ensure the systematic and regular recording of the cancellation entries of examination rulings into the register of criminal proceedings and provide state forensic institutions with access to the register of criminal proceedings. Access creates wide opportunities for the state forensic institutions for obtaining (priority of criminal matters, cancellation rulings, etc.) and forwarding (deadline for the expert analysis, expert's reports to the person who ordered the analysis, etc.) information necessary for conducting expert analyses. Efficient organisation of the ordering of expert analyses and timely notification of all parties help to prevent the conduct of unnecessary expert analyses, save resources and shorten waiting lists in critical expert examination types.
- The Minister of Internal Affairs should implement preliminary checks of preparing examination rulings and presenting examination materials in police prefectures. Prior to presenting documents to forensic institutions, it should be made clear whether the documents are prepared as required. Correcting the mistakes identified during the check increases the amount of correct documentation and as a result, experts can focus on conducting analyses and the waiting list for examinations will shorten as well.

Statements of the Minister of Justice and the Minister of Internal Affairs

The Minister of Justice partly or fully concurred with the proposals of the SAO. The minister concurred that terminating criminal proceedings because they have not been established, is not reasoned before the results of expert analyses. To solve this problem, the Public Prosecutor's Office, in cooperation with forensic institutions, has started an inventory of the waiting lists of expert analyses, where they will inspect the substantive aspects of examinations and repeal the termination of criminal proceeding or the examination ruling, if necessary. In addition, the proposal to ensure the justification of ordering examinations was taken into consideration, in the future, cancellation of examination ruling will be used in practice only in exceptional cases. From other proposals, the minister agreed to provide the experts with access to the register of criminal proceedings during planning the register's development. No deadlines were set for the execution of the proposals.

The Minister of Justice drew attention to the fact that the SAO did not make a separate suggestion to make an agreement in cooperation with the Ministry of Justice and the Ministry of Internal Affairs on the division of tasks for conducting DNA expert analyses. The SAO is of the opinion that the said agreement

is necessary for improving the current situation.

The Minister of Internal Affairs partly or fully concurred with the eight proposals of the SAO. The Police Board has started the inventory of expert analyses on FSC's waiting list and in cooperation with the Public Prosecutor's Office it will evaluate the need for the analysis and decide on the repeal of examination rulings. Evaluation of FSC structure and employees is planned to finish by January 1, 2006, no deadline for the execution of other proposals has been fixed.

The Minister of Internal Affairs did not support the proposal to fix deadlines for the execution of expert analyses. The SAO sticks to its opinion that deadlines should be fixed for expert analyses based on the priority and degree of the criminal matter and the existence of the person held in custody. In addition, the Minister of Internal Affairs drew attention to the fact that the SAO's suggestion to find additional funds for FSC and BFME brings along the fragmentation of DNA examination type and double funding. The SAO is of the opinion that in order to improve the current organisation of conducting DNA expert analyses without specific division of tasks, an agreement on the division of tasks should be concluded in the cooperation of the Ministry of Justice and the Ministry of Internal Affairs.

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