



**COUNCIL OF
THE EUROPEAN UNION**

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GENVAL 101

NOTE

from:	Lithuanian delegation
to:	Working Party on General Matters, including Evaluations (GENVAL)
Subject:	Use of polygraph examination and other non-traditional tools in criminal and other investigations in the European Union member states - Mapping of situation

Lithuanian police plans. Lithuanian experts working with the polygraph examination have accumulated sufficient experience in this field. In relation to the forthcoming Lithuanian Presidency in the Council of the European Union (2nd half of 2013) we intend to scrutinize and analyse this topic in greater detail and consider promotion of this method as a non-traditional investigative/administrative instrument to combat serious organized crimes. Report and other findings will be presented at appropriate meetings, most probably Council working group on general matters, including evaluations (GENVAL) and network on administrative approach to combat organized crime.

Terms. We would like to get all information about this topic and answers to the questionnaire by e-mail **until 29 March 2013 at the very latest:** aleksandras.kovalenka@policija.lt. This person is responsible for the issue at our side. Complete contact details are below.

An important appeal to you. We hope that the answers to the questionnaire will be based not only on the police [law enforcement] experience, we would kindly ask you to search for contributions from universities, experts or any other scientific bodies - your relevant agencies might be cooperating with. This appeal is very important in terms of providing sufficient grounds to identify real situation in the European Union.

We will be more than happy to share with you the findings of the final report.

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QUESTIONNAIRE

Mapping of situation using polygraph examination and other non-tradition tools in criminal and other (e.g. administrative) investigations in European Union member countries.

One of the principal criteria of crime control is disclosure of criminal acts and the implementation of the principle of unavoidability of punishment. With the change of crime structure and dynamics, relatively new types of crime are emerging, methods of the commission of criminal acts are changing and scientific-technical devices, firearms, explosives and other advanced means and tools are increasingly being exploited. By using traditional methods of activity, law enforcement institutions are unable to efficiently combat crime which has substantially increased and changed qualitatively. The application of new methods of social and formal sciences enables to research both traditional objects of criminology and newly emerging ones, also to offer and verify criminal versions, to establish police investigation trends and to verify other information including the one linked to police or other law enforcement officers. Therefore, the necessity arises to conduct researches of new criminological objects which could yield significant information in respect of criminology as well as to establish the methods of the search for the circumstances to be proved. Tight relations between criminology (especially criminalistics techniques) and other sciences are analysed all over the criminology textbooks; however, they lack the information on the possibilities of the application of psycho physiological researches in the investigation of criminal acts as well as in verification of information about law enforcement personnel, therefore the availability of general information on polygraph examinations as well practical application of such an examination within the member states of the European Union, would provide the member states not only with a greater amount of information but would also create opportunities for future planning, discussions and pursuit of particular decisions to be taken.

The aim of the questionnaire is to analyse exhaustively and comprehensively the possibilities of psycho physiological researches using the polygraph examination in the investigation of criminal acts, the application of the polygraph examination in the field of the personnel management, security clearance, immunity and the particularities of the application. Furthermore, on the basis of the analysis, the questionnaire aims to render the overall review of the situation in the European Union. Additionally, this would enable the member states to communicate the practice of other countries and, if necessity arises, to cooperate with other countries in this field.

REPORTING COUNTRY: _____

Section 1. Review of the situation	
1.	<p>Are the examinations using the polygraph conducted in your country? If so, in what cases are the following examinations conducted?</p> <ul style="list-style-type: none"> a. In the investigation of criminal acts b. In personnel selection c. Security clearance d. In conducting internal investigation e. In other cases (please specify);
2.	<p>How many polygraph examinations are conducted in your country per year:</p> <ul style="list-style-type: none"> a. In the investigation of criminal acts; b. In personnel selection; c. Security clearance d. In conducting internal investigation; e. In other cases (please specify); <p>If possible, please provide statistical data of the last 5 years.</p>
4.	<p>With regard to what persons are polygraph examinations carried out?</p> <ul style="list-style-type: none"> a. Participants of criminal procedure while investigating a criminal act (for example with regard to witnesses, victims, the suspect etc.); b. Law enforcement personnel (e.g. while selecting police personnel, appointing a person to a higher post, with regard to officers and civil servants performing particular functions, to all the personnel); c. All natural entities; d. The military and other persons of secret (intelligence) services; e. Other cases (please specify, for example, to a person (informant) having supplied important information); <p>Please specify the features specific to persons with regard to whom polygraph examinations are conducted (e.g. age, official position and the like).</p>
5.	<p>What kind of state and non-state institutions, organizations etc. conduct polygraph tests and in what cases accordingly do they perform them?</p>
6.	<p>Do law enforcement institutions while investigating criminal acts conduct polygraph examinations in their departments or require assistance from other agencies or organizations?</p> <ul style="list-style-type: none"> a. An institution conducts polygraph examinations on its own as it has a special unit and a specialist for that; b. An institution applies to other agencies performing polygraph tests and these are the functions of the latter. Please give additional clarifications as to the reason for the appeal to other agencies instead of conducting polygraph tests in the same institution? c. Other alternatives and cases of yours (please specify).

7.	Are there any private undertakings and organizations in your country conducting polygraph examinations? If so, what are they and what services (apart from polygraph tests) do these undertakings provide?
8.	How is the polygraph examination evaluated in your country and your institution? If the examination is reliable and helpful, please indicate in what cases it is so: <ul style="list-style-type: none"> a. In the investigation of criminal acts b. In personnel selection c. Security clearance d. e. In conducting internal investigation f. In other cases (please specify); In the event the polygraph test is unhelpful, what are the reasons for that? If it is helpful, please explain, why?
9.	Is there any national programme, policy or strategy in your country where the attention to polygraph examinations is addressed?
10.	Any other information which your country considers necessary but not mentioned in the questionnaire
Section 2. Legal regulation of a psycho physiological examination by using the polygraph or that of a polygraph examination (lie detector test)	
1.	Are polygraph examinations regulated by legal acts in your country? If so, since when and what legal act regulate these examinations? If possible, please, enclose a copy of this legal act in the English language (or any other EU language – electronic version only).
2.	In your opinion, is legal regulation of polygraph examination sufficient on the national level or is it, nevertheless, expedient to regulate such examinations at the EU level? Please express your opinion.
Section 3. Application of a polygraph examination in detection and investigation of criminal acts	
1.	Is a polygraph examination applied in your country in the disclosure and investigation of criminal acts? If so, in what cases? Is a polygraph examination applied only for certain categories of criminal acts? In relation to what criminal acts is a polygraph examination most commonly used? If there is a possibility, please, present the statistical data.

2.	How necessity, demand and expediency of the application of a polygraph test in the investigation of criminal acts are established?
3.	<p>What aims are pursued in conducting polygraph examinations:</p> <ul style="list-style-type: none"> a. To determine whether a person is telling the truth or is lying; b. To verify the evidence of a person; c. To verify versions of a case; d. To trace persons or objects significant for the investigation of a crime (e.g. find a corpse, material evidence, arms, narcotic substances, crime tools, etc.) e. To determine the correctness of a person's statements; f. Other cases (please specify) <p>If possible, give a more detailed description.</p>
4.	<p>In relation to what persons is a polygraph test applied in the course of a criminal procedure:</p> <ul style="list-style-type: none"> a. Applied only with regard to witnesses b. Applied only with regard to the suspects/accused; c. Applied only with regard to victims; d. Applied with regard to the persons indicated in the answers a, b, and c; e. The test is applied to other persons as well, please specify the categories of these people.
5.	<p>Who prescribes such examinations?</p> <ul style="list-style-type: none"> a. the examinations are prescribed by police or other law enforcement (customs, border guards, financial crime investigators etc.) officers investigating criminal acts; b. the examinations are prescribed by prosecutors; c. the examinations are prescribed by the court; d. the examinations are prescribed by the subjects indicated in answers a, b and c; <p>Please elaborate on the procedure of the imposition of a polygraph examination.</p>
6.	<p>What institution, agency or division most commonly conducts polygraph examinations for your division/agency or in your country?</p> <p>What is the time duration of conducting of the examination?</p> <p>Please elaborate on the procedure of conducting a polygraph examination which is applied in your country.</p>
7.	<p>Are the conclusions and results of a polygraph examination used only for police investigative work (used only for investigation of a criminal act, used only as information for orientation), or is this data surrendered to courts as well?</p> <p>Please specify.</p>

8.	Are conclusions and results of polygraph examinations recognized as evidence in a criminal case in court? Could person's guilt be grounded on such basis and proved in relation to the commission of a crime? Are there any court decisions or court precedents where a court has pronounced itself on the validity of the conclusions and results of a polygraph test, recognition or non-recognition of them as evidence, importance of the examination or on the fact that the examination infringes personal rights and the like? Please provide as detailed and extensive the information as possible and if possible, please enclose the relevant documents, court decisions in the English ((or any other EU language – electronic version only).
9.	<p>In your opinion, does the application of polygraph examinations assist in investigation of criminal acts?</p> <p>a. Assists as...</p> <p>b. Does not assist as...</p> <p>c. Another alternative.</p> <p>On giving any answer, please give explanations and express your opinion.</p>
Section 4. Application of a polygraph examination in the selection and employment of the personnel and security clearance.	
1.	<p>Is polygraph examination being used in handling personnel issues? If so, in what cases:</p> <p>a. While employing a person to work or service;</p> <p>b. While relocating a person from one division to another;</p> <p>c. When tackling the issue of the permission to work with and become familiarized with state and official secrets (i.e. security clearance);</p> <p>d. In other cases (please specify).</p> <p>In the event a polygraph examination is not applied in your country, please explain possible reasons. Are there any plans for future application of the test in this field envisaged? Are there any difficulties, legal and other obstacles in the use of a polygraph examination in the field of personnel management? Are there any statistical data available in this field?</p>
2.	Which are categories of persons whose are subject to polygraph examination? Please specify the categories and features of persons (age, the position held, type of work done).
3.	Are there any procedures, either standard or special, that are followed in application of polygraph examination? Please specify and describe in detail.

4.	<p>Who is authorized or who is entrusted to take decisions to apply polygraph examinations with regard to a person?</p> <ul style="list-style-type: none"> a. Decision is taken by the head of the central institution; b. Decision is taken by the head of an agency in which a person works; c. Decision is taken by another person or division; d. Decision is taken by a special commission or working group; e. Another procedure is applied. <p>Please explain why the model of the decision taking you have indicated is applied. What are the strengths and weaknesses of this model, etc?</p>
5.	<p>What legal acts (including secondary legislation) regulate the application of polygraph examinations in this field? If possible, please enclose a copy of this legal act in the English language (or any other EU language – electronic version only). .</p>
6.	<p>Could you explain or provide data as to how the decision to apply polygraph test to a person proceeds?</p>
7.	<p>Would you agree that application of polygraph examination in the field of personnel management is an effective measure? If so, please explain. In case of a negative answer, please express your opinion and give explanations.</p>
8.	<p>Are there are any other methodologies used in addressing personnel management issues?</p> <ul style="list-style-type: none"> a. Brass system (“Behaviour Risk Assessment and Strategic Systems”) b. Graphology; c. Other (please specify) <p>Are they being applied together with polygraph tests or separately? Please provide as detailed information as possible.</p>
<p>Section 5. The application of the polygraph examination for the purposes of staff immunity and loyalty: permit to work with classified information, investigation of corruption cases</p>	
1.	<p>Is polygraph examination being applied in your country in handling:</p> <ul style="list-style-type: none"> a. Issues concerning staff immunity and loyalty; b. Prevention of corruption; if so, in what cases? c. In other cases (please specify) <p>Are there any statistical data available in this field?</p>
2.	<p>Which are categories of persons whose are subject to polygraph examination? Please specify the categories and features of persons (age, the position held, type of work done).</p>

3.	What procedures, either standard or special, are undertaken in the application of polygraph examination? Please specify and describe in detail.
4.	<p>Who is authorized or who is entrusted to take decisions to apply polygraph examinations with regard to a person?</p> <ol style="list-style-type: none"> Decision is taken by the head of the central institution; Decision is taken by the head of an agency in which a person works; Decision is taken by another person or division; Decision is taken by a special commission or working group; Another procedure is applied. <p>Please explain why the model of the decision taking you have indicated is applied. What are the strengths and weaknesses of this model, etc.?</p>
5.	What legal acts (including secondary legislation) regulate the application of polygraph examinations in this field? If possible, please enclose a copy of this legal act in the English language (or any other EU language – electronic version only). .
6.	Could you explain or provide data as to how the decision to apply polygraph test to a person proceeds?
7.	Would you agree that application of a polygraph examination in the field of personnel management is an effective measure? If so, please explain. In case of a negative answer, please express your opinion and give explanations.
8.	<p>Are there are any other methodologies (few examples are below) used in addressing immunity, loyalty and corruption prevention issues?</p> <ol style="list-style-type: none"> Brass system(“Behaviour Risk Assessment and Strategic Systems”) Graphology; Other (please specify) <p>Are they being applied together with polygraph tests or separately? Please provide as detailed information as possible.</p>
9.	Any other information your country considers necessary but not provided in the questionnaire.

Section 6. Application of a polygraph examination in other fields: medicine, psychology, sports, for the purposes of prevention and other fields.	
1.	1. Is the polygraph examination applied in your country in: a. sports; b. medicine; c. psychology; d. psychiatry (correction and maintenance of human behaviour) e. other fields (please specify). Please specify and provide other information you consider important.
2.	Do you think the polygraph test may be an effective measure in tackling various prevention issues, correcting human behaviour, establishing and supervising persons who tend to commit criminal acts of sexual nature, etc.?
Section 7. Places for conducting polygraph examinations, forensic science agencies.	
1.	Are there any institutions in your country, for example forensic science agencies, conducting different forensic medicine examinations essential for the investigation of crimes which also carry out polygraph examinations? If so, please name these agencies. What specific examinations using the polygraph do they conduct?
2.	Are there any fees charged for polygraph examinations conducted in forensic science agency? What is the fee for the examination? If polygraph examinations are conducted not in forensic science agency of your institution, how much does this examination cost to your institution?
3.	Is polygraph test accredited in your country? If so, since when and who accredited this type of testing? What requirements were laid down for accrediting such an examination?
Section 8. The methodology, tests applied for polygraph examinations: separately for investigation of crimes, personnel etc.	
1.	What methodology or tests for polygraph examinations are employed? (please indicate separately): a. For investigation of crimes (why are these tests employed); b. In the field of personnel management (why are these tests employed); c. In the field of immunity and loyalty (why are these tests employed).
2.	In your opinion, what are the pros and cons of the specified tests? Please, give the reason. Please, provide as detailed the information as possible.

Section 9. Training	
1.	Are there any specialists in polygraph examinations prepared and trained in your country? If so, where? In case of negative answer, in what country or institution are your specialists being trained?
2.	Did the training conducted in your or foreign countries meet your expectations? If so, why? If they did not, please explain why. Please supply as thorough the information as possible.
3.	Are there any trainings conducted in your country for <ul style="list-style-type: none"> a. prosecutors b. judges c. police officers d. defence lawyers e. other persons (please specify) ...intended for becoming familiarized with polygraph examinations? In case of a positive answer, is it an effective measure? Please supply as thorough information as possible.
4.	In your opinion, is it necessary to conduct the training of specialists in polygraph examinations at the level of the European Union and its institutions or the training of specialists should be the prerogative of the countries themselves?
5.	Do you envisage any role for EU bodies and agencies to play in this context?
Section 10. Equipment used.	
1.	What technical equipment is used in conducting polygraph examinations in your country? Why is this equipment namely used? Please provide as thorough information as possible.
Section 11. Requirements for specialists.	
1.	What requirements are set for polygraph examination specialists in your country, e.g. age, education, particular experience and the like? Please provide as thorough information as possible. Do you have positive experience in selection of specialists of this filed? What is this experience?
2.	How many examinations per year do (should) polygraph examination specialist conduct on the average? Have you established any qualitative and quantitative indicators?
3.	Does your country currently have a sufficient number of specialists in this field to handle qualitatively and on time the tasks set to them?

Section 12. Other means or methodologies employed in conducting polygraph examinations	
1.	<p>Are there any other means or methodologies (i.e. as below) employed while carrying out polygraph tests which help conduct such examinations:</p> <ul style="list-style-type: none"> a. Paul Ekman methodology; b. Graphology; c. Brass tests; d. Other measures and methodologies (please specify) <p>Are these and other methods except for polygraph tests effective or not? Why?</p>
2.	<p>Are there any other methodologies being used in other fields, except from polygraph examinations? If so, please explain why, give examples.</p>
Section 13. Scientific researches in the field examinations using the polygraph.	
1.	<p>Have there any scientific researches been carried out in the field of polygraph examinations in your country? If so, what scientific researches? Please provide as detailed information as possible.</p>
2.	<p>Are there any scientific researches presently being carried out in the field of polygraph examinations in your country? If so, what scientific researches? Please provide as detailed information as possible.</p>
	<p>Could you, present the results of any significant scientific research (if known) undertaken in your country on this topic?</p>
	<p>Do you think it would be feasible to carry out an exhaustive scientific research with regard to polygraph examinations at the European Union level? What topics should this scientific research cover?</p>
Section 14. Time frame and some general aspects	
1.	<p>What is generally the time period for conducting polygraph examinations while investigating criminal acts, tackling the issues of personnel and selection and those of immunity?</p> <p>1.1 While investigating a criminal act:</p> <ul style="list-style-type: none"> a. Examination is conducted the same day; b. Examination is conducted in a five-day period; c. Examination is conducted in a fourteen-day-period; d. Examination is conducted in one month; e. Examination is conducted in three months; f. Examination is conducted in more than three months. <p>If possible, please explain the particularities of the time period for conducting polygraph examinations.</p>

	<p>1.2 For achieving and tackling personnel management issues:</p> <ul style="list-style-type: none"> g. Examination is conducted the same day; h. Examination is conducted in a five-day period; i. Examination is conducted in a fourteen-day-period; j. Examination is conducted in one month; k. Examination is conducted in three months; l. Examination is conducted in more than three months. <p>If possible, please explain the particularities of the time period for conducting polygraph examinations.</p> <p>1.3 For achieving and tackling immunity objectives and issues:</p> <ul style="list-style-type: none"> m. Examination is conducted the same day; n. Examination is conducted in a five-day period; o. Examination is conducted in a fourteen-day-period; p. Examination is conducted in one month; q. Examination is conducted in three months; r. Examination is conducted in more than three months. <p>If possible, please explain the particularities of the time period for conducting polygraph examinations.</p>
2.	<p>When polygraph examination is conducted with regard to police officer or another civil servant or military person, is such a person subject to suspension from service or work duties prior to polygraph examination?</p> <p>Please elaborate on this or provide other information.</p>
3.	<p>Is your country interested in the subject of polygraph examinations? If so, in what fields should the development of polygraph tests proceed?</p>
4.	<p>Are there any pending initiatives (legislative, organizational, administrative, etc.) in your country related to polygraph examinations?</p>
5.	<p>Do you think that European Union should consider taking initiatives in development of examinations using polygraph?</p>
<p>Section 15. Other important information concerning polygraph examinations which has not been requested but, in your opinion, is important.</p>	
<p>Section 16. Contact persons in case of further clarifications are needed.</p>	
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