

STRUCTURE, ORGANIZATION AND FUNCTIONS OF THE INVESTIGATING AUTHORITIES IN LITHUANIA AND THEIR RELATIONS WITH THE PROSECUTION IN THE FRAMEWORK OF CRIMINAL INVESTIGATION

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Pre-trial investigation institutions

Pre-trial investigation in Lithuania is conducted by the police,⁵³ the State Border Guard Service, the Special Investigation Service,⁵⁴ the Financial Crime Investigation Service,⁵⁵ the Military Police, the State Security Department, the State Fire Prevention and Rescue Department and the Customs Department. These institutions conduct the pre-trial investigation in respect of criminal acts which come to their notice when discharging their primary functions provided for in the laws regulating their activities.

Pre-trial investigation is also conducted by:

- 1) heads of correctional institutions and detention centers – where a criminal act is committed by the employees of these institutions in the course of their work or at the work place, also in respect of criminal acts committed in the place where these institutions are located;
- 2) captains of ships on a long voyage – in respect of criminal acts committed by the members of the crew and passengers during a long voyage.

After the commencement of the pre-trial investigation the prosecutor either performs the actions of the pre-trial investigation himself or directs a pre-trial investigation institution to perform them, the Prosecutor's Office could also act as pre-trial investigation institution (in the broad sense of the term).

Powers of the prosecutor in the pre-trial investigation

As it was mentioned, the prosecutor has the right to conduct by himself the whole of the pre-trial investigation or its separate steps.

Where the pre-trial investigation or its separate steps are conducted by institutions of pre-trial investigation the prosecutor is obliged to supervise the course of pre-trial investigation conducted by these institutions.

The prosecutor gives directions to these institutions and repeals unlawful or unfounded decisions made by them.

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⁵³ The police is the main pre-trial investigation institution with broadest general (according to the formula "everything but...") competence.

⁵⁴ The Special Investigation Service carries out activities for detection of corruption-related crimes and conducts pre-trial investigations in this field.

⁵⁵ The Financial Crime Investigation Service carries out activities for detection of criminal acts related to money laundering, VAT embezzlement, illegal receipt and use of EU funds and conducts pre-trial investigations in these fields.

The following decisions may be issued only by the prosecutor:

- 1) on the joining and separation of the investigation;
- 2) on the discontinuation of the proceeding;
- 3) on the termination of the proceeding by drawing up the indictment.

Only the prosecutor may make an application to the pre-trial judge for conducting steps within his competence.

Actions of pre-trial investigation institutions before the commencement of a pre-trial investigation

If a complaint, a statement or a report about a criminal offence is received by a pre-trial investigation institution or a pre-trial investigation institution itself establishes elements of a criminal offence, the institution is obliged to commence a pre-trial investigation immediately and, at the same time, to notify a prosecutor about it.

Upon receiving such a notification, the prosecutor has to determine who must conduct the investigation. The prosecutor may make a decision:

- 1) to conduct the entire investigation or perform its separate actions by himself;
- 2) to instruct the pre-trial investigation institution which notified him about the pre-trial investigation it commenced to perform the actions of a pre-trial investigation;
- 3) to instruct another pre-trial investigation institution to conduct the pre-trial investigation.

The prosecutor has the right to form an investigating group of several officers of the same pre-trial investigation institution or of officers from different pre-trial investigation institutions.

Rights and duties of pre-trial investigation institutions during a pre-trial investigation

When conducting a pre-trial investigation, the relevant institutions have the right to perform all the actions provided for in the Code of Criminal Procedure, with the exception of those which may be performed solely by the prosecutor or a pre-trial judge.

Pre-trial institutions must:

- 1) comply with all the instructions;
- 2) report to the prosecutor at the time the latter schedules the course of the pre-trial investigation.

Conclusion of the pre-trial investigation

When the prosecutor decides that sufficient information has been gathered during the pre-trial investigation in evidence of the culpability of the suspect he should draft the indictment.

When the pre-trial investigation or the majority of its actions have been conducted by a pre-trial investigation institution, the prosecutor may order that the pre-trial investigation institution submit a short written report about the actions it has carried out.

The pre-trial investigation is dropped only upon prosecutor's decision (in most cases this decision must be confirmed by the pre-trial judge). None of the pre-trial institutions is empowered to drop the investigation.