

STRUCTURE, ORGANIZATION AND FUNCTIONS OF THE PROSECUTION IN THE REPUBLIC OF LITHUANIA

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Legal Basis of the Activity of the Prosecutor's Office

The new Code of Criminal Procedure was adopted on March 14, 2002, and came into the in force on May 1, 2003. It replaced the Code of Criminal Procedure that was in force since 1961. The earlier code was amended a lot after 1990 when the Republic of Lithuania became independent.

A new Criminal Code also entered into force on May 1, 2003.

The reform of criminal justice conditioned the constitutional status of the Prosecutor's Office. Seimas adopted the new version of article 118 of the Constitution of the Republic of Lithuania on March 20, 2003. By this reform the constitutional status of the Prosecutor's Office as an independent national institution ensuring legitimacy and assisting court in the administration of justice has been consolidated. The provisions of the Constitution prove that the independence of the Prosecutor's Office has been recognized now as a prerequisite of impartial prosecution.

At the same time the status of the Prosecutor's Office was coordinated with the provisions of the European Council Recommendations [Rec. (2000) 19], the conditions to implement the new Criminal Procedure Code were created and the institution of the Prosecutor General gained an objective independence.

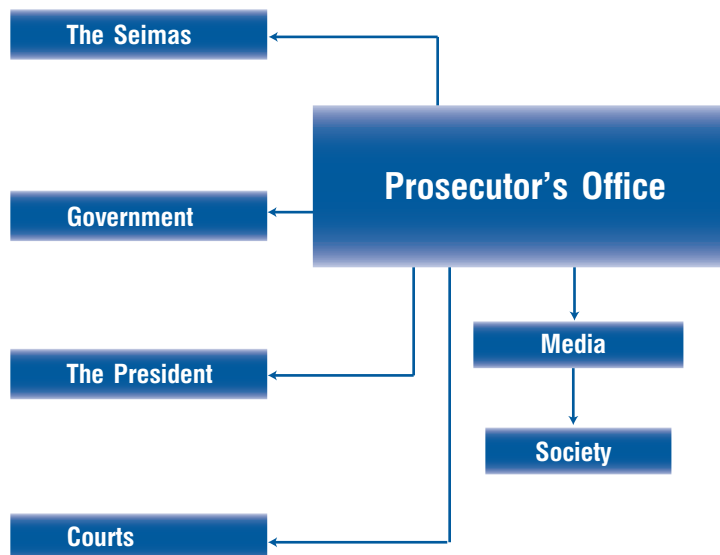
When detailing the provisions of the Constitution, the Seimas of the Republic of Lithuania adopted also a new edition of the Law on Prosecutor's Office of the Republic of Lithuania on April 22, 2003. This law defines the status, functions, composition, legal basis and control of the activities of the Prosecutor's Office, the competence limitations, rights and obligations of the prosecutors, service in the Prosecutor's Office, conditions of transfer to another post and official responsibility, social guaranties, application and use of personal means of protection, etc.

Status of the Prosecutor's Office

Following the status of a prosecutor as an independent constitutional and procedural subject, which was provided for by the Constitution and Code of Criminal Procedure, it was established in the Law on Prosecutor's Office that the prosecutor makes his decisions independently by considering the laws and the principle of rationality, respecting the personal rights and freedoms, regarding the presumption of innocence, also the principle that all the persons are equal before the law and before institutions despite their social or

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family position, their office, occupation, beliefs, creed, origin, race, sex, nationality, language, faith or education.



When implementing his functions a prosecutor is independent and obeys only the Constitution of the Republic of Lithuania and the laws. It is forbidden for the national or municipal institutions, public organizations and mass media or other natural and legal persons to give the assignments or obligations not provided for by the laws to the Prosecutor's Office or in some other way to interfere into the activities of the prosecutors.

The institution of prosecutor is depoliticized and safeguarded against any financial influence – a prosecutor may not hold any elective or other posts and work in other institutions, enterprises or organizations except doing scientific or pedagogical work. A prosecutor may not receive another salary except the salary of a prosecutor, remuneration for creative activity, scientific or pedagogical work in the higher schools, for the work in the groups or committees preparing draft acts of law if this work is not included in the capacities of a prosecutor. The exemption of pedagogical work is reasonable: thus, prosecutors can put their special experience at the disposal of educational purposes. The general restrictions the prosecutors are subject to reflect their important position which makes it necessary to avoid any external influence. Accordingly, the salary should be high enough to release the prosecutor from the necessity to obtain an additional income.

Control over Activities of the Prosecutor's Office

The prosecutor's office is headed by the Prosecutor General of the Republic of Lithuania. He is accountable for his activities to the President of the Republic and the Seimas of the Republic of Lithuania.

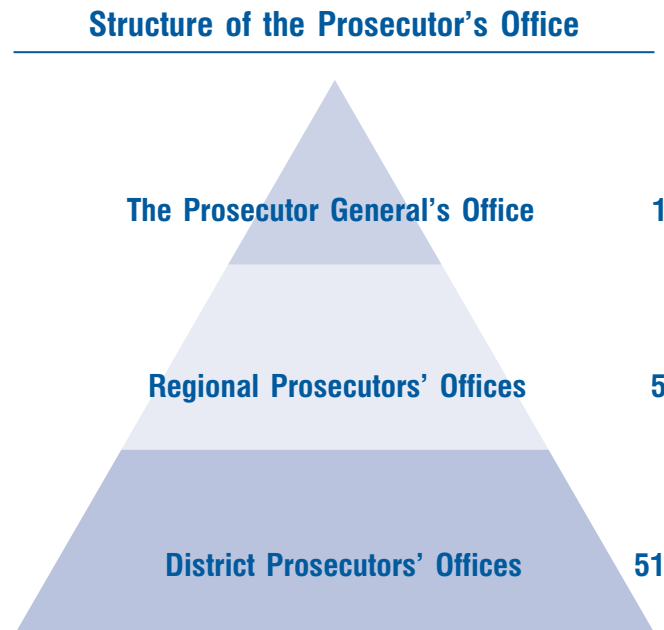
The Seimas of the Republic of Lithuania sets the priorities for the activities of the prosecutor's office and exercise parliamentary control over the activities.

Procedural actions of prosecutors are controlled by the superior prosecutor and the court. The superior prosecutor establishes violations of procedural laws and reverse unlawful decisions.

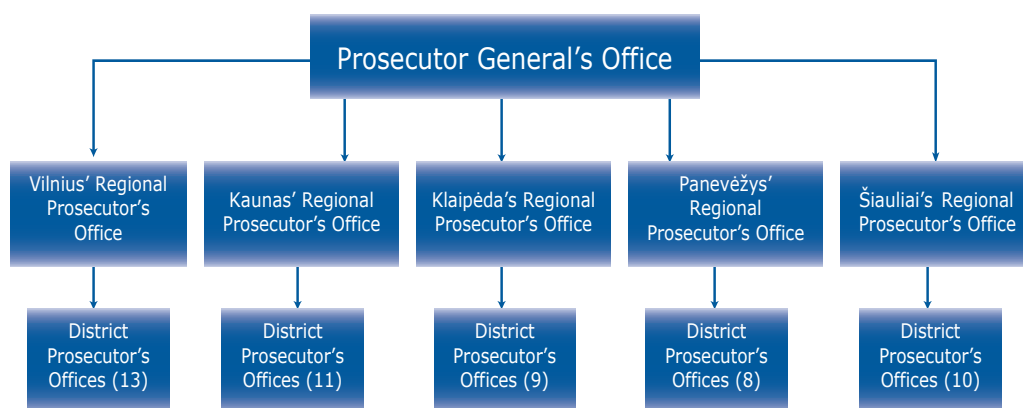
The economic and financial activities of the Office of the Prosecutor General and territorial offices of prosecutors shall be controlled by the Prosecutor General (the prosecutors authorized by him), the State Control and other authorized state institutions. The Prosecutor General shall submit information about the prosecutor's office to the government of the Republic of Lithuania and the public.

Structure of the Prosecutor's Office

Prosecutor's Office of the Republic of Lithuania consists of the Prosecutor General's Office and territorial prosecutors' offices.



Territorial prosecutors' offices include regional and district prosecutors' offices. Currently there are 5 regional (Vilnius, Kaunas, Klaipėda, Panevėžys, Šiauliai) and 51 district prosecutors' offices in the Republic of Lithuania. The territorial jurisdiction of prosecutors' offices is in accordance with the jurisdiction of courts.



The prosecutor's office consists of:

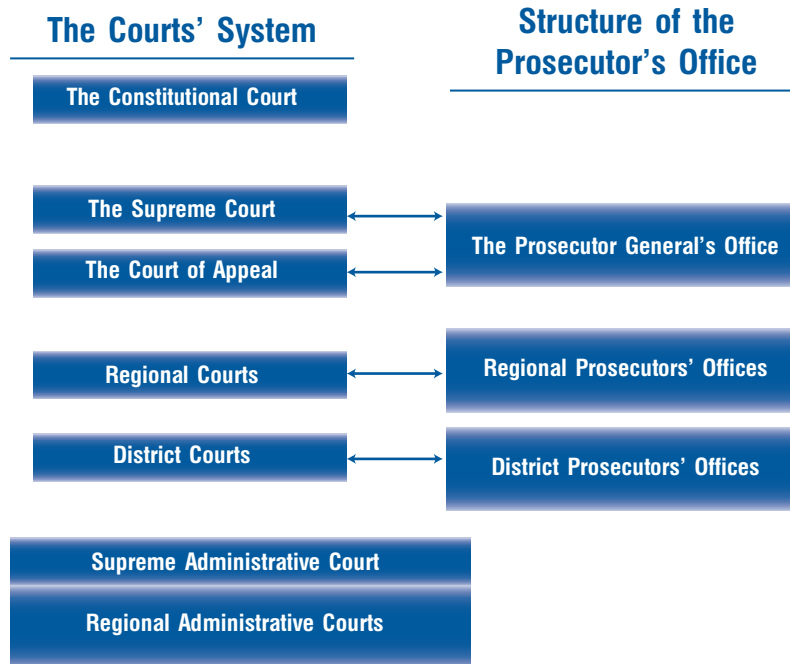
- Prosecutors;
- Public servants of the prosecutor's office: assistants to the chief prosecutor, assistants to the prosecutor, chief specialists, senior specialists, specialists and other public servants;
- Employees.

Prosecutor General's Office

In the Prosecutor General's Office a department and divisions are functioning. The Prosecutor General and the Deputy Prosecutors General according to their respective competence head the Prosecutor General's Office.

The Department of the Office of the Prosecutor General is headed by the chief prosecutor of the department, while its division is headed by the chief prosecutor of the division.

An advisory body – the Collegial Council of the Office of the Prosecutor General of the Republic of Lithuania is formed at the Office of the Prosecutor General. The Prosecutor General chairs it and its members are Deputy Prosecutors General and chief regional prosecutors. Other prosecutors may also be included in the Council by decision of the Prosecutor General. Judges, heads of law enforcement and other state institutions or their authorized representatives may also be invited to the meetings of the Council.



Territorial Prosecutors' Offices

The Prosecutor General establishes, reorganizes and liquidates the territorial prosecutors' offices, determines their status, structure, competence and territories of operation, having regard to the territorial jurisdiction of the regional and district courts determined by law.

The territorial prosecutor's office is headed by a chief prosecutor.

Functions of the Prosecutor's Office

The prosecutor's office is a state institution performing the functions established by the Constitution of the Republic of Lithuania, the Law on Prosecutor's Office or other laws. The prosecutor's office helps to ensure lawfulness and assists courts in the administration of justice. The prosecutor's office shall, based on the grounds and according to the procedure prescribed by law:

- 1) Organize and direct pre-trial investigation;
- 2) Conduct pre-trial investigation or individual actions of pre-trial investigation;
- 3) Control the activities of pre-trial investigation officers in criminal proceedings;
- 4) Prosecute on behalf of the state;
- 5) Supervise the submission of the judgments for enforcement and the enforcement thereof;
- 6) Coordinate the actions of the pre-trial investigation bodies pertaining to investigation of criminal acts;
- 7) Protect the public interest;
- 8) Examine, within its competence, petitions, applications and complaints submitted by individuals;

- 9) Take part in the drawing up and implementation of national and international crime prevention programs;
- 10) Take part in the legislative process;
- 11) Fulfill other functions prescribed by law.

Functions of the Prosecutor General's Office

The Office of the Prosecutor General:

- 1) Guides the territorial prosecutors' offices and supervises their activities;
- 2) Forms a uniform practice of pre-trial investigation of criminal acts and supervision of procedural steps;
- 3) Conducts pre-trial investigation and prosecutes on behalf of the state in criminal cases of exceptional significance;
- 4) Organizes pre-trial investigation carried out at central pre-trial investigation agencies, directs the investigation and supervises the procedural steps of the agency officers;
- 5) Forms a uniform practice of prosecution on behalf of the state in criminal cases and takes part in the hearing of cases by appeal or cassation;
- 6) Co-ordinates the actions of pre-trial investigation agencies in the investigation of criminal acts;
- 7) Protects the public interest and forms a uniform prosecutorial practice in the sphere;
- 8) Organizes the prosecutors' professional training and in-service training and offers them methodological assistance;
- 9) Communicates with foreign state agencies and international institutions in the manner established by international treaties, laws and other legal acts;
- 10) Makes arrangements for financial provisions and provision of technical resources to the prosecutor's office and ensures the social guarantees of the prosecutors;
- 11) Analyses the activities of the prosecutor's office and manage its statistical data;
- 12) Discharges other functions prescribed by laws and international treaties.

Functions of the Regional Prosecutors' Offices

Within the framework of their competence, the regional prosecutor's offices shall:

- 1) Organize and direct pre-trial investigation;
- 2) Conduct pre-trial investigation;
- 3) Supervise the activities of pre-trial investigation officers in the criminal proceedings;
- 4) Prosecute on behalf of the state in criminal proceedings;
- 5) Take part in the hearing of cases by appeal;
- 6) Supervise submission of sentences for execution and their execution;
- 7) Co-ordinate the actions of pre-trial investigation agencies investigating criminal acts;
- 8) Protect the public interest;
- 9) According to the procedure and on the grounds established by laws and international treaties, draw up requests for legal assistance for and execute the requests filled by foreign state agencies and international institutions;
- 10) Discharge other functions of the prosecutor's office.

Functions of the District Prosecutors' Offices

The functions of the district prosecutor's offices are the same as regional prosecutors' offices (without function 5).

Organization of Activity and Control over It

Prosecutor General's Office

Prosecutor General's Office (PGO):

- Leads the activity of territorial prosecutors' offices and exercises control over it;
- Manages the work of the public servants at the prosecutor's office and employees at the PGO, controls the process of employment at the territorial prosecutors' offices;
- Manages personal data and personnel files of prosecutors, of persons who expressed their wish to work at the prosecutor's office, of public servants and employees of the PGO.

Prosecutor General (Deputy Prosecutor General), Chief Prosecutor (Deputy Chief Prosecutor) of the Department/Division at the PGO:

- Defines the areas of activity of prosecutors at the PGO;
- Organizes or issues orders on control, performance of inspection on certain subject within the PGO and territorial offices;
- May assign the prosecutors at the PGO or any territorial office the examination of any claim, request or application;
- May propose to pay bonuses to prosecutors and employees of the prosecutor's office.

Prosecutor General (Deputy Prosecutor General):

- Orders to perform a complex inspection at any territorial prosecutor's office;
- Determines the standard forms of statistical and other periodical reports;
- Employs the person to work as public servant at the prosecutor's office or as employee at the PGO.

Territorial Prosecutors' Offices

Territorial Prosecutors' offices execute tasks of management of the prosecutor's office, procedural activity, organization of work of the prosecutors and personnel of the prosecutor's office, exercise control, perform inspections.

Chief Prosecutor (Deputy Chief Prosecutor) of the territorial office:

- Defines the spheres of activity of each prosecutor; however, the specific sphere of activity is assigned to the prosecutor for the period no longer than one year;
- Gives orders on control, inspection and reporting about execution of specific functions of the prosecutor's office;
- Has a right to assign the prosecutor the examination of any claim, request or application;
- Employs individuals and decides upon their tasks;
- Upon the consent of the Prosecutor General (Deputy Prosecutor General) sets the salary and other payment to the employed persons.

Control of the Prosecutors

The Chief Prosecutor (Deputy Chief Prosecutor) of the Department/Division at the PGO controls the performance of functions assigned to the prosecutors at the PGO.

The Chief Prosecutor (Deputy Chief Prosecutor) of the territorial office controls the execution of functions by the prosecutors of the territorial office.

Accountability

By the 20th January of each year, annual analysis of the state of criminality in the city (region) as well as of the situation related to procedural activity of district prosecutor's office and pre-trial investigation authorities supervised thereby by that district prosecutor's office are prepared and submitted to the PGO and regional prosecutor's office.

By the 10th February of each year PGO prepares and submits to the collegium the annual analysis of the state of criminality in the Republic of Lithuania and its regions, as well as of the situation related to procedural activity of prosecutor's office and pre-trial investigation authorities.

The collegium sets the priorities and strategy of the activity of Prosecutor's Office and also confirms the annual analysis mentioned above. The Prosecutor General submits the account to Seimas, which either confirms it or not.

Competence of the Prosecutor's Office

The competence of the prosecutors is set in the Competence Regulations of the Prosecutor's Office and the Prosecutors approved by order No. 1-108 of the Prosecutor General of the Republic of Lithuania, dated October 07, 2003.

Competence of the Prosecutor General's Office

The prosecutors of the Prosecutor General's Office organize and lead the pre-trial investigation when the criminal act is investigated by the central pre-trial investigation institutions of the Police Department, Special Investigation Service, State Security Department, Financial Crimes Investigation Service, Fire and Rescue Department, or when the investigation is conducted by the pre-trial investigation officers of the central institutions of the National Border Protection Service, Customs, Military Police, who are working in Vilnius.

The prosecutors of the Prosecutor General's Office also conduct pre-trial investigation of particularly important criminal cases.

Competence of the Regional Prosecutors' Offices

The regional prosecutors organize and lead or conduct by themselves the pre-trial investigation in the criminal cases falling in the jurisdiction of the regional court when the criminal act is committed in the city or region of the office of the regional prosecution service or such acts are investigated by the pre-trial investigation officers, working in the city of the Regional Prosecutor's Office or when the criminal acts are investigated by the territorial subdivisions of organized crimes investigation of the State Security Department, Special Investigation Service or Police Department present in that city.

Competence of the District Prosecutors' Offices

In all other criminal cases the prosecutors of the District Offices organize and lead pre-trial investigation or conduct the investigation on their own.

Specializations of Prosecutors

In certain fields, specialization of prosecutors has been recognized as necessary.

Organized Crimes and Corruption Investigation Department

By Order No. 149-k of the Prosecutor General, dated April 2, 1993, a special unit was established in the Prosecutor General's Office, the Organized Crime and Corruption Investigation Division.

In the year 1995, by order of the Prosecutor General the Organized Crime and Corruption Investigation Divisions were established in the Vilnius', Kaunas', Klaipėda's, Panevėžys' and Šiauliai's Regional Prosecutor's Offices.

By Order No. 23 of the Prosecutor General, dated February 14, 2001, the structure of the Organized Crime and Corruption Investigation Division was changed, it became Organized Crime and Corruption Investigation Department (OCCID), comprising 19 prosecutors. The Organized Crimes and Corruption Investigation Divisions (OCCIDi) of the Regional Prosecutors' Offices consist of an average of 7 prosecutors.

The OCCID of the Prosecutor General's Office and the OCCIDi of the regional offices are specialized structural subdivisions which, according to their competence, have the following functions:

- They conduct or organize and lead the pre-trial investigation of the criminal acts, characteristic to organized crimes and corruption; control the procedural activity of the pre-trial investigation officers in the Police Organized Crime Investigation and Special Investigations Service divisions, pursue public charges in the courts when hearing the finalized cases of the said subdivisions of the Prosecutors' Offices and pre-trial investigation institutions, coordinate the actions of the pre-trial investigation institutions against the criminal acts characteristic to organized crime and corruption.
- By the decision of the heads – Chief Prosecutors – of the Organized Crime and Corruption subdivisions of the Prosecutors' Offices, the prosecutors in these subdivisions: conduct pre-trial investigation; organize and lead the pre-trial investigation conducted by the territorial subdivisions of the Police Organized Crime Investigation Service and the Special Investigations Service. The prosecutors who conducted, organized and lead the pre-trial investigation, act as public chargers when hearing the cases in the courts of first, appeal and cassation instances.

Pre-Trial Investigation Control Division

By the order of the Chief Prosecutor (October 8, 2003 Instruction No. 4 on Organizing the Work of the Pretrial Investigation Control Division) of the Pre-trial Investigation Control Division of the Prosecutor General's Office, the prosecutors of this Division specialize in organizing pre-trial investigation, conducted in a certain stage of the pre-trial investigation. They are also commissioned to analyze and generalize the state of pre-trial investigation and prosecutorial control of a certain category of criminal cases in the state. E.g. one prosecutor leads the pre-trial investigation in the criminal cases regarding violation of intellectual property rights when the Criminal Police Bureau of the Police Department conducts the investigation, they also inspect, analyze and generalize the state of pre-trial investigation and prosecutorial control of such category of criminal cases in the state.

Public Charges Division

The prosecutors of the Public Charges Division specialize according to subject (separate issues of the criminal and criminal procedure laws commissioned to them), they prepare methodical recommendations, read the reports at the meetings of the prosecutors of the Division, at the seminars organized by the Training Methodical Division, generalize the practice of the prosecutors and courts on different matters, present proposals regarding formation of public charges practice, prepare methodical materials on the issues of application of material and procedural legal provisions, examination and evaluation of evidence, preparation of final speeches, filling in appeals etc.

Territorial Prosecutors' Offices

In the territorial Prosecutors' Offices most of the prosecutors specialize in working with certain pre-trial investigation institutions or their subdivisions. In some places separate subdivisions have been formed controlling only procedural activity of the pre-trial investigation institutions investigating criminal acts in respect of economic and business procedures; some of the prosecutors work only in the field of juvenile crimes.

Both, the prosecutors who conduct the pre-trial investigation and the ones organizing and leading it also specialize according to the nature of the criminal acts, e.g. crimes against human life and health, property, economic and business procedures, the financial system etc. It should be noted that such specialization of the prosecutors is noticeable not only in the organized crime and corruption but also in other subdivisions, conducting, organizing and leading pre-trial investigation, as well. At the same time, it is important to state that such specialization is possible only if a certain number and variety of criminal acts is present in a certain region.

The spheres of activity of prosecutors in district prosecutor's office are defined by the Chief Prosecutor (Deputy Chief Prosecutor) of the territorial office.

Civil Cases Division

The task of the prosecutors from the Civil Cases Division is to protect the public interest in civil cases.