

# **Constitution of the Republic of Lithuania**

## **Constitution Article 29**

All persons shall be equal before the law, the court, and other State institutions and officials.

The rights of the human being may not be restricted, nor may he be granted any privileges on the ground of gender, race, nationality, language, origin, social status, belief, convictions, or views

## **Constitution Article 118**

A pre-trial investigation shall be initiated and directed, and prosecution on behalf of the State shall be upheld by a prosecutor. In cases established by law, the prosecutor shall defend the rights and legitimate interests of the person, society and the State. When performing his functions, the prosecutor shall be independent and shall obey only the law. The Prosecutor's Office of the Republic of Lithuania shall be the Office of the Prosecutor General and territorial prosecutors' offices. The Prosecutor General shall be appointed and dismissed by the President of the Republic with the approval of the Seimas. The procedure for the appointment and dismissal of prosecutors and their status shall be established by law.

## **Criminal Code of the Republic of Lithuania**

### **Article 4. Validity of a Criminal Law in Respect of the Persons who have Committed Criminal Acts within the Territory of the State of Lithuania or Onboard the Ships or Aircrafts Flying the Flag or Displaying Marks of Registry of the State of Lithuania**

1. The persons who have committed criminal acts within the territory of the state of Lithuania or onboard the ships or aircrafts flying the flag or displaying marks of registry of the State of Lithuania shall be held liable under this Code.

2. The place of commission of a criminal act shall be the place in which a person acted or ought to have acted or could have acted or the place in which the consequences provided for by a criminal law occurred. The place of commission of a criminal act by accomplices shall be the place in which the criminal act was committed or, if one of the accomplices acted elsewhere, the place where he acted.

3. A single criminal act committed both in the territory of the State of Lithuania and abroad shall be considered to have been committed in the territory of the Republic of Lithuania if it was commenced or completed or discontinued in this territory.

4. The issue of criminal liability of the persons who enjoy immunity from criminal jurisdiction under international legal norms and commit a criminal act in the territory of the Republic of Lithuania shall be decided in accordance with treaties of the Republic of Lithuania and this Code.

### **Criminal Code Article 5. Criminal Liability of Citizens of the Republic of Lithuania and Other Permanent Residents of Lithuania for the Crimes Committed Abroad**

Citizens of the Republic of Lithuania and other permanent residents of Lithuania shall be held liable for the crimes committed abroad under this Code.

### **Article 6. Criminal Liability of Aliens for the Crimes Committed Abroad against the State of Lithuania**

The aliens who do not have a permanent residence in the Republic of Lithuania shall be liable under a criminal law where they commit crimes abroad against the State of Lithuania as provided for in Articles 114-128 of this Code.

### **Criminal Code Article 7. Criminal Liability for the Crimes Provided for in Treaties (old version)**

Persons shall be liable under this Code regardless of their citizenship and place of residence, also of the place of commission of a crime and whether the act committed is subject to punishment under laws of the place of commission of the crime where they commit the following crimes subject to liability under treaties:

1) crimes against humanity and war crimes (Articles 99-113);

- 2) trafficking in human beings (Article 147);
- 3) purchase or sale of a child (Article 157);
- 4) production, storage or handling of counterfeit currency or securities (Article 213);
- 5) money or property laundering (Article 216);
- 6) act of terrorism (Article 250);
- 7) hijacking of an aircraft, ship or fixed platform on a continental shelf (Article 251);
- 8) hostage taking (Article 252);
- 9) unlawful handling of nuclear or radioactive materials or other sources of ionising radiation (Articles 256, 256(1) and 257);
- 10) the crimes related to possession of narcotic or psychotropic, toxic or highly active substances (Articles 259-269);
- 11) crimes against the environment (Articles 270, 270(1), 271, 272, 274).

### **Criminal Code Article 8. Criminal Liability for the Crimes Committed Abroad**

1. A person who has committed abroad the crimes provided for in Articles 5 and 6 of this Code shall be held criminally liable only where the committed act is recognised as a crime and is punishable under the criminal code of the state of the place of commission of the crime and the Criminal Code of the Republic of Lithuania. Where a person who has committed a crime abroad is prosecuted in the Republic of Lithuania, but a different penalty is provided for this crime in each country, the person shall be subject to a penalty according to laws of the Republic of Lithuania, however it may not exceed the maximum limit of penalty specified in the criminal laws of the state of the place of commission of the crime.
2. A person who has committed the crimes provided for in Articles 5, 6, and 7 of the Criminal Code of the Republic of Lithuania shall not be held liable under this Code where he:
  - 1) has served the sentence imposed by a foreign court;
  - 2) has been released from serving the entire or a part of the sentence imposed by a foreign court;
  - 3) has been acquitted or released from criminal liability or punishment by a foreign court's judgement, or no penalty has been imposed by reason of the statute of limitation or on other legal grounds provided for in that state.

### **Criminal Code Article 9. Extradition**

1. A citizen of the Republic of Lithuania who has committed a criminal act in the Republic of Lithuania or in the territory of another state may be extradited to the foreign state or surrendered to the International Criminal Court solely in accordance with a treaty to which the Republic of Lithuania is party or a resolution of the United Nations Security Council.

[...]

3. It shall be allowed not to extradite a citizen of the Republic of Lithuania or an alien where the person is being prosecuted for a crime of political nature, as well as on the other grounds provided for by the treaties to which the Republic of Lithuania is party.

### **Criminal Code. Article 9(1). Surrender of a Person under the European Arrest Warrant**

1. On the basis of the European arrest warrant, a citizen of the Republic of Lithuania or an alien who is suspected of commission of a criminal act in the issuing Member State or who has been imposed a custodial sentence, but has not served it shall be surrendered to the issuing Member State.

2. A citizen of the Republic of Lithuania or an alien shall be surrendered under the European arrest warrant only where the criminal act committed by him is punishable, according to laws of the issuing Member State, by a custodial sentence of at least one year and where the European arrest warrant has been issued in connection with the execution of a custodial sentence which has already been imposed, only where the duration of the sentence imposed is at least four months.

3. A citizen of the Republic of Lithuania or an alien shall not be surrendered to the issuing Member State where:

1) surrender of the person under the European arrest warrant would violate fundamental human rights and/or freedoms;

2) the person has been released in the Republic of Lithuania from penalty for the act which has been committed by him and on which the European arrest warrant is based under an act of amnesty or by granting clemency.

3) the person was convicted in the Republic of Lithuania or another state for the criminal act which he had committed and on which the European arrest warrant is based, and the sentence imposed has been served, is currently being served or may no longer be executed under the law of the sentencing Member State;

4) at the time of commission of a criminal act, the person was not of the age at which the act committed by him becomes subject to criminal liability according to criminal laws of the Republic of Lithuania;

5) the act committed does not constitute a crime or misdemeanour under this Code, within the exception of the cases when the European arrest warrant has been issued for the criminal act provided for in paragraph 2 of Article 2 of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, and the criminal laws of the issuing Member State provide for a custodial sentence of at least three years for this criminal act;

6) the person has been acquitted or released from criminal liability or punishment in the Republic of Lithuania or another Member State of the European Union for the criminal act which he has committed and on which the European arrest warrant is based;

7) the European arrest warrant has been issued for a criminal act which falls within the jurisdiction of the Republic of Lithuania under its own criminal law, and the statute of limitation for the passing of a judgement of conviction as provided for in Article 95 of this Code and the statute of limitations for the execution of the judgement of conviction as provided for in Article 96 of this Code have expired;

8) the criminal act has been committed outside the territory of the issuing Member State, and criminal law of the Republic of Lithuania could not apply to the same act where it would have been committed outside the territory of the State of Lithuania or not onboard a ship or aircraft flying the flag or displaying marks of registry of the State of Lithuania.

4. A citizen of the Republic of Lithuania or an alien may, taking into consideration facts of a case and interests of justice, be surrendered to the issuing Member State where:

1) criminal proceedings have been initiated in the Republic of Lithuania in respect of the criminal act which the person has committed and on which the European arrest warrant is based;

2) initiation of criminal proceedings in the Republic of Lithuania in respect of the criminal act committed by the person has been refused, or the criminal proceedings initiated have been terminated;

3) the European arrest warrant has been issued for the purposes of execution of a custodial sentence imposed on a citizen of the Republic of Lithuania or a person permanently residing in the Republic of Lithuania, and the Republic of Lithuania undertakes execution of this sentence;

4) the criminal act has been committed in the territory of the State of Lithuania or onboard a ship or aircraft flying the flag or displaying marks of registry of the State of Lithuania;

5) the European arrest warrant lacks the information required for the taking of a decision on the person's surrender, and the issuing Member State fails to provide it within the time limit laid down.

5. Where the European arrest warrant has been issued for the purposes of execution of a custodial sentence imposed upon a citizen of the Republic of Lithuania or an alien, and this sentence has been imposed in absentia and where the person concerned has not been informed of the place and date of the hearing, the citizen of the Republic of Lithuania or the alien may be surrendered subject to the condition that the issuing Member State will ensure a retrial of the case at the person's request, and the person will be present at the judgement.

6. Where the European arrest warrant has been issued for a criminal act which, under the laws of the issuing Member State, is punishable by custodial life sentence, a citizen of the Republic of Lithuania or an alien shall be surrendered subject to the condition that the laws of the issuing Member State provide for a possibility for the convict to apply for release from such penalty or mitigation thereof not later than upon serving twenty years of the custodial sentence.

7. Where the European arrest warrant has been issued for the purposes of prosecution, a citizen of the Republic of Lithuania or a permanent resident of the Republic of Lithuania may be surrendered subject to the condition that the person against whom the issuing Member State has passed a judgement will be returned to the Republic of Lithuania in order to serve the custodial sentence imposed on him at the request of the person surrendered or where the Prosecutor General's Office of the Republic of Lithuania requires so.

### **Criminal Code Article 11. Crime**

1. A crime shall be a dangerous act (act or omission) forbidden under this Code and punishable with a custodial sentence.

2. Crimes are committed with intent and through negligence. Premeditated crimes are classified into minor, medium seriousness, serious and grave crimes

3. A minor crime is a premeditated crime punishable, under the criminal law, by a custodial sentence of the maximum duration of three years
4. A crime of medium seriousness is a premeditated crime punishable, under the criminal law, by a custodial sentence of the maximum duration in excess of three years, but not exceeding six years of imprisonment.
5. A serious crime is a premeditated crime punishable, under the criminal law, by a custodial sentence of the duration in excess of six years, but not exceeding ten years of imprisonment.
6. A grave crime is a premeditated crime punishable, under the criminal law, by a custodial sentence of the maximum duration in excess of ten years.

### **Criminal Code Article 12. Misdemeanour**

A misdemeanour shall be a dangerous act (act or omission) forbidden under this Code which is punishable by a non-custodial sentence, with the exception of detention."

### **Criminal Code Article 20. Criminal Liability of a Legal Entity**

1. A legal entity shall be held liable solely for the criminal acts the commission whereof is subject to liability of a legal entity as provided for in the Special Part of this Code.
2. A legal entity shall be held liable for the criminal acts committed by a natural person solely where a criminal act was committed for the benefit or in the interests of the legal entity by a natural person acting independently or on behalf of the legal entity, provided that he, while occupying an executive position in the legal entity, was entitled:
  - 1) to represent the legal entity, or
  - 2) to take decisions on behalf of the legal entity, or
  - 3) to control activities of the legal entity.
3. A legal entity may be held liable for criminal acts also where they have been committed by an employee or authorised representative of the legal entity as a result of insufficient supervision or control by the person indicated in paragraph 2 of this Article.
4. Criminal liability of a legal entity shall not release from criminal liability a natural person who has committed, organised, instigated or assisted in commission of the criminal act.
5. The State, a municipality, a state and municipal institution and agency as well as international public organisation shall not be held liable under this Code.

### **Criminal Code Article 21. Preparation for Commission of a Crime**

1. Preparation for the commission of a crime shall be a search for or adaptation of means and instruments, development of an action plan, engagement of accomplices or other intentional creation of the conditions facilitating the commission of the crime. A person shall be held liable solely for preparation to commit a serious or grave crime.
2. A person shall be held liable for preparation to commit a crime according to paragraph 1 of this Article and an article of this Code providing for an appropriate completed crime. A penalty imposed upon such a person may be commuted under Article 62 of this Code.

### **Criminal Code Article 22. Attempt to Commit a Criminal Act**

1. An attempt to commit a criminal act shall be an intentional act or omission which marks the direct commencement of a crime or misdemeanour where the act has not been completed by reason of the circumstances beyond the control the offender.
2. An attempt to commit a criminal act shall also occur when the offender is not aware that his act cannot be completed, because his attempt is directed at an inappropriate target or he is applying improper means.
3. A person shall be held liable for an attempt to commit a criminal act according to paragraph 1 or 2 of this Article and an article of this Code providing for an appropriate completed crime. A penalty imposed upon such a person may be commuted under Article 62 of this Code.

### **Criminal Code Article 24. Complicity and Types of Accomplices**

1. Complicity shall be the intentional joint participation in the commission of a criminal act of two or more conspiring legally capable persons who have attained the age specified in Article 13 of this Code.
2. Accomplices in a criminal act shall include a perpetrator, an organiser, an abettor and an accessory.
3. A perpetrator shall be a person who has committed a criminal act either by himself or by involving legally incapacitated person or the persons who have not yet attained the age specified in Article 13 of this Code or other persons who are not guilty of that act. If the criminal act has been committed by several persons acting together, each of them shall be considered a perpetrator/co-perpetrator.
4. An organiser shall a person who has formed an organised group or a criminal association, has been in charge thereof or has co-ordinated the activities of its members or has prepared a criminal act or has been in charge of commission thereof.
5. An abettor shall be a person who has incited another person to commit a criminal act.
6. The accessory shall be a person who has aided in the commission of a criminal act through counselling, issuing instructions, providing means or removing obstacles, protecting or shielding other accomplices, who has promised in advance to conceal the offender, hide the instruments or means of commission of the criminal act, the traces of the act or the items acquired by criminal means, also a person who has promised in advance to handle the items acquired or produced in the course of the criminal act.

### **Criminal Code Article 25. Forms of Complicity**

1. Forms of complicity shall be a group of accomplices, an organised group or a criminal association.
2. A group of accomplices shall be one in which two or more persons agree, at any stage of the commission of a criminal act, on the commission, continuation or completion of the criminal act, where at least two of them are perpetrators.
3. An organised group shall be one in which two or more persons agree, at any stage of the commission of a criminal act, on the commission of several crimes or of one serious

or grave crime, and in committing the crime each member of the group performs a certain task or is given a different role.

4. A criminal association shall be one in which three or more persons linked by permanent mutual relations and division of roles or tasks join together for the commission of a joint criminal act - one or several serious and grave crimes. An anti-state group or organisation and a terrorist group shall be considered equivalent to a criminal association.

#### **Article 39(1). Release from Criminal Liability When a Person Actively Assisted in Detecting the Criminal Acts Committed by Members of an Organised Group or a Criminal Association**

1. A person who is suspected of participation in the commission of criminal acts by an organised group or a criminal association or belonging to a criminal association may be released from criminal liability where he confesses his participation in the commission of such a criminal act or his membership of the criminal association and where he actively assists in detecting the criminal acts committed by members of the organised group or the criminal association.

2. Paragraph 1 of this Article shall not apply to a person who participated in the commission of a premeditated murder or who had already been released from criminal liability on such grounds, also to the organiser or leader of an organised group or a criminal association.

#### **Article 40. Release from Criminal Liability on Bail**

1. A person who commits a misdemeanour, a negligent crime or a minor or less serious intentional crime may be released by a court from criminal liability subject to a request by a person worthy of a court's trust to transfer the offender into his responsibility on bail. Bail may be set with or without a surety.

2. A person may be released from criminal liability by a court on bail where:

- 1) he commits the criminal act for the first time, and
- 2) he fully confesses his guilt and regrets having committed the criminal act, and
- 3) at least partly compensates for or eliminates the damage incurred or undertakes to compensate for such where it has been incurred, and
- 4) there is a basis for believing that he will fully compensate for or eliminate the damage incurred, will comply with laws and will not commit new criminal acts.

3. A bailsmen may be parents of the offender, close relatives or other persons worthy of a court's trust. When taking a decision, the court shall take account of the bailsmen's personal traits or nature of activities and a possibility of exerting a positive influence on the offender.

4. The term of bail shall be set from one year up to three years.

5. When requesting to release a person on bail with a surety, a bailsmen shall undertake to pay a surety in the amount specified by a court. Taking account of a bailsmen's personal traits and

his financial situation, the court shall specify the amount of the surety or decide on

release from criminal liability on bail without a surety. The bail bond shall be returned upon the expiry of the term of bail where a person subject to bail does not commit a new criminal act within the term of bail as laid down by the court.

6. A bailman shall have the right to withdraw from bail. In this case, a court shall, taking account of the reasons for a withdrawal from bail, decide on the return of a surety, also on a person's criminal liability for the committed criminal act, appointment of another bailman or the person's release from criminal liability.

7. If a person released from criminal liability on bail commits a new misdemeanour or negligent crime during the term of bail, a court may revoke its decision on the release from criminal liability and shall decide to prosecute the person for all the criminal acts committed.

8. If a person released from criminal liability on bail commits a new premeditated crime during the term of bail, the previous decision releasing him from criminal liability shall become invalid and the court shall decide to prosecute the person for all the criminal acts committed.

### **Criminal Code Article 43. Types of Penalties in Respect of Legal Entities**

1. The following penalties may be imposed upon a legal entity for the commission of a criminal act:

- 1) a fine;
- 2) restriction of operation of the legal entity;
- 3) liquidation of the legal entity.

2. Having imposed a penalty upon a legal entity, a court may also decide to announce this judgement in the media.

3. Only one penalty may be imposed upon a legal entity for one criminal act.

4. The sanctions of articles of the Special Part of this Code shall not specify the penalties to which legal entities are subject. In imposing a penalty upon a legal entity, a court shall refer the list of penalties specified in paragraph 1 of this Article.

### **Criminal Code Article 47. Fine**

1. A fine shall be a pecuniary penalty imposed by a court in the cases provided for in the Special Part of this Code.

2. A fine shall be calculated in the amounts of minimum standard of living (MSL). The minimum amount of a fine shall be one MSL.

3. [...]

4. The amount of a fine for a legal entity shall be up to 50 000 MSLs.

[...]"

### **Criminal Code Article 52. Restriction of Operation of a Legal Entity**

1. When imposing the penalty of restriction of operation of a legal entity, a court shall prohibit the legal entity from engaging in certain activities or order it to close a certain division of the legal entity.

2. Operation of a legal entity may be restricted for a period from one year up to five years. The term of this penalty shall be counted in years and months.“

### **Criminal Code Article 53. Liquidation of a Legal Entity**

When imposing the penalty of liquidation of a legal entity, a court shall order the legal entity to terminate, within the time limit laid down by the court, the entire economic, commercial, financial or professional activity and to close all divisions of the legal entity.“

### **Criminal Code Article 54. Basic Principles of Imposition of a Penalty**

1. A court shall impose a penalty according to the sanction of an article of the Special Part of this Code providing for liability for a committed criminal act and in compliance with provisions of the General Part of this Code.

2. When imposing a penalty, a court shall take into consideration:

- 1) the degree of dangerousness of a committed criminal act;
- 2) the form and type of guilt;
- 3) the motives and objectives of the committed criminal act;
- 4) the stage of the criminal act;
- 5) the personality of the offender;
- 6) the form and type of participation of the person as an accomplice in the commission of the criminal act;
- 7) mitigating and aggravating circumstances.

3. Where imposition of the penalty provided for in the sanction of an article is evidently in contravention to the principle of justice, a court may, taking into consideration the purpose of the penalty, impose a commuted penalty subject to a reasoned decision.“

### **Criminal Code Article 59. Mitigating Circumstances**

1. The following shall be considered as mitigating circumstances:

[...]

2) the offender has confessed to commission of an act provided for by a criminal law and sincerely regrets or has assisted in the detection of this act or identification of the persons who participated therein.

### **Criminal Code Article 69**

1. The court imposes compensation or eliminating of a material damages, when due to a crime or a misdemeanour a damage was caused upon a person, property or nature.

2. The amounts received by the aggrieved person from insurance or other institutions for the purpose of compensating damages are not included into the amount of claims payable.

3. The damage needs to be compensated or eliminated throughout the term established by the court.

### **Criminal Code Article 72. Confiscation of Property (outdated version)**

1. Confiscation of property shall be the compulsory uncompensated taking into the ownership of a state of any form of property subject to confiscation and held by the offender, his accomplice or other persons.
2. Confiscation of property shall be applicable only in respect of the property used as an instrument or a means to commit a crime or as the result of a criminal act. A court must confiscate:
  - 1) the money or other items of material value delivered to the offender or his accomplice for the purpose of commission of the criminal act;
  - 2) the money and other items of material value used in the commission of the criminal act;
  - 3) the money and other items of material value obtained as a result of the commission of the criminal act.
3. The property transferred to other natural or legal persons shall be confiscated regardless of whether or not those persons are subject to criminal liability, where:
  - 1) the property has been transferred to them for the purpose of commission of a criminal act;
  - 2) when acquiring the property, they were aware, or ought to have been aware and could have been aware that this property, money or the valuables newly acquired by means thereof have been gained from of a criminal act.
4. The property transferred to other natural or legal persons may be confiscated regardless of whether or not a person who has transferred the property is subject to criminal liability, where this person ought to and could have been aware that that property may be used for the commission of a serious or grave crime.
5. Where the property which is subject to confiscation has been concealed, consumed, belongs to third parties or cannot be taken for other reasons, a court shall recover from the offender, his accomplices or other persons indicated in paragraphs 2, 3 and 4 of this Article a sum of money equivalent to the value of the property subject to confiscation.
6. Minors shall be subject only to the compulsory confiscation of property provided for in paragraphs 2 and 3 of this Article.
7. When ordering confiscation of property, a court must specify the items subject to confiscation or the monetary value of the property subject to confiscation.

### **Criminal Code Article 72. Confiscation of Property (current version)**

1. Confiscation of property shall be the compulsory uncompensated taking into the ownership of a state of any form of property subject to confiscation and held by the offender or other persons.
2. Confiscation of property shall be applicable in respect of the property used as an instrument or a means to commit a crime or as the result of a criminal act prohibited by this Code. Any form of property received directly or indirectly from a criminal act prohibited by this Code shall be considered as a result of this criminal act.
3. The property which is subject to confiscation and belongs to the offender shall be confiscated in all cases.

4. The property which is subject to confiscation and belongs to another natural or legal person shall be confiscated regardless of whether or not this person was sentenced for the commission of a criminal act prohibited by this Code, where:

- 1) when transferring the property to the offender or other persons, this person was aware, or ought to have been aware and could have been aware that this property will be used for the commission of a criminal act prohibited by this Code;
- 2) the property was transferred to this person by way of forming a simulated transaction;
- 3) the property was transferred to this person as a family member or close relative of the offender;
- 4) the property was transferred to a legal person, in which the director or a member of the managing body or participants, who hold by the right of ownership at least fifty percent of the issued shares (portion of shares owned by a shareholder, contributions, etc.), are the offender, his family members or close relatives;
- 5) when acquiring the property, this person or other persons, while occupying an executive position in the legal entity and entitled to represent it, to take decisions on behalf of the legal entity or to control the activities of the legal entity, were aware, or ought to have been aware and could have been aware that this property was used as an instrument or a means to commit a crime or as a result of a criminal act prohibited by this Code.

5. Where the property which is subject to confiscation has been concealed, consumed, belongs to third parties or cannot be taken for other reasons or it would be inexpedient to confiscate this property, a court shall recover from the offender or other persons indicated in paragraph 4 of this Article a sum of money equivalent to the value of the property subject to confiscation.

6. When ordering confiscation of property, a court must specify the items subject to confiscation or the monetary value of the property subject to confiscation.

**Criminal Code Article 72. Confiscation of Property<sup>1</sup>**

1. Confiscation of property shall be the compulsory uncompensated taking into the ownership of the State of any form of property subject to confiscation and held by the offender or other persons.
2. Confiscation of property shall be applicable only in respect of the property used as an instrument or a means to commit a crime or as the result of the criminal act. Any form of property directly or indirectly obtained in relation to the criminal shall be deemed to constitute the result of the criminal act prohibited by the present Code.
3. The property held by the offender which is subject to compensation shall be confiscated in all cases.
4. The property owned by other natural or legal persons subject to confiscation shall be confiscated regardless of whether or not that person has been convicted for committing a criminal act prohibited by the present Code, provided that:

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<sup>1</sup> As amended. The texts included are not official translations of the legal acts translated into English. Nevertheless, the translation was carried out with the maximum precision possible

- 1) when transferring the property to the offender or to other persons this person was aware or ought to have been and could have been aware that this property will be used to commit a criminal act prohibited by the present Code;
  - 2) this property was transferred to the person by having concluded a fictitious transaction;
  - 3) this property was transferred to the person as to a family member or a close relative of the offender;
  - 4) this property was transferred to the person as to a legal entity in which the offender, or family members or close relatives of the offender hold the position of a manager, a member of the management body or a participant holding at least fifty per cent of the shares (shares, contributions and the like) of the legal entity;
  - 5) when acquiring this property, the person or the persons who were holding managing positions in the legal entity and were entitled to represent the legal entity, to take decisions in the name of the legal entity or to control the activity of the legal entity were aware or ought to have been and could have been aware that this property constitutes an instrument, a means or the result of the criminal offence prohibited by the present Code.
5. Where the property subject to confiscation has been concealed, consumed, belongs to third parties or cannot be taken for other reasons, or it is not expedient to confiscate this property, a court shall recover from the offender or other persons indicated in paragraph 4 of the present Article a sum of money equivalent to the value of the property subject to confiscation.
6. When ordering confiscation of property, a court must specify the items subject to confiscation or the monetary value of property subject to confiscation.

### **Criminal Code Article 72<sup>3</sup>. Extended Confiscation of Property<sup>2</sup>**

1. Extended confiscation of property shall be taking into the ownership of a state of the offender's property or part thereof which is out of proportion to the offender's lawful income where there is evidence that the property has been acquired by criminal means.
- 2 Extended confiscation of property shall be applicable, where:
  - 1) the offender is adjudged to have committed a less serious or serious or grave premeditated crime whereof he had or could have had pecuniary advantage;
  - 2) the offender possesses property gained during the commission or after the commission or in the course of five years prior to the commission of the acts prohibited by this Code the value whereof is out of proportion to his lawful income and the difference exceeds 250 MSLS or transferred some of this property to other persons during the period indicated in this Paragraph;
  - 3) in the course of criminal proceedings the offender fails to justify the lawfulness of acquiring the property.
3. The property subject to confiscation under Paragraph 2 of this Article transferred to other natural or legal persons shall be confiscated from these persons in the presence of at least one of these grounds:
  - 1) the property was transferred having made an artificial transaction;
  - 2) the property was transferred to the offender's family member or close relative;

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<sup>2</sup> Ibid.

- 3) the property was transferred to a legal person whose manager or member or participant of a management body holding at least fifty percent of the legal person's shares (share, contributions, etc.) is an offender or his family member or a close relative;
- 4) a person who was transferred the property or persons who held high managerial positions in a legal person with the right to represent the legal person, make decisions in its name and control its activities were aware or ought to have been aware or could have been aware that the property was acquired by criminal means or with the offender's unlawful proceeds.
4. Extended property confiscation provided for in this Article shall not be applicable to the offender's or third parties' property or part of this property, where they shall not be subject to recovery in accordance with the provisions of international agreements of the Republic of Lithuania, the Code of Criminal Procedure of the Republic of Lithuania or other laws.
5. Where the property or part of the property subject to confiscation has been concealed, consumed, belongs to third parties or cannot be taken for other reasons or the confiscation of this property would be inexpedient, a court shall recover from the offender or other persons indicated in Paragraphs 3 of this Article a sum of money equivalent to the value of the property or part of the property subject to confiscation.
6. When ordering extended confiscation of property, a court must specify the items subject to confiscation or the monetary value of the property or part of the property subject to confiscation.

### **Criminal Code Article 77 Conditional release and changing unserved part of the punishment of imprisonment with a less strict punishment**

1. A court may conditionally release a person serving punishment of imprisonment before due term or change the remaining unserved part of the punishment of imprisonment with a less strict one (except for a fine) if such person:
  - 1) has served:
    - a) at least half of the punishment of imprisonment imposed upon him for a crime of small or average gravity or
    - b) at least two thirds of the punishment of imprisonment imposed upon him for a grave crime, or
    - c) at least three quarters of the punishment of imprisonment imposed upon him for a particularly grave crime or if a person is recidivist, or
    - d) at least one third of the punishment of imprisonment imposed upon him for a negligent crime or a crime of small or average gravity if committed by a pregnant woman, lonely father (mother) who has a child of under 7 years of age or two or more under-aged children and his/her parental rights in respect of such children have not been limited by a court;
  - 2) remunerated in full material damage caused during the crime or remunerated or restored it in part and undertook to remunerate or restore it in full during the remaining unserved term of punishment;
  - 3) by his behaviour and work while serving the punishment proved that he could be conditionally released or change the punishment of imprisonment with a less strict one.

2. When conditionally releasing a person the court may impose one or more obligations specified by the part 2 article 75 of this Code. At the same time the court shall define the terms for the convict to implement the obligation imposed upon him. Such term shall not exceed the remaining term of unserved punishment.
3. Conditional release and changing the remaining unserved part of the punishment of imprisonment with a less strict one shall not be applied to:
  - 1) a dangerous recidivist;
  - 2) a person upon whom life imprisonment was imposed;
  - 3) a person who was already conditionally release and committed another crime during the unserved part of the punishment term.
4. If a conditionally released person implements the obligations and committed no violations specified in the part 5 thereof, he shall be regarded as having served the punishment when the term of the punishment of imprisonment is due.
5. If a conditionally released person without a valid reason fails to implement the obligations imposed upon him by the court or violates public order, drinks alcohol, or commits other violations of law for which administrative or disciplinary measures or were imposed upon him at least twice, further to a statement of the institution supervising behaviour of the convict a court shall warn the convict about a possibility to revoke conditional release. If the person after receiving the warning continues ignoring the obligations imposed upon him by the court, further to a statement of the institution supervising behaviour of the convict a court shall order revoking of conditional release and enforcement of the remaining unserved part of the punishment of imprisonment.
6. if a conditionally released person or a person who had his punishment of imprisonment changed with a less strict one commits another criminal act during the unserved part of the punishment term the court shall impose a punishment upon him following the rules specified in the art. 64 of this Code.

### **Criminal Code Article 95. Statute of Limitations of a Judgment of Conviction**

1. A person who has committed a criminal act may not be subject to a judgement of conviction where:
  - (1) the following period has lapsed:
    - (a) three years, in the event of commission of a misdemeanour;
    - (b) eight years, in the event of commission of a negligent or minor premeditated crime;
    - (c) twelve years, in the event of commission of a premeditated crime of medium severity;
    - (d) fifteen years, in the event of commission of a serious crime;
    - (e) twenty five years, in the event of commission of a grave crime;
    - (f) thirty years, in the event of commission of a premeditated homicide;
  - (2) during the period laid down in paragraph 1(1) of this Article, the person did not hide from pre-trial investigation or a trial and did not commit a new premeditated criminal act.
2. The statute of limitations shall be calculated from the commission of a criminal act until the passing of a judgement.
3. Periods of the statute of limitations shall not expire until a minor victim of criminal offences covered in Chapters XVIII, XX, XXI, XXIII and XLIV reaches age of 25 years.
4. Where the person who has committed a criminal act hid from pre-trial investigation or a trial, the calculation of the statute of limitations shall cease. The calculation of the

statute of limitations shall resume from the day when the person is arrested or when he arrives to when he arrives to the officer of pre-trial investigation, prosecutor or to the court. However, a judgement of conviction may not be passed where twenty five years have lapsed since the commission of the criminal offence by the person and thirty years have lapsed since the commission of a crime relating to a premeditated homicide, and calculation of the statute of limitations has not ceased due to commission of a new intentional criminal offence.

5. During hearing of the case at the court periods of the statute of limitations shall be suspended if:

(1) the court adjourns the hearing of the case because of absence of the defendant or his council for the defence;

(2) the court adjourns the hearing of the case until expertise, specialist's examination shall be completed or until the request for legal aid in a foreign country shall be fulfilled;

(3) the court adjourns the hearing of the case and assigns prosecutor or judge of pre-trial investigation to conduct the procedural steps provided for in the Code of Criminal Procedure of the Republic of Lithuania;

(4) the court adjourns the hearing of the case until newly appointed council for defence gets acquainted with the files of the case.

6. Any of the grounds for suspension of the statute of limitations provided for in paragraph 5 of this Article may not extend the maximum length of periods of the statute of limitations provided in paragraph 1 of this Article for more than five years.

7. Where a person commits a new intentional criminal act before the expiry of the terms indicated in this Article, the calculation of the statute of limitations shall cease. In such a case, the calculation of the statute of limitations in respect of the first criminal act shall commence from the day when a new intentional crime or misdemeanour was committed <....>.

### **Criminal Code Article 96(2)**

The statute of limitations for execution of a judgement of conviction shall be calculated from the coming into effect of the judgement until the commencement of execution of the judgement.

### **Article 96(3)**

Where, after a judgement becomes effective, the convicted person evades the serving of the sentence, the calculation of the statute of limitations shall cease. In this case, the calculation of this period shall resume from the day the convicted person arrives to serve the sentence or is arrested. However, a judgement may not be executed where fifteen years have lapsed since its coming into effect, and twenty years have lapsed in the case of imposition of a custodial sentence for a period exceeding ten years or of a life imprisonment, and calculation of the statute of limitations has not ceased due to commission of a new criminal act.

### **Article 96(4)**

Where the convicted person commits a new criminal act before the expiry of the statute of limitations for execution of a judgement of conviction, the calculation of the statute of limitations shall cease. In this case, calculation of the statute of limitations for execution of the judgement of conviction shall commence from the commission of a new crime or misdemeanour.

#### **Criminal Code Article 125. Disclosure of a State Secret**

1. A person who discloses the information constituting a state secret of the Republic of Lithuania, where this information was entrusted to him or he gained access thereto through his service, work or in the course of performance of public functions, but in the absence of characteristics of espionage, shall be punished by deprivation of the right to be employed in a certain position or to engage in a certain type of activities or by imprisonment for a term of up to three years.
2. The act provided for in paragraph 1 of this Article shall be a crime also where it has been committed through negligence.

#### **Criminal Code Article 183. Misappropriation of Property**

1. A person who misappropriates another's property or property right entrusted to him or held at his disposal shall be punished by community service or by a fine or by imprisonment for a term of up to three years.
2. A person who misappropriates another's property or property right of a high value entrusted to him or held at his disposal or the valuables of a considerable scientific, historical or cultural significance shall be punished by imprisonment for a term of up to ten years.
3. A person who misappropriates another's property or property right of a low value entrusted to him or held at his disposal shall be considered to have committed a misdemeanour and shall be punished by community service or by a fine or by arrest.
4. Legal entities shall also be held liable for the acts provided for in paragraphs 1 and 2 of this Article.
5. A person shall be held liable for the acts provided for in paragraphs 1 and 3 of this Article only subject to a complaint filed by the victim or a statement by his authorised representative or at the prosecutor's request.

#### **Criminal Code Article 184. Squandering of Property**

1. A person who squanders another's property or property right entrusted to him or held at his disposal shall be punished by community service or by a fine or by restriction of liberty or by imprisonment for a term of up to two years.
2. A person who squanders another's property or property right of a high value entrusted to him or held at his disposal or the valuables of a considerable scientific, historical or cultural significance shall be punished by imprisonment for a term of up to seven years.
3. A person who squanders another's property or property right of a low value entrusted

to him or held at his disposal shall be considered to have committed a misdemeanour and shall be punished by community service or by a fine or by arrest.

4. The acts provided for in paragraphs 1 and 2 of this Article shall be criminal also where they have been committed through negligence.

5. A person shall be held liable for the acts provided for in paragraphs 1 and 3 of this Article only subject to a complaint filed by the victim or a statement by his authorised representative or at the prosecutor's request.

6. A legal entity shall also be held liable for an act provided for in paragraphs 1 and 2 of this Article.

### **Criminal Code Article 189. Acquisition or Handling of the Property Obtained by Criminal Means**

1. A person who acquires, uses or handles a property while being aware that this property has been obtained by criminal means shall be punished by a fine or by restriction of liberty or by arrest or by imprisonment for a term of up to two years.

2. A person who acquires, uses or handles a property of a high value or the valuables of a considerable scientific, historical or cultural significance while being aware that that property or the valuable properties have been obtained by criminal means shall be punished by a fine or by arrest or by imprisonment for a term of up to four years.

3. A person who acquires, uses or handles a property of a low value while being aware that this property has been obtained by criminal means shall be considered to have committed a misdemeanour and shall be punished by community service or by a fine or by arrest.

4. A legal entity shall also be held liable for an act provided for in paragraphs 1 and 2 of this Article.

### **Criminal Code Article 189-1. Illicit Enrichment (VERSION 1)**

1. Any person who owned the assets higher in value than 500 MSL, knowing or when he/she could or should know, that the assets could not be obtained by lawful income, shall be punished by a fine, or detention, or imprisonment for a term of up to 4 years.

2. A person, who repossessed the assets referred to in Paragraph 1 of this Article from the third persons is not criminally liable for the illicit enrichment if he/she informed about that the law enforcement institutions prior to the notice of the suspicion and actively collaborated on the establishment of the origin of the assets.

3. Legal person shall also be held liable for the acts specified in this Article.

### **Criminal Code Article 189-1. Unlawful enrichment (VERSION 2)**

1. A person who holds by ownership property exceeding the amount of 250 MSLs and is aware, or ought to have been aware and could have been aware that this property could not have been obtained by lawful income, shall be punished by a fine or by arrest or by imprisonment for a term of up to four years.

2. A person who takes to accept from the third parties the property indicated in Paragraph 1 of this Article shall be released from the criminal liability of unlawful enrichment provided that before the delivery of the notice of suspicion, he notified the law enforcement institutions thereof and actively contributed in ascertaining the origin of this property.
3. A legal entity shall also be held liable for an act provided for in this Article.

### **Criminal Code Article 196. Unlawful Influence on Electronic Data**

1. A person who unlawfully destroys, damages, removes or modifies electronic data or a technical equipment, software or otherwise restricts the use of such data thereby incurring major damage shall be punished by community service or by a fine or by imprisonment for a term of up to four years.
2. A person who commits the act provided for in paragraph 1 of this Article in respect of the electronic data of an information system of strategic importance for national security or of major importance for state government, the economy or the financial system shall be punished by a fine or by arrest or by imprisonment for a term of up to six years.
3. A person who commits the act provided for in this Article thereby incurring minor damage shall be considered to have committed a misdemeanour and shall be punished by community service or by a fine or by restriction of liberty or by arrest.
4. A legal entity shall also be held liable for the acts provided for in this Article.

### **Criminal Code Article 197. Unlawful Influence on an Information System**

1. A person who unlawfully disturbs or terminates the operation of an information system thereby incurring major damage shall be punished by a fine or by arrest or by imprisonment for a term of up to four years.
2. A person who commits the act provided for in paragraph 1 of this Article in respect of an information system of strategic importance for national security or of major importance for state government, the economy or the financial system shall be punished by a fine or by arrest or by imprisonment for a term of up to six years.
3. A person who commits the act provided for in this Article thereby incurring minor damage shall be considered to have committed a misdemeanour and shall be punished by community service or by a fine or by restriction of liberty or by arrest.
4. A legal entity shall also be held liable for the acts provided for in this Article.

### **Criminal Code Article 198. Unlawful Interception and Use of Electronic Data**

1. A person who unlawfully observes, records, intercepts, acquires, stores, appropriates, distributes or otherwise uses the electronic data which may not be made public shall be punished by a fine or by imprisonment for a term of up to four years.
2. A person who unlawfully observes, records, intercepts, acquires, stores, appropriates, distributes or otherwise uses the electronic data which may not be made public and which

are of strategic importance for national security or of major importance for state government, the economy or the financial system shall be punished by imprisonment for a term of up to six years.

3. A legal entity shall also be held liable for the acts provided for in this Article.

### **Criminal Code Article 198(1). Unlawful Connection to an Information System**

1. A person who unlawfully connects to an information system by damaging the protection means of the information system shall be punished by community service or by a fine or by arrest or by imprisonment for a term of up to one year.

2. A person who unlawfully connects to an information system of strategic importance for national security or of major importance for state government, the economy or the financial system shall be punished by a fine or by arrest or by imprisonment for a term of up to three years.

3. A legal entity shall also be held liable for the acts provided for in this Article.

### **Criminal Code Article 198(2). Unlawful Disposal of Installations, Software, Passwords, Login Codes and Other Data**

1. A person who unlawfully produces, transports, sells or otherwise distributes the installations or software, also passwords, login codes or other similar data directly intended for the commission of criminal acts or acquires or stores them for the same purpose

shall be punished by community service or by a fine or by arrest or by imprisonment for a term of up to three years.

2. A legal entity shall also be held liable for the acts provided for in this Article.

### **Criminal Code Article 216. Money or Property Laundering**

1. A person who, seeking to conceal or legalise the money or property of his own or another person while being aware that they have been obtained by criminal means, performs financial operations with this property or money or a part thereof, enters into transactions or uses them in economic, commercial activities or makes a false declaration that they have been obtained lawfully shall be punished by imprisonment for a term of up to seven years.“

2. A legal entity shall also be held liable for the acts provided for in this Article.“

### **Criminal Code, Article 220. Provision of Inaccurate Data on Income, Profit or Assets**

1. A person who, seeking to evade payment of taxes, provides data on the person's income, profit, assets or the use thereof that are known to be inaccurate in a tax return or in a report approved in accordance with the approved procedure or another document and submits such information to an institution authorised by the State shall be punished by

deprivation of the right to be employed in a certain position or to engage in a certain type of activities or by imprisonment for a term of up to three years.

2. A person who commits the act indicated in paragraph 1 of this Article having the aim of evading payment of taxes in the amount not exceeding 10 MSLs shall be considered to have committed a misdemeanour and shall be punished by community service or by a fine or by restriction of liberty.

3. A legal entity shall also be held liable for the acts provided for in this Article.

#### **Criminal Code Article 225. Bribery<sup>3</sup>**

1. A civil servant or a person equivalent thereto who, for own benefit or for the benefit of other persons, directly or indirectly promises or agrees to accept a bribe, or accepts a bribe or demands or provokes giving it for a lawful act or inaction in exercising his powers shall be punished by fine or arrest, or by imprisonment for a term of up to five years.

2. A civil servant or a person equivalent thereto who, for own benefit or for the benefit of other persons, directly or indirectly accepts, promises or agrees to accept a bribe, demands or provokes giving it for an unlawful act or inaction in exercising his powers shall be punished by fine or by imprisonment for a term of up to seven years.

3. A civil servant or a person equivalent thereto who, for own benefit or for the benefit of other persons, directly or indirectly promises or agrees to accept, or demands or provokes giving it, or accepts a bribe in the amount exceeding 250 MSLs, for a lawful or unlawful act or inaction in exercising his powers shall be punished by imprisonment for a term of two up to eight years.

4. A civil servant or a person equivalent thereto who, for own benefit or for the benefit of other persons, directly or indirectly promises or agrees to accept, or demands or provokes giving it, or accepts a bribe in the amount less than 1 MSLs, for a lawful or unlawful act or inaction in exercising his powers shall be considered to have committed a misdemeanour and shall be punished by a fine or arrest.

5. A legal entity shall also be held liable for the acts provided for in this Article.

#### **Criminal Code Article 226. Trading in Influence<sup>4</sup>**

1. Any person who, seeking that another person, by using his social position, office, powers, family relations, acquaintances or any other kind of possible influence on a state or municipal institution or agency, an international public organisation, their servant or a person of equivalent status, exert influence on the appropriate institution, agency or organisation, the civil servant or the person of equivalent status so that they act or refrain from acting legally or illegally in the exercise of their powers, offers, promises or agrees to give or gives a bribe to such person or a third person directly or indirectly, shall be punished by restriction of liberty or a fine, or detention, or imprisonment for a term of up to 4 years.

2. Any person who, by using his social position, office, powers, family relations, acquaintances or any other kind of possible influence on a state or municipal institution

<sup>3</sup> As amended in 2011. The texts included are not official translations of the legal acts translated into English. Nevertheless, the translation was carried out with the maximum precision possible.

<sup>4</sup> Ibid.

or agency, an international public organisation, their servant or a person of equivalent status, promises or agrees to take a bribe, demands or provokes to give, or takes a bribe, directly or indirectly for his own benefit or for the benefit of other persons, by promising exert influence on the appropriate institution, agency or organisation, the civil servant or the person of equivalent status so that they act or refrain from acting legally or illegally in the exercise of their powers, shall be punished by a fine or detention, or imprisonment for a term of up to 5 years.

3. Any person who commits the acts specified in paragraph 1 of this Article by offering, promising or agreeing to give or giving a bribe in the amount exceeding 250 MSL, shall be punished by imprisonment for a term of up to 7 years.

4. Any person who commits the acts specified in paragraph 2 of this Article by promising or agreeing to take, demanding or provoking to give or taking a bribe in the amount exceeding 250 MSL, shall be punished by deprivation of liberty from 2 to 8 years.

5. Any person who commits the acts specified in paragraphs 1 or 2 of this Article by offering or agreeing to give or by giving, promising or agreeing to take, demanding or provoking to give or taking a bribe in the amount less than 1 MSL, commits a misdemeanour, and shall be punished by restriction of liberty or a fine, or detention.

6. A person may be released from criminal liability for the acts provided for in paragraphs 1, 3 or 5 of this Article, if he is extorted or provoked to give a bribe and he, after offering, promising, agreeing or giving the bribe, voluntarily reports it to an appropriate law enforcement institution before he is recognised a suspect, or if a bribe is promised, agreed or given by him with the knowledge of an appropriate law enforcement institution.

7. A legal person shall also be held liable for the acts provided for in paragraphs 1, 2, 3, 4 and 5 of this Article.

#### **Criminal Code Article 227. Graft<sup>5</sup>**

1. A person who, whether directly or indirectly, offers, promises or agreed to give, or gives a bribe to a civil servant or a person equivalent thereto or to a third party for a desired lawful act or inaction of a civil servant or a person equivalent thereto in exercising his powers or to an intermediary seeking to achieve the same results shall be punished by a fine or restriction of liberty or by arrest or by imprisonment for a term of up to four years.

2. A person who commits the actions provided for in paragraph 1 of this Article by seeking an unlawful act or inaction by a civil servant to be bribed or a person equivalent thereto in exercising his powers shall be punished by a fine or arrest or imprisonment for a term of up to five years.

3. A person who commits the actions provided for in paragraph 1 or 2 of this Article by offering, promising, agreeing to give or giving a bribe in the amount more than 250 MSL shall be punished by imprisonment for a term of up to seven years.

4. A person who commits the actions provided for in paragraph 1 or 2 of this Article by offering, promising, agreeing to give or giving a bribe in the amount less than 1 MSL shall be considered to have committed a misdemeanour and shall be punished by a fine or restriction of liberty, or by arrest.

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<sup>5</sup> Ibid.

5. A person shall be released from criminal liability for grafting where he was demanded or provoked to give a bribe and he, upon offering, promising to give or giving the bribe as soon as possible, but in any case before being recognized as a suspect, notifies a law enforcement institution thereof or also in cases where he promises to give or gives the bribe with the law enforcement institution being aware thereof.

6. A legal entity shall also be held liable for the acts provided for in paragraphs 1, 2, 3 and 4 of this Article.

### **Criminal Code Article 228. Abuse of Office**

1. A civil servant or a person equivalent thereto who abuses his official position or exceeds his powers, where this incurs major damage to the State, an international public organisation, a legal or natural person, shall be punished by deprivation of the right to be employed in a certain position or to engage in a certain type of activities or by a fine or by arrest or by imprisonment for a term of up to four years.

2. A person who commits the act provided for in paragraph 1 of this Article seeking material or another personal gain, in the absence of characteristics of bribery, shall be punished by deprivation of the right to be employed in a certain position or to engage in a certain type of activities or by imprisonment for a term of up to six years.

3. A legal entity shall also be held liable for the acts provided for in this Article.

### **Criminal Code Article 228<sup>(1)</sup>. Unlawful Registration of Rights to an Item**

A civil servant or a person equivalent thereto who, while performing the functions of a registrar in a public register, registers rights to an item

shall be punished by deprivation of the right to be employed in a certain position or to engage in a certain type of activities or by a fine or by arrest or by imprisonment for a term of up to five years.

### **Criminal Code Article 229. Failure to Perform Official Duties**

A civil servant or a person equivalent thereto who fails to perform his duties through negligence or performs them inappropriately, where this incurs major damage to the State, a legal or natural person,

shall be punished by deprivation of the right to be employed in a certain position or to engage in a certain type of activities or by a fine or by arrest or by imprisonment for a term of up to two years.

## **Criminal Code Article 230. Interpretation of Concepts<sup>6</sup>**

1. For the purposes of this Chapter, public servants shall mean State politicians, State officials, judges, public servants specified in the Law on Public Service and other persons who, while working at state or, on other grounds provided for by law, holding positions at State or municipal institutions or agencies, perform the functions of a government representative or hold administrative powers, also official candidates for such office.

2. A person holding appropriate powers at a foreign state or European Union institution or organisation, an international public organisation or at an international or European Union judicial institutions, also official candidates for such office shall be held equivalent to a public servant.

3. Moreover, a person who works or, on other grounds provided for by law, holds a position at any public or private legal entity or organisation, or engages in professional activities and holds appropriate administrative powers, or has the right to act on behalf of this legal entity or organisation, or provides public services, as well as an arbitrator or a juror shall also be held equivalent to a public servant.

4. For the purposes of this Chapter, a bribe shall mean any unlawful or undue advantage in the form of any property or other personal benefit (whether material or immaterial, of an identifiable market value or without such value) intended for a public servant or a person of equivalent status or a third person for a desired legal or illegal act or omission in the discharge of powers of a public servant or a person of equivalent status.

## **Criminal Code Article 231. Hindering the Activities of a Judge, Prosecutor, Pre-trial Investigation Officer, Lawyer or Bailiff**

1. A person who, in any manner, hinders a judge, prosecutor, pre-trial investigation officer, lawyer or an officer of the International Criminal Court or of another international judicial institution in performing the duties relating to investigation or hearing of a criminal, civil, administrative case or a case of the international judicial institution or who hinders a bailiff in executing a court judgement

shall be punished by community service or by a fine or by restriction of liberty or by imprisonment for a term of up to two years.

2. A person who commits the act indicated in paragraph 1 of this Article by using violence or another coercion

shall be punished by a fine or by arrest or by imprisonment for a term of up to four years.

3. A legal entity shall also be held liable for the acts provided for in this Article.

## **Criminal Code Article 233. Influence on a Witness, Victim, Expert, Specialist or Translator**

1. A person who, in any manner, seeks to influence a witness, victim, expert, specialist or translator so that they would give false testimony, present false conclusions, clarifications or incorrect translations during a pre-trial investigation or in court or before the

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<sup>6</sup> Ibid.

International Criminal Court or at another international judicial institution or who hinders their arrival when summoned to a pre-trial investigation officer, a prosecutor, the court or the International Criminal Court or another international judicial institution shall be punished by community service or by a fine or by restriction of liberty or by arrest or by imprisonment for a term of up to two years.

2. A person who, in any manner, seeks to influence a witness, expert, specialist or translator so that they would give false testimony, present false conclusions, clarifications or incorrect translations during impeachment proceedings to a special investigation commission formed by the Seimas or to the Seimas or who hinders their arrival when summoned to the special investigation commission formed by the Seimas or to the Seimas

shall be punished by community service or by a fine or by restriction of liberty or by arrest or by imprisonment for a term of up to two years.

3. A person who commits the acts indicated in paragraphs 1 and 2 of this Article by using violence or another coercion

shall be punished by arrest or by imprisonment for a term of up to four years.

4. A legal entity shall also be held liable for the acts provided for in this Article.

#### **Criminal Code Article 237. Concealment of a Crime or the Perpetrator**

1. A person who, without prior arrangement, conceals, destroys or obliterates the evidence, tools or means of a serious or grave crime committed by another person, the items obtained by criminal means, other articles which are connected with the concealed crime and which have evidential value or conceals the perpetrator

shall be punished by community service or by a fine or by restriction of liberty or by arrest or by imprisonment for a term of up to two year.

2. The close relatives and family members of the perpetrator shall not be held liable for the acts provided for in this Article.

#### **Criminal Code Article 238. Failure to Report a Crime**

1. A person who, without a valid reason, fails to report to a law enforcement agency or to a court a grave crime known to him, either in progress or already committed, shall be punished by community service or by a fine or by arrest or by imprisonment for a term of up to one year.

2. The close relatives and family members of the perpetrator shall not be held liable for a failure to report a crime.

#### **Criminal Code Article 247. Unauthorised Disclosure of Pre-Trial Investigation Data**

A person who discloses pre-trial investigation data prior to the hearing of a case at a court sitting without the authorisation of a judge, prosecutor or pre-trial investigation officer investigating this case shall be considered to have committed a misdemeanour and shall be punished by community service or by a fine or by restriction of liberty or by arrest.

# **Code of Criminal Procedure of the Republic of Lithuania**

## **Criminal Procedure Code Article 1**

(1): The criminal procedure aims in defence of human and citizen rights and freedoms at a speedy and detailed detection of criminal acts and a proper application of the law in order to ensure that any person who has committed a criminal act is given a fair punishment and that no one who is innocent is convicted.

(2). The rules of the criminal procedure are harmonized with the provisions of the legal instruments of the European Union, indicated in the annex to the Code of the Criminal Procedure of the Republic of Lithuania

## **Criminal Procedure Code Article 20. Evidence**

1. Evidence in criminal proceedings shall include material obtained in the manner prescribed by law.

2. Admissibility of the material obtained shall be determined in every case by the judge who has jurisdiction over the case.

3. Only such material which proves or disproves at least one circumstance relevant for a fair disposition of the case may be regarded as evidence.

4. Evidence may be only such material which is obtained by lawful means and may be verified by the acts provided for in this Code.

5. Judges shall assess the evidence according to their inner conviction based on a thorough and objective review of all the circumstances of the case in accordance with the law.

## **Criminal Procedure Code Article 28: The Victim**

1. Victim means a natural person who has suffered physical, mental or economical harm, caused by criminal act. In criminal proceedings a person is recognized as a victim by decision of pre-trial investigation officer, prosecutor or court.

2. The victim and his representative shall have the right to: give evidence; file applications; challenge; acquaint himself with the case in the pre-trial and trial stages; be present during trial of the case in a court of law; appeal the actions of the pre-trial investigation officer, prosecutor, pre-trial investigation judge and court as well as appeal the ruling or verdict of court; give the closing speech.

3. The victim must testify, take an oath and be held responsible for committing perjury.

## **Criminal Procedure Code Article 31. Ruling**

Ruling shall be any decision other than a judgement or a penal order rendered by a judge or the court in a criminal case.

#### **Criminal Procedure Code Article 44. Protection of Human Rights in the Criminal Procedure**

1. No one may be deprived of his liberty save in the cases and in accordance with the procedure prescribed by this Code.
2. Everyone who is deprived of his liberty by arrest or detention must be informed promptly, in a language which he understands, of the reasons for his arrest or detention.
3. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings against his unlawful arrest or detention.
4. Everyone who has been the victim of unlawful arrest or detention shall have the right to compensation in the manner prescribed by the law.
5. Everyone charged with a criminal offence shall be entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal.
6. Everyone suspected of or charged with a criminal offence shall be presumed innocent until proved guilty in accordance with the procedure prescribed by this Code and established by an effective court judgement.
7. Everyone suspected of or charged with a criminal offence shall have the right to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him, to be provided adequate time and facilities for the preparation of his defence, to examine witnesses or have them examined, and to have the free assistance of an interpreter if he cannot understand or speak Lithuanian.
8. Everyone suspected of or charged with a criminal offence may defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free in accordance with the procedure provided by the law regulating the provision of legal assistance guaranteed by the State.
9. Everyone shall have the right to respect for his private and family life, his home, confidentiality of his correspondence, telephone conversations, telegraph and other messages. These human rights may be subject to limitations during the criminal procedure in the cases and in accordance with the procedure prescribed by this Code.
10. Everyone who has been recognised a victim shall have the right to demand that a person who committed criminal offence be found and justly punished, to receive compensation for the damage caused by a criminal act and, in the cases provided by the law, compensation from the Crime Victims Fund, and to receive free legal assistance guaranteed by the State.

#### **Criminal Procedure Code Article 67. Execution of the Requests of Foreign Authorities and International Organisations for Proceedings**

1. In carrying out requests of foreign authorities and international organisations, the courts, the prosecution and pre-trial investigation institutions of the Republic of Lithuania shall take proceedings set out in this Code. When executing requests of foreign authorities and international organisations in cases provided by an international agreement to which the Republic of Lithuania is a party, proceedings which are not set out in this Code may also be taken, provided this does not contravene the Constitution

and the laws of the Republic of Lithuania and is not against the fundamental principles of the criminal procedure of Lithuania.

2. The courts, the prosecution and pre-trial investigation institutions of the Republic of Lithuania shall receive the requests of foreign authorities and international organisations through the Ministry of Justice or the Office of the Prosecutor General of the Republic of Lithuania. If a request is received directly by a court, the prosecution or pre-trial investigation institution, it shall be executed only subject to an authorisation of either the Ministry of Justice or the Office of the Prosecutor General, with the exception of cases provided for in Paragraph 5 of this Article.

3. If a request of a foreign authority or an international organisation cannot be executed, it shall be sent back to this institution either through the Ministry of Justice or the Office of the Prosecutor General of the Republic of Lithuania with an explanation of the reasons why execution of the request is not possible.

4. Officers of the courts, the prosecution and pre-trial investigation institutions of a foreign state, or of the International Criminal Court, or of any other international organisations shall be permitted to take proceedings within the territory of the Republic of Lithuania only in cases provided for in an international agreement to which the Republic of Lithuania is a party and with the participation of the officers of the Republic of Lithuania.

5. In cases provided for in an international agreement to which the Republic of Lithuania is a party, the courts, institutions of prosecution and pre-trial investigation shall execute the requests of foreign authorities or international organisations received directly and shall directly transmit to foreign authorities and international organisations replies to their requests.

#### **Criminal Procedure Code Article 68. Request to Initiate or to Take Over Prosecution**

1. Reasons, conditions and procedure of initiating and taking over the prosecution shall be laid down in this Code and international agreements of the Republic of Lithuania.

2. A request of a foreign authority or an international organisation to initiate or to take over prosecution against a national of the Republic of Lithuania who committed a criminal act in a foreign state and returned to the Republic of Lithuania shall be examined by the Office of the Prosecutor General of the Republic of Lithuania in order to determine if the request is based on reasonable grounds. The results of the inquiry shall be communicated to the requesting foreign authority or an international organisation. Where criminal proceedings against the act of the person were taken in the Republic of Lithuania and a judgement was rendered and became effective, the communication together with a duly certified copy of the judgement translated into a foreign language shall be dispatched to the requesting foreign authority or international organisation.

3. Where a criminal act was committed in the territory of Lithuania by a foreign national who then departed to his home country, the file compiled on him by the pre-trial investigation institutions shall be dispatched to the office of the Prosecutor General of the Republic of Lithuania which shall determine whether a request should be transmitted to the appropriate foreign state to start or to take over proceedings against him.

### **Criminal Code Article 69**

1. The court imposes compensation or elimination of material damages, when due to a crime or a misdemeanour a damage was caused upon a person, property or nature.
2. The amounts received by the aggrieved person from insurance or other institutions for the purpose of compensating damages are not included into the amount of claims payable.
3. The damage needs to be compensated or eliminated through the term established by the court.

### **Criminal Procedure Code Article 71. Extradition of Persons from the Republic of Lithuania or Their Transfer to the International Criminal Court**

1. A national of the Republic of Lithuania, on suspicion of having committed a criminal act, may be extradited to a foreign state or may be transferred to the International Criminal Court only if such an obligation is provided by an international agreement to which the Republic of Lithuania is a party or a United Nations Security Council Resolution.
2. An alien, on suspicion of having committed a criminal act within the territory of the Republic of Lithuania or any other states, shall be extradited to appropriate states or shall be transferred to the International Criminal Court only if such an obligation is provided by an international agreement to which the Republic of Lithuania is a party a United Nations Security Council Resolution.
3. A national of the Republic of Lithuania or an alien may not be extradited:
  - 1) if his act, under the Criminal Code of the Republic of Lithuania, is not regarded as crime or misdemeanour.
  - 2) if a criminal act has been committed within the territory of the Republic of Lithuania;
  - 3) if a person is prosecuted for a crime of a political nature;
  - 4) if a person has been convicted for a criminal act, acquitted or released from criminal liability or punishment;
  - 5) if the crime committed by a person is punishable by the death penalty in another state;
  - 6) in the event of lapse of time for criminal liability or execution of the judgement;
  - 7) if a person has been released from serving the sentence under an amnesty law or by pardon;
  - 8) if there are other grounds provided for in international agreements to which the Republic of Lithuania is a party;
4. Persons who, under the laws of the Republic of Lithuania, have been granted asylum, shall not, under the criminal law of the Republic of Lithuania, be punished for criminal acts for which they were prosecuted abroad and shall not be extradited to foreign states, with the exception of cases provided for in Article 7 of the Criminal Code of the Republic of Lithuania.

### **Article 711. Surrender of persons under the European arrest warrant**

1. A citizen of the Republic of Lithuania or a foreigner, who is suspected of committing a criminal act or has not served penalty that provides deprivation of liberty in the country issuing the European arrest warrant, shall be surrendered to that country on the grounds provided for in Article 9<sup>1</sup> of the Criminal Code of the Republic of Lithuania.
2. A person shall be surrendered to the country issuing European arrest warrant according to the procedure laid down in Articles 72-77 of this Code. If the person has given his consent to be surrendered to the country issuing European arrest warrant, the decision on his surrender must be taken no later than in 10 days after the receipt of his written consent. In other cases the decision on his surrender must be taken no later than within a period of 60 days from the day of the person's detention.
3. In exceptional cases, the terms provided for in paragraph 2 of this Article might be prolonged to 30 days, however the requesting institution of the country issuing European arrest warrant must be immediately notified about the reasons thereof. If in special cases it is still not possible to stick to the term, Eurojust must be informed about the reasons for the delay.
4. If the European arrest warrant was issued in respect of a person that enjoys the immunity regarding criminal jurisdiction or where there is no permission of the competent authority for his criminal prosecution, when such permission is required, the time limits mentioned in the paragraphs 2 and 3 shall begin only after the immunity of that person has been waived or the permission for his criminal prosecution is given by a competent institution. The Office of the Prosecutor General must address a competent authority of the Republic of Lithuania to receive such a permission or to waive his immunity.
5. The person shall be surrendered to the country issuing the European arrest warrant only for the criminal prosecution of criminal acts or the execution of a sentence that were mentioned in the European arrest warrant. If the issuing state renders a request for the criminal prosecution or execution of a sentence for criminal acts, for which the European arrest warrant can not be issued, the request shall be dealt together with the European arrest warrant. The court examining a case regarding a person's surrender under the European arrest warrant may agree that the person shall be surrendered also for this criminal act if it is prohibited under the criminal laws of the Republic of Lithuania.
6. If after the Republic of Lithuania has surrendered a person on the basis of the European Arrest warrant a foreign state renders a request regarding a person's criminal prosecution or execution of the imposed sentence for a criminal act for which the person has not been surrendered under the European arrest warrant or regarding the person's surrender or extradition to a third state, the request shall be examined and the consent given by the Office of the Prosecutor General of the Republic of Lithuania. The Office of the Prosecutor General of the Republic of Lithuania may disagree indicating the reasons with criminal prosecution of a person or the execution of the imposed sentence for a criminal act for which the European arrest warrant has not been issued or with surrender of person to another Member State if there are basis and (or) conditions for non-execution of the European arrest warrant as provided for in Article 9<sup>1</sup> of the Criminal Code of the Republic of Lithuania. A consent regarding the surrender to a third state (not a Member State) of a person, surrendered to a foreign state under the European arrest warrant, can be issued in accordance to international agreement to which the Republic of Lithuania is

a party or other legal acts. The Office of the Prosecutor General must give its consent or object to the person's criminal prosecution, execution of the imposed sentence, the surrender or extradition of a person to a third state within 20 days after the receipt of the request. The consent of the Office of the Prosecutor General to the criminal prosecution of a person, surrendered to the state issuing the European arrest warrant, or execution of the imposed sentence for a criminal act for which he has not been surrendered under the European arrest warrant, or regarding the surrender or extradition of a person to a third state shall be approved by a judge of Vilnius Regional Court within 10 days.

7. By the request of the state that has issued the European arrest warrant, the Office of the Prosecutor General shall ensure the seizure and handing over to the requesting state the property that is necessary as evidence or has been acquired by the requested person as a result of the offence. If this property has to be confiscated or returned to its lawful owners according to the law of the Republic of Lithuania, the Office of the Prosecutor General may only temporarily hand this property over to the requesting state, as long as it is needed for criminal proceedings in the state issuing the European arrest warrant.

#### **Criminal Procedure Code Article 75. Simplified Procedure of Extradition from the Republic of Lithuania**

1. In the cases provided for in an international agreement to which the Republic of Lithuania is party a simplified procedure of extradition of a person from the Republic of Lithuania may be used.

2. A simplified procedure of extradition of a person from the Republic of Lithuania shall be used subject to a written consent of the extraditable person and approval of the Office of the Prosecutor General. In this case, a prosecutor of the Office of Prosecutor General shall file an application for extradition with the Vilnius County Court.

3. A judge of the Vilnius County Court shall, within three days, hold a hearing where the extraditable person, the counsel for the defence and the prosecutor must be present. During the hearing the judge shall ascertain whether the extraditable person gave his consent to be extradited from the Republic of Lithuania voluntarily and whether he is aware of the legal consequences of extradition also whether the Office of the Prosecutor General approves the simplified procedure of extradition from the Republic of Lithuania. A record of the hearing shall be taken.

4. Where the judge is satisfied that the extraditable person gave his consent to be extradited from the Republic of Lithuania voluntarily and is aware of legal consequences of his extradition, and that the Office of the Prosecutor General has approved the simplified procedure of extradition from the Republic of Lithuania, he must render an order to extradite the person. Where the extraditable person waives his consent the judge must render an order to apply the extradition procedure as per Articles 73 of this Code.

#### **Criminal Procedure Code Article 77. Temporary Transfer of an Arrested or Convicted Person to Another State or the International Criminal Court for the Performance of Procedural Acts**

1. In cases provided for and following the procedure established by an international agreement to which the Republic of Lithuania is a party, an arrested or convicted person

may be transferred temporarily to another state or the International Criminal Court for the performance of procedural acts.

2. A decision on temporary transfer of an arrested or convicted person and the conditions of such a transfer shall be taken by the Office of the Prosecutor General.

### **Criminal Procedure Code Article 107. Voluntary Compensation for Damage**

A suspect or an accused, or a person financially responsible for his actions may, at any stage of the proceedings, compensate voluntarily to a victim for the damage caused by a criminal act. Upon receiving a motion from a victim that he has been compensated for the damage caused by a criminal act, a civil action in a criminal case shall not be instituted and, where instituted, it will be terminated and an interim restriction of property rights related to this shall be revoked.”

### **Criminal Procedure Code Article 109. Civil Action in a Criminal Case**

A victim who has sustained damage to his property, physical or moral damage shall be entitled to bring a civil action in a criminal case against the accused or the persons who bear financial responsibility for the actions of the accused, and the civil action shall be heard by a judge or the court together with the criminal case.”

### **Criminal Procedure Code Article 110. The Plaintiff**

1. A natural or a legal person who requests, in a criminal case, compensation for damage to his property, physical or moral damage caused to him by the act of a suspect or the accused shall be held the plaintiff. The person shall be held the plaintiff by a decision of the prosecutor or by a court order.

2. The plaintiff shall be entitled:

- 1) to submit explanations on the substance of a civil action;
- 2) to provide evidence;
- 3) to make motions and challenges;
- 4) to examine, in court, the materials of the case, to have extracts or copies of the documents he needs;
- 5) to be present during the court hearing;
- 6) to lodge a complaint against the actions and to appeal against the decisions of the pre-trial investigation officer, the prosecutor, the judge or the court to the extent they relate to the civil action;
- 7) to be present during the appeal hearing of the case;

3. The plaintiff must:

- 1) be present during the hearing of the case by the court of the first instance and uphold the action; non-appearance of the plaintiff during the trial without good cause shall allow the court not to proceed with the civil action.
- 2) submit, at the court's request, documents in his possession which are relevant for the action brought;
- 3) observe the rules of procedure established by court.”

### **Criminal Procedure Code Article 111. Defendant in a Civil Action**

1. Parents, guardians, foster parents and other persons as well as enterprises, institutions and organisations which, under law, bear financial responsibility for damage caused by the criminal act committed by the suspect or the accused, may be held the plaintiffs in a civil action. A person shall be held the plaintiff in a civil action by a decision of the prosecutor, or an order of the judge or the court.
2. Both the defendant and the plaintiff in a civil action shall, under paragraph 2 of Article 104 of this Code, enjoy the same rights.
3. The plaintiff in a civil action must:
  - 1) be present during the hearing of the case at the court of the first instance; the non-appearance of the defendant in court does not suspend the hearing of a civil action;
  - 2) observe the rules of procedure established by court.”

### **Criminal Procedure Code Article 112. Bringing a Civil Action**

1. A civil action shall be brought by filing a claim with the prosecutor or the court at any stage of the proceedings but not later than before the commencement of the trial. The victim who has failed to file a civil action in a criminal case shall be entitled to enter a claim under the civil procedure.
2. A civil action entered in a criminal case shall be exempt from the stamp duty.
3. A plaintiff shall be entitled to withdraw his claim before the court leaves for the chambers to consider the judgement.
4. Dismissal of a civil action by a judgement in a criminal case shall forfeit/ deprive the plaintiff of the right to bring the same civil action under the civil procedure. Dismissal of the action under the civil procedure shall forfeit the plaintiff of the right to being the same action in a criminal case.”

### **Criminal Procedure Code Article 113. Hearing of a Civil Action**

1. A civil action entered in a criminal case shall be adjudicated under the rules of this Code.
2. If, during the hearing of a civil action, issues arise the determination whereof is not regulated by this Code, appropriate norms of the civil procedure must be applied provided they do not contradict the provisions of the criminal procedure.”

### **Criminal Procedure Code Article 114. Transfer of a Civil Action to a Court Hearing a Bankruptcy Case**

Where the accused of a civil action in a criminal case is an enterprise against which bankruptcy proceedings have been instituted, the civil action in this case may not be heard, and all the documents relevant for the civil action may, by a decision of a prosecutor or the court order, be transferred to the court hearing the bankruptcy case. The accused in a civil action must be notified about this and the rights which he has in a bankruptcy case must be explained to him.”

### **Criminal Procedure Code Article 115. Disposal of a Civil Action**

1. When rendering a conviction, the court shall, with account of the admissibility of the grounds and amount of the claim, grant the claim filed, in full or in part, or dismiss it. When granting the civil action, the court may not adhere to the extent of the claim if its amount does not affect the qualification of the offence and the magnitude of the penalty
2. In exceptional cases, when it is impossible to compute the civil action, without adjournment of the criminal case or without obtaining additional materials, the court, when rendering the judgement, may grant the plaintiff the right of satisfaction of the claim, and to transfer consideration of the amount of the claim in the civil procedure.
3. When rendering an acquittal the court :
  - 1) shall reject the civil action unless participation of the accused has been proved in committing a criminal act;
  - 2) shall not proceed with the civil action where the accused is acquitted on the grounds of absence of elements of a criminal act. If the civil action is not proceeded with, the plaintiff shall be entitled to re-enter it in the civil procedure.”

### **Criminal Procedure Code Article 116. Remedies in a Civil Action**

During the proceedings, a pre-trial investigation officer, a prosecutor or the court must invoke remedies for the pending civil action: to discover property belonging to a suspect or an accused, or persons who bear financial responsibility for the actions of the accused and impose attachment on the property.”

### **Criminal Procedure Code Article 117. Prosecutor’s Duty to Bring a Civil Action**

A prosecutor who acts as the prosecuting party during the trial must bring a civil action if it has not yet been entered where damage has been caused by a criminal offence to the State or a person who, because of minority, illness, dependence upon the accused or any other reasons, is incapable to protect his lawful interests in court and has not representative acting on his behalf.”

### **Criminal Procedure Code Article 118. Providing Advance at State Expense**

If an accused or persons financially responsible for his actions cannot afford to compensate damage to the victim. In cases provided for by law, damage may be compensated in advance at State expense.”

### **Criminal Procedure Code Article 121. General Principles of Imposing Provisional Measures**

1. Arrest, house arrest and obligation of separation from the victim may be imposed only by a ruling of a court or the pre-trial investigation judge; other provisional measures - pursuant to a prosecutor’s order or a ruling of a court or the pre-trial investigation judge.

In emergency cases provisional measures, such as the seizure of documents, injunction to report periodically to the police, recognizance, observation by the command of the unit where the soldier is doing his service, committal of a minor to the supervision of his parents, guardians or other natural persons or legal entities providing childcare, may be imposed by an order of a pre-trial investigation officer. In such case the pre-trial investigation officer must promptly notify the prosecutor in writing about the imposed preventive measures.

2. Provisional measures may only be imposed where there are sufficient data allowing to believe that the suspect committed a criminal act.
3. Several provisional measures less severe than detention may be employed at a time.
4. When deciding whether there is a need to employ a provisional measure and selecting its type, the pre-trial investigation officer, the prosecutor, the judge or the court must take into account the gravity of the criminal act committed by the suspect, his personality, whether he has a permanent residence and a job or any other legal source of living, his age, condition his of health, his marital status and other circumstances which might be pertinent when determining this issue.
5. A provisional measure may also be employed for an accused and the convicted person.

#### **Criminal Procedure Code Article 127. Duration of Detention and Extension of its Term**

1. The duration of detention may not exceed six months. A definite term shall be determined by the pre-trial judge in the ruling ordering the detention; however, initially detention may not be imposed for a period exceeding three months. Extension of the detention, which shall not exceed six months, may be authorised by the same judge or by another pre-trial investigation judge of the court of the same district or another district.
2. The term of detention stated in paragraph 1 of this Article may be extended by a judge of a regional court due to a great complexity or large scope of the case; however, such extension shall not exceed three months. The term of detention may be repeatedly extended; however, such term of detention may not exceed eighteen months during the pre-trial investigation, and the term of detention of minors may not exceed twelve months.
3. If the extension of detention is sought during the pre-trial investigation, the prosecutor must petition the pre-trial investigation judge or, where the term of detention already exceeds six months or where the overall term of detention would exceed six months as a result of extension, a regional court at least ten days before the expiration of the term of detention or, where detention was imposed or extended for a term not exceeding one month, at least five days before the expiration of the previous term or the extended term.
4. The prosecutor's petition must provide data specified in Article 125(2) of this Code. Where the overall term of detention would exceed six months as a result of extension or where the term of detention already exceeds six months, the petition must state the reasons why the case should be qualified as being very complex or large-scale, and list the principal steps of the pre-trial investigation taken after the detention was imposed or after the last extension of the term.
5. The court may not dismiss the prosecutor's petition for the extension of the term of detention merely for the reason that such a petition was filed after the deadline stated in paragraph 3 of this Article.

6. To decide on the issue of the extension of detention during the pre-trial investigation the pre-trial investigation judge or the judge of a regional court must hold a hearing to which the counsel for the defence and the prosecutor must be summoned. The presence of the said persons during such a hearing is obligatory. Where needed, the detainee may be brought to the hearing. The detainee must be brought to the hearing if the hearing decides on the extension of detention that already exceeds six months.

7. In a hearing specified in paragraph 6 of this Article, the judge shall rule to extend or not to extend the term of detention. The judge will rule not to extend the term of detention, if he discovers that no pre-trial investigation actions were performed during the last two months of the application of the provisional measure (detention), and the prosecutor fails to give any objective reasons as to why such actions were not performed. The contents of the judge's ruling shall be pursuant to Article 125 of this Code.

8. If the judge rules not to extend the term of detention, the detainee will be released only upon the expiration of the previous or extended term of detention. However, if the judge establishes that detention was imposed or extended in the absence of necessary conditions or ground, he may decide to release the detained person immediately.

9. After the case is referred to court, the issue of extension of detention shall be determined by the court under whose jurisdiction the case falls, irrespective of whether or not a prosecutor's petition has been received to that effect. If the court refers the case to a prosecutor, the term of detention may be extended for the period not exceeding three months.

#### **Criminal Procedure Code Art. 145(1)**

Upon reasonable belief that there are, in some premises or any other place, instruments of an offence, tangible objects and valuables obtained or acquired in a criminal way also objects or documents that might be relevant for the investigation or that certain persons have them a pre-trial investigation officer or a prosecutor may carry out search with a view of discovering and seizing them.

#### **Criminal Procedure Code Art. 147(1)**

1. If it is necessary to seize tangible objects or documents of value for the investigation, and if it is known where and at whose place precisely they are, the pre-trial investigation officer or the prosecutor may effect a seizure. A seizure shall be effected under a reasoned order of the pre-trial judge. In cases of utmost urgency, a seizure may be effected under a decision of the pre-trial investigation officer or the prosecutor <...>.

#### **Criminal Procedure Code, Article 151. Temporary Limitation of the Property Rights**

1. With a view of securing a civil claim or a likely confiscation of property, a temporary limitation of the property rights of a suspect or a natural person who is financially responsible for the actions of the suspect, or of other natural persons who have possession of the property received or acquired in a criminal way may be imposed by a decision of a prosecutor. A temporary limitation on the property rights may be imposed together with a seizure or search.

2. A temporary limitation of the property rights of a legal person may be imposed:
  - 1) in order to ensure a likely confiscation of the property in the cases provided for by article 72 of the criminal Code of the Republic of Lithuania;
  - 2) in order to secure a civil claim where there is a sufficient ground for bringing a civil action against a legal person;
3. The property of a person for whom a temporary limitation of the rights of property is being imposed, shall be charged in the presence of persons indicated in paragraph 4 of article 145 of this Code. All the property charged must be shown to the persons present. The charging list must indicate the quantity of the objects charged and their individual features. A temporary limitation of the property rights, under a list established by the laws of the Republic of Lithuania, may not include objects which are necessary for the suspect, his family members or persons dependant upon him.
4. The property with respect to which a temporary limitation of property rights is being imposed shall, at the prosecutor's discretion, be transferred into the custody of a representative of the municipal institution, or of the owner of the property or member of his family, or his close relative, or other person. It must be explained to the aforesaid persons that they are liable under Article 246 of the Criminal Code of the Republic of Lithuania for squandering of this property or its concealment. For this purpose, a written promise shall be taken to that effect. In the event of a necessity, this property may be taken from them. Where a temporary limitation imposed on bank deposits, all transactions involving them shall be suspended provided the decision on a temporary limitation of the property rights does not provided otherwise.
5. A person on whom a temporary limitation of the rights of property were imposed shall be entitled to appeal against the decision of a prosecutor to the pre-trial investigating judge. Such an appeal must be examined by the pre-trial investigation judge within three days from the receipt of the appeal. The decision of the investigating judge may be appealed against to a higher court the decision whereof shall be final and not subject to appeal.
6. A prosecutor's decision on a temporary limitation of the property rights may not be longer than for a period of six months. This term may be extended by a court ruling of a pre-trial investigation judge but for not more than two periods of three months. The refusal of the Pre-trial investigation judge to extend the temporary limitation of the property rights shall be appealed following the procedure set forth in Article 65 of this Code. When the case is forwarded to the Court, the Court, disposing of the case, decides concerning the imposition of temporary limitation of the property rights or its application. He court ruling may be appealed against according to the procedure set in the Section X of this Code.
7. The number of extensions in the cases involving serious and grave crimes or if a suspect absconds justice shall not be subject to any limits.
8. A temporary limitation of the property rights shall be cancelled by the decision of a prosecutor or a court order where this measure becomes unnecessary.

**Criminal Procedure Code Article 154. Monitoring, Recording and Storage of Information Transmitted Through Electronic Means of Communication**

1. Where there is a prosecutor's request, by an order of the investigating judge, a pre-trial

investigation officer may intercept telephone conversations transferred through electronic means of communication, make recordings thereof and monitor other information transmitted through electronic means of communication if there are grounds to believe that in this way data may be obtained about less serious, serious and grave crimes or misdemeanours provided for in the Criminal Code Article 170, Article 198(2)(1), Article 226(1) and Article 227(1) attempted, being committed or committed, or if there is a danger that violence, coercion or other illegal actions may be used against a victim, witness or other parties to the proceedings or their relatives. In cases of extreme urgency, these actions may be also applied by a decision of a prosecutor; however, if this is the case, within three days from the start of these actions a consent of the investigating judge must be obtained. If no such consent is obtained, the actions that have been initiated must be cancelled and recordings made must be destroyed.

2. In accordance with the procedure established in Paragraph 1 herein, the information transmitted through electronic means of communication may be monitored and recorded, except for its content, if there are grounds to believe that it will help obtain data about the less serious crimes provided for in the Criminal Code of the Republic of Lithuania Articles 166, 170, 198(1) and 309 (1 and 2).

3. Interception of telephone conversations or monitoring of other information transmitted via electronic means of communication may not last longer than for six months. When investigating a complicated or large-scale criminal act, this measure may be extended once for another three months.

4. The enterprises providing electronic means of communication and/or related services must provide conditions for interception of telephone conversations or monitor other information transmitted through electronic means of communication, make recordings and storage thereof. The employees of the communications enterprises who fail to discharge this obligation or who obstruct carrying out of the actions specified in this Article may be punished by a fine pursuant to Article 163 of this Code.

5. Interception of conversations over the telephones of the victims, witnesses or other parties to the proceedings may be effected at the request of these persons or with their consent even where there is no order of the investigating judge and where the services and facilities of a communication enterprise are not used.

6. It shall be prohibited to intercept conversations of a defence lawyer with a defendant transmitted through the electronic means of communication, make recordings thereof, made monitoring or storage thereof.

7. A record made by a pre-trial investigation officer about the fact of monitoring of the contents of the information transmitted through electronic means shall outline only the contents of an audio recording relevant for the case. Audio recordings immaterial for the case shall not be attached to the case and shall be destroyed forthwith, and an appropriate statement shall be drawn up by a decision of a prosecutor.

#### **Criminal Procedure Code Art. 155. The Prosecutor's Right to Examine the Information**

(1) Upon passing a decision and having obtained a consent of an investigating judge, the prosecutor shall have the right to come to any State, public or private agency, enterprise or organization and request to be provided for the examination of the necessary

documents or any other appropriate information, make recordings or make copies of documents and information , or receive specified information in written form if this is necessary for the investigation of a criminal act.

(2) Persons who refuse to provide the requested information or documents to the prosecutor may be punished by a fine pursuant to **Article 163** of this Code.

### **Criminal Procedure Code Article 155. The Prosecutor's Right to Examine the Information**

1. Upon passing a decision and having obtained a consent of an investigating judge, the prosecutor shall have the right to come to ant State, public or private agency, enterprise or organisation and request to be provided for the examination of the necessary documents or any other appropriate information, make recordings or make copies of documents and information if this is necessary for the investigation of a criminal act.

2. Persons who refuse to provide the requested information or documents to the prosecutor may be punished by a fine pursuant to **Article 158** of this Code.

3. The prosecutor may use the information gathered in the manner specified in paragraph 1 of this Article only for the investigation of a criminal act. The prosecutor must immediately destroy the information not necessary for this.

4. A pre-trial investigation officer, under the prosecutor's instruction, may also examine the information in the manner specified in this Article.

5. Separate laws may lay down restrictions on the prosecutor's rights to examine the information.

### **Criminal Procedure Code Article 157(1)**

During the investigation of a criminal act an investigating judge shall, on an application of a prosecutor, order suspension of a suspect from his position or prohibit him from engagement in certain activities if this is necessary for a speedier and more objective investigation of a criminal act or prevent him from committing new criminal acts. The order shall be forwarded for enforcement to the place of the suspect's employment.

### **Criminal Procedure Code Article 158. Actions of Pre-Trial Investigation Officers without Disclosing Their Identity**

1. When investigating serious and grave crimes, as well as less serious crimes provided for in Chaptters XXVIII and XXXVII of the Criminal Code of the Republic of Lithuania as well as the crimes provided for in Article 225(1), 226(1), 227(1 and 2) and 228 of the Criminal Code, officers of a pre-trial investigation institution may conduct investigation without disclosing their identity. These officers may use a mode of conduct simulating a criminal act following the procedure provided by Article 159 of this Code.

2. Activities of the officers of a pre-trial investigation institution without disclosing their identity shall be authorised by an order of the pre-trial judge and on condition that there is sufficient information about criminal activities of the person subject to a pre-trial investigation. A pre-trial judge shall make an order for undercover activities upon receiving a prosecutor's application which in its contents must correspond to the contents

of an order indicated in paragraph 3 of this Article.

3. An order authorising officers of a pre-trial investigation institution to perform actions without disclosing their identity must indicate the following:

- 1) persons who will perform undercover actions;
- 2) a person against whom undercover actions must be performed;
- 3) data about a criminal act of the person;
- 4) concrete actions which are authorised to be performed;
- 5) the result sought;
- 6) duration of undercover actions.

4. When conducting investigation following the procedure set forth in this Article, it shall be prohibited to incite/induce a person to commit a criminal act.

5. Officers of a pre-trial investigation institution when conducting investigation in the manner specified in this Article may not resort to procedural coercive measures where a separate decision or an order relating to that has not been made in the manner specified in Part Three of this Code, save in the cases of utmost urgency provided for by this Code.

6. In special cases when there are no other possibilities to detect the persons committing criminal offences, investigation may also be conducted by persons who are not officers of a pre-trial investigation in the manner specified in this Article.

7. The persons who conducted investigation in the manner specified in this Article may, where necessary, be examined as witnesses. Where there are grounds indicated in Part Four, Chapter Two, Section Four of this Code, the aforesaid persons may be granted anonymity.

### **Criminal Procedure Code Article 159. Authorisation to Simulate a Criminal Act**

1. A prosecutor, upon receiving information from a person about a suggestion to commit a criminal offence or to participate in the commission of such an offence, may file with a pre-trial judge an application which in its content must be in conformity with an order referred to in paragraph 2 of this Article to authorise the person to commit actions simulating a criminal act in order to detect the persons who commit criminal offences.

2. When giving an authorisation to commit actions simulating a criminal act, the pre-trial judge must make an order specifying the following:

- 1) the person who is being authorised to commit actions simulating a criminal act;
- 2) the person against whom such actions must be performed;
- 3) Information about a criminal act of a person against whom the actions must be performed;
- 4) concrete actions which are authorised to be performed;
- 5) the result sought.

3. When performing actions simulating a criminal act it shall be prohibited to incite a person to commit a criminal act.

4. It shall be considered that a person who has performed actions simulating a criminal act following the procedure set out in this Article was fulfilling a task of a law enforcement institution under Article 32 of the Criminal Code of the Republic of Lithuania and may not be held criminally liable for carrying out such actions.

### **Criminal Procedure Code Article 160. Secret Surveillance**

1. A pre-trial judge, upon receiving an appropriate application of a prosecutor, may order surveillance of a person or a motor vehicle or an object. In cases of extreme urgency, these actions may be also applied by a decision of a prosecutor or a pretrial investigator; however, if this is the case, within three days from the start of these actions a consent of the investigating judge must be obtained. If no such consent is obtained, the actions that have been initiated must be cancelled and recordings made must be destroyed. The order of a pre-trial judge, a pretrial official or prosecutor for surveillance of a person, a motor vehicle or an object must specify the following:

- 1) the person, the motor vehicle or the object the surveillance of which is ordered;
- 2) information motivating the necessity of such a measure;
- 3) the duration of surveillance.

2. If a video or audio recording or filming is wanted/intended during surveillance this must also be provided for in the order of the pre-trial judge, pretrial official or a prosecutor.

3. The statement of Secret surveillance and other case material related to such surveillance shall be developed in compliance with rules established in Article 201 of the Code of Criminal Procedure.

4. The officer who performed secret surveillance may be interviewed as a witness. The interview shall be performed in compliance with Article 203 and 282 of the Code and identification parade shall be carried out in compliance with Article 204 of the Code.

### **Criminal Procedure Code Article 171. Actions of Pre-Trial Investigation Institutions Before the Commencement of a Pre-Trial Investigation**

1. 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 shall forthwith commence a pre-trial investigation and shall, at the same time, notify a prosecutor about it.

2. Upon receiving such a notification, the prosecutor shall 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 a 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.

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

### **Criminal Procedure Code Article 177. Confidentiality of Pre-Trial Investigation Information**

1. Pre-trial investigation information shall not be made public. It may be made public only if sanctioned by the prosecutor and only to an extent, which is determined as

permissible. It shall be forbidden to make information about juvenile suspects or victims public.

2. When necessary, a prosecutor or a pre-trial officer shall warn the parties to the proceedings or other persons witnessing the procedural actions of the pre-trial proceedings that it is forbidden, to make the information about the pre-trial investigation public without the prosecutor's sanction. In such case a person shall be warned against his signed acknowledgement about his liability under Article 247 of the Criminal Code of the Republic of Lithuania.

### **Criminal Procedure Code Article 198. The Procedure of Right of the Victim or the Witness to Request to be Granted Non-Disclosure of Their identity**

1. Following the procedure established by this Code, the victim or the witness may request that the prosecutor or a pre-trial investigation officer grant to them non-disclosure of their identity.

2. Where there are grounds the prosecutor or the pre-trial investigation officer shall grant to the victim or witness non-disclosure of their identity; in addition, he shall make use of measures provided for in this Code to ensure confidentiality of the identification documents of the victim or witness who are subject to non-disclosure of identity. The victim or witness may request the prosecutor or a pre-trial judge to be ensured anonymity in compliance with the procedure established by this Code.

### **Criminal Procedure Code Article 199. Principles of Ensuring Non-Disclosure of Identity of the Victim and Witness**

1. Non-disclosure of identity of the victim and witness may be used where:

- 1) there is a threat of real danger for the life, health, freedom or property of the victim, the witness or the members of their family or close relatives;
- 2) the evidence of the victim or the witness is of great importance for the criminal case;
- 3) the victim or the witness are taking part in a case relating to a grave or very grave crime;

2. Non-disclosure of identity shall be applied in respect of the victim or the witness where there are all the grounds listed in this Article.

#### **Code of Criminal Procedure Article 199<sup>1</sup>. Partial anonymity.**

1. In the event that there are grounds provided for in Article 199 of the present Code, as well as in other cases when there is data available that the disclosure of certain data of a witness or a victim would adversely affect the rights and legitimate interests of these persons, their family members or close relatives, and the classifying of a part of data on the witness or the victim is sufficient to ensure the protection of these rights and interests, partial anonymity may be applied.

2. In the event that there are circumstances specified in Paragraph 1 of this Article, a prosecutor or a pre-trial investigation officer shall, by passing a resolution, to apply partial anonymity, establish the volume of data to be classified. The name and surname,

the date of birth, the personal code, the residence address, the profession, the place of employment or education, family relations, as well as other data of a witness or a victim (save for data on the relations of the witness or victim with the suspect) may be classified, the classifying of which shall be based on the circumstances specified in Paragraph 1 of this Article.

3. The victim and the witness who are subject to partial anonymity by classifying their names and surnames shall be indicated with a specific number in the investigation action documents and other documents of the case.

4. In cases of partial anonymity, investigation actions shall be conducted and documents of the case shall be drafted in accordance with the regular procedure provided for by the present Code, and the classified data shall be recorded, kept and used in accordance with the procedure established in Article 201 of the present Code, save for exceptions provided for in this Article.

### **Criminal Procedure Code Article 200. Procedure of Ensuring Non-Disclosure of Identity of the Victim or the Witness**

1. The victim or witness may request to be ensured non-disclosure of identity during the examination by having an appropriate entry made in the record or by a separate application.

2. Having determined that there is a reasonable basis to ensure non-disclosure of identity, the prosecutor or the pre-trial investigation officer must, in addition, check whether the victim or the witness:

1) has no physical or mental handicap which prevent him from clearly understanding the circumstances relevant to the case and provide truthful testimony about them;

2) has any previous convictions for perjury;

3) may give false evidence against the suspect for personal or egoistic motives.

3. If there is a reasonable basis to ensure non-disclosure of identity and in the absence of the circumstances referred to in paragraph 2 of this Article, the prosecutor or an officer of a pre-trial institution shall make a reasoned decision. The decision of an officer of a pre-trial investigation institution must be confirmed by the prosecutor.

4. A decision or an order to ensure non-disclosure of identity shall be held separately from the dossier of the case and shall be kept in accordance with the procedure set forth in Article 201(2).

### **Criminal Procedure Code Article 201. Characteristics of the Contents of the Documents Relating to Investigation and Other Documents of the Case where the Victim and the Witness Are Subject to Non-Disclosure of Identity**

1. The victim and the witness who are subject to non-disclosure of identity shall be indicated in the documents of investigation and other documents of the case by a number.

2. The real data about the identity of the person shall be recorded in a special supplement to the record of an investigation act. The supplement shall be kept in an envelope. The prosecutor or an officer of a pre-trial investigation institution shall seal the envelope, sign it and keep it separately from the criminal case dossier. The special supplement in the envelope may be inspected by the prosecutor or the pre-trial investigation officer, or the pre-trial judge. After inspecting the document inside the envelope, the aforesaid persons

shall seal it again and sign it.

3. The envelope shall be kept by the prosecutor or at the pre-trial investigation institution which is conducting investigation of the case. Upon the request of the court the envelope shall be personally delivered to the judge.

4. In cases when non-disclosure of identity is ensured, the record of an investigation act, a decision or any other case document shall be made and signed by the prosecutor, a pre-trial investigation officer or the pre-trial judge who performed the act. After each step in the investigation or making of a decision, it shall be noted in the special supplement to the record referred to in paragraph 2 of this Article that the victim or the witness studied the record of an investigation act and the decision. This shall be confirmed by them by their signature.

5. No information shall be put in the records of investigation acts, decisions, orders and other documents of the case which could make possible establishment of the identity of the victim or the witness subject to non-disclosure of identity who participated in the investigation act or who were mentioned in any other document.

#### **Criminal Procedure Code Article 202. Liability for Disclosure of Identity of the Victim or the Witness Who are Subject to Non-Disclosure of Identity**

Information which enables to disclose the identity of the victim or the witness documented and made confidential following the procedure indicated in Article 196 of this Code shall be a state secret. Only the prosecutor, a pre-trial investigation officer and the judge participating in the case shall have the right to have access to the information about the witness's identity. They shall be held liable for the disclosure of confidential information under Article 125 of the Criminal Code of the Republic of Lithuania.

#### **Criminal Procedure Code Article 203. Questioning by the Pre-Trial Judge of the Victim Subject to Non-Disclosure of Identity**

1. The pre-trial judge shall question the victim or the witness subject to non-disclosure of identity in accordance with the rules laid down in Articles 183 and 184, and exceptions provided by this Article.

2. The pre-trial judge may determine that the questioning must be conducted without the presence of the counsel for the defence at the place where the questioning is taking place. In such a case after questioning the person shall inform the counsel for the defence about the evidence obtained. After that, the counsel for the defence shall have the right to put questions to the victim or the witness thought the judge. If the questions asked may help divulge the identity of the person subject to questioning, the pre-trial judge shall have the right not to ask the questions or re-formulate them. The answers to the counsel for the defence's questions shall be entered in the record of the questioning which the counsel for the defence shall be entitled to examine after the questioning.

3. The prosecutor may be present during the questioning of the victim or the witness who is subject to non-disclosure of identity.

#### **Criminal Procedure Code Article 204. Characteristics of the Identification Parade**

### **and Identification by Confrontation for the Victim or Witness**

1. If the person who is to make identification is a person subject to non-disclosure of identity the identification parade shall be conducted by providing acoustic and visual obstacles for establishing the identity of the identifier.
2. If the person to be presented for identification by confrontation is subject to non-disclosure of identity the identification by confrontation shall be conducted by providing measure provided for in paragraph 1 of this Article.

### **Criminal Procedure Code Article 365. Enforcement of Foreign Judgements and Decisions of International Criminal Court**

1. The foreign judgements and decisions of the International Criminal Court shall be enforced in the Republic of Lithuania pursuant with the procedure under Part VII of the Code.
2. The court of the place of enforcement of the sentence at the request of the enforcement authority shall coordinate the sentence imposed by the foreign court to the provisions of criminal laws and laws of the enforcement of the punishments of the Republic of Lithuania as provided for by Article 362 of the Code.

## **Law on Corruption Prevention of the Republic of Lithuania**

### **Corruption Prevention Law Article 10**

1) Anti-corruption education is an integral part of raising public awareness with a view to promoting personal integrity, civic responsibility, understanding of human rights and duties to society and the State of Lithuania, and ensuring the implementation of the aims of corruption prevention.

2) Anti-corruption education of the public shall be carried out at the educational institutions of all types and levels in accordance with the appropriate educational programmes, through media and by other means.

3) The state and municipal institutions shall inform the public through the media or by other means about their activities in the fight against corruption

It should be noted that STT conducts anti-corruption seminars and trainings for civil servants every year. Such anti-corruption lectures are developed in compliance with the priorities of STT activities.

### **Corruption Prevention Law Article 16. Other State and Municipal Institutions and Non-Governmental Agencies**

1. While implementing the present Law, state and municipal institutions as well as non-governmental institutions of the Republic of Lithuania shall have the right:

1) to establish, following the procedure prescribed by law, units for the prevention and control of corruption in the area of the activities of the appropriate state or municipal institution or non-governmental agency, or to appoint persons to perform this function;

2) to make recommendations concerning the issues of corruption prevention to state and municipal institutions;

3) to introduce measures encouraging the enforcement of corruption prevention in state and municipal institutions and non-governmental agencies;

4) to receive methodological information from state or municipal institutions, implementing corruption prevention, on the issues of corruption prevention.

2. While implementing the present Law, state and municipal institutions as well as non-governmental institutions:

1) shall, within the limits of their competence, implement the national policy in the field of corruption prevention;

2) shall ensure compliance with the requirements of legal acts on corruption prevention in state and municipal institutions and non-governmental agencies;

3) shall, within the limits of their competence, develop and approve anti-corruption programmes;

4) shall promptly eliminate breaches of the provisions of legal acts on corruption prevention;

5) shall, under the procedure established by the Government, provide to the officers of

the Special Investigation Service the information necessary for the corruption risk analysis;

6) shall not, by act or omission, create conditions contributing to corruption-related criminal acts;

7) shall educate their employees about the issues of corruption prevention.

3. Prevention of corruption at state and municipal institutions and non- governmental agencies shall be the responsibility of the head of the institution. When performing this function, the head shall take measures necessary for the implementation of this Law.

4. The measures necessary for the implementation of corruption prevention at state and municipal institutions and non-governmental agencies shall be financed from their own resources.

## **Law on Banks of the Republic of Lithuania**

### Article 55

“1. The secret of a bank shall be all data and information known to the bank on:

- 1) accounts held in the bank by the bank’s client, the balance of funds in these accounts, the client’s operations performed with the funds in his account, the terms of the contracts on the opening of the accounts by the client;
- 2) liabilities of the bank’s client to the bank and terms of the contracts wherefrom these liabilities have arisen;
- 3) other financial services provided to the bank’s client and terms of the contracts on the provision of the financial services;
- 4) the financial situation and assets of the bank’s client, activities, operating plan, liabilities to third parties or transactions concluded with the third parties, commercial (industrial) or professional secrecy of the client.

2. A bank, the bank’s employees and any third parties being in the possession of the information which is considered a secret of the bank’s may not divulge such information for an indefinite period of time, except in the cases referred to in paragraphs 3-5 of this Article, paragraph 2 of Article 58 of this Law and in other laws.

3. The information which is considered a secret of a bank may be divulged only to the bank’s client whereto the information which is considered a secret of the bank is related or upon his written request specifying to whom and what information must be divulged.

4. A bank shall have the right to divulge the information which is considered a secret of the bank to courts or third parties where this is necessary to protect the legitimate interests of the bank and only to the extent this is necessary to protect the bank’s interests.

5. A bank shall provide the information which is considered a secret of the bank to the institutions referred to in the Law on the Prevention of Money Laundering, also to third parties according to the procedure set forth by laws where, according to the laws, the bank must provide such information thereto.”

## **Law on Prevention of Money Laundering and Terrorist Financing**

### **AML-Law Article 3**

The Government of the Republic of Lithuania (hereinafter referred to as the Government), the Financial Crime Investigation Service under the Ministry of the Interior of the Republic of Lithuania (hereinafter - the Financial Crime Investigation Service), the State Security Department of the Republic of Lithuania (hereinafter - the State Security Department), the Bank of Lithuania, the Customs Department under the Ministry of Finance of the Republic of Lithuania, the Department of Cultural Heritage Protection under the Ministry of Culture of the Republic of Lithuania (hereafter the Department of Cultural Heritage Protection), the Insurance Supervision Commission of the Republic of

Lithuania, the Securities Commission of the Republic of Lithuania, the State Gaming Control Commission, the Chamber of Notaries, the Chamber of Auditors, the Lithuanian Chamber of Bailiffs, the Lithuanian Assay Office and the Lithuanian Bar Association shall be the institutions responsible according to their competence for the prevention prescribed by this Law of Money Laundering and/or Terrorist Financing

#### **AML-Law Article 14. Report of the Suspicious or Unusual Monetary Operations and Transactions**

1. Financial institutions and other entities must report to the Financial Crime Investigation Service about the suspicious or unusual monetary operations and transactions performed by the customer. Such operations and transactions shall be objectively established when financial institutions and other entities perform the ongoing monitoring of the customer business relationship, including the investigation of transactions, concluded during the relationship as established in paragraph 9 of Article 9 of this Law.
2. Financial institutions and other entities, except for notaries or persons entitled to perform notarial actions, the advocates or advocates' assistants, bailiffs or persons entitled to perform the actions of bailiffs, having established that their customer performs a suspicious monetary operation or transaction, must suspend that operation or transaction and not later than within 3 working hours report about the operation or transaction to the Financial Crime Investigation Service, regardless of the amount of the monetary operation or transaction.
3. The Financial Crime Investigation Service shall within 5 working days from the receipt of the information specified in paragraph 2 of this Article or from the giving of instruction specified in paragraph 5 of this Article immediately perform actions, necessary to substantiate or negate the doubts about the criminal actions, allegedly being performed or which have been performed by the customer.
4. From the moment the legality of funds or assets is justified or doubts about possible links with terrorist financing are negated, the Financial Crime Investigation Service must immediately report in writing to the financial institution or another entity, that monetary operations or transactions may be resumed.
5. The financial institutions and other entities, except for notaries or persons, entitled to perform notarial actions, advocates or advocates' assistants, bailiffs or persons entitled to perform the actions of bailiffs, having received from the Financial Crime Investigation Service a written instruction to suspend the suspicious or unusual monetary operations or suspicious or unusual transactions performed by the customer must from the time specified therein or from the moment of emergence of specific circumstances suspend the operations or transactions for up to 5 working days.
6. If the financial institutions and other entities within 5 working days from the submission of the report or receipt of the instruction are not obligated to perform temporary restriction of ownership rights according to the procedure established by the Code of Criminal Procedure, the monetary operation or transaction must be resumed.
7. If the suspension of the monetary operation or transaction may interfere with the investigation of the legalisation of money or assets acquired from crime, terrorist financing or other criminal actions relating to money laundering and/or terrorist financing,

the Financial Crime Investigation Service must report to the financial institution and other entity thereof.

8. The notaries or persons entitled to perform notarial actions, and bailiffs or persons entitled to perform the actions of bailiffs, when it is suspected that the transaction

concluded by their customer may be related to money laundering and/or terrorist financing, must submit to the Financial Crime Investigation Service the data confirming the customer's identity and other information specified in paragraph 1 of Article 17 of this Law immediately after the conclusion of the transaction, regardless of the amount of money received or paid by the customer under the transaction.

9. The advocates or advocate's assistants, when it is suspected that the transaction concluded by their customer may be linked to money laundering and/or terrorist financing, must submit the data confirming the customer's identity and other information specified in paragraph 1 of Article 17 of this Law to the Lithuanian Bar Association immediately after the conclusion of the transaction, regardless of the amount of money received or paid by the customer under the transaction, except in the cases specified in paragraph 11 of this Article.

10. The Lithuanian Bar Association shall not later than within 3 working hours after the receipt of the information specified in paragraph 9 of this Article transfer the information to the Financial Crime Investigation Service.

11. Paragraph 9 of this Article shall not cover the advocates and advocate's assistants when they assess their customer's legal position or defend their customer, or represent him in the legal process or on his behalf, including the provided consultations for the commencement of the legal process or its avoidance.

12. When the monetary operation or transaction may be linked to terrorist financing, the Financial Crime Investigation Service shall not later than within 24 hours from the receipt of the information about the monetary operation or transaction submit it to the State Security Department according to the procedure established by the Government.

13. Under the circumstances established in paragraph 3 of this Article the financial institutions and other entities must submit the information requested by the Financial Crime Investigation Service within 1 working day from the moment of receipt of the application.

14. The financial institutions and other entities, performing ongoing monitoring of the customer's business relationship, including investigation of the transactions concluded during the relationship, must take into account such activity which, in their opinion, due to its type may be related to money laundering and/or terrorist financing, and especially the complicated or especially very large transactions and all unusual structures of transactions, which have no manifest economic or visibly lawful purpose, and business relationship or monetary operations with the customers from third states, in which money laundering and/or terrorist financing prevention measures are insufficient or do not correspond to the international standards. The results of investigation of performing such operations or transactions and of their purpose must be substantiated by documents and must be kept for 10 years.

15. The financial institutions and other entities shall not be responsible to the customer for the non-fulfilment of contractual obligations and for the damage, caused in fulfilling the duties and actions set in this Article. The employees of financial institutions and other entities who in good faith report to the Financial Crime Investigation Service of the

suspicious or unusual monetary operations or transactions performed by the customer shall not be held liable either.

16. The criteria on the basis whereof a monetary operation or transaction are considered suspicious or unusual shall be established by the Government.

17. The procedure for suspending suspicious monetary operations and transaction specified in this Article and for submitting the information about the suspicious or unusual monetary operations or transactions to the Financial Crime Investigation Service shall be established by the Government.

### **AML-Law Article 17. Submitting Information to the Financial Crime Investigation Service**

1. The financial institutions, performing a monetary operation, must submit to the Financial Crime Investigation Service data confirming the customer's identity and information about the performed monetary operation, if the total amount of the customer's single operation in cash or of several interrelated operations in cash exceed EUR 15 000 or the corresponding amount in foreign currency. The data confirming the customer's identity shall be specified in the information submitted to the Financial Crime Investigation Service, and if the monetary operation is performed through the representative - also the data confirming the identity of the representative, the amount of the monetary operation, the currency used in performing the monetary operation, the data of performance of the monetary operation, the type of performance of the monetary operation, the entity on whose behalf the monetary operation has been performed.

2. The notaries or persons entitled to perform notarial actions and the bailiffs or persons entitled to perform the actions of bailiffs must submit to the Financial Crime Investigation Service the data confirming the customer's identity and the information about the transaction concluded by the customer if the amount of cash received or paid under the transaction exceeds EUR 15 000 or the corresponding amount in foreign currency.

3. Other entities, except for the notaries or persons entitled to perform notarial actions, advocates or advocates' assistants and bailiffs or persons entitled to perform the actions of bailiffs shall submit to the Financial Crime Investigation Service the data confirming the customer's identity and information about the single payment in cash, if the amount of the received or paid cash exceeds EUR 15 000 or the corresponding amount in foreign currency.

4. The information specified in paragraphs 1 to 3 of this Article shall be submitted to the Financial Crime Investigation Service immediately, not later than within 7 working days from the day of performance of the monetary operation or conclusion of the transaction.

5. The information specified in paragraph 1 of this Article shall not be submitted to the Financial Crime Investigation Service, if the customer of the financial institution is another financial institution or the financial institution of another EU member state.

6. The Financial Institution may refrain from submitting to the Financial Crime Investigation Service the information specified in paragraph 1 of this Article, if the customer's activity is characterised by large-scale ongoing permanent and regular monetary operations, corresponding to the criteria established by the Government.

7. The exemption referred to in paragraph 6 of this Article shall not be applied, if the

customer of the financial institution is an undertaking of a foreign state, its subsidiary or its representation or he is engaged in the following business :

1) the provision of legal advice, is a practicing advocate, is engaged in a notary's business;

2) organises and runs lotteries and gambling;

3) carries out activities involving ferrous, non-ferrous or precious/rare metals, precious stones, jewellery, works of art;

4) is a car dealer;

5) is in the real estate business;

6) is an auditor;

7) provides individual health care;

8) organises and holds auctions;

9) organises tourism and travels;

10) is a wholesaler in spirits and alcohol products, tobacco goods;

11) is a dealer in oil products;

12) is a dealer in medicinal products.

## **Civil Code of the Republic of Lithuania**

### Article 1.66. Conditional transaction

„4. A transaction shall be null and void if the arising, modification or extinguishment of rights and duties is conditioned by the parties upon the fulfillment of an unlawful condition or a condition incompatible with the public order or good morals, or upon the performance of unlawful actions.“

### **Civil Code Article 1.78. Null and voidable transactions**

1. If the nature of nullity is clearly indicated in the law, a transaction shall be presumed to be null, irrespective of the fact of existence of a court judgement upon its nullity. The parties may not ratify a transaction which is null and void.
2. Any transaction for the declaration of voidability of which a court judgement is necessary, shall be a voidable one.
3. A transaction may be deemed to be null and void only on the grounds established by laws.
4. An action for the voidability of a voidable transaction may be invoked only by the persons indicated in the laws.
5. A claim to apply the legal effects arising from a transaction that is null and void may be invoked by any interested person. Legal effects of a null and void transaction, also the fact of its nullity shall be stated by the court ex officio (on its own motion).

### **Civil Code Article 1.80. Nullity of a transaction that does not correspond to the requirements of mandatory statutory provisions**

1. Any transaction that fails to meet the requirements of mandatory statutory provisions shall be null and void.
2. When a transaction is null and void, each party shall be bound to restore to the other party everything he has received according to that transaction (restitution), and where it is impossible to restore in kind the received, the parties are bound to compensate the received to each other in money, unless the laws provide for other consequences of voidness of the transaction.
3. The rules of restitution are established by Book Six of this Code.
4. The property – object of the transaction that is annulled – may not be claimed from the third person in good faith, except in cases provided for in paragraphs 1, 2 and 3 of Article 4.96 of this Code.

### **Article 1.81. Nullity of a transaction contradicting public order and good morals**

“1. A transaction that is contrary to public order or norms of good morals shall be null and void.”

### **Civil Code Article 2.50. Contractual Liability of Legal Persons**

1. A legal person shall be liable for his obligations by his property, which it owns on the basis of the ownership right or right of trust
2. A legal person shall not be liable for the obligations of its member and the latter shall not be liable for the obligations of the legal person with the exception of cases provided by the law and incorporation documents of a legal person.
3. Where a legal person fails to perform his obligations due to acts in bad faith of a member of the legal person, the member of a legal person shall, in a subsidiary manner, be liable for the obligations of a legal person by his property.
4. Legal persons shall be divided into persons of limited and unlimited civil liability. Where the property of a legal person of unlimited civil liability is not sufficient to discharge its obligations, a member of a legal person shall be liable for the said obligations. Personal (individual) enterprise and commercial partnership shall be legal persons of unlimited civil liability.

### **Article 6.145. Grounds for restitution**

“1. Restitution shall take place where a person is bound to return to another person the property he has received either unlawfully or by error, or as a result of the transaction according to which the property has been received by him being annulled ab initio, or as a result of the obligation becoming impossible to perform because of a superior force. “

### **Article 6.225. Absolute and relative nullity of a contract**

“1. A contract shall be absolutely voidable (null contract) where a violation of the main principles of the Contract law made in forming a contract has conditioned violation not only of the interests of a party of the contract, but also that of the public interests.”

### **Civil Code Article 6.245. Concept and kinds of civil liability**

1. Civil liability is a pecuniary obligation one party of which shall have the right to claim for compensation of damages (damage) or demand payment of the penalty (fine, interest), and the other party shall be bound to make compensation for damages (damage) arising therefrom, or pay the penalty (fine, interest).
2. Civil liability is of two kinds: contractual liability and non-contractual (delictual) liability.
3. Contractual liability is a pecuniary obligation resulting from a failure to perform a contract or from its defective performance where one party of the obligation has the right to claim for compensation of damages or demand payment of penalty (fine, interest), and the other party is bound to make compensation for damages, or to pay penalty (fine, interest) caused by the failure to perform the contract, or by a defective performance thereof.

4. Non-contractual (delictual) liability is a pecuniary obligation which is not related with contractual relations, except in cases where it is established by laws that delictual liability shall also result from damage related with contractual relations.

5. A creditor, before bringing claims for compensation of damages against a person who in accordance with laws or the contract is additionally liable together with another person (subsidiary liability), must claim towards the principal debtor for compensation of damages. If the principal debtor refuses to compensate damages or if the creditor does not receive any answer from the debtor to his claim within reasonable time, the creditor may claim for compensation of damages towards the debtor who is subsidiarily liable.

6. A creditor may not claim for compensation of damages from the subsidiarily liable debtor where the creditor can satisfy his claim by the set-off of a counterclaim of the principal debtor. Before compensating damages to the creditor, the subsidiarily liable debtor must accordingly notify the principle debtor. If the action for compensation of damages is brought against the subsidiarily liable debtor, he must involve the principal debtor to participate in the judicial proceedings as well. Otherwise, the principal debtor may invoke against the counterclaim of the subsidiary debtor all defences which he could have had the right to invoke against the creditor.

#### **Civil Code Article 6.246. Unlawful actions**

1. Civil liability shall arise from non-performance of a duty established by laws or a contract (unlawful refrainment from acting), or from performance of actions that are prohibited by laws or a contract (unlawful acting), or from violation of the general duty to behave with care.

2. It may be established by laws that a person shall be bound to compensate damage he has not caused himself but is responsible for the actions of another person who inflicted the damage (indirect civil liability).

3. Damage caused by lawful actions must be compensated only in cases expressly specified by laws.

#### **Civil Code Article 6.248. Fault as a condition for civil liability**

1. Civil liability shall arise only upon the existence of the fault of the obligated person, except in the cases established by laws or a contract when civil liability arises without fault. The fault of a debtor shall be presumed, except in the cases established by laws.

2. Fault may be expressed by intention or negligence.

3. A person shall be deemed to have committed fault where taking into account the essence of the obligation and other circumstances he failed to behave with the care and caution necessary in the corresponding conditions.

4. Where damage has also been caused through the fault of the creditor himself, the repairable damages shall be diminished in proportion to the degree of gravity of the creditor's fault committed, or the debtor can be released from civil liability.

### **Civil Code Article 6.249. Damage and damages**

1. Damage shall include the amount of the loss or damage of property sustained by a person and the expenses incurred (direct damages) as well as the incomes of which he has been deprived, i.e. the incomes he would have received if unlawful actions had not been committed. Damage expressed in monetary terms shall constitute damages. Where the amount of damages cannot be proved by the party with precision, it shall be assessed by a court.

2. If the person who is liable towards another has derived profit from his unlawful actions, upon the demand of the creditor the profit received may be attributed to damages.

3. The court may postpone the evaluation of damage which has not yet occurred or may evaluate future damage upon assessment of its real probability. In such cases, the court may adjudge either to pay a lump sum or to make instalment payments, or it may obligate the debtor to furnish security upon compensation for damage.

4. In addition to the direct damages and the incomes of which a creditor has been deprived, damages shall comprise:

1) reasonable costs to prevent or mitigate damage;

2) reasonable costs incurred in assessing civil liability and damage;

3) reasonable costs incurred in the process of recovering damages within extrajudicial procedure.

5. Damage shall be assessed according to the prices valid on the day when the court judgement was passed unless the law or the nature of the obligation requires the application of prices that were valid on the day the damage arose or on the day when the action was brought.

6. In the event where one and the same action has created both damage and benefit for the aggrieved person, the benefit received may, to the extent that this does not contradict to the criteria of reasonableness, good faith and justice, be computed into damages to be repaired.

### **Civil Code Article 6.251. Compensation of damages in full**

1. The damages incurred must be compensated in full, except in cases when limited liability is established by laws or a contract.

2. The court, having considered the nature of liability, the financial status of the parties and their interrelation, may reduce the amount of repairable damages if awarding full compensation would lead to unacceptable and grave consequences. However, the reduction may not exceed the amount for which the debtor has or ought to have covered his civil liability by compulsory insurance.

### **Civil Code Article 6.263. Obligation to compensate for damage caused**

1. Every person shall have the duty to abide by the rules of conduct so as not to cause damage to another by his actions (active actions or refrainment from acting).

2. Any bodily or property damage caused to another person and, in the cases established by the law, non-pecuniary damage must be fully compensated by the liable person.

3. In cases established by laws, a person shall also be liable to compensation for damage caused by the actions of another person or by the action of things in his custody.

**Civil Code Article 6.271. Liability to compensation for damage caused by unlawful actions of institutions of public authority**

1. Damage caused by unlawful acts of institutions of public authority must be compensated by the state from the means of the state budget, irrespective of the fault of a concrete public servant or other employee of public authority institutions. Damage caused by unlawful actions of municipal authority institutions must be redressed by the municipality from its own budget, irrespective of its employee's fault.
2. For the purposes of this Article, the notion "institution of public authority" means any subject of the public law (state or municipal institution, official, public servant or any other employee of these institutions, etc.), as well as a private person executing functions of public authority.
3. For the purposes of this Article, the notion "action" means any action (active or passive actions) of an institution of public authority or its employees, that directly affects the rights, liberties and interests of persons (legal acts or individual acts adopted by the institutions of state and municipal authority, administrative acts, physical acts, etc., with the exception of court judgements – verdicts in criminal cases, decisions in civil and administrative cases and orders).
4. Civil liability of the state or municipality, subject to this Article, shall arise where employees of public authority institutions fail to act in the manner prescribed by laws for these institutions and their employees.

## **Law on Courts of the Republic of Lithuania**

### **Law on Courts Article 47**

1. A judge may not be restricted in his personal freedom without the consent of the Seimas, and in the period between the sessions of the Seimas - without the consent of the President of the Republic.

2. The residential or office premises of a judge may not be entered, examination, search or seizure therein or in his personal or official car or any other personal vehicle may not be carried out, also his personal examination or body search, examination or seizure of his personal belongings and documents may not be conducted, except the cases specified by the laws.

3. Where a judge is suspected of or charged with the commission of a criminal act, his powers may be suspended by the Seimas and in the period between the sessions of the Seimas - by the President of the Republic of Lithuania. The powers of the judge shall be suspended until the effective date of the judgment in the criminal case instituted against him. Where the judge is acquitted his powers shall resume and he shall be paid the salary for the period during which his powers had been suspended.

4. Administrative action may not be brought against a judge. When a judge shall have committed an administrative violation of law, the material shall be transferred to the Judicial Ethics and Discipline Commission.

5. A judge detained and delivered before the judicial authorities without any identity documents shall be released immediately after his identity has been established.

6. The judge or the court shall not be liable for the damage incurred by the party as a result of an unlawful or groundless decision being adopted in the case. Such damage shall be borne by the State in cases and in the procedure specified by the laws. The material and non-material damage resulting from the criminal acts committed during the administration of justice and borne by the State shall be recovered by the State from the judge by way of recourse.

For example, Republic of Lithuania **Law on Prosecution**, Article 12(3) lays down that pre-trial investigation concerning a criminal act committed by the prosecutor may be started only by the Prosecutor General.

Paragraph 4 of the said Article lays down that the residential or business premises of the prosecutor may be entered, examination, search or seizure therein or in his personal or official car or any other personal vehicle may be carried out, also his personal examination or body search, examination or seizure of his personal belongings and documents may be performed only with the prosecutor's consent or provided that the Prosecutor General has started pre-trial investigation relating to the criminal act committed by the prosecutor. The above provision shall not be applicable where the prosecutor is caught *in flagrante delicto* or immediately after it.

Article 17(1) of the Republic of Lithuania **Law on Special Investigation Service** lays down that a pre-trial investigation against an officer of the Special Investigations Service may be instituted only by the Prosecutor General of the Republic of Lithuania or his Deputy.

Paragraph 2 of the said Article lays down that in the course of their official duties, the officers of the Service may not be taken to the police or detained, and the body search and the search of their personal effects and their means of transport shall be prohibited, without participation of the head of the appropriate Special Investigations Service unit or a person authorised by him, with the exception of cases when the officer is detained in *flagrante delicto*.

## **Law on Civil Service of the Republic of Lithuania**

### **Law on Civil Service Article 9. General Requirements for Recruitment to the Civil Service**

[...]

3. The following persons shall not be eligible for the civil service:

1) those found guilty, in accordance with the procedure prescribed by laws, of a serious or grave crime, or a criminal act against the civil service and public interest or any act comprising elements of corruptive nature, and whose conviction has not been spent or expunged;

2) those who have been deprived by the court of the right to occupy a post in the civil service

4. A person dismissed from the civil service for serious breaches referred to in subparagraphs 1-4 of paragraph 6 of Article 29 of this Law may not be recruited to the civil service for a period of three years from the date of dismissal.

### **Law on Civil Service Article 44. Dismissal from Civil Service**

[...]

16) a court sentence imposing a penalty upon him for committing a serious or grave crime or a crime against the civil service or the public interest, or a criminal act of corruptive nature, or a penalty barring him from performing his duties comes into effect.

## **Law on Operational Activities of the Republic of Lithuania**

### **Law on Operational Activities Article 3. Definitions**

[...]

13. ““Methods of operational activities” shall mean the ways of obtaining operational information: operational interview, operational inspection, operational verification, operational surveillance, use of agents, and electronic reconnaissance.

[...]

19. “Electronic reconnaissance” shall mean a method of operational activities where information is obtained through electronic technical means.

20. “Mode of conduct imitating a criminal act” shall mean the authorised actions formally having the characteristics of a criminal act or other infringement and carried out with a view to defend the individual rights and freedoms, property, public and state security as protected under law against criminal encroachment.

21. “Controlled delivery” shall mean the authorised actions allowing illicit or suspect goods and other objects to pass into, through or out of the territory of the Republic of Lithuania under the control of an entity of operational activities with a view to the detection of criminal acts and the identification of the persons preparing, committing or having committed the acts. Controlled delivery may be carried out only on the basis of international treaties or agreements.

23. “Covert operation” shall mean the totality of operational actions with a view to detain the persons committing or having committed a criminal act and/or to collect the information likely to influence the investigation of the criminal act, where, on the basis of the information available about an attempt to commit a criminal act or a criminal act being committed, conditions are created for the attempt to commit the criminal act or the criminal act being committed to take place at the selected place and at the required time.

### **Law on Operational Activities Article 10. Covert Monitoring of Postal Items, Document Items, Money Orders and Documents Thereof, Use of Technical Means in Accordance with the Special Procedure and Obtaining of Information from Telecommunications Operators and Providers of Telecommunications Services**

1. The covert monitoring of postal items, document items, money orders and documents thereof and the use of technical means in accordance with the special procedure shall be authorised by the chairmen of regional courts or the chairmen of the criminal divisions of these courts subject to reasoned applications by the Prosecutor General or the Deputy Prosecutor General authorised by him or the chief prosecutors of regional prosecutor’s offices or the deputy chief prosecutors authorised by them filed on the basis of the data submitted by the heads of the entities of operational activities or their authorised deputies.

2. In urgent cases, when a danger is posed to human life, health, property, public or state security, it shall be permitted to carry out the actions specified in paragraph 1 of this Article pursuant to a decision by the prosecutors listed in paragraph 1 of this Article. In such a case, a prosecutor who has taken the decision shall, within 24 hours, submit an application for the confirmation of the lawfulness or of the grounds of the actions by a

reasoned ruling to a judge indicated in paragraph 1 of this Article. If the time limit expires on a day off or a holiday, the application shall be submitted on the day following the day off or the holiday. Where the judge does not confirm the grounds of the actions by a reasoned ruling, they shall be terminated, and the information obtained in the course thereof shall be destroyed immediately.

3. A ruling reasoned by conspiracy on the carrying out of the operational actions indicated in paragraph 1 of this Article may be handed down by any regional court.

4. An application shall indicate:

- 1) the name, surname and position of the officer who has filed the application;
- 2) data on the persons (name, surname, personal identification number) subject to operational actions or description of the object;
- 3) data (grounds) substantiating the necessity of carrying out operational actions;
- 4) the number of the subscriber monitored in respect of the information transmitted over communications networks (when monitoring the information transmitted over telecommunications networks);
- 5) the postal items, document items, money orders and documents thereof planned to be monitored (when monitoring thereof is planned);
- 6) duration of the application of operational actions;
- 7) the result aimed at.

5. Covert monitoring of postal items, document items, money orders and documents thereof and the use of technical means in accordance with the special procedure shall be authorised for a period not exceeding 3 months. This period may be extended.

6. The extension of the time period provided for in paragraph 5 of this Article shall be authorised in accordance with the same procedure as the prescription of these actions. The number of extensions shall not be limited, however, each extension may not exceed a time period specified in paragraph 5 of this Article.

7. Upon handing down a reasoned ruling on the covert monitoring of postal items, document items, money orders and documents thereof, use of technical means in accordance with the special procedure or extension of these actions, the head of an entity of operational activities or his authorised deputy shall immediately send one copy of the ruling to the Prosecutor General or the Deputy Prosecutor General authorised by him.

8. Where a prosecutor refuses to submit an application for the authorisation of the actions specified in paragraph 1 of this Article, the head of the entity of operational activities or his authorised deputy shall have the right to refer to a superior prosecutor of those specified in paragraph 1 of this Article who has the powers to submit applications for the authorisation of these actions. The refusal by the prosecutor must be substantiated in writing. The prosecutor who has taken a decision not to submit an application for the authorisation of the mentioned actions must inform thereof the Prosecutor General or the Deputy Prosecutor General authorised by him. The decision of the superior prosecutor shall be final.

9. Where the chairman of the criminal division of a regional court hands down a reasoned ruling to refuse to authorise the actions specified in paragraph 1 of this Article, the prosecutor submitting the application may appeal against the ruling to the chairman of the regional court. The decision of the chairman of the regional court shall be final.

10. Upon the handing down of a ruling by a court and, in urgent cases, upon the taking of a decision by the prosecutor specified in paragraph 1 of this Article, an institution

authorised by the Government shall notify a telecommunications operator or provider of telecommunications services of the use of technical means in its network in accordance with the special procedure indicating the application's number, date of the handing down of the ruling and the court which has handed down the ruling or the date of the decision of the prosecutor, the prosecutor who has taken the decision as well as the duration of the application of operational actions. Responsibility for the conformity to the court ruling of the content of the notification intended for the telecommunications operator or provider of telecommunications services shall be borne by the officer submitting the notification in accordance with the procedure laid down by law. The telecommunications operator or provider of telecommunications services must provide a technical possibility to implement the monitoring of the information transmitted using telecommunications facilities.

11. The technical commands sent to the network of a telecommunications operator to start or discontinue wire tapping or other monitoring of the information transmitted over telecommunications networks shall be safekept in such a way that would prevent the data of the commands sent or received to be modified by the entity of operational activities which has sent the command or by the telecommunications operator which has received the command. An institution authorised by the Government must provide the Prosecutor General or a prosecutor authorised by him with access to the data medium which holds a record of these commands.

12. Entities of operational activities shall have the right to obtain the specific information on former telecommunications events as required for an operational investigation from telecommunications operators and providers of telecommunication services upon a reasoned ruling by a judge of a district court handed down in accordance with the reasoned applications of the heads of the entities of operational activities or their authorised deputies.

13. In order to obtain the information indicated in paragraph 12 of this Article, a notice shall be submitted to telecommunications operators or providers of telecommunications services indicating the application's number, date of the handing down of the ruling and the court which has handed down the ruling. Responsibility for the conformity of this notice to the court ruling shall be born by the officer submitting the notice in accordance with the procedure laid down by law.

14. The information directly related to the telephone numbers of subscribers or the terminal equipment of a network and to the affiliation of a telephone number or terminal equipment of a network shall not be subject to a court ruling. Specific information on the telecommunication events directly related to a person may also be collected upon this person's request or consent. This information shall be provided in accordance with the requests of officers of the entities of operational activities. Where the information is requested upon a person's request or consent, a copy of the person's request or consent shall be submitted upon prior approval by an officer submitting the request to provide information.

**Law on Operational Activities Article 11. Covert Entry in Residential and Non-residential Premises and Vehicles and Inspection Thereof, Temporary Seizure and Inspection of Documents, Seizure of Samples of Substances, Raw Materials and**

## **Production and Other Objects for Investigation without Disclosing the Fact of Seizure Thereof**

1. Covert entry in residential and non-residential premises and vehicles as well as inspection thereof, temporary seizure and inspection of documents, seizure of samples of substances, raw materials and production as well as other objects for investigation without disclosing the fact of seizure thereof shall be authorised by the chairmen of regional courts or the chairmen of the criminal divisions of these courts according to the reasoned applications of the Prosecutor General or the Deputy Prosecutors General authorised by him prepared on the basis of the data submitted by heads of entities of operational activities or their authorised deputies.

2. In urgent cases, when a danger is posed to human life, health, property, public or state security, it shall be permitted to carry out the actions specified in paragraph 1 of this Article subject to a decision by the prosecutors listed in paragraph 1 of this Article. In this case, a prosecutor who has taken this decision shall, within 24 hours, submit an application for the confirmation of the lawfulness or of the grounds of the actions by a reasoned ruling to a judge indicated in paragraph 1 of this Article. If the time limit expires on a day off or a holiday, the application shall be submitted on the day following the day off or the holiday. Where the judge does not confirm the grounds of the actions, they shall be terminated, and the information obtained in the course thereof shall be destroyed immediately.

3. A ruling reasoned by conspiracy on the carrying out of the operational actions indicated in paragraph 1 of this Article may be handed down by any regional court.

4. The application shall indicate:

- 1) the name, surname and position of the officer who has filed the application;
- 2) a description of the residential and non-residential premises and vehicles which will be covertly inspected, the documents, samples of substances, raw materials and production and other objects planned to be seized;
- 3) data (grounds) substantiating the necessity of carrying out operational actions;
- 4) duration of the application of operational actions;
- 5) the result aimed at.

5. Covert entry in residential and non-residential premises and vehicles and inspection thereof, temporary seizure of documents, samples of substances, raw materials and production and other objects shall be authorised for a period not exceeding 3 months. This period may be extended.

6. The extension of the time period provided for in paragraph 5 of this Article shall be authorised in accordance with the same procedure as the prescription of those actions. The number of extensions shall not be limited, however, each extension may not exceed a time period specified in paragraph 5 of this Article.

7. Upon handing down a reasoned ruling on covert entry in residential and non-residential premises and vehicles as well as inspection thereof, temporary seizure and inspection of documents, seizure of samples of substances, raw materials and production as well as other objects for investigation without disclosing the fact of seizure thereof or for extension of these actions, the head of an entity of operational activities or his authorised deputy shall immediately send one copy of the reasoned court ruling to the Prosecutor General or the Deputy Prosecutor General authorised by the Prosecutor General.

8. Where a prosecutor refuses to submit an application for the authorisation of the actions

specified in paragraph 1 of this Article, the head of an entity of operational activities or his authorised deputy shall have the right to refer to a superior prosecutor of those specified in paragraph 1 of this Article who has the powers to submit applications for the authorisation of these actions. The refusal by the prosecutor must be substantiated in writing. The prosecutor who has taken a decision not to authorise the mentioned actions must inform thereof the Prosecutor General or the Deputy Prosecutor General authorised by him. The decision of the superior prosecutor shall be final.

9. Where the chairman of the criminal section of a regional court hands down a reasoned ruling to refuse to authorise the actions specified in paragraph 1 of this Article, the prosecutor submitting the application may appeal against the ruling to the chairman of the regional court. The decision of the chairman of the regional court shall be final.

10. It shall be prohibited to carry out the operational actions specified in this Article, where they pose a direct danger to human life and health or may give rise to other serious consequences.

### **Law on Operational Activities Article 12. Mode of Conduct Imitating a Criminal Act**

1. The Prosecutor General or a Deputy Prosecutor General authorised by him or the chief prosecutors of regional prosecutor's offices or the deputy chief prosecutors authorised by them shall authorise the mode of conduct imitating a criminal act based on a reasoned application by the head of an entity of operational activities or his authorised deputy.

2. An application shall indicate:

- 1) the name, surname and position of the officer who has filed the application;
- 2) the data substantiating the necessity of employing the mode of conduct imitating a criminal act;
- 3) data about the persons to whom the mode of conduct imitating a criminal act shall be applied (if available);
- 4) the limits of the specific actions carried out in the course of application of the mode of conduct imitating a criminal act, in accordance with the characteristics of the criminal acts specified in the Criminal Code and the Code of Administrative Offences;
- 5) data about the persons who will carry out actions according to the mode of conduct imitating a criminal act;
- 6) the anticipated duration of the mode of conduct imitating a criminal act;
- 7) the result aimed at.

3. The mode of conduct imitating a criminal act as prepared by an entity of operational activities shall be authorised for a period not exceeding 6 months. This period may be extended.

4. The extension of the mode of conduct imitating a criminal act as provided for in paragraph 3 of this Article shall be authorised in accordance with the same procedure as the prescription of the mode of conduct imitating a criminal act. The number of extensions shall not be limited, however, each extension may not exceed a time period specified in paragraph 3 of this Article.

5. Upon the authorisation of the mode of conduct imitating a criminal act or an extension thereof, the head of an entity of operational activities or his authorised deputy shall immediately send one copy of the application to the Prosecutor General or the Deputy

Prosecutor General authorised by him.

6. Where a prosecutor refuses to authorise the actions specified in paragraph 1 of this Article, the head of the entity of operational activities or his authorised deputy shall have the right to refer a superior prosecutor of those specified in paragraph 1 of this Article who has the powers to authorise these actions for the authorisation of the application. The refusal by the prosecutor must be substantiated in writing. The prosecutor who has taken a decision not to authorise the mentioned actions must inform thereof the Prosecutor General or the Deputy Prosecutor General authorised by him. The decision of the superior prosecutor shall be final.

7. It shall be prohibited to act according to the modes of conduct imitating a criminal act which pose a direct danger to human life and health or may give rise to other serious consequences. Prior to initiating actions according to the mode of conduct imitating a criminal act, a person shall be acquainted against his signature with the established action limits for the mode in accordance with the procedure laid down by the main institutions of entities of operational activities.

### **Law on Operational Activities Article 13. Controlled Delivery**

1. Controlled delivery shall be authorised by the Prosecutor General or the Deputy Prosecutor General authorised by him or the chief prosecutors of regional prosecutor's offices or the deputy chief prosecutors authorised by them subject to a reasoned application by the head of an entity of operational activities or his authorised deputy.

2. An application shall indicate:

- 1) the name, surname and position of the officer who has filed the application;
- 2) the data substantiating the necessity of controlled delivery;
- 3) the data concerning a natural or legal person (persons) who is suspected of delivering controlled items;
- 4) the names of the countries from which and to which a controlled item is being carried;
- 5) the anticipated duration of controlled delivery;
- 6) the result aimed at as well as the intermediate and final objectives of controlled delivery.

3. Upon the authorisation of controlled delivery, the head of an entity of operational activities or his authorised deputy shall immediately send one copy of the application to the Prosecutor General or Deputy Prosecutor General authorised by him.

4. Where a prosecutor refuses to authorise the actions specified in paragraph 1 of this Article, the head of an entity of operational activities or his authorised deputy shall have the right to refer to a superior prosecutor of those specified in paragraph 1 of this Article who has the powers to authorise these actions for the authorisation of the application. The refusal by the prosecutor must be substantiated in writing. The prosecutor who has taken a decision not to authorise the mentioned actions must inform thereof the Prosecutor General or the Deputy Prosecutor General authorised by him. The decision of the superior prosecutor shall be final.

5. It shall be prohibited to carry out controlled delivery, where it poses a direct danger to human life and health or may give rise to other serious consequences.

**Law on Operational Activities Article 17. Use and Transfer of Classified Operational and other Classified Information Developed on the Basis Thereof**

1. Classified operational information may be used in the following cases:
  - 1) co-operation between entities of operational activities;
  - 2) during the criminal proceedings;
  - 3) in cases provided for in Paragraph 3 of this article.
2. Classified operational information may be used in criminal proceedings. If such information is used in criminal proceedings, a statement shall be made on the performance of operational activities. The content of the statement on the performance of operational activities should comply with the requirements laid down in Article 179(2) of the Code of Criminal Procedure.

**CHAPTER VII**

**CONTROL, CO-ORDINATION AND SCRUTINY OF OPERATIONAL ACTIVITIES**

**Law on Operational Activities Article 21. Co-ordination of Operational Actions and Control of Lawfulness**

The Prosecutor General and the Deputy Prosecutor General authorised by him, chief prosecutors of regional prosecutor's offices and the deputy chief prosecutors authorised by them shall co-ordinate the operational actions of entities of operational activities and control the lawfulness thereof when preparing the reasoned applications provided for in Articles 10 and 11 of this Law, authorising or refusing to authorise the actions specified in Articles 12 and 13 of this Law, obtaining the information concerning the course and results of the actions specified in Articles 10, 11, 12, and 13, and examining persons' complaints in respect of the actions of entities of operational activities.

**Law on Operational Activities Article 22. Government Control**

1. The Government shall exercise control over operational activities in accordance with the limits of powers established by the Constitution and laws of the Republic of Lithuania.
2. The Government shall co-ordinate the activities of entities of operational activities and the main institutions thereof with a view to ensuring their co-operation and pooling their efforts to efficiently solve, within the limits of their powers, the topical problems of crime and state security.

**Law on Operational Activities Article 23. Parliamentary Scrutiny**

1. A Commission for Parliamentary Scrutiny of Intelligence Operations (hereinafter referred to as "the Commission") shall be formed by a Seimas decision in accordance with the procedure laid down by the Statute of the Seimas by maintaining the principle of

proportional representation of the Seimas parliamentary groups. This Commission shall consist of 7 members and shall be a standing commission.

2. The tasks of the Commission shall be:

- 1) to control the protection of constitutional rights and freedoms in the course of operational activities;
- 2) to scrutinise whether the activities of entities of operational activities are in conformity with the Constitution and laws of the Republic of Lithuania and to analyse the efficiency and rationality of the use of financial resources by the entities of operational activities;
- 3) to submit proposals to the Seimas, the Government and other institutions with respect to the adoption and improvement of the legal acts regulating operational activities;
- 4) to analyse the status of the regulatory enactments regulating operational activities as well as to determine whether these acts are in conformity with the requirements of the laws;
- 5) to investigate the cases of a gross violation of the Law on Operational Activities and exceeding the limits of activities established by entities of operational activities and to analyse the grounds and expediency of operational activities.

3. The Commission shall have the right:

- 1) to hear the information and reports of entities of operational activities, the main institutions thereof, prosecutors, ministries and other state institutions regarding the implementation of the Law on Operational Activities;
- 2) in its work, to engage the professional experts authorised to acquaint themselves with the information comprising a state secret;
- 3) to request and obtain from state and municipal institutions, organisations, entities of operational activities, telecommunications operators and providers of telecommunications services the documents, clarifications and other information necessary for the exercise of control;
- 4) to invite to sittings officials and other persons, hear them and require the officials to submit verbal or written clarifications in respect of nonfeasance or violation of the requirements of this Law as well as other legal acts.

4. Duties of the members of the Commission and the persons engaged by the Commission shall be:

- 1) to maintain the secrecy of the data or information which they have obtained in the course of an investigation, where such data or information comprise a state, official, commercial or other secret which is protected by law;
- 2) to avoid a conflict of interest and not to make use of the data or information obtained in the course of performance of these duties for personal or other persons' benefit;
- 3) not to reveal the information related to an on-going investigation and available material until the Commission completes the investigation.

5. The Commission may take the following decisions:

- 1) to bring to the attention of officials and other civil servants a failure to comply with laws and other violations and to require the elimination of identified shortcomings;
- 2) to hand over the material of an investigation to law enforcement institutions as well as

to request that an official verification be carried out and the issue of liability be resolved, to propose the imposition of disciplinary penalties to officials for misfeasance of their duties or to suspend the activities thereof until a decision is taken on the results of the investigation.

6. The Commission shall be prohibited from familiarising with the data which establish the identity of covert participants in operational activities and with the particulars concerning the quantitative and personal composition of these participants, operational investigation files and tactics of the carrying out of operational activities.

# **Law on the Special Investigation Service of the Republic of Lithuania**

## **Law on the Special Investigation Service Article 2. "Definitions"**

1. The Special Investigations Service of the Republic of Lithuania (hereinafter - the Special Investigations Service or the Service), is a state law enforcement agency functioning on the statutory basis, accountable to the President of the Republic and the Seimas, which develops and implements corruption prevention measures, detects and investigates corruption related crimes.

## **Law on the Special Investigation Service Article 6. Obligation to Provide Information to the Special Investigations Service**

1. Upon the request by the Special Investigations Service, the Government of the Republic of Lithuania, ministries and other central and local government institutions and agencies, within five working days, must submit to the Service legal acts which have been adopted but have not yet been published in the “Valstybės žinios” (Official Gazette).

2. Central and local government institutions and agencies must make it possible for the Special Investigations Service to have free and unrestricted access to the data of state registers, cadastres and classifiers, data banks of state institutions, agencies and enterprises, while data banks of other enterprises, agencies, organisations and natural persons may be accessed on a contractual basis.

## **Law on the Special Investigation Service Article 16. Independence of the Officers of the Special Investigations Service**

1. While discharging their official duties and carrying out assignments of their superiors, the officers of the Special Investigations Service shall be guided by laws and other legal acts.

2. State institutions and agencies or their employees, political parties, public organisations and movements, the mass media, other natural or legal persons shall be prohibited from interfering with operational and other activities carried out in the line of duty by the officers of the Special Investigations Service.

3. Meetings, pickets and other actions on the premises of the Special Investigations Service, and within the distance of 25 metres from the buildings of the Special Investigations Service, shall be prohibited.

4. Filming, taking photos, making audio or video recordings on the premises of the Special Investigations Service shall be permitted only subject to an authorisation by the Director of the Special Investigations Service.

**Article 17(1)** of the Republic of Lithuania **Law on Special Investigation Service** lays down that a pre-trial investigation against an officer of the Special Investigations

Service may be instituted only by the Prosecutor General of the Republic of Lithuania or his Deputy.

Paragraph 2 of the said Article lays down that in the course of their official duties, the officers of the Service may not be taken to the police or detained, and the body search and the search of their personal effects and their means of transport shall be prohibited, without participation of the head of the appropriate Special Investigations Service unit or a person authorised by him, with the exception of cases when the officer is detained in *flagrante delicto*.

## **Law on Police Activities of the Republic of Lithuania**

### **Law on Police Activities Article 61. Right to Obtain Information**

1. State and municipal institutions, agencies and enterprises must, at the request of police institutions or pursuant to separate data provision agreements, submit free of charge to the police information contained in state registers (cadastres) and institutional registers, classifications, information systems and data files, which is kept by the said state and municipal institutions, agencies and enterprises and is necessary for implementation of police tasks.

2. Other legal persons, as well as natural persons shall submit free of charge to the police information which is kept by them and is necessary for implementation of police tasks, if other laws lay down so.

# **Law on International Treaties of the Republic of Lithuania**

## **Law on International Treaties Article 2. Scope of the Law**

This Law establishes the procedure of drawing up and implementing treaties of the Republic of Lithuania irrespective of what institution or officer concluded the treaty of the Republic of Lithuania in the prescribed manner.

## **II. CONCLUSION OF TREATIES OF THE REPUBLIC OF LITHUANIA**

### **Law on International Treaties Article 3. Right of Initiative to Conclude Treaties of the Republic of Lithuania**

The right of initiative to conclude treaties of the Republic of Lithuania shall be vested in the President, the Prime Minister, the Minister of Foreign Affairs of the Republic of Lithuania, the Government of the Republic of Lithuania or, in the procedure established by it, ministries of the Republic of Lithuania and Government agencies.

### **Law on International Treaties Article 4. Taking Decisions on the Expediency of the Conclusion of Treaties of the Republic of Lithuania**

1. Decisions on the expediency of conclusion of treaties of the Republic of Lithuania shall be taken, in accordance with the requirements of the Constitution of the Republic of Lithuania, this Law and other laws as well as international law, by the President, the Government of the Republic of Lithuania or the Ministry of Foreign Affairs on the instruction of and according to the procedure established by the Government.

2. Decisions on the expediency of conclusion of treaties of the European Communities and the Republic of Lithuania, as the Member State of the European Union, representing one party to treaties (hereinafter referred to as “international mixed agreements”) shall be taken in pursuance of the Constitutional Act of the Republic of Lithuania on Membership of the Republic of Lithuania in the European Union, laws and other legal acts regulating the preparation and harmonization of a position of the Republic of Lithuania concerning drafts of legal acts and documents which are debated at the institutions of the European Union.

3. When taking a decision on the expediency of the conclusion of a treaty of the Republic of Lithuania, conformity of the provisions of the draft treaty with the Constitution of the Republic of Lithuania, the basic principles and objectives of foreign policy and national security of the Republic of Lithuania, the requirements of this Law, the principles and norms of international law must be considered.

### **Law on International Treaties Article 5. Powers to Conclude Treaties of the Republic of Lithuania**

1. The President, the Prime Minister or the Minister of Foreign Affairs of the Republic of Lithuania shall be entitled, without possessing special powers, to perform all acts relating to the conclusion of treaties of the Republic of Lithuania.

2. The head of a diplomatic mission of the Republic of Lithuania or the authorised representative of the Republic of Lithuania at an international conference, international organisation or one of its bodies shall be entitled to negotiate the conclusion of a treaty of the Republic of Lithuania or to approve its text without possessing special powers for the purpose, accordingly, with the State to which he is accredited or at the international conference, international organisation or one of its bodies.

3. Other persons may perform acts relating to the conclusion of the treaty of the Republic of Lithuania only provided they possess powers granted to them according to the procedure established in Article 6 of this Law.

### **Law on International Treaties Article 6. Procedure for Granting Powers to Conclude Treaties of the Republic of Lithuania**

1. The powers to perform the acts relating to the conclusion of treaties of the Republic of Lithuania referred to in Article 7 of this Law, with the exception of international mixed agreements, shall be granted by the President of the Republic of Lithuania on the recommendation of the Government.

2. The powers to perform the acts relating to the conclusion of international mixed agreements shall be granted by the Prime Minister of the Republic of Lithuania with the consent of the President of the Republic of Lithuania, on the recommendation of the ministry or Government agency within whose competence falls the drawing-up of the treaty, and with the consent of the Ministry of Foreign Affairs.

3. The powers to perform the acts relating to the treaties of the Republic of Lithuania which are not subject to the ratification procedure under the Constitution of the Republic of Lithuania, this Law or the treaty itself, however, the conclusion of which, according to the procedure laid down in Article 9 of this Law, is approved by the Government of the Republic of Lithuania, shall be granted by the Prime Minister of the Republic of Lithuania on the recommendation of the ministry or Government agency within whose competence falls the drawing-up of the treaty, provided the Ministry of Foreign Affairs has given its consent thereto.

4. The powers for concluding treaties of the Republic of Lithuania which enter into force on the date of the signing thereof shall be granted by the Government of the Republic of Lithuania on the recommendation of the ministry or Government agency within whose competence falls the drawing up of the treaty, provided the Ministry of Foreign Affairs has given its consent thereto.

5. By the resolution of the Government of the Republic of Lithuania, the Ministry of Foreign Affairs shall be instructed to conclude treaties which enter into force from the date of exchange of diplomatic notes.

6. Upon the granting of the powers referred to in paragraphs 1-4 of this Article, full powers shall be issued by the Ministry of Foreign Affairs.

7. Information about full powers shall be stored and administered at the Ministry of Foreign Affairs.

### **Law on International Treaties Article 7. Treaties of the Republic of Lithuania Subject to Ratification**

1. The following treaties of the Republic of Lithuania shall be subject to ratification:

1) on the determination and changing of the state borders of the Republic of Lithuania, on the delimitation of its exclusive economic zone and continental shelf;

- 2) on political co-operation with foreign states, mutual assistance as well as defensive treaties relating to the state defence;
  - 3) on refraining from the use of force or threat of force, also peace treaties;
  - 4) on the stationing of the armed forces of the Republic of Lithuania and their status on the territories of foreign states;
  - 5) on the participation of the Republic of Lithuania in universal international organisations and regional international organisations;
  - 6) multilateral or long-term economic treaties which are concluded for over a 5 year period;
  - 7) on the stationing of foreign state army units and their status on the territory of the Republic of Lithuania;
  - 8) establishing legal norms other than the effective laws of the Republic of Lithuania.
2. Also subject to ratification shall be treaties in which their ratification is provided for.

### **Law on International Treaties Article 8. Procedure of Ratification of Treaties of the Republic of Lithuania**

1. Treaties of the Republic of Lithuania shall be ratified by the Seimas of the Republic of Lithuania by a law.
2. Treaties of the Republic of Lithuania shall be submitted to the Seimas of the Republic of Lithuania for ratification by the President of the Republic of Lithuania on his own initiative or on the proposal of the Government.
3. Instruments of ratification shall be drawn up on the basis of the law specified in paragraph 1 of this Article.

### **Law on International Treaties Article 9. Approval of Treaties of the Republic of Lithuania**

1. The treaties of the Republic of Lithuania for which ratification procedure is not provided for in the Constitution of the Republic of Lithuania, this Law or the treaty itself shall be approved by the Government of the Republic of Lithuania. This requirement shall not apply to the treaties of the Republic of Lithuania referred to in paragraphs 4 and 5 of Article 6 of this Law.
2. The Government of the Republic of Lithuania shall approve the treaty by a resolution.
3. Treaties shall be submitted to the Government of the Republic of Lithuania for approval by the ministry, within whose competence is the implementation of the treaty, upon agreeing it with the Ministry of Foreign Affairs.
4. Paragraph 1 of this Article shall not apply to treaties signed by the President of the Republic.

### **Law on International Treaties Article 10. Competence of the Ministry of Foreign Affairs of the Republic of Lithuania in the Process of Entry into Force of Treaties of the Republic of Lithuania**

International acts relating to the entry into force, validity and operation of a treaty of the Republic of Lithuania (preparation and depositing of documents required for the entry into force of the treaty, deposit of the treaty with the depository, notification of suspension of the operation or termination, etc.) shall be carried out by the Ministry of Foreign Affairs of the Republic of Lithuania.

### **III. IMPLEMENTATION OF TREATIES OF THE REPUBLIC OF LITHUANIA**

#### **Article 11. Binding Character of Treaties of the Republic of Lithuania**

1. The treaties of the Republic of Lithuania that have entered into force shall be binding in the Republic of Lithuania.
2. If a ratified treaty of the Republic of Lithuania which has entered into force establishes norms other than those established by the laws, other legal acts of the Republic of Lithuania which are in force at the moment of conclusion of the treaty or which entered into force after the entry into force of the treaty, the provisions of the treaty of the Republic of Lithuania shall prevail.
3. If a law or any other legal act has to be passed for the purpose of implementation of a treaty of the Republic of Lithuania, the Government of the Republic of Lithuania shall submit to the Seimas according to the established procedure a draft of the appropriate law or shall adopt an appropriate resolution of the Government or ensure according to its competence the passing of another legal act.

**Agreement on Recognition and Enforcement of Judgments in Criminal Matters Imposing Custodial Sentences or Measures Involving Deprivation of Liberty between the Government of the Republic of Lithuania and the Government of the Kingdom of Norway**

**Article 3. Purpose and scope**

1. The purpose of this Agreement is to establish the rules under which a Contracting Party, with a view to facilitating the social rehabilitation of the sentenced person, is to recognise a judgment and enforce the sentence.
2. This Agreement shall apply where the sentenced person is in the issuing State or in the executing State.
3. This Agreement shall apply only to the recognition of judgments and the enforcement of sentences within the meaning of this Agreement.

<...>

**Article 7. Recognition of the judgment and enforcement of the sentence**

1. The competent authority of the executing State shall recognise a judgment which has been forwarded in accordance with the procedure under this Agreement, and shall forthwith take all the necessary measures for the enforcement of the sentence, unless it decides to invoke one of the grounds for non-recognition and non-enforcement provided for in Article 8.
2. Where the sentence is incompatible with the law of the executing State in terms of its duration, the competent authority of the executing State may decide to adapt the sentence only where that sentence exceeds the maximum penalty provided for similar offences under its national law. The adapted sentence shall not be less than the maximum penalty provided for similar offences under the law of the executing State.
3. Where the sentence is incompatible with the law of the executing State in terms of its nature, the competent authority of the executing State may adapt it to the punishment or measure provided for under its own law for similar offences. Such a punishment or measure shall correspond as closely as possible to the sentence imposed in the issuing State and therefore the sentence shall not be converted into a pecuniary punishment.
4. The adapted sentence shall not aggravate the sentence passed in the issuing State in terms of its nature or duration.

**Article 9. Partial recognition and enforcement**

1. If the competent authority of the executing State could consider recognition of the judgment and enforcement of the sentence in part, it may, before deciding to refuse

recognition of the judgment and enforcement of the sentence in whole, consult the competent authority of the issuing State with a view to finding an agreement, as provided for in paragraph 2.

2. The competent authorities of the issuing and the executing States may agree, on a case-by-case basis, to the partial recognition and enforcement of a sentence in accordance with the conditions set out by them, provided such recognition and enforcement does not result in the aggravation of the duration of the sentence. In the absence of such agreement, the certificate shall be withdrawn.

# **Cooperation Agreement between the Special Investigation Service of the Republic of Lithuania and the Corruption Prevention and Combating Bureau of the Republic of Latvia**

The Special Investigation Service of the Republic of Lithuania and the Corruption Prevention and Combating Bureau of the Republic of Latvia (hereinafter referred to as “the Parties”),

having regard to the national legal acts and international agreements binding on both Parties, having assessed the problems and threats caused by corruption for public stability and security and damage inflicted by corruption to democratic institutions and virtues and ethic virtues and equity, interrelations of corruption and other types of crimes such as organized and economic crimes, including money laundering as well as the fact that corruption is an international phenomenon rather than a local problem of great importance for the international communities and economies and therefore attaching exceptional significance to international cooperation, having regard to mutual interest to effectively solve tasks related with the disclosure and investigation of corruption-related offences as well as other criminal acts falling within their competence and corruption prevention, seeking to strengthen their national security, attaching great importance to the use of all the legal measures for achieving these purposes,

hereby shall agree on the following:

## **Article 1. Purpose of the Agreement**

The purpose of the Agreement is the cooperation between the Parties on the issues related with corruption prevention, operational activities and pre-trial investigation as well as offences falling within their competence the investigation of which is stipulated by legal acts regulating their activities.

## **Article 2. Forms of Cooperation**

The Parties, cooperating under this Agreement and acting within their competence stipulated in their national legal acts, shall:

- 1) exchange information about corruption-related offences, legal framework in the area of prevention and combating of corruption as well as information on results of sociological and scientific research in the area of prevention and combating of corruption;
- 2) provide assistance in conducting operational, search and procedural actions;
- 3) ensure the observance of secrecy rules in carrying out operational assignments and exchanging operational information;
- 4) share methodical material and professional experience in carrying out corruption

prevention and implementing other assignments falling within the scope of their competence;

- 5) provide mutual assistance in training personnel on the basis of their common interests;
- 6) organize practical conferences, joint seminars and meetings.

### **Article 3. Exchange of Information**

The exchange of information about corruption-related offences and other information related with the implementation of the given assignments includes the following issues:

- 1) disclosure and investigation of corruption-related offences;
- 2) illegal activities done by public servants and persons treated as public servants;
- 3) activities connected with corruption-related offences done by persons other than public servants or persons other than persons treated as public servants;
- 4) illegal activities by which influence was made on public servants or persons treated as public servants or by which influence was attempted to be made on them;
- 5) other issues related with the development and implementation of corruption prevention measures.

2. The Party shall provide the other Party with information upon the other Party's request in the event that the provision of information is compatible with the national legal acts, international obligations and interests of the requested Party.

3. Where the party thinks that the information possessed by it may interest the other Party, it may provide the other Party with this information on its own initiative.

### **Article 4. Form and Content of the Request**

1. The request for information shall be communicated in writing. Supporting documents, also copies of the documents and extracts from the documents shall be attached to the request. In case of emergency, the request may be communicated orally but it must be immediately confirmed in writing. Where doubts arise regarding the content and validity of the received oral request, the requested contracting Party may require an immediate written confirmation of the request.

2. The request for information shall be signed by the Director or Deputy Director of the requesting Party and shall be officially sealed.

3. The request for information shall include:

- 1) name of the requesting Party;
- 2) name of the requested Party;
- 3) brief description of the investigation that is being conducted;
- 4) justifiable reason under this Agreement (where at the discretion of the requesting Party the request is urgent, the requesting Party must justify the urgency);
- 5) description of the content of the requested information;
- 6) purpose of the use of the requested information;
- 7) date for fulfilling the request

8) other information needed to implement the request.

### **Article 5. Implementation of the Request**

1. The implementation of the request shall be immediately commenced. The requested Party may request additional information, if it is needed for the implementation of the request.
2. The response about the completion of the implementation of the request shall be sent by mail or transferred in advance by technical tools for text transferring. The response shall include the requested Party's consent to use the provided information for the purposes specified in the request.
3. If it is impossible to implement the request, the requested Party shall immediately inform about that the requesting Party.

### **Article 6. Refusal to execute the request**

1. The request for information may be fully or partially denied provided that the execution of the request may result in violations of human rights, constitutes a menace to the national security or sovereignty of the state, or it is in contradiction to both the national legislation of the Party which has received the Request and international commitments.
2. Should a decision be taken to deny the Request, the Party shall notify the other Party in writing, stating justifiable reason for the denial.

### **Article 7. Languages of Cooperation**

1. The request for information shall be written in the state language of the requesting Party and the translation into the English language shall be attached.
2. The response to the request shall be written in the state language of the requested Party and the translation into the English language shall be attached.

### **Article 8. Use of Information**

1. Under this Agreement the Parties, in transferring classified information, shall observe the provisions of the Agreement between the Government of the Republic of Lithuania and the Government of the Republic of Latvia concerning mutual protection of classified information.
2. The Parties shall use the received information only for the purposes specified in the requests for information.
3. The Parties shall implement appropriate organizational and technical measures for the protection of information from incidental or illegal destruction, changing, disclosure, as well as from any other illegal processing of information.
4. Should it be required to pass the information or other material that has been received under this Agreement to the third Party, a written permission shall be issued by the Party that has provided the information.

5. In the events where it emerges that incorrect or inaccurate personal data were transferred, the requested Party shall immediately inform about that the requesting Party and the latter shall correct or destroy it without delay.

#### **Article 9. Expenses**

1. Each of the Parties shall cover expenses that have occurred in implementing the Agreement obligations.

2. In cases when needed in order to execute activities stipulated by this Agreement, both Parties shall cover expenses that shall be mutually agreed upon on a case-by-case basis.

#### **Article 10. Amendments to the Agreement**

Amendments to this Agreement shall be documented by way of individual written Agreements of the Parties that shall be inseparable part of this Agreement.

#### **Article 11. Settlement of Disputes**

Any disputes concerning the interpretation and implementation of this Agreement shall be settled by way of negotiations.

#### **Article 12. Parties' Consulting**

If needed, the representatives of the Parties shall arrange professional meetings and consultations on the issues related with the implementation of this Agreement.

#### **Article 13. Validity of the Agreement**

1. The Agreement shall become effective from the moment it is signed.

2. The period of validity of the Agreement shall be unlimited.

3. Each of the Parties shall have the right to terminate this Agreement after warning about this the other Party before six months in writing. The Agreement shall become invalid after six months from the day of the receipt by one Party of the written notification from the other Party about the intent to terminate the Agreement. Irrespective of the termination of this Agreement, the Parties shall ensure the security of all the classified information transferred under this Agreement or prepared by the Parties in accordance with the provisions of the Agreement between the Government of the Republic of Lithuania and the Government of the Republic of Latvia concerning mutual protection of classified information.

4. The agreement shall be concluded in two copies in the Lithuanian, Latvian and English languages, each copy being of equal legal power, and signed in Šiauliai on the 9<sup>th</sup> of

September 2005. Should any disagreements arise, the priority is given to the English version of the Agreement.

Director of the Special Investigation Service of the of the Republic of Lithuania	Director of the Corruption Prevention and Combating Bureau of the Republic of Latvia
Povilas Malakauskas	Aleksejs Loskutovs

**Recommendations on the Establishment and Operation of  
Joint (Combined) International Investigation Teams**  
**(including Order of Approval)**

*Translated from Lithuanian*

*/emblem of the Republic of Lithuania/*

**PROSECUTOR GENERAL OF THE REPUBLIC OF LITHUANIA**

**ORDER ON THE APPROVAL OF RECOMMENDATIONS  
ON THE ESTABLISHMENT AND OPERATION OF  
JOINT (COMBINED) INTERNATIONAL INVESTIGATION TEAMS**

21 December 2004, No. I-203  
Vilnius

**In accordance with Paragraph 2, Article 16 of the Law of the Republic of Lithuania  
on Prosecutor's Office (Official Journal, 2003, No. 42-1919),**

**I hereby a p p r o v e the Recommendations on the Establishment and Operation of  
Joint (Combined) International Investigation Teams, enclosed herewith.**

**Prosecutor General  
Klimavičius**

**Antanas**

*/seal/ Prosecutor General's Office of the Republic of Lithuania\*Clerk's Office\**

APPROVED BY:  
Prosecutor General  
of the Republic of Lithuania  
Order No. I-203  
21 December 2004

**RECOMMENDATIONS  
ON THE ESTABLISHMENT AND OPERATION OF  
JOINT (COMBINED) INTERNATIONAL INVESTIGATION TEAMS**

## I. GENERAL PROVISIONS

1. The present Recommendations set forth the purpose and composition of joint (combined) international investigation teams, formed from the officials of the institutions of the Member States of the European Union or any other States, and the officials of the bodies established under the Treaty on European Union, as well as the procedure for the establishment and operation of these teams within the Republic of Lithuania.

2. Definitions used in these Recommendations:

2.1. **States** - Member States of the European Union and other states.

2.2. **Team** - joint (combined) investigation team, set up by two or more States, EU bodies, by mutual agreement, for a specific purpose (e.g. carrying out criminal investigations in one or more of the States setting up the team) and a limited period, which may be extended by mutual consent, and formed from the prosecutors and (or) the officials from pre-trial investigation institutions as its members.

2.3. **Team members seconded by the Republic of Lithuania** - prosecutors and (or) officials from pre-trial investigation institutions of the Republic of Lithuania, who participate in the operations of investigation teams carried out in other States.

2.4. **Seconded members of the team** - members of the team other than the prosecutors and (or) officials from pre-trial investigation institutions of the Republic of Lithuania.

2.5. **Agreement** - mutual agreement on the establishment of a team, concluded between Prosecutor General's Office of the Republic of Lithuania and competent authorities of the States and (or) the bodies established under the Treaty on European Union.

2.6. **Eurojust** - European Union body for judicial co-operation, established by the Council of European Union Framework Decision 2002/187/JHA of 28 February 2002 with a view to reinforcing the fight against serious crime.

2.7. **OLAF** - the European Anti-Fraud Office, established by the European Commission Decision 1999/352/EC of 28 April 1999.

2.8. **Europol** - European Police Office, established by the Member States of the European Union (Council Act 95/C316/01; Europol Convention, formulated further to Article K 3.4 of the Treaty on European Union on the establishment of European Police Office).

3. The legal basis for the establishment and operation of the teams shall be the international treaties, regulating the activities of law enforcement authorities in this field, to which the Republic of Lithuania is a party, regulatory enactments of the European Union, legal provisions of the Code of Criminal Procedure of the Republic of Lithuania (Annex No.1).

## II. ESTABLISHMENT OF THE TEAMS

4. A joint investigation team may, in particular, be set up where:

4.1. Pre-trial investigations into criminal offences conducted by the Republic of Lithuania require difficult and demanding investigations having links with other States, where coordinate pre-trial investigation action must be taken;

4.2. a number of States are conducting investigations into criminal offences in which the circumstances of the case necessitate coordinate, concerted action in the States involved, and there is a request submitted by these States, or Eurojust College, or the member of the Eurojust national unit of Lithuania, asking to conclude an agreement on the setting up

of a team.

5. The team shall be set up in the State where the main pre-trial investigation actions are expected to be carried out.

6. Requests for the setting up of a team may not be satisfied if there are sufficient grounds for assuming that the operations of such a team may endanger the sovereignty of the State, its security, public order, or cause damage to the investigations into particular criminal offences, or to any other material interests.

### **III. REQUEST FOR THE ESTABLISHMENT OF A TEAM**

7. Where, in the course of pre-trial investigation, the reasons provided for in Section 4 of these Recommendations are established, the prosecutor who conducts or leads pre-trial investigation, pursuant to the provisions of Article 66 of the Code of Criminal Procedure of the Republic of Lithuania, shall draw up a reasoned request for the setting up of a team. The said request shall be submitted to the Prosecutor General of the Republic of Lithuania by a superior prosecutor. In case particular information is needed while drawing up a request, the member of the Eurojust national unit of Lithuania may be addressed for this purpose.

8. Request for setting up of a team shall indicate as follows:

8.1. reasons and motives for submitting a request;

8.2. date when pre-trial investigation was initiated in Lithuania; criminal case number; the official conducting pre-trial investigation;

8.3. account of factual circumstances of a criminal offence;

8.4. information on the person who is suspected of committing a criminal offence (name, surname, personal code, place of birth, place of residence, citizenship and any other information significant to the case);

8.5. extent of material damage caused while committing a criminal offence;

8.6. legal description of a criminal offence (with reference to relevant legal provisions);

8.7. State (States), and (if known) law enforcement authority, which is requested to be addressed;

8.8. description of a criminal offence in respect of which investigations are carried out in a foreign state, supported by its legal description (with reference to relevant legal provisions);

8.9. as thorough description as possible of the purposes of a team and procedural actions which must be taken in every State involved;

8.10. proposals as to the team composition, indicating the names and surnames of the officials of the Republic of Lithuania and the State (States) involved, the posts held by them and the reasons for their participation in a team.

9. The request shall be supported by the draft of the Agreement on the Establishment of a Joint (Combined) Investigation Team, drawn up in accordance with the model agreement given in Annex No. 2 of these Recommendations.

10. The member of the Eurojust national unit of Lithuania shall be entitled to address the Prosecutor General of the Republic of Lithuania with a request to consider the issue of the necessity of setting up a joint investigation team for the cases in respect of which Eurojust co-ordinates or has initiated pre-trial investigation actions in the Member States involved.

#### **IV. PREPARATION OF THE AGREEMENT ON THE ESTABLISHMENT OF A TEAM**

11. Upon receiving the request and the draft of the Agreement, the Prosecutor General of the Republic of Lithuania, in case these documents are sufficiently grounded, shall commission the International Relations and Legal Assistance Division to prepare requests to foreign states with respect to the setting up of a team. In case there is insufficient information to prepare these requests, or the draft of the Agreement has been drawn up incorrectly, the prosecutor who submitted the request shall be instructed to provide the missing data or to prepare the draft of the Agreement in a proper and expected way within a fixed period of time. If the grounds for setting up a team are insufficient, the request shall be returned to the prosecutor who has submitted this document. In case particular information is needed while preparing the drafts of either an Agreement or a request, the member of the Eurojust national unit of Lithuania may be addressed for this purpose.

12. While preparing the Agreement on the Establishment of a Joint (Combined) Investigation Team, the following ought to be taken into account: the declarations made and the reservations entered in respect of the Convention on Mutual Assistance in Criminal Matters Between the Member States of the European Union of 29 May 2000; Protocol to the said Convention of 16 October 2001; the Council of the European Union Framework Decision of 13 June 2002 on Joint Investigation Teams (2002/465/JHA), the Council of the European Union Framework Decision of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime (2002/187/JHA); the European Convention on Mutual Assistance in Criminal Matters (1959) of Council of Europe, the Second Additional Protocol to the said Convention of 8 November 2001, the regulatory enactments adopted by the EU bodies, as well as any other important circumstances (Information on the new regulatory enactments to be adopted in this field shall be additionally provided).

13. In case of necessity, the Agreement may provide for the participation of the officials from the institutions set up under the Treaty on the European Union (Eurojust, Europol, OLAF, etc.), as well as the officials from the competent authorities of third countries, in the operations of a team. The limits of their competence as to the investigation process shall be established in a separate arrangement annexed to the Agreement. The member of the Eurojust national unit of Lithuania shall be seconded to the team by the Prosecutor General (Deputy Prosecutor General) of the Republic of Lithuania.

14. The requests to the foreign states and the proposals to the EU authorities relating to the setting up of a team, accompanied by the draft of the Agreement, shall be sent to the competent authorities of the foreign states as well as to the heads of EU authorities. These documents shall also be supported by the proposals with respect to the time and possible ways of negotiating the conditions provided therein (during the meetings, by post, by fax, or by means of any other electronic communication).

15. With respect to the (criminal) cases where Eurojust co-ordinates or has initiated pre-trial investigation actions in the States involved, or where the coordinating activities of Eurojust are needed to accomplish the purposes of criminal proceedings, the requests for

the setting up of a team shall be sent to the Member States only via the member of Eurojust national unit of Lithuania.

16. The Agreement shall be drawn up in Lithuanian and afterwards translated into the language accepted by the competent authorities of the States setting up the team, Eurojust, Europol, OLAF, or any other institutions.

17. The Agreement on the Establishment of a Team shall be signed by the Prosecutor General (Deputy Prosecutor General) of the Republic of Lithuania.

18. The Prosecutor General's Office of the Republic of Lithuania shall inform the other Parties in writing about the replacement of the member of a team, or the leader thereof, and provide information on the newly appointed officials.

#### **V. GENERAL CONDITIONS ON THE OPERATION OF THE TEAMS**

19. The leader of the team shall be a representative of the competent authority participating in the criminal investigations from the State in which the team operates.

20. The team shall carry out its operations within the limits of its competence as established in the Agreement and in accordance with the laws and other regulatory enactments of the State where the team has been set up and in which it operates.

21. The expiry date of the period of the team's operation may be extended, the purposes and conditions of its operations may be altered only by mutual consent of the Parties involved and in accordance with the same procedure as the one applied when preparing the Agreement on the Establishment of a Team.

#### **VI. OPERATION OF THE TEAMS SET UP IN LITHUANIA**

22. Upon concluding the agreement, further to the decision of the Prosecutor General (Deputy Prosecutor General) of the Republic of Lithuania, or the chief prosecutor (assistant chief prosecutor) of the department (division) of the Prosecutor General's Office of the Republic of Lithuania, or the chief prosecutor (assistant chief prosecutor) of the territorial Prosecutor's Office, an investigation team shall be formed from several officials from either the same or different pre-trial investigation institutions and (or) prosecutors. The members of the team shall be commissioned to conduct pre-trial investigation in order to accomplish the purposes established in the Agreement. The leader of the team shall be appointed under the said decision.

23. The team shall be led by the prosecutor of the Prosecutor's Office of the Republic of Lithuania, who, while organising pre-trial investigation and presiding over it:

23.1. entrusts the members of the team - officials of the Republic of Lithuania - with the following tasks:

23.1.1. to organize and lead pre-trial investigation into separate counts of the criminal offence;

23.1.2. to investigate separate counts of the criminal offence;

23.1.3. to conduct separate procedural inquiries;

23.2. in case the team, which has been set up and carries out its operation within the Republic of Lithuania, requires specific information to be obtained from other States, which do not participate in the operations of the team, addresses these States with the request for legal assistance in accordance with the procedure established by the

international treaties, to which the Republic of Lithuania is a party, and by the provisions of the Code of Criminal Procedure of the Republic of Lithuania;

23.3. decides on the presence of the seconded members of the team when pre-trial investigation actions are taken;

23.4. commits a seconded member of a team to take certain pre-trial investigative actions where this has been approved by the Prosecutor General (Deputy Prosecutor General) of the Republic of Lithuania and the competent authority of the seconding State. The request for approval of such a commission, which is to be addressed to the International Relations and Legal Assistance Division of the Prosecutor General's Office of the Republic of Lithuania, shall indicate as follows:

23.4.1. States setting up the team;

23.4.2. time and basis for the setting up of a team;

23.4.3. which pre-trial investigative enquiries in particular are planned to be commissioned, and which member of a team will be entrusted with a task of taking these measures;

23.4.4. reasons for such a decision;

23.4.5. time when these pre-trial investigative enquiries are planned to be executed;

23.5. submits proposals as to the changes in a team's composition to the prosecutor who formed the team further to his decision;

23.6. addresses the Prosecutor General (Deputy Prosecutor General) of the Republic of Lithuania with a request to replace a seconded member of a team;

24. Seconded members of a team shall carry out their tasks in accordance with the procedure established in the Agreement. They shall be entitled to:

24.1. be present when procedural enquiries are conducted by the officials of the Republic of Lithuania unless the leader of the team, in accordance with the laws of the Republic of Lithuania, decides that seconded members of a team shall not be entitled to be present when procedural enquiries are conducted.

24.2. where the team needs pre-trial investigative actions to be taken in one of the States setting up the team, they may take those actions themselves, or request the competent authorities of their States to take those actions.

25. The team's procedural operation shall be controlled by the prosecutor superior to the leader of the team.

26. The Prosecutor's Office of the Republic of Lithuania and the pre-trial investigation institutions shall arrange for all the necessary organizational conditions for the operations of a team.

## **VII. OPERATIONS OF THE TEAM MEMBERS SECONDED FROM THE INSTITUTIONS OF THE REPUBLIC OF LITHUANIA IN OTHER STATES**

27. The prosecutors from the Prosecutor's Office of the Republic of Lithuania shall be seconded to the teams set up in other States by the Prosecutor General (Deputy Prosecutor General) of the Republic of Lithuania, and the officials of pre-trial investigation institutions of the Republic of Lithuania shall be seconded, further to the

motion of the Prosecutor General (Deputy Prosecutor General) of the Republic of Lithuania, by the chiefs (assistant chiefs) of these institutions.

28. When participating in the operations of a team, the team members seconded by the Republic of Lithuania shall carry out procedural actions within the territory of foreign states in accordance with the national law of these States. Their status and responsibilities shall be regulated by the legal acts listed in Annex No. 1 of these Recommendations. The results of pre-trial investigative actions carried out in foreign states may be directly transferred to the leader of the team and used in the criminal proceedings relating to the criminal acts in respect of which the team conducts its investigations.

29. The team members seconded by the Republic of Lithuania may, under the commission of the leader of the team, conduct the required pre-trial enquiries within the territory of the Republic of Lithuania themselves, within the limits of their competence, or request the competent authorities of the Republic of Lithuania to conduct those enquiries. The results of such pre-trial investigative measures (documents, objects, information) may be directly transferred to the leader of the team and used in the criminal proceedings relating to the criminal acts in respect of which the team conducts its investigations. The team members seconded by the Republic of Lithuania may, within the limits of their competence, provide the team with the information needed for the criminal investigations conducted by the team, which they are entitled to obtain and use in accordance with the procedure established by the laws of the Republic of Lithuania.

30. Information lawfully obtained by the team members seconded by the Republic of Lithuania while participating in the operations of a team that is not otherwise available to the competent authorities of the States concerned may be used for the following purposes:

30.1 for the purposes for which the team has been set up;

30.2. subject to the prior consent of the State where the information became available, for detecting, investigating and prosecuting other criminal offences. Such consent may be withheld only in cases where the use of such information would endanger criminal investigations in the State concerned or in respect of which that State could refuse mutual assistance;

30.3. for preventing an immediate and serious threat to public security, and without prejudice to the provisions of sub-paragraph 30.2. of these Recommendations. if subsequently a criminal investigation is initiated;

30.4. for other purposes to the extent that this is agreed between States setting up the team.

31. The Eurojust College or the member of the Eurojust national unit of Lithuania may be informed of the impediments to the operations of a team, for the purpose of receiving their proposals as to the possible ways of solving those problems.

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*ANNEX No. 1*

## **LEGAL BASIS FOR THE ESTABLISHMENT AND OPERATION OF**

## JOINT INVESTIGATION TEAMS

CONVENTION, ESTABLISHED BY THE COUNCIL IN ACCORDANCE WITH ARTICLE 34 OF THE TREATY ON EUROPEAN UNION, ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE MEMBER STATES OF THE EUROPEAN UNION.

Adopted on 29 May 2000 in Brussels, ratified by the Law of 5 February 2004  
(Official Journal, 2004, No. 154)

(<http://ue.eu.int>)

PROTOCOL TO THE CONVENTION, established by the Council in accordance with Article 34 of the Treaty on European Union, on Mutual Assistance in Criminal Matters between the Member States of the European Union.

Adopted on 16 October 2001 in Luxembourg, ratified by the Law of 5 February 2004  
(Official Journal, 2004, No. 154)

(<http://ue.eu.int>)

EUROPEAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS

Adopted on 20 April 1959, ratified by the Law of 4 April 1995  
(Official Journal, 1995, No. 33-762)

(<http://conventions.coe.int>)

SECOND ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS

Adopted on 8 November 2001, ratified by the Law of 29 January 2004  
(Official Journal, 2004, No. 42-1374)

(<http://conventions.coe.int>)

COUNCIL FRAMEWORK DECISION of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime (2002/187/JHA)

(<http://ue.eu.int>)

COUNCIL FRAMEWORK DECISION of 13 June 2002 on joint investigation teams (2002/465/JHA)

(<http://www.lrs.lt>)

COUNCIL RECOMMENDATION of 8 May 2003 on a model agreement for setting up a joint investigation team (JIT) (2003/C 121/01)

(<http://ue.eu.int>)

ARTICLES OF CRIMINAL PROCEDURE CODE OF THE REPUBLIC OF LITHUANIA:

4, 66, 67, 164, 169, 170, 171.

## MODEL AGREEMENT ON THE ESTABLISHMENT OF A JOINT INVESTIGATION TEAM

In accordance with Article 13 of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of 29 May 2000 (hereinafter referred to as the Convention), Article 20 of the Second Additional Protocol (hereinafter referred to as the Protocol) of Council of Europe to the European Convention on Mutual Assistance in Criminal Matters of 1959, and the Council Framework Decision of 13 June 2002 on joint investigation teams (hereinafter referred to as the Framework Decision),

### 1. Parties to the Agreement

(names of the States)

have concluded an agreement on the setting up of a joint investigation team, hereinafter referred to as 'JIT':

1. (Name of competent authority of the first State as party to the agreement)  
and

2. (Name of competent authority of the second State as party to the agreement)  
and

3. (Name of competent authority(ies) of the third State and other States as parties to the agreement)

The Parties to the agreement may decide by common agreement to invite other states' competent authorities to become Parties to this agreement. For possible arrangements with third countries or international bodies, which are competent by virtue of provisions adopted within the framework of the EU Treaties and involved in the activities of the JIT, see Model Appendix.

### 2. Purpose of the JIT

The agreement shall cover the setting up of a JIT for the following purpose:

(Description of the specific purpose of the JIT) The Parties may, by common agreement, redefine the specific purpose of the JIT.

3. Period covered by the Agreement

In accordance with Article 13 (1) of the Convention, Article 20(1) of the Protocol and Article 1(1) of the Framework Decision, JIT shall be set up for a limited period of time. With respect to this agreement, the JIT shall operate during the following period:

from

(insert date)

to

(insert date)

The expiry date stated in this agreement may be extended by mutual consent of the parties. In such case, the Agreement shall be updated.

4. State(s) in which the JIT will operate

The JIT will operate in the following state(s):

(Designate State or States in which the JIT is intended to operate)

In accordance with Article 13 (3)(b) of the Convention, Article 20 of the Protocol and Article 1 (3)(b) of the Framework Decision, the JIT shall carry out its operations in accordance with the law of the State in which it operates. Should the JIT relocate its operations to another State, the law of this State shall apply.

5. JIT Leader(s)<sup>1</sup>

The parties have designated the following person who shall be a representative of the competent authority in the State where the team is operating as the leader of the JIT and under whose leadership the members of the JIT must carry out their tasks in that State:

STATENAME, SURNAMERANKON SECONDMENT FROM (NAME OF INSTITUTION)

Should any of the abovementioned persons be prevented from carrying out his duties, his superior will inform the other parties in writing about the name of his replacement.

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<sup>1</sup> The provision stipulating that the leader of the team shall be a representative of the competent authority participating in pre-trial criminal investigations from the State in which the team operates, shall apply.

6. Members of the JIT

The following persons will be members of the JIT:

6.1. Prosecutor's offices or judicial authorities

NAME, SURNAMERANKON SECONDMENT FROM (NAME OF INSTITUTION)  
Should any of the abovementioned persons be prevented from carrying out his duties, his superior will inform the other parties in writing about the name of his replacement.

#### 6.2. Police Authorities<sup>1</sup>

NAME, SURNAMERANKON SECONDMENT FROM (NAME OF INSTITUTION)  
Should any of the abovementioned persons be prevented from carrying out his duties, his superior will inform the other parties in writing about the name of his replacement.

#### 6.3. National members of Eurojust acting on the basis of their national law

NAME, SURNAMEROLESTATE  
Should any of the abovementioned persons be prevented from carrying out his duties, his superior will inform the other parties in writing about the name of his replacement.

#### 7. Participation of the officials from Europol/Eurojust/OLAF or other institutions set up under the EU Treaties, as well as the officials of third countries

The Parties to this agreement agree to accept the proposal for participation by Europol/Eurojust/OLAF <sup>(2)</sup> <sup>(3)</sup>, or to request for participation of the officials from the afore-mentioned authorities, in accordance with the arrangements set out in the Appendix to this agreement.

(Should officials from Europol/Eurojust/OLAF participate in the JIT, this must be mentioned in this Article. The Parties agree that the exact arrangements under which Europol/Eurojust/OLAF officials

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<sup>1</sup> These police authorities may also comprise members of the Europol national units of the Member States. These national units are based in the Member States and act as national police authorities. Even the liaison service officers of the Member States at Europol retain their powers to act as national police authorities.

<sup>2</sup> Eurojust, in accordance with Article 7(a) of the Council Decision on Eurojust, may *proprio motu* (on its own initiative) propose the setting up of a JIT.

<sup>3</sup> Note that such participation is not mandatory but depends on the circumstances of the investigation and the competence of each institution to participate in the activities of a JIT.

will participate in the JIT, will be the subject of a separate arrangement<sup>4</sup> with Europol/Eurojust/OLAF annexed to this agreement.)

#### 8. General Conditions of the Agreement

In general the conditions laid down in Article 13 of the Convention, Article 20 of the Protocol and the Framework Decision shall apply as implemented by each State in which the JIT operates.

## 9. Specific Conditions of the Agreement

The following specific conditions may apply in this Agreement (delete if not applicable): (note that a number of these aspects are also regulated in the Convention, the Protocol, and the Framework Decision):

9.1. Terms under which seconded members of the JIT may be excluded when pre-trial investigation enquiries are conducted;

9.2. Terms under which seconded members of the JIT may carry out pre-trial investigation enquiries within the State of JIT operation;

9.3. Specific conditions under which seconded members of the JIT may request their own national authorities to conduct investigation enquiries which are requested by the team without submitting a written letter of request;

9.4. Conditions under which assistance to be sought under the Convention, the Protocol and other arrangements may be given;

9.5. Conditions under which seconded members may share information derived from seconding authorities;

9.6. Specific data protection rules

9.7. Conditions under which seconded members may carry/use weapons;

9.8. References to any other already existing provisions or arrangements on the setting up or operation of JIT;

9.9. Other conditions

## 10. Organizational Arrangements

The competent authorities of (insert name of the State) shall make the necessary organisational arrangements for enabling the JIT to carry out its work.

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<sup>4</sup> This separate agreement will, amongst other things, have to specify whether the rights conferred upon the members and seconded members by virtue of the Framework Decision or by Article 13 of the Convention, will also apply to the officials from this body that participate in the JIT.

The following areas are subject to an exclusive competence either on behalf of (insert name of the State) or the other parties or to a burden sharing between the competent

authorities of (insert name of the State) and the other parties (the following list should just serve as an exemplary list of possible arrangements):

- 10.1. Costs of the JIT operation;
- 10.2. Office accomodation;
- 10.3. Vehicles;
- 10.4. Other technical equipment;
- 10.5. Allowances for seconded members of the JIT;
- 10.6. Insurance for seconded members of the JIT;
- 10.7. Use of liaison officers;
- 10.8. Use of the European Judicial Network;
- 10.9. Language to be used for communications;
- 10.10. Other arrangements

Done at (place of signature), (date)

(Signatures of all parties)

#### MODEL APPENDIX TO THE AGREEMENT ON THE ESTABLISHMENT OF A JOINT INVESTIGATION TEAM

Arrangement with Europol/Eurojust/OLAF or other bodies competent by virtue of provisions adopted within the framework of the EU Treaties, other international bodies or third countries

1. Parties to the arrangement

Europol/Eurojust/OLAF ..... and the (name of competent authority of the first State as party to the agreement), (name of competent authority of the second State as party to the agreement), and (name of competent authority of the ..... State as party to the agreement) have agreed that the officials of Europol/Eurojust/OLAF <sup>(1)</sup> will participate in the joint investigation team, that they have agreed to set up by agreement of ..... (date and place of the agreement, to which this arrangement is annexed). This participation will take place under the following conditions.

## 2. Participating Officials

The following Europol/Eurojust/OLAF officials will participate in the JIT:

NAME, SURNAMERANKON SECONDMENT FROM (NAME OF AUTHORITY)

Should any of the abovementioned persons be prevented from carrying out his duties, his superior will inform the other parties in writing about the name of his replacement.

## 3. Specific Arrangements

3.1. Type of assistance;

3.2. Technical equipment provided

4. Rights conferred upon the officials from Europol/Eurojust/OLAF bodies, other international bodies, or third countries, competent by virtue of provisions adopted within the framework of the EU Treaties, that participate in the JIT.

5. Arrangements for the participation of third countries in the JIT.

Date/signatures

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<sup>1</sup> Delete if not applicable.