



NATIONAL AUDIT OFFICE OF THE REPUBLIC OF LITHUANIA

PUBLIC AUDIT REPORT ARE THERE PRECONDITIONS IN PLACE FOR EFFICIENT ORGANISATION OF THE PRE-TRIAL INVESTIGATION PROCESS

20 December 2012, No. VA-P-40-8-17
Vilnius

SUMMARY

Audit started 29 September 2011
Audit completed 20 December 2012

Full audit report in Lithuanian is available on the website
of the National Audit Office: www.vkontrole.lt

There are about 80 thousand criminal offences registered with the Departmental Register of Criminal Offence every year. These offences inflict damage both on individual persons and the society. Seeking to determine whether a criminal offence was committed, a pre-trial investigation has to be carried out. According to the Register data, about 98 thousand pre-trial investigations are initiated every year, of which approximately 70 per cent is completed in the same year.

The purpose of the criminal procedure is to disclose criminal offences in an expeditious and comprehensive manner and to properly apply the law so that the offender is justly punished and no innocent people are convicted, in order to protect human and civil rights and freedoms and the interests of the society and the State.¹

¹ Code of Criminal Procedure of the Republic of Lithuania, Art. 1(1).

The audit aimed to assess whether there are preconditions in place for efficient organisation of the pre-trial investigation process by providing responses to the following questions:

- are there enough measures taken to ensure that pre-trial investigations are taken and criminal offences are disclosed in the shortest possible time;
- are there enough appropriate human resources for carrying out a pre-trial investigation;
- how is data on pre-trial investigations registered and how are the results of pre-trial investigations reported.

The audit was conducted in the Prosecutor General's Office of the Republic of Lithuania and in the Police Department under the Ministry of the Interior of the Republic of Lithuania. The information was collected from all pre-trial investigation bodies. The auditors did not assess the legality and validity of pre-trial procedural decisions because, according to the Law on the Prosecutor's Office, procedural actions of prosecutors are controlled by the superior prosecutor and the court².

We have established that there are no sufficient preconditions for efficient organisation and performance of pre-trial investigation.

The following audit conclusions and recommendations were formulated upon assessment of the audit findings:

Audit conclusions

1. The Prosecutor's Office, as the institution which organises and directs pre-trial investigation, has failed to take enough measures to ensure that pre-trial investigations are carried out and criminal offences are disclosed in the shortest possible time because:

1.1. problems which result in lengthy pre-trial investigations have not been addressed in an efficient and expeditious manner;

1.2. the number of pre-trial investigations terminated due to the expiry of the limitation period for criminal liability has been increasing every year;

1.3. collection and summarisation of all data required for improvement of the pre-trial investigation process has not been ensured.

2. Appropriate human resources have not been provided for carrying out pre-trial investigation because:

2.1. the demand of pre-trial investigators and prosecutors has not been justified, sometimes job positions in pre-trial investigation bodies have been established and eliminated without taking

² Law of the Republic of Lithuania on the Prosecutor's Office, Art. 4(2) (version of Law No. XI-1562 of 3 June 2011).

due account of the crime rates affecting investigators' workload, which have resulted in failure to ensure even distribution of the workload;

2.2. the number of vacant positions of prosecutors and pre-trial investigators has been increasing every year, which makes it difficult to organise and carry out pre-trial investigation;

2.3. in 2011 more than one-fifth of the investigators had no higher education in law because such requirement for the position of investigators is not provided for in legislation;

2.4. pre-trial investigators' competence development is organised insufficiently effectively, which prevents application of uniform pre-trial investigation practice.

3. Not all data on pre-trial investigations held by the Prosecutors' Office and pre-trial investigation bodies is reliable as a result of improper accounting of pre-trial investigations.

4. Data provided in activity reports of the Prosecutor's Office and pre-trial investigation bodies is not sufficiently informative to be able to assess whether pre-trial investigations are carried out and criminal offences are disclosed in the shortest possible time.

Audit recommendations

To the Government of the Republic of Lithuania

1. With a view to providing appropriate human resources for carrying out pre-trial investigation, decisions have to be taken regarding the following:

1.1. introduction of the requirement to have at least higher education in law for the position of investigators in pre-trial investigation bodies;

1.2. approval of general provisions on the management of human resources for pre-trial investigation which would ensure consistent, long-term and targeted planning of the demand of investigators and prosecutors, their selection, motivation, and career development.

2. Seeking that pre-trial investigations are carried out and criminal offences are disclosed in the shortest possible time and that the results achieved are reported in an informative manner, to ensure that the strategic plans of the Prosecutor's Office and pre-trial investigation bodies provide for the same or similar goals and objectives of pre-trial investigation and their implementation criteria.

To the Prosecutor General of the Republic of Lithuania

With a view to ensuring more efficient organisation of the pre-trial investigation process:

1. to develop a prosecutors' workload calculation methodology, and, following this methodology, to establish the demand of prosecutors for implementing the assigned tasks;

2. to provide for measures to improve organisation of competence development of pre-trial investigation subjects so that all these subjects could form uniform pre-trial investigation performance practice;

3. to revise the accounting procedure for pre-trial investigations to ensure reliability of this accounting and that the accounting covers data which allows assessing compliance with the pre-trial investigation deadlines laid down in the Code of Criminal Procedure;

4. to provide for measures to reduce the duration of the performance of pre-trial investigation;

5. to provide for measures to increase motivation to take the prosecutor's job.

To the Lithuanian Police Commissioner General

1. To develop an investigators' workload calculation methodology, and, following this methodology, to establish the demand of investigators for implementing the assigned tasks of pre-trial investigation;

2. To provide for measures to reduce the number of vacant investigator positions and turnover of personnel;

3. Seeking more efficient performance of pre-trial investigation, to take decisions on the following:

3.1. ensuring of even distribution of investigators' workload;

3.2. improvement of the organisation of investigators' competence development.

4. To revise investigators' job descriptions setting a requirement to have higher education in law.

The Ministry of the Interior of the Republic of Lithuania, on the instruction of the Government of the Republic of Lithuania, the Prosecutor General's Office of the Republic of Lithuania, and the Police Department under the Ministry of the Interior have provided a plan on the implementation of the recommendations.