



Executive summary of the public audit report

## ORGANISING PERFORMANCE OF FORENSIC EXAMINATIONS

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: [www.vkontrole.lt](http://www.vkontrole.lt)

## DEFINITIONS AND ABBREVIATIONS

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**CPH:** County Police Headquarters

**CCrP:** Code of Criminal Procedure

**FCIS:** Financial Crime Investigation Service

**FRC:** Fire Research Centre

**CIC:** Lithuanian Police Criminal Investigation Centre

**BL:** Bank of Lithuania

**FSCL:** Forensic Science Centre of Lithuania

**CL:** Customs Laboratory

**VAT:** value-added tax

**Law enforcement authorities:** courts, public prosecutor's offices and pre-trial investigation institutions

**LFE:** Law on the Forensic Examination

**MJ:** the Ministry of Justice of the Republic of Lithuania

**STI:** State Tax Inspectorate

**SFMS:** State Forensic Medicine Service

**NSFP:** National Service of Forensic Psychiatry

**Expert Investigation:** an investigation carried out on the basis of a decision of a court or a judge, assignment of a public prosecutor or an officer of a pre-trial investigation institution, or a request of a natural person or legal entity, other organisation or its subdivisions, which requires special knowledge and the process, analytical results and direct interpretation thereof are recorded in an expert report or a specialist's conclusion<sup>1</sup>.

**Examination of objects:** a step in the pre-trial investigation aimed at finding and investigating traces of a criminal offence or other objects relevant to the investigation, determining the situation and other significant circumstances of the event through the application of special knowledge<sup>2</sup>.

**Private forensic expert:** a person with forensic expert qualifications included in the List of Forensic Experts of the Republic of Lithuania, <...> but not employed by a forensic examination institution<sup>3</sup>.

**Specialist:** a person with the required special knowledge and skills charged with carrying out examination of objects and presenting conclusions or explanations on matters within their competence<sup>4</sup>.

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<sup>1</sup> Law on the Forensic Examination of the Republic of Lithuania No. IX-1161, 29/10/2002, Art. 3. p. 1.

<sup>2</sup> Order No. I-14 of 18/01/2011 of the Prosecutor General of the Republic of Lithuania On Recommendations for Approval of Assignments to Specialists and Experts, p. 7.4

<sup>3</sup> Law on the Forensic Examination of the Republic of Lithuania, Art. 17. p. 1.

**Forensic expert:** a person with forensic expert qualifications included in the List of Forensic Experts of the Republic of Lithuania<sup>5</sup>.

**Forensic examination:** a procedural step whereby a court or a judge appoints a forensic expert to carry out forensic examination and give reply to questions that require special knowledge, while the forensic expert carries out the tests assigned to them and records the results in an expert report<sup>6</sup>.

**Forensic examination institution:** a public body or subdivision thereof tasked mainly with performance of forensic examinations requested by courts<sup>7</sup>.

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<sup>4</sup> Code Of Criminal Procedure, Art. 89 p. 1.

<sup>5</sup> Law on the Forensic Examination of the Republic of Lithuania, Art. 3. p. 3.

<sup>6</sup> Law on the Forensic Examination, Art. 3. p. 4.

<sup>7</sup> Ibid, Art. 3 p. 5.

## SUMMARY

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Expert examinations can be classified into forensic examinations and examinations of objects. The Ministry of Justice is charged with shaping national policy in the field of forensic examinations, organising, coordinating and monitoring its implementation. Coordination Council of Forensic Experts is also tasked with participating in the shaping and implementation of national policy in this field. Forensic examinations are carried out by public forensic examination institutions funded from the state budget and by private forensic experts. At the end of 2015, there were 278 forensic experts employed by forensic examination institutions and 110 private forensic experts in the List of Forensic Experts of the Republic of Lithuania. Inclusion in the List of Forensic Experts confirms that the expert has qualifications and special knowledge necessary to perform expert examinations indicated in the list, is able to act as a forensic expert in a forensic expert institution or act as a private forensic expert. There are no statutory restrictions as to certain types of expert examinations that cannot be carried out by private forensic experts. There are five forensic examination institutions (specially established public bodies or subdivisions thereof tasked with carrying out forensic examinations) in Lithuania. About 94 percent of all expert examinations carried out by the forensic examination institutions are examinations of objects, and about 6 percent are forensic examinations. Appropriations from the state budget allocated to the forensic examination institutions were increasing each year: from EUR 12.36 million in 2014 to EUR 13.70 million in 2015. There is no information on the amount of the state budget funds used to pay for the services of private forensic experts.

The results of expert examinations are used to achieve the objectives of the administration of justice. Timely and high-quality expert examinations should help courts determine the truth in civil, administrative and criminal proceedings, and help pre-trial investigation institutions detect and investigate criminal offences in a quick and comprehensive manner. In 2012, the National Audit Office performed an audit<sup>8</sup> on the Preconditions for an Efficient Pre-trial Investigation Process. The audit revealed that lengthy deadlines for expert examinations are one of the reasons of failure to complete pre-trial investigations in a timely manner. Therefore, it was decided to carry out a public audit Organising Performance of Forensic Examinations, analysing:

- The process of shaping and implementing national policy in the field of forensic examinations;
- Whether the laws provide for adequate regulation of performance of expert examinations;
- Whether sufficient measures are taken to shorten deadlines for the presentation of expert examination results.

The audit was carried out in the Ministry of Justice and two forensic examination institutions: Forensic Science Centre of Lithuania (FSCL) and Lithuanian Police Criminal Investigation Centre (CIC). These institutions carry out the highest number of different types of expert examinations and part of the same types of examinations.

Data for the audit were also collected from the Coordination Council of Forensic Experts, all of the forensic examination institutions, other institutions carrying out expert examinations, regional and district courts, county police headquarters. The auditors interviewed

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<sup>8</sup> Public audit report No. VA-P-40-8-17 of 20/12/2012 of the National Audit Office.

representatives of the academia, the National Courts Administration, the National Accreditation Bureau, public prosecutors and police officers.

The audit covered the period from 2014 to 2015. To assess the changes, data for a longer period were also collected.

The audit revealed that the audited forensic examination institutions have not solved the problem of line-up of expert examinations. It takes about a year to receive conclusions of some examinations, which results in lengthy pre-trial investigation process. The state does not have a clear vision for the development of this field of services ensuring satisfaction of the needs of persons ordering the examinations. Certain strategic decisions and proper regulation of the expert examination services would provide more opportunities to shorten the deadlines for the presentation of expert conclusions and ensure the quality of expert examinations. Having assessed the evidence collected during the audit, we hereby present conclusions and recommendations which, if implemented, should help ensure satisfaction of the need of expert examination services and more efficient use of the state budget funds allocated for the payment for these services.

## CONCLUSIONS

1. Some of pre-trial investigations were not completed in time due to lengthy deadlines for the performance of expert examinations. The Ministry of Justice charged with shaping national policy in the field of forensic examinations, organising and coordinating its implementation failed to ensure the establishment of sufficient methods and measures necessary to achieve the goal of the Government Programme, i.e. shortening deadlines for the presentation of expert conclusions, at the national level. The process of shaping national policy in the field of forensic examinations as well as organising, coordinating and monitoring its implementation is complicated by the fact that:
  - 1.1. Ministries of the Interior and Health, management areas of which include four (out of five) forensic examination institutions operating in Lithuania, are not charged with participating in the shaping of the policy (Section 1);
  - 1.2. Coordination Council of Forensic Experts operates on the voluntary basis, thus it is unable to ensure continuous and efficient performance of all functions assigned to it, while annual action plans/priorities have not been established (Section 1);
  - 1.3. Coordination Council of Forensic Experts does not include persons representing the interests of private forensic experts (Section 1).
2. There is inadequate management of the risk that the state budget funds may be used for expert examinations that are not necessary to achieve objectives of the administration of justice:
  - 2.1. Each year, forensic examination institutions carry out about 62 thousand expert examinations; however, no measures are taken to determine how many of them are actually used to achieve the objectives of the administration of justice (Subsection 3.2);
  - 2.2. Expert examinations are requested, when special knowledge is required to determine circumstances of criminal offences; however, the legislation provides no further details as to specific cases that require examination of objects and those requiring forensic

- examination. Therefore, in the absence of grounds for requesting certain types of examination, situations may occur, where both examination of an object and forensic examination are ordered;
- 2.3. Procedure for ordering examination of an object and forensic examination is different. Forensic examinations are subject to more extensive control mechanism compared to examination of objects, which could have be the reason why 94 percent of all the expert examinations ordered were examinations of objects.
3. According to the Law on the Forensic Examination, expert examinations can be carried out without any limitations by both forensic examination institutions and private forensic experts; however, there is a risk that, in practice, the opportunities for private experts to participate in the process of provision of these services may be limited:
    - 3.1. The Law on the Forensic Examination tasks forensic examination institutions with training forensic experts in the field; however, the CIC and the FSCL do not organise training for private individuals, because subordinate legislation regulating the procedure of training and qualification of forensic experts provides that these institutions offer training only to those employed by forensic examination institutions (Subsection 2.1);
    - 3.2. In criminal proceedings, persons from law enforcement institutions ordering expert examinations usually opt for the services provided by forensic examination institutions, because unlike with the analogous services provided by private forensic experts, in this case, there is no need to pay for the services from the allocated state budget appropriations (Subsection 2.1);
    - 3.3. According to the recommendations of the Prosecutor General of the Republic of Lithuania, in a pre-trial investigation, the services of private forensic experts should only be used, if it is impossible to order the examination from a public body. Therefore, private forensic experts offering the same services as public bodies are almost never included in the process (Subsection 2.1).
  4. The lack of coordination does not help to reduce long lines in the provision of expert examination services and ensure their quality:
    - 4.1. In case of doubt as to the quality of examinations carried out by forensic experts whose qualifications have not been approved by forensic examination institutions, it is impossible to check their qualifications, since the establishments that granted such qualifications are not authorised to assess the quality of forensic examination reports (Subsection 2.4);
    - 4.2. No measures are taken to ensure, to the extent possible, uniform distribution of expert examinations among forensic examination institutions; therefore, in some forensic examination institutions, lines form for the same type of expert examinations, while there are no lines in other institutions (Section 3);
    - 4.3. Forensic examination institutions lack staff necessary to carry out expert examinations (Subsection 3.1).

## RECOMMENDATIONS

### **To the Ministry of Justice of the Republic of Lithuania as an institution charged with shaping national policy in the field of forensic examinations as well as organising, coordinating and monitoring its implementation**

1. For the purpose of effectively managing the field of forensic examinations, it is advisable to plan statewide development of this field by defining strategic orientations and priorities (Conclusion 1).
2. The following measures would facilitate the shaping of national policy in the field of forensic examinations as well as its organisation, coordination and control:
  - 2.1. Deciding on ways in which the ministries, the management area of which includes forensic examination institutions, could contribute to the shaping and implementation of the policy (Conclusion 1.1);
  - 2.2. Defining action plans and objectives of the Coordination Council of Forensic Experts (Conclusion 1.2);
  - 2.3. Deciding the issue of the need to include persons representing the interests of private forensic experts in the activities of the Coordination Council of Forensic Experts (Conclusion 1.3).
3. For the purpose of ensuring provision of expert services meeting the needs of persons ordering such services, it is necessary to:
  - 3.1. Define the specific types of forensic experts (private and/or employed by forensic examination institutions) authorised to carry out specific types of expert examinations in specific situations, and create equal competitive conditions for all service providers (Conclusions 3.1, 3.2 and 3.3);
  - 3.2. Provide measures, which will help to shorten deadlines for the presentation of expert examination results (Conclusions 4.1, 4.2, 4.3 and 4.4).
4. In improving the process of expert services provision, it would be advisable to:
  - 4.1. Decide on the concept of forensic examination and examination of objects, and the need to define situations (grounds) in which each specific type of examination should be ordered (Conclusion 2.2);
  - 4.2. Making sure that expert examination rates of the FSCL and the CIC are based on costs (Conclusion 2.1);
  - 4.3. Create the appropriate legal preconditions for the assessment of qualifications of forensic experts whose qualifications have not been approved by forensic examination institutions (Conclusion 2.3).

Measures and time frames for the implementation of the recommendations are presented in Annex 6, 'Plan for Implementing Recommendations'.