

ACTIVITIES OF THE NATIONAL FORENSIC PSYCHIATRY SERVICE

30 May 2024

Nr. VAE-5

SUMMARY

Relevance of the audit

Performance of the National Forensic Psychiatric Service is important for the enforcement of justice, for the proper protection of the rights of the child, and for ensuring that the rights and interests of individuals are properly protected. Lengthy forensic psychiatric and psychological examinations and investigations have a negative impact on the work of pre-trial investigation bodies and courts. Failure to obtain expert reports or conclusions in due time in the courts increases the length of civil and criminal proceedings. In proceedings involving children, queues for expert examinations increase secondary trauma for children and reduce the possibility of accurately assessing the circumstances of the offence.

Objective and scope of the audit

The objective of the audit was to assess the activities of the National Forensic Psychiatric Service in terms of efficiency and effectiveness.

Main audit questions:

- ✓ whether the Ministry of Health ensures that the Service operates efficiently and effectively;
- ✓ whether the Service organises its activities in such a way that they are efficient and effective.

Audited entities: the National Forensic Psychiatry Service under the Ministry of Health is a budgetary institution of the national health system, whose main purpose is to perform forensic psychiatric and forensic psychological examinations in accordance with the legislation and to provide expert opinions in accordance with the assignments of

prosecutors and officials of pre-trial investigation institutions.¹ The other audited entity is the Ministry of Health, which is the institution exercising the rights and duties of the owner of the National Forensic Psychiatry Service.

During the audit, we collected information from the Forensic Expert Coordination Council, the Prosecutor General's Office, Kaunas District Court, and the National Judicial Administration. We communicated with representatives of the Ministry of Justice, the Coordination Council for Court Experts, prosecutors, judges, the Ombudsman for the Protection of Children's Rights, and Member of the Seimas Rimantė Šalaševičiūtė. We interviewed forensic experts and medical registrars. We visited the expert department (in-patient facility) in Utena.

The audit period is 2021-2023. In order to assess trends and developments, in some cases we have used data from the previous years and 2024.

The audit was carried out in accordance with the International Standards of Supreme Audit Institutions. The scope of the audit and the methods applied are described in more detail in Annex 2 "Audit scope and methods" (page 42).

Main audit results

Activities of the National Forensic Psychiatry Service are not sufficiently efficient and effective to ensure shorter timeframes for examinations, which have an impact on the length of civil and criminal proceedings. The Service has not eliminated the reasons that hinder the speedier performance of expert examinations. In the Q4 of 2023, 27% of expert examinations in criminal cases and 19% in civil cases were carried out within 30 days from the date of receipt of the court order or of the pre-trial investigation officer's or prosecutor's task. In 2023, the waiting times for expert opinions varied by a factor of 6.5 in civil cases and 4.5 in criminal cases between the territorial units of the Service. The average workload of forensic experts varied by up to 1.5 times between the territorial units in 2023 and 23% of forensic expert positions were vacant as at 31 December 2023.

1. The Service is not taking sufficient action to reduce the queues for examinations

- ✓ The average waiting queues for expert investigations in the years 2021-2023 in the territorial units of the National Forensic Psychiatric Service vary considerably, e.g. by a factor of 6.5 in civil cases and by a factor of 4.5 in criminal cases in 2023. One of the reasons for this is the principle for the territorial allocation of expert investigations, as laid down in the Service's Rules of Procedure², whereby a specific territorial unit is entered in a court order and the Service is no longer able to delegate the task itself to another unit with a smaller waiting queue. According to the auditors' calculations, examinations could have been completed 193 days (more than 6 months) faster in civil cases and 85 days (about 3 months) faster in criminal cases if the principle of territorial

¹ Regulations of the National Forensic Psychiatry Service approved by Order No V-425 of the Minister of Health of 11 July 2003 (as subsequently amended), p. 1.

² Order of the Director of the National Forensic Psychiatry Service No 12P-38 of 6 October 2014 "On Approval of the Rules of Procedure of the Expert Units of the National Forensic Psychiatry Service under the Ministry of Health".

allocation had been abandoned and examinations directed to where the queues were smaller (Sub-section 1.1, page 13).

- ✓ The National Forensic Psychiatry Service collected and systematised data only on the attendance of forensic experts at court hearings until 2023, and from 2023 onwards on the number of times that forensic experts attended court hearings in person, the number of times that they attended court hearings remotely, and the number of times that a hearing was not held when they went to attend the hearing in person. Detailed data on the performance of the experts' participation in the hearing (number of times they were not interviewed during the hearing, number of re-attendance, etc.) were not collected by the Service. In a survey carried out by the auditors, 52% (17 out of 33) of the forensic experts indicated that they spend 4-6 hours preparing for and attending court hearings, while 9% spend 7-10 hours. No data is collected to show the time spent by experts and to serve as a basis for discussions with the courts on the need to call experts to the hearing. Time spent on non-productive hearings can be used for expert investigations (Sub-section 1.2, page 15).
- ✓ In 2023, the Service carried out an analysis of the orders (21) received by the Child and Adolescent Forensic Psychiatry Unit in civil cases between December 2021 and October 2022. It was found that 42% of the questions raised in the orders were not relevant as they did not relate to the specific knowledge of forensic psychiatry - forensic psychology. Forensic experts spend time when writing an expert report to justify why they cannot answer the questions formulated in the order. The National Forensic Psychiatric Service does not analyse the formulation of expert tasks by the commissioners of expert investigations because, according to the Service, it does not have sufficient human resources. The lack of data on non-expert questions in the orders does not provide a structured information on redundant questions, which could be used as a basis for a reasoned discussion/training for the commissioners of expert investigations on the most common mistakes they make (Sub-section 1.2, page 16).
- ✓ According to the procedure established by the Ministry of Health, it is the responsibility of the court or the pre-trial investigation body³ to ensure that subjects are presented for forensic examination. In the absence of a regulation on how the presentation of the subjects is to be implemented, the courts and pre-trial investigation authorities have to look for a person to present the subject each time, and failure to present the subject at the appointed time leads to the rescheduling of the examination to the next day, which increases the length of the waiting queues, and gives forensic experts a part of the time to reschedule their work. Only 3 territorial units have systematised data on the number of subjects not presented on time: in 2023, the percentage of subjects not presented in their units out of the total number of examinations scheduled ranges from 6.2 to 17.5%. In the survey, 45% (15 out of 33) of the experts indicated that they lose about half a working day as a result and 3% lose a full working day. The time wasted leads to longer waiting queues and timeframes for examinations, which have an impact on the length of civil and criminal proceedings (Sub-section 1.3, page 17).

2. The optimal human resources of the Service for the performance of forensic psychiatric and psychological examinations are not ensured

³ Order of the Minister of Health No V-616 of 12 June 2013 approving the Description of the Procedure for the Organisation and Performance of Forensic Psychiatric Examinations, p.p. 30 and 31.

- ✓ The norms and indicative workload of forensic experts have been approved⁴, but they are not sufficiently detailed (no distinction is made between work time consumption by nature of cases, type of participation in the hearing, etc.) and not ambitious, as forensic experts exceed them by a factor of 2-4. Since the introduction of the work efficiency assessment, it has more than doubled (from 77.7% in 2013 to 160.4% in 2023), but the workload norms have not been reviewed and adjusted for 10 years. According to the management of the Service, expert activities have remained essentially unchanged, with no redundancies and no new working methods or technologies emerging. The absence of precise and ambitious workload targets does not ensure a realistic assessment of work time costs and does not provide an incentive to improve performance with a view to reducing waiting queues for examinations (Sub-section 2.1, p. 18).
- ✓ Actual workloads vary by up to a factor of 3.5 between forensic experts working at the same level (e.g. the percentage score for calculating the actual workload varies between forensic experts working at 0.75 FTE in 2023 between 144 and 506 points). The average workload also differs by a factor of about 1.5 between territorial units (e.g. in 2023, the average number of examinations per occupied forensic expert position in the Klaipėda unit was 210, while in Kaunas it was 321.5). According to the auditors' assessment, the established legal regulation⁵ limits the possibility of transferring cases to other territorial units. In order to achieve more even workloads and to shorten queues, workloads and queues for forensic examinations cannot be regulated according to the number of decisions received by the Unit and some of them cannot be transferred to other Units (Sub-section 2.1, page 19).
- ✓ The National Forensic Psychiatry Service did not carry out a needs analysis for forensic experts, medical registrars and administrative staff. From 2023 onwards⁶, a quarterly analysis of the composition and dynamics of the experts in the Service's territorial units is foreseen: an assessment of the current number of experts, their age, the category of expertise held, the number of occupied and vacant positions and their evolution, etc., has not been carried out so far.⁷ The number of positions of medical registrars approved in the regional offices varies between the size of the office and the number of forensic experts (from 0.5 to 2.75), and the proportion of medical registrars per forensic expert post varies by more than 6 times, from 0.2 to 1.3. At the end of 2023, 69% of the administrative staff were working in two positions with a workload of 1.5 FTE. According to the job descriptions, the average number of functions for these staff in two positions is around 32. The Service carried out an analysis in 2022 and found that the utilisation of the bed stock in Units 1 and 2 (inpatient) of the Utena Expert Unit had decreased by about 35-40% between 2018 and 2023, but no decisions on the need for human resources have been taken on the basis of the analysis. The number of staff involved in the care of subjects (nurses, orderlies, etc.) has decreased by only 0.25 FTE over the period 2021-2023 and 74.5 FTE (51.8% of the total number of FTEs in the Service) as of 31 December 2023. In the auditors' view, the absence of a human resources needs analysis does not allow for the management of Service-wide

⁴ Order No 12P-51 of the Director of the National Forensic Psychiatry Service of 15 December 2014.

⁵ Regulations on Forensic Psychiatry, Forensic Psychology Examinations at the National Forensic Psychiatry Service under the Ministry of Health, approved by Order of the Minister of Health No V-499 of 18 August 2003, p. 5.

⁶ Methodological document "On the Human Resource Planning and Management Plan of the National Forensic Psychiatry Service under the MoH", approved by Order No 12P-18 of the Director of the NFPS dated 11 May 2023, p. II.

⁷ Until 5 April 2024.

information on the need for human resources to make evidence-based decisions on human resources optimisation (Sub-section 2.2, pages 21-23).

- ✓ In the National Forensic Psychiatry Service, almost a quarter (23%) of forensic expert positions were vacant on 31 December 2023. Only in 2 (out of 8) territorial units the vacancy rate for forensic experts in 2023 was below 10%, while in the other units the vacancy rate for forensic experts ranged from 18.2% to 38.9%. The vacancy rate for forensic psychologists almost doubled in 2023 compared to 2021 (from 6% to 11%). The vacancy rate for forensic psychiatrists has been decreasing between 2021 and 2023, reaching 27.6% as of 31 December 2023. The National Forensic Psychiatry Service applies annual measures to attract and retain forensic experts, and various motivational measures for working experts, but the impact of the measures applied is insufficient, as vacancies for forensic experts amounted to 23% as at 31 December 2023 (11.5 FTE). In the survey, forensic experts indicated that the main reasons for the vacancy of these positions are low salaries and the complexity of the work. The persistence of vacant forensic expert positions does not ensure a more balanced workload for forensic experts and does not allow for shorter waiting queues for examinations (Sub-section 2.3, page 24).
- ✓ The Description of Remuneration Procedures⁸ provides that forensic experts may be promoted by means of a variable salary, allowances and bonuses. Forensic psychiatrists' average salary per position in 2023 was lower than that of psychiatrists in public health care institutions: for psychiatrists in inpatient psychiatric institutions around EUR 251, for psychiatrists in mental health centres around EUR 279. The differences between forensic child and adolescent psychiatrist experts and child and adolescent psychiatrists in public health care institutions were higher in 2023 in terms of average salary per position: in inpatient facilities about EUR 1,276 higher, and in mental health centres about EUR 645 higher, than for forensic child and adolescent psychiatrist experts. Uncompetitive remuneration makes it difficult to attract psychiatrists to fill vacant forensic expert positions (Sub-section 2.3, page 28).

3. The Service's performance indicators do not reflect the time spent waiting in the queue for an examination

- ✓ For the assessment of the efficiency of performance of the National Forensic Psychiatry Service for the period 2021-2024, 4 performance indicators have been approved, related to the timeframes for performing examinations⁹, but they do not allow for an assessment of the real performance of the Service, as none of them includes the time spent waiting in the queue for examinations to start and they differ from the performance indicators approved by the Coordination Council¹⁰ for examination bodies. The procedure¹¹ approved by the Ministry states that an

⁸ Approved by Order No 13P-13 of the Director of the National Forensic Psychiatry Service of 1 February 2017 (recast of Order No 13P-21 of 22 February 2023).

⁹ SAM SAP 2021-2022 2, 2023-2024 3, NFPS AAP 2021 1, 2022-2023 2, 2024 3.

¹⁰ According to the Law on Forensic Examinations, the Council coordinates the activities of forensic examination bodies and forensic experts, and determines strategic directions and priorities in the field of forensic examination.

¹¹ Description of Procedure for the Organisation and Performance of Forensic Psychiatric Examinations approved by Order No V-616 of 12 June 2013 of the MoH, p. 34.4.

examination starts upon receipt of the order and the material, but the procedure¹² approved in 2023 states that the time spent waiting in the queue for examinations is not counted as part of the timeframe for performing these examinations. Implementation of the performance indicator "Percentage of expert reports written within 30 days of the performance of the examinations" approved in the Office's Activity Plan 2023 in Q4 2023 is 90.9%, while the auditors' calculations show that 67% of examinations were actually performed within 30 days from the receipt of the court order in 2023, and 68% in Q4 2023, of which 27% in criminal cases and 19% in civil cases. The longest waiting time for an examination in a criminal case was in the outpatient sub-branch of the Utena Expert Unit - 254 days and in a civil case - 463 days in the Vilnius Territorial Unit. Without calculating the time it took to perform the examination from the time of the receipt of the court's order and the material, there is no information available to make informed decisions on the shortening of the queues (Part 3, p. 33).

Recommendations

To the Ministry of Health

1. To ensure that the performance indicators of the National Forensic Psychiatry Service in relation to the timeframes of examinations are reliable, establish a performance indicator that shows the actual time taken to produce the result of an examination, including the time spent waiting in the queue (Main audit result 3).

To the National Forensic Psychiatry Service

2. To make the workload of forensic experts more even between the territorial forensic psychiatric units and to shorten the queues for forensic examinations:
 - ✓ Review the existing workload norms for forensic experts and, after an objective assessment of the cost of working time for expert examination tasks, refine these norms (assessing what proportion of forensic examinations consists of in-person and remote participation, whether in criminal or civil proceedings, whether for victims or suspects) (Main audit result 2).
 - ✓ Determine how the implementation value of performance indicator "Performance efficiency of forensic experts, %" is to be calculated and develop a scorecard for its monitoring indicator (Main Audit Result 3)
3. To shorten the time taken to perform forensic examinations:
 - ✓ Change the system of assigning examinations to the territorial units by entrusting it to the Service (Main audit result 1).
 - ✓ Periodically analyse the effectiveness of the participation of forensic experts in court hearings and present the results of the analysis to the Judicial Council (Main audit result 1).

¹² Order No 12P-20 of the Director of the NFPS No 12P-20 of 11 May 2023 "On the procedure for calculating the timeframes for examinations performed by the NFPS, determining the complexity of examinations, requesting additional material and refusing to perform an examination".

- ✓ Carry out periodic analysis of the formulation of expert tasks from examination requesters and, based on this analysis, initiate training in the formulation of expert tasks and make recommendations to examination requesters (Main audit result 1).
- 4. To ensure optimal human resources for forensic psychiatric and psychological examinations, carry out an analysis of human resources needs (forensic examiners, medical registrars and the administrative staff of the Service) and take decisions on the basis of this analysis on the efficiency of the activities (Main audit result 2).

We made written observations to the National Forensic Psychiatric Service¹³ on the procedure for calculating the timeframes for examinations, on the preparation and publication of activity reports, and on the approval of an additional performance indicator, and to the Ministry of Health¹⁴ on the insufficient monitoring of the Service's activities.

The measures and deadlines for the implementation of the recommendations, the expected impact of the audit and the indicators for measuring change are set out in the report section "Plan for the implementation of the recommendations" (p. 36). Up-to-date information on the status of implementation of the recommendations, results and developments is published in open data on the National Audit Office website at <https://www.valstybeskontrole.lt/LT/AtviriDuomenys>.

¹³ Letter No SD-(220-9.3.1-6205)-533 of the National Audit Office of 30 May 2024 "On the public audit "Activities of the National Forensic Psychiatry Service".

¹⁴ Letter No SD-(220-9.3.1-6205)-532 of the National Audit Office of 30 May 2024 "On the findings of the public audit "Activities of the National Forensic Psychiatry Service".