

MANAGEMENT OF PROSECUTION SERVICE'S RESOURCES IN ORGANISING AND DIRECTING PRE- TRIAL INVESTIGATIONS AND PROSECUTION ON BEHALF OF THE STATE IN CRIMINAL CASES

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SUMMARY

Relevance of the Audit

Combating complex types of crime is a challenge that requires the most efficient and effective prosecution practices¹. The number of recorded criminal offences in Lithuania has increased slightly since 2021², reaching 45 256 in 2023³. The number of pending criminal investigations has been increasing⁴ over the last four years, reaching more than 25,000 in 2023⁵. The Prosecution Service is the main institution ensuring that criminal offences are investigated and that the offenders are detected and brought to justice.

¹ Internet access: https://www.oecd.org/en/publications/performance-of-the-prosecution-services-in-latvia_c0113907-en.html (accessed 19.11.2024).

² 42 567 in 2021 and 45 762 in 2022.

³ There were 1,578 offences per 100,000 inhabitants, or 1 offence per 64 inhabitants.

⁴ In 2020 - 23 035, in 2021 - 23 740, in 2022 - 25 001.

⁵ Report on the activities of the Prosecution Service of the Republic of Lithuania in 2023.

The Prosecution Service contributes to the National Progress Plan's⁶ objective "To improve the efficiency and effectiveness of the justice system". Its priorities for the period 2021-2024 include more efficient management of the Prosecution Service's resources, strengthening prosecutions and improving the efficiency of criminal procedure procedures. The Council of Europe Committee of Ministers points out that the proper and optimal management of four factors - human resources, workload, infrastructure and information and communication - is essential for the functioning of criminal justice system⁷.

Audit Scope and Objective

The objective of the audit was to assess whether the Prosecution Service uses its resources efficiently and effectively in organising and directing pre-trial investigation and prosecution on behalf of the State in criminal cases.

Main audit questions:

- ✓ whether the human resources⁸ of the Prosecution Service are managed efficiently and effectively in organising and directing pre-trial investigations and prosecution on behalf of the State in criminal cases;
- ✓ whether the material resources of the Prosecution Service are managed efficiently;
- ✓ whether organisation, management and directing of pre-trial investigations and the prosecution on behalf of the State are efficient and effective.

The audited entity is the Prosecution Service of the Republic of Lithuania, which organises and directs pre-trial investigations and prosecution on behalf of the State in criminal cases.

We collected data and information from the Turto bankas, the Departmental Register of Offences, the National Courts Administration, and the Representative of the Republic of Lithuania to the European Court of Human Rights (ECHR). We also interviewed prosecutors and their assistants.

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

The audit was carried out in accordance with international standards of supreme audit institutions. The scope of the audit and the methods used are described in more detail in Annex 2 "Audit scope and methods" (p. 53).

⁶ Government Resolution No 998 of 9 September 2020 "On the adoption of the National Progress Plan 2021-2030".

⁷ Order No I-123 of the Prosecutor General of the Republic of Lithuania of 10 May 2013 (revised by Order No I-31 of 1 February 2019) approved the "Long-term Strategic Plan of the Prosecution Service of the Republic of Lithuania for 2013-2023".

⁸ Analysis of those units of the Prosecution Service whose function is to organise and manage pre-trial investigations and support the public prosecution.

Key Audit Results

More efficient management of the human and material resources of the Prosecution Service, more focused and ambitious strategic planning and monitoring based on reliable data would help to make the right decisions to reduce the length of pre-trial investigations (criminal investigations), increase their detection and make the prosecution on behalf of the State more effective.

1. The investigation of criminal offences and the prosecution on behalf of the State need to be improved with monitoring based on reliable data

Targeting and ambition in strategic planning would contribute to a more efficient Prosecution Service

- ✓ The Strategic Action Plan aims to improve performance, but this is not reflected in the monitoring indicators. In not all cases, monitoring indicators are set ambitiously and in line with previous years' results and trends. In the Strategic Action Plan 2023-2025 of the Prosecution Service, 76% (35 out of 46) of the first programme and 71% (30 out of 42) of the third programme monitoring indicator values for the 3-year period are planned to remain unchanged, but for some of them a change in performance is indicated. The target values for 11% (10 out of 88) of the indicators in the first and third programmes are lower than the target values achieved in the previous year⁹. 18 (out of 101) monitoring indicators do not provide information on the effectiveness or efficiency of activities (e.g. they only measure a certain number of actions carried out). Insufficient reference to the results of previous years, either by not changing the target values for planned performance indicators or by changing them in a way that is not sufficiently ambitious to encourage improvement, does not provide the basis for assessing whether progress has been made and whether resources are sufficient and being used efficiently (Section 1.1, p. 14).

Efforts should be made to reduce the time taken to investigate criminal offences and increase the number of cases investigated

The average length of criminal investigations decreased from 152 to 135 days between 2021 and 2023, but fell short of the Prosecution Service's target of 130 calendar days each year. The proportion of criminal offences investigated for more than 9 months increased slightly (from 30.4% to 31%), and in 2022 and 2023 it was above the target (30%). Without eliminating the reasons for the lengthy duration of investigations (lack of pre-trial investigators, lengthy expert examinations, etc.) the right to a trial in the shortest possible time is not fulfilled, as enshrined in the European Convention on Human Rights. The Prosecutor General's Office does not have structured information (statistics) on the number of pre-trial investigations that have been prolonged for one reason or another, although statistics would help to substantiate the extent of the reasons, trends, with a view to eliminating them at the inter-institutional level (Section 1.2, p. 17).

⁹ Planned target values were exceeded for 3 consecutive years

- ✓ The Prosecution Service monitors the average length of criminal investigations in 3 (out of 5) priority areas¹⁰. The General Prosecutor's Office monitors data on the average length of criminal investigations at the level of regions, but there is a lack of more detailed monitoring at the level of districts. Without this data, and without observing the trends in the length of investigations in each of them, it is not possible to assess the situation and developments and to take targeted decisions that could have a positive impact on the length of investigations (Section 1.2, page 19).
- ✓ The Prosecution Service analyses decisions of pre-trial judges and judgments of the ECHR on delays in pre-trial investigations. In order to monitor the overall extent and trends of the problems, statistics on complaints and judgments should be collected and a summary analysis should be carried out (Section 1.2, p. 20).
- ✓ Between 2021 and 2023, offences investigation rate fell by 3 percentage points (from 67% to 64%). Offences with less than half the number¹¹ of investigations account for 40% of all recorded offences each year. The proportion of serious and very serious crimes investigated as a proportion of those recorded has increased year on year. However, it is not clear whether the target (79%) has been achieved, as different prosecution reports give different figures. There are also differences in the share of acquitted persons collected in the prosecution databases and reported in the annual activity reports. Different values for the same indicators have a negative impact on planning and decision-making (Section 1.3, p. 20).
- ✓ The evaluation report of the European Commission for the Efficiency of Justice states that the crime clearance rate is one of the performance efficiency indicators. The Prosecution Service has not planned an overall crime clearance rate and its target value in its Strategic Action Plan. The Prosecution Service also does not collect or have data on the overall crime clearance rate in each territorial prosecutor's office. By monitoring the clearance rate of total criminal offences investigated in each territorial prosecutor's office and setting a target, the Prosecutor General's Office would be able to adequately assess the effectiveness of the organisation and management of pre-trial investigations and to make progress (Section 1.3, p. 22).

2. The Prosecution Service should implement a data-driven HR policy and improve property management

Uneven workload between regions adversely affects the length of criminal investigations

- ✓ The workload of prosecutors is influenced not only by the number of pre-trial investigations opened, but also by the number of criminal offences, the complexity of pre-trial investigations, the attendance of prosecutors at court hearings, checks on investigators' refusals to open pre-trial investigations, and other procedural actions. The difference in the number of pre-trial investigations opened between the different regional prosecutor's offices was 34% in 2023 and increased every year during the audit

¹⁰ The average investigation time for "Crimes committed by organised groups and criminal associations" and, from 2022, for "Crimes against the security of electronic data and information systems" is not monitored, despite the plans to strengthen criminal prosecutions in these areas.

¹¹ Offences in the following areas: crimes against the security of electronic data and information systems, theft, destruction or damage to property, fraud, and the production of counterfeit currency or securities.

period¹², while the number of court hearings attended by prosecutors was 58%¹³. For most of these actions, the Vilnius Regional Prosecutor's Office had the largest workload. In 2023, the Vilnius Regional Prosecutor's Office accounted for 28.7% of all prosecutors¹⁴ in territorial prosecutors' offices and 32.5% of all pre-trial investigations opened in 2023 in territorial prosecutors' offices. The situation is similar in Kaunas Region. The heavy workload of prosecutors has a negative impact on the length of criminal investigations: the Vilnius Regional Prosecutor's Office, which has the heaviest workload, has the longest pre-trial investigation time compared to other regions (Section 2.1, p. 24).

The increasing number of unfilled posts of prosecutors and their assistants has a negative impact on the workload of prosecutors

- ✓ The number of prosecutor vacancies in the prosecution units¹⁵ increased during the audit period from 11 prosecutor vacancies, or 2.1%¹⁶, to 33 vacancies, or 6.3%¹⁷. As of 30 June 2024, the number of prosecutor vacancies in 4 (out of 22) units of the Prosecution Service was higher than 10%¹⁸. The lack of prosecutors increases the workload, the duration of pre-trial investigations is below the target every year, and the number of criminal clearances is not rising (Section 2.2, p. 30).
- ✓ The workload of prosecutors is not assessed according to the workload methodology¹⁹ when determining the need for prosecutor posts from 1 July 2023²⁰. According to the Prosecutor General's Office, this methodology is not suitable for assessing the actual workload of prosecutors and is therefore not followed. The new methodology²¹ should come into effect on 2 June 2025²² (Subsection 2.2, p. 31).
- ✓ In 3 (out of 22) units²³ of the Prosecution Service, the vacancy rate for chief prosecutor's assistant and prosecutor's assistant was higher than 10% as at 30 June 2024 (ranging from 11.1% to 50%²⁴ during the audit period). This was only 6 vacant posts, but in the first half of 2024 there were 10 prosecutor's offices²⁵ with between 4 and 8 prosecutor's

¹² 28% in 2021, 32% in 2022, 34% in 2023 and increased to 54% in the first half of 2024.

¹³ 36% in 2021, 51% in 2022, 58% in 2023 and 39% in the first half of 2024.

¹⁴ Organises and directs pre-trial investigations and prosecutions on behalf of the State

¹⁵ Whose function is to organise and direct pre-trial investigations and prosecution on behalf of the State.

¹⁶ Data as of 31 December 2021.

¹⁷ Data as of 30 July 2024.

¹⁸ During the audit period, the percentage varied between 10.5% and 23.1%.

¹⁹ Methodology for assessing the workload of prosecutors and prosecutor's offices approved by Order No I-356 of the Prosecutor General of 14 December 2012.

²⁰ In accordance with the Methodology for determining the need for prosecutors' posts approved by Order No I-304 of the Prosecutor General on 1 December 2016.

²¹ Methodology for assessing and determining the workload of prosecutors and prosecutor's offices, approved by Order No I-93 of the Prosecutor General on 2 May 2024.

²² During the meeting on 16 December 2024, representatives of the Prosecutor General's Office stated that the Working Group on the Implementation of the Project on the Improvement of the Methodology for the assessment of the workload of prosecutors and prosecutor's offices had submitted a conclusion to the Prosecutor General, proposing to postpone the coming into effect of the Methodology.

²³ 31.12.2021 – in 3, 31.12.2022 – in 2, 31.12.2023 – in 3 units.

²⁴ 1 post unfilled in 3 units out of 2.

²⁵ End of 2021 – 12, end of 2022 – 12, end of 2023 – 11.

assistants per prosecutor, which is higher than the target ratio of 1:3²⁶. More assistants would contribute to a more efficient use of prosecutors' time²⁷. (Section 2.2, p. 33).

In-service training for all prosecutors and joint training with pre-trial investigators and judges should be ensured

- ✓ The minimum recommended in-service training²⁸ for prosecutors is 24 academic hours. Of the prosecutors selected by the auditors, 17% (36 out of 216) did not receive the recommended training in any calendar year between 2021 and 2023, and 49% (106 out of 216) did not receive the recommended number of hours of training in one or two calendar years (2021-2023). The Prosecutor General's Office does not monitor the number of hours prosecutors have spent each year on their in-service training. Such monitoring would help to ensure that all prosecutors receive the same level of training (Section 2.3, page 34).
- ✓ In 2021, joint training organised by the Prosecution Service with pre-trial investigators accounted for 13% of all training. Training with the representatives of courts was organised by the Prosecution Service in 2021-2022 and accounted for 4-6% of the total, while there was no training in 2023. There is no established format for cooperation between law enforcement authorities to plan and organise joint training sessions on issues and developments in pre-trial investigations or to share best practices. In a survey carried out by the auditors, 55% (168 out of 306) of prosecutors and 59% (23 out of 39) of chief prosecutors and their deputies indicated that the joint training provided in the first half of 2021-2024 was insufficient. The OECD experts stress that this training could be a useful tool to strengthen institutional coordination and improve the functioning of the law enforcement system (Section 2.3, p. 36).

There are areas for improvement in the management of the Prosecution Service's real estate assets

- ✓ The Prosecution Service carries out annual assessments of the condition of buildings and premises according to set criteria, although it has not regulated the assessment process and criteria. Only 57% (33 out of 57) of the premises and buildings managed by the Prosecution Service and equipped with computerised workstations were assessed. According to the 2024 assessment, 66.6% (22 out of 33) of the premises assessed are in need of renovation. Between 2021 and 2024, 41% of the financing need²⁹ was allocated to ordinary and substantial improvements to the premises of the Prosecution Service. Between 2021 and 2023, the Prosecution Service's annual total maintenance costs per 1 square metre of total floor area of administrative premises were 1.4-2.2 times lower³⁰ than the costs of the administrative premises of the centrally managed premises of the Turto bankas. 25% (14 out of 57³¹) of the premises of the Prosecution Service have a total floor area per staff member of less than 25 square metres

²⁶ One prosecutor assistant post per three prosecutor posts.

²⁷ OECD (2021), Performance of the Prosecution Services in Latvia: A Comparative Study, OECD Publishing, Paris.

²⁸ Order of the Prosecutor General No I-228 of 29 June 2018 "On Approval of the Description of the Procedure for the Organisation of the Training of Prosecutors, Civil Servants and Employees on Employment Contracts", p. 17.

²⁹ Need - EUR 4 563 thousand, allocated EUR 1 879 thousand.

³⁰ Prosecution Service: in 2021 - 26.78 EUR/sq m; in 2022 - 33.41 EUR/sq m; in 2023 - 26.87 EUR/sq m. Turto bankas: in 2021 - 39.82 EUR/sq m; in 2022 - 74.58 EUR/sq m; in 2023 - 53.44 EUR/sq m.

³¹ Premises and buildings with computerised workstations (administrative, scientific, special purpose).

and 7% (4 out of 57) have a total office area per staff member of less than 10³² square metres. 5% (3 out of 57) have a total floor area per staff member that is two or more times higher than 25 square metres. This is not in line with the efficiency indicators³³ for the use of State real estate for administrative purposes. In order to create good working conditions for all staff of the Prosecution Service and to manage real estate more efficiently, it is necessary to assess the condition of all buildings and premises on an annual basis and to improve it in line with the Prosecution Service's identified need for funding for repairs (Section 2.4, page 38).

The Prosecution Service took steps to improve performance

- ✓ The Prosecution Service in the period 2020-2024, together with the Norwegian Prosecuting Authority, carried out the project "Establishment of Modern and Open Prosecution Service in the Republic of Lithuania". The project involved the development of a new methodology for assessing the workload of prosecutors and the prosecutor's office, as well as various trainings, studies, exchanges of good practices, etc. It is expected that the activities of this project will contribute to strengthening the effectiveness of prosecution throughout the criminal justice system, as well as to improving the infrastructure and optimisation of the Prosecution Service.

Recommendations

To the Prosecutor General's Office

1. To reduce the length of pre-trial investigations and improve the crime clearance rate, ensure:
 - 1.1. that strategic planning is performance-oriented:
 - ✓ revise the Strategic Action Plan and remove monitoring indicators that do not add value to performance measurement (e.g. six measuring the ratio of planned to spent, etc.), ensuring an optimal number of indicators;
 - ✓ in the preparation of the Strategic Action Plan, assess in all cases the results or trends of previous years and take them into account in the planning of the values of the monitoring indicators (audit result 1);
 - 1.2. that monitoring of pre-trial investigations (criminal investigations) is efficient:
 - ✓ collect and monitor data on the average time taken to investigate a criminal offence at the level of regional, district and specialised units;
 - ✓ collect and monitor data on the average length of an criminal offence investigation in priority areas³⁴ for strengthening prosecution;

³² Order of the Minister of Finance No 1K-65 of 23 February 2017 "On Establishment of Efficiency Indicators for the Use of State Real Estate for Administrative Purposes and Norms for the Provision of Real Estate for Administrative Purposes Necessary for the Exercise of Activities and the Implementation of State Functions".

³³ Ibid.

³⁴ offences of a corrupt nature; trafficking in human beings; offences related to the distribution of narcotic drugs and psychotropic substances to minors; intentional very serious, serious, or petty violent offences and offences of sexual abuse involving children; offences seriously damaging the State's finances and the European Union's financial interests; offences committed in cyberspace.

- ✓ collect and monitor data on the reasons for extending pre-trial investigations;
 - ✓ periodically (annually) carry out a summary analysis of complaints and judgments against pre-trial judges concerning delays in investigations and organise discussions on the basis of this analysis (audit result 1);
- 1.3. that the Prosecution Service is able to assess the effectiveness of the organisation and management of pre-trial investigations and the prosecution on behalf of the State, and to take informed decisions to improve its performance:
- ✓ include the indicator on the investigation of all criminal offences in the Strategic Action Plan and set a target value for it;
 - ✓ clarify the reasons why the databases of the Department of Informatics and Communications and the General Prosecutor's Office do not contain the same information on the investigation of criminal offences;
 - ✓ to clarify the reasons why there is a discrepancy between the statistical reports of the courts and the databases of the General Prosecutor's Office on the proportion of acquitted persons (audit result 1);
- 1.4. that the workload of prosecutors, which affects the length of criminal investigations and the number of criminal investigations, is more evenly distributed:
- ✓ in accordance with the new methodology for calculating the workload of prosecutors and taking into account the number of prosecutors retiring in the next 5 years, periodically (annually) carry out an analysis of the need for prosecutors and prosecutor assistants in each unit of the prosecutor's office and fill posts accordingly (audit result 2);
- 1.5. that the development of prosecutors' skills and cooperation with pre-trial investigators and judges will contribute to strengthening institutional coordination:
- ✓ establish a monitoring mechanism for the prosecutors' in-service training, which would help to take measures to ensure that prosecutors receive the recommended number of academic hours of training in each calendar year;
 - ✓ develop and implement an inter-institutional in-service training initiative in cooperation with pre-trial investigation institutions and the courts (audit result 2).
2. To improve the efficient management of the Prosecution Service's real estate and the working conditions of all Prosecution Service staff:
- ✓ adopt an asset management strategy;
 - ✓ define a procedure for assessing the condition of premises, including criteria and an annual assessment of the condition of all premises;
 - ✓ annually collect and organise data on the real estate owned by the Prosecution Service: office space and the staff working in it, the actual workplaces of the staff (audit result 2).

We submitted written proposals³⁵ to the Prosecution Service on the presentation of monitoring indicators in annual activity reports, improvement of the in-service training process for prosecutors and their assistants, distribution and updating of prosecutors' working aids, and improvement of anti-corruption measures.

The measures and timeframes for implementing the recommendations, the expected impact of the audit and the indicators for measuring change are set out in the report in the section 'Plan for the implementation of the recommendations' (p. 42). 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 <https://www.valstybeskontrole.lt/LT/AtviriDuomenys>.

³⁵ National Audit Office letter No SD-(220-9.3.1-E-6220)-1113, 18.12.2024.