HEUNI

The European Institute for Crime Prevention and Control,
affiliated with the United Nations

Criminal Justice Systems in Europe and North America

LITHUANIA

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THE CRIMINAL JUSTICE SYSTEM OF LITHUANIA

1. Demographic issues

1.1. On 1 January 1998, the total population of Lithuania was 3.704.000.

1.2. The minimum age of criminal responsibility is fourteen years. This is an absolute limit. Persons who had reached the age of 14 years but not 16 years at the time of the commission of a crime are held liable under criminal laws only for certain intentional acts. These acts are: acts which can cause serious damage to a railroad carriage; murder; intentional bodily injuries; rape; wilful or extremely wilful hooliganism; robbery of psychotropic or narcotic substances; robbery of a firearm, ammunition, explosives or explosive substances; theft; and robbery and destruction of property through arson or in another generally dangerous way.

1.3. Full criminal responsibility is reached at the age of sixteen years. The age of 16 years has been attained by 70% of the population of Lithuania.

1.4. Persons of more than 100 nationalities, who make up about 19% of the total population of Lithuania, reside in the Republic of Lithuania. As of 1 January 1998, 26.718 foreigners resided in Lithuania.

1.5. The major nationalities represented among these non-natives in Lithuania are:
- Russians (8,2%)
- Polish (6,9%)
- Byelorussians (1,5%)
- others (1,8%).

1.6. On 1 January 1998, the urban population in Lithuania totalled 2.525.159 (68,2%). Entities with over 3.000 inhabitants and where over 2/3 are employed in industry, business, production and the social infrastructure spheres, are classified as urban areas.

1.7. In 1997 1.669.200 persons were employed in Lithuania. The largest proportion of the population (21,7%) worked in agriculture, 17,3% in the processing industry and 15,1% in trade and repair services.

In 1997 almost 193.500 (or 6,7%) unemployed persons were registered in Lithuania. Women account for the majority (51,5%) of the unemployed. The major

groups among the unemployed by age are the 20-24 year (21%) and 25-29 year (20%) age groups.

2. Criminal law statutes

2.1. Statutory law in Lithuania covering responsibility for crimes committed has a rather complicated history. This complexity is due to the collapse of the state of Lithuania: its frequent occupation, annexation, and the reinstatement of independence moulded its entire life and legislation. Criminal laws in force in Lithuania often had to yield to the laws of the annexing state.

Before 1840, national laws were in force in Lithuania. Of these national laws, the Prussian (Pamedė) Compilation of Statutes (*Prūsų (Pamedės) Teisynas*) (1340), Kazimieras' Compilation of Statutes (*Kazimiero Teisynas*) (1468), and the Lithuanian Statutes (1529, 1566 and 1588), which have been preserved until the present days, should be mentioned. It should be noted that the provisions of criminal law laid down in the Lithuanian Statute III were very democratic for that time. Only a person over 16 years of age who was guilty of the commission of a crime could become a subject under criminal law. The Statute stipulated the circumstances that eliminated the dangerousness of a crime: self-defence, necessity, enforcement of a law, exercise of one's right, consent of the victim and pursuit of a thief. The Statute provided for all types of accomplices – the principal offenders, aiding persons, abettors and accessories to a crime. The punishments prescribed by the Statute consisted of two parts, compensation to the victim and coercive measures. The Statute recognised that the objectives of the punishment were public retribution for the crime committed, satisfaction of the victim and discouragement of other persons from committing crimes.

In 1795 Lithuania lost its sovereignty, but the Lithuanian Statute III remained in force until 1840. Following that year the major part of Lithuania was influenced by Russian statutory law. Since 1846 the Criminal Statute of Russia, which was replaced by the Criminal Statute of 1903, was in force in the territory of the Republic of Lithuania.

In 1918 when the independence of Lithuania was restored, the Russian Criminal Statute of 1903 was proclaimed to remain in force in Lithuania. However, the punishment system underwent changes. The only punishments retained were imprisonment at hard labour, ordinary imprisonment, arrest and a pecuniary fine. The Statute consisted of a General Part (one chapter) and a Special Part (35 chapters). The 72 articles of the General Part set out the formal definition of crime, prescribed the temporary and territorial force of criminal law, reviewed the forms of guilt, the stages of the commission of a crime and issues of complicity, and stipulated the principal and additional punishments as well as the circumstances mitigating and aggravating responsibility. The 600 articles of the Special Part of the Statute de-

fined serious crimes and the composition of crimes and offences, and stipulated the punishments. It should be noted that responsibility for offences was prescribed not only in the Criminal Statute but also in some other laws (for example, in the Law on Hunting and the Law on Emigration). The 1871 Penal Code of Germany (Strafgesetzbuch) was in force in the Klaipėda region at that time.

On 15 June 1940 the Soviet Union occupied Lithuania and on 6 November 1940 brought into force in Lithuania the criminal laws of the Russian Soviet Socialist Federal Republic. The introduction of these laws was accompanied by a quite sharp violation of the principal of *lex retro non agit*, in that responsibility was established retroactively for acts that had not (necessarily) been criminal at the time. Furthermore, these acts had been committed in another independent state.

In 1961 the Penal Code of the Lithuanian Soviet Socialist Republic was adopted and entered into force. The Code consisted of a General Part (5 Chapters with 61 articles) and a Special Part (11 Chapters with 221 articles).

On 11 March 1990, following the restoration of the independent state of Lithuania, the validity of the Penal Code of 1961 was reinforced. However, during the period of independence the Penal Code underwent several fundamental reforms (in 1992, 1994 and 1997-1998), as a consequence of which 90% of all the articles have been amended. At least the following major aspects of the reforms should be emphasised: the restructuring of the penal system; amendments to the chapters on crimes against the State, crimes against property and crimes against military service; the introduction of a chapter on war crimes; and the abolition of the death penalty.

2.2. The Penal Code has been officially published in Lithuanian (ISBN 9986-452-54-6).

2.3. According to the traditions of Lithuanian criminal law, the definitions of crimes are laid down only in the Penal Code.

In addition to the Penal Code, a Code of Administrative Offences (which prescribes responsibility for breaches of administrative law) is in force in Lithuania. The Code defines administrative offences. It also determines the system of administrative penalties, the rules for hearing cases involving such offences, and the procedure for execution of administrative penalties that have been imposed.

The Code of Administrative Offences has been officially published in Lithuanian (ISBN 9986-452-57-0).

3. Procedural law statutes

3.1. Statutory law on criminal procedure in Lithuania has a rather complicated history. This complexity is due to the collapse of the state of Lithuania: its frequent occupation, annexation, and the reinstatement of independence moulded its entire life and legislation. Criminal procedural laws in force in Lithuania often had to yield to the laws of criminal procedure of the annexing state.

Before 1840, national laws were in force in Lithuania. Of these national laws, special reference should be made to the Kazimieras' Compilation of Statutes (*Kazimiero Teisynas*) (1468) and the Lithuanian Statutes (1529, 1566 and 1588), which have been preserved until the present days and which prescribed some rules of criminal procedure. The Lithuanian Statute III, for example, contained such procedural provisions as the obligation to serve a summons and judicial documents on a person, and the obligation to appoint a lawyer for a defendant who requests this on the grounds that he or she would not otherwise be able to defend his or her rights. Poor persons, widows and orphans had the right to the services of a lawyer free of charge.

In 1795 Lithuania lost its sovereignty. Even so, the Lithuanian Statute III remained in effect until 1840. Following that year the major part of Lithuania was influenced by Russian laws on criminal procedure. As of 1864, the Russian Statute of Criminal Procedure was in force in Lithuania.

In 1918 when the independence of Lithuania was restored, the Russian Statute of Criminal Procedure of 1864 was proclaimed to remain in force in Lithuania. Nonetheless, some amendments relating to the punishment system, to the possibility of dispensing with the jury and to the use of lay advisory jurors, were introduced.

On 15 June 1940 the Soviet Union occupied Lithuania and on 6 November 1940 brought into force in Lithuania the Code of Criminal Procedure of the Russian Soviet Socialist Federal Republic.

In 1961 the Criminal Procedural Code of the Lithuanian Soviet Socialist Republic was adopted and entered into force.

On 11 March 1990 following the restoration of the independent state of Lithuania, the validity of the Code of Criminal Procedure of 1961 was reinforced. However, during the period of independence it underwent several fundamental reforms (in 1994, 1996 and 1997-1998). At least the following major aspects of the reforms

should be emphasised: dispensing with lay advisory jurors, introduction of a four-level court system, reform of the appellate procedure and the cassation courts, reform of the grounds and procedural rules for the imposition of pre-trial detention, and introduction of the provisions on extradition and mutual legal assistance with foreign states.

3.2. The Code of Criminal Procedure has been officially published in Lithuanian (ISBN 9986-452-53-8).

3.3. The Law on Courts includes a few provisions dealing with procedural matters, including criminal procedure. Examples include provisions on the right to judicial protection, use of technical means in court, the official language and the right to cost-free interpretation, the competence of the courts, etc.

The Code of Administrative Offences and the Law on Administrative Litigation contain procedural rules that apply to administrative offences.

3.4. There is no special procedural statute on juvenile offenders. The Code of Criminal Procedure contains certain special rules regarding juvenile offenders, such as on the interrogation of a juvenile offender, and the scope of circumstances to be established when a crime was alleged to have been committed by a juvenile.

4. The court system and the enforcement of criminal justice

4.1. The Constitution of the Republic of Lithuania adopted by the Referendum of 25 October 1992 established the system of courts of ordinary jurisdiction, and established the principles of independence and impartiality of the judiciary and the means of safeguarding it. The Law on Courts was enacted in order to realise these constitutional provisions.

The Law on Courts has been officially published in Lithuanian in the Official Gazette "Valstybės žinios" (1994, No. 46-851). This Law determines the basic principles of the court activities; defines the system and jurisdiction of courts; defines the status of judges and the judge's examinations; stipulates the functions and competence of the Council of Judges and the General Meeting of judges; prescribes the procedure for the appointment of judges, Presidents of the Courts, Deputy Presidents and presidents of the Chambers; defines the independence of the judiciary and social guarantees for judges; prescribes the grounds and procedure for removal from office and the disciplinary responsibility of judges; and defines the functions and competence of a mortgage office and court bailiffs.

This Law has undergone a few reforms:

- In 1996 mortgage offices were established in district courts and the jurisdiction of these offices was defined;
- In 1998 the jurisdiction and interior structure of the Supreme Court of Lithuania was reorganised; requirements for persons seeking to become judges were made more specific; the institution of a candidate judge was introduced; and the procedure for the composition of the Court of Honour was changed;
- In 1999 the prerequisites for persons willing to be court bailiffs were made more specific.

4.2. The Law on Courts has been officially published in Lithuanian in the Official Gazette "Valstybės žinios" (1994, No. 46-851). The Law entered into force on 1 January 1995.

4.3. The Law on Administrative Litigation has been officially published in Lithuanian in the Official Gazette "Valstybės žinios" (1999, No. 13-308). The Law entered into force on 1 May 1999. The Law created the legal preconditions for the establishment of the system of administrative courts. The Law sets forth the system and jurisdiction of administrative courts; defines the terms of and the procedure for

the pre-trial investigation of complaints; defines the conditions, terms and procedure of filing complaints to an administrative court; prescribes the hearing procedures and terms, and decisions adopted; and prescribes the terms of and procedure for appealing against such decisions.

The Law on the Constitutional Court has been officially published in Lithuanian in the Official gazette "Valstybės žinios" (1993, No. 6-120). This Law establishes the procedure, jurisdiction and composition of the Constitutional Court, the procedure for lodging applications; defines the procedure in the Constitutional Court for hearing cases; defines the types of the decisions by the Constitutional Court and their legal significance; and defines the legal status of judges of the Constitutional Court.

4.4. The Law on Police has been officially published in Lithuanian in the Official gazette "Valstybės žinios" (1991, No. 2-22). The Law prescribes the goals and legal grounds of the activities of the police; defines a police officer and his or her legal status; determines the organisation and functions of the police; defines the qualifications and procedure for recruitment of a police officer; determines the rights, duties and responsibility of a police officer; prescribes the remuneration and social guarantees of a police officer; and defines the procedure for financing, and the material technical provisions of, the police.

The Law on the Bar has been officially published in Lithuanian in the Official gazette "Valstybės žinios" (1998, No. 64-1840). The Law prescribes the requirements and procedure for recognising a person as an advocate; defines the status of an assistant advocate; defines the general rights, duties and guarantees of the professional activities of an advocate; sets forth the requirements for a contract concerning legal aid; defines the grounds and procedure for the disciplinary responsibility of advocates; establishes the institutions of self-governance of advocates; and defines the procedure of composition and its competence.

The prison and probation agency is not defined in a special law which would contain the provisions on its organisation. Its organisational aspects are regulated instead by legal acts of the interior system.

4.5. There is no special law on the criminal procedure for juvenile offenders in Lithuania. The Code of Criminal Procedure provides for certain specific features of investigation and judicial examination of cases in which the accused are minors.

5. The fundamental principles of criminal law and procedure

5.1. The principle of legality is established in Article 3(1) of the Penal Code. The Article prescribes that "a person can be punished only if the punishability of an act he/she committed was prescribed by laws in force at the time the act was committed."

5.2. The Penal Code classifies all criminal acts into two groups, serious crimes and other crimes. Serious crimes are held to be intentional acts involving increased danger to the public. Article 8(1) of the Penal Code sets out a comprehensive and exhaustive list of serious crimes which includes, for instance, banditry, premeditated murder, rape, the taking of hostages, acts of terrorism, trafficking in human beings, robbery and money laundering. In the theory of criminal law, the other crimes are classified into three groups: 1) crimes subject to a custodial sentence of up to one year or less; 2) crimes subject to a custodial sentence of up to two years; and 3) crimes which are not included in the list of serious crimes, but which are subject to a custodial sentence of more than 2 years.

5.3. The Penal Code prescribes that persons who had reached the age of 16 years at the time they committed a crime are considered responsible under criminal law. Persons who committed a crime between the ages of 14 and 16 years are held responsible under the criminal law only for certain intentional acts. These acts are: acts which can cause serious damage to a railroad carriage; murder; intentional bodily injuries; rape; wilful or extremely wilful hooliganism; robbery of psychotropic or narcotic substances; robbery of a firearm, ammunition, explosives or explosive substances; theft; and robbery and intentional destruction of property in aggravating circumstances.

The maximum age for being treated as a young offender is 18 years.

5.4. Article 3(2) of the Penal Code provides that only an individual who is guilty of a crime, i.e. only an individual who has intentionally or through negligence committed an act prescribed by the criminal law, shall be held responsible and punishable under criminal law.

5.5. The principle of strict liability is not recognised by the Lithuanian criminal justice system.

5.6. Criminal responsibility is strictly individual, although corporate bodies or other persons can suffer restrictions in some cases as a result of the punishment of individuals. One example of this relates to the confiscation of property: property that had been acquired as a result of a criminal act, and which had been handed over to other persons for management, is compulsorily and without compensation seized by the state and becomes state property. Illegally acquired property that is presented or otherwise transferred to other natural or legal persons is confiscated if the recipient knew, should have assumed or could have assumed that the property received had been acquired in a criminal manner.

5.7. According to the Penal Code, criminal acts are justified in cases of 1) self-defence, 2) necessity, 3) apprehension of an offender, 4) voluntary refusal to commit a criminal act, 5) a crime is not dangerous due to its pettiness, 6) execution of a military order, unless it is expressly unlawful, and 7) a crime has been committed by an incapable person. In addition, criminal responsibility can be excluded totally or in part in cases where a member of an organised criminal group who had participated in crimes committed by that group, admitted this and furnished law enforcement institutions with valuable information; when a person has trespassed the national Lithuanian borders with a view to obtaining the right of asylum; and certain other instances with respect to individual crimes.

In addition to the grounds prescribed by the Penal Code, other laws (for example the Law on the Police and the Law on Operational (Secret Pursuit) Activities) stipulate such grounds for justification as performance of a legal or professional duty, the simulation of a crime, and professional risk.

5.8. Criminal prosecution cannot be initiated in the following cases:

- in cases of some petty crimes, after one year has elapsed without the initiation of proceedings;
- in cases of crimes for which a custodial sentence of up to two years or a lesser penalty can be imposed, after three years have elapsed without the initiation of proceedings;
- in cases of crimes for which a custodial sentence of up to five years can be imposed, after five years have elapsed without the initiation of proceedings;
- in cases of crimes for which a custodial sentence of over five years can be imposed, after ten years have elapsed without the initiation of proceedings.

The lapse of time is interrupted by commission of a new crime punishable by a custodial sentence in excess of two years. The statute of limitations is annulled if an offender seeks to evade the investigation or trial. However, in no event can criminal prosecution be initiated after 15 years have elapsed and if this term has not been interrupted by the commission of a new crime.

Lapse of time is not applied to the crime of genocide and certain war crimes (for example, killing of persons protected under international humanitarian law, expulsion of civilians from an occupied country, and forbidden war attack).

5.9. The Penal Code is divided into a General and a Special Part, with a further division into chapters. The General Part contains the following chapters:

- General Provisions;
- Crime;
- Punishment;
- Imposition of and Exemption from Punishment; and
- Compulsory Medical and Reformatory Measures.

The Special Part contains the following chapters:

- Crimes against the State:
- Crimes against Human Life, Health, Freedom and Dignity;
- Crimes against Governance Order;
- Crimes against Public Safety and Public Order;
- Crimes against the National Defence Service;
- Crimes against Property;
- Crimes against the Civil Service;
- Crimes against Justice;
- Crimes against the Order of Economy;
- Crimes against Finance;
- Crimes against Fauna and Flora; and
- War Crimes.

5.10. According to the Penal Code, acts connected with unlawful taking of the life of another person are classified into four types: murder, murder in aggravating circumstances, murder in mitigating circumstances, and negligent manslaughter.

- Murder: intentional killing.
- Murder in aggravating circumstances: intentional killing 1) of one's mother or father; 2) of two or more persons; 3) of a pregnant woman; 4) in a way dangerous to many people; 5) in an extremely violent manner; 6) in connection with the commission of another serious crime; 7) with intent to conceal another serious crime; 8) with an intent to obtain profit; 9)

with the intention of hooliganism; 10) in connection with the enforcement by the victim of his or her public or civic duty; 11) if it has been committed by an extremely dangerous recidivist; 12) if it has been committed by a person who had previously been guilty of murder or murder in aggravating circumstances, and 13) of an infant or person in a helpless state.

- Murder in mitigating circumstances: 1) intentional killing by a mother of her newborn child or child immediately after birth; and 2) intentional killing of a person in a state of sudden agitation due to unlawful violence or insult by the victim.
- Negligent manslaughter: killing due to carelessness.

Robbery: taking of the property of another through the use of physical violence or of a threat of immediate violence or otherwise depriving the victim of the opportunity to resist.

Specially aggravating circumstances contemplated by the law in the case of robbery are: robbery committed repeatedly or by a group of persons with premeditation, or by breaking into uninhabited premises or using a firearm, or connected with inflicting a serious bodily injury, or by breaking into inhabited premises, or by an extremely dangerous recidivist.

Theft: open or secret appropriation of the property of another.

Specially aggravating circumstances contemplated by the law in the case of theft are: theft committed repeatedly or by a group of persons with premeditation, or by breaking into an uninhabited or inhabited premises, or property of high value (i.e., the value of property stolen reaches 30.000 Litas (approximately 7.500 USD).

Assault: a separate crime of "assault" does not exist. Behaviour connected with assault defined in the Penal Code is assault with a view of killing or inflicting intentional bodily injuries.

6. The organisation of the investigation and criminal procedure

6.1. General issues

6.1.1. The Code of Criminal Procedure prescribes that criminal proceedings are instituted by an investigator, prosecutor or court (judge) on the basis of oral or written applications of individuals, the reports of state institutions or officials, or legal persons when an offender admits that he or she has committed a crime and when the investigator, prosecutor or judge has directly discovered the crime. In some instances (for example, in case of slander and insult) criminal proceedings are initiated only if the victim has laid a complaint.

All applications and reports about crime have to be investigated in the course of three or ten days, and a procedural decision either to institute criminal proceedings or to refuse this has to be adopted. Once criminal proceedings have been initiated, the case is transferred for pre-trial investigation.

In the course of the pre-trial investigation, evidence is collected and charges are brought against an offender. Evidence can be collected only in accordance with the procedure and by methods established by law. Evidence is obtained in the following ways: questioning a witness and victim; questioning a defendant; confrontation and identification parade; seizure and search; inspection and audit; expert examination and specialist report.

When summoned, a witness and victim must appear before the investigator and give true testimony as to the circumstances of the case of which he or she is aware. After the witnesses and victims have given their statements, the investigator may question them.

The investigator is entitled to confront persons whose statements contain principal discrepancies. During the confrontation the persons are invited in turn to give their statements about the circumstances which bear contradictions. When each of the persons has submitted his or her statements, the investigator may either question them or allow the persons under inquiry to ask questions.

An investigator has the right to present a person or object for identification. Before a person is asked to identify another person or object, he or she is examined about the circumstances in which the person or object was seen and about the characteristics on the basis of which he or she can identify this person or object. The person

to be identified is presented among at least three persons, and the object is presented in a group of objects of the same class.

An investigator has the right of search when particular objects or documents which are relevant to the case need to be seized. If the investigator has reasonable grounds to believe that instruments of crime, proceeds of crime, objects or documents which can be important to the case are located in some room or place or are held by some persons, a search is conducted in order to discover them. An authorisation from a prosecutor is required for a search.

An investigator has the right to examination in order to discover the traces of crime and other material evidence. Specialists can participate in the examination.

An investigator has the right to order an expert examination. Upon ordering the expert examination, the questions which have to be answered by the expert are specified. Having received the expert report, the investigator may additionally question the expert.

All actions of the investigator shall be recorded and, if needed, taped on audio and video.

Once the investigator has gathered sufficient evidence, he or she recognises the person as the defendant and examines him or her. The defendant is informed about the time when the crime has been committed, its scene and other circumstances; about the criminal law that lays down the responsibility for that crime, and the basic evidence. Afterwards the defendant is invited to give testimony and subsequently he or she may be questioned by the investigator. The defendant has the right to keep silent or not to tell the truth.

See section 6.1.3. regarding the end of the pre-trial investigation.

6.1.2. The pre-trial phase of the criminal procedure has a rather inquisitorial character, although defendants may have quite a few opportunities to ask for the securing of evidence, and are always aided by legal counsel from the moment of their apprehension or of their first inquiry.

6.1.3. The pre-trial phase is completed when the investigator has drawn up a bill of indictment and has given the defendant access to the case file. The defendant has the right, together with his or her legal counsel, to gain access to the case file without having the time thereto restricted. When the defendant and his or her legal counsel have had access to the case file, the file and the bill of indictment is sub-

mitted to the prosecutor. The prosecutor must no later than within five days either approve or draw up a new bill of indictment and refer the case to the court. (The prosecutor can also refer the case back for additional investigations).

The court has to decide, no later than 15 days after the receipt of the case in the court, on whether or not to bring the defendant before the court. The court has further to decide, no later than 15 days after the accused has been brought before the court, whether or not to start hearing the case.

6.1.4. The trial phase of the criminal procedure has an accusatorial character.

6.1.5. Lithuanian criminal procedure does not recognise the institution of the examining judge.

6.1.6. The Code of Criminal Procedure is divided into the following nine chapters:

- Chapter One prescribes the rules on the validity of criminal procedure law; the principles of criminal procedure; extradition procedures; procedures for providing legal assistance to foreign countries; the rules of jurisdiction; the competence of the investigator and the prosecutor; parties to the proceedings, their rights and obligations; civil claims in a criminal case; evidence; and remand measures;
- Chapter Two prescribes the grounds and procedures for instituting criminal proceedings;
- Chapter Three prescribes the terms of the pre-trial investigation; the filing of charges and the inquiry of the accused; the inquiry of a witness and of the victim; confrontation and identification parade; examination, inspection and revision; examination; and the suspension and completion of an investigation;
- Chapter Four prescribes the procedure at a first instance court; the stage of referring a case before the court; the rules of the hearing; the parts of a trial; and the adoption of a sentence;
- Chapter Five stipulates the procedure at an appellate court;
- Chapter Six stipulates the procedural rules for the execution of a sentence;
- Chapter Seven stipulates the procedure at a cassation instance court;
- Chapter Eight stipulates a simplified procedure for hearings; and the investigation and referring of such cases to the court; and
- Chapter Nine stipulates the court procedure when new circumstances are discovered.

6.2. *Special issues*

6.2.1. The Code of Criminal Procedure specifies the two procedural coercive measures which restrict a person's freedom: temporary apprehension and pre-trial detention.

A person may be temporarily apprehended by an investigator or prosecutor if this person is caught during the commission of a crime or shortly after the commission of a crime when there are grounds to believe that such a person may abscond or, at the given moment, it is not possible to ascertain his or her identity. A person may be temporarily apprehended also when the legal prerequisites for pre-trial detention exist.

The temporary apprehension can not last more than 48 hours.

The Code of Criminal Procedure provides that pre-trial detention can be applied only subject to the grounds and procedure established by law when it is necessary to restrict a person's liberty for a longer period than 48 hours.

6.2.2. Pre-trial detention can be imposed when other remand measures (for example home arrest or a pledge not to leave) would be insufficient to ensure the defendant's appearance at the proceedings, unhindered investigation of a criminal case, etc.

During the pre-trial investigation of a case, pre-trial detention can be applied only in the case of crimes for which the Penal Code provides for a more severe punishment than a custodial sentence of one year. The basis for applying pre-trial detention is reasonable grounds for believing that the accused: 1) will abscond or hide from investigation or court; 2) will hinder the establishment of the truth in the case; or 3) will commit new grave crimes.

The factors to be considered when assessing the risk that the accused might abscond or hide from the investigation or court are the person's family status, permanent residence status, work, health condition, previous convictions, relations abroad and other important circumstances.

The factors to be considered when assessing the risk that the accused might hinder the establishment of the truth in the case are factual data implying that the accused may personally or through other persons attempt to influence the victims, witnesses, experts and other suspected or accused persons, or may attempt to destroy, hide or manufacture material evidence and documents.

Pre-trial detention can be applied on the basis of a request to extradite a person to another state.

6.2.3. Pre-trial detention on the basis of a prosecutor's application is ordered by a district judge. The judge must hear the person regarding the validity of his or her pre-trial detention. The legal counsel of the person and the prosecutor take part in such questioning of the person. The judge, on his or her own motion, or on the basis of a reasoned request of the prosecutor, is entitled to hear the prosecutor in the absence of the arrested person and his or her legal counsel, or to question the person in the presence of legal counsel only. After having questioned the person, the judge may satisfy the prosecutor's request and order pre-trial detention or may reject the prosecutor's request and refuse to order pre-trial detention.

After the case has been transmitted to the court, the court, which exercises jurisdiction over the case, orders, extends or revokes the pre-trial detention.

6.2.4. Pre-trial detention cannot last longer than six months. Where the case is particularly complex or of considerable scope, this period of pre-trial detention may be extended by a regional court judge, but the maximum term of the pre-trial detention at the stage of the pre-trial investigation of the case cannot be longer than 18 months. For the purpose of extending the term of pre-trial detention, the same procedure as for ordering the pre-trial detention is applied.

6.2.5. During the pre-trial investigation or the hearing of the case, a detainee or his or her legal counsel have the right to appeal to an appellate court against the detention. An appellate court judge must examine the appeal no later than within seven days after its receipt. With a view to examining the appeal, a hearing is arranged, to which the detainee and his or her legal counsel or legal counsel alone are called. The presence of a prosecutor is obligatory at such a hearing.

The decision taken by the appellate judge is final and cannot be the subject of a cassation appeal. A repeated appeal against the imposition or extension of this pre-trial detention is determined when examining the subsequent extension of the term of the pre-trial detention.

6.2.6. The Penal Code prescribes that the period of pre-trial detention is deducted from the overall term of a punishment: in case of a custodial sentence one day equals one day; in case of sentencing to correctional work one day equals three days of the sentence of correctional work.

When sentencing an offender to other types of a punishment, the court, taking into account the pre-trial detention, may impose a more lenient sentence or fully exempt the offender from serving the sentence.

6.2.7. A convicted person and/or his or her legal counsel may appeal against the sentence imposed by the court of first instance. The appeal has to be filed within 20 days following the date on which the sentence was pronounced. Filing of the appeal suspends the entry into force and execution of the sentence. An appellate court (a regional court or the Court of Appeal of Lithuania) examines the lawfulness and validity of the appeal with respect to persons against whom the appeals were lodged. Cases are heard under the appeal procedure by a chamber of three judges.

A convicted person and/or his or her legal counsel may under cassation procedure appeal against the sentence of the first instance and/or the ruling of the appellate instance court. A cassation appeal has to be filed within three months after the sentence becomes effective. A cassation court (the Supreme Court of Lithuania) reviews the points of law of the judgments and/or rulings appealed against only with respect to the persons against whom the cassation appeal was lodged. Under the cassation procedure cases are heard by a chamber of three or seven judges or by a plenary session of the Supreme Court of Lithuania.

6.2.8. The Code of Criminal Procedure prescribes that criminal cases are heard by a first instance court when the defendant is taking part. In this case his or her appearance in the court is obligatory. There is one exception to this rule that allows the court to hear cases in the absence of the defendant: when the defendant is not in the territory of the Republic of Lithuania and avoids appearing before the court.

6.2.9. Evidence in a criminal case can consist of any factual data on the basis of which an investigator, prosecutor or court determines the commission or non-commission of a criminal act, the guilt or innocence of the person who has committed the act, and other circumstances which are relevant to a just resolution of the case. These data can be discovered from statements of witnesses; statements of the victim; statements of the suspect; statements of the accused; inspection reports; reports on wiretapping and recording of telephone conversations; reports, photos, tapes, video and audio records of the use of technical means in operational activities; specialist findings; an auditor's statement; an expert's report; material evidence; reports and other documents of investigation and court activities. All evidence has to be gathered only in accordance with the procedure established by law. All the evidence gathered in the case has to be thoroughly and objectively verified by an investigator, the prosecutor and the court.

Witnesses are summoned to appear at the trial hearing. All persons living in Lithuania have the duty to appear when legally summoned and to state what they know about the matter. The spouse and close relatives of the defendant, as well as his or her legal counsel, are excused from this duty. Nevertheless, if the spouse or close relatives, after having been told of their right to be excused from testifying, waive this right, they are required to tell the truth. Before being questioned, each witness is kept apart from the others. When they appear in court, they begin by promising to tell the truth.

Witnesses who are unable to speak Lithuanian as well as those who have difficulties in expressing themselves (deaf-mutes, for instance) have to be helped by an interpreter.

Witnesses may be questioned or may be asked to identify the objects, instruments or products of crime displayed in the court room and may be subjected to cross-examination with other witnesses and with the defendant. It there are differences between testimony in the pre-trial investigation and during the trial, the first may be read out and the witness invited to explain the reasons for the discrepancy. In case the testimony of a witness who has not shown up at the hearings is deemed necessary, the trial must be adjourned until the witness, after having again been summoned, appears in court. If the witness is a minor, his or her teacher and parents must participate when he or she is being heard.

Experts, specialists and victims are subject to a similar procedure in questioning. Experts and specialists may be challenged by the parties for example in case they are relatives or hold a direct or indirect interest in the case.

The court will directly view all the documents, papers and objects related to the matter and, exceptionally, will leave the court building, accompanied by the parties and their legal counsels, to go to any place which has to be seen by the judge of the court in order to decide the case.

An investigator, the prosecutor and the court weighs the evidence according to their inner conviction, which is based on a comprehensive, complete and objective examination of all the circumstances of the case and abides by law and legal consciousness. No evidence has a pre-established probative power for an investigator, the prosecutor or the court.

6.3. The organisation of detection and investigation

6.3.1. Investigation in criminal cases is conducted by investigators of the Ministry of Interior and of prosecution agencies. The central agency is the Investigations

Department under the auspices of the Ministry of Interior. The Director of this Department is appointed by the Minister of Interior. The Department has its investigation divisions under local police structures. There are investigators in each prosecution agency. The Code of Criminal Procedure specifies the categories of crimes where the investigation is conducted by investigators of the Ministry of the Interior or investigators of prosecution agencies.

6.3.2. The activities of the Investigations Department and the divisions subordinate to it are supervised and controlled by heads of the divisions and by the prosecution agency. The activities of investigators of prosecution agencies are supervised and controlled by prosecutors.

6.3.3. Both heads and investigators of the Investigations Department and its divisions, and investigators of prosecution agencies must comply with instructions issued by a supervising prosecutor as to the investigation of a case. Investigators are entitled to appeal against these instructions to a higher prosecutor. Nevertheless, such an appeal does not terminate the execution of the instructions. The decision of the higher prosecutor is final and cannot be the subject of an appeal.

In case the court returns the case for additional investigations, an investigator must comply with all the instructions by the court specified in the ruling to refer the case for additional investigations.

6.3.4. The Code of Criminal Procedure and other laws provide for special law enforcement agencies which are empowered to conduct pre-trial investigation in the cases of particular crimes, for instance:

- the State Security Department in case of crimes against the state and of war crimes;
- the Unit of Special Investigation under the Ministry of Interior in case of corruption, etc;
- the Customs Department in case of smuggling;
- the State Control Department and the State Tax Inspectorate in case of crimes against property, finance or order of economy;
- the Tax Police Department under the Ministry of Interior in case of financial crimes (money laundering).

6.4. The organisation of the prosecuting agency

6.4.1. The Law on the Prosecution Agency provides that all the prosecutors of the Republic of Lithuania and other officials of prosecuting agencies form a unified and centralised prosecution system, which consists of:

1) the Office of the Prosecutor General under the Supreme Court of Lithuania;
2) regional prosecution agencies under regional courts; and
3) district prosecution agencies under district courts.

Officers of the Office of the Prosecutor General exercise their power throughout the entire territory of the Republic of Lithuania. Officers of regional and district prosecution agencies fulfil their powers in the area assigned to them, which corresponds to the area of the respective court.

The Office of the Prosecutor General consists of departments, boards, divisions and groups, which are headed by chief prosecutors. The Office of the Prosecutor General heads the territorial prosecution agencies and supervises their activities. The regional and district prosecution agencies are headed by chief regional and district prosecutors. Chief regional prosecutors supervise the activities of district prosecution agencies.

The activities of all the prosecution agencies are headed and supervised as well as the interior structure of prosecution agencies is established by the Prosecutor General. The Prosecutor General is appointed on the recommendation of the Law Enforcement Committee of the Parliament for a term of seven years, and can be removed from office by Parliament.

Deputies of the Prosecutor General are appointed and removed from office by Parliament on the recommendation of the Prosecutor General. The other prosecutors and officers of the prosecution agencies are appointed and removed from office by the Prosecutor General.

Prosecution agencies perform the following functions: 1) initiate and conduct criminal prosecution; 2) conduct and control pre-trial investigation; 3) pursue a public charge in a court; 4) control the execution of a sentence; 5) co-ordinate the activities of the pre-trial investigation agencies directed against crime; and 6) defend the interests of the State and the violated rights of persons in a court.

6.4.2. The Law on the Prosecution Agency and the Code of Criminal Procedure provide that a prosecutor controls the lawfulness of the instituting of criminal proceedings and compliance with the law in pre-trial investigation. A prosecutor must annul any unlawful or unjustified decision of investigative institutions or officers;

appeal against any illegal or unlawful sentences; pursue charges in a first instance court; and take part in hearings of a case in an appellate court and cassation court. A prosecutor is entitled to conduct a pre-trial investigation or specific pre-trial investigation actions himself or herself; to challenge pre-trial investigation officers from investigating the case; and to issue mandatory instructions as to the investigation of a case to those officers who are conducting a pre-trial investigation.

6.4.3. The Law on the Prosecution Agency provides that the prosecution agency is an independent component of the judiciary. The Prosecutor General reports only to Parliament. In the administration of his or her functions, the prosecutor is independent and obeys only the law. The procedural actions of a prosecutor in a criminal case can be revoked or amended only by a higher prosecutor or court. Appeals against the actions of a prosecutor are made to a higher prosecutor or court.

The Prosecutor General is vested with the right to issue mandatory directives to prosecution agencies and pre-trial investigation institutions regarding general prosecution policy.

The prosecutor, who controls the investigation of an case, is vested with the right to issue obligatory directives as to the investigation of a concrete case to the investigator.

6.4.4. The Penal Code and the Code of Criminal Procedure specify that an investigator or prosecutor, on a judge's authorisation, can close a criminal case in two cases. The first case is when a person who is a member of an organised criminal group, participated in crimes committed by that group, but he or she admitted his or her participation in such criminal acts and furnished law enforcement institutions with valuable information, on the basis of which the activities of the organised criminal group have been prevented or its members have been subjected to criminal prosecution. Criminal proceedings cannot be terminated in this way with respect to the organiser of the group, a person who has participated in the commission of an intentional murder, or a person who has already had the benefit of such termination of a case.

The second case is when a person who has committed certain crimes against property or economic crimes admitted that he or she had committed the crime, has voluntarily compensated the damage inflicted upon the state, natural or legal person, and has become reconciled with the victim. Such termination of the case is not applied to a person who has a previous conviction or to a person who has already had the benefit of such termination of the case.

6.5. Organisation of the courts

6.5.1. The Constitution sets out a four-level court system of common jurisdiction. There are 54 district courts, five regional courts, the Court of Appeal of Lithuania and the Supreme Court of Lithuania. Regional courts, the Court of Appeal of Lithuania and the Supreme Court of Lithuania have a Civil Cases Division and a Criminal Cases Division.

The Constitution states that for the examination of administrative, labour, family and other cases, specialised courts may be established pursuant to law. At present a three-level system of administrative courts functions in Lithuania, with five regional administrative courts, the Higher Administrative Court, and the Administrative Cases Division in the Court of Appeal of Lithuania. The competence of administrative courts extends to administrative disputes and to the supervision of the lawfulness of administrative acts and of actions of officials.

In addition to the system of common jurisdiction courts and specialised courts, the Constitution provides for an independent Constitutional Court that decides whether the laws and other legal acts adopted by the Parliament are in conformity with the Constitution, and whether legal acts adopted by the President and the Government do not violate the Constitution or laws.

6.5.2. District and regional courts are the first instance courts for the hearing of criminal cases. Regional courts hear appeals in cases which have been heard by district courts. The Court of Appeal of Lithuania hears appeals in cases which have been heard by regional courts according to the appeal procedure. The Supreme Court of Lithuania hears cases under the cassation procedure.

6.5.3. The main rules on jurisdiction are contained in the Code of Criminal Procedure and in the Law on Courts.

6.5.4. The criminal cases brought before district courts are heard under the first instance by a single judge. In regional courts criminal cases under the first instance are heard either by a single judge or by a chamber of three judges. A chamber of three judges hears criminal cases involving certain serious crimes, a comprehensive list of which is contained in the Code of Criminal Procedure (e.g., crimes against the State, and intentional murder under aggravating circumstances.), or involving crimes alleged to have been committed by members of the Parliament or the Government, by judges of the Constitutional Court or other courts and by prosecutors.

In regional courts and the Court of Appeal of Lithuania, criminal cases are heard under the appeal procedure by a chamber of three judges.

In the Supreme Court of Lithuania criminal cases are heard under the cassation procedure by a chamber of three or seven judges, or by a plenary session of the court.

6.5.5. The Lithuanian court system does not recognise participation by lay persons in court proceedings.

6.5.6. The highest court in criminal matters is the Supreme Court of Lithuania. When hearing cases under the cassation procedure, the Supreme Court of Lithuania reviews the judgments and rulings which have been the subject of appeal, from the point of the application of both material and procedural law.

6.5.7. The Law on Courts prescribes that the rulings passed by the Supreme Court chambers or by a plenary session of the Supreme Court are precedents. Interpretations of the application of laws contained in their rulings are taken into consideration by courts, state and other institutions as well as other subjects when they apply the same laws.

6.6. The Bar and legal counsel

6.6.1. The legal rights of the Bar during the pre-trial stage are prescribed in the Code of Criminal Procedure. The Code specifies the following rights of a legal counsel: 1) to examine the report of the temporary apprehension of the suspect, the decision to institute proceedings against him or her, and the decision to recognise him or her as the defendant; 2) to take part in the inquiry of the suspect and the defendant; 3) after the first questioning, to meet an apprehended or detained person without the presence of other persons and without restrictions as to the number and length of such meetings; 4) to take part in procedural actions done with the suspect or the accused or for the suspect or the accused, and, in any investigative actions, on the request of the defendant or his or her legal counsel and upon investigator's authorisation; 5) to obtain from the state and other institutions documents required for the defence; 6) to inspect the reports of investigation actions; 7) after the completion of pre-trial investigation, to obtain access to the complete case file and take notes; 8) to lodge requests and challenges; 9) to take part in the case hearing; and 10) to appeal against the actions and decisions of an investigator, prosecutor, judge and court and to take part in the hearing of the appeal.

In the course of the hearing of the case, a legal counsel has certain additional rights, such as to take part in judicial disputes, and to question the parties to the proceedings.

6.6.2. From the moment of apprehension or first inquiry, the Constitution guarantees persons suspected or accused of a crime the right to defence and an advocate (legal counsel). The Code of Criminal Procedure grants this right during pre-trial detention.

6.6.3. Every suspected or detained person has the right to appoint a legal counsel of his or her own choosing. If he or she fails to do so, and since assistance by a legally trained person is required by the Code of Criminal Procedure, a legal counsel is appointed by an investigator, prosecutor, judge or court. If a legal counsel has been appointed by an investigator, prosecutor, judge or court, the counsel's remuneration is paid by the state.

6.6.4. Only an advocate can be a legal counsel in criminal proceedings. The Law on the Bar prescribes the following requirements for an advocate:

- citizenship of the Republic of Lithuania;
- a higher legal education;
- ability to speak the official language (Lithuanian);
- impeccable reputation;
- no mental health problems;
- has practised law for at least five years in the positions identified in a list approved by the Government, or has had a year's training as an assistant advocate;
- has passed the advocate's examinations; and
- has not served as a staff member of the National Security Committee of the USSR.

Judges, law professors, associate law professors (including Doctors of Law as well as Doctors of Law who have completed their "Habilitationschrift") who wish to be advocates are not required to have practised as a lawyer in the positions identified in the list approved by the Government, nor are they required to undergo training as assistant advocates and pass the advocate's examinations.

6.7. The position of the victim

6.7.1. The Code of Criminal Procedure specifies that a person who has suffered moral, physical or material damage as a result of a crime is to be regarded as a victim. A person is formally recognised as a victim by the decision of an investigator, prosecutor, judge or court.

6.7.2. The Code of Criminal Procedure provides for the following rights of the victim in pre-trial and court proceedings: 1) to present evidence; 2) to present requests; 3) to obtain access to the complete case file when the pre-trial proceeding is

completed; 4) to take part in court proceeding; 5) to lodge challenges; 6) to pursue charges in the course of the case hearing; 7) to appeal against the acts of an investigator, prosecutor, judge or court; and 8) to appeal against the rulings and judgments of the court.

A person who is recognised as a victim is obliged to give true testimony during the case hearing.

6.7.3. The Code of Criminal Procedure prescribes that a victim has the right to appeal to a higher prosecutor against the decision of an investigator or prosecutor not to proceed with the case. The victim has a similar right to appeal to a higher court against a corresponding ruling of a judge or court.

The investigator's decision to discontinue a criminal case may be appealed against by the victim to a prosecutor, the decision of whom may be appealed to court. The ruling by the court is final.

6.7.4. The Code of Criminal Procedure prescribes that a person who has suffered material damage as a result of a crime is entitled to lodge civil claims in a criminal case. The court hears both the civil claims and the criminal case. Such a civil claim has to be lodged before the stage of judicial investigation in the court. Subsequently, a civil claim can be filed as a separate case in accordance with the procedure established by the Code of Civil Procedure.

When material loss has been inflicted upon the state or persons who, due to minority, illness or similar reasons, cannot defend their interests in a court and who do not have a legal counsel, a civil claim must be submitted or a submitted civil claim must be supported by a prosecutor pursuing public charges.

6.7.5. The Code of Criminal Procedure prescribes that public charges are pursued by a prosecutor, and the victim gives testimony in a court. The charges are directly filed by the victim only in cases of private accusation (e.g., for insult, slander, rape of an adult woman without aggravating circumstances, and similar crimes).

6.7.6. The victim has the right to legal counsel during pre-trial and court proceedings.

6.7.7. The victim is entitled to appeal against the acts or decisions of an investigator, prosecutor, judge or court.

6.7.8. The Code of Criminal Procedure provides for the prosecutor's obligation to submit a civil claim or to support a submitted civil claim, if a crime has inflicted material damage upon a person who as a result of minority, illness, subordination to the accused or other reasons cannot defend his or her interests in a court and who does not have a legal counsel. In case a prosecutor is absent from the hearing of such case, and in case a civil action has not been entered, the court must on its own motion resolve the issue of redressing the material damage.

6.7.9. The law does not provide for the right of a victim to receive compensation from the State for injuries or losses caused by a crime. Legislation is currently being drafted which will support victims who have suffered damage as a result of serious violent crimes. The drafts of these legal acts are based on the provisions of the European Convention on the Compensation of Victims of Violent Crimes (1983).

6.7.10. Lithuania does not have national victim support programmes. Nonetheless, on the national scale there several non-governmental organisations that assist female and juvenile victims of rape and violent crimes. These organisations provide premises for temporary residence, some material support, psychological aid and assistance.

7. Sentencing and the system of sanctions

7.1. – 7.3. The Penal Code distinguishes between principal and additional punishments. The principal punishments are life imprisonment, imprisonment, correctional work and a fine. The additional punishments are confiscation of property, fine and deprivation of the right to a certain job or to perform certain duties.

In addition to punishments, the Penal Code stipulates coercive medical measures applied to mentally ill persons who have committed dangerous acts. These measures are commitment to a psychiatric hospital under common, strengthened or strict supervision, and placement under guardianship with a medical supervision. Furthermore, the Penal Code prescribes that a minor who has committed a non-serious crime may be released by the court from criminal responsibility if 1) this is his or her first offence; 2) he or she has made redress for damages or agreed with the victim on the compensation for damage; 3) he or she has fully admitted his or her guilt and regrets having committed the crime; and 4) there is grounds to believe that he or she will abide by the law and will not re-offend. In this case the court can apply the following compulsory reformatory measures:

- an obligation to publicly or otherwise apologise to the victim;
- an obligation to compensate for material damage by his or her own means or to cover the damage through his or her own work;
- placement with parents or other persons for guardianship;
- home supervision for up to 45 days;
- obligation to perform non-remunerative work from 20 to 100 hours;
- placement in a special educational or disciplinary institution for up to three years, but not beyond the time that the minor reaches the age of 18 years.

7.4. Civil servants who have been convicted for crimes related to their functions may be subject to deprivation of the right to hold a certain position.

7.5. Capital punishment was abolished by the law of 21 December 1998 (Official Gazette "Žinios", 1998, No. 115-3238) when the Constitutional Court of the Republic of Lithuania ruled that this punishment was unconstitutional.

Life imprisonment is a principal punishment which can be imposed by the court for genocide, banditry, murder in aggravating circumstances, creation of a criminal association in aggravating circumstances, killing of persons protected by international humanitarian law, expulsing civilians from an occupied country, and forbid-

den war attack. This punishment is not imposed on persons who at the time of the commission of the crime had not yet reached the age of 18 years.

Imprisonment is a principal punishment which can be imposed by the court, in cases prescribed by law, for from 3 months to 20 years; in case a new crime has been committed when serving the sentence, imprisonment can be imposed for up to 25 years. If the law prescribes a minimum custodial sentence of three years or more for the crime that had been committed, then when imposing this punishment upon a minor before the age of 18, its minimum is calculated at half the minimum penalty stipulated in the law (for instance, if the law prescribes a minimum sanction of four years imprisonment, the court may impose on a minor a minimum custodial sentence of two years). The maximum custodial sentence for persons who at the time of the commission of the crime have not reached the age of 18 years cannot exceed ten years.

Correctional work is a principal punishment which, in cases specified by law, may be imposed by the court for a term ranging from two months to two years. The essence of this punishment is the obligation of the convicted person to work in his or her regular place of employment and pay from 5% to 20% of the salary to the state budget, as set by the court.

The fine is a principal punishment or an additional punishment which may be imposed by the court in instances specified by the law. As a principal punishment the fine can amount to from 100 to 1000 MWU (minimum-wage units, the amount of which is approved by the Government. At present, one MWU is equal to 125 Litas or about 31 USD). However, for crimes committed with a view for financial gain, the fine can amount to from 200 to 50.000 MWU. The fine as a principal penalty imposed on minors can amount to from 10 to 500 MWU.

As an additional penalty the fine can be from 10 to 500 MWU. When imposed on minors, the additional fine can be from 5 to 200 MWU.

Deprivation of the right to a certain job or to perform certain duties is an additional punishment which may be imposed by the court in instances specified by the law or at its own discretion for a term ranging from one to five years.

Confiscation of property is an additional punishment obligatorily imposed by the court for the commission of a crime stipulated by the law. The confiscation of property consists of compulsory uncompensated seizure of property that is possessed by right of ownership by the accused or of property passed on to other persons, in case it has been acquired as the result of a criminal act. This punishment may not be applied to minors.

Correctional work can be imposed as a measure on juvenile offenders or as an obligation in suspended sentence.

Compensation orders are not considered as punishments, but as civil liability derived from the commission of a crime.

7.6. If the offender evades paying a fine imposed only as a principal punishment and there are no possibilities of coercing its payment, it may be replaced by deprivation of liberty. Such a substitution is effected by the court, which calculates that one day of imprisonment is equal to the fine of 1 MWU. However, the overall length of a substituted custodial sentence cannot exceed 90 days.

7.7. The Penal Code does not stipulate more possibilities of applying other measures than the principal and additional punishments listed above.

7.8. The Penal Code contains general provisions on sentencing. The Penal Code prescribes that the court determines the punishment within the scope of the sanction specified in the relevant article which provides for criminal responsibility for the crime committed. When determining the punishment, the court, abiding by legal consciousness, takes into consideration the type and dangerousness of the crime committed, the personal characteristics of the offender and the circumstances of the crime which mitigate and aggravate the liability. The Penal Code stipulates a model list of mitigating and an exhaustive list of aggravating factors; prescribes special rules for imposing penalties in case a person has fully admitted his or her guilt, in case a person has committed several crimes, or in case a new crime is committed before the sentence for a previous crime has been completed; provides for the rules for cumulating and substituting penalties; defines the grounds, conditions and procedure for imposing a lighter penalty than that prescribed by the law; and stipulates the grounds and procedure for releasing an offender from a sentence.

Only one principal punishment may be imposed for commission of one crime. Two principal punishments may be imposed when the sentence is for several crimes or when a new crime is committed before the sentence for a previous crime has been completed. In addition to a principal punishment, no more than two additional penalties may be imposed on the convicted person.

7.9. The Penal Code does not provide for the possibility of imposing special penalties or measures for traffic crimes, crimes related to narcotics and firearms, environmental crimes or economic crimes. For commission of these crimes only the

punishments stipulated by the penal system and the sanction contained in the respective article of the Penal Code may be imposed.

8. Conditional release and/or suspended sentence, or probation

8.1. A suspended sentence may be imposed on a first-time offender sentenced to correctional work or imprisonment. The suspended sentence may be no longer that three years for a non-serious intentional crime and no longer than five years for a negligent crime, provided that at least one-third of the material damage caused by the crime has been compensated (when the crime has caused material damage).

If the offender committed the crime before the age of 18 and has not previously been sentenced to a custodial punishment, he or she may receive as a suspended sentence no more than four years for an intentional crime and no more than eight years for a negligent crime.

A suspended sentence means that the court defers the principal punishment for a period of one to three years. The court may also defer the execution of an additional punishment (deprivation of the right to hold a certain position or to perform a specific job). The court defers the sentence if it concludes that the purpose of the punishment may be achieved without the actual punishment being served.

8.2. Adult offenders may receive the benefit of a suspended sentence only for the first-time commission of a non-serious intentional crime for which correctional work or imprisonment for up to three years is imposed, or for the first-time commission of a negligent crime for which correctional work or imprisonment for up to five years is imposed.

8.3. Partial suspension of sentences is not possible.

8.4. When deferring the enforcement of a penalty, the court obligates the sentenced person to make redress for the remainder of the material damage caused by the crime (if the material damage has been inflicted by the crime) and imposes one or more of the following obligations:

- apology to the victim;
- assistance to the victim during medical treatment;
- to obtain employment or not change the place of employment without the court's approval;
- commencement or continuation of schooling or learning of a speciality;
- treatment for alcoholism, drug or toxic abuse or sexually-transmitted disease;

- no change of address without permission from the institution which oversees the deferment of the penalty;
- performance of up to 1000 hours of non-remunerative work.

The court at the same time sets the time limits within which the sentenced person must fulfil the imposed obligations.

8.5. The behaviour and fulfilment of obligations by a convicted person is monitored by agencies of the Correctional Affairs Department (Prison Department) functioning under the police units of every region.

8.6. If, during the period of the deferment, the convicted person fails to compensate the remaining part of the material damage inflicted by the crime or fails to fulfil the obligations prescribed by the court without justifiable reason, or violates public order, or abuses alcohol or commits other breaches of the law for which he or she was subject to two administrative penalties, the court upon recommendation of the institution overseeing the suspended sentence rescinds the deferment of that punishment and orders that the imposed sentence be carried out.

8.7. The probation service is a constituent part of the Correctional Affairs Department (Prison Department), but with its own agencies under the police units of each region.

8.8. The main functions of the probation service are: the keeping of personal records of persons under suspended sentence and conditional release from imprisonment; employment aid; the supervision and monitoring of the behaviour and imposed obligations of such persons; the application of disciplinary measures and incentives; and the search for conditionally released persons whose place of stay is not known.

8.9. The laws promote the participation of volunteers and non-governmental organisations in probation activities. At present, there are only a few non-governmental organisations which are actively involved in probation activities (for example, the Prisoners Aid Association) and which assist in job seeking or finding a residential place, provide psychological counselling and some financial and material support, etc.

9. The prison system and after-care of prisoners

9.1. Organisation of the prison system

9.1.1. On 1 January 2000 the Correctional Affairs Department (Prison Department) and the system of the places of deprivation of liberty have been transferred from the Ministry of the Interior to the jurisdiction of the Ministry of Justice.

9.1.2. The Correctional Affairs Department (Prison Department) is headed by the Director General who is appointed by the Minister of Justice. He has four deputies – for regime, for reformatory work, for the management of production and for general matters. Each imprisonment institution has a Director (Governor) appointed by the Minister of Justice. All the imprisonment institutions and the Prison Staff Training Centre are directly accountable and reporting to the Correctional Affairs Department (Prison Department).

9.1.3. Pursuant to the Guidelines of Legal System Reform (Official gazette Žinios, 1998, No. 61-1736) approved by the Parliament, the strategic issues of the development of policy of the execution of sentences, including the imprisonment system, are under the responsibility of the Ministry of Justice.

9.1.4. The execution of custodial sentences is regulated by the Code of the Execution of Punishments, whereas a detailed specification thereof is stipulated in the Rules of the Interior Order of the Institutions of Correctional Work. The Code of the Execution of Punishments specifies the types of imprisonment institutions and regimes; regime requirements; the conditions for prisoner work; the types of reformatory work; the conditions for general education and vocational training; the legal status of sentenced persons; material provision and medical care of inmates; the grounds and procedure for the disciplinary responsibility of inmates; the measures ensuring the regime; the procedure for applying conditional release from imprisonment institutions; and the grounds and procedure for exemption from a sentence.

The legal status of prisoners is defined by laws and the sentence. The Code of the Execution of Punishments regulates the following special prisoner rights and the procedure for exercising them: the right to purchase food products and basic articles; the right to obtain books and periodicals; the right to have short term visits (up to four hours) and long term visits (up to two days); the right to telephone communications with family; the right to obtain food products or printed matter;

the right to a short leave from an imprisonment institution; the right to meet with legal counsel; the right to use personal TV and radio sets; the right to correspondence; the right to send and receive monetary transfers; the right to apply to state institutions and officials with complaints, applications and proposals; the right to religious services; the right to marry, etc.

The protection of the rights of inmates is the competence of the Ombudsman (the Seimas Controller), the prosecutors and courts. The functions of these institutions include all decisions on the situation, rights and liberties of prisoners, and on complaints and appeals against disciplinary measures.

The enforcement of a fine is regulated by the Code of Civil Procedure. A person sentenced to a fine has to pay the predetermined amount of money within two months or within a period fixed by the court. In case of failure to pay a fine, a court bailiff deals with the coercive collection of the fine: arrests the property so as to collect the fine; conducts monetary assessment of the property; holds an auction and sells the arrested property; transfers the collected money into the state budget; and informs the court that adopted the sentence about the enforcement of the fine. The lawfulness of the actions of a court bailiff are controlled by the judge.

9.1.5. There are 14 imprisonment institutions and a special hospital in Lithuania. All the institutions are supervised by the Correctional Affairs Department (Prison Department).

According to law, imprisonment institutions are classified into institutions of sentence execution and pre-trial detention centres; institutions for juveniles and for adults; and institutions for men and for women. According to the security level, imprisonment institutions are classified into prisons (high security), correctional work colonies (normal security) and colonies-settlements (semi-open). The correctional work colonies, which are the main places for serving custodial sentences (above 90% of all convicted persons serve their sentences there) are, according to the forms and the level intensity of the supervision and monitoring of inmates, classified into three regimes: common, strengthened and strict.

The average number of inmates in an institution is about 1500. The number of inmates in the institution for women does not exceed 500, and the number of inmates in the institutions for minors does not exceed 300.

The total number of inmates as of 1 January 1998 was 13.628. Women make up about 4%, and minors about 1,5% of the total number of all inmates. In Lithuania, the rate per 100.000 population is 392 inmates.

9.1.6. There are three institutions in Lithuania for young offenders between the ages of 14 to 18 years. These institutions are called the reformatory work colonies. The regimes in them are common or strengthened.

9.1.7. Once the court has imposed a custodial sentence, in accordance with the Penal Code it must also designate the type of institution (prison, correctional work colony, reformatory work colony or correctional work colony-settlement) and the regime (common, strengthened or strict). The assignment of an individual convict to a specific institution is decided by the Correctional Affairs Department (Prison Department) after an observation period during which the prisoner is subjected to a personality assessment process.

9.1.8. More than one inmate may be placed per prison cell in imprisonment institutions. The Code of the Execution of Punishments states that prisoners are provided with an individual place to sleep. The living space in imprisonment institutions cannot be smaller than 2 m². In prison and in juvenile imprisonment institutions, the living space cannot be smaller than 2,5 m². Pregnant women, breastfeeding mothers, ill persons and juveniles are provided improved living conditions.

9.1.9. The Code of the Execution of Punishments provides that the reformatory measures in which inmates are involved are regime, correctional activities, work, general education and vocational training.

All prisoners undergo individual treatment and treatment in groups. This treatment is decided after a study of their personality.

Regime requires inmates to fulfil their duties, and to abide by the rules of the order of the institutions and the requirements of a daily regime.

Work is a duty for prisoners. The administration of an institution must ensure that inmates perform a job which corresponds to their working capability and speciality. Normally, inmates work in the enterprises of institutions. (Currently, only about 30% of all inmates are employed.)

Prisoners below the age of 16 years must attend school. Other prisoners are involved in educational programmes only if they wish so.

Prisoners without a speciality or profession must participate in vocational training programmes. If inmates are willing, the programmes for upgrading the existing skills and for training in new specialities can be organised in the imprisonment institutions.

The Law on Pre-Trial Detention (Official Gazette Valstybės Žinios, 1996, No. 12-313) provides that detainees in pre-trial detention centres must abide by the regime requirements. These persons can work only in the territory of the pre-trial detention centre, provided that there is consent and permission to this effect by the officer who investigates the case or the court.

9.1.10. An inmate can have an unescorted leave from the institution only in order to work. Inmates may be allowed to work outside the institution only when they have served at least one-third of their time and behaved well throughout the sentence. Extremely dangerous recidivists and certain other categories of inmates (e.g., those sentenced for intentional murder in aggravating circumstances) are not eligible for unescorted leave from the imprisonment institution. Inmates who have been granted the right to work outside the institution are housed separately from other inmates in the imprisonment institution. The right to work outside the imprisonment institution is granted by the Governor of the institution.

9.1.11. A short-term unescorted leave from the imprisonment institution is authorised only for inmates detained in the correctional works colonies-settlements, the correctional works colonies with common and strengthened regimes (with the exception of those sentenced for violent crimes), and for juveniles in case of the death or potentially fatal illness of a close relative, and in case of a disaster which has caused substantial material damage to the inmate or his or her family. The permit for such a leave on a prosecutor's authorisation is given by the Governor of the institution, who takes into consideration the inmate's personality and behaviour. The leave can last up to ten days, which are counted towards the overall term of the sentence.

9.1.12. Escape from the imprisonment institution by a detained, apprehended or imprisoned person is punishable by a custodial sentence of up to two years. Escape effected by the use of violence against guards or other staff of the administration of the institution or by causing the imprisonment institution serious material damage, is punishable by a custodial sentence of between one and six years.

9.1.13. The Lithuanian prison system does not contain any significant minority categories of prisoners.

9.1.14. Lithuania is party to the European Convention on the International Validity of Criminal Judgments (1970) (ratification by Lithuania: 1997), the European Convention on the Transfer of Sentenced Persons (1983) (ratification by Lithuania: 1995) and the European Convention on the Transfer of Criminal Proceedings (1972) (ratification by Lithuania: 1998).

In addition, bilateral agreements on the transfer of sentenced persons have been concluded with Poland (1993) and Byelorussia (1998).

9.2. Conditional release (parole), pardon and after-care

9.2.1. The Penal Code provides for two forms of conditional release: conditional release from institutions of deprivation of liberty, and conditional release from institutions of deprivation of liberty of inmates who have made redress for the material damage caused by the crime.

9.2.2. Conditional release from institutions of deprivation of liberty can be applied to inmates provided that 1) they can be further reformed without being isolated from the community; 2) they undertake to prove by their model behaviour and honest work that they have been rehabilitated; and 3) they have served

- at least one-third of the punishment imposed (a requirement for minors, pregnant women, women having children below the age of seven years or more children who are minors, and to persons sentenced for negligent crimes to a custodial sentence of up to five years);
- at least one-half of the punishment (a requirement for persons sentenced to a custodial sentence of up to ten years);
- at least two-thirds of the punishment (a requirement for persons sentenced to a custodial sentence of more than ten years);
- at least three-fourths of the punishment (a requirement for extremely dangerous recidivists and for persons sentenced for rape, murder and some other serious crimes).

Conditional release from institutions of deprivation of liberty is not applied to persons sentenced for crimes against the State or war crimes, murder in aggravating circumstances; rape of an infant or minor; the taking of hostages, acts of terrorism etc., as well as to persons sentenced to life imprisonment and those who, having been conditionally released from institutions of deprivation of liberty, commit a new intentional crime.

Conditional release of persons who have compensated the material damage caused by the crime can be applied if 1) the persons were sentenced for non-serious crimes against property, the economy, finance or human health; 2) have voluntarily compensated no less than half of the material damage inflicted by the crime; 3) have served at least two-fifths of the punishment imposed; and 4) were of model behaviour during the service of their sentence. This form of conditional release is not applied to extremely dangerous recidivists or to persons who after having been

conditionally released from institutions of deprivation of liberty have committed a new intentional crime.

9.2.3. Both conditional release forms, upon the proposal of the penitentiary administration, are applied by the court of the area of the imprisonment institution.

9.2.4. When conditionally releasing an offender from institutions of deprivation of liberty, the court obligates the person to obtain employment or to register at the employment office and, during the remaining portion of the punishment to be served, to compensate the remaining part of the material damage (if the crime has caused material damage). The court also specifies one or more of the following restrictions: 1) not to leave one's home during a specified time unless this relates to work; 2) not to visit certain places unless this relates to work; 3) not to leave the area of his or her place of residence longer than for seven days without permission; 4) to register from one to four times at the institution executing the sentence. If the person consents, these obligations can be replaced by a pecuniary bail ranging from 1200 to 12.000 Litas (approximately 300-3000 USD).

When granting conditional release to convicted persons from institutions of deprivation of liberty, when these persons have compensated part of the material damage inflicted by the crime, the court obligates the person to cover the remaining portion of the material damage during the period of the sentence to be served.

9.2.5. In case of both types of conditional release, the behaviour and fulfilment of the prescribed obligations by conditionally released persons is monitored by agencies of the Correctional Affairs Department (Prison Department), functioning under the police units of every region.

9.2.6. If a person who has been conditionally released from an institution of deprivation of liberty evades work or fails to register at the employment office, or systematically violates public order or duties ascribed to him or her, or does not compensate the remainder of the material damage, such a person by recommendation of the institution overseeing the execution of the sentence, and on the decision of the court, is referred back to the institution of deprivation of liberty to serve the remaining portion of the custodial sentence.

If, in either type of conditional release, the person commits a new crime, the court adds all or part of the non-served punishment to the punishment imposed for the new crime.

9.2.7. The Constitution provides that the President of the Republic has the power to grant pardons, whereas amnesty acts are passed by the Seimas (Parliament).

The procedure for considering requests for pardon is regulated by the "Procedure of Considering Requests for Pardon", approved by the Decree of the President of the Republic (Official gazette "Valstybės žinios", 1993, No. 3-60). A convicted person must personally submit his or her request for pardon to the President of the Republic. The request and the material necessary for its resolution is preliminarily considered by the Clemency Commission, which consists of the Ministers of Justice and Interior, the Chairman of the Supreme Court, the Prosecutor General, the Legal Adviser to the President, a representative of the Prisoners Aid Association, and the Chaplain of the Correctional Affairs Department (Prison Department). The President of the Republic is not obliged to follow the recommendation of the Clemency Commission. The pardon may apply to all or a part of the punishment imposed (both the principal and additional punishments).

Amnesty Acts are passed by the Parliament. They are subject to the general requirements for laws. The amnesty act specifies the categories of convicted persons or crimes qualifying for the amnesty, the type of the amnesty (complete or partial), the conditions and procedure of the application of the amnesty, and the time period of the amnesty.

9.2.8. There is no centralised after-care system in Lithuania. The principal institutions which provide assistance in providing housing and employment are municipalities and non-governmental organisations. Some municipalities have established boarding houses where persons released from imprisonment may stay for up to six months.

10. Work on Reform

10.1. New drafts of the Penal Code, the Code of Criminal Procedure and the Code of the Execution of Punishments are currently being completed in Lithuania. The Codes are being prepared by special working groups formed by the Government.

A) The following innovations are projected to be included in the draft Penal Code:

- dividing all criminal acts into crimes and offences. Punishments not related to deprivation of liberty are prescribed for offences;
- introducing a new version of diminished responsibility for persons who suffer from psychiatric or psychological health problems;
- providing for corporate criminal responsibility;
- raising the age of full criminal responsibility to 18 years;
- modifying the list of punishments by dispensing with the punishment of correctional work and providing for the following punishments: arrest of up to 90 days, public work, and restriction of liberty;
- making the rules for the imposition of punishments more precise by providing a more detailed specification of the influence of mitigating and aggravating factors, of the stage of a crime, of complicity etc. upon the punishment and its amount;
- providing more possibilities for applying suspended sentences and other alternative measures to imprisonment;
- extending the scope of reformatory measures and of possibilities for their application to juvenile offenders;
- providing a clearer definition of crimes against humanity and war crimes, in compliance with the requirements of the Statute of the International Criminal Court (1998);
- criminalising sexual harassment as a special criminal offence;
- providing a clearer definition of corruption, in compliance with the requirements of the European Criminal Convention against Corruption (1999).

B) The following innovations are projected for inclusion in the draft Code of Criminal Procedure:

- extension of the rights and duties of the prosecutor in pre-trial investigation of the case. Only the prosecutor can make a decision to commence the pre-trial investigation and decide what investigation actions must be performed and who will perform those actions;

- simplification of investigation and the hearing of uncomplicated cases by introducing two forms of a simplified procedure: summary proceedings and criminal order;
- extending the possibilities of application of the adversary principle in the stage of judicial examination, while ensuring that it is the court that ascertains the truth in the case;
- speeding up the appeal procedure, during which factual and legal aspects of sentences are reviewed;
- cassation would be under the jurisdiction of the Supreme Court of Lithuania only. Cases under the cassation procedure would be heard only insofar as they relate to aspects of the law, and with the mandatory participation of the defence;
- introduction by law of a pre-trial investigative judge, who at the request of a prosecutor will authorise the arrest of a person at the stage of pre-trial investigation, search his or her dwelling premises, check his or her correspondence, etc.

C) The draft of the Code of the Execution of Punishment envisages the following innovations:

- The legal status, i.e. the rights, duties and liberties of the convict shall be determined only on the basis of the Code of the Execution of Punishments. Governmental decrees will provide for the order and realisation of these rights and duties. The aim of this provision is to extend the scope of positive rights and limit the unnecessary restrictions of these rights. The sentenced person will have the possibility to influence his or her situation on the basis of the principle that good behaviour leads to more rights and privileges, whereas bad behaviour would lead to less rights and privileges.
- The involvement of the community in the rehabilitation of convicts will be promoted in order to reduce some antagonism between prisoners and other members of the community and to facilitate the resettlement of the convict.
- The incentives and means of motivation for imprisoned persons will be extended and will have to be concrete and positive in the sense that granted benefits (e.g. short-time furloughs, conditional release, etc.) should be the result of good behaviour and should aim at increasing the convicted person's feeling of independence and responsibility.
- The classification and differentiation process of the convicts will be under the responsibility of the Prison Department and the differentiation of

convicts within each institution will be decided by the local Prison Governor.

- Professional training and work provided for in prisons should be oriented toward the post-release period and thus aim at enhancing the convict's possibilities of finding employment after having serving his or her sentence.

Furthermore, the principle of free will should be introduced in professional training. This principle means that convicts may choose more freely what to engage in: studies, work, professional or vocational training, and the type of training. The activities will have a bearing on the evaluation of the convict's behaviour and on the granting of privileges.

10.2. There is a tendency in Lithuania to reduce the use of non-custodial sanctions. This tendency appears clearly in the most recent amendments of the Penal Code (1999) and in the draft Penal Code, which provide for a broader possibility of applying punishments not related to deprivation of liberty (fine, community service and etc.); minimum and/or maximum margins of punishments for individual crimes are to be reduced; the possibility of applying conditional release from imprisonment institutions is extended, etc.

The main reasons for this tendency are a) overly extensive application of imprisonment; b) non-effectiveness of such a criminal policy; and c) the considerable financial resources required for the enforcement of custodial sentences. The first results of such a policy should become visible at the end of 2000.

10.3. Between 1996 and 1998 in Lithuania, stricter criminal responsibility was prescribed for certain categories of crimes, such as trafficking in human beings; illegal crossing of the national borders; illegal possession of firearms and explosive substances; involving children in pornography; illegal possession of drugs; terrorising a person; participating in the activities of a criminal association; and money laundering.

Such amendments in the Penal Code were directed at more effective control of organised crime and enhanced protection of the interests of children.

10.4. In Lithuania, legislation which will provide for the granting of financial assistance to victims who have suffered from serious violent crimes, and for the establishment of a special Foundation that will provide such assistance, is currently being drafted. The drafts of this legislation is based on the provisions of the European Convention on the Compensation of Victims of Violent Crimes (1983).

11. Statistics on Crime and Criminal Justice

In Lithuania the Department of Statistics publishes an annual publication, "Criminality and Law Enforcement Activity", which contains statistical data on crime and its structure during the previous year.

Between 1990 and 1997 the amount of reported crime in Lithuania doubled, and the number of serious crimes increased five-fold. However, care should be exercised while evaluating the increase in the number of serious crimes since this is often inflated by extensions of the list of serious crimes.

Table 1. The main crime rate indicators

	1990	1991	1992	1993	1994	1995	1996	1997
1. Reported crime	79.191	91.282	107.733	108.141	102.802	103.453	118.210	134.496
2. Registered crime	37.056	44.984	56.615	60.378	58.634	60.819	68.053	75.816
3. Serious crime	4028	4549	5972	8210	9348	13214	19962	21210
4. Crime detection	28,5%	37,4%	35,5%	36,8%	40,8%	40%	41,3%	42,8%
5. Number of crimes per 10.000 population	99	120	151	162	158	164	183	205

Since 1990 the structure of crime in Lithuania has been dominated by crimes against property, which make up about 80% of the total of registered crimes. The sharp increase in these crimes has moulded the general tendency in the increase in crime. Some other types of property crime – financial crimes (which make up about 2% of the total number of registered crimes) and crimes against the economy (which make up about 2% of the total of registered crimes) – are also attributed to this crime structure group.

Table 2a. Registered crimes by object of attempt in 1990-1994

	1990	1991	1992	1993	1994
Total	37056	44984	56615	60378	58634
1. Personal property	21038	25224	30731	34815	34616
2. Public security, public order and health	5389	6011	5108	5026	5494
3. State or public property	7320	10805	17505	15831	12655
4. Life, health, freedom and dignity of a person	1630	1702	1884	2121	2554
5. Economic crimes	715	327	296	336	610
6. Governance order	465	443	459	507	766
7. Civil service	262	200	270	268	323
8. Justice	179	177	157	190	284
9. Citizen's political and labour rights	17	18	22	15	24
10. Crimes against the Sate	41	77	178	1173	1199
11. Military crimes	-	-	5	96	109

The Penal Code of the Republic of Lithuania was changed and supplemented in 1994.

Table 2b. Registered crimes by object of attempt in 1995-1997

	1995	1996	1997
Total	60819	6853	75816
1. Property	49055	54370	58645
2. Public security and order	5459	6192	6672
3. Life, health, freedom and dignity of person	2521	2447	2696
4. Finance	1102	1184	1360
5. Governance order	1096	1839	1778
6. Order of economy	766	1269	3643
7. Civil service	250	217	247
8. Crimes against the State	224	222	403
9. Justice	208	211	258
10. Military service	96	62	68
11. Citizen's political and labour rights	37	36	40
12. Flora and fauna	5	4	6

In Lithuania crime is traditionally the problem of urban areas. On the other hand, the substantial migration of the rural population to cities has drastically increased the number of crimes per 10.000 population in rural areas.

Table 3. Crime rate in urban and rural areas

	1990	1991	1992	1993	1994	1995	1996	1997
1. Registered crimes in								
urban areas	28340	33292	38852	40105	40268	43598	50730	55410
rural areas	8716	11692	17763	20273	18366	17221	17323	20406
2. Registered crimes per 10.000 population in								
urban areas	111	129	151	156	159	173	201	219
rural areas	74	100	151	172	154	144	146	174

An analysis of the dynamics of certain crime categories shows a significant increase in the number of intentional murders from 1993 to 1995 and a steady and growing number of drug-related crimes during this period. It should be noted that the large increase in the reported number of robberies in 1994 is a result of amendments made to the criminal law. During the same period, the dynamics of other crimes has remained moderately steady.

Table 4. Registered crimes by selected type of crime

	1990	1991	1992	1993	1994	1995	1996	1997	1998
1. Intentional murder	224	260	303	480	523	502	405	391	356
2. Rape	196	189	191	196	165	200	168	166	166
3. Intentional serious bodily injury	319	342	346	344	353	299	351	371	381
4. Robbery	334	402	488	737	4217	2837	3481	3971	3646
5. Theft	24333	31716	42708	43375	40252	41619	44600	47193	48213
6. Drug-related crime	76	121	239	302	334	395	511	630	

An analysis of different aspects of the dynamics of persons who have been identified as having committed crime shows that these are generally proportionate to tendencies in the increase of crime. Attention should be drawn to the greater increase in the number of persons who committed crimes under the influence of drugs and when unemployed.

Table 5. Persons who have been identified as having committed crime

	1990	1991	1992	1993	1994	1995	1996	1997
1. Total number	12556	13268	18810	20424	21290	22969	22269	25542
2. of which:								
2.1. juveniles	2042	1928	2747	3181	3036	3385	3408	3313
2.2. repeated offenders	2538	2503	3478	4348	5118	4978	5164	5783
2.3. in a group	4116	4680	8149	10799	10403	10498	9354	10104
2.4. drunk	4764	5284	6760	7642	8121	7792	7316	7468
2.5. in a state of intoxication with drugs	13	26	70	53	82	94	82	91
2.6. females	1567	1339	1917	2102	2419	2391	2546	3563
2.7. unemployed	2808	3841	7300	10909	12854	14182	14066	16146

An analysis by age of persons who have been identified as having committed crime indicates that crime is predominantly a problem related to juveniles and young people.

Table 6. Persons who have been identified as having committed crime, by age

	1990	1991	1992	1993	1994	1995	1996	1997
Total number of persons who have been identified as having committed crimes	12556	13268	18810	20424	21290	22969	22269	25542
Age, years:								
14-17	2042	1928	2747	3181	3036	3385	3408	3313
18-24	3281	3652	5484	6046	6619	7084	6534	7299
25-29	2322	2298	2949	3196	3337	3543	3538	4067
over 30	4911	5390	7630	8001	8298	8957	8789	10863

The dynamics of juvenile crime gives reason for great concern, since its rate is higher than that of the dynamics of crime in general.

Table 7. Juvenile delinquency

	1990	1991	1992	1993	1994	1995	1996	1997
Total	2506	2702	3555	4297	4433	4551	5348	5278
of which:								
criminal offences	2382	2552	3376	402	4166	4343	4807	4653
violent crimes	459	380	445	602	829	819	1460	1400
economic crimes	21	31	36	30	55	31	29	22
other	103	119	143	175	212	177	512	603
compared to the number of detected crimes %								
Total	17.6	17.2	18.4	19.4	18.6	18.1	19.0	16.3
of which:								
criminal offences	25.2	23.9	23.0	21.9	20.8	21.2	22.6	20.8
violent crimes	21.7	18.0	17.7	20.2	19.0	19.3	24.7	23.4
economic crimes	1.1	1.7	1.7	1.8	3.6	1.5	1.1	0.6
other	3.6	3.8	5.6	9.5	9.0	6.7	12.3	9.1

It should be noted that juveniles are committing more and more serious crimes, including premeditated murder and premeditated serious bodily injury.

Table 8. Juvenile delinquency by type of crime

	1991	1992	1993	1994	1995	1996	1997
Total number of detected crimes committed by juveniles	2702	3555	4297	4433	4551	5348	5278
of which:							
Premeditated murder	7	11	14	22	30	28	27
Premeditated serious bodily injury	3	3	13	12	12	15	16
Rape	26	22	29	28	33	29	16
Robbery	37	47	89	123	286	296	347
Disorderly conduct	100	146	137	216	389	432	420
Theft	1963	2702	3330	3157	3455	3736	3539

The number of criminal and administrative cases received and heard in courts has remained quite steady.

Table 9. Criminal cases in district courts

	Received cases			Concluded during the year		
	1995	1996	1997	1995	1996	1997
Total cases	17336	17349	20833	13469	12776	14484
in Vilnius district	4472	4768	5967	3368	3416	4079
in Kaunas district	4980	4966	5443	3698	3517	3724
in Klaipėda district	2892	2930	3751	2241	2186	2426
in Panevėžys district	2406	2269	2464	1966	1802	1885
in Šiauliai district	2586	2416	3208	2196	1855	2370

Table 10. Cases of administrative offences heard in district courts. Cases heard (by number of persons)

	1995	1996	1997
Total cases	27860	30582	33383
in Vilnius district	5445	7588	8999
in Kaunas district	8304	7814	7931
in Klaipėda district	5848	5557	5758
in Panevėžys district	4097	4660	5143
in Šiauliai district	4166	4963	5552

Criminal policy in Lithuania is almost the strictest in Europe, as indicated by the fact that Lithuania has an estimated 392 prisoners per 100.000 population. One of the factors predetermining the high number of prisoners is the very frequent application of a custodial sentence. 31% of all sentences in 1991 involved a custodial sentence, and this increased to 46% in 1996. For the past few years, this proportion has remained at a high level, over 40% of the total sentences imposed. A second reason for the high number of prisoners is the increasing length of a custodial sentence, the average of which in 1998 reached 4 years and 6 months.

Table 11. Convicted persons by court sanctions

	Total			of which juveniles		
	1995	1996	1997	1995	1996	1997
Persons convicted	18344	16983	18100	2010	2193	1957
Of which to principal punishments, %						
Imprisonment	38.6	45.6	40.3	28.9	46.9	41.2
Correctional work	3.5	2.9	3.6	0.7	0.7	1.6
Fine	6.7	9.1	5.2	1.3	6.2	6.1
Suspended sentence	50.8	39.8	49.5	67.3	37.4	46.6
Other punishments	0.4	2.6	1.4	1.8	8.8	4.5

It should be observed that tough court practice is greatly influenced by the legislator. An analysis of the Penal Code indicates that of 396 sanctions only 187 provide an alternative (122 provide for two, and 65 for three alternative penalties). The alternative sanctions are dominated by the punishment of deprivation of liberty: this is mentioned in 364 sanctions.

Table 12. Types of sanctions by punishment

	1996	1998
1. Deprivation of liberty	178	200
2. Correctional work	4	4
3. Fine	4	5
4. Deprivation of liberty or correctional work	35	33
5. Deprivation of liberty or fine	52	66
6. Deprivation of liberty or correctional work, or fine	63	65
7. Correctional work or fine	23	23

The number of persons in imprisonment institutions increased sharply in 1995 and 1998.

Table 13. Persons in imprisonment institutions (as of January 1)

	1992	1993	1994	1995	1996	1997	1998
Total incarcerated persons	9175	9900	10357	12782	13289	12200	13628
of which:							
on pre-trial detention	1781	2464	2999	3337	2925	2193	2576
convicts	7394	7436	7358	9445	10364	10007	11052

The proportion between men and women serving custodial sentences is 20:1.

Table 14. Inmates (as of January 1)

	1992	1993	1994	1995	1996	1997	1998
Number of institutions	10	10	10	10	11	11	11
Inmates	6383	6554	6518	8609	9453	9021	9931
of which females	278	248	201	428	502	357	546

An analysis of the age of persons serving a custodial sentence shows that crime is a problem of the youth, since 50% of inmates are under 30 years of age.

Table 15. Inmates by age

	1998
Total	9931
of which by age	
under 21	1134
21-30	4283
31-40	2631
41-50	1382
51-60	410
60+	91

12. Bibliography

Practically no publications which originally appeared in Lithuania on penal law, criminal procedure and penitentiary law have been translated into other languages. Currently it is possible to find only some articles about the Lithuanian criminal justice system in English.

There are several specialised Lithuanian language magazines on legal issues: "Law. Scholarly Works" (*"Teisė. Mokslo darbai"*), "Problems of Law" (*"Teisės problemos"*), and "Justitia".

The Supreme Court of Lithuania publishes a bulletin entitled "Court Practice" ("*Teismų praktika"*) where the resolutions by the Senate of the Supreme Court, approved rulings and judgments, case generalisations and counselling on the issues of the application of laws are published.

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