

IMPAIR

Enhancing Procedural Rights of Persons with Intellectual and/or Psychiatric Impairments in Criminal Proceedings: Exploring the Need for Actions

Key Findings of the National Report

Lithuania
Mental Health Perspectives
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This publication has been produced with the financial support of the European Union. The contents of this publication are the sole responsibility of the Boltzmann Institute of Human Rights and can in no way be taken to reflect the views of the EU.



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1. National policies and legal framework

1.1. Legal Framework

1.1.1. General overview of criminal proceedings in your country

Lithuanian Constitution and other laws of the Republic of Lithuania protect rights of citizens and all those living in the territory of Lithuania - the right to life, to health, to the inviolability of individual freedom, personal inviolability, the right to liberty and so on.

Criminal procedural rights of the parties are defined in the specific Criminal Procedure Act - Code of Criminal Procedure (CCP)- Articles. Active and honest exercise of procedural rights ensure fair and legitimate criminal proceedings.

Procedural rights and guarantees of the persons faced with criminal law are regulated by the Code of Criminal Procedure of the Republic of Lithuania (CCP), adopted on 14 March, 2002. CCP establishes the rights of suspects and defendants throughout the criminal proceedings.

Suspected or accused persons have certain statutory guaranteed and protected rights in Criminal proceedings. It is important to know those rights to be able to request detailed information about what is happening at different stages of the criminal proceedings.

Article 10 of CCP provides for the suspect and accused person the right to a fair hearing. This right is guaranteed from arrest or first interrogation. The court, the prosecutor, the investigating officer must secure the possibility of the suspect, accused by the ways and means established by the law to defend themselves against the allegations and charges and to take the necessary measures to ensure their personal and property rights.

21 and 22 art. Of CCP establish legal status and rights of suspects and accused persons as parties of the criminal proceedings. The suspect has such rights: to know what he is suspected for; to have representation from arrest or first interrogation; give testimony; present research on key documents and objects; submit requests; to challenge; access to pre-trial investigation material; appeal against the investigating officer, prosecutor or investigating judge actions and decisions. And accordingly the accused has such rights: to know what he is accused of, and to obtain a copy of the indictment; access to the case file; the procedure established by the documents necessary to make copies or extracts; representation; submit requests; to challenge; provide evidence and participate in the investigation; in court to ask questions; give explanations concerning the circumstances of the case and express their views on other participants of the trial the requests; to participate in the final speeches in the absence of defence counsel; go to court last word; appeal against the judgment and order.

1.1.2. Relevant national legislation concerning procedural safeguards for persons with intellectual and/or psychiatric impairments

International standards and the ECtHR case law recognizes that some groups of accused because of specific needs can result in their vulnerability. A person may be vulnerable due to

the fact that he cannot effectively participate in criminal proceedings: "Effective participation in this context implies that the accused has general perception of the judicial process and the nature and the importance of the case to him as well as understanding of the penalty that he might be imposed.

Reasons for an adult not being able to effectively participate in court proceedings can be varied, for example, it may be a mental illness or physical or learning disabilities. There is no standard definition of the vulnerable adult in criminal process in EU member states.

Nevertheless stakeholders generally recognize that some people need special safeguards in criminal proceedings, so that they understand their rights and use them. If people do not understand the process or action such as a confession, the consequences of the fact that the vulnerability is not set, or not subject to special protection measures, inequality between the parties might occur, thus reducing the likelihood that these individuals will be examined in the case fairly and honestly. Therefore, the only way to ensure proportionality and subsidiarity and the need to increase the level of protection of vulnerable balance for the Commission was to make a recommendation, which would strengthen the fundamental rights of vulnerable persons in criminal proceedings.

Such a distinction is based on the constitutional doctrine concerning equality of persons, which allows to prove that the Criminal Procedure Law of the participants (suspects, defendants, witnesses, victims) with certain physical or mental disabilities reinforces and are subject to specific legal regulation or extra protection of their interests guarantee. They mainly relate to the fact that such a person involved due to the limited procedural capacity or incapacity, the same in whole or in part, and cannot fail to take advantage of all of the rights, as well as the fulfilment of all obligations.

There is an only one article which provides the basis of vulnerability in Lithuanian CCP - the examination of the blind, deaf, and others, because of physical or mental disabilities who cannot exercise their right to defence matters. In respect of these persons 'inability to independently exercise the right of defence on mental defect is formulated in Criminal proceedings (art 51, 1.2).

Because of these specific personal characteristics (physical or mental disabilities), additional guarantees are granted: the participation of defence (Article 51. 1. 52 2p.; art. 312 p. 6 .; art. 316, p. 2.; art. 367, p. 2.; art. 368,p. 3.; art. 396,p. 3). participation of representative by law (Article 53; 312 Art. 7 .; art. 405 Art. P. 4 .; art. 408, p. 2). as well as additional obligations for prosecutor, defending the actors, who for compelling reasons can not use some of the same rights and interests (art. 117 str .; art. 167, 2 .; art. 409).

1.2. Policies and programmes targeting procedural rights of persons with intellectual and/or psychiatric impairments in criminal proceedings

The term „vulnerable“ (with regards to the person or group) is used differently in different legal acts. There are different constructions used, such as:

- Socially vulnerable person
- Socially vulnerable groups
- Socially vulnerable families
- Socially sensitive group of individuals.

It should be mentioned that such definitions are not used and indicated in the criminal justice legislation neither with regards the victims, nor with regards suspected or accused persons in the context of their procedural guarantees and safeguards.

The above mentioned definitions are used in sectors: social security; the local community; energy (vulnerable consumer); construction and urban planning; housing; social housing.

Socially vulnerable people are considered: orphan children and adolescents up to 18 years; social risk families growing children and adolescents up to 18 years; lone individuals and families experiencing poverty and poverty risk; people with disabilities; elderly (over 65 years) people; single mothers or parents with children under 18 years old; families with many (with more than 3 children); young people under 29 years out of education and unemployed; unemployed¹.

Sometimes definitions are provided for socially vulnerable groups – including for persons that are more vulnerable for social and economic challenges and risks and have less means for dealing with those. Persons with disabilities are included “²”.

Different legal acts use different terminology that is still based mainly on medical criteria of evaluation of various needs of the person.

Major concepts regarding the disability are consolidated in Article 2 of the Law of the Republic of Lithuania on Social Integration of Persons with Disabilities (*Valstybės žinios* (Official Gazette) No 67-3350, 2010); No 36-969, 1991; No 83-2983, 2004):

A person with disabilities is an individual with a disability category, or with less than 55% per cent working capacity and/or with special needs requirements, as recognized under the above Law.

Disability is a long-term deterioration of health due to the disorder of bodily structure and functions, and adverse environmental factors, resulting in diminished participation in public life and decreased possibilities of functioning.

Working capacity is individual capacity to implement previously acquired professional competence or acquire new professional competence or perform less demanding tasks in terms of professional competence.

Special need is the need for special assistance arising from the person congenital or acquired long-term health condition (disability or loss of working capacity) and adverse environmental factors.

Thus persons with disabilities are attributed to the socially vulnerable groups, without distinguishing any disability.

¹ Vietos projektų, įgyvendinamų bendruomenių inicijuotos vietos plėtros būdu, administravimo taisyklės (VVG).

² 2014–2020 metų Europos Sąjungos fondų investicijų veiksmų programos 3 prioriteto „Smulkiojo ir vidutinio verslo konkurencingumo skatinimas“ priemonės Nr. 03.3.1-LVPA-K-838 „Dizainas LT“ projektų finansavimo sąlygų aprašas.

2. Legal and practical implementation of the Recommendation in the national context

European Commission's Recommendation on procedural safeguards for vulnerable persons suspected or accused in criminal proceedings (C(2013) 8178/2).³ The main aims of this Recommendation is to encourage Member States to strengthen the procedural rights of all suspects or accused persons who are not able to understand and to effectively participate in criminal proceedings due to age, their mental or physical condition or disabilities ('vulnerable persons'). It is indicated in the Recommendation that Member States should inform the Commission on the measures taken to give effect to this Recommendation, by 36 months after notification.

Lithuanian Constitution provides that the international treaties ratified by Lithuanian Parliament are an integral part of Lithuanian legal system (Constitution, Article 138.), And if the international treaty establishes norms other than the laws and other legislation of the Republic of Lithuania international treaty provisions are applicable, or laws or regulations must be adopted because of the need to carry out an international agreement⁴.

Unfortunately, the basic principles of procedural guarantees for vulnerable persons suspected or accused in criminal cases provided within the Recommendations, were not transferred into the Lithuanian legal framework neither used in Lithuanian case law as it should be. And 36 months period to inform the European Commission on measures to implement the recommendation of the Republic of Lithuania has already passed, it was due in November-December, 2016. Nor there were any political debate or public information on the transference of recommendations into national law or its implementation in practice.

2.1. Appropriate assessment mechanisms (by police, judiciary and medical experts) for identifying vulnerabilities

The term "vulnerable" (individual or group) is treated differently in Lithuanian laws. Determination / estimation of physical or mental problems is significant from both theoretical and practical point of views. Wrongly interpreted / disregarded existing problems could imply conditions and constrains of procedural rights of actors with physical or mental disorders or provide additional rights to those who are not eligible for those. Therefore, it is extremely important the primary assessment of vulnerability of investigating officer, prosecutor and court.

2.1.1. Assessment mechanisms

In Lithuania there is no formal review procedure to establish whether a suspect or accused is vulnerable, and there is no procedure in place for investigating officers on what to do when a suspect or accused might be vulnerable.

³[http://eur-lex.europa.eu/legal-content/en/ALL/ELX_SESSIONID=ZybQJzWNghvVFQMYM2nlhxkKGxGh4bPJckQb1xnk4RDHc61gzY2t!1316736443?uri=CELEX:32013H1224\(02\)](http://eur-lex.europa.eu/legal-content/en/ALL/ELX_SESSIONID=ZybQJzWNghvVFQMYM2nlhxkKGxGh4bPJckQb1xnk4RDHc61gzY2t!1316736443?uri=CELEX:32013H1224(02)).

⁴ The Law on international treaties // State news, 1999-07-09, No. 60-1948

In accordance with established practice, if there is a suspicion of a person's appearance, behaviour and other specific features then there begins gathering of information about the suspect or the accused's medical history, namely whether there is objective evidence that a course, stands standings.

Previously, it was required to collect such information in respect of each suspect's data from dependency, mental health centres about his mental condition. However, according to the 2016 Order adopted by the Attorney General, there is no longer need to check each of the suspect. Assessment of the vulnerability begins only taking into account the offense committed or suspicion of particular characteristics. If during the questioning the suspect or accused shows signs of any illness which may affect his physical and mental ability to take part in the questioning the person conducting the questioning has to start gathering data on the person's medical history. If there appears to be incoming objective data of a person's medical history, then the authorities should apply to the state forensic psychiatry service in order to get a professional opinion on the need of a psychiatric expertise. The only forensic psychiatric field is provided with such double procedure.

All interviewed respondents mentioned that identification of vulnerable groups in the primary survey is very difficult. In describing how to identify that a person may have a mental or intellectual disability respondents mentioned subjective evaluation criteria - the visual appearance of the person, his behaviour, and communication. The most commonly identified the emotional state of a person - unstable, inadequate. As one of the main aspects of the authentication and identification of vulnerable persons, as indicated by interviewed respondents, are clear assessment criteria, such as medical certificate on health status, records of cases of mental health care lists, etc. This information is not always immediately accessible so that information about the status of a vulnerable person may turn out in full swing for legal proceedings. Basically, the examination by the doctor is at the discretion of the person doing the questioning, no review mechanism of his decision is in place. Also, throughout the criminal investigation, the police, prosecutor or judge can ask for an expertise, either on their own will or at the request of the suspect/accused. The interviewed respondents noted that the concept of vulnerability in criminal proceedings appeared in the recent past. This was most influenced by the European Union directives and provisions which aim to ensure uniformity of rights of vulnerable. One of the main problems mentioned by respondents in both Lithuania and the EU-wide is definition of a vulnerable person. The clearest vulnerable group are minor, but there are problems when it is necessary to assess vulnerability of the person with visible or invisible disabilities. Respondents also said that it is not appropriate to draw up lists of vulnerable diseases, more appropriate to focus on the translation of personal skills.

2.1.2. Identified gaps and shortcomings

As one of the procedural aspects of the problem mentioned by respondents interviewed is the time period when waiting for the assigned expertise conclusion. During that time it is difficult to suspend all investigative actions, so rights of the vulnerable individual cannot always be guaranteed. The interviewed respondents also acknowledged that there is lack of specific knowledge for the proper assessment of whether a person can be assigned a vulnerable group. As well as the lack of specific knowledge and expertise on how to communicate with persons with mental or intellectual disabilities. Most lack consistent and constant refreshment and systematic competence development. Several respondents mentioned that the knowledge acquired at the University was not immediately or enough updated in the later work.

Independent assessment

Legal representative of the suspected or accused person may ask the court to impose an additional examination or re-examination, with concrete experts.

Alternatively, the second expert conclusion could / should be provided in accordance with the adversarial and defence principle (if the suspect or the accused does not agree with the initial expert report), and to avoid monopoly and the case-psychiatrists hierarchy and affect communication. There should be possibility to include any specialist (psychiatrist), not only from an approved forensic psychiatric expert list. Such second conclusion is the need for guidance repeatedly provided by the European Committee for the Prevention of Torture (CPT) and other international organizations. Such a conclusion should be viewed on equivalent basis by the prosecutor or the court (in spite of belonging to the specialist / expert list), and taking into account other facts, evidence. The prosecutor or the court must justify and argue why it is guided by one or the other expert opinion concluded by adopting a reasoned decision.

However, experts interviewed did not mention a single case where the vulnerable state estimates are to be referred to the independent experts.

Additional aid from the relevant professionals

One of the major systemic flaws that was mentioned by the interviewed experts is the lack of inter-institutional cooperation and the possibility to outsource the lack of specialists. Close cooperation between the various authorities and public bodies, cooperation, exchange of information available to help facilitate the granting of a vulnerable person, and allow to fill the gaps caused by the lack of competence. In particular, lack of opportunities at the right time to use the psychologist's assistance, which, according to the model of behaviour, behaviour characteristics and other characteristics allows to identify mental or intellectual disabilities persons. The specialist's presence would allow the necessary time to identify vulnerable groups and to ensure him the necessary support in further criminal proceedings.

2.1.3. Good practices and case studies

No comments received.

2.1.4. Recommendations

While all respondents noted that in Lithuania there are not so much cases when allegations are brought to physically or mentally disabled person, but one of the solutions could be judges and official's specialization and the minimum legal requirement of knowledge in psychology.

2.2. Appropriate safeguards during pre-trial phase (arrest, police custody, pre-trial detention, court hearings)

Justice in criminal cases shall be based on the principle that the law and the court for all persons are equal irrespective of their origin, social and property status, nationality, race, sex, education, language, religious or political views, type and nature of the place of residence and other circumstances.

It shall be prohibited to grant anyone privileges, or make restrictions on any circumstances, personal traits, social or financial position.

Representation and defence is one of the essential elements of the right to fair trial, included in both international, regional and national legal documents.

Art. 44. Of CCP Protection of individual rights in criminal procedures, establishes all the rights and guarantees provided for suspects and accused persons: that each suspected or accused person with a criminal offense has the right to defend himself in person or through choosing legal assistant or without having sufficient means to pay should receive free legal assistance through the law governing state-guaranteed legal aid procedures.

No one shall be deprived of his liberty otherwise than in the cases provided for in the Code and procedures. Everyone who is detained or arrested should be immediately informed of the reasons for his arrest or detention **by language which he understands**. Every suspected or accused of criminal offense person is entitled to be **promptly and thoroughly informed in a language which he understands** of the charge against him and the nature of the base to have adequate time and facilities to prepare a defence,... **for free of charge interpretation**, if not understand or speak Lithuanian.

Article 45 of CCP indicates that the judge, the prosecutor and the investigating officer must explain to the participants of their procedural rights and ensure access to them.

Pursuant to Article 50 of the CCP the investigating officer, the prosecutor and the court must explain to the suspect and the accused of his right to have a lawyer of detention or first interrogation moment and allow that right. On the request of the accused or suspect to have a lawyer or counsel for the refusal shall be drawn up.

The suspect, the accused and the convicted person has the right to select and invite a suitable defence.

It should be noted that Lithuania laws require mandatory participation of defence counsel for the blind, deaf, and others, because of physical or mental disabilities who cannot exercise their right to a fair hearing, files. With regards to these vulnerable persons the waiver of the counsel is not mandatory for pre-trial investigation officer, prosecutor and the court, while the other suspects or accused in any proceedings has the right to refuse counsel.

The investigating officer, prosecutor or court have to secure the counsel's participation upon the suspect, accused or convict person's request.

2.2.1. Identified gaps and shortcomings

- **Right to access to a lawyer**

In practice, the presence of the offense and suspicion with regards to the person investigating officers try to determine in detail all the circumstances as soon as possible. In practice, there are not so many interviews carried out with the suspects, so the first interview can still happen without the invited or appointed counsel, due to objective reasons.

In case there is suspicion of person's vulnerability the pre-trial judge or the court makes an order on appointment of a psychiatric expertise which brings the necessary legal basis for the participation of counsel. Thus the defence counsel often occurs only after the appointment of

expertise. Defenders sent a message that the defense has the right to request the inclusion of additional questions to the experts.

The identification of vulnerable groups is essential to ensure the participation of defense around the suspicions and accusations application process. Interviewed respondents noted that it is important to ensure participation of counsel from the very beginning of the process. This is one of the main fuse. Mostly vulnerable people are using the state-guaranteed legal aid, but many professionals interviewed were sceptical about the quality of the legal aid provided. As a key moment of the respondents mentioned persons with intellectual disabilities interviews during which counsel is mandatory to follow the survey would not be forced to give the suspect displayed against himself or to confess. Lawyers lack knowledge and competence in protecting vulnerable suspects or accused persons, in particular for the mind or mental disability.

In practice there are also a lot of issues that affect the quality of services provided by legal aid lawyers. The legal aid lawyers are mostly lawyers within the first years of legal practice, with little to no practical experience. This could affect the quality of the services provided by legal aid services. Also, in practice a legal aid lawyer could learn about being appointed on a case within 1-2 hours before a court hearing, and sometimes just gets to see the case file 5 minutes before the hearing and just meets the client for the first time during the court hearing, in which case the lawyer might get a few minutes to talk to the client. In general legal aid lawyers get very little time to prepare the defence and read the case-file, they are requested to appear for specific procedural acts and are just given a few minutes to look at the case file on the spot.

Another aspect which may affect the legal aid services is the low fees of legal aid lawyers.

There is no specialization among the state-guaranteed legal aid providers in-law, namely no special lawyers who would be invited to provide state legal aid for vulnerable suspects or accused persons concerned.

- **Right to information**

In Lithuania according to the CCP suspects and accused have a right to be informed in writing of their rights and of their obligations. Suspects or accused are informed that they have the following rights. There are several templates adopted for informing the suspects and accused on their rights during various stages and procedures of the criminal procedure adopted on the 29 December, 2014 by the Order of General Prosecutor. Those include: Resolution to recognize the suspect (art. 21) form; the Protocol on the interpretation on the right to defense (Art. 50-52) form; Resolution to appoint defense (art. 50) form; Ruling arrest (art. 140) Form; Temporary custody of the suspect protocol (art. 140) form; Resolution to extend temporary detention time limit (art. 140) Form; the suspect detection protocol (art. 188), etc.

The above mentioned forms contain information about the following rights: to know what he is suspected of; to have defense from the arrest or first interrogation; receive interpretation and translation; get emergency medical assistance; to know the maximum time limit for how many hours (days) one's liberty may be limited before being brought before a judicial authority (the maximum temporary detention of 48 hours, the maximum term of 18 months of detention, the detention of a minor maximum term of 12 months); testify or remain silent; present research on key documents and objects; submit requests; to challenge; access to pre-

trial investigation material; appeal against the investigating officer, prosecutor or investigating judge actions and decisions.

However, these forms are not applied in a specific format, e.g. only a general protocol for all suspects or accused persons, regardless of their needs or vulnerabilities.

The regulatory mechanism for informing on the rights established by CCP in practical work is seen as very formal one. For the officials carrying out the investigation, it is enough just to list the suspect his rights or to report the detention without going in the essence of the rights or acknowledging that they are being understood properly.

As well, there is no standardised letter of rights to be presented to the suspects and accused, as requested by the Recommendations. None of the interviewed respondents did not mention the alternative formats of the information. Most often mentioned in conversations - reading rights loud.

When any person is placed in pre-trial detention the judge who orders the application of this measure has to inform a family member of the accused or another adult chosen by the accused.

However, there is no legal basis for an adult to accompany a vulnerable suspect or accused during the police questioning (unless the vulnerable person is younger than 18). In practice no one else except for a lawyer and interpreter, if necessary, would be allowed to attend the police questioning, as the criminal investigation is not public. The suspect or accused can consult with his/her lawyer before during and after the questioning.

- **Right to medical assistance**

Whenever vulnerable suspects or accused are deprived of liberty they should have access to systematic and regular medical assistance throughout the criminal proceedings.⁵

In Lithuania, according to the law all persons deprived of liberty have the right to free access to medical services, without discrimination. This rights includes primary medical care, emergency medical care, and specialised medical care.

According to the Protocol on the interpretation on the rights to the suspect, there is part on the right to receive medical assistance. It states that the suspect's freedom of movement or restriction should not cause artificial barriers to the general procedure to obtain the necessary medical assistance. The required medical aid is provided regardless of the nationality of the suspect. The required medical assistance to the detained or arrested suspect should be provided by the temporary detention or arrest carrying body according to the laws regulating their activities.

It is especially important to ensure timely medical assistance for vulnerable persons. Lack of support could lead to a vulnerable person's condition changes. Due to missing specific knowledge and competencies officials may not know what kind of assistance is necessary to vulnerable person. However, respondents mentioned that there are no opportunities to provide other medical assistance in addition to emergency medical services of vulnerable

⁵ European Commission Recommendation of 27 November 2013 on procedural safeguards for vulnerable persons suspected or accused in criminal proceedings (2013/C 378/02), Section 3, para 12.

persons. This is also due to the fact that the mental or intellectual disabilities are hard to identify.

Thus generally medical assistance to vulnerable persons is hardly available especially due to their individual special needs.

- **Recording of questioning**

According to the law, written protocols are provided for all the research activities. The research activities can also be photographed, filmed, made audio and video, made prints and traces poured, drawing up plans and schemes and the use of other methods of fixation.

However in practice it seems that the questioning of suspects or accused is hardly ever audio-visually recorded during the criminal investigation.

All interviewed experts recognized that during the pre-trial interviews video and audio recordings are not made available in cases of vulnerable suspects and accused. As the obligation to do video recording was mentioned in cases of criminal proceedings and with regards to juveniles.

- **Deprivation of liberty**

The means of last resort principle is not specifically mentioned in the Lithuanian Code of Criminal Procedure, which only specifies the proportionality principles by which any preventive measure such as pre-trial detention can only be order if it is proportionate with the accusation and necessary.

Detention conditions are not generally adapted for people with special needs, either physical or mental.

All interviewed respondents acknowledged that the current detention conditions are very poor both for ordinary and vulnerable people. Although the situation is slowly changing, however, the necessary conditions for ensuring the specific need for mental or intellectual disabilities are not yet available.

- **Privacy**

All private, personal data, including medical data of vulnerable suspects or accused should be protected throughout criminal proceedings.⁶

There is a special law on the protection of private data which also applies through the criminal proceedings. Also, the criminal investigation is not public and the judge can also make the trial not public in case it is necessary to protect the private life of the accused.

It is a criminal offence to share private information one has come to know through their job.

All the interviewed respondents indicated that the privacy rule is very much followed since they do not provide any information on the suspects and accused for the general public.

⁶ European Commission Recommendation of 27 November 2013 on procedural safeguards for vulnerable persons suspected or accused in criminal proceedings (2013/C 378/02), Section 3, para 15.

With regards to the psychiatric examination every person coming to the examination must be informed and explained in a comprehensive form of the purpose of such examination, indicating this in medical documents. If it is impossible to inform the person on the purpose of such examination due to the person's mental state aim this should be also noted in the medical documents.

The examination results shall be formulated in accordance with the Law on forensics of the Republic of Lithuania. Answer to each question must be given and reasoned in the order that they are presented in the Expertise Act. All answers must be formulated precisely and clearly. Each question must be answered in principle or indicate there cannot be answer provided, explaining the reason of this.

It should be noted that the Expertise act provide expert's opinion on the questions posed to him only with respect If the expert will conclude that the suspect or the accused cannot understand the essence of his actions and to manage them, and therefore cannot participate in the process, he/she will be completely removed from the process. Namely from this point he/she is no more participating in any investigations, no other proceeding cannot be carried with his participation, and he's is only represented by counsel throughout the process.

Introduction to the expert's report to the suspected or accused person must be held in writing by signing the protocol. If the suspected or accused person cannot sign the protocol, expert's report must be presented to the defense.

Preliminary investigation turns into a special form of the process - a special form of pre-trial process, wherein there is no more a suspect or accused but rather the person who committed a restricted offense.

2.2.2. Good practices and case studies

No information received.

2.3. Recommendations

The Lithuanian criminal justice system has a number of severe shortcomings which have a profound negative effect on the rights of vulnerable suspects and accused. Suspects and accused find themselves in a rigid criminal justice procedure in which they have little opportunity to understand and effectively participate, which is particularly true for vulnerable suspects and accused.

There are hardly any provisions in criminal law referring to the specific needs of vulnerable suspects and accused, leaving for very little room for these needs to be met. This situation raised a series of outstanding issues, presented below, together with concrete recommendations to address these issues:

1. Legal aid

Legal aid services are underfunded and the quality is many times below average. In order to address this issue, more funding is needed for legal aid services and the quality control mechanism needs to be improved.

Also it is necessary to ensure there should be a clear legal provision and practical application granting legal aid to suspect and accused who are vulnerable from the first interview both during the criminal investigation and the trial phase. The defender could clarify all the rights and all the possible consequences of the application of suspicion, and suspicion of the suspect's rights and essentially cease interpretation of the rights as only the formality but would ensure this process as a real guarantee of the rights of defense.

2. Letter of rights

In Lithuania there is not standardized letter or rights and the various models used just copy provisions from the Code of Criminal Procedure and in practice the suspect and accused is not allowed to keep a copy.

Such a letter should be developed and made available for all suspect and accused. The letter should be formulated in accessible language, available in various formats (even in Braille) and languages so that all suspects and accused can know and understand their rights.

3. Safeguarding of special rights to vulnerable persons.

If the expert will conclude that the suspect or the accused cannot understand the essence of his actions and to manage them, and therefore cannot participate in the process, he/she will be completely removed from the process, thus do not any more ensuring any procedural rights in the process.

To ensure all the procedural rights to the suspected or accused persons throughout the whole process even if the process turns into the special form of pre-trial process, wherein the person is being referred to the coercive medical measures. Even in this process persons with intellectual or mental disabilities should be secured with the specific rights of vulnerable persons.

4. Training

There is a lack of specialized training on questioning vulnerable suspect and accused. This needs to be addressed and all criminal justice professionals particularly police officers, prosecutors and judges should receive specialized training on how to communicate with and question vulnerable suspect and accused.

5. Audio-visual recording

Most police stations do not have the required equipment to audio-visually record questionings. Funding should be allocated in order to solve this problem.