



Study on children's involvement in judicial proceedings – contextual overview for the criminal justice phase – Lithuania

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Executive summary

Overview of the general elements of child-friendly justice in criminal proceedings

Lithuanian legislation sets the legal framework for the protection of child victims and child offenders. Legal regulation and protection of child witnesses is more limited and relates mainly to the manner of questioning and giving testimony in judicial proceedings. In cases where the interests of the child are involved, there is a duty established under the law to take the best interests of the child into account. Children have a right to representation and assistance of social workers or psychologists in judicial proceedings. The established network of Municipal Child Rights Protection Services (MCRPS) provides assistance to children in criminal proceedings and represents their interests in judicial proceedings.

Overview of children's involvement before, during and after judicial proceedings

Every child can be a party to the proceedings through legal representation when his/her rights are affected. The child as a victim or witness of the criminal act may report it to the law enforcement officers in various forms: electronically (by filling the e-form online); through the established hotline; or in person. Adults (for example those in a position of authority or teaching) have an obligation under the law when knowing of a crime to inform the competent authorities. It has to be noted that there are very limited guarantees established in law for the protection of the child victim or witness in emergency situations. Only in cases of domestic violence against the child can civil protection orders be issued. The law establishes special regulations for the questioning of a child witness or victim in judicial proceedings seeking to avoid secondary victimisation. For example, a child's testimony can be recorded through the use of audio and visual means. Since 2007, special child questioning rooms have been set up in police headquarters in Vilnius, Kaunas, Klaipeda, Šiauliai and Panevežys.¹

Under the law the person is not considered a child until he/she reaches 18 years old. A child is held liable for criminal acts from 16 years old and for certain crimes specified in law – from 14 years old, or other cases, a person from 18 to 21 years old may also be considered as a child, taking into consideration his/her “social maturity”. If a person under 14 years old commits a crime, certain correction measures laid down in law can be applied to him/her.

No special guarantees for the provision of information to a child victim or witness during the pre-trial proceedings are established, thus the general rules apply. The prosecutor is left with the discretion of when and to what extent to reveal the pre-trial information. No special rules have been identified for the child suspect's right to information. Therefore, child suspects are informed of their rights when presented with the charges in the same manner as for adult suspects. Although the parents or legal representatives of the child suspect must be informed of all actions undertaken during the pre-trial phase, their absence is not a legal ground for questioning the legality of the actions of law enforcement authorities. In pre-trial proceedings, the child not presented with the charges can be detained for no longer than 24 hours – the same as for adults. The detention period may be extended by the ruling of the prosecutor but may not exceed the period of provisional detention (i.e. 48 hours).

In order to secure the protection of child privacy, the court may decide to hold a closed hearing. In such cases, the access to the case file is limited. The law also prohibits disclosure of information about the child suspect and victim during the pre-trial proceedings. Furthermore, a child victim or a witness may request a prosecutor or a pre-trial judge to secure anonymity. Anonymity could be requested and granted before the questioning. In addition, special requirements are set for questioning of children in judicial proceedings.

¹ Consolidated third and fourth periodic reports of States parties due in 2009, Lithuania, submitted to Committee on the Rights of the Child, CRC/C/LTU/3-4, 25 February 2010, p. 99, http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.LTU.3-4_en.pdf.

Promotion and monitoring of a child-friendly approach to criminal justice, with an overview of strengths and potential gaps

Municipal Child Rights Protection Services (MCRPS) are the main institutions at local level responsible for securing the best interests and rights of the child. The independent state institution, the Ombudsman for Children Rights (OCR), also monitors and supervises the implementation of children's rights in the state. Some non-governmental organisations, such as "Vaiku linija", are also active in securing children's rights and interests.

There is an evident gap in provision of support and assistance to child victims. There are no non-governmental organisations playing an active role in providing emotional and psychological support for the child victim or witness during the judicial proceedings. Peaceful conflict resolution methods, such as mediation, are hardly ever applied in practice. In addition, presently there are no specialised courts established for the examination of cases involving children.

The main strength of the Lithuanian system relates to the adoption of the Criminal and Criminal Procedural Codes in 2003. Although certain gaps remain in the implementation of the legal regulation, it should be noted that some positive changes are taking place, for example in establishing specialisation among the prosecutors for dealing with cases involving a child and among judges having a specialisation in juvenile delinquency and cases involving child victims. In addition, state authorities involved show efforts to ensure mutual cooperation in criminal cases involving children. In March 2011 the General Prosecutor adopted instructions to all prosecutors to cooperate with MCRPS and exchange information regarding children in order to guarantee protection of their rights in criminal proceedings².

² General Prosecutor of the Republic of Lithuania, Instruction regarding securing children rights in criminal process (*Lietuvos Respublikos Generalinis prokuroras, Dėl vaiko teisių baudžiamajame procese užtikrinimo*), adopted on 2 March 2011, No. N-3.

Abbreviations

CA	Competent Authority
CAO	Code of Administrative Offences of the Republic of Lithuania
CC	Criminal Code of the Republic of Lithuania
CoE	Council of Europe
CPC	Criminal Procedure Code of the Republic of Lithuania
CPEC	Criminal penalties Execution Code of the Republic of Lithuania
EC	European Commission
EOO	Equal Opportunities Ombudsperson
EU	European Union
MCRPS	Municipal Child Rights Protection Services
OASys	Offender Assessment System
OCR	Ombudsman for Children Rights of the Republic of Lithuania
SCRPAS	State Child Right Protection and Adoption Service under the Ministry of Social Security and Labour

1 Overview of Member State's approach to children in criminal proceedings and specialised services dealing with such children

The legal framework relevant to children in criminal proceedings includes mainly the provisions of the Criminal Code of the Republic of Lithuania³ (CC), Criminal Procedure Code of the Republic of Lithuania⁴ (CPC) and the Law on Fundamentals of Protection of the Rights of the Child⁵.

The Criminal Code (Art. 80-94) regulates various aspects a child's criminal liability including application of reformative sanctions, placement for upbringing and supervision with parents, other natural/legal persons or at special reform facility, imposition of penalties in accordance with the age and maturity of the child, suspension from sentence and release from criminal liability, etc.⁶.

The Government has also approved the Juvenile Justice Program 2009-2013 that aims at establishing effective networks among institutions working in the field of child justice.

There are several institutions playing a key role in the protection and monitoring of children's rights. The Ombudsperson for Children's Rights is entitled to monitor and control the protection of children's rights and legitimate interests, to investigate the cases of violation of children's rights and legitimate interests and also to seek to improve the situation of children's rights in Lithuania. Within every municipality administration in Lithuania there is a Municipal Child Rights Protection Service (MCRPS) established and the one closest to the child is always included as a party to judicial proceedings when the interests of the child are involved. The qualification requirements of local MCRPS staff dealing with a child include requirement to have a certain working experience in child protection area. For example, in Vilnius MCRPS is required to have a working experience from 1 up to 3 years in child protection area⁷. Each local unit of MCRPS is consisted of smaller specialised subdivisions and are supervised by the head of local MCRPS. For example the Vilnius municipality MCRPS includes subdivisions of Care and Adoption; Child's assistance organisation; Representation of Child's interests⁸. The activities of MCRPS are to some extent monitored and supervised by the State Child Rights Protection and Adoption Service (SCRPAS) under the Ministry of Social Security and Labour.

For the purposes of this study, only a brief overview is provided of the key elements of the institutional framework relevant to children. For a broader description of Lithuanian criminal justice systems please see the European Commission's E-justice portal and the European Judicial Atlas (for compensation matters)⁹.

Criminal Trials

Children are tried at the general competence courts that examine civil and criminal cases and to some extent administrative cases, or at administrative courts. There are no specialised courts for children in Lithuania.

³ [Law on the Approval and Entry into Force of the Criminal Code](#), No. VIII-1968, 2013-07-13.

⁴ [Law on the Approval and Entry into Force of the Criminal Procedure Code](#), No. IX-785, 2012-11-13.

⁵ [Law on Fundamentals of Protection of the Rights of the Child](#), No. I-1234, 1996-03-14.

⁶ [Law on the Approval and Entry into Force of the Criminal Code](#), No. VIII-1968, 2013-07-13.

⁷ Vilnius MCRPS, [description of staff functions and required qualifications](#).

⁸ [Vilnius MCRPS](#).

⁹ [E-Justice portal](#).

Young victims and child protection systems

Some special regulations are laid down for the treatment of child victims and witnesses although in general they must go through the formal criminal justice system.

Up to the age of 18 years old, a victim or witness is considered a child and regarded as being vulnerable and therefore eligible for special protective measures. The primary focus of such measures is to protect the child from unnecessary harm while obtaining evidence during the interviews and providing testimony in judicial proceedings.

Child Protection Systems for abuse and neglect

In criminal proceedings involving children the legislative framework ensures some multidisciplinary cooperation among the relevant state authorities. For example, at the request of participants of the proceedings or on the initiative of the pre-trial investigation officer, prosecutor or pre-trial investigation judge, a representative of a State child rights protection agency or a psychologist must be invited to the questioning of a witness or victim under 18 years of age to help question him/her in the light of his/her social and psychological maturity¹⁰. To ensure effective protection of the rights of child suspects, the procedural law provides for mandatory participation of the defence attorney.¹¹ When a child is suspected or has committed a criminal offence, the police officer, if unable to identify the child's parents or other legal representatives, must notify the child rights protection agency¹².

All State institutions when solving child related issues in their respective area must give priority to the best interests of the child¹³. At State or local level, when legal acts related to the child are adopted, appropriate attention must be given to the evaluation of the impact on the child.

With respect to child abuse and neglect, several institutions and agencies are involved including the police, local Child Rights Protection Services, schools, and paediatricians. Institutions are required to work with each other for the protection of children. In addition, the Ombudsperson of Children's Rights serves as an independent guardian defender of children's rights.

If the authorities establish that there is a high risk of harm to a child within the family - in certain cases considered in the light of the child's interests, parental authority may be limited on a temporary or permanent basis or the child may be separated from the parents in the procedure laid down in the Civil Code (Article 3.160 (2))¹⁴.

Provision of training

Since 2005, the Lithuanian Police Training Centre has been organising training for officers under the Qualification Advancement Programme for Police Officers for Juvenile Affairs and the Qualification Advancement Programme for Pre-Trial Investigation Officers in Child Questioning. (Training topics include— Communication with Children Affected by Violence, — Advancement of Qualifications of Pre-Trial Investigation Officers in Child Questioning, — Specifics of On-Site Communication between Criminal Police Intelligence Officers and Children Affected by Violence Immediately after the Act). In 2005-2007, qualification

¹⁰ Article 280(1) CPC.

¹¹ Article 51 (2) CPC; [Consolidated third and fourth periodic reports of States parties](#) due in 2009, Lithuania, submitted to Committee on the Rights of the Child, CRC/C/LTU/3-4, 25 February 2010, p. 98 (§ 454).

¹² Instruction for the Organisation of Work of Police On-Duty Stations approved by Order No. 278 of 25 June 2001 of the Lithuanian Police Commissioner General; [Consolidated third and fourth periodic reports of States parties](#) due in 2009, Lithuania, submitted to Committee on the Rights of the Child, CRC/C/LTU/3-4, 25 February 2010, p. 101 (§ 467).

¹³ Article 4 (1) Law on Fundamentals of Protection of the Rights of the Child.

¹⁴ Civil Code of the Republic of Lithuania, 2012-06-19, No. VIII-1864.

advancement courses organised by the Lithuanian Police Training Centre were attended by 326 police officers dealing with child offenders¹⁵.

In 2008, the Lithuanian Police Training Centre organised three courses:

- Juvenile Criminal Justice (attended by 56 officers) - a seminar— on Implementation of the Concept of Child Welfare;
- Police Officers' Working Practices (attended by 25 officers) - a course aimed at improving professional skills of police officers dealing with child offenders (attended by 24 officers);
- Specifics of On-Site Communication between Criminal Police Intelligence Officers and Children Affected by Violence Immediately after the Act (attended by 36 officers)¹⁶.

With the Ministry of Education and Science further pursuing the measures under the Juvenile Justice Programme for 2004-2008, a set of methodological guidelines were developed under the name 'Preconditions for the Prevention of Psychological Drug Addiction and Crime: Basic Principles of Working with Juvenile Offenders'. 26 workers from child education facilities and care homes were trained to apply these guidelines in 2005. Four seminars titled 'Psychological Assessment of an Offender' (16 academic hours) were organised in November 2007 and attended by 68 workers. The participants were familiarised with the concept of delinquent behaviour of children and adolescents, the trends of development of such behaviour, risk and protective factors, and principles of psychosocial assessment of a child offender by applying the OASys technique (2007). A programme for the development of social skills of adolescents called 'Bridges' was also published (5,555 copies, 2007)¹⁷.

For lawyers, although there is no clearcut specialisation dealing with cases involving children, on 22 July 2013 within the Bar Association, a list of lawyers who specialise in cases of child abduction and other cases relating to children's rights with an international element was drawn up¹⁸.

There is also specialisation for dealing with cases involving children among the law enforcement officers (such as prosecutors) who deepen their knowledge in the child protection area by attending relevant trainings and seminars¹⁹.

However, in general, no special requirements are set in law for initial or continuous training for specialists dealing directly with the children.

Age and maturity

Any victim, suspect or witness under the age of 18 is considered to be a child,²⁰ and subject to special measures, assistance or treatment under the children's justice system. (See below under specific sections under the phases of criminal proceedings.) In addition, there is no age limit on when a child may provide evidence with respect to crime, but rather this depends on their age and maturity (See [Section 2.1.6](#)).

Children of 16 years old or above can be responsible for criminal acts. A child, who prior to the time of the commission of a crime or misdemeanour, had attained the age of 14 can be held liable for such criminal acts as murder²¹, serious impairment to health²², rape²³, sexual

¹⁵ Consolidated third and fourth periodic report of Lithuania to the UN Committee on the Rights of the Child, CRC/C/LTU/3-4, 25 February 2010, p. 99-100.

¹⁶ Consolidated third and fourth periodic report of Lithuania to the UN Committee on the Rights of the Child, p. 100.

¹⁷ Consolidated third and fourth periodic report of Lithuania to the UN Committee on the Rights of the Child, p. 100.

¹⁸ See the Bar website page on [child rights advocates](#).

¹⁹ Information obtained through interview with stakeholder on 19.08.2013 (prosecutor).

²⁰ Article 2 of the Law on Fundamentals of Protection of the Rights of the Child.

²¹ Article 129 of CC.

²² Article 135 of CC.

harassment²⁴, theft²⁵, robbery²⁶, extortion of property²⁷, destruction of or damage to property²⁸, seizure of a firearm, ammunition, explosives or explosive materials²⁹, theft, racketeering or other illicit seizure of narcotic or psychotropic substances³⁰, damage to vehicles or roads and facilities thereof³¹.

The Criminal Code allows courts to treat suspects aged from 18 up to 21 years as children for sentencing purposes, considering the circumstances of the case and expert opinion of necessary, based on their 'social maturity'³².

Non-discrimination

Children are protected from discrimination by The Law on Equal Treatment³³ which prohibits direct and indirect discrimination, harassment, victimisation and other specified conduct, on the basis of gender, race, nationality, language, origin, social status, belief, convictions or views, age, sexual orientation, disability, ethnic origin or religion. The implementation of the Law is monitored by the Equal Opportunities Ombudsperson (further – EOO). In addition, the EOO may receive and examine individual complaints for encountered discrimination. Usually, the EOO adopts recommendations although it may apply administrative sanctions laid down in the Code of Administrative Offences³⁴ (fine³⁵ from 100 Lt to 400 Lt; 29 – 1159 €) as well. The EOO does not have competence to bring the case to court and represent the victim of discrimination. A person must pursue pecuniary and non-pecuniary damages through independent application to court.

²³ Article 149 of CC.

²⁴ Article 150 of CC.

²⁵ Article 178 of CC.

²⁶ Article 180 of CC.

²⁷ Article 181 of CC.

²⁸ Paragraph 2 of Article 187 of CC.

²⁹ Article 254 of CC.

³⁰ Article 263 of CC.

³¹ Article 280 of CC.

³² Article 81(2) of the Criminal Code.

³³ [Law on Equal Treatment, No. IX-1826](#), 2003-11-18.

³⁴ [Code of Administrative Offences of the Republic of Lithuania](#), ADM, 2012-11-06.

³⁵ Article 41⁶ of CAO.

2 Child-friendly justice before and during criminal judicial proceedings

2.1 The child as a victim

A person is granted victim status by decision of the pre-trial officer, prosecutor or a court. A person, adult or child, is considered to be a victim of the criminal act when she/he suffered physical, material or moral harm³⁶.

2.1.1 Reporting a crime

The law lays down that pre-trial investigation can be initiated upon receiving a complaint or notification about the criminal act³⁷. The investigation may also be launched if the prosecutor or a pre-trial officer themselves decide that there is a basis to initiate the investigation by writing down the official report³⁸. For the criminal acts such as non-severe health impairment through negligence³⁹, causing physical pain or a negligible health impairment⁴⁰, restriction of freedom of a person's actions⁴¹, sexual harassment⁴², libel⁴³, insult⁴⁴, unlawful violation of inviolability of a person's dwelling⁴⁵, unauthorised disclosure or use of information about a person's private life⁴⁶, destruction of or damage to property⁴⁷, destruction of or damage to property through negligence⁴⁸, and contempt for the memory of the deceased⁴⁹, the criminal prosecution may be initiated only upon receiving the complaint from the victim⁵⁰. The criminal proceedings for the mentioned crimes may also be initiated upon the request of the prosecutor when criminal acts have significance for the public good, harm is made to the person, who for serious reasons cannot defend his interests and in the absence of the complaint of the victim or his legal representative⁵¹.

There are no legal restrictions on a child to report a crime. A crime may also be reported by the parent or legal representative of the child. If a child is a victim of a crime she/he may report it to the local police (going to the police station or taking advantage of the available anonymous telephone lines⁵² or filling in a report online⁵³), or by informing other close people or local specialists, e.g. the Municipal Child Rights Protection Service, medical personnel, teacher in the school or psychologist, the personnel of the Day Centre, if a child is attending it. The child may also use the confidential telephone help lines⁵⁴. The law establishes an obligation for everyone who is aware of a serious crime to report it to the law enforcement officers; exceptions are only made for the close relatives and family members of the

³⁶ Article 28 (1) Criminal Procedure Code.

³⁷ Article 166 (1)(1) Criminal Procedure Code.

³⁸ Article 166 (1)(2) Criminal Procedure Code.

³⁹ Article 139 (1) of CC.

⁴⁰ Article 140 (1) of CC.

⁴¹ Article 148 of CC.

⁴² Article 152 of CC.

⁴³ Article 154 of CC.

⁴⁴ Article 155 of CC.

⁴⁵ Article 165 of CC.

⁴⁶ Article 168 of CC.

⁴⁷ Article 187 paras. 1 and 3 of CC.

⁴⁸ Article 188 of CC.

⁴⁹ Article 312 of CC.

⁵⁰ Article 167 (1) CPC.

⁵¹ Article 167 (2) of CPC.

⁵² [Police website](#), Index of helplines.

⁵³ [EPolice website](#).

⁵⁴ [Pagalba website](#).

perpetrator. Under Article 238 of CC a person who, without a valid reason, fails to report a serious crime known to him/her to a law enforcement agency or to a court, either in progress or already committed, could be punished by community service or by a fine or by arrest or by imprisonment for a term of up to one year.

National legislation does not lay down restrictions for types of crimes that can be reported by the child.

2.1.2 Provision of information

At the pre-trial investigative phase, the law enforcement authorities (investigative officer, prosecutor, judge) have a duty to explain to a child victim his/her procedural rights and secure their practical exercise⁵⁵. During the judicial proceedings the presiding judge in case examination on merits has a duty to explain to the victim and his/her representatives the rights and obligations foreseen in the law.

There are no specific regulations adopted for the type of information that are provided to the child as a victim of the crime or that a child victim should be informed in a child-friendly language. Therefore, general rules apply. Pre-trial investigation officers have a duty to explain to the parties their rights⁵⁶. During the pre-trial investigation, victims of the crime have a right to access the case file. Request for access to the pre-trial case file and later at judicial proceedings is done by legal representatives of the child (e.g. parents or appointed legal guardians). The child as a victim of the crime or his/her legal representatives may inquire about the progress of the case during any pre-trial investigation phase and throughout criminal proceedings. The law does not establish a time limit for the investigative officer or the prosecutor to provide the requested information about the progress of pre-trial investigation.

If criminal prosecution is initiated by way of private prosecution, in cases referred in Article 167 (1) of CPC, the child is the applicant and accuses the defendant. In this case, he/she may obtain the information about judicial proceedings directly from his/her legal representative.

2.1.3 Protection from harm and protection of private and family life

Urgent protection

Under the Law on Fundamentals of Protection of the Rights of the Child, when parents (father, mother) or any other legal representative of a child abuses the parental authority by committing acts of violence or otherwise cause danger to the child and a threat to the child's health or life, the State authority competent for the protection of the rights of the child or a State authority for the protection of the rights of the child together with the police must immediately take the child away from the parents or any other legal representatives of the child and transfer him/her for guardianship (curatorship). In this case, a police officer arrests the perpetrators and must inform the prosecutor within 24 hours⁵⁷. Having taken away the child, the State authority for the protection of the rights of the child must immediately notify the child's parents or other representatives of this⁵⁸.

In addition, State and municipality employees, who are responsible for the education and supervision of the child, must at once inform competent institutions concerning violations of the rights of the child, which have come to their attention⁵⁹. The police officer after recording the incident of domestic violence must immediately take measures to protect the victim of

⁵⁵ Article 45 CPC.

⁵⁶ Article 45 of the Criminal Procedure Code (CPC).

⁵⁷ [Law on Police Activities, No. VIII-2048](#), 2012-10-02.

⁵⁸ Article 56 (3) of the Law on Fundamentals of Protection of the Rights of the Child.

⁵⁹ Article 57(3) of the Law on Fundamentals of Protection of the Rights of the Child.

violence and, taking account of the circumstances, initiate a pre-trial investigation and notify the prosecutor if the prosecutor's order is necessary to initiate the pre-trial investigation⁶⁰.

Civil orders for protection

Child victims of domestic violence can be protected under the Law on Protection Against Domestic Violence⁶¹. If the fact of domestic violence against the child is established, the pre-trial investigation judge within 48 hours may impose one of the following measures of protection: (1) the obligation for the perpetrator of violence to temporarily move out of the place of residence, if (s)he resides together with the victim of violence; (2) the obligation for the perpetrator of violence not to approach the victim of violence, not to communicate and not to seek contact therewith⁶². Those measures of protection must be applied until completion of the examination of a case, unless a pre-trial investigation judge imposes the pre-trial supervision measures specified in the Code of Criminal Procedure, namely, detention or the obligation to reside separately from the victim⁶³.

Information confidentiality and securing the right to privacy

The law states that pre-trial investigation data must not be disclosed. The pre-trial investigation data until examined in court, may only be disclosed with the permission of the prosecutor and only to such an extent as deemed necessary. The law prohibits disclosure of information about child suspects or victims⁶⁴. In certain cases the prosecutor or investigator asks the officials involved with the case to sign a written acknowledgement that they have been warned about the criminal liabilities for disclosing information about the case without permission⁶⁵.

The Law on the Provision of Information to the Public⁶⁶ establishes that in producing and disseminating public information, a person's right to protection of information of a private nature must be ensured. To film or photograph a child, or to make audio/video recordings of him/her, the consent must be obtained from at least one of the parents, guardians or custodians and the child him or herself, to avoid violating rights and to protect his/her honour and dignity⁶⁷. Furthermore, it is prohibited to disseminate in the mass media information having a detrimental effect on children related to personal data which, in relation to criminal acts or other violations of the law, makes available to the public the personal data of a child who is not hiding from the law enforcement institutions or the court following the perpetration of the criminal act and who is the suspect, accused or convicted or a child who has been a victim of a criminal act or other violations of the law, on the basis whereof his identity may be established⁶⁸. Administrative or other legal liability may also be applied to publication in the press or other media of information identifying a child (name, surname) who is suspected of having committed a criminal act, being tried or sentenced for a criminal act⁶⁹.

In addition, during judicial proceedings, if a child victim had been granted anonymity, the court may hold a closed case hearing when questioning a child victim or when there is a

⁶⁰ Article 6 of the Law on Fundamentals of Protection of the Rights of the Child.

⁶¹ [Law on Protection Against Domestic Violence](#), No. XI-1425, 2011-05-26.

⁶² Article 5 (1) of the Law on Protection Against Domestic Violence.

⁶³ Article 5 (2) of the Law on Protection Against Domestic Violence.

⁶⁴ Article 177(1) CPC.

⁶⁵ Article 177(2) CPC.

⁶⁶ Article 14 (1) of the [Law on the Provision of Information to the Public, No. I-1418, 2011-12-20](#).

⁶⁷ Article 13 (5) of the [Law on the Provision of Information to the Public, No. I-1418, 2011-12-20](#).

⁶⁸ Article 6 (1) of the [Law on the Protection of Minors against the Detrimental Effect of Public Information](#), No. IX-1067, 2011-10-21.

⁶⁹ Law on Fundamentals of Protection of the Rights of the Child, No. I-1234, 2006-06-08, Article 53(4), available at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=382481.

need to protect his/her private life⁷⁰. Closed hearings of the case may be held only by the decision of the court. The court may decide to hold closed the whole or part of the case⁷¹.

A child recognised as a victim has also a right to demand that the offender be identified and duly punished and to claim damages⁷². It must be noted that, in the cases established by law, a victim has the right to receive compensation from the Crime Victims Fund, as well as the right to State-guaranteed legal aid. It should also be noted that a child who independently applies to courts for the defence of their rights or interests protected under law, with the exception of those who have married or have been recognised by the court as legally capable, are eligible to secondary legal aid regardless of their property and income levels⁷³.

Right to anonymity

A victim or witness of a crime, whether adult or a child (acting through a legal representative), may request anonymity from a prosecutor or a pre-trial officer. If anonymity is granted, the prosecutor or pre-trial officer has to take measures to ensure the security of the data provided by the anonymous person⁷⁴. The child and his/her representatives should be informed of such a right. In pre-trial stage by the investigative officer and prosecutor and during judicial proceedings the judge has the duty to inform⁷⁵.

Anonymity is granted only when all the following conditions are fulfilled:

1. There is a real threat to the victim's, witness's or his/her family/close relatives' life, health, security or property;
2. The testimony of the victim or witness is vital to the investigation of the criminal case; and
3. The victim or witness is participating in the investigation of a very serious crime⁷⁶.

If the pre-trial officer or prosecutor concludes that all the conditions for granting anonymity are present, then in addition he/she has to check, whether the victim or witness:

1. Does not have physical or psychological deficiencies making them unable to fully comprehend the importance of some aspects of the case and to provide a correct account about them;
2. Whether previously they have not been tried for giving false testimony;
3. Whether due to personal or selfish reasons they may provide false evidence against the suspect.⁷⁷

If there is basis to apply anonymity and there are no conditions listed in Art. 200(2) of CPC, the prosecutor or pre-trial officer takes a reasoned decision to apply anonymity. Decision of the pre-trial officer has to be approved by the prosecutor⁷⁸. The decision to apply anonymity is kept separate from the case file and is kept in accordance with the law⁷⁹.

The victim or witness may request anonymity before questioning⁸⁰. The victim or witness, to whom anonymity is applied in the pre-trial documents, is indicated by a certain number⁸¹.

⁷⁰ Article 9 (2) CPC.

⁷¹ Article 9 (3) CPC.

⁷² Article 44 (10) CPC.

⁷³ Pursuant to Article 12 of the Law on State-Guarantee Legal Aid (No. VIII-1591, of 28 March 2000).

[Consolidated third and fourth periodic reports of States parties](#) due in 2009, Lithuania, submitted to Committee on the Rights of the Child, CRC/C/LTU/3-4, 25 February 2010, p. 97 (§ 452 (j)).

⁷⁴ Article 198 CPC.

⁷⁵ Articles 45 and 268 of the CPC.

⁷⁶ Article 199 CPC.

⁷⁷ Article 200(2) CPC.

⁷⁸ Article 200(3) CPC.

⁷⁹ Article 201(2) CPC.

⁸⁰ Article 200(1) CPC.

⁸¹ Article 201(1) CPC.

Personal data protected under the grant of anonymity is considered as a State secret. Only the pre-trial investigation prosecutor, the pre-trial officer or a judge have rights to access the personal data. For disclosure of protected personal data they are held liable in accordance with Article 125 of CPC⁸².

The CPC sets rules for the pre-trial judge to interview the victim or witness granted anonymity⁸³. Questioning is carried out with acoustic and visual impairments to safeguard the interviewee's identity⁸⁴. If the victim or witness must identify the defendant or suspect, this is similarly done with the protection of screening equipment⁸⁵. The pre-trial investigating judge may decide to conduct the interview without the presence of the defence counsel or suspect. Defendants or suspects may direct questions at the witness or victim through the investigating judge⁸⁶. The prosecutor may also participate in the questioning of the victim or witness who was granted anonymity⁸⁷.

2.1.4 Protection from secondary victimisation and ensuring a child friendly environment

The law provides certain guarantees for protecting the child from the secondary victimisation and ensuring a child friendly environment especially by setting certain requirements for questioning the child victim at criminal judicial proceedings⁸⁸ (see [section 2.1.5](#)) or, for example, providing the opportunity to be granted anonymity during the pre-trial investigation procedure (see [section 2.1.3](#)).

There is also a possibility for mediation for minor offences. Provisions of the Criminal Procedure Code (Article 212 (5)) lay down that in certain cases⁸⁹ the pre-trial investigation can be terminated when a suspect of criminal offence and a victim reach peaceful settlement. However, due to the lack of mediators, this rarely happens in practice.

There are no specific requirements covering undue delay in conducting pre-trial investigations involving a child. General rules apply, set out in the CPC for law enforcement authorities to carry out investigation within the shortest possible period of time (Article 2 CPC) and depending on the type of crime within a timeframe from three to nine months (Article 176(1) CPC). In cases of sexual offences against a child, a pre-trial investigation should not last longer than four months⁹⁰.

2.1.5 Protecting the child during interviews and when giving testimony

Questioning of child witnesses and victims during the pre-trial investigation

At the initial phase of pre-trial investigations, child witnesses and victims are interviewed by police officers. Seeking to minimise the risk of causing emotional trauma to children during criminal proceedings and to reduce the need for repeated questioning, child victims or offenders of sexual or other crimes, or child victims, witnesses or suspects of violence in the family, are interviewed in rooms with special facilities⁹¹. The Police Department under the

⁸² Article 202 CPC.

⁸³ Article 183-84, 203 CPC.

⁸⁴ Article 203 (2) CPC.

⁸⁵ Article 204 CPC.

⁸⁶ Article 203 (3) CPC.

⁸⁷ Article 203 (4) CPC.

⁸⁸ Article 186 CPC.

⁸⁹ Article 38 of CC.

⁹⁰ Article 5 of Guidelines on pre-trial investigation terms, approved by the General Prosecutor of the Republic of Lithuania Order No. I-142, 15 October 2010, amended by Order No. I-300, 5 October 2012.

⁹¹ According to the NGO Children Support Centre there are specialised rooms for questioning children in: a few NGOs (Paramos vaikams centras (Vilniuje) and Vaikų gerovės centras „Pastogė“ (Kaune)); police stations in the cities of Vilnius, Kaunas, Klaipėda, Šiauliai and Panevėžys, as well as in a number of courts. Information available at: <http://www.vaikystebesmurto.lt/en/kai-tu-vyk-dai-apklausas/vaik-apklausos-kambariai-lietuvoje>

Ministry of the Interior has prepared Standard Requirements for Child Questioning Rooms in Territorial Police Institutions and a List of Equipment in Child Questioning Rooms⁹². Such special child questioning rooms have been set up in police headquarters in Vilnius, Kaunas, Klaipeda, Šiauliai and Panevežys⁹³.

In 2005, as part of the implementation of the Juvenile Justice Programme for 2004-2008⁹⁴, the Ministry of the Interior commissioned the preparation of Legal Guidelines for Pre-Trial Investigation Officers Dealing with Juveniles (published on the [website of the Ministry of the Interior](#)). These Guidelines give a list of principal provisions of the United Nations Convention on the Rights of the Child (namely, Articles 9, 12, 16, 37, and 40) that must be followed by pre-trial investigation officers in dealing with children in criminal proceedings. In addition, psychological guidelines were developed in 2005 to increase the skills of pre-trial investigation officers dealing with children. These guidelines are used in training police officers at the Lithuanian Police Training Centre. The guidelines have been posted on the website of the Ministry of the Interior and have been published as a hard copy (2000 copies) and distributed to police officers, prosecutors and other institutions working with children⁹⁵.

During judicial proceedings, a witness or a victim of the crime below the age of 18 years old is questioned by the pre-trial investigation judge when, in the interests of the child, either the representative of the child, the prosecutor or defence counsel requests it⁹⁶.

The prosecutor may also ask the pre-trial judge to question the child witness or a victim of crime, when he believes that:

4. There will be no possibility to question the witness during the case trial at the court;
5. The witness during the case examination at the court may change his testimony or take advantage of the right to refuse to give the testimony;
6. A witness may give more thorough testimony to the pre-trial investigation judge.⁹⁷

Witnesses and victims below the age of 18 years old usually are questioned during the pre-trial phase no more than once⁹⁸. During the pre-trial investigation, law enforcement officers may record (by audio or video) the interview with the child⁹⁹. It is up to the judge in charge of the case examination to decide of the admissibility of the video recording as one source of submitted evidence¹⁰⁰.

If the suspect or defendant is present at the questioning of the witness or victim, the pre-trial judge has a duty to ensure that no unlawful influence would be made on the witness or the victim of the crime. Witnesses and victims below the age of 18 years old are heard in court only in exceptional cases¹⁰¹.

A representative of the witness and a victim below the age of 18 years old has a right to be present during the questioning. At the interview, upon the request of the parties or the pre-trial investigation officer, prosecutor or pre-trial investigation judge, the state child rights protection agency's representative or a psychologist may also be asked to be present to help to question the child, taking into consideration the social and psychological maturity of the child¹⁰².

⁹² Approved by Order No. 5-V-543 of 16 August 2007 of the Lithuanian Police Commissioner General.

⁹³ Consolidated third and fourth periodic report of Lithuania to the UN Committee on the Rights of the Child, CRC/C/LTU/3-4, 25 February 2010, p.99.

⁹⁴ Resolution No. 600 of 19 May 2004 of the Government of the Republic of Lithuania.

⁹⁵ Consolidated third and fourth periodic report of Lithuania to the UN Committee on the Rights of the Child, p. 99.

⁹⁶ Article 186 (1) CPC.

⁹⁷ Article 184 (1) and Article 186 (1) of CPC.

⁹⁸ Article 186(2) CPC.

⁹⁹ Article 186 (2) CPC.

¹⁰⁰ Article 20 (2) CPC.

¹⁰¹ Article 186 (2) CPC.

¹⁰² Article 186 (3) CPC.

If a child under the age of 18 is questioned as a victim, the child's representative must also be present¹⁰³. By the decision of the court, such a victim and his representative may not need to participate through all the examination of the case. If a victim below the age of 18 years old can experience a psychological trauma or other negative consequences, the witness may be not questioned at the trial. In such a case, in the court reads out the witness' testimony given during the pre-trial investigation procedure.

2.1.6 Right to be heard and to participate in criminal proceedings

A child victim participates in judicial proceedings usually through a legal representative, who as a party to the process is entitled to all rights laid down by law during the pre-trial investigation phase and judicial proceedings, including the right to: submit evidence and requests, request removals, during pre-trial investigation and in judicial proceedings get acquainted with the case file, be present at judicial proceedings, make an appeal for the action of pre-trial investigation officer, prosecutor, pre-trial investigation judge and judge examining the case on the merits, also appeal the court sentence or decision and to make a final speech¹⁰⁴. Under the law, the legal representatives of the child victim have a right to participate in the proceedings and help the child victim to defend his/her interests, unless the participation of the legal representative would be in conflict with the interests of the child¹⁰⁵. The child victim has the right to exercise those rights on his/her own, but in practice the legal representative is usually the person acting for the child.

In case a child victim or his/her representative is absent at the case hearing, the court will decide whether it is possible to continue the case examination or whether it is necessary to adjourn the proceedings considering that it is not possible to examine all the circumstances of the case and defend the interests of the victim without the victim or his/her representative being present¹⁰⁶.

At the end of examination of the case in the court the victim or his representative has a right to make a final statement¹⁰⁷.

Although the CC or CPC does not explicitly establish the respect for the views of the child, in practice the views of the child are taken into account when she/he is capable of formulating it. In addition, in accordance with Article 3.164 of the Civil Code¹⁰⁸, a child must be heard when he/she is capable of formulating his/her views. In each particular case when a child is capable of expressing his/her opinion, but is under 10 years of age, the conclusion on whether or not (s)he can be heard must be provided by a specialist (normally, a psychologist)¹⁰⁹.

¹⁰³ Article 283 CPC.

¹⁰⁴ Art. 28 (2) CPC.

¹⁰⁵ Art. 53 (3) CPC.

¹⁰⁶ Art. 251 CPC.

¹⁰⁷ Article 293 (2) CPC.

¹⁰⁸ Article 3.164 of the Civil Code establishes that a child can participate in guaranteeing his rights. Paragraph 1 of the said article provides that:

(a) In considering any question related to a child, the child, if capable of formulating his or her views, must be heard directly or, where that is impossible, through a representative;

(b) Any decisions on such a question must be taken with regard to a child's wishes unless they are contrary to the child's interests;

(c) In making a decision on the appointment of a child's guardian/caretaker or on a child's adoption, the child's wishes shall be given paramount consideration.

¹⁰⁹ Consolidated third and fourth periodic report of Lithuania to the UN Committee on the Rights of the Child, CRC/C/LTU/3-4, 25 February 2010, para. 78, p. 18.

2.1.7 Right to legal counsel, legal assistance and representation

When a victim is a child or deprived of legal capacity, his/her representative may take part at the examination of a case in judicial proceedings and defend his/her interests¹¹⁰.

By law, the legal representatives of a child crime victim can be parents, foster parents, guardians, or representatives of institutions mandated to take care of the victim¹¹¹. Upon submission of a written or oral request, the legal representatives can participate in judicial proceedings, when the pre-trial investigation officer or prosecutor adopts in this regard a resolution and the court – decision. The child's representative usually participates in the process together with the child. The pre-trial investigation officer, prosecutor or court may stop the legal representative participating in the judicial proceedings if participation would be detrimental to the interests of a child or a person deprived of legal capacity. In such cases, the pre-trial investigation officer, prosecutor or court must ensure that other legal representatives be present at the proceedings and if this is not possible, then temporarily, until the question of legal representation be solved, to appoint any other person who can properly represent the interests of the child¹¹².

The legal representative has a right to participate in the proceeding in which the child is involved and to assist the child in the use of all the legal rights¹¹³.

A victim's legally mandated representative can be attorney legal counsel or an assistant of a legal counsel, or another person with a high legal education appointed by the decision of the pre-trial investigation officer, prosecutor or judge¹¹⁴. The representative may participate in the process together with the represented person or without him. The victim at any point may refuse the services of legal representative or choose another legal representative¹¹⁵.

State provided legal aid is available to victims of the crime¹¹⁶. Legal aid can be primary – mainly legal consultation and secondary – representation at judicial proceedings. Primary legal aid is usually provided free of charge to everyone by the local municipality and the secondary legal aid is subject to the property and income levels of the applicant. Secondary legal aid may be granted regardless of the property and income in cases when a child applies to a court independently for violation of their rights or protected interests by law¹¹⁷ or when the aggrieved parties participate in the cases where issues of compensation for the damage incurred through criminal actions are heard¹¹⁸.

The victim's representative has the same rights during the process as his represented person¹¹⁹. The victim's representative has a right to participate during the questioning of the victim and to take part in all actions asked to be performed by the victim¹²⁰.

2.1.8 Remedies or compensation exist for violation of rights and failure to act

Procedural actions of the pre-trial investigation officer can be appealed to the prosecutor, supervising the pre-trial investigation¹²¹. If the prosecutor rejects the complaint, it may be further appealed to the pre-trial investigation judge¹²². If the pre-trial investigation is

¹¹⁰ Article 53(1) CPC.

¹¹¹ Article 53(2) CPC.

¹¹² Article 53 (3) CPC.

¹¹³ Article 54 (1) CPC.

¹¹⁴ Article 55(2) CPC.

¹¹⁵ Article 55(3) CPC.

¹¹⁶ [Law on State Guaranteed Legal Aid](#), No. VIII-1591, 2012-06-19.

¹¹⁷ Article 12 (10) of Law on State Guaranteed Legal Aid.

¹¹⁸ Article 12(2) of Law on State Guaranteed Legal Aid.

¹¹⁹ Article 56 (1) CPC.

¹²⁰ Article 56 (2) CPC.

¹²¹ Article 62 CPC.

¹²² Article 62 (2) CPC.

conducted by the prosecutor, his illegal actions can be appealed to a more senior prosecutor¹²³. The law lays down that a prosecutor and the pre-trial investigation judge have to examine the complaint within 5 days of receipt¹²⁴. Actions and decisions of the pre-trial investigation judge can be appealed to the regional court¹²⁵.

If a person believes that through illegal actions (s)he sustained a material and moral damage, he may also launch a civil complaint through the civil process.

Compensation from the defendant

A victim has a right to receive compensation for the crime inflicted¹²⁶. He/she has a right to launch a civil claim for compensation for pecuniary and non-pecuniary damages against the defendant or against the person materially responsible for the defendant. The court examines the civil claim together with the criminal case¹²⁷. A person is recognised as civil applicant by the decision of the prosecutor or the court¹²⁸.

The prosecutor, supporting the charges, has a duty to submit the civil action to the court, if the person suffering the damage (e.g. a child) cannot protect his/her interests in the court¹²⁹.

If the materially liable persons do not have enough resources to make compensation, the law allows that, by decision of the court, victims may receive compensation in advance from State's allocated resources (Crime Victim Fund¹³⁰).

It should also be noted that children who independently apply to courts for the defence of their rights or interests protected under law (with the exception of those who are married or have been recognised by the court as legally capable) are eligible for secondary legal aid regardless of the property and income levels under legal aid eligibility rules¹³¹. In such cases, the law recognises the child's independent right to apply to the State Guaranteed Legal Aid Agency for secondary level legal aid (legal representation). However, the law does not lay down any other requirements to make this possibility more accessible for the child.

2.2 The child as a witness

A witness, not being party to the judicial criminal proceedings, has a right only to provide the testimony in the court, but does not enjoy the same rights as a child victim.

2.2.1 Reporting a crime

As mentioned above (see section 2.1.1.) anyone can report a crime. The same principles apply for child witnesses as to child victims with regard to reporting the crime.

2.2.2 Provision of information

Child witnesses do not enjoy the same right to provision of information during the pre-trial investigation phase or judicial proceedings as does the child victim. This is because a witness, in general, is not considered as a party to the proceedings. However in practice, witnesses are often informed about the process of the investigation by the law enforcement authorities¹³². When the witness is threatened by the suspect, then he/she can be

¹²³ Article 63 CPC.

¹²⁴ Article 64(2) CPC.

¹²⁵ Article 65 CPC.

¹²⁶ Article 44 (10) CPC.

¹²⁷ Article 109 CPC.

¹²⁸ Article 110 (1) CPC.

¹²⁹ Article 117 CPC.

¹³⁰ Article 118 CPC and Consolidated third and fourth periodic report of Lithuania to the UN Committee on the Rights of the Child, CRC/C/LTU/3-4, 25 February 2010, p. 97.

¹³¹ Consolidated third and fourth periodic report of Lithuania to the UN Committee on the Rights of the Child, p. 97. Article 12 of the Law on State-Guarantee Legal Aid (No. VIII-1591, of 28 March 2000).

¹³² Information obtained through interview with stakeholder on 22.11.2012 (prosecutor).

recognised as a victim and then is entitled to provision of information by law in regard to a subsequent criminal investigation of this threat.

2.2.3 Protection from harm and protection of private and family life

The court may hold a closed case hearing, if a witness has been granted anonymity or it is necessary to protect a child's private life¹³³. See also [section 2.1.3](#).

2.2.4 Minimising the burden of proceedings and ensuring a child friendly environment

See [section 2.1.4](#).

2.2.5 Protecting the child during interviews and when giving testimony

If a child witness may experience psychological trauma or have other serious negative consequences when giving evidence in court, (s)he may ask not to be present at the trial and the judge reads aloud his/her testimony given to the pre-trial investigation judge¹³⁴.

See also [section 2.1.5](#)

2.2.6 Right to be heard and to participate in criminal proceedings

Examination of a child witness at the court's judicial proceedings

A representative of the MCRPS or a psychologist helps to question child witnesses taking into consideration their social and psychological maturity. If needed, the parents or legal representative are also asked to be present. With the permission of the court, the representative of the State protection service, psychologist, parents or other legal representatives can question the child¹³⁵.

A witness below the age of 16 years old after his cross-examination must be requested to leave the courtroom, if the court does not consider it important for him to stay¹³⁶.

2.2.7 Right to legal counsel, legal assistance and representation

In general, witnesses are not entitled to State guaranteed legal representation. No additional social services, i.e. non-profit witness support services, exist to assist the child witness at judicial proceedings.

A witness may only receive primary legal aid (consultation) from the local municipality.¹³⁷

2.2.8 Remedies or compensation for violation of rights and failure to act

See [section 2.1.8](#)

2.3 The child as a suspect/ defendant

2.3.1 Age of criminal responsibility

A person is considered to be a child until 18 years old¹³⁸. Provisions of the Criminal Code (CC) of Republic of Lithuania that came into effect on 1 May 2003¹³⁹ differentiate criminal liability between adults and children.

¹³³ Article 9 (2) CPC.

¹³⁴ Article 280(3) CC.

¹³⁵ Article 280(1) CC.

¹³⁶ Article 280(2) CC.

¹³⁷ Addresses of the primary legal aid offices is provided at the State guaranteed legal aid [website](#).

¹³⁸ Article 81(1) CC; Article 2 [Law on Fundamentals of Protection of the Rights of the Child](#), No. I-1234, 1996-03-14h.

¹³⁹ [Law on the Approval and Entry into Force of the Criminal Code](#), Criminal Code, No. VIII-1968, 2012-11-08.

The age limit from which persons can be held criminally liable is 16 years old. Children can be held criminally liable from the age of 14 for certain crimes¹⁴⁰. For crimes punishable under the CC, children below the age of 14 years old may still be subject to reformatory sanctions or other measures¹⁴¹.

If a court, 'having taken into consideration the nature of and the reasons for the criminal act as well as other circumstances of the case' decides that a young person who is at least 18 years old but not yet 21 years old has the 'social maturity' of a child, it may apply sentences normally specified for children such as a warning, unpaid work and restrictions on conduct.

The child's age is determined based on a birth certificate; passport or ID card. In the absence of official documents and having no opportunity to obtain the certified copies from a notary or in doubt of originality of the provided documents, the age can be established through interviewing of witnesses or by appointing judicial medical expertise¹⁴².

2.3.2 Provision of information

Anyone who is suspected or accused of having committed a criminal act has a right to be informed promptly and in detail and in a language understandable to him/her, of the nature and basis of charges brought against him/her and may use interpretation services free of charge if he/she cannot understand or speak the Lithuanian language¹⁴³.

Due to the rights of the legal representative to participate and perform all procedural actions with the represented person (e.g. the child) stems the obligation for the law enforcement officer to inform the legal representative about all procedural actions¹⁴⁴.

There are no special provisions for children with regard to the right to information. The child as a suspect/defendant has the same rights to know the pre-trial investigation data as the above mentioned victim of the crime. Once the case goes to court the child's legal representative and legal counsel also have a right to access the case file apart from the defendant¹⁴⁵. Until the pre-trial investigation is finished, provision of information about the pre-trial investigation can be limited. The prosecutor may deny or only partially allow a request to access pre-trial investigation data if it could negatively influence the investigation¹⁴⁶.

When refusing to allow to access to all or some of the pre-trial investigation data, the prosecutor must issue a decision. The suspect or his/her representative has a right to appeal this decision to the pre-trial investigation judge. The judge has to examine such a complaint within three days from its receipt and adopt the decision that is not subject to further appeal.

The prosecutor cannot block access to all pre-trial investigation data if the investigation is over and the prosecutor has issued an indictment.

If a suspect is detained, his/her defence counsel has the right to access the pre-trial investigation data and to make copies and extracts¹⁴⁷.

¹⁴⁰ Article 13(2) CC (listing murder, 'serious impairment to health', rape, sexual harassment, theft, robbery, extortion, damage to property, 'seizure of a firearm, ammunition, explosives or explosive materials', 'racketeering or other illicit seizure of narcotic or psychotropic substances' and 'damage to vehicles or roads and facilities thereof').

¹⁴¹ Article 13 (3) CC.

¹⁴² R. Ažubalytė, Ancelis, Burda, "[Teisinės rekomendacijos ikiteisminio tyrimo pareigūnams, dirbantiems su nepilnamečiais](#)", Vilnius, 2005, p. 13.

¹⁴³ Article 44(7) CPC.

¹⁴⁴ Article 54 (1) CPC.

¹⁴⁵ Article 237 (1) CPC.

¹⁴⁶ Article Information obtained through interview with the stakeholder on 22.11.2012 (prosecutor).

¹⁴⁷ Article 181 (3) CPC.

During the cross-examination in the court, before questioning the child defendant, the court explains their right to provide testimony and the right to silence. In addition, the presiding judge explains the right to ask questions to the persons giving the testimony and to provide his/her own explanations of the evidence before the court¹⁴⁸. The law further lays down the details in questioning a child defendant (see [section 2.3.8](#))

2.3.3 Immediate actions following first contact with police or other relevant authority

The judge, prosecutor and pre-trial investigative officer under the law have a duty to explain to the child suspect/defender all the rights he/she is entitled under the law and secure their exercise¹⁴⁹. If a child is charged with a criminal offence, from the moment of questioning, he/she is entitled to legal counsel, whose presence is mandatory under the law¹⁵⁰. The child's questioning must also be notified to the parents or other legal representatives (foster parents, guardians, etc.). They have the right to be informed of all procedural actions undertaken in regard to their child. The questioning protocol is signed by all persons present at the questioning of the child including the child, his/her legal representatives, legal counsel and psychologist if present at the questioning. The child's rights as a suspect are listed in the form of a questioning protocol that the child signs and is read out by the investigative authorities.

The arrest or deprivation of liberty of a child may only be possible by a court's ruling, decision, or verdict. The arrest, deprivation of liberty, or any other restriction of a child's liberty, must be substantiated, as short as possible and applied only in exceptional circumstances¹⁵¹. Parents or other legal representatives of the child and in their absence, the institution for Protection of the Rights of the Child, must be informed at once about the child's detention, arrest, another form of restriction or deprivation of liberty¹⁵². The detention of the child may not exceed 12 months¹⁵³.

If a child is being questioned as a suspect, special provisions apply regarding the manner of his/her questioning (See below [section 2.3.8](#)).

2.3.4 Conditions for pre-trial detention/ custody

The Constitution of the Republic of Lithuania establishes that the freedom of a human being is inviolable, and no one may be arbitrarily detained or held arrested, and no one may be deprived of his/her freedom otherwise than on the grounds of and according to the procedures established by law¹⁵⁴.

No one can be deprived of his/her liberty otherwise than in the cases and in the procedure established in the Code of Criminal Procedure. Any detainee or arrestee must be promptly informed of the reasons of detention or arrest in a language understandable to him/her; any detainee or arrestee has the right to go to court claiming that the detention or arrest was unlawful, also the right to a just, fair and public trial by an independent and impartial tribunal in the shortest possible time and the right to claim damages¹⁵⁵.

The maximum period of provisional detention is set at 48 hours. However, if a person has been questioned as a suspect, the provisional detention may not be longer than 24 hours,

¹⁴⁸ Article 272(1) CPC.

¹⁴⁹ Art. 45 CPC.

¹⁵⁰ Art. 51 (1) CPC.

¹⁵¹ [Law on Fundamentals of Protection of the Rights of the Child](#), No. I-1234, 2006-06-08, Article 54 (1).

¹⁵² [Law on Fundamentals of Protection of the Rights of the Child](#), No. I-1234, 2006-06-08, Article 54 (2).

¹⁵³ Article 127 (2) CPC.

¹⁵⁴ Consolidated third and fourth periodic report of Lithuania to the UN Committee on the Rights of the Child, CRC/C/LTU/3-4, 25 February 2010, para. 463, p. 100.

¹⁵⁵ Article 44 of the Code of Criminal Procedure and Consolidated third and fourth periodic report of Lithuania to the UN Committee on the Rights of the Child, CRC/C/LTU/3-4, 25 February 2010, para. 465, p. 100.

but may be extended by a ruling of the prosecutor to the maximum period of provisional detention¹⁵⁶.

Children suspected of having committed a criminal or administrative offence, or children who have committed an act against the law and who are below the age of criminal or administrative liability, or children who need emergency aid, are delivered at on-duty stations once arrested¹⁵⁷. Police officers must take immediate actions to identify parents or other legal representatives of such children and to inform them (or a child rights protection agency, if the child has no parents or legal representatives or if police officers have failed to identify them within a reasonable period of time) of the delivery of the child to the police institution and to transfer the child to them as soon as possible¹⁵⁸. A child when in custody at an on-duty police station must be held separately from adults¹⁵⁹. Places of detention must be selected by taking account of the child's age and the degree of physical and mental maturity.

The CPC limits the duration of detention to up to six months. The procedural law provides for a court's discretion to determine the exact duration of detention but it also imperatively requires that the first period of detention may be no longer than three months. In complicated or lengthy trials, the detention period may be extended, but to no more than 18 months overall in the pre-trial investigation stage. For child suspects, this period is limited to 12 months¹⁶⁰. However, the CPC does not establish the overall maximum term of child's detention during the whole process, including the pre-trial investigation and the trial.

It has to be noted that upon restriction or deprivation of a child's liberty, his/her other rights (right to education, and physical, mental, spiritual and moral development) that are not directly linked with the restriction or deprivation of liberty, may not be restricted. The child must have the right to maintain ties with his parents (legal representatives), other family members, relatives and those close to him/her, through correspondence and encounters with them, except in extraordinary instances (legally based) when it is deemed detrimental to the child¹⁶¹.

2.3.5 Protection of private and family life

During the trial, the law prohibits the use of film or TV cameras, photo cameras and other audio or video recordings. Only the court may use such means to record the case hearing¹⁶². Parties to the proceedings, including the child defendant, his/her legal representative by law and defence lawyer in exercise of their procedural functions may use the means of recording provided they do not disturb the trial¹⁶³. If other persons violate the rules for recording during the process, they are warned by the presiding judge or excluded from the proceedings. Persons not complying with the order of the judge may be fined¹⁶⁴.

During the trial the audio-video recordings of the testimony given by the defendant, victim or witness during the pre-trial investigation phase are read out or shown¹⁶⁵.

¹⁵⁶ Article 140 of the Code of Criminal Procedure and Consolidated third and fourth periodic report of Lithuania to the UN Committee on the Rights of the Child, CRC/C/LTU/3-4, 25 February 2010, para. 465, p. 100.

¹⁵⁷ Instruction for the Organisation of Work of Police On-Duty Stations approved by Order No. 278 of 25 June 2001 of the Lithuanian Police Commissioner General.

¹⁵⁸ Consolidated third and fourth periodic report of Lithuania to the UN Committee on the Rights of the Child, CRC/C/LTU/3-4, 25 February 2010, para. 467, p. 101.

¹⁵⁹ Consolidated third and fourth periodic report of Lithuania to the UN Committee on the Rights of the Child, CRC/C/LTU/3-4, 25 February 2010, para. 468, p. 101.

¹⁶⁰ Article 127 (2) CPC. Consolidated third and fourth periodic report of Lithuania to the UN Committee on the Rights of the Child, CRC/C/LTU/3-4, 25 February 2010, p. 98.

¹⁶¹ Article 54 of the Law on Fundamentals of Protection of the Rights of the Child.

¹⁶² Article 260 (1) (2) CPC.

¹⁶³ Article 260 (3) CPC.

¹⁶⁴ Article 260 (4) CPC.

¹⁶⁵ Article 276 CPC.

In cases involving child suspects/defendants under eighteen years old, the court may decide to have closed case hearings to the public, if it may disclose details of private life¹⁶⁶. In such cases the court delivers a separate decision. The court may adopt a decision to hold the whole case examination in a closed hearing or just some part of it¹⁶⁷.

Child-friendly rooms are only available at the police stations, but not in the courts.

The laws regulate the provision of information about the child suspect/defendant in media. The dissemination of public information which has a detrimental effect on the development of children is prohibited¹⁶⁸.

Journalists may not ask questions, or present filmed or photographed material, which would make it possible to recognise the child (see [section 2.3.2.](#))¹⁶⁹. Publication of information identifying a child who is suspected of having committed a criminal act, being tried or sentenced for a criminal act, is a civil offence¹⁷⁰.

Article 44 of CPC¹⁷¹ establishes protection of private life and correspondence during the criminal procedure process. The law also establishes the nondisclosure principle of the pre-trial investigation data¹⁷². Until examined in the court, the pre-trial investigation data may be disclosed only to such extent as deemed necessary and only with the permission of the prosecutor.

To disclose pre-trial investigation data about child suspects and victims of the crime is not permissible under any circumstances¹⁷³.

A duty not to disclose the information about the pre-trial investigation data, including the personal data about child suspect covers not only the parties to the proceedings but also other persons who participated in or accidentally observed the pre-trial investigation¹⁷⁴. A person may be warned about the prohibition and liability for disclosure of pre-trial information by signing the written statement warning¹⁷⁵.

No information about the availability of services provided during and after the judicial proceedings to support children and their families were identified. No such obligation is foreseen under the law.

2.3.6 Alternatives to judicial proceedings

The law provides options for solving conflicts between the suspect/defendant and the victim before commencing judicial proceedings. A person who commits a misdemeanour, a negligent crime or a less serious premeditated crime, may be released by a court from criminal liability when he/she reconciles with the victim or a representative of a legal person or a State institution¹⁷⁶.

However, methods such as mediation are rarely used or applied in practice and they are not obligatory.

¹⁶⁶ Article 9 (2) CPC.

¹⁶⁷ Article 9 (3) CPC.

¹⁶⁸ Article 6 of [Law on the Protection of Minors Against the Detrimental Effect of Public Information](#), No. IX-1067, 2011-10-21.

¹⁶⁹ [Resolution of the Seimas of the Republic of Lithuania on the Approval of the concept of State policy on child welfare](#), No. IX-1569, 2003-05-20.

¹⁷⁰ [Law on Fundamentals of Protection of the Rights of the Child](#), No. I-1234, 1996-03-14.

¹⁷¹ Article 2 of the [Law on the Approval and Entry into Force of the Criminal Procedure Code](#), Criminal Procedure Code, No. IX-785, 2012-11-13.

¹⁷² Article 177 CPC.

¹⁷³ R. Ažubalytė, Ancelis, Burda, "Teisinės rekomendacijos ikiteisminio tyrimo pareigūnams, dirbantiems su nepilnamečiais", Vilnius, 2005, p. 18.

¹⁷⁴ Article 177 (2) CPC.

¹⁷⁵ Article 247 CPC.

¹⁷⁶ Article 38 (1) (3) of CC.

The law lays down the possibility of reconciliation between the offender and victim in private accusation cases as well¹⁷⁷. In this case the reconciliation process in the court is governed by the judge. If agreement is reached, the parties sign the agreement on compensation.

An experimental judicial mediation project was implemented starting in January 2006 at the 2nd Vilnius District city court¹⁷⁸. However, no information is available as to how many cases have been actually mediated up to now and whether there were any cases involving the child suspects/defendants or child victims.

2.3.7 Minimising the burden of proceedings and ensuring a child friendly environment

The law does not lay down specific time limits for the conduct of pre-trial investigation for a child, apart from the general legal rules which depend upon the type of alleged offence¹⁷⁹. Nevertheless, a child may not be legally detained for longer than 12 months during the pre-trial investigation phase¹⁸⁰.

Under the general rules established in CPC, the prosecutor who participated in the detention of the suspect has a duty to notify a member of the family or close relative. If a detained suspect does not indicate such a person, a prosecutor may at their own discretion, if the child is successfully identified, notify one of the suspect's family members or close relatives. The prosecutor may also refuse to notify the detention, if the detained child explains that it may interfere with the safety of family members or close relatives. In addition, the law establishes that a child suspect him or herself have an opportunity to notify the detention to family members or close relatives¹⁸¹.

As an alternative to detention during the pre-trial investigation phase, the child may be placed in care. In such cases, the supervising parents, foster parents, guardians (or other natural or legal persons) must indicate in writing that they assume responsibility for the child's good behaviour and attendance at meetings with the police officer, prosecutor or case hearings¹⁸². When such a written signed obligation is received, the guarantor for the child is told about the criminal offence the child is suspect of and their responsibility if a child suspect tries to avoid the pre-trial investigative authorities or a court¹⁸³. Failure to fulfil these duties guaranteeing the child's behaviour/attendance could land the supervising person with a fine up to five times the minimum wage, if the prosecutor or the court so decide¹⁸⁴.

The law lays down that when criminal proceedings are terminated because the guilt of the defendant was not established and also when a court adopts an exculpatory verdict, the prosecutor and the judge have a duty to explain to the person the process for claiming damages for unlawful detention and the restitution of the rights violated during the detention process¹⁸⁵.

There are no specialised courts for trying child offenders' cases and after the judicial proceedings, there is no support laid down in law for child defendants and family members.

¹⁷⁷ Article 413 CPC.

¹⁷⁸ Uscila, Rokas, "[Atkuriamojo teisingumo koncepcija, jo modeliai, nepilnamečių jusicioje](#)".

¹⁷⁹ Article 176(1) CPC.

¹⁸⁰ Article 127 (2) CPC.

¹⁸¹ Article 128 (1) CPC.

¹⁸² Article 138 (2) CPC.

¹⁸³ Article 138 (2) CPC.

¹⁸⁴ Article 138 (3) CPC.

¹⁸⁵ Article 46 CPC.

2.3.8 Protecting the child during interviews and when giving testimony

When a child suspect is questioned during the pre-trial procedure, he/she may be questioned in child friendly rooms at a police station¹⁸⁶ and by a police officer who specialises in criminal proceedings involving children¹⁸⁷.

In judicial proceedings, when questioning the child defendant, upon the request of the parties or of the pre-trial investigation officer, prosecutor or pre-trial investigation judge, a representative of the MCRPS or psychologist may be invited to assist and support the child, taking into consideration his/her social and psychological maturity¹⁸⁸.

See further details in section [2.3.5](#).

2.3.9 Right to be heard and to participate in criminal proceedings

The right to be heard is ensured by the Criminal Procedural Code. A child defendant participates in judicial proceedings usually through legal representative (parents, foster parents, legal guardians) and legal representatives by mandate (legal counsel). From the moment of initiation of criminal proceedings against the child suspect/defendant, the child under general rules, as with any other person, has a right to appeal the legality of detention. When a child in criminal proceedings is a suspect or defendant, the legal counsel is obligatory¹⁸⁹. Under the law, the pre-trial investigation officer, prosecutor and the judge has a duty to explain to the detained person from the moment of detention the entitlement to have a legal counsel and all other applicable procedural rights¹⁹⁰. The suspect or defendant may choose their lawyer; or the lawyer may also be appointed through the child's legal representative¹⁹¹.

The legal counsel when representing the child in criminal proceedings has a right: to know of the child suspect's detention protocol¹⁹²; be present at the child suspect's questioning; to visit the child suspect or defendant without the presence of other persons (the number of visits is not limited by law)¹⁹³; to participate in actions performed with the child suspect/defendant upon the initiation of pre-trial investigation officers or upon the initiative of the legal counsel; with permission of the pre-trial investigation officer, prosecutor or judge, to participate in any other actions when gathering the evidence of the case¹⁹⁴; independently to gather evidence for the child suspect/defendant¹⁹⁵; to access documents on the procedures performed during the pre-trial investigation process¹⁹⁶; to submit requests in the name of the child suspect/defendant and to request the removal of state authorities (e.g. judge in the trial); to appeal the decisions and actions of the pre-trial investigation officer, the prosecutor, the pre-trial investigative judge and judge examining the case on the merits; and to be present at the examination of these appeals in accordance with the order established by the norms of CPC¹⁹⁷.

¹⁸⁶ [Consolidated third and fourth periodic reports of States parties](#) due in 2009, Lithuania, submitted to Committee on the Rights of the Child, CRC/C/LTU/3-4, 25 February 2010, p. 99.

¹⁸⁷ Order No. 5-N-13 of 29 December 2007 of the Lithuanian Police Commissioner General „Concerning Nomination of Police Officers (Investigators) to Specialise in Criminal Matters Involving Juvenile Offenders and Underage Victims“; [Consolidated third and fourth periodic reports of States parties](#) due in 2009, Lithuania, submitted to Committee on the Rights of the Child, CRC/C/LTU/3-4, 25 February 2010, p. 99.

¹⁸⁸ Article 188 (5) CPC.

¹⁸⁹ Article CPC.

¹⁹⁰ 50 (1) CPC.

¹⁹¹ Article 50 (2) CPC.

¹⁹² Article 48 (1) CPC.

¹⁹³ Article 48 (2) CPC.

¹⁹⁴ Article 48 (5) CPC.

¹⁹⁵ Article 48 (6) CPC.

¹⁹⁶ Article 48 (7) CPC.

¹⁹⁷ Article 48 (9) CPC.

While the child is represented by the legal counsel, the child's legal representatives (parents, foster parents, legal guardians) usually may also take part in criminal proceedings together with the child. The legal representatives of the child have to request in writing or orally to be granted the right to participate in proceedings and can assist the child with the exercise of his/her rights. Such permission is issued by pre-trial investigation officer, prosecutor or court¹⁹⁸. Permission to take part in the proceedings maybe however refused if representation of the child is in conflict with his/her interests¹⁹⁹. A child, like any other criminal suspect, has the right to be informed promptly and in detail and in a language understandable to him/her, of the nature and basis of charges brought against him/her, and to have adequate time and facilities to prepare a defence, to question witnesses in person or to have witnesses questioned by other persons, and to use interpretation services free of charge if he/she cannot understand or speak the Lithuanian²⁰⁰. There are no formal requirement under the law foreseen to adapt the interview to the child's attention span.

During the judicial proceedings the child has a right to request to be heard and also to remain silent²⁰¹.

Parents may be present during the interview, but their presence is not obligatory. They may be invited to attend by the law enforcement officer²⁰².

2.3.10 Right to legal counsel, legal assistance and representation

A child defendant, like an adult, has a right to legal assistance and representation. Any detained or arrested child has an immediate right to legal assistance, as well as to challenge the legality of the arrest or detention in court²⁰³. Children are entitled to secondary legal aid (representation) with no consideration of their level of income and property in criminal trials²⁰⁴. Legal representation is mandatory in criminal cases when the suspect or defendant is a child²⁰⁵. Although the law lays down that at any time during the proceedings the suspect or defendant may waive his/her right to legal representation granted by the State²⁰⁶. The child may express the wish to waive the right to a defence attorney, but such a right although provided in law is not absolute, as in the case of a child whether or not to accept such a waiver is decided upon by the pre-trial investigation officer, prosecutor or a judge (Art. 52 (2) CPC. it is also established that such a waiver made by the child is not mandatory for the pre-trial investigation officer, prosecutor or judge²⁰⁷.

2.3.11 Remedies or compensation for violation of rights and failure to act

During the criminal proceedings the legal counsel, to which the child suspect/defendant is entitled under the law from the first moment of detention, has a right to submit complaints and challenge the decision and actions (failure to act) of the pre-trial investigation officer, prosecutor or judge²⁰⁸. The child offender as well as his/her legal counsel and legal representative, has a right to appeal court's sentence to the higher instance court²⁰⁹.

¹⁹⁸ Art. 53 (3) CPC.

¹⁹⁹ Art. 53 (3) CPC.

²⁰⁰ Article 44 (7) CPC.

²⁰¹ Article 31 (3) of the [Constitution of the Republic of Lithuania](#) guarantees the right not to be forced to give testimony against himself, family members or close relatives; Constitution of the Republic of Lithuania, adopted on 25 October 1992, came into force on 2 November 1992; Article 53 (2) [Law on Fundamentals of Protection of the Rights of the Child](#).

²⁰² Article 54 (1) CPC.

²⁰³ Article 54 (3) Law on Fundamentals of Protection of the Rights of the Child.

²⁰⁴ Article 12 (1) Law on State Guaranteed Legal Aid.

²⁰⁵ Article 51(1) CPC.

²⁰⁶ Article 52 (1) CPC.

²⁰⁷ Article 52(2) CPC.

²⁰⁸ Article 48 (9) CPC.

²⁰⁹ Art. 312 CPC.

However, it has to be noted that legal counsel and legal representatives of the child may appeals court judgments without the consent of the child offender²¹⁰.

The prosecutor and the judge have a duty to explain to the person the order for restitution of their rights and compensation when a not guilty verdict is passed or when a court adopts an exculpatory verdict²¹¹.

²¹⁰ Art. 312 (5) (6) CPC.

²¹¹ Article 46 (CPC).

3 Child-friendly justice after judicial proceedings

3.1 The child as a victim or offender

3.1.1 Provision of information

There are no special provisions relating to information with regard to children. The same legal provisions apply to children as to adults. Information on the withdrawal of an investigation or prosecution, time for court proceedings and the judgment is provided if the victim requests it. The victim should also be informed if necessary if the accused absconds. Information about the right to appeal and how to appeal is contained in the court's verdict that the victim and the offender receive in writing.

3.1.2 Sentencing

Child defendants, like adults, can be sentenced only by a court. The imposed penalty depends on the age of the child. As stated above (see [Section 2.3.1](#)), children can be held liable for criminal acts from 16 years of age. For certain crimes specified in CC, children can be held liable from the age of 14. It follows that if the person is below the age of 14 years old, s/he cannot be held criminally liable. Nevertheless, the law says that a child, who has committed a misdemeanour or crime and has been released from criminal liability or a penalty, may be subject to the following reformatory sanctions: a warning; a compensation claim; unpaid reformatory work; a placement for upbringing and supervision with parents or other natural or legal persons caring for children; a restriction on conduct; or a placement in a special reformatory facility²¹². A court may impose against a child not more than three mutually compatible reformatory sanctions²¹³.

If a child does not comply with the imposed reformatory sanctions, a court may impose further sanctions after two warnings. These sanctions might include placement in a 'special reformatory facility' if two or more sanctions are not complied with²¹⁴.

A child below the age of eighteen years old may be subject to the following penalties: community service; a fine; a restriction of liberty; arrest; a fixed-term imprisonment. Children may not be sentenced to more than 240 hours of community service. A fine may be imposed only against a child already employed or possessing his/her own property. A child may be subject to a fine in the amount of up to 50 MSLs. A child may be subject to arrest for a period of five up to forty-five days. The period of a custodial sentence in respect of a child may not exceed ten years²¹⁵.

The court when imposing a penalty upon a child also takes into consideration: the living and upbringing of the child; the state of health and social maturity of the child; previously imposed sanctions and effectiveness thereof; the child's conduct following the commission of a criminal act²¹⁶. A court may impose a fixed-term imprisonment upon a child where there is a basis for believing that another type of penalty is not sufficient to alter the child's criminal dispositions, or where the child has committed a serious or grave crime. In the event of imposition of a custodial sentence against a child, the minimum penalty is half of the minimum penalty provided for in the Criminal Code²¹⁷.

A sanction imposed on the child may be suspended for one to three years if the sentence is imprisonment for up to four years²¹⁸. The court should instead impose 'reformatory sanctions,

²¹² Article 82 (1) CC.

²¹³ Article 82 (2) CC.

²¹⁴ Article 89 CC.

²¹⁵ Article 90 CC.

²¹⁶ Article 91 (2) CC.

²¹⁷ Article 91 (3) CC.

²¹⁸ Article 92(1) CC.

with the exception of placement in a special reformatory facility²¹⁹. If the child complies with the sanctions and commits no new criminal acts, the court may discharge the sentence upon completion of the period of suspension²²⁰.

If a child commits a misdemeanour, or a negligent crime, or a minor or less serious premeditated crime for the first time, (s)he may be released by a court from criminal liability if (s)he: (1) has offered an apology to the victim and has compensated for or eliminated, fully or in part, the property damage through work or in monetary terms; or (2) is found to be of diminished capacity; or (3) pleads guilty and regrets having committed a criminal act or there are other grounds to believe that in the future the child will abide by the law and will not commit new criminal acts²²¹. If a court releases a child from criminal liability on these grounds, it must impose reformatory sanctions²²². A child under the age of 18 may be released early on parole from a custodial sentence based on good behaviour²²³.

3.1.3 Deprivation of liberty

In accordance with the law, upon restriction or deprivation of a child's liberty, his/her other rights (right to education, and physical, mental, spiritual and moral development) that are not directly linked with the restriction or deprivation of liberty, cannot be restricted. A child has the right to maintain ties with his/her parents (legal representatives), other family members, relatives and those close to him/her, through correspondence and meetings with them, except in extraordinary instances cited by law, when this may have a detrimental influence on the child²²⁴.

A child whose liberty is restricted or deprived must be held separately from adults, except when not in the child's best interests²²⁵.

As mentioned above, a child may be subject to arrest for a period of 5 up to 45 days. The period of a custodial sentence in respect of a child may not exceed 10 years²²⁶.

See [section 3.1.2](#).

When sentenced to a term of imprisonment, children go to children's correction facilities,²²⁷ where children are assigned to one of two groups: the ordinary and the light²²⁸. A child assigned to the ordinary group has a right to: buy food and other essential products; during a two month period to have one short and one long outside visit; to receive and send an unlimited number of letters and also receive small parcels with the print media; and once a week to have a telephone call²²⁹. A child assigned to a light group has nearly the same rights as in ordinary group, but may have one short and one long outside visit every month²³⁰. A short visit may last up to 4 hours and a long visit up to 2 days²³¹. The child has the option to switch a short visit for a telephone call²³²; and one long visit could be changed to two short visits or two telephone calls²³³.

²¹⁹ Article 92 (2) CC.

²²⁰ Article 92 (3) CC.

²²¹ Article 93 (1) CC.

²²² Article 93 (2) CC.

²²³ Article 94 CC.

²²⁴ Article 54 (5) Law on Fundamentals of Protection of the Rights of the Child.

²²⁵ Article 54(4) Law on Fundamentals of Protection of the Rights of the Child.

²²⁶ Article 90 CC.

²²⁷ Article 77 of Criminal Penalties Execution Code (CPEC).

²²⁸ Arts. 78-80 CPEC.

²²⁹ Article 79 CPEC.

²³⁰ Article 80 CPEC.

²³¹ Article 94 (1) CPEC.

²³² Article 94 (2) CPEC.

²³³ Article 94 (3) CPEC.

If a girl is pregnant or has a child up to three years, upon the decision of the director of detention correction facility she may be granted permission not to live at the detention facility until the child reaches three years old²³⁴.

When a child reaches 18 years old in the children's correction facilities, the director of the correction facility may adopt a reasoned decision granting the right to serve the remaining sentence in the facility if there are evident signs of an improvement in behaviour and the child is seeking to sustain those improvements²³⁵. In such cases, the same conditions as for the convicted child convict (conditions of detention, food supply, work, material supplies) are applied for the person over 18 years old²³⁶.

If a convicted person between 18 and 21 years old systemically violates the rules of a correction facility, the director of the prison Department, on a submission from the director of the correction facility, may decide to have the person transferred to serve the sentence at an adult correction facility and assigned to an ordinary group²³⁷.

The convicted child, as any other person, is entitled: to receive information in writing about his/her sentence and conditions and his/her rights and duties (such information should be provided in Lithuanian, the native language or the language the convicted person understands²³⁸); to submit requests, complaints and petitions to the correction facility, state or municipality institution, state official or non-governmental, international organisation and other institutions²³⁹; to receive medical care²⁴⁰ and legal aid²⁴¹. The right to religion is also guaranteed to a convicted person²⁴².

3.1.4 Criminal records

A child convicted of a crime set out in a judgment of the court that has entered into force is considered to be a person with a previous conviction²⁴³. Under the general rules of procedure, the court takes a previous conviction into consideration when: imposing a penalty for the commission of a new criminal act, deciding the issue of the offender's release from a penalty or criminal liability, release on parole or replacement of a penalty with a more lenient one, also when identifying the person as a repeat offender²⁴⁴. However, when deciding on the recognition of a person as a dangerous repeat offender, a court pays no regard to prior convictions for crimes committed by the person before the age of 18 years²⁴⁵.

The law also provides for calculation of shorter terms for the expiry of the criminal record for a child in comparison to the adult offenders²⁴⁶. Under provisions of CC (Article 97 (4)) the time prescribed for expiry of a criminal record is reduced by half for children²⁴⁷.

After the lapse of at least one half of the term of conviction, a court may, at the request of the convicted person, reduce the term of conviction or expunge the conviction²⁴⁸.

²³⁴ Article 152 (1) CPEC.

²³⁵ Article 81 (1) (2) CPEC.

²³⁶ Article 81 (3) CPEC.

²³⁷ Article 82 CPEC.

²³⁸ Article 11 (1) (1) CPEC.

²³⁹ Article 11 (1) (2) CPEC.

²⁴⁰ Article 11 (1) (3) CPEC.

²⁴¹ Article 11 (1) (4) CPEC.

²⁴² Article 15 CPEC.

²⁴³ Article 97 (1) CC.

²⁴⁴ Article 97 (1) CC.

²⁴⁵ Article 27 (3) CC.

²⁴⁶ Article 97(4) CC.

²⁴⁷ Article 97 (4) CC.

²⁴⁸ Article 97 (7) CC.

During the period when a crime is still retained in a child's criminal record, if the child commits a new criminal act or offence this affects the expiry period for the first criminal record.

Whilst the child is serving his/her new sentence, the original crime is suspended from the criminal record²⁴⁹. However, after serving the sentence, both the original and the new crime will be put on the criminal record. Both crimes will then be retained on the criminal record until the term for the expiry of the criminal record for the most serious crime has elapsed. As such, the expiry term for the original crime is reset.

For example, if the child has been sentenced for murder (serious criminal act), after serving the sentence, the conviction will remain on the criminal record for four years after expiry of the sentence. If two years after having served the sentence (and therefore half way through the term of the criminal record), a child commits a new criminal act, e.g. theft (minor crime) and is sentenced to one year of imprisonment, the two years of the previous criminal record are annulled. Criminal record terms for both criminal acts will start to count after the child serves his/her sentence of one year imprisonment for the theft. While the term for the criminal record for theft would normally be 18 months, and four years for murder, because of the second conviction, the criminal record term for both crimes becomes four years, i.e. the term for the most serious crime. So in this case, the child's criminal record for the theft and murder will last four years.

²⁴⁹ Article 97 (8) CC.

4 Strengths and potential gaps

Overall, with the adoption of the Criminal Code and Criminal Procedure Code in 2003, together with other relevant laws, Lithuanian legislation provides a comprehensive system for the protection of children in criminal pre-trial investigations and judicial proceedings. The Lithuanian Government sought to be proactive and to make improvements with the implementation of the UNDP supported project “Minors justice programme” in 2005-2008²⁵⁰ by adopting the 2009-2013 Minors’ Justice Programme²⁵¹ that seeks to continue addressing the gaps in the children’s justice system and implementing measures for its gradual improvement.

However, there is a need to improve the protection and legal regulation of child witnesses during the pre-trial investigation phase and criminal judicial proceedings. Since witnesses do not have a legal standing in the trial, there are no special provisions for their rights, such as the right to information. In addition, services for the child victim and witness during the pre-trial and judicial proceedings are lacking. At present, only a few NGOs provide psychological help through hotlines. It is doubtful whether the State’s child rights protection services have enough human resources to address this need.

The application of alternative resolution methods, despite a basis in law, is hardly applied in pre-trial and judicial proceedings. The State has to pay more attention to the development of the necessary specialists and to encourage and support their services in practice.

The Ombudsperson for Children’s Rights (OCR) has noted several problematic aspects in the administration of juvenile justice. According to the OCR, children are not properly protected from possible negative consequences in criminal proceedings. For example, a child witness or victim interview should be carried out in children’s interview rooms or other secure rooms but these rooms are not always used²⁵². Police officers sometimes interview a child in their office or with strangers in the room, or where an interview with another person is being conducted or may even confront the child with the suspect without assessing the possible impact on the child.

Participation of the Municipal Child Rights Protection Services in child victims’ or witness’ interviews is relatively passive, of poor quality and insufficiently represents the child’s rights. The OCR notes the lack of psychologists (as professionals) and the absence of legal regulation of their activities and supervision.

The OCR notes the need to improve the qualifications of local MCRPS when representing the interests of the child during judicial proceedings and in the operation of children’s correction facilities²⁵³. In addition, the OCR has noted that children, especially those living in (closed) institutions, do not always have the possibility to or know whom to address and complain about ill-treatment, fear reporting ill-treatment or do not trust the specialists. There might also be some cases when children, who suffered violence and neglect, do not see the harm of this phenomenon or instead justify it. There is lack of respect and support for a child who has suffered violence or reports of violence about which they know. Help lines for children do not operate 24 hours a day²⁵⁴. Assistance for child victims of violence or other victims is not always accessible (especially in rural, outlying areas). Provisions of legal acts and measures concerning child and family support are not properly implemented due to lack of financial or human resources and other reasons, including the fact that creating a support system for family and child, its development and maintenance are not a priority of the State

²⁵⁰ See [Nepilnamečių Justicijos Programa](#).

²⁵¹ 2009-2013 [Minors’ Justice Program](#) (*Nepilnamečių justicijos programa*), adopted by the Decree of the Republic of Lithuania Government, No. 1070 on 2 September 2009.

²⁵² The Ombudsperson for children’s rights of the Republic of Lithuania, [Comment of the Ombudsperson for Children’s Rights for the Report of the Republic of Lithuania on the implementation of the United Nations Convention on the Rights of the Child](#) in Lithuania in 2004-2008, Vilnius 2012, p.26.

²⁵³ Ombudsperson for Children Rights, [Annual Report 2011](#), 2 April 2012.

²⁵⁴ The Ombudsperson for children’s rights of the Republic of Lithuania, p.19.

or municipalities. Child day-care centres are not specialised or ready to provide necessary assistance for child victims of violence and their families²⁵⁵.

²⁵⁵ The Ombudsperson for children's rights of the Republic of Lithuania, p. 20.

Conclusions

The Lithuanian legal framework provides protection for the rights of the child victim and offender and to a lesser degree the rights of the child witness. Due to his/her lack of legal standing during the proceedings, the child, the same as for an adult, is not formally a party to the pre-trial or judicial proceedings. Therefore, the child witness' rights to information and rights to be heard are not of the same scope as of the child victims or offenders.

There are no well-developed and in practice effectively-applied State and non-governmental support services for child victims and witnesses. It was noted by the OCR that qualification of representatives of the MCRPS could be improved through additional training, to better protect and represent a child's interests prior to and during proceedings.

Specialised courts for cases involving children do not exist in Lithuania.

Alternative dispute resolution methods are hardly ever applied in practice in cases involving child offenders, although the law provides for the application of such alternatives.

Nevertheless, it should be noted that the Lithuanian Government, with the introduction of new legal regulation in the area of child protection in criminal proceedings, is making progress, for example through the support of the UNDP project "Minors' Justice Programme" in 2005-2008 and adoption of the Minors' Justice Programme for 2009-2013.

Annex – Legislation reviewed during the writing of this report

- Law on Protection Against Domestic Violence, No. XI-1425, adopted and in force from 26 May 2011, available at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=410975
- Guidelines on pre-trial investigation terms, approved by the General Prosecutor of the Republic of Lithuania Order No. I-142, 15 October 2010, amended by Order No. I-300, 5 October 2012
- Decree No. 1070 “For confirmation of Juvenile Justice Program 2009-2013”, adopted by the Government of Republic of Lithuania on 2 September 2009, available at: www.nplc.lt/centrov/prog/baze/program_dok/52.doc.
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