

*Submission template*

**The right to interpretation and translation and the right to  
information in criminal proceedings in the EU  
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# QUESTIONS

As envisaged in the section on Research Methodology, please note that some questions require consultation with organisations and/or practitioners working in relevant fields covered by the research to cross-check findings from the desk research with respect to the way in which the examined rights are applied in practice (such as judges, lawyers, interpreters and translators or civil society organisations active in the field of legal assistance in criminal proceedings).

## SECTION A: The right to interpretation and translation in criminal proceedings

1.	RIGHT TO INTERPRETATION <sup>1</sup>	Brief Description
1.1		<p>Please provide answers to the following for each stage of proceedings as indicated below:</p> <p>a) Who has the responsibility for determining the need of interpretation at each stage of the proceedings?</p> <p>b) How it works in practice for the various stages of the proceedings to ascertain whether suspected or accused persons speak and understand the language of the proceedings?</p> <p>c) Who bears the cost of interpretation at each stage?</p> <p>d) What is the timeframe (deadline) for providing interpretation at each stage of the proceedings?</p> <p><b>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</b></p>
1.1.1	<ul style="list-style-type: none"> <li>• police questioning;</li> </ul>	<p>(a) A pre-trial officer, prosecutor or pre-trial judge is responsible to determine if the interpretation is necessary (Article 43 of the Code on Criminal Proceedings of the Republic of Lithuania (CCP) (<i>Lietuvos Respublikos Baudžiamojo proceso kodeksas</i>)<sup>2</sup>. According to the Order No. I-87 on Organisation and Performance of Interpretations at the Prosecutor's Office of the Republic of Lithuania (hereafter – Order on Organisation of Interpretation) approved by the Order of the Prosecutor General of the Republic of Lithuania on 28 April 2014 (<i>Vertimų organizavimo ir atlikimo Lietuvos Respublikos prokuratūroje tvarkos aprašas, patvirtintas LR generalinio</i></p>

<sup>1</sup> See in particular Articles 2 and 4 and related recitals of Directive 2010/64/EU.

<sup>2</sup> Lithuania, Seimas, The Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002, available at: [www3.lrs.lt/pls/inter2/dokpaieska.showdoc\\_l?p\\_id=494011](http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=494011) [accessed on 18-04-2015].

*prokuroro įsakymu*),<sup>3</sup> the initiator of interpretation could be a prosecutor, an employee of the prosecutor's office or employee working under work contract<sup>4</sup>.

The CCP provides that the criminal proceedings in Lithuania take place in the country's official language.<sup>5</sup> The participants of the proceedings who do not know Lithuanian have the right to make statements, testify and submit explanations, requests and complaints, to speak in the court in their mother-tongue or any other language, which they know. Such participants also can have an interpreter to get acquainted with the case-file.<sup>6</sup> Documents of the case, that are delivered to the suspect, accused or convict, as well as to other participants of the process, are translated to their mother tongue or any other language, which they know.<sup>7</sup>

The pre-trial officer, prosecutor or pre-trial judge invites an interpreter (a person who knows the target languages or understands a signed language) to take part in the proceedings. In practice, e.g. with regard to foreigners who were detained in immigration context, there have been situations when the suspect was informed on the grounds for detention in English or Russian, some interviews were carried out by an officer who speaks either of these languages<sup>8</sup>.

b) When inviting an interpreter to participate in the process the pre-trial officer, prosecutor, pre-trial judge determine on his own the procedure or mechanism whereby the right of the person to interpretation is guaranteed. According to the authorities the provisions of the CCP are sufficient to find out if the suspects know and understand the language of the criminal proceedings, or if an interpreter is necessary. No problems are noted in practice in this respect<sup>9</sup>.

If suspects do not understand the language of the proceedings they are assigned an interpreter and the documents are translated to the language they understand. Suspects are not obliged to answer any questions or sign any documents, if they do not understand the questions asked or documents to be signed. An interpreter participates in an interview and interprets in oral form the questions asked by the interviewer and the testimony of the suspect. An interpreter also translates the records of the interview.

The Table of Correspondence for the Directive in Lithuania indicates that Article 8 of the CCP regulating the language of the proceedings and Article 44 para. 7 of the CCP, which states that suspects or accused persons

<sup>3</sup> Lithuania, representative of the Prosecutor General's Office.

<sup>4</sup> Lithuania, Prosecutor General's Office, the Order No. I-87 on organisation and performance of Interpretations at the prosecutor's office of the Republic of Lithuania (*Vertimų organizavimo ir atlikimo Lietuvos Respublikos prokuratūroje tvarkos aprašas, patvirtintas LR generalinio prokuroro įsakymu*), 28 April 2014, para. 5.

<sup>5</sup> See Art. 8 para. 1 of the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002, available at: [www3.lrs.lt/pls/inter2/dokpaieska.showdoc\\_l?p\\_id=494011](http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=494011).

<sup>6</sup> See Art. 8 (2), Lithuania, Seimas, The Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>7</sup> See Art. 8 (3), Lithuania, Seimas, The Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>8</sup> Lithuania, representative of the Lithuanian Red Cross Society.

<sup>9</sup> Ministry of Justice of the Republic of Lithuania (2013), Coordination Certificate as regards the law project amending the CCP (*Derinimo pažyma dėl Lietuvos Respublikos Baudžiamojo proceso kodekso priedo papildymo įstatymo projekto*), p. 2, available at: [www.lrv.lt/Posed\\_medz/2013/130724/12.pdf](http://www.lrv.lt/Posed_medz/2013/130724/12.pdf) [accessed on 03-02-2015].

have the right to use the services of interpreter free of charge, if they do not understand or do not speak Lithuanian, fully implement this provision of the Directive. Both provisions of the CCP establish the right of suspects and accused persons to get the services of interpretation free of charge, but none of them provide for any procedure or mechanism which would help to determine whether such services are needed, thus in the opinion of the human rights observers this provision of the Directive is currently not implemented<sup>10</sup>.

It can be recommended to make an assessment of the situation in consultation with practitioners of this area (pre-trial officers, prosecutors, pre-trial judges, advocates) in order to determine if the problem exists in practice in identifying the need for interpretation and the nature of problems if any. Depending on the problems arising, a procedure for determination of the need for interpretation shall be established<sup>11</sup>.

c) Article 104 of the CCP provides that the pre-trial institution, prosecutor's office or court's budget should cover the costs of interpretation. The Government of Lithuania or an institution authorised by it shall determine the order on payment/compensation of these costs. The Order of the establishment of the amounts of the sums to be paid to the witnesses, victims, experts, specialists and interpreters and their payment in the Criminal and Administrative Offences' Proceedings (*Vyriausybės Nutarimas Nr. 524 dėl liudytojams, nukentėjusiems, ekspertams, specialistams ir vertėjams išmokėtinų sumų dydžio nustatymo ir apmokėjimo baudžiamajame procese ir administracinių teisės pažeidimų teisenoje tvarkos patvirtinimo*)<sup>12</sup> provides detailed regulation on how the costs to interpreters are paid. The Order provides that the interpreters are paid through the legal person where they are employed, if interpretation takes place as part of their work duties. If not, they are paid as natural persons separately in accordance with the agreement with the pre-trial investigation office, prosecutor's office, court or institution examining the administrative offence case, and invoice<sup>13</sup>. The sums paid to the interpreters also cover their travel costs to the place of interpretation, in case their

<sup>10</sup> Human Rights Monitoring Institute (*Žmogaus teisių stebėjimo institutas*), Letter to the Minister of Justice (*Teisingumo ministrui*), 29 April 2013, available at: [www.hrmi.lt/uploaded/Teisekura/2013-04-29%20\(IS-VIII-11\)%20Rastas%20TM%20del%20ES%20vertimu%20direktyvos%20igyvendinimo%20baudziamajame%20procesu.pdf](http://www.hrmi.lt/uploaded/Teisekura/2013-04-29%20(IS-VIII-11)%20Rastas%20TM%20del%20ES%20vertimu%20direktyvos%20igyvendinimo%20baudziamajame%20procesu.pdf) [accessed on 17-02-2015].

<sup>11</sup> Human Rights Monitoring Institute (*Žmogaus teisių stebėjimo institutas*), Letter to the Minister of Justice (*Teisingumo ministrui*), 11 February 2013, p. 5, available at: [www.hrmi.lt/uploaded/Teisekura/2013-02-11%20\(IS-VIII-2\)%20Rastas%20TM%20del%20ES%20direktyvu%20igyvendinimo%20baudziamajame%20procesu.pdf](http://www.hrmi.lt/uploaded/Teisekura/2013-02-11%20(IS-VIII-2)%20Rastas%20TM%20del%20ES%20direktyvu%20igyvendinimo%20baudziamajame%20procesu.pdf) [accessed on 17-02-2015].

<sup>12</sup> Lithuania, The Government, Resolution No. 524 on the Order of the establishment of the amounts of the sums to be paid to the witnesses, victims, experts, specialists and interpreters and their payment in the Criminal and Administrative Offences' Proceedings (*Vyriausybės Nutarimas Nr. 524 dėl liudytojams, nukentėjusiems, ekspertams, specialistams ir vertėjams išmokėtinų sumų dydžio nustatymo ir apmokėjimo baudžiamajame procese ir administracinių teisės pažeidimų teisenoje tvarkos patvirtinimo*), 25 April 2003, available at: [www.e-tar.lt/portal/lt/legalAct/TAR\\_2BE367FA34F9](http://www.e-tar.lt/portal/lt/legalAct/TAR_2BE367FA34F9) [accessed on 27-02-2015].

<sup>13</sup> See paras 4 and 9, the Government Resolution No. 524 on the Order of the establishment of the amounts of the sums to be paid to the witnesses, victims, experts, specialists and interpreters and their payment in the Criminal and Administrative Offences' Proceedings (*Vyriausybės Nutarimas Nr. 524 dėl liudytojams, nukentėjusiems, ekspertams, specialistams ir vertėjams išmokėtinų sumų dydžio nustatymo ir apmokėjimo baudžiamajame procese ir administracinių teisės pažeidimų teisenoje tvarkos patvirtinimo*), 25 April 2003.

		<p>reside in a different town or even different country, as well as accommodation costs and daily allowances, if any<sup>14</sup>. These amounts are paid from the state budget funds, which are assigned to the institution<sup>15</sup>.</p>
		<p>d) On one hand, Article 44 of the CCP provides persons who are arrested or detained are informed without a delay in a language that they understand on the reasons of their arrest or detention. The Order on Organisation of Interpretation also provides for interpretation without a delay in certain cases. If a meeting is planned, the interpretation has to be ordered three days before the meeting<sup>16</sup>. On the other hand, the legislation does not specify time limits for the provision of interpretation.</p>
<p>1.1.2</p>	<ul style="list-style-type: none"> <li>• court hearings;</li> </ul>	<p>a) The pre-trial judge or the court are responsible to decide whether the interpretation is necessary.<sup>17</sup> The CCP provides that the criminal proceedings in Lithuania take place in the country's official language.<sup>18</sup> The participants of the proceedings who do not know Lithuanian have the right to make statements, testify and submit explanations, requests and complaints, to speak in the court in their mother-tongue or any other language, which they know. Such participants also can have an interpreter to get acquainted with the case-file in accordance with the order determined by this Code.<sup>19</sup> Documents of the case, that are delivered to the suspect, accused or convict, as well as to other participants of the process, are translated to their mother tongue or any other language, which they know.<sup>20</sup></p>

<sup>14</sup> See paras 2, 5-6, the Government Resolution No. 524 on the Order of the establishment of the amounts of the sums to be paid to the witnesses, victims, experts, specialists and interpreters and their payment in the Criminal and Administrative Offences' Proceedings (*Vyriausybės Nutarimas Nr. 524 dėl liudytojams, nukentėjusiems, ekspertams, specialistams ir vertėjams išmokėtinų sumų dydžio nustatymo ir apmokėjimo baudžiamajame procese ir administracinių teisės pažeidimų teisenoje tvarkos patvirtinimo*), 25 April 2003.

<sup>15</sup> See para. 10, the Government Resolution No. 524 on the Order of the establishment of the amounts of the sums to be paid to the witnesses, victims, experts, specialists and interpreters and their payment in the Criminal and Administrative Offences' Proceedings (*Vyriausybės Nutarimas Nr. 524 dėl liudytojams, nukentėjusiems, ekspertams, specialistams ir vertėjams išmokėtinų sumų dydžio nustatymo ir apmokėjimo baudžiamajame procese ir administracinių teisės pažeidimų teisenoje tvarkos patvirtinimo*), 25 April 2003.

<sup>16</sup> Para. 25, Prosecutor General of the Republic of Lithuania, the Order No. I-87 on Organisation and Performance of Interpretations at the Prosecutor's Office of the Republic of Lithuania (*Vertimų organizavimo ir atlikimo Lietuvos Respublikos prokuratūroje tvarkos aprašas, patvirtintas LR generalinio prokuroro įsakymu*), 28 April 2014.

<sup>17</sup> See Art. 43, the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>18</sup> See Art. 8 (1), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>19</sup> See Art. 8 (2), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>20</sup> See Art. 8 (2), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

b) When inviting an interpreter to participate in the process the court determines on his own the procedure or mechanism whereby the right of the person to interpretation is guaranteed<sup>21</sup>. However in practice no such procedures or mechanisms exist<sup>22</sup> or were not accessible to the author of this Report.

c) Article 104 of the CCP provides that the court from its budget should cover the costs of interpretation. The Government of Lithuania or an institution authorised by it shall determine the order on payment/compensation of these costs. The Law on State Guaranteed Legal Aid of the Republic of Lithuania (*Lietuvos Respublikos Valstybės garantuojamos teisinės pagalbos įstatymas*)<sup>23</sup> establishes the provision of state guaranteed legal aid to persons to enable them to defend their rights and interests. Article 18 para 11 of the Law provides that lawyers providing secondary legal aid must communicate with the applicants in the language they understand. If this is not possible, it is necessary to guarantee the interpretation. This law also provides<sup>24</sup> that state costs for free legal aid also cover the costs of interpretation of the communication between person providing state guaranteed legal aid and the applicant, when it is not possible to ensure communication in a language that the applicant understands. The Order of the establishment of the amounts of the sums to be paid to the witnesses, victims, experts, specialists and interpreters and their payment in the Criminal and Administrative Offences' Proceedings (*Vyriausybės Nutarimas Nr. 524 dėl liudytojams, nukentėjusiems, ekspertams, specialistams ir vertėjams išmokėtinų sumų dydžio nustatymo ir apmokėjimo baudžiamajame procese ir administracinių teisės pažeidimų teisenoje tvarkos patvirtinimo*)<sup>25</sup> provides detailed regulation on how the costs to interpreters are paid (see 1.1.1 above).

d) According to the information available to the author of this Report, the legislation does not specify time limits for the provision of interpretation.

<sup>21</sup> Ministry of Justice of the Republic of Lithuania (2013), Coordination Certificate as regards the law project amending the CCP (*Derinimo pažyma dėl Lietuvos Respublikos Baudžiamojo proceso kodekso priedo papildymo įstatymo projekto*), p. 2.

<sup>22</sup> Human Rights Monitoring Institute (*Žmogaus teisių stebėjimo institutas*), Letter to the Minister of Justice (*Teisingumo ministru*), 11 February 2013, p. 5.

<sup>23</sup> Lithuania, Seimas, the Law on State Guaranteed Legal Aid of the Republic of Lithuania (*Lietuvos Respublikos Valstybės garantuojamos teisinės pagalbos įstatymas*), 28 March 200, available at: [www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=449588&p\\_tr2=2](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=449588&p_tr2=2) [accessed on 17-02-2015].

<sup>24</sup> See Art. 14 (10), the Law on State Guaranteed Legal Aid of the Republic of Lithuania (*Lietuvos Respublikos Valstybės garantuojamos teisinės pagalbos įstatymas*), 28 March 200, available at: [www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=449588&p\\_tr2=2](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=449588&p_tr2=2) [accessed on 17-02-2015].

<sup>25</sup> Lithuania, The Government, the Resolution No. 524 on the Order of the establishment of the amounts of the sums to be paid to the witnesses, victims, experts, specialists and interpreters and their payment in the Criminal and Administrative Offences' Proceedings (*Vyriausybės Nutarimas Nr. 524 dėl liudytojams, nukentėjusiems, ekspertams, specialistams ir vertėjams išmokėtinų sumų dydžio nustatymo ir apmokėjimo baudžiamajame procese ir administracinių teisės pažeidimų teisenoje tvarkos patvirtinimo*), 25 April 2003.

<p><b>1.1.3</b></p> <p>• any necessary interim hearings;</p>	<p>a) The pre-trial judges are responsible to determine whether the interpretation is necessary.<sup>26</sup> The CCP provides that the criminal proceedings in Lithuania take place in the country's official language.<sup>27</sup> The participants of the proceedings who do not know Lithuanian have the right to make statements, testify and submit explanations, requests and complaints, to speak in the court in their mother-tongue or any other language, which they know. Such participants also can have an interpreter to get acquainted with the case-file in accordance with the order determined by this Code.<sup>28</sup> Documents of the case, that are delivered to the suspect, accused or convict, as well as to other participants of the process, are translated to their mother tongue or any other language, which they know.<sup>29</sup></p>
	<p>b) When inviting an interpreter to participate in the process the court determines on his own the procedure or mechanism whereby the right of the person to interpretation is guaranteed<sup>30</sup>. However in practice no such procedures or mechanisms exist or is not publicly available<sup>31</sup>.</p>
	<p>c) Article 104 of the CCP provides that the court from its budget covers the costs of interpretation. The Order of the establishment of the amounts of the sums to be paid to the witnesses, victims, experts, specialists and interpreters and their payment in the Criminal and Administrative Offences' Proceedings (<i>Vyriausybės Nutarimas Nr. 524 dėl liudytojams, nukentėjusiems, ekspertams, specialistams ir vertėjams išmokėtinų sumų dydžio nustatymo ir apmokėjimo baudžiamajame procese ir administracinių teisės pažeidimų teisenoje tvarkos patvirtinimo</i>)<sup>32</sup> provides detailed regulation on how the costs to interpreters are paid (see 1.1.1 (c) above).</p>
	<p>d) There are no specifically defined time limit for provision of interpretation in the legislation. Inquiry on this specific point was sent to the National Court Administration (<i>Nacionalinė teismų administracija</i>)<sup>33</sup>, however no response was provided.</p>

<sup>26</sup> See Art. 43, the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>27</sup> See Art. 8 (1), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>28</sup> See Art. 8 (2), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>29</sup> See Art. 8 (3), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>30</sup> Ministry of Justice of the Republic of Lithuania (2013), Coordination Certificate as regards the law project amending the CCP (*Derinimo pažyma dėl Lietuvos Respublikos Baudžiamojo proceso kodekso priedo papildymo įstatymo projekto*), p. 2.

<sup>31</sup> Human Rights Monitoring Institute (*Žmogaus teisių stebėjimo institutas*), Letter to the Minister of Justice (*Teisingumo ministru*), 11 February 2013, p. 5.

<sup>32</sup> Lithuania, The Government, the Resolution No. 524 on the Order of the establishment of the amounts of the sums to be paid to the witnesses, victims, experts, specialists and interpreters and their payment in the Criminal and Administrative Offences' Proceedings (*Vyriausybės Nutarimas Nr. 524 dėl liudytojams, nukentėjusiems, ekspertams, specialistams ir vertėjams išmokėtinų sumų dydžio nustatymo ir apmokėjimo baudžiamajame procese ir administracinių teisės pažeidimų teisenoje tvarkos patvirtinimo*), 25 April 2003.

<sup>33</sup> Letter of inquiry, 27 April 2015.



<p><b>1.1.4</b></p> <ul style="list-style-type: none"> <li>• any communication between suspects and accused persons and their legal counsel in direct connection with any questioning or hearing during the proceedings?</li> </ul>	<p>In practice, suspects and accused persons use the services of lawyers with whom they could speak in a language they understand. However, there are certain guarantees for effective communication between the suspects/accused persons and their legal counsels, provided by the law. The Law on State Guaranteed Legal Aid<sup>34</sup> establishes a provision of state guaranteed legal aid to persons to enable them to defend their rights and interests. Article 18 para 11 of the Law provides that lawyers providing secondary legal aid must communicate with their applicants in the language they understand. If this is not possible, it is necessary to guarantee the interpretation in such communication. This law also provides (Article 14 para 10) that state costs for free legal aid also cover the costs of interpretation during communication between the person providing state guaranteed legal aid and the applicant, when it is not possible to ensure communication in a language that the applicant understands. In practice, certain problems exist with regard to ensuring communication between the suspect/accused and the lawyer. For instance, the Seimas Ombudsperson's Office (<i>Seimo kontrolieriu įstaiga</i>) issued reports on the complaint of a Norwegian national who claimed that the interpretation services in his communication with the lawyer were not ensured for him, as the Lithuanian Court of Appeal (<i>Lietuvos apeliacinis teismas</i>) refused to ensure interpretation for the preparation of the court hearing and referred the applicant to his lawyer<sup>35</sup>. This happened because the state paid interpretation services in communication between the suspect/accused and the lawyer are provided in the framework of state guaranteed free legal aid, while in this case the person used a private lawyer, thus fell out of these services. The Ombudsperson concluded that even though the norms of the CCP formally comply with the provisions of the Directive as concerns the provision of interpretation in the criminal proceedings, the mechanism of implementation of this right is not clear, thus it is necessary to regulate in more details the participation of an interpreter in the criminal proceedings. For example, although participation of an interpreter is provided during the entire criminal proceedings, it is unclear how this right to interpretation shall be guaranteed in the communication between suspects and their lawyers outside the court hearings and interviews with pre-trial investigation officials. The regulation on free of charge interpretation services needed for communication of suspects and their lawyers is not clear<sup>36</sup>.</p> <p>b) The institutions did not provide any official information on this question. However, in practice the interpretation is usually requested by suspects or accused persons or their legal representatives to the pre-trial officer, prosecutor or a judge.</p>
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<sup>34</sup> Lithuania, Seimas, the Law on State Guaranteed Legal Aid of the Republic of Lithuania (*Lietuvos Respublikos Valstybės garantuojamos teisinės pagalbos įstatymas*), 28 March 2000.

<sup>35</sup> The Seimas Ombudsperson's Office (*Seimo kontrolieriu įstaiga*), A report regarding the complaint against the Ministry of Justice No. 4D-2014/1-1593, 25 February 2015, (on file with the author of this Report).

<sup>36</sup> The Seimas Ombudsperson's Office (*Seimo kontrolieriu įstaiga*), A report regarding the complaint against the Ministry of Justice No. 4D-2014/1-1593, p. 5-6, 25 February 2015, (on file with the author of this Report).

		<p>c) The Law on State Guaranteed Legal Aid provides<sup>37</sup> that state costs for free legal aid also cover the costs of interpretation during the communication of the person providing state guaranteed legal aid and the applicant, when it is not possible to ensure communication in a language that the applicant understands. Thus, the State should cover such costs. However, there are some practical problems in this respect (see 1.1.4 (a) above).</p> <p>d) The legislation does not establish any specific limits.</p>
1.2	<p>How do authorities ensure interpretation into rare/lesser known languages where no certified interpreters exist?  <b>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</b></p>	<p>Information is not fully available on actual measures to facilitate interpretation in rare languages. Inquiry on this issue was sent to the Prosecutor General's Office (<i>Generalinė prokuratūra</i>) (e-mail letter of inquiry of 27-04-2015) and the National Courts Administration (<i>Nacionalinė teismų administracija</i>) (e-mail letter of inquiry of 27-04-2015), but no responses on this question were received. However, the Lithuanian Bar Association (<i>Lietuvos advokatūra</i>) reports that even usual languages (English, Russian) are frequently not helpful for some participants of the process, while problems exist concerning interpretation from rare languages: either there are no interpreters at all, or the quality of interpretation is very low. They refer to practical examples, when detained immigrants from India, who spoke Punjabi, were provided with interpretation in Hindi language, thus they could hardly understand it and did not speak up<sup>38</sup>. Additional contacts have been made with the National Courts Administration (telephone interview with the Deputy Director of the NCA of 9 June 2015) and it was clarified that there are no special arrangements or measures to ensure handling of such situations. Most frequently, situations with rare languages arise in the context of migration/asylum cases. If such a situation arises, usually the institutions, like the Foreigners' Registration Centre where such foreigners are accommodated, is trying to find somebody who could interpret (e.g. among the foreigners staying in the centre), but these persons are not professional interpreters and also private information may not be secured. The situation is likely to be very similar in pre-trial stage.</p>
1.3	<p>Please describe procedures in place, if any, to ensure that suspects or accused persons have the right to challenge the decision that no interpretation is needed?  <b>Please cross-check findings from the desk</b></p>	<p>Suspect have the right to submit complaints and requests. They have the right to challenge the actions and decisions of the pre-trial officer or prosecutor, and also actions and resolutions of pre-trial judge in certain cases. Complaints concerning the actions of pre-trial investigation officer may be submitted to the prosecutor who is</p>

<sup>37</sup> See Art. 14 (10), the Law on State Guaranteed Legal Aid of the Republic of Lithuania (*Lietuvos Respublikos Valstybės garantuojamos teisinės pagalbos įstatymas*), 28 March 2000.

<sup>38</sup> Lithuania, representative of the Lithuanian Bar Association (*Lietuvos advokatūra*).

	<b>research by consulting relevant organisations and/or practitioners.</b>	organising and leading the investigation. <sup>39</sup> Complaints regarding the actions and resolutions of the prosecutor can be submitted to the chief prosecutor. <sup>40</sup> Complaints concerning the chief prosecutor can be submitted to the pre-trial judge <sup>41</sup> . There is no specific regulation concerning the right to challenge the decision on interpretation, but these provisions could be interpreted as covering possibility to also submit complaint against such a decision.
1.4	With regard to remote interpretation via communication technologies :	
	a) Can communication technologies for the purpose of remote interpretation be used? If so, at what stage(s) of the proceedings?	Correspondence table of Lithuania for the Directive provides that these provisions are fully implemented by Article 179 of the CCP, which regulates recording of pre-trial investigation actions and court hearings, and Article 260, which regulates the order for the use of sound and video recording measures during the trial hearing. However, it should be noted that both of these articles do not currently provide for any possibility to use communication means, including internet, for the purpose of ensuring interpretation. Therefore, some non-governmental organizations suggest to consider a possibility to use such measures, because it would facilitate to ensure interpretation in situations, when interpreters from rare languages are needed and when specialists of such languages are not available in Lithuania. Of course, priority for personal participation of the interpreter shall be guaranteed. They suggest to supplement Article 8 of the CCP by a new paragraph 4, read as follows: “4. When direct participation of interpreter in criminal proceedings is not possible, interpretation services may be provided using the means of sound or video transmission.” <sup>42</sup> The Prosecutor General’ Office mentions that video recording can be used, as well as remote sound and video transmission means, but they refer to the legislative provisions Article 81, which provide the right to the witness to ask for video and sound recording, Article 149, which establishes a possibility to use video and sound recording during search and seizure on request of participating persons, Article 179, which establishes a possibility to video and sound recording during pre-trial investigation actions, Articles 183, 279 and 282, which establish a possibility

<sup>39</sup> See Art. 62, the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>40</sup> See Art. 63, the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>41</sup> Lithuania, representative of the Prosecutor General’s Office (*Generalinė prokuratūra*).

<sup>42</sup> Human Rights Monitoring Institute (*Žmogaus teisių stebėjimo institutas*), Letter to the Minister of Justice (*Teisingumo ministru*) of 29 April 2013, p. 2.

	to interview the witness through remote sound and video equipment, Article 285, which establishes a possibility to interview the expert through remote sound and video equipment of the CCP <sup>43</sup> , but no information on actual practice is available, if such technologies are actually used and how widely.
b) Which technologies are used, if any (videoconference, telephone, internet, etc.)	The National Courts Administration ( <i>Nacionalinė teismų administracija</i> ) published recommendations on video conferencing for interviewing in international court proceedings in 2013 <sup>44</sup> , which deals with the challenges in using video conferencing, however it does not deal with practice on which technologies are being used in practice. It could only be implied from the legal regulation (CCP) that there is a possibility for using videoconferencing. By the Resolution of 28 April 2014 the Judicial Council ( <i>Teisėjų taryba</i> ) approved the Order on the Use of Video Conferencing Facilities during the Court Procedures ( <i>Dėl vaizdo konferencijų įrangos naudojimo teismo proceso metu tvarkos aprašo patvirtinimo</i> ) <sup>45</sup> . Even though this document does not specifically refer to its use for the purpose of interpretation, it could be concluded that it could probably be used for this purpose also.
c) Do competent authorities rely on the tools developed in the context of European e-Justice (e.g. information on courts with videoconferencing equipment provided on the European E-justice Portal)? <b>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</b>	No information on practice is available, as the National Courts Administration ( <i>Nacionalinė teismų administracija</i> ) (e-mail letter of inquiry of 27-04-2015) did not respond to an inquiry sent by the author of this Report. Additional contacts have been made with the National Courts Administration (telephone interview with the Deputy Director of the NCA of 9 June 2015) and it was clarified that the judges working with international/European elements in the cases are using the tools and also the portal is quite known among the judges. Also, the NCA itself issued a guide on using video-conferencing equipment in Lithuanian language.

<sup>43</sup> Lithuania, representative of the Prosecutor General's Office (*Generalinė prokuratūra*).

<sup>44</sup> National Courts Administration (*Nacionalinė teismų administracija*) (2013), Recommendations on video conferencing for interviewing in international court proceedings (*Vaizdo konferencinės apklausos tarpvalstybiniuose teismo procesuose. Patarimai ir rekomendacijos*), available at: [www.teismai.lt/data/public/uploads/2014/12/vaizdo-konferenciniu-apklausu-vadovas\\_2013.pdf](http://www.teismai.lt/data/public/uploads/2014/12/vaizdo-konferenciniu-apklausu-vadovas_2013.pdf) [accessed on 10-03-2015].

<sup>45</sup> The Judicial Council (*Teisėjų taryba*), Resolution on the Order on the use of Video Conferencing Facilities during the Court Procedures No. 13P-156 (7.1.2.) (*Dėl vaizdo konferencijų įrangos naudojimo teismo proceso metu tvarkos aprašo patvirtinimo*), 28 April 2014, available at: [www.e-tar.lt/portal/lt/legalAct/85236bf079ff11e48167c6ffb928f88d](http://www.e-tar.lt/portal/lt/legalAct/85236bf079ff11e48167c6ffb928f88d).

	TRAINING <sup>46</sup>	Yes	No	Brief Description
1.5	Are providers of judicial training requested to pay special attention to the particularities of communicating with the assistance of an interpreter so as to ensure efficient and effective communication? If yes, briefly provide details.	Yes		<p>The Table of Correspondence mentions that this requirement of the Directive is fully implemented<sup>47</sup>, however fails to provide information as to whether trainings for judiciary take into account these issues and refers to general information about the Judiciary Training Centre (<i>Teisėjų mokymo centras</i>), which is under the subordination of the National Courts Administration (<i>Nacionalinė teismų administracija</i>), and is responsible for provision of training to the judiciary. This does not allow to conclude that these issues are taken into account. According to the information of the National Courts Administration, trainings for judges include topics with regard to effective communication and situations are analysed during the trainings when problems of communication arise with the participants of the process. The following trainings have been carried out so far or are in the pipeline:</p> <ul style="list-style-type: none"> <li>(a) Communication specifics with persons having various disabilities. Practical advise for communication with persons with disabilities (4 academic hours). Trainings on this topic were carried out twice in 2014 and 2015.</li> <li>(b) Psychology of communication with process participants. Identification of persons with emotional instability or intellectual impairment and specifics of communicating with them. Management of conflict situations (6 academic hours). Training on this topic is envisaged for 9 times in 2015, while 3 trainings have already been carried out<sup>48</sup>.</li> </ul>

<sup>46</sup> See in particular Article 6 and relevant recitals of Directive 2010/64/EU.

<sup>47</sup> Ministry of Justice (2013), Coordination Certificate as regards the law project amending the CCP (*Derinimo pažyma dėl Lietuvos Respublikos Baudžiamojo proceso kodekso priedo papildymo įstatymo projekto*), p. 47.

<sup>48</sup> Lithuania, representative of the National Courts Administration (*Nacionalinė teismų administracija*).

2.	RIGHT TRANSLATION DOCUMENTS <sup>49</sup>	TO OF	Brief Description
2.1	<p><b>Please provide answers to the following for each stage of proceedings as indicated below:</b></p> <p>a) Which documents (according to national law or established practice) are considered essential to translate in order to safeguard the fairness of the proceedings?</p> <p>b) Who bears the cost of translation at each stage?</p> <p>c) What is the timeframe (deadline) for the translation of documents at each stage of the proceedings?</p> <p><b>Please cross-check findings from the desk-research by consulting relevant organisations and/or practitioners.</b></p>		
2.1.1	<ul style="list-style-type: none"> <li>• police questioning;</li> </ul>		<p>a) Current legal regulation provides that translation is ensured for documents which are handed over directly to persons according to Article 8 para 3 of the CCP. Documents of the case that are delivered to the suspects, accused persons or convicted persons, as well as other participants of the process, shall be translated to their mother tongue or other language, which they know.<sup>50</sup> However, according to non-governmental organizations, the CCP provides for handing over of documents not in all cases, when personal freedom is substantively limited. For instance, no provisions exist concerning the handing over to the suspects or the accused persons of resolutions to assign arrest or home arrest, correspondingly there is no obligation to translate those documents. Thus non-governmental organizations suggest to introduce a new paragraph 6 in Article 121 of the CCP that the suspects or the accused persons are handed over the documents according to which a measure of remand is assigned, thereby ensuring the translation of the document to a language that the person understands<sup>51</sup>. The Prosecutor General's Office clarifies that as there is a right to receive the documents that should be served upon the suspects and the accused persons under Article 8 of the CCP, no refusal of translation is possible<sup>52</sup>.</p> <p>b) The Order of the establishment of the amounts of the sums to be paid to the witnesses, victims, experts, specialists and interpreters and their payment in the Criminal and Administrative Offences' Proceedings (<i>Vyriausybės Nutarimas Nr. 524 dėl liudytojų, nukentėjusių, ekspertams, specialistams ir vertėjams išmokėtinų sumų dydžio nustatymo ir apmokėjimo baudžiamajame procese ir administracinių teisės pažeidimų teisenoje tvarkos patvirtinimo</i>) of 25 April 2003 (see 1.1.1 (c) above).</p> <p>c) According to the Order on Organisation of Interpretation approved by the Prosecutor General on 28 April 2014, there are no specific time limits for translations provided, but translations are classified as very urgent (when the translation should be performed during the same day or within several hours, assigned to one or several</p>

<sup>49</sup> See in particular Articles 3 and 4 and relevant recitals of Directive 2010/64/EU.

<sup>50</sup> See Art. 8 (3), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>51</sup> Human Rights Monitoring Institute (*Žmogaus teisių stebėjimo institutas*), Letter to the Minister of Justice (*Teisingumo ministru*) of 29 April 2013, p. 2-3.

<sup>52</sup> Lithuania, representative of the Prosecutor General's Office (*Generalinė prokuratūra*).

	<p>translations depending on the length of the materials to be translated), urgent (assigned to several translators) and of normal urgency (assigned to one translator)<sup>53</sup>.</p>
<p>2.1.2</p> <ul style="list-style-type: none"> <li>• court hearings;</li> </ul>	<p>a) Current legal regulation does not fully implement Article 3 paras 2 and 3 of the Directive. According to Article 8 para 3 of the CCP, only those documents that are handed over to the person are translated. However, not all documents are handed out. Thus, the CCP does not provide for handing over of documents in all cases when person's freedom is restricted. For instance, Article 125 para 3 provides that "<i>decision or resolution to assign a measure of remand shall be notified to the suspect upon signature</i>". Thus the decision providing for the deprivation of personal liberty (resolution to assign arrest) is not handed over and consequently, not translated to the person. Thus non-governmental organizations suggest that all decisions or resolutions concerning assignment of measures of remand are handed over to the suspects and the accused. Also, the CCP does not provide for a possibility to adopt individual decisions concerning the necessity to translate certain documents, thus non-governmental organizations suggest to establish a possibility for the suspects and accused persons to submit motivated requests for translation of separate documents of the criminal proceedings<sup>54</sup>.</p> <p>In practice, there are problems. For instance, in currently pending embezzlement case of important energy company in Lithuania, the suspected person is a French national and the prosecutors refused to translate the expert conclusions to French (around 1706 pages), even though they were obliged to do it by the Vilnius district court (<i>Vilniaus apylinkės teismas</i>). The prosecutor appealed such a resolution of the court, but the court of appellate instance rejected the appeal as inadmissible on the basis that court resolutions in response to the request of the parties to the process are not subject to appeals. The interpretation was requested with a purpose that one of the former heads of the company who is currently charged with embezzlement, would understand the process.<sup>55</sup></p> <p>b) Article 104 of the CCP provides that the court from its budget covers the costs of interpretation/translation. The Order of the establishment of the amounts of the sums to be paid to the witnesses, victims, experts, specialists and interpreters and their payment in the Criminal and Administrative Offences' Proceedings (<i>Vyriausybės Nutarimas Nr. 524 dėl liudytojų, nukentėjusių, ekspertams, specialistams ir vertėjams išmokėtinų sumų dydžio nustatymo ir apmokėjimo baudžiamajame procese ir administracinių teisės pažeidimų teisenoje tvarkos patvirtinimo</i>) provides detailed regulation on how the costs to interpreters are paid (see 1.1.1 above).</p>

<sup>53</sup> Lithuania, Prosecutor General's Office, the Order No. I-87 on organisation and performance of Interpretations at the prosecutor's office of the Republic of Lithuania (*Vertimų organizavimo ir atlikimo Lietuvos Respublikos prokuratūroje tvarkos aprašas, patvirtintas LR generalinio prokuroro įsakymu*), 28 April 2014, para. 17.

<sup>54</sup> Human Rights Monitoring Institute (*Žmogaus teisių stebėjimo institutas*), Letter to the Minister of Justice (*Teisingumo ministru*), 29 April 2013, p. 6-7.

<sup>55</sup> Kuizinaite, M., Vilnius energy case: prosecutors avoid interpreter's work (*"Vilniaus energijos" byla: prokurorai kratosi vertėjų darbo*), 13 May 2015, available at: [www.lrytas.lt/lietuvos-diena/kriminalai/vilniaus-energijos-byla-prokurorai-kratosi-verteju-darbo.htm](http://www.lrytas.lt/lietuvos-diena/kriminalai/vilniaus-energijos-byla-prokurorai-kratosi-verteju-darbo.htm) [accessed on 14-05-2015].

		c) There is an Order on Organisation of Interpretation in the offices of prosecutors, approved by the Prosecutor General on 28 April 2014, however no similar document was publicly available to the author of this Report concerning the organisation of interpretation/translation in the courts.
2.1.3	• any necessary interim hearings;	a) same as for the courts, see 2.1.2 above b) same as for the courts, see 2.1.2 above c) same as for the courts, see 2.1.2 above
2.1.4	• any communication between suspects and accused persons and their legal counsel in direct connection with any questioning or hearing during the proceedings?	a) The Law on State Guaranteed Legal Aid envisages provision of state guaranteed legal aid to persons to enable them to defend their rights and interests. Art. 18(11) of the Law provides that advocates provided secondary legal aid must communicate with the applicants in the language they understand. If this is not possible, translation in such communication shall be guaranteed. The CCP does not provide for a possibility to adopt individual decisions concerning the necessity to translate certain documents, thus NGOs suggest to envisage a possibility for the suspect and accused to submit motivated requests for translation of separate documents of the criminal proceedings <sup>56</sup> . There are no specific practical problems with regard to implementation of the right to translation of documents in the communication between the lawyer and a suspect or accused person, but it is likely that similar problems could be experienced as with interpretation (see 1.1.4 above) because of the absence of detailed legal regulation. b) The Law on State Guaranteed Legal Aid <sup>57</sup> provides that state costs for free legal aid also cover the costs of translation during the communication of the persons providing state guaranteed legal aid and the applicants, when it is not possible to ensure communication in a language that the applicants understand. The Order of the establishment of the amounts of the sums to be paid to the witnesses, victims, experts, specialists and interpreters and their payment in the Criminal and Administrative Offences' Proceedings ( <i>Vyriausybės Nutarimas Nr. 524 dėl liudytojų, nukentėjusių, ekspertams, specialistams ir vertėjų išmokėtinų sumų dydžio nustatymo ir apmokėjimo baudžiamajame procese ir administracinių teisės pažeidimų teiseje tvarkos patvirtinimo</i> ) provides detailed regulation on how the costs to interpreters are paid, but does not specify it apart from interpretations, it is also applicable to translations. The Order on Organisation of Interpretation approved by the Prosecutor General on 28 April 2014 regulates translations only in as much as it is requested by the pre-trial officer or prosecutor, but not during the communication between the suspects/accused persons and the lawyers. Thus there is no clear and detailed legal regulation of this issue, as confirmed also by the Seimas Ombudsperson in 2015 <sup>58</sup> .

<sup>56</sup> Human Rights Monitoring Institute (*Žmogaus teisių stebėjimo institutas*), Letter to the Minister of Justice (*Teisingumo ministru*), 11 February 2013, p. 6-7.

<sup>57</sup> See Article 14 (10), the Law on State Guaranteed Legal Aid of the Republic of Lithuania (*Lietuvos Respublikos Valstybės garantuojamos teisinės pagalbos įstatymas*), 28 March 2000.

<sup>58</sup> The Seimas Ombudsperson's Office (*Seimo kontrolierių įstaiga*), A report regarding the complaint against the Ministry of Justice No. 4D-2014/1-1593, 25 February 2015, p. 5 (on file with the author of this Report).



		c) No regulation on this issue is available and no information was provided on this point by the practitioners.
2.2	How do the competent authorities ascertain whether oral translation or oral summary of essential documents may be provided instead of a written translation? <b>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</b>	The CCP does not provide for a possibility to adopt individual decisions concerning the necessity to translate certain documents, thus non-governmental organizations suggest to establish a possibility for the suspects and accused persons to submit motivated requests for translation of separate documents of the criminal proceedings <sup>59</sup> .
2.3	Please describe procedures in place, if any, to ensure that suspects or accused persons have the right to challenge the decision that no translation is needed? <b>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</b>	There are no specific provisions in the legislation concerning the possibility to challenge the decision not to provide translation, but it is considered that the general norms concerning submission of complaints could be applicable in such a case. According to the general rules, the suspects have the right to submit complaints and requests. They have a right to challenge the actions and decisions of pre-trial officer or prosecutor, and also actions and resolutions of pre-trial judge in certain cases. Complaints concerning the actions of pre-trial investigation officer may be submitted to the prosecutor who is organising and leading the investigation <sup>60</sup> . Complaints are submitted to the chief prosecutor directly or through the pre-trial officer, whose procedural actions or resolutions are being complained against. Complaints may be written or oral. Pre-trial officer or prosecutor shall draft a protocol for oral complaints. It shall be signed by the applicant and the pre-trial officer or prosecutor who received a complaint. <sup>61</sup> Pre-trial officer shall forward the complaints received together with his explanations to the prosecutor within one day from its' receipt. <sup>62</sup> The submission of the complaint does not suspend the execution of the action or resolution against which complaint is lodged, except when the pre-trial officer or a prosecutor considers it necessary. <sup>63</sup> Complaints regarding the actions and resolutions of the prosecutor can be submitted to chief prosecutor, it may be submitted either directly or through the prosecutor, which actions or resolutions are complained against. The

<sup>59</sup> Human Rights Monitoring Institute (*Žmogaus teisių stebėjimo institutas*), Letter to the Minister of Justice (*Teisingumo ministru*), 11 February 2013, p. 6-7.

<sup>60</sup> See Art. 62 (1), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>61</sup> See Art. 62 (2), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>62</sup> See Art. 62 (3), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>63</sup> See Art. 62 (4), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

		<p>same order applies as for submission of complaints under Art. 62 of the CCP described above. If chief prosecutor refuses a complaint an appeal can be submitted to the pre-trial judge.<sup>64</sup> Complaints against the actions or resolutions of pre-trial officer or prosecutor may be lodged during pre-trial investigation save some exceptions. Prosecutor or pre-trial judge shall examine it within 10 days from receipt of complaint or receipt of necessary information and adopt a resolution or decision. If appeal is satisfied, the decision states the violations and recommends corrective actions; if rejected – motives for rejection are stated. The prosecutor or pre-trial judge may familiarise with the pre-trial investigation documents and request explanations of pre-trial officer or prosecutor, if not submitted earlier. When pre-trial judge examines complaint, a hearing may be called, where prosecutor, suspect or his defense, complainant shall be invited. If necessary, suspect who is detained shall be brought against the pre-trial judge. Decisions concerning complaint adopted shall be communicated to the person who submitted the complaint. If complaint is satisfied, decision or resolution is to be sent to the officer or prosecutor conducting pre-trial investigation for execution. The decision of pre-trial judge shall be final and not subject to appeal save exceptions provided by the Code.<sup>65</sup> The author of this Report requested the Prosecutor General's Office to provide information on practical implementation of this right, but response contained legal references only, thus no information on practice can be provided. It should be noted that practical problems could be faced if the court refuses translation, as the Court of appellate instance may reject the complaint on similar grounds as reported above (see 2.1.2 above).</p>		
		<b>Yes</b>	<b>No</b>	<b>Brief Description</b>
<b>2.4</b>	Do all documents that the suspected or accused person has to sign during the proceedings have to be translated?	Yes		However, current legal regulation provides that translation is only provided of those documents, which are delivered to the person according to Article 8 para 3 of the CCP, but not all documents (e.g., decisions to order detention or arrest of the suspect or accused person). Thus non-governmental organizations recommend to amend the CCP introducing a provision ensuring that the suspects or the accused persons are handed over documents on assigning remand measure, and that the document is translated to a language that they understand <sup>66</sup> .
<b>2.5</b>	Is it possible to waive the right to translation of documents and if so, what form can it have and under		No	The legislation does not specifically provide for the waiver of rights, but since it is a right, the persons may not claim them if they do not wish to make use of the right. Also, according to the Prosecutor General's Office, rights provided in Article 8 of the CCP cannot be refused by the officials <sup>67</sup> .

<sup>64</sup> See Art. 63, the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>65</sup> See Art. 64, the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>66</sup> Human Rights Monitoring Institute (*Žmogaus teisių stebėjimo institutas*), Letter to the Minister of Justice (*Teisingumo ministru*), 29 April 2013, p. 2.

<sup>67</sup> Lithuania, representative of the Prosecutor General' Office.

which conditions can it be accepted?			
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<b>3.</b>	<b>RIGHTS CONCERNING BOTH INTERPRETATION AND TRANSLATION<sup>68</sup></b>			
<b>3.1</b>	<b>With regard to use of registers of interpreters and translators in EU Member States:</b>	<b>Yes</b>	<b>No</b>	<b>Brief Description</b>
	a) Do national databases or registers exist for legal translators and interpreters?		NO	Lithuania does not have a national database or register for legal translators and interpreters. According to the position of the Ministry of Justice ( <i>Teisingumo ministerija</i> ), Lithuanian district courts, district administrative courts and regional courts have contacts of interpreters, while other courts assign interpreters through public procurement procedures, thus there is no need for such a register. However, according to the non-governmental organizations, the existence of such a register that would include qualified interpreters of necessary languages would ensure a possibility to find them quickly when they are needed for pre-trial institutions and courts in the first stages of the criminal proceedings. Such a register would be a useful tool facilitating the work of pre-trial institutions, in particular when interpretation from rare language is needed. Non-governmental organizations suggest to establish a register of independent and qualified interpreters and translators and adopt a by-law regulating operation of such a register <sup>69</sup> .
	b) Do translators and interpreters have to be listed in databases/registers for their services to be used? In other words, is membership/registration mandatory?		NO	Lithuanian district courts, district administrative courts and regional courts have positions of interpreters, while other courts assign interpreters through public procurement procedures, thus there are no requirements to be listed in registers/databases. It should be also mentioned that courts usually have interpreters from English and Russian languages <sup>70</sup> .

<sup>68</sup> See in particular Article 5 and relevant recitals of Directive 2010/64/EU.

<sup>69</sup> Human Rights Monitoring Institute (*Žmogaus teisių stebėjimo institutas*), Letter to the Minister of Justice (*Teisingumo ministrui*), 29 April 2013, p. 3-4.

<sup>70</sup> Human Rights Monitoring Institute (*Žmogaus teisių stebėjimo institutas*), Letter to the Minister of Justice (*Teisingumo ministrui*), 11 February 2013, p. 7-8.

c) Who has access to these databases?	<b>Brief Description:</b> Lithuania does not have a database of interpreters.		
d) Which professional qualifications are needed by: <ul style="list-style-type: none"> <li>• translators and</li> <li>• interpreters</li> </ul> in order to be registered in the database?	<b>Brief Description:</b> Lithuania does not have a database of interpreters. The Lithuanian Bar Association ( <i>Lietuvos advokatūra</i> ) and the Human Rights Monitoring Institute ( <i>Žmogaus teisių stebėjimo institutas</i> ) expressed concern at the end of 2014 that there is no real monitoring of the quality of interpretation, or self-regulatory mechanism for interpreters <sup>71</sup> .		
e) Are there any requirements in place to ensure the independence of interpreters and translators? If yes, provide a brief overview (for both translators and interpreters).	YES		The notion of interpreter in the CCP does not contain any specific requirements of independence of translators and interpreters. Article 43 of the CCP provides that an interpreter is a person who knows necessary languages and understands the signs language, and who is invited by the pre-trial officer, prosecutor, pre-trial judge or the court to participate in the court hearing in accordance with the order determined by this Code. The institutions consider <sup>72</sup> that the safeguards in the CCP ensure the independence and competence of interpreters: Article 33 of the CCP provides for an oath of interpreter; Articles 57-60 allow to raise an objection against the interpreter in the court, while one of the grounds for removal interpreters is a situation in which it proves that they are not competent (Article 58 para 3 of the CCP); Article 235 of the Criminal Code <sup>73</sup> providing for responsibility for fraudulent or clearly incorrect interpretation. Also, interpreters and translators working in the institutions, are subject to qualification requirements applicable in the institution, these requirements may differ depending on the institution. If interpreters' services are procured through public procurement, certain requirements are always applied (e.g., knowledge of language, experience, etc.), which also ensures the quality of interpretation. <sup>74</sup> However, Lithuanian Bar Association ( <i>Lietuvos advokatūra</i> ) states that there is a manifest lack of interpreters certification system, the availability of which would resolve also other problems of interpretation. They also report a problem concerning the compliance with confidentiality of client-advocate secret. Pre-trial institutions are

<sup>71</sup> More information available at: [www.bernardinai.lt/straipsnis/2014-08-04-reiskiamas-susirupinimas-del-es-direktyvu-baudziamajame-procese-igyvendinimo/120438](http://www.bernardinai.lt/straipsnis/2014-08-04-reiskiamas-susirupinimas-del-es-direktyvu-baudziamajame-procese-igyvendinimo/120438)

<sup>72</sup> Lithuania, representative of the Prosecutor General's Office.

<sup>73</sup> Lithuania, Seimas, the Criminal Code (*LR Baudžiamasis kodeksas*), 26 September 2000, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=494180](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=494180) [accessed on 17-02-2015].

<sup>74</sup> Ministry of Justice (2013), Coordination Certificate as regards the law project amending the CCP (*Derinimo pažyma dėl Lietuvos Respublikos Baudžiamojo proceso kodekso priedo papildymo įstatymo projekto*), p. 44.

				using the same interpreters who are assigned for participation in the communication between the suspects and the advocates. The loyalty of such interpreters to the institutions that pay for the services under service agreements (including the interests for the extension of these agreements) may raise doubts as to a possibility to ensure that details of communication do not reach the trial-officials <sup>75</sup> . The non-governmental organizations in addition mention that the CCP currently does not include any safeguards, which would directly ensure the confidentiality in provision of interpretation services, which would mean that interpreters would be bound not to reveal to third parties the information received in implementing its functions as an interpreter in the criminal proceedings. The CCP does not provide for an explicit obligation of the interpreter not to reveal to pre-trial officer, prosecutor or other persons the information received while interpreting between the suspect or the accused and their lawyers either. They therefore suggested to supplement Article 43 with the obligations of the interpreter on confidentiality and signature of the letter of confidentiality <sup>76</sup> .
	f) Is access to existing databases provided through the <a href="#">European e-Justice portal</a> ? <sup>77</sup> How is this register available to legal counsel and relevant authorities?		NO	Lithuania does not have a database of interpreters.
	g) Are criminal justice institutions required to use interpreters and translators listed in these registers?		NO	Lithuania does not have a database of interpreters.
<b>3.2</b>	<b>With regard to other mechanisms/procedures :</b>	<b>Yes</b>	<b>No</b>	<b>Brief Description</b>
	a) Are there other mechanisms or	YES		The Lithuanian Bar Association ( <i>Lietuvos advokatūra</i> ) and the Human Rights Monitoring Institute ( <i>Žmogaus teisių stebėjimo institutas</i> ) expressed concern in the end of 2014 that there is no real

<sup>75</sup> Lithuania, representative of the Lithuanian Bar Association (*Lietuvos advokatūra*).

<sup>76</sup> Human Rights Monitoring Institute (*Žmogaus teisių stebėjimo institutas*), Letter to the Minister of Justice (*Teisingumo ministru*), 29 April 2013, p. 4.

<sup>77</sup> <https://e-justice.europa.eu/home.do?plang=en&action=home> [accessed on 15-04-2015].

	<p>procedures in place to ensure the quality and independence of interpretation and translation during the course of the proceedings? Are there any quality checks? Who is responsible for carrying them out?</p>	(Partially)	<p>monitoring of the quality of interpretation, or self-regulatory mechanism for interpreters, thus it could be said that no other mechanisms or procedures exist to ensure the quality and independence of interpretation.<sup>78</sup> However, in practice, those interpreters who work as employees of the courts or institutions are subject to certain professional qualification requirements, which differ in different institutions and job descriptions. If interpreters are selected through public procurement procedures, the public procurement agreements may contain requirements concerning education (knowledge of language, experience, etc.) Thus this serves as one of the indicators of quality control of interpretation<sup>79</sup>. Also, the CCP contains a general right to raise an objection by the suspect or accused and other persons participating in the process concerning interpreter<sup>80</sup>. Article 58 of the CCP provides that interpreter, expert and specialist cannot participate in the proceedings when there are the grounds enumerated by the Code (e.g., if there is a family relationship to the persons participating in the proceedings, or he has an interest in the results of the proceedings, other motivated circumstances are raised that establish doubts on impartiality of the person concerned, as well as in cases when their lack of competence comes to the light). The fact that the interpreter has taken part in the pre-trial proceedings is not a ground to raise an objection. If grounds provided in Article 58 are established, the interpreter shall refrain from participation in the proceedings. All objections concerning interpreter shall be raised and motivated before the examination of evidence in the court. Later objections may be raised only in cases when the person raising objection got to know about the ground for objection only after commencement of evidence assessment.<sup>81</sup> Decision on objection concerning an interpreter is taken by the court that examines the case.<sup>82</sup> Also, raising objections concerning impartiality of an interpreter is provided during the pre-trial investigation pursuant to Article 60 of the CCP. The interpreter shall refrain from participation if conditions for doubting impartiality are established, as well as other participants of the process may raise objections to participation of the interpreter in the proceedings. Raising of objections shall be in writing and motives presented. Pre-trial officer or prosecutor takes a decision on objection raised and such decision shall be taken within the shortest time possible. If objection is rejected, resolution is adopted and notified to the applicant upon signature.</p>
	<p>b) Is there any procedure in place to ensure that</p>	<p>YES</p>	<p>The right to raise objections about impartiality or the quality of interpretation is provided in Articles 57-58 of the CCP. Article 58 of the CCP provides that interpreter, expert and specialist cannot</p>

<sup>78</sup> More information is available at: [www.bernardinai.lt/straipsnis/2014-08-04-reiskiamas-susirupinimas-del-es-direktyvu-baudziamajame-procese-igyvendinimo/120438](http://www.bernardinai.lt/straipsnis/2014-08-04-reiskiamas-susirupinimas-del-es-direktyvu-baudziamajame-procese-igyvendinimo/120438) [accessed on 18-04-2015].

<sup>79</sup> Ministry of Justice (2013), Coordination Certificate as regards the law project amending the CCP (*Derinimo pažyma dėl Lietuvos Respublikos Baudžiamojo proceso kodekso priedo papildymo įstatymo projekto*), p. 44.

<sup>80</sup> See Art. 57, the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>81</sup> See Art. 59 (1), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>82</sup> See Art. 59 (5), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

	<p>suspects or accused persons have the possibility, when interpretation and translation has been provided, to complain about the quality and independence of the interpretation and translation?</p>			<p>participate in the proceedings when there are the grounds enumerated by the Code (e.g., if there is a family relationship to the persons participating in the proceedings, or he has an interest in the results of the proceedings, other motivated circumstances are raised that establish doubts on impartiality of the person concerned, as well as in cases when their lack of competence comes to the light).</p>
	<p>c) Are there any mechanisms in place that allow for the replacement of the appointed interpreter or a new translation when the quality of the interpretation or the independence of the interpreter is considered insufficient? If yes, briefly provide information.</p>	YES		<p>See (b) above on Articles 57-58 of the CCP.</p>
<b>3.3</b>	<p>Are there special procedures designed to take into account the special needs of vulnerable suspects or vulnerable accused persons which affect their ability to communicate effectively?<sup>83</sup> If yes, briefly provide information on those mechanisms considering the following vulnerable groups:</p>			

<sup>83</sup> See in particular recital 27 of Directive 2010/64/EU.

	a) suspect or accused persons with physical impairment or disability;	YES		<p>The Code of Criminal Procedure does not include a separate chapter on such mechanisms, when suspects (accused persons) with physical impairment or disability are concerned, but there are special guarantees provided for persons with impairments and disabilities. The CCP distinguishes the following persons with physical impairments: blind, mute, deaf and other persons who due to physical or intellectual impairments cannot make use of the right to defense.<sup>84</sup> However there are some exceptions in the criminal proceedings. The CCP provides for additional guarantees for the protection of interests of persons with disabilities (suspects, accused persons). The following guarantees are specifically provided to address the issue of communication:</p> <p>1) Article 43 of the CCP provides that an interpreter is a person who knows necessary languages and understands the sign language, and who is invited by the pre-trial officer, prosecutor, pre-trial judge or the court to participate in the court hearing in accordance with the order determined by this Code. Thus at the legislative level, the possibility to assist the person with physical impairments in communication is provided.</p> <p>2) Recording of investigation actions and results (Article 179 para 3 of the CCP). During investigation, certain actions are performed and protocols recorded. Investigation may also involve taking photos, videos, making sound and video records, making prints of traces, drawing of plans and schemes and other methods of recording are used. Records shall be signed by the person having conducted the investigative action, the person having concluded the record and all other persons having participated in the investigative action. If the person cannot sign a protocol due to physical impairment or other reasons, this shall be marked in the record and the person having conducted the investigation shall mark it with his signature.</p>
	b) suspect or accused persons with intellectual impairment or disability;	YES		The same applies as for suspects or accused persons with physical impairments and disability as described above.
	c) i) children who are suspects/defendants, and/or ii) holders of parental responsibility (please distinguish between the two).	YES		<p>There are special guarantees applicable to children who are suspects/defendants in the CCP with regards to mandatory participation of the defense counsel (Article 51 para 1 point 1 – cases when minors are suspected or accused of certain actions) and point 3 – when examining cases of persons who do not know the language of the process.</p> <p>Specific regulation for holders of parental responsibility in this particular area was not available to the author of this Report.</p>
<b>3.4</b>	Is there any recording procedure to note that	YES		The records (minutes) of investigative actions and results is regulated by Article 179 of the CCP. According to the law, during the investigation, certain actions are performed and records are made.

<sup>84</sup> See Art. 51 (1) and (2), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.



	<p>interpretation and translation have occurred and in which form?<sup>85</sup> If yes, briefly provide information on how this procedure is organised in practice.</p>		<p>Investigation may also involve taking photos, videos, making sound and video records, making prints of traces, drawing of plans and schemes and other methods of recording are used. Records (minutes) are concluded by the person who is conducting investigation or is assisting with investigation. The record is concluded during the investigative acton or immediately after its completion. It shall include the place and time (date and hour) of the investigative action, the person performing the investigation and all persons who are participating, the testimony of persons interviewed or description of other investigative actions and results; statements of persons who participated while performing the investigative act. If technical means were used the conditions and order of their use shall be provided. Records shall be signed by the person having conducted the investigative action, the person having concluded the record and all other persons having participated in the investigative action. If the person cannot sign a record due to physical impairment or other reasons, this shall be marked in the protocol and the person having conducted the investigation shall mark it with the signature. As the law provides for signature by other persons having participated in the investigative action, the interpreters/translators shall sign the records, thus the information about translation/interpretation would be recorded. The Prosecutor General's Office also confirmed this fact<sup>86</sup>.</p> <p>Records (minutes) of court hearing is regulated by Article 261 of the CCP. It provides that also the information about interpreter and other persons invited by the court shall be included in the record. In addition, each court hearing is recorded by sound record. Information about sound recording is mentioned in the record of the court hearing.</p>
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<sup>85</sup> See in particular Article 7 and relevant recitals of Directive 2010/64/EU.

<sup>86</sup> Lithuania, representative of the Prosecutor General's Office.

## SECTION B: RIGHT TO INFORMATION IN CRIMINAL PROCEEDINGS

1.	PROVISION OF INFORMATION ON THE PROCEDURAL RIGHTS <sup>87</sup>	Brief Description
1.1		<p><b>Please provide answers to the following for each stage of proceedings as indicated below:</b></p> <p>a) What information is provided?            b) How is it provided (e.g. orally or in writing)?            c) What is the timeframe (deadline) for providing information?</p> <p><b>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</b></p>
	<ul style="list-style-type: none"> <li>• police questioning;</li> </ul>	<p>According to the Code of Criminal Procedure, arrested persons shall be informed without a delay about the reasons of their arrest in a language that they understand.<sup>88</sup> Persons who are suspected or accused of having committed a crime have a right to receive prompt and comprehensive explanation in a language that they understand about the nature and the ground of accusations against them, shall be provided sufficient time and possibilities to prepare for defense, ask questions to the witnesses or request for their questioning, make use of free interpretation services, if they do not understand or speak Lithuanian.<sup>89</sup> Article 187 para 1 of the CCP provides that the suspects shall be informed about their rights in writing by submitting a notification about suspicion (or resolution of the prosecutor to consider them as a suspect), which shall also contain the list of procedural rights of the suspected persons. This shall be done before the first interview and the suspects shall sign upon it. Previously, non-governmental organizations reported that according to the established practice, suspects are usually informed orally about their procedural rights by simply reading the list of procedural rights contained in Article 21 para 4 of the CCP. It was also underlined that Article 21 para 4 of the CCP did not contain a right to remain silent or a right not to submit testimonies. Thus, according to the non-governmental organizations, the legal regulation and established practice did not guarantee the implementation of Article 3 para 1 point (e) of the Directive. They suggested to supplement Articles 21 para 4 and 188 para 3 of the CCP with the explicit right of the suspected persons to refuse providing testimony<sup>90</sup>. In May 2014 Article 21 para 4 of the CCP was amended aiming to implement the Directive's provisions and it currently includes also the right to remain silent and not to submit testimonies<sup>91</sup>. This Article also includes references</p>

<sup>87</sup> See in particular Article 3 and relevant recitals of Directive 2012/13/EU.

<sup>88</sup> See Art. 44 (2), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>89</sup> See Art. 44 (7), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>90</sup> Human Rights Monitoring Institute (*Žmogaus teisių stebėjimo institutas*), Letter to the Minister of Justice (*Teisingumo ministrui*), 11 February 2013, p. 2.

<sup>91</sup> Lithuania, Seimas, The Law amending Articles 21, 22 and the Annex to the Code of Criminal Procedure (*LR baudžiamojo proceso kodekso 21, 22 straipsnių ir priedo pakeitimo įstatymas*), 15 May 2014, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=471247](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=471247) [accessed on 18-05-2015].

		<p>to other rights of the suspected person: the reasons of accusation, the right to have a lawyer, the right to interpretation and translation, right to testify or remain silent and others, as provided in Article 3 of the Directive.</p> <p>b) Article 187 para 1 of the CCP provides that the suspects shall be informed about their rights in writing by submitting a notification about accusation (or resolution of the prosecutor to consider them as suspects), which shall also contain the list of procedural rights of the suspected persons. This shall be done before the first interview and the suspects shall sign upon it. The Table of Correspondence of the Directive provides that this provision of the Directive is implemented by Articles 8 and 44 of the CCP, which regulate the right to interpretation and the status of an interpreter as a participant of the process, while Article 44 lists the main rights of the persons during the criminal proceedings. According to the non-governmental organizations none of the two mentioned articles regulates the information of the persons about the rights established in Article 3 para 2 of the Directive, thus they are of the opinion that these articles cannot be considered as implementing the requirement in question of the Directive. They also mention that according to the established practice, suspects are usually informed orally about their procedural rights by simply reading the list of procedural rights contained in Article 21 para 4 of the CCP. According to the non-governmental organizations, such listing of the rights while using the legal terminology of the CCP and without providing any additional explanations about the content of such rights and the order on how these rights could be implemented, cannot be considered as a “simple and accessible language”, as required in the Directive<sup>92</sup>.</p> <p>c) Legislation does not establish a timeframe, but provides for prompt information, which shall be done before the first interview (Articles 44 para 7 , 187 para 1 of the CCP). Concerning other stages of the procedure, Article 22 para 3 of the CCP was amended in May 2014 aiming to implement the Directive and it now provides that the accused persons have a right to know the accusations, [...], have a lawyer, receive interpretation and translation, etc. However it does not contain an explicit right to be informed about the availability of these rights.</p>
	<ul style="list-style-type: none"> <li>• court hearings;</li> </ul>	<p>a) Article 22 para 3 of the CCP was amended in May 2014 aiming to implement the Directive and it now provides that the accused persons have a right to know the accusations, [...], have a lawyer, receive interpretation and translation, etc. Article 45 of the CCP establishes a duty of the judge, prosecutor and pre-trial officer to explain the procedural rights to the participants of the process and make sure that they are able to exercise these rights.</p> <p>b) The CCP only mentions that the chairperson of the trial hearing explains the rights and obligations provided by the Code to the accused, their representative according to the law, victim, civil claimant, civil defendant and their representatives, but does not mention the form in which it is implemented<sup>93</sup>. In practice, the judges read the procedural rights orally to the person during the court hearing.</p> <p>c) The legislation does not provide any specific time limit. In practice, this is done in the very beginning of the court hearing.</p>
		<p>a) It is the same as for the courts</p>

<sup>92</sup> Human Rights Monitoring Institute (*Žmogaus teisių stebėjimo institutas*), Letter to the Minister of Justice (*Teisingumo ministru*), 11 February 2013, p. 2-3.

<sup>93</sup> See Art. 268, the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

	<ul style="list-style-type: none"> <li>any necessary interim hearings;</li> </ul>	<p>b) It is the same as for the courts</p> <p>c) It is the same as for the courts</p>
	<ul style="list-style-type: none"> <li>any communication between suspects and accused persons and their legal counsel in direct connection with any questioning or hearing during the proceedings?</li> </ul>	<p>a) There is no specific information available.</p> <p>b) There is no specific information is available.</p> <p>c) There is no specific information is available.</p>
<b>1.2</b>	<p>Do authorities provide information about any other procedural rights (apart from those established in Article 3 of the Directive)? If yes, briefly provide information.</p>	<p>Following the amendments of Article 21 para 4 and Article 22 para 3 of the CCP in May 2014<sup>94</sup> with a view of transposition of the Directive's provisions, Article 21 para 4 currently includes also references to other rights of the suspected persons: the right to inform consular offices and one person, receive urgent medical assistance, to be informed of the maximum number of hours or days that he may be deprived of liberty before being brought before a judicial authority, provide documents and things that could have importance for the investigation; submit requests, raise objections, familiarise with the materials of pre-trial investigation, appeal against the actions or decisions of pre-trial officer, prosecutor or pre-trial judge. Also, Article 22 para 3 of the CCP as amended, in addition to information about the rights mentioned in Article 3 of the Directive, also contains the following procedural rights of the accused person: receive the copy of the accusation, get acquainted with the case file in the court, make extracts and copies of the necessary documents according to the established order, inform consular offices and one person, receive urgent medical assistance, submit requests, raise objections, submit evidences and participate in its investigation, raise questions in the court, provide explanations about the circumstances of the case analysed by the court and present his opinion concerning the requests submitted by other participants of the court examination, participate in the final speeches, when there is no advocate, to apply to the court with the last word, appeal against the decision and resolution of the court.</p>
<b>2.</b>	<b>LETTER OF RIGHTS<sup>95</sup></b>	<b>Brief Description</b>
<b>2.1</b>	<p>What rights does the letter of rights provide information about? What</p>	<p>Following the amendments to Article 21 para 4 and Article 22 para 3 of the CCP in May 2014<sup>96</sup> with a view of transposition of the Directive's provisions, Article 21 para 4 currently includes the following rights of the suspected person: to know the accusation, to have a lawyer from the moment of arrest or first interview, get interpretation and</p>

<sup>94</sup> Lithuania, Seimas, The Law amending Articles 21, 22 and the Annex to the Code of Criminal Procedure (*LR baudžiamojo proceso kodekso 21, 22 straipsnių ir priedo pakeitimo įstatymas*), 15 May 2014.

<sup>95</sup> See in particular Article 4 and relevant recitals of Directive 2012/13/EU.

<sup>96</sup> Lithuania, Seimas, The Law amending Articles 21, 22 and the Annex to the Code of Criminal Procedure (*LR baudžiamojo proceso kodekso 21, 22 straipsnių ir priedo pakeitimo įstatymas*), 15 May 2014.

<p>information is included in the letter of rights when children are arrested or detained?</p>	<p>translation, the right to inform consular offices and one person, receive urgent medical assistance, to be informed of the maximum number of hours or days that he may be deprived of liberty before being brought before a judicial authority, provide documents and things that could have importance for the investigation; submit requests, raise objections, familiarise with the materials of pre-trial investigation, appeal against the actions or decisions of pre-trial officer, prosecutor or pre-trial judge. Also, Article 22 para 3 of the CCP as amended, in addition to information about the rights mentioned in Article 3 of the Directive, also contains the following procedural rights of the accused person: receive the copy of the accusation, familiarize with the case in the court, make extracts and copies of the necessary documents according to the established order, inform consular offices and one person, receive urgent medical assistance, submit requests, raise objections, submit evidences and participate in its investigation, raise questions in the court, provide explanations about the circumstances of the case analysed by the court and present his opinion concerning the requests submitted by other participants of the court examination, participate in the final speeches, when there is no advocate, to apply to the court with the last word, appeal against the decision and resolution of the court. Furthermore, according to the Table of Correspondence with the Directive<sup>97</sup>, the provisions of the Directive in this respect are implemented by Article 187 para 1 of the CCP and other Articles of the Code. This Article provides for a letter of rights, which shall be handed over to the person upon signature. This letter provides the criminal activity (place, time and other circumstances of it) and criminal law, providing for penalisation for such an activity, as well as procedural rights of the suspect are listed. However, it seems that not all the rights provided in Article 4 para 3 of the Directive are not part of the list of procedural rights: it does not contain basic information about any possibility, under national law, of challenging the lawfulness of the arrest; obtaining a review of the detention; or making a request for provisional release. However, the letter of rights which is handed over to the arrested person is regulated by Article 44 para 7 of the CCP and it provides that each person who is suspected or accused in having committed a crime has a right to receive prompt and comprehensive explanation in a language that he understands about the nature and ground of accusations against him, shall be provided sufficient time and possibilities to prepare for defense, pose questions to the witnesses or request for their questioning, make use of free interpretation services, if does not understand or speak Lithuanian. Also, according to Article 44 para 8 each person who is suspected or accused in having committed a crime has a right to defend himself or through an advocate. If he has no sufficient resources to pay for an advocate, he shall receive free legal aid in accordance with the order of the law regulating provision of state guaranteed legal aid. See 2.3 below on the content of the Model Letter of Rights. According to the Prosecutor General's Office the letter served upon a minor about the rights does not differ in its content from the other letters, provided to the adults<sup>98</sup>.</p>
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<sup>97</sup> Human Rights Monitoring Institute (*Žmogaus teisių stebėjimo institutas*), Letter to the Minister of Justice (*Teisingumo ministru*), 11 February 2013, p. 3.

<sup>98</sup> Lithuania, representative of the Prosecutor General's Office.

2.2	At what stage of the proceedings is the letter of rights provided? <b>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</b>	The law provides for prompt notification about the ground of arrest <sup>99</sup> and the nature of accusation and its grounds. <sup>100</sup> The letter of rights shall be provided before the first interview during pre-trial investigation <sup>101</sup> . The practitioners report that following the approval of the Model forms of record on explanation of rights of the suspect by the Order No. I-288 of the Prosecutor General of 29 December 2014, the number of problems has decreased (e.g. previously the rights were frequently just formally read through as they are spelled out in the CCP without any explanation) <sup>102</sup> .
2.3	Is the letter of rights drafted in simple and accessible language? How do competent authorities verify whether the language is simple and accessible enough for the suspects or accused persons and/or that the suspects or accused persons understand the language? <b>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</b>	The Table of Correspondence states that this provision of the Directive is implemented by Article 44 para 2 of the CCP, which provides that arrested persons shall be informed about the grounds of arrest in a language that they understand [...]. However, as non-governmental organizations report, this provision of the Code is meant for informing the person about the grounds of arrest, but not about procedural rights, while the provisions of the Directive have namely this objective <sup>103</sup> . This situation changed to a certain extent after the Model of notification about the accusation was approved by the Order of the Prosecutor General No. I-288 of 29 December 2014 (see below). It was already reported previously, that the procedural rights are usually read through as they are provided in the laws and not explained in a simple and accessible language. The written form of informing the suspects of their rights is approved by the Order of the Prosecutor General No. I-288 of 29 December 2014 ( <i>LR generalinio prokuroro įsakymas dėl baudžiamojo proceso dokumentų formų patvirtinimo</i> ) <sup>104</sup> . This order contains several forms: a) A form of a record of notification of the rights about a representative; b) Record of notification of the procedural rights to the suspect; c) Annex to the record of notification of the rights of the suspected person, i.e. “Letter of Rights”. This letter largely repeats the provisions of the CCP in a similar language to the law. d) Annex to the record of notification of the rights of the suspected person.

<sup>99</sup> See Art. 44 (4), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>100</sup> See Art. 44 (7), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>101</sup> See Art. 187 (1), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>102</sup> Lithuania, representative of the Lithuanian Bar Association (*Lietuvos advokatūra*).

<sup>103</sup> Human Rights Monitoring Institute (*Žmogaus teisių stebėjimo institutas*), Letter to the Minister of Justice (*Teisingumo ministru*), 11 February 2013, p. 4.

<sup>104</sup> Lithuania, Prosecutor General, the Order No. I-288 as regards forms of documents of criminal process (*LR generalinio prokuroro įsakymas dėl baudžiamojo proceso dokumentų formų patvirtinimo*), 29 December 2014, available at: [www.e-tar.lt/portal/lt/legalAct/7d88c1908f6911e4a98a9f2247652cf4](http://www.e-tar.lt/portal/lt/legalAct/7d88c1908f6911e4a98a9f2247652cf4) [accessed on 18-02-2015].

3.	RIGHT TO INFORMATION ABOUT THE ACCUSATION <sup>105</sup>	Brief Description
3.1	What information is provided to the suspects or accused persons regarding what they have been accused of and how is it provided (e.g. orally or in writing)	Articles 21 para 4 and 22 para 3 of the CCP provide that the suspects or accused persons have the right to know the charges against them. According to Article 187 para 1 of the CCP, such notification about accusation or a resolution of the prosecutor to consider as suspected person to the suspects shall be submitted before the first interview upon their signature (thus in writing). When foreigners are suspected in having committed a crime, for which responsibility is provided in accordance with the international agreements of Lithuania and Article 7 of the CCP, and the foreigners are outside the territory of Lithuania and cannot be extradited, they are acknowledged as suspected persons by a resolution of pre-trial judge on request of the prosecutor. The notification, resolution of the prosecutor or pre-trial judge, about acknowledgement of persons as suspects shall contain the criminal act (place, time and other circumstances of commission) and legal classification of the criminal offence, as well as rights of the suspects shall be enlisted. <sup>106</sup>
3.2	At which stage of the proceedings is the information provided? <b>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</b>	According to Article 187 para 1 of the CCP, such notification about accusation or a resolution of the prosecutor to consider as suspect persons to the suspects shall be submitted before the first interview. According to the Prosecutor General's Office notification about accusation is submitted to the person during pre-trial investigation when information about commission of a crime is received <sup>107</sup> .
3.3	How are suspects or accused persons informed when, in the course of the criminal proceedings, the details of the accusation change?	The laws provide that a new notification about accusation shall be handed over to the persons before other interviews only in case the content of the accusation changes. <sup>108</sup>

<sup>105</sup> See in particular Article 6 and relevant recitals of Directive 2012/13/EU.

<sup>106</sup> See Art. 187 (2), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>107</sup> Lithuania, representative of the Prosecutor General's Office.

<sup>108</sup> See Art. 187 (2), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

4.	RIGHT OF ACCESS TO CASE MATERIALS <sup>109</sup>	Brief Description
4.1	What material evidence can be accessed by suspected or accused persons (e.g. documents, photographs, audio, video, summaries...)?	<p>Article 21 para 4 of the CCP, which notes the rights of the suspected persons, includes among others, the right to get acquainted with the material of pre-trial investigation. At any time during pre-trial investigation, suspected persons have a right to request the prosecutor to get a permission to get acquainted with the material of pre-trial investigation and make its copies and extracts. However the prosecutor may refuse access to materials if it, in the opinion of the prosecutor, would negatively impact on the success of pre-trial investigation.<sup>110</sup> In addition, when prosecutors decide that there is sufficient evidence collected to prove the accusation, they would inform the suspects and other participants of the process about the end of pre-trial investigation. Thus the suspects will have a right to get acquainted with the materials of the pre-trial investigation from that moment. In order to get access to materials, a request shall be submitted.<sup>111</sup></p> <p>Also, Article 22 para 3 of the CCP as amended in 2014, contains a right to receive a copy of the accusation, familiarize with the case in the court, make extracts and copies of the necessary documents according to the established order. Furthermore, Article 237 para 1 of the CCP, which regulates the order of familiarisation with the criminal case, provides for the right of the accused person from the moment of receipt of the case in the court to familiarise with the materials of the case received in addition after conclusion of the bill of indictment. Familiarisation with other materials of the case and making copies from it is possible in accordance with the timelimits provided by the judge. If the accused is detained, familiarisation with materials of the case mentioned above, shall be performed by the counsel for defense. Defendant shall have a right to make copies and excerpts from materials. If the accused refuses a counsel for defense, he can familiarise with materials of the case, make copies and excerpts from it. [...] The counsel for the defense having familiarised with the materials of the case and having made copies and extracts from it, shall inform about these materials the accused person and the court<sup>112</sup>. The laws provide for exception to the familiarisation with the materials of the case when personal data is involved and this data is kept separately from the pre-trial investigation materials<sup>113</sup></p> <p>Familiarization with the materials of the case (the laws do not specifically refer to material evidences) is regulated in more detail by the Recommendations on Familiarisation of the Participants of the Process with Case Materials in Pre-trial Investigation, approved by the Order of the Prosecutor General No. I-58 of 18 April 2003. The Recommendations provide that the request (written or oral) for familiarization with materials shall be submitted to</p>

<sup>109</sup> See in particular Article 7 and relevant recitals of Directive 2012/13/EU.

<sup>110</sup> See Art. 181 (1), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>111</sup> See Art. 181 (1), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>112</sup> See Art. 237 (2), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>113</sup> See Art. 237 (3), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.



		<p>the prosecutor, which is carrying out or controlling the investigation<sup>114</sup>. Having received such a request the prosecutor shall examine it without delay<sup>115</sup>. The Recommendations do not clarify which particularly material evidence could be accessed, it rather provides a long list of grounds when the prosecutor may refuse familiarization with it or part of it<sup>116</sup>. Thus in principle it can be concluded that access to all material evidence is available (including listening to the records and reviewing videos, etc.), unless restricted for a particular reason by the prosecutor. However, it should be noted that in practice, the lawyers report access to materials of the case by the lawyers as the main problem of implementation of the Directive 2012/13/EU<sup>117</sup>. The lawyers claim that the practice of not allowing the lawyers to familiarize with the case materials is prevailing. In their opinion, the provisions on possibility to restrict such access, which were intended to be as exception, became a general rule. Article 181 of the CCP provides that the prosecutor may refuse access to materials if such familiarisation, in the opinion of the prosecutor, would negatively impact on the success of pre-trial investigation<sup>118</sup>. However, the Directive sets a higher requirements for restrictions by conditioning the refusal of access to certain materials when such access may lead to a serious threat to the life or the fundamental rights of another person or if such refusal is strictly necessary to safeguard an important public interest, such as in cases where access could prejudice an ongoing investigation or seriously harm the national security of the Member State in which the criminal proceedings are instituted. Furthermore, these restrictions are only possible with regard to materials mentioned in Article 7 paras 2 and 3, but not with regard to materials, which are needed for effective challenging of the lawfulness of arrest or detention and is provided in Article 7 para 1 of the Directive.</p>
<p><b>4.2</b></p>	<p>At what stage of the proceedings is access to case materials granted? <b>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</b></p>	<p>The suspects and the accused can get acquainted with the materials of the case at any time of pre-trial investigation<sup>119</sup> when pre-trial investigation has been completed and from the moment of receipt of the case in the court<sup>120</sup>. However, the lawyers report that there is a gap in legislation with regard to time limits. Article 181 of the CCP provides that the suspects and their lawyers may familiarise with the materials of pre-trial investigation at any time, but the prosecutor may respond to such a request within maximum period of 7 days. Thus there could be situations where the lawyer will not have sufficient time to familiarize with important information before the first</p>

<sup>114</sup> Paras. 4-5, Prosecutor General, Order of the No. I-58 approving the Recommendations on Familiarisation of the Participants of the Process with Case Materials in Pre-trial Investigation, 18 April 2003 (on file with the author of this Report).

<sup>115</sup> Para. 11, the Recommendations on Familiarisation of the Participants of the Process with Case Materials in Pre-trial Investigation, 18 April 2003.

<sup>116</sup> Para. 14, the Recommendations on Familiarisation of the Participants of the Process with Case Materials in Pre-trial Investigation, 18 April 2003.

<sup>117</sup> Lithuania, representative of the Lithuanian Bar Association (*Lietuvos advokatūra*).

<sup>118</sup> See Art. 181 (1), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>119</sup> See Art. 181 (1), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>120</sup> See Art. 237 (1), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

		possibility to submit arguments concerning release of the suspect, which is considered by the lawyers as contrary to Article 7 para 1 of the Directive <sup>121</sup> .
4.3	Under what circumstances is access to material refused? Who takes the decision of refusal?	The prosecutor may refuse access to materials if such familiarisation, in the opinion of the prosecutor, would negatively impact on the success of pre-trial investigation <sup>122</sup> . The laws also provide for exception to the familiarisation with the materials of the case when personal data is involved and this data is kept separately from the pre-trial investigation materials <sup>123</sup> . In the opinion of non-governmental organizations, the Directive provides for more restrictive situations when refusal is possible than provided in the Code, while the Code provides for broader possibilities to restrict the access to materials. It shall be noted that prosecutor's opinion is enough to restrict the access to materials. Thus they suggest to introduce more restrictive provisions concerning refusal to allow familiarisation with the pre-trial investigation materials <sup>124</sup> . The same opinion is shared by the Lithuanian Bar Association ( <i>Lietuvos advokatūra</i> ) as reported under points 4.1 and 4.2 above. When the prosecutors reject request to familiarise with materials of the case or part of it, they shall adopt a motivated resolution. Such a resolution is served upon the suspects having explained the possibilities of appeal, which they have to sign, or it can be sent to the suspect by post <sup>125</sup> .
5.	<b>CROSS-CUTTING ISSUES: LANGUAGES, COMPLAINT MECHANISMS, RECORDING &amp; SPECIAL MEASURES</b> <sup>126</sup>	<b>Brief Description</b>
5.1	In which languages can information be provided for the following?	

<sup>121</sup>Lithuania, representative of the Lithuanian Bar Association (*Lietuvos advokatūra*).

<sup>122</sup> See Art. 181 (1), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>123</sup> See Art. 237 (3), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>124</sup> Human Rights Monitoring Institute (*Žmogaus teisių stebėjimo institutas*), Letter to the Minister of Justice (*Teisingumo ministru*), 11 February 2013, p. 4-5.

<sup>125</sup> Para. 19, the Recommendations on Familiarisation of the Participants of the Process with Case Materials in Pre-trial Investigation, 18 April 2003.

<sup>126</sup> See in particular Articles 3 - 8 and relevant recitals of Directive 2012/13/EU.

	a) information on procedural rights	All information (including a notification about accusation or a bill of indictment) served to the person shall be translated to the mother tongue of the person or a language that he understands <sup>127</sup>		
	b) letter of rights	Person who are arrested or detained shall be informed in a language they understand about the reason for their arrest or detention (Art. 44(2) of the CCP) and have a right to use the services of an interpreter if they do not understand and does not speak Lithuanian (Art. 44(7) of the CCP). Model letters on procedural rights are available in five foreign languages: English, French, German, Polish and Russian. <sup>128</sup>		
	c) information about the accusation	All information (including a notification about accusation or a bill of indictment) served to the person shall be translated to the mother tongue of the person or a language that the person understands (Art. 8(3) of the CCP).		
	d) case materials	All materials of the case will not be translated in writing, but the person shall be assisted by the interpreter during familiarisation with the materials concerning the basis of the case. The interpreter will translate the materials in oral form.		
		<b>Yes</b>	<b>No</b>	<b>Brief Description</b>
<b>5.2</b>	Is there any procedure to ensure that suspects or accused persons have the right to challenge the failure or refusal to provide information on the following? <b>If yes, briefly describe the procedure where relevant.</b>			
	a) information on procedural rights	X		There is a general right to appeal all decisions and actions of the pre-trial investigation officer, prosecutor, pre-trial judge (Art. 21(4) of the CCP).
	b) letter of rights	X		There is a general right to appeal all decisions and actions of the pre-trial investigation officer, prosecutor, pre-trial judge (Art. 21(4) of the CCP).
	c) information about the accusation	X		There is a general right to appeal all decisions and actions of the pre-trial investigation officer, prosecutor, pre-trial judge (Art. 21(4) of the CCP).

<sup>127</sup> See Art. 8 (3), the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002.

<sup>128</sup> Approved by the Order of the Prosecutor General No. I-288 of 29 December 2014, available at: [www.e-tar.lt/portal/lt/legalAct/7d88c1908f6911e4a98a9f2247652cf4](http://www.e-tar.lt/portal/lt/legalAct/7d88c1908f6911e4a98a9f2247652cf4) [accessed on 14-03-2015].

	d) access to case materials	X		When the prosecutor refuses permission to familiarise with all materials of pre-trial investigation or part of it, or when refusing permission to make copies or excerpts from the pre-trial investigation materials, the prosecutor shall conclude a motivated resolution. This resolution may be appealed to pre-trial judge within 7 days of the receipt of its transcript. The decision of the pre-trial judge cannot be further appealed (Art. 181(1) of the CCP).
<b>5.3</b>	Is any official record kept to note the provision of information about the following? <b>If yes, briefly describe where relevant.</b>			
	a) information on procedural rights	X		There is a form of model record on explanation of rights to defense, as well as the record on explanation of rights (provided in Art. 21(4) of the CCP), approved by the Order of the Prosecutor General No. I-288 of 29 December 2014, which envisages the signature of interpreter (if participates), indication of the language in which explanation was made, and also the signature of the suspect.
	b) letter of rights	X		There is a form of model record on explanation of rights (provided in Art. 21(4) of the CCP), approved by the Order of the Prosecutor General No. I-288 of 29 December 2014, which envisages the signature of interpreter (if participates), indication of the language in which explanation was made, and also the signature of the suspect.
	c) information about the accusation	X		According to Art. 187(1) of the CCP, notification about accusation or a resolution of the prosecutor to consider as suspected person served to the suspect upon his signature (thus in writing). Also, there is a model form approved by the Order of the Prosecutor General No. I-288 of 29 December 2014, which envisages the signature of interpreter (if participates), and also the signature of the suspect.
	d) access to case materials	X		According to the by-laws, when case materials are given for familiarisation to the suspect or his advocate, the prosecutor or an assisting employee of the Prosecutor's Office makes a record of access to case materials, which is to be signed by the participant of the process, prosecutor and the person who has made the record. If the case materials were submitted for familiarisation by the pre-trial officer, he/she makes a record and signs it. The record shall be made in accordance with Art. 179 and 181 of the CCP and shall include information about the written and oral requests received from the participants of the process, the information that was submitted for familiarisation (documents and items are listed), the number of pages and volumes is indicated. <sup>129</sup>
<b>5.4</b>	Are there special procedures designed to take into account the			

<sup>129</sup> Paras. 32-33, the Recommendations on Familiarisation with the Case Materials during Pre-trial Investigation, 18 April 2003.

<p>special needs of vulnerable suspects or vulnerable accused persons (e.g. because of any physical impairments which affect their ability to communicate effectively (persons with hearing, sight or speech impediments), intellectual disabilities or in case of children and the holder of parental responsibility) in relation to:</p> <p>a) suspect or accused persons with physical impairment or disability;  b) suspect or accused persons intellectual impairment or disability;  c) suspect or accused children who are suspects/defendants and/or the holder of parental responsibility.</p> <p><b>If yes, briefly provide information on those mechanisms in relation to each of the listed vulnerable groups. Is this information in simple and accessible language?</b></p>			
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• information on procedural rights	a)	X	Special interpretation could be provided in case of persons with disabilities (mute, deaf) (Art. 43 of the CCP), mandatory participation of the defense counsel (Art. 51(1) of the CCP), special court hearing rules (Art. 258(2) of the CCP).
	b)	X	Mandatory participation of the defense counsel (Art. 51(1) of the CCP).
	c)	X	Mandatory participation of the defense counsel (Art. 51(1) of the CCP), participation of representative under the law (Art. 53(1) and (2)), additional obligations of the prosecutor (Art. 117 of the CCP).
• letter of rights	a)	X	Special interpretation could be provided in case of persons with disabilities (mute, deaf) (Art. 43 of the CCP), mandatory participation of the defense counsel (Art. 51(1) of the CCP).
	b)	X	Mandatory participation of the defense counsel (Art. 51(1) of the CCP).
	c)	X	Mandatory participation of the defense counsel (Art. 51(1) of the CCP), participation of representative under the law (Art. 53(1) and (2)), additional obligations of the prosecutor (Art. 117 of the CCP).
• information about the accusation	a)	X	Special interpretation could be provided in case of persons with disabilities (mute, deaf) (Art. 43 of the CCP), mandatory participation of the defense counsel (Art. 51(1) of the CCP), special court hearing rules (Art. 258(2) of the CCP).
	b)	X	Mandatory participation of the defense counsel (Art. 51(1) of the CCP).
	c)	X	Mandatory participation of the defense counsel (Art. 51(1) of the CCP), participation of representative under the law (Art. 53(1) and (2)), additional obligations of the prosecutor (Art. 117 of the CCP).
• access to case materials	a)	X	Special interpretation could be provided in case of persons with disabilities (mute, deaf) (Art. 43 of the CCP), mandatory participation of the defense counsel (Art. 51(1) of the CCP).
	b)	X	The CCP and the Recommendations on Familiarisation with Case Materials of 18 April 2003 envisage that in case of persons with intellectual impairment, the representative according to the law, who participates in the process together with the suspect, has also a right to familiarise with the case materials <sup>130</sup> .
	c)	X	The CCP and the Recommendations on Familiarisation with Case Materials of 18 April 2003 envisage that in case of minors, the representative according to the law, who participates in the process together with the minor suspect, has also a right to familiarise with the case materials <sup>131</sup> .

<sup>130</sup> See Art. 54, the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002; para. 27, the Recommendations on Familiarisation with Case Materials during Pre-trial Investigation, 18 April 2003.

<sup>131</sup> See Art. 54, the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*), 14 March 2002; para. 27 of the Recommendations on Familiarisation with Case Materials during Pre-trial Investigation, 18 April 2003.