

2 - My rights during the pre-trial investigation of a crime and before the case goes to court

Why and how is a pre-trial investigation carried out?

A pre-trial investigation is the first stage of the criminal process. The purpose of the pre-trial investigation is to quickly and fully determine all significant circumstances of a crime and identify the person who might have committed that crime. The pre-trial investigation is necessary to create the conditions for a proper hearing of the case in court. It also ensures that the rights of the various people involved in the case are respected, for example, their right to receive compensation for damages.

During the pre-trial investigation stage you will be considered as a suspect.

The pre-trial investigation is carried out by investigating officers. The pre-trial investigation is organised and headed by a prosecutor. The prosecutor may decide to carry out the whole pre-trial investigation, or part of it, in person. Some parts of the procedure may also be carried out by a pre-trial investigation judge.

What are the stages of a pre-trial investigation?

Start of the pre-trial investigation

A pre-trial investigation starts when there is credible information to the effect that a crime has been committed. A pre-trial investigation is started not against a person but because a crime has been committed. Only later will the procedure turn into a case against a particular person.

Questioning and collection of material during the pre-trial investigation

In Lithuania, all information which confirms or disproves the circumstances of a case during the pre-trial investigation is called not evidence but material. It will be for the court to decide during its hearing whether the material which has been collected will become evidence.

The material obtained by questioning the suspect and the witnesses, as well as other material, is collected during this phase in order to determine the circumstances of the crime and to establish who might have committed it.

Procedural coercive measures

All the actions during the pre-trial investigation which restrict a person's rights are called procedural coercive measures. They are divided into measures of remand and other procedural coercive measures.

Remand measure may be used during a pre-trial investigation to ensure that the suspect is present during the proceedings and that the pre-trial investigation is conducted without any obstacles. They can also be used to prevent new crimes from being committed.

Other procedural coercive measures are also used to collect material which is important for the investigation. Coercive measures are only used if there is no other way to achieve the result which is needed.

Conclusion of the pre-trial investigation

A pre-trial investigation may be brought to an end if it is not possible to find enough material to prove the guilt of the suspect or because there are other obstacles to the procedure. The investigation may also be terminated if it can be acknowledged that the suspect cannot be held legally responsible for the crime committed.

The investigation will also come to an end if the case is referred to the court.

Finally, a pre-trial investigation may also be concluded by ordering that the defendant should receive medical treatment where there are legal reasons why the defendant cannot be tried in court, such as diminished responsibility.

A case is referred to the court when the prosecutor decides that enough material has been collected to prove the guilt of the suspect.

Collection of material during the pre-trial investigation and procedural coercive measures do not follow each other in chronological order. In these factsheets, they are dealt with as separate stages because of their different nature and aims. Often, they happen simultaneously, but remand measures (detention) may not be applied before the suspect has been questioned.

My rights during the pre-trial investigation

To find out more about your rights during the pre-trial investigation, click on the links below:

- [Start of the pre-trial investigation \(1\)](#)
- [Questioning and collection of material during the pre-trial investigation \(2\)](#)
- [Procedural coercive measures \(3\)](#)
- [Conclusion of the pre-trial investigation \(4\)](#)
- [The language of the proceedings and translations \(5\)](#)

Start of the pre-trial investigation (1)

Why can a pre-trial investigation be started?

A pre-trial investigation will be started if credible information that a crime has been committed is received. During a pre-trial investigation, the purpose is to quickly and fully determine all significant circumstances of the crime and identify the person who might have committed that crime.

In Lithuania, a pre-trial investigation is started not against a person but because a crime has been committed. Later, you will be involved in the pre-trial investigation as a suspect if there is enough material to reasonably assume that you might have committed the crime.

Why am I suspected of committing the crime?

You will become a suspect if you:

- have been detained on suspicion of having committed a crime;
- are questioned about a crime which you are suspected of committing;
- are summoned to an interrogation after a notification of suspicion has been drawn up;
- are in hiding, or you can't be located and the prosecutor or the pre-trial investigation judge has decided that you are a suspect.

You have the right to know what you are suspected of. Before questioning starts, you must be served with a notification of suspicion which will indicate the place, time, and other circumstances of the crime. In addition, it must indicate which law has been broken and set out your rights. You must sign the notification to confirm that you received it.

What can I do if I don't understand the language of the procedure?

If you don't understand the language of the procedure, an interpreter will be appointed for you, and the documents will be translated into the language you understand. You don't have to answer any questions or sign any documents if you don't understand them.

Can I meet with a lawyer?

[Getting legal advice](#)

Can I complain?

From the moment when you become a suspect, you don't have to be a passive observer. You may actively participate in the pre-trial investigation against you and influence both the procedure itself and its possible outcome.

You can submit petitions. You have the right to challenge the actions or decisions of the pre-trial investigation officer or the prosecutor and, in certain cases, also the actions or orders of the pre-trial investigation judge.

If you want to file a petition against the actions of the pre-trial officer you must present it to the prosecutor who organises and leads the investigation.

Petitions against the actions and orders of the prosecutor must be submitted to a senior prosecutor. Petitions against a senior prosecutor are submitted to the pre-trial investigation judge.

During the pre-trial investigation, you have the right to request that the pre-trial investigation officer, prosecutor, pre-trial investigation judge, secretary of the court hearing, interpreter, expert, or any specialist should be removed from the investigation.

Can I be charged with an offence which I have already been charged with in another Member State?

If you have already been convicted or acquitted of the same crime in another State, you cannot be punished for that crime a second time. However, if you were tried in another State for a crime committed in the territory of the Republic of Lithuania, or the crime was directed against the State of Lithuania, Lithuania will not have to recognise the judgment passed against you unless Lithuania itself requested the trial to be held in that State.

Questioning and collection of material during the pre-trial investigation (2)

Why would officers want to question me?

You may be interrogated as a suspect only after you have been served with a notification of suspicion which will indicate the place, time, and other circumstances of the crime which you are suspected of committing. You may become a suspect in a case only when there is enough information to reasonably claim that you have committed the crime.

During the pre-trial investigation, you may be questioned by pre-trial investigation officers (as well as the police), a prosecutor and in certain cases, also by a pre-trial investigation judge.

You must always be questioned before any measures of remand, such as arrest, are imposed. An exception to this is that the police may detain you for up to 24 hours before questioning.

What happens if I don't understand the language of the procedure?

If you don't understand the language of the procedure, an [interpreter](#) must be appointed and the documents must be translated into the language you understand. You don't have to answer any questions or sign any documents if you don't understand what you are asked or what you are requested to sign.

An interpreter will participate during the questioning and will orally translate the interrogator's questions and your testimony. The interpreter will also translate the written record of the questioning for you.

Can I meet with a lawyer?

[Getting legal advice](#)

You have the right to have a lawyer present both during your questioning or when any other procedural steps are taken in your presence.

Will I have to provide information?

You have a right rather than a duty to give a statement. If you prefer not to testify, you may refuse to do so. In

addition, you cannot be punished if you do not tell the truth about a crime that you have committed, because, as a suspect, you are not obliged to tell the truth.

If you are summoned to attend an interrogation as a suspect, you are obliged to attend, but you do not have to testify.

Will I get information about the evidence against me?

You have the right to ask the prosecutor to give you access to the materials which are part of the pre-trial investigation and to make copies or extracts from those materials.

However, the prosecutor is entitled to prevent you from seeing all or part of the material if he or she believes that such access may compromise the success of the pre-trial investigation.

What kind of information will I be asked for during the questioning?

If you agree to testify, the first thing you will be asked is whether you plead guilty to the crime you are charged with. Then, irrespective of whether you plead guilty or not, you will be asked to testify about the crime which you are suspected of. After you finish your testimony, you will be asked questions.

All the steps taken during the pre-trial investigation must be recorded in the procedural documents (e.g. records of the questioning).

After questioning is finished, you will be able to familiarise yourself with the record. You have the right to make remarks about the content of your testimony and to add to it.

What will happen if I say something against myself?

The testimony that you give to the pre-trial investigation officer or the prosecutor cannot be used as evidence in court if you change or deny it during the trial. In that case, your testimony may only be relied on indirectly. Your testimony may be read out during the court hearing and the officer who questioned you during the pre-trial investigation may be called as a witness.

The testimony that you give to the pre-trial investigation judge will be treated as evidence and it may be relied upon by the court in deciding to convict you.

Do I have to be present in person during the investigation if I am from another country?

If you are summoned to the pre-trial investigation, you must attend. If you try to avoid attending, you may be brought to court by the police.

If you have not been remanded or detained, you may leave Lithuania. However, you will still have to be present during the key stages of the pre-trial investigation.

The [Lithuanian Code of Criminal Procedure](#) does not allow you to participate in the pre-trial investigation by video link or using any other similar technology.

Can I plead guilty to the charges against me?

You have the right to testify as well as plead guilty to all or some of the charges against you. However, even if you plead guilty, the pre-trial investigation will still continue. The court will take your confession into account when it passes a judgment against you.

[Getting legal advice](#)

Procedural coercive measures (3)

Why can procedural coercive measures be applied against me?

Procedural coercive measures are divided into measures of remand and other procedural coercive measures.

During the pre-trial investigation, measures of remand may be applied in order to ensure that you are present during the procedure and that there are no obstructions to the smooth running of the pre-trial investigation process. They can also be used to prevent commission of other crimes. The strongest measure of remand is arrest.

In addition to ensuring all these aims, other procedural coercive measures may be used for collecting material of significance to the investigation.

Procedural coercive measures are only applied if there is no other way to achieve the aims of the procedure.

Why can I be detained?

You can be detained if you are caught while committing a crime or immediately after you have committed the crime. You may be detained by a law enforcement officer, prosecutor, or by any other person. If you are detained by someone other than an officer, that fact must be immediately reported to the police.

Even if you are detained while committing a crime, or immediately afterwards, you cannot be held in detention unless it is impossible to establish your identity or you might try to avoid the investigation.

You may also be detained at any time after the crime was committed. This is done if there are reasons to believe that you might try to escape or avoid investigation, obstruct the investigation, or commit new crimes and it is not possible to apply immediately to a pre-trial investigation judge for a warrant to arrest you.

You may not be detained for longer than 48 hours. If your identity has been established and you have been questioned, and there are no reasons to order your arrest, you have to be released. If it is decided that you must be arrested, you have to be brought before the court within 48 hours. The court will then decide whether you should be arrested or not.

What can I do if I don't understand the language of the procedure?

If you don't understand the language of the procedure, an [interpreter](#) must be appointed and relevant documents must be translated into the language you understand. You don't have to answer any questions or sign any documents if you don't understand what you are asked or what you are being asked to sign.

Can I meet with a lawyer?

[Getting legal advice](#)

Who can I inform about my detention?

If you are from another State, you may demand that the Embassy or consulate of your country is told about your detention.

The pre-trial investigation officer or the prosecutor will inform one member of your family or a close relative named by you about your detention.

If necessary, you will be provided with medical assistance.

What will happen if I am detained under the European Arrest Warrant?

If another Member State has issued a [European Arrest Warrant](#) against you, you may be detained and deported to the issuing Member State. If you think it necessary, you have the right to meet with a lawyer.

Can there be a body search?

The pre-trial investigation officer or the prosecutor has the right to carry out a physical examination in order to find out if there are any traces of crime or any other special marks on your body.

If you object to this, the pre-trial investigation officer or the prosecutor will issue a warrant which will mean that you have to agree to the search. If this requires you to undress, the examination will be carried out by a pre-trial officer, a prosecutor or a medical doctor of the same sex as you.

The same procedure applies to taking samples for comparative analysis. You may be asked for fingerprints, samples of your DNA, and so on. In more complicated cases, when it is necessary to take samples of your blood, saliva, or any other body fluids, the prosecutor has to call in a specialist.

Can there be a search of premises?

The pre-trial investigation officer or the prosecutor may carry out a search when there is a reason to believe that in some premises or in any other place, tools used in the crime, goods which have been received or obtained illegally, or things or documents which may be of importance for the investigation of crime may be found.

A search may also take place to establish that another person has those things. A search must be carried out in accordance with a warrant issued by a pre-trial investigation judge. In urgent cases, a search can be carried out on the basis of a warrant issued by the officer or the prosecutor. However, such a warrant must be approved within three days by a pre-trial investigation judge.

Conclusion of the pre-trial investigation (4)

When is the pre-trial investigation completed?

A pre-trial investigation may be completed either when it comes to an end, or when the case goes to court. If there are legal reasons why the defendant cannot be held responsible for the crime, such as diminished responsibility, the pre-trial investigation may be completed by requiring the person to undergo medical treatment.

A pre-trial investigation against you will be terminated if the investigating officers and prosecutors do not collect enough material to prove your guilt, or if any other obstacles to the process appear. The investigation will also be terminated if it becomes clear that you cannot be held legally responsible for the crime committed.

If enough material is collected during the pre-trial investigation to prove your guilt and there are no grounds to terminate the pre-trial investigation, the case will go to court.

What can I do if I don't understand the language of the procedure?

If you don't understand the language of the procedure, an [interpreter](#) will be appointed for you and the documents will be translated into the language you understand. You don't have to answer any questions or sign any documents that you don't understand.

Can I meet with a lawyer?

[Getting legal advice](#)

How long may a pre-trial investigation last?

A pre-trial investigation must be completed within the shortest possible time. If the pre-trial investigation is not completed within six months from when you are first questioned, you or your lawyer have the right to file a petition with the pre-trial investigation judge about the delay.

What will happen when the prosecutor has collected all the material needed to prove guilt?

Where the only possible punishment for the crime is a fine, or where this is one of the possible punishments, the prosecutor has the right to decide that you will be fined without going to court.

However, it is the right, not an obligation, of the prosecutor to make this decision.

In other cases, the prosecutor completes the pre-trial investigation by writing up a bill of indictment and refers the case to court.

Can the charges be changed before the case goes to court?

[Getting legal advice](#)

Will I get information about evidence against me?

When the prosecutor decides that enough material has been collected to prove your guilt, he or she will notify you and other participants in the procedure that the pre-trial investigation is completed. You will then have the right to see the material which was collected during the pre-trial investigation and to submit petitions to provide further information.

You have to submit a petition if you want to have access to the material. You have the right to make copies of the materials. If you are in custody, your lawyer will be able to see the material and to make copies, etc. Your lawyer will then tell you about the material which has been collected and which forms the basis of the case against you.

You will be able to see the statements given by witnesses. Some witness statements may be given anonymously.

If you want to add more information to the pre-trial investigation, you will have to submit a petition. If the prosecutor accepts this petition, or the petitions filed by other participants, you will have the right to familiarize yourself with this new material.

After all these actions have been completed, the prosecutor writes up the bill of indictment and sends it to court along with the material collected in the case. The prosecutor must serve you with a copy of the bill of indictment. If you don't understand the Lithuanian language, you must be provided with the translation of the bill of indictment. After it is written up, you become an accused in the case.

[http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=319053&p_query=&p_tr2=http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=319053&p_query=&p_tr2=The language of the proceedings and translations \(5\)](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=319053&p_query=&p_tr2=http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=319053&p_query=&p_tr2=The language of the proceedings and translations (5))

Can I participate in the trial in my own language?

If you do not understand the language of the proceedings, you will be able to make statements, give testimony and explanations, file applications and petitions, and speak during the trial in the language you know. In all these cases, you will have the right to use the services of an interpreter. All the acts which take place must be explained to you in your own language.

All documents which are served on you (such as the notification of suspicion or the bill of indictment) must also be translated into your native language or any other language you know.

All the material of the case will not be translated for you in writing; when you are familiarizing yourself with the material which forms the basis of the case against you, you have to be assisted by an interpreter who will orally translate the material for you.

You do not have to answer any questions or sign any documents without an interpreter present or if the documents are not translated into a language you understand.

You have the right to have an interpreter during all the stages of the proceedings. The services of the interpreter will be provided to you free of charge.

Related links

[Code of Criminal Procedure \(in Lithuanian\)](#)

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