PRACTICAL GUIDE ON EFFECTIVE CONDUCT OF JUDICIAL PROCEEDINGS IN CRIMINAL CASES

2023, Vilnius

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ABBREVIATIONS

Constitution	Constitution of the Republic of Lithuania
ECHR	Convention for Protection of Human Rights and Fundamental Freedoms
ECtHR	European Court of Human Rights
CC	Criminal Code of the Republic of Lithuania
CCrP	Code of Criminal Procedure of the Republic of Lithuania
CCP	Code of Civil Procedure of the Republic of Lithuania
LC	Law on Courts of the Republic of Lithuania
LSGLA	Republic of Lithuania Law on State-Guaranteed Legal Aid
SGLAS	State Guaranteed Legal Aid Service
RLA	Register of Legal Acts
EAW	European Arrest Warrant

INTRODUCTION

A person's opinion about the court and justice is shaped not only by the attitude towards the final court judgement or the media, but also by the length of the trial and the course of the proceedings. The quality of conducting the proceedings is one of the most important factors that can determine both the quality of the final outcome, i.e. the judgment, and the length of the proceedings.

The Scientific Study on Conducting Proceedings drawn up by the legal experts of Mykolas Romeris University in 2022 on the order of the National Courts Administration[1], inter alia, notes that the quality of conducting proceedings in different cases may substantially differ not due to the application of the rules criminal procedure but due to preparation of the specific judge for the case and his abilities to conduct the proceedings in accordance with the principles of concentration and promptness of proceedings. Thus, it is extremely important to strengthen the abilities of judges to conduct the proceedings in criminal cases in a targeted manner.

This Guide on Effective Conduct of Judicial Proceedings in Criminal Cases is designed to help judges to properly prepare for court hearings, effectively apply the proceedings conducting tools, and properly draw up and explain judgements. Judges hearing criminal cases will also find advice and recommendations illustrated with practical examples helping to prepare for the proceedings and conducting it, i.e. how to prepare for hearing of the case, what aspects should be taken into account, what actions must be carried out, how to deal with difficult situations during court hearings, how to prepare for hearing high-profile cases, how to draw up a high-quality judgement understandable to the parties to the proceedings, in the Guide.

This Guide should be of particular benefit to those new to the judiciary, but also to experienced judges with a good knowledge of the rules of the Code of Criminal Procedure, who will find relevant advice and recommendations on how to deal with difficult situations, insights into how the judiciary is perceived by the parties to the proceedings, which will encourage them to look at their work from the outside and discover new prospects for improvement.

This publication focuses on the effective hearing of criminal cases **before the court of first instance but we hope that it will also be useful for judges of higher courts.**

1. ROLE OF THE COURT IN CRIMINAL PROCEEDINGS

The purpose of the criminal procedure shall be to protect human rights and freedoms, the interests of society and the state, promptly and thoroughly detect criminal acts, and to appropriately apply the law so that the person who committed the criminal act is fairly punished and no innocent person is convicted (paragraph 1 of Article 1 of the CCrP).

The emphasis of the **criminal proceedings of Lithuania is defence of the rights and freedoms of every human being** (the victim of the criminal act, the suspect of the criminal act, and the perpetrator of the criminal act). Hearing of a case in administration of justice falls within the exclusive competence of the court (paragraph 1 of Article 9 of the Constitution; paragraph 1 of Article 1 of the LC and paragraph 1 of Article 6 of the CCrP).

[1] https://grants.teismas.lt/wp-content/uploads/2022/11/Teismo-proceso-vedimo-studija.pdf

Thus, the role of the judiciary in criminal proceedings in establishing the truth and defending human rights is fundamental. It is not for nothing that the protection of human rights and the value of humanity are enshrined in the oath of a judge (Article 59 of the LC): "I, judge (name, surname) solemnly swear my allegiance to the Republic of Lithuania, to perform my duties in good faith, to administer justice in accordance with the Constitution and laws of the Republic of Lithuania, to protect human rights, freedoms and lawful interests, to be impartial, honest and humane, to protect the state secrets entrusted to me and always conduct myself as befits the judge. So help me God." (The oath may be without the last sentence of the oath.)

INTERESTING. Of all the persons who swear an oath to the Republic of Lithuania, provided for in the Constitution (embers of the Seimas of the Republic of Lithuania, the President, members of the Government (the Prime Minister and Ministers), the judges of the Constitutional Court, members of municipal councils and mayors), only the person appointed as a judge swears to always be humane, i.e. humane and compassionate towards others.

Article 6(1) of the ECHR sets forth every human's right to a fair trial. One of the elements of the afore-mentioned right is a fast process, which obliges the court to hear the case within a reasonable time. The afore-mentioned provision is set forth in paragraph 2 of Article 5 of the LC.

However, speedy proceedings must not undermine the quality of criminal proceedings: the completeness and proper applicability of the law, i.e. the adoption of a correct (legal and reasonable) judgement; the implementation of the human right to a fair trial.

Role of the judge. The Consultative Council of European Judges in its Opinion No 11 (2008) on the quality of judicial decisions[2] has pointed out that the judge must be able to organise and conduct the proceedings actively and accurately. The **proper development of the proceedings** is conducive to the quality of the final product – the decision.

It is also important to understand that a person may not be satisfied with the judgement made, but perceive it as being right (procedural justice). Perceived procedural fairness increases recognition and compliance with court judgements[3]. And, on the other hand, if the judge heard the case and passed a judgement that best complies with the provisions of the current legislation, but the person did not understand what, how and why the judgement was delivered, experienced great emotional stress while participating in the proceedings, felt disrespected, he will feel that the court was not fair to him.

The proceedings in criminal cases is conducted by a judge. It depends on his authority, personality, perception of his role as a judge, organisational and communication skills and preparation for the case, whether the case will be examined in a targeted manner, whether all parties to the proceedings will clearly understand their responsibilities and the fact that they will be required to comply with them.

INTERESTING. The surveys of the parties to the proceedings carried out in previous studies[1] clearly emphasise that the gown does not confer authority on the judge. Authority is earned by demonstrating appropriate behaviour and values.

[2] https://rm.coe.int/16807481d7

[3] Teisėjų elgesio ir įvaizdžio socialinė percepcija (Social Perception of Judges' Behaviour and Image). Editor G. Valickas. VU, 2018. P. 7.

It is also very important to understand that the parties to the proceedings share information about how a particular judge conducts the proceedings, what allows the abuse of the proceedings, and who controls the proceedings, and choose and adapt their procedural tactics accordingly. However, it is never too late to change the established image and adopt good practice in the conduct of proceedings.

INTERESTING. **Extracts from the statements made by parties to the proceedings** obtained during semi-structured interviews on the role of the judge in ensuring the quality of criminal proceedings:

- The conduct of the judicial proceedings basically depends on the judge, it is a decisive factor: "*Procedural abuse/non-abuse is largely determined by personal character traits of the judge. Since [judges] have to deal with a large number of criminal cases in which the defendants are being tried not for the first time and are already serving a custodial sentence for previously committed criminal acts at the time of the trial, information about the judge hearing the case spreads very quickly among these persons. They share information on whether the judge takes a principled and strict approach to unjustified excusing, untimely requests, etc.*".
- The duration of the proceedings depends mainly on the judge's organisational skills and courage to use coercive measures: "*For example, some judges, if a summons is not served a couple of times, some judges immediately apply appearance. Others are afraid to do so. In addition, it should be noted that judges are less knowledgeable about international cooperation than public prosecutors, which also contributes to the longer duration of criminal proceedings.*".
- The experience of working with different judges shows that "*those judges who plan the proceedings conduct the proceedings with great precision and discipline, apply all procedural measures to prevent procedural abuse and delay, deal with both the number of cases and deadlines quite efficiently and promptly*".

Extracts from focus group interviews (public prosecutors, judges, attorneys-at-law):

The respondents agree that the quality of the proceedings largely depends on the judge, especially on the competence of the presiding judge to conduct the proceedings. The quality of the proceedings is hampered by the fact that the judge is not always adequately prepared to hear the case: *"<...> after referring the case to another district, you see that the judges do not read the material"; "At the first hearing, the judge is often not even prepared for the case"; "I would like orderly proceedings, sometimes the judge starts examining the public prosecutor, treats him like a student, throws him off track")*, he does not discipline the participants ("*<...> due to the absence of attorneys-at-law in court hearings, hearings collapse, courts do not apply disciplinary measures on attorneys-at-law"; "The judge often gets involved in negotiations, does not ensure discipline, order, allows to tell everything"*), fails to ensure a streamlined proceedings and the use of all organisational, technical and legal measures to make the work more efficient: *"<...> could make more use of remote facilities, sometimes not all judges know how to use technical means, time is wasted, they have to travel tens of kilometres to a hearing which could be remote"; "The quality of the proceedings is hampered by the judge's ethics, the judge's lack of restraint in his speech, the lack of trust between the parties in informal communication"; " Time planning is very important in the work of a judge, there are judges who hold a case for a long time before hearing it, public prosecutors start looking for those cases"; "Another problem is related to minors, the judge says that the hearing is closed, so they don't use Zoom (although if the witness is abroad, it would be convenient)"*.

The parties to the proceedings have also distinguished the following problems:

*" The judge should have a plan for the case, at the very beginning he should think about how much and what kind of evidence he will examine, etc."; "<...> the judge must have an objective approach. He has to understand both the public prosecutor and the counsel for the defence, delve into their situations. I consider that he should prepare for the case allocating 50 per cent of his time outside the courtroom and 50 per cent during the hearing. When the judge prepares in advance, the proceedings is faster and the parties to the proceedings do not get tired"; "**It's nice when you come to the hearing and the judge says: today we are going to do this and next time we are going to do that. And you can get ready right away**. There are judges who do not preside over the hearing because they seem to be afraid of the parties to the proceedings. It takes not only knowledge, but also psychological preparation not to be afraid of the parties to the proceedings"; "The judge should read the case before hearing it and decide whether it is really necessary to question all the persons named by the public prosecutor".*[4]

It is thus common ground that the quality of the conduct of the proceedings depends on the judge's ability to make use of the legal, organisational and technical measures at his disposal which are essential for a high-quality and speedy trial.

In this context, effective conduct of the judicial proceedings in criminal cases is understood as **targeted conduct of the proceedings** characterised by:

- respectful communication with all parties to the proceedings,
- clear and constructive communication,
- ability to establish a relationship with people,
- confidence in one's own competence,
- appropriate preparation for the trial and
- courage to pass judgements.

IMPORTANT. The positive influence on the behaviour of the parties to the proceedings and, consequently, on the conduct of the proceedings is not proven by a demonstrative impartiality where no emotions are shown, communication with an indifferent, stone-faced expression, but on the contrary, by a demonstration of empathy and understanding.

Studies of procedural justice and discussions with judges show that it is not entirely clear in practice how to distinguish between biased judgments and impartial judgements. For example, impartiality means creating the right conditions for the parties to the proceedings to thoroughly state their position and justify it. If the judge rudely stops such speech and limits the opportunity to speak, it can be understood as a manifestation of partiality. However, the judge may decide to restrict the right of the parties to be heard on the ground that the substance of the case has been departed from. In such case, it's not bias, it's the rightful conduct of the proceedings by the judge. Thus, it is particularly important not only what the judge does, but also how he does it. A judge's behaviour and decisions are understood to be more just if he treats the parties to the proceedings in accordance with ethical standards (e.g. by showing respect to them).[5].

[4] https://grants.teismas.lt/wp-content/uploads/2022/11/Teismo-proceso-vedimo-studija.pdf
[5] Teisėjų elgesio ir įvaizdžio socialinė percepcija (Social Perception of Judges' Behaviour and Image). Editor G. Valickas. VU, 2018. P. 41 and 46.

The sections below contain guidelines and examples of how to conduct the proceedings in a targeted manner at different stages of the proceedings.

2. PREPARATION OF A CRIMINAL CASE FOR HEARING IN COURT

In criminal proceedings in Lithuania, the court must establish the objective truth within the shortest possible time, i.e. whether the criminal act stated in the indictment was committed, whether the criminal act was committed by the accused and whether the accused is guilty of the criminal act.

The state, society and every person involved in the criminal proceedings expects that this proceedings will be smooth.

Only adequate preparation for the trial of a criminal case in court helps ensure the smooth proceedings and fulfil the tasks of the criminal proceedings and the human right to a fair trial.

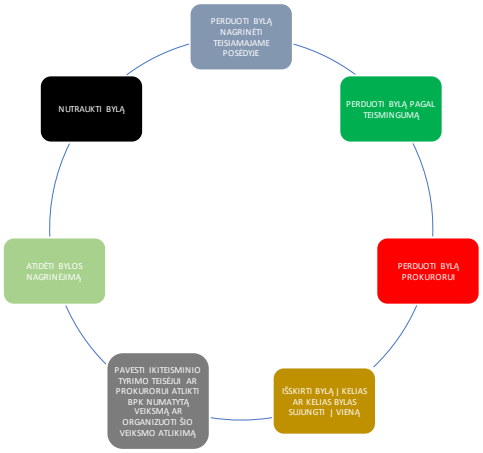
2.1. ACTIONS TO BE CARRIED OUT BY THE JUDGE AFTER RECEIPT OF A CRIMINAL CASE ASSIGNED TO HIM FOR HEARING

ORDERS PASSED DURING PREPARATION OF A CASE FOR HEARING IN COURT (ARTICLE 232 OF THE CCrP)

Files of pre-trial investigation documents which, together with the indictment, are transmitted to the court and become criminal cases, are compiled in accordance with the Recommendations on the Procedure for Filing Pre-Trial Investigation Documents and the Recommendations on Drawing Up and Transmission of the Indictment to the Court approved by the Prosecutor General of the Republic of Lithuania[6].

In order for a judge to take one of the procedural decisions provided for in Article 232 of the CCrP, including an order on referral of a criminal case for trial hearing, it is necessary to have access to the entire criminal case (where necessary, as well as with material evidence presented to the court that is relevant to the investigation and hearing of the criminal act).
Approved

[6] Recommendations on the Procedure for Filing Pre-Trial Investigation Documents approved by 20 March 2013 Order No I-76 of the Prosecutor General of the Republic of Lithuania (published: Official Gazette *Valstybės žinios*, 23 March 2013, No 30-1509; Register of Legal Acts, Identification code 113503AISAK0000I-76) and the Recommendations on Drawing Up and Transmission of the Indictment to the Court approved by 1 June 2015 Order No I-136 of the Prosecutor General of the Republic of Lithuania (published: in the Register of Legal Acts on 1 June 2015, Identification code 2015-08536).



/*Refer a case for hearing at the trial*
Refer a case by jurisdiction
Refer a case to the public prosecutor
Split a case into several cases, join several cases
Assign to a pre-trial investigation judge or public prosecutor to carry out an action provided for in the CCrP or organise carrying out of such action
Stay the proceedings
Terminate a case/

The judge, having familiarised with the material of the criminal case and having found that the received criminal case does not fall within the jurisdiction of the court in which the case was received, the judge shall **refer the case to the court having jurisdiction** (Articles 224–229, paragraph 2 of Article 232, paragraph 1 of Article 234 of the CCrP). The question of jurisdiction is usually determined by the court by written proceedings[7]. Such rulings shall not be subject to appeal (Part X of the CCrP). A court dispute regarding the jurisdiction of cases shall be resolved by the President of the higher court or the President of the Criminal Division of the court [8].

A case is terminated where (paragraph 7 of Article 232 of the CCrP):

the circumstances which render criminal proceedings impossible as set forth in paragraph 1 of Article 3 of the CCrP exist:	or the grounds for release of a person from criminal liability provided for in Articles 36–40 and 93 of the CC exist:
1) if no criminal act having the features of a crime or misdemeanour was committed; 2) if the statute of limitations of a judgement of conviction has expired;	1) a person or criminal act losses its dangerousness; 2) minor relevance of a crime; 3) reconciliation between the offender and the victim; 4) existence of mitigating circumstances;

[7] E.g. 12 June 2023 order of Vilnius Regional Court in the criminal case No 1-239-935/ 2023; 31 May 2023 order of Kaunas Regional Court in the criminal case No 1-273-923/ 2023; 23 February 2023 order of the District Court of Vilnius City in the criminal case No 1-1093-1155/ 2023; 30 May 2023 order of Kaunas District Court in the criminal case No 1-2004-1023/2023 etc.).
[8] Article 230 of the CCRP; e.g. 8 November 2021 order of the Court of Appeal of Lithuania in the criminal case No 1S-267-1020/ 2021 and 3 March 2020 order of Kaunas Regional Court in the criminal case No 1-214-919/ 2020.

3) at the time of commission of a criminal act, the person was not of the age at which the act committed by him becomes subject to criminal liability; 4) if there is no complaint filed by the victim or a statement by the legal representative thereof of the public prosecutor's request to initiate proceedings only in cases where the proceedings may be initiated only according to the complaint filed by the victim or a statement by the legal representative thereof of the public prosecutor's request; 5) against the deceased except for the cases where the case is necessary for rehabilitation of the deceased or reopening of the proceedings against other persons due to newly revealed circumstances; 6) against a person for whom a court judgement on the same charge or a court ruling or a public prosecutor's order to terminate the proceedings on the same grounds has become effective; 7) if any of the circumstances eliminating criminal liability provided for in Chapter V of the Criminal Code exists: a) self-defence; b) arrest of a person who has committed a criminal act; c) discharge of professional duty; d) immediate necessity; e) performance of an assignment of a law enforcement institution; f) execution of an order; g) justifiable professional or economic risk; h) scientific experiment; 8) against the person whose criminal prosecution has been refused on the basis of the Republic of Lithuania Law on the Restraint of Organised Crime.	5) person actively assisted in detecting the criminal acts committed by members of an organised group or a criminal association; 6) whistleblower; 7) bail; 8) a minor.

In case of existence of the circumstance provided for in subparagraph 2 of paragraph 1 of Article 3 of the CCrP (the statute of limitations of a judgement of conviction has expired), a criminal case is terminated only in case where the accused does not request for continuation of criminal proceedings (Articles 224–228, Article 235 of the CCrP).

IMPORTANT. The issues concerning termination of a case shall be dealt with in a hearing (paragraph 2 of Article 235 of the CCrP.); orders on termination of a criminal case shall be subject to appeal.

For more details, see Part X of the CCrP[9].

Normally, courts are not in a hurry to terminate criminal cases received at the stage of preparation of a criminal case for hearing in court. If the grounds for termination of the criminal case provided for in the law are already apparent, it is necessary to make sure and clarify all the circumstances.

[9] Part X of the CCRP; e.g. 4 July 2022 order of the Supreme Court of Lithuania in the criminal case No 2K-205-942/ 2022; 19 May 2022 order of the Court of Appeal of Lithuania in the criminal case No 1A-236-579/ 2022; 31 May 2023 order of the Court of Appeal of Lithuania in the criminal case No 1A-223-843/ 2023 etc.

If there is a legal basis, a criminal case can be terminated later – during the trial of the case in court or after the complete examination of the evidence, i.e. after hearing the case on its merits by the court (paragraphs 4–5 of Article 254, paragraphs 1 and 4 of Article 303 of the CCrP).

A criminal case is transferred to the public prosecutor (paragraph 3 of Article 232 of the CCrP) **only in the following cases:**

1) Where an indictment which does not substantially comply with the requirements of Article 219 of the CCrP or where there are other substantial irregularities in the criminal proceedings which impede the hearing of the case has been drawn up during the pre-trial investigation (paragraph 2 of Article 234 of the CCrP).

IMPORTANT. It is not because of any deficiency in the content of the indictment nor because of any irregularity in the criminal proceedings, that the criminal case may be transferred, i.e. referred back to the public prosecutor, but **only because of a substantial** deficiency or irregularity which cannot be rectified in court and prevents from hearing the case and passing the right decision, i.e. the deficiencies of the indictment and/or irregularities of the criminal proceedings must violate the person's right to defence: the right to know what he is accused of (paragraph 3 of Article 22 of the CCrP), and the right to prepare for defence (paragraph 7 of Article 44 of the CCrP).

See the case-law of the Supreme Court of Lithuania in the criminal cases: a substantial irregularity in the indictment where important facts of the criminal act which must correspond to the features of a criminal act set forth in the criminal law are not indicated or are improperly indicated in the indictment: there is substantial uncertainty, e.g. it is not clear to whom the damage has been caused; the accusation is made only against one person although other persons are responsible for the same acts; the roles and actions of the accomplices are unclear; the accusations against the accomplices are contradictory, etc.[10].

Examples of irregularities in the criminal proceedings which may be rectified:

- the indictment has not been served to the accused (*22 March 2017 order of Šiauliai Regional Court in the criminal case No 1S-42-519/2017; 23 January 2018 order of Vilnius Regional Court in the criminal case No 1S-18-1020/2018*);
- the counsel for the defence is absent (*8 February 2017 order of Kaunas Regional Court in the criminal case No 1S-91-383/2017*).

The court may involve all persons to be involved in the proceedings by itself, with the exception of the accused, such as civil defendants, representatives of the parties to the criminal proceedings in accordance with the law, and may also appoint a counsel for the defence, invite a psychologist and/or a representative of a child rights institution to question the minor if necessary. The court is obliged to clarify the rights of the parties to the criminal proceedings and do everything else that is necessary under the law of criminal procedure and that was not done during the pre-trial investigation.

[10] Cases heard by the Supreme Court of Lithuania: Nos: 2K-449/ 2008; 2K-581/ 2011; 2K-480/ 2012; 2K-556/ 2012; 2K-222/ 2013; 2K-223/ 2013; 2K-254/ 2013; 2K-435/ 2013; 2K-161-511/ 2016; 2K-415-677/ 2016; 2K-34-303/ 2017; 2K-144-788/ 2017; 2K-357-489/ 2017; 2K-244-895/ 2020; 2K-10-719/ 2021; 2K-242-719/ 2022 etc.

Examples of irregularities of the criminal proceedings which cannot be remedied in court:

- unlawful initiation of the pre-trial investigation (*20 June 2023 order of the Supreme Court of Lithuania in the criminal case No 2K-172-495/ 2023*);
- the indictment has been submitted to the court, although the public prosecutor's decision to terminate the pre-trial investigation has not been set aside (*26 September 2017 order of Vilnius Regional Court in the criminal case No 1A-485-1020/2017)*;
- the indictment has been submitted to the court although the appeal in court regarding the public prosecutor's decision to terminate a part of the pre-trial investigation has not been examined yet (*5 February 2015 order of the Court of Appeal of Lithuania in the criminal case No 1N-26-202/2015*);
- the indictment was drawn up only against one defendant, i.e. a legal entity, but no charges were brought against the sole member and manager of the legal entity responsible for the activities of the legal entity (*12 December 2017 order of the Court of Appeal of Lithuania in the criminal case No 1S-374-495/2017*).

Naturally, there may be other circumstances which unconditionally prevent from hearing a criminal case in court without prejudice to the rights and legitimate interests of other persons.

2) At the request of the public prosecutor to supplement the pre-trial investigation (paragraph 3 of Article 234 of the CCrP). In practice, there are no problems with referring the criminal case back to the prosecutor on the afore-mentioned grounds.

IMPORTANT. When referring the case to the public prosecutor, the court sets a specific time limit for remedying the specific irregularities or supplementing the pre-trial investigation (paragraph 3 of Article 234 of the CCrP). The afore-mentioned orders may be appealed against under the procedure prescribed in Part X of the CCRP. Having remedied the irregularities or having supplemented the pre-trial investigation, the public prosecutor transfers the case to the court in accordance with the procedure established in Articles 218 and 220 of the CCrP.

A criminal case may be split to several cases and several criminal cases may be joined if this helps to expedite the hearing of split or joint cases (paragraph 4 of Article 232, paragraph of Article 234, paragraph 1 of 254 of the CCRP[11]).

The ECtHR has, on several occasions, commented on the efficiency of the criminal proceedings and the speed of trial of criminal cases in court, as well as the expediency of splitting cases[12].

IMPORTANT. Splitting and joining of cases must not undermine the completeness of the proceedings, i.e. must not prevent the court from examining the circumstances relevant to the case in question and must not infringe the rights of the accused, as well as those of other parties to the criminal proceedings before the court.

[11] 18 October 2016 order of the Supreme Court of Lithuania in the criminal case No 2K-306-895/2016, 27 November 2018 order in the criminal case No 2K-298-976/2018 etc.

[12] Judgement of the ECtHR in the case J. v. Lithuania, application No 6924/02; judgement in the case N. v. Lithuania, application No 302/05; judgement in the case Kiper v. Turkey, application No 44785/98; judgement in the case Merit v. Ukraine, application No 66561/01; judgement in the case G. K. v. Poland, application No 38816/97 etc.

The case-law suggests that if this expediates hearing of the cases, separate criminal cases against accomplices received/heard in the court as well as criminal cases against the same accused are joint. Criminal cases are rarely split in courts, only in special cases, e.g. when one of the accomplices is injured or seriously ill and cannot take part in the criminal proceedings (e.g. he has a coma). In such case, the hearing of the criminal case against the sick defendant is stayed until he recovers (subparagraph 1 of paragraph 5 of Article 234 of the CCrP).

With the increasing complexity of criminal acts and their schemes and as the number involved in criminal acts and suffering from them is increasingly growing, **splitting of criminal cases becomes inevitable simply because the conduct of hearing a criminal case in court can become extremely complicated**.

It is recommended to familiarise with *8 June 2022 order of the Court of Appeal of Lithuania in the criminal case No 1S-168-307/2022* where you can find clear criteria that should be taken into account when distinguishing large-scale criminal cases involving dozens of defendants and their counsels for the defence, as well as a large number of victims. The Court splits a criminal case after evaluation of:

- the scope of the charges,
- the number of the accused,
- the complexity of the case,

in order to ensure the right of all parties to the proceedings to a reasonably short and cost-effective fair trial by legal means in accordance with the implementation of international legal rules and the provided guarantees, in the presence of logical grounds for mutual separation of accusations (criminal association, organised group of accomplices, unrelated criminal acts of individual persons).

The **grounds for staying criminal proceedings are specified** in paragraph 5 of Article 234 of the CCrP (e.g. unknown location of the accused, etc.). In practice, there are usually no problems with staying criminal proceedings on the afore-mentioned grounds.

Having familiarised with the criminal case, the judge **may assign to a pre-trial investigation judge or prosecutor to carry out the procedural action provided for in Section Two** (*Examination*), **Section Three** (*Testimony Verification Actions*), **Section Four** (*Peculiarities of Actions with the Victim or Witness Subject to Anonymity*) **and Section Five** (*Inspection and Examination of Objects*) **of Chapter XIV** (*Pre-Trial Investigation Actions*) **of the CCRP or organise performance of the afore-mentioned procedural action** (paragraph 2 of Article 234 of the CCrP).

This is normally the case when dealing with requests from the parties to the criminal proceedings (Articles 238 to 239 of the CCrP), e.g. the victim is going abroad for a long or permanent period of time or is going to be admitted to a hospital for a complex surgery and, therefore, requests the court to question him as soon as possible. In this case, the judge may assign the examination of the afore-mentioned person to the pre-trial investigation judge if this was not done during the pre-trial investigation. It is recommended for the judge hearing the case to formulate the questions to be asked to the victim by the pre-trial investigation judge conducting the examination.
Another example: while analysing the material of the criminal case, the judge observes that during the pre-trial investigation, a large number of similar items, such as watches, which may have been unlawfully acquired, have been taken from the accused, but that these items have not been shown or not all of the items shown have been identified during the pre-trial investigation by persons who may have been victims of criminal acts. Moreover, these items were not transferred with the criminal case to the court. In such case, the judge may order the examination of objects relevant to the criminal acts and the presentation of all such items to the victims during the hearing, which would in essence prolong the proceedings in the criminal case, or he may order the public prosecutor to carry out the afore-mentioned procedural action/actions or organise the performance of the afore-mentioned action/actions. The judge may also order the public prosecutor to re-inspect the crime scene, i.e. the place of the incident, if it is, of course, adequately protected, and record additional circumstances relevant to the criminal act in the inspection report, examine or clarify circumstances that were not previously recorded. The judge may also order to carry out a confrontation, an on-the-spot examination of evidence and even an experiment and other procedural steps prescribed by the law.

IMPORTANT. All such orders, which are essentially acts of preparation for hearing the criminal case in court, must be really necessary, not excessive, and have a purpose, in order to enable thorough and as rapid as possible hearing of the criminal case in a trial hearing. Normally, the afore-mentioned orders are given when the criminal case is referred for hearing at a trial, i.e. they are indicated in the operative part of the order for referral of the case for trial.

The judge, having familiarised himself with the criminal case and having established that there are no obstacles to hearing the case before the court, that is to say, having been satisfied that the pre-trial investigation did not result in any substantial irregularities in the criminal proceedings which impede the trial of the case and which cannot be remedied by the court, **shall refer the case to the court for hearing at the trial** (paragraph 1 of 232 and Article 233 of the CCrP).

The order on referral of the case for trial states:
- the name and surname of the accused, criminal act of the commission of which he is accused;
- the criminal law providing for the criminal act;
- which persons are to be summoned to the trial (the accused, his legal representative, the victim, the plaintiff in a civil action, the defendant in a civil action and their representatives, as well as witnesses, experts and professionals)

The order may also indicate the place and time of the hearing of the case or make a decision to hear the case according to the pre-agreed and established schedule of the trial hearing.

Furthermore, the same order may deal with the following issues:
- splitting of the case or joining of the cases;
- applications for admission to the proceedings, for the civil action and the securities of the action, for obtaining of additional evidence etc. submitted by the parties to the proceedings and other persons (Article 238 of the CCrP.);

- appointment of a counsel for the defence, summoning of an interpreter, appointment, change or cancellation of pre-trial measures other than arrest and other coercive procedural measures in respect of the accused, hearing of the case in camera.

If the accused has given his consent to an abridged examination of the evidence as provided for in paragraph 2 of Article 218 of the CCrP, the judge may decide to summon only the accused and his counsel for the defence to the trial and inform the other parties to the proceedings only of the time and place of the hearing and of their right to take part in the hearing (it is important to ensure that the victims are informed). The afore-mentioned decision of the judge does not prevent the court from subsequently deciding to thoroughly examine the evidence.

The court decides on the imposition, extension, change or lifting of a coercive measure, i.e. arrest, at a court session, following the provisions of Chapter XI (*Coercive Measures*) of the CCrP. The prosecutor and the counsel for the defence take part in the hearing. The arrested accused is brought to the hearing. The participation of the arrested accused in the court hearing can be ensured by audio and video remote transmission means. The judge immediately notifies the accused of the arrest in accordance with the procedure established in paragraphs 1, 3–4 of Article 128 of the CCrP.

IMPORTANT:

- The judge must decide on the referral of a criminal case for hearing at the trial within 15 days of receipt of the case by the court if the defendant is arrested or within one month if the defendant is at liberty;
- Hearing of a criminal case must be instituted at the trial no later than within twenty days from the adoption of the judge's decision to refer the case for hearing at the trial;
- Complex or large-scale criminal cases as well as cases heard in accordance with the trial schedule agreed and set in advance, must be brought to trial within three months from the date of the adoption of the court order to refer the case for hearing at the trial (Article 240 of the CCrP).

In order to facilitate the judge's decision on procedural matters provided for in Article 232 of the CCrP and prepare the criminal case for trial, it is suggested to use the provided guides (Guide No 1, Guide No 2 and Guide No 3), which help to consistently deal with the issues concerning referral of a case for hearing at the trial.

PREPARATION FOR HEARING A CRIMINAL CASE IN COURT

GUIDE No 1

PERSONS
1. THE ACCUSED

1.1. □ **ADULT** □ **MINOR** □ **IF THE PERSON IS A MINOR, HAS AN INDIVIDUAL ASSESSMENT BEEN CARRIED OUT (**Article 189[1] of the CCrP) ∇ **YES** ∇ **NO** **NECESSARY?** ∇ **YES** ∇ **NO** □ **SPECIAL FEATURES** (blind, deaf, dumb, unable to walk etc.)	1.2. □ **UNDERSTANDS THE LITHUANIAN LANGUAGE** □ **INTERPRETER IS NECESSARY** (what language?)	1.3. **COUNSEL FOR THE DEFENCE** □ **EXISTS/PARTICIPATES** □ **DOES NOT EXIST/ABSENT** □ **REQUIRED according to paragraph 1 of Article 51 of the CCrP.** 1) in the event of hearing cases concerning criminal acts of which a minor is suspected or accused; 2) in the event of hearing cases against blind, deaf, dumb and other persons who, by reason of physical or mental disability, cannot exercise their right to defence; 3) in the event of hearing cases against persons who do not know the language of the proceedings; 4) where there is a conflict of interests for the defence of suspects or the accused, provided that at least one of them has a counsel for the defence; 5) in the event of hearing cases concerning the crimes for the commission of which a life imprisonment may be imposed; 6) in the event of hearing cases in the absence of the accused in accordance with the procedure prescribed in Chapter XXXII of the CCrP; 7) when deciding on the issue of arresting a suspect or an accused person, as well as investigating and hearing cases when a suspect or an accused person is arrested; 8) when deciding on extradition or surrender of a person to the International Criminal Court or pursuant to the European Arrest Warrant; 9) in case of expedited hearing the case in court; 10) in other cases provided for in the CCrP. □ **REQUIRED according to paragraph 2 of Article 51 of the CCrP** because...
1.4. □ **WAS ARRESTED** (from to) (held in) **SHOULD THE ISSUE CONCERNING EXTENSION OF ARREST BE DEALT WITH?** ∇ **YES** ∇ **NO** □ **SERVES THE ARREST/CUSTODIAL SENTENCE** (from to) (held in) □ **WAS DETAINED** (from to) □ **WAS DETAINED according to the EAW** (from to)	1.5. **SUPERVISION AND OTHER COERCIVE MEASURES EXCEPT FOR ARREST** □ **EXIST** (what) **SHOULD THE ISSUE CONCERNING EXTENSION BE DEALT WITH?** ∇ **YES** ∇ **NO** □ **NOT EXIST** **SHOULD THE MEASURES BE APPLIED?** □ **YES** (what and why) □ **NO**	1.6. **PREVIOUSLY CONVICTED** □ **YES** ○ **SERVED THE SENTENCE** (when, if the convictions are spent) ○ **REMAINING UNSERVED SENTENCE** (length) □ **NO**

1.7. **A CIVIL ACTION HAS BEEN BROUGHT** □ **YES** **HAVE ALL PERSONS RESPONSIBLE FOR THE DAMAGE POSSIBLY CAUSED BY A CRIMINAL ACT BEEN INVOLVED?** (insurer, employer, parents/foster parents, adoptive parents etc.) ∇ **YES** ∇ **NO** **HAS THE PRE-TRIAL INVESTIGATION OFFICER OR PUBLIC PROSECUTOR ADOPTED DECISIONS ON RECOGNITION/INVOLVEMENT OF THE AFORE-MENTIONED PERSONS AS DEFENDANTS IN A CIVIL ACTION?** ∇ **YES** ∇ **NO** □ **NO**	1.8. **IF THE ACCUSED IS A MINOR, LEGAL REPRESENTATIVES are involved in the proceedings** □ **YES** **HAS THE PRE-TRIAL INVESTIGATION OFFICER OR PUBLIC PROSECUTOR ADOPTED DECISIONS ON ALLOW THE AFORE-MENTIONED PERSONS TO PARTICIPATE IN THE PROCEEDINGS?** ∇ **YES** ∇ **NO** **IS THERE NO CONFLICT OF INTERESTS OF THE REPRESENTATIVE AND THE REPRESENTED PERSON?** ∇ **YES** ∇ **NO** □ **NO**	1.9. **IF THE ACCUSED IS A MINOR, SHOULD HE BE SUMMONED FOR EXAMINATION OF THE ACCUSED** □ **REPRESENTATIVE OF THE CHILD RIGHTS INSTITUTION** o **YES** o **NO** □ **PSYCHOLOGIST** o **YES** o **NO** Paragraph 3 of Article 272 of the CCRP
1.10. **THE INDICTMENT HAS BEEN DRAWN UP FOR THE CRIMINAL ACT FOR WHICH A NOTIFICATION OF SUSPICION HAS BEEN SERVED TO THE ACCUSED** □ **YES** □ **NO**	1.11. **THE INDICTMENT HAS BEEN SERVED (in the understandable language)** □ **YES** □ **NO**	1.12. **THE ACCUSED AGREES TO ABRIDGED EXAMINATION OF EVIDENCE** □ **YES** □ **NO** Paragraph 2 of Article 218 of the CCrP
1.13. **REMARKS**		

2. VICTIM

(ONLY A NATURAL PERSON)

2.1. □ **ADULT** □ **MINOR.** □ **SPECIAL FEATURES** (blind, deaf, dumb, unable to walk etc.) □ **HAS AN ASSESSMENT OF SPECIAL NEEDS FOR PROTECTION BEEN CARRIED OUT?** ∇ **YES** ∇ **NO** **NECESSARY?** ∇ **YES** ∇ **NO** □ **IS ANONYMITY APPLICABLE?** ∇ **YES** ∇ **NO** **HAS A PRE-TRIAL INVESTIGATION OFFICER OR PUBLIC PROSECUTOR ADOPTED A DECISION ON RECOGNITION OF THE PERSON AS THE VICTIM?** ∇ **YES** ∇ **NO** **HAS A PRE-TRIAL INVESTIGATION OFFICER OR PUBLIC PROSECUTOR ADOPTED A DECISION TO APPLY ANONYMITY?** ∇ **YES** ∇ **NO**	2.2. □ **UNDERSTANDS THE LITHUANIAN LANGUAGE** □ **INTERPRETER IS NECESSARY** (what language?)	2.3. **SWORN** (Article 278 of the CCrP) □ **YES** □ **NO**

2.4. **REPRESENTATIVE** □ **EXISTS/PARTICIPATES** **HAS A PRE-TRIAL INVESTIGATION OFFICER OR PUBLIC PROSECUTOR ADOPTED A DECISION TO ALLOW THE AFORE-MENTIONED PERSON TO PARTICIPATE IN THE PROCEEDINGS?** **∇ TAIP ∇ NE** □ **DOES NOT EXIST/ABSENT** □ **REQUIRED according to paragraph 4 of Article 55 of the CCrP** due to criminal acts against human health, liberty, freedom and inviolability of sexual self-determination, child and family, morals *where minor children who are victims* and in other cases where the rights and legitimate interests of the *victim who is a minor child* would not be adequately defended without the assistance of his authorised representatives **(paragraph 12 of Article 12 of the LSGLA)** **HAS THE RIGHT TO THE STATE-GUARANTEED LEGAL AID BEEN EXPLAINED (paragraphs 2–3 of Article 12 of the LSGLA)?** **∇ YES ∇ NO**	2.5. **PERSON ACCOMPANYING THE VICTIM** (Article 56[1] of the CCrP) □ **EXISTS** □ **NOT EXISTS**	2.6. **A CIVIL ACTION HAS BEEN BROUGHT** □ **YES** **HAS THE PRE-TRIAL INVESTIGATION OFFICER OR PUBLIC PROSECUTOR ADOPTED A DECISION ON RECOGNITION OF THE PERSON AS THE PLAINTIFF IN A CIVIL ACTION?** **∇ YES ∇ NO** **HAS A MEASURE SECURING THE ACTION BEEN APPLIED?** Articles 116, 151–153 of the CCrP - **YES** **SHOULD THE ISSUE CONCERNING EXTENSION BEEN DELT WITH?** **∇ YES ∇ NO** - **NO** □ **NO** **SHOULD IT BE APPLICABLE?** **∇ YES ∇ NO** **HAS THE RIGHT TO BRING A CIVIL ACTION BEEN EXPLAINED?** **∇ YES ∇ NO**
2.7. □ **WAS ARRESTED** (from to) (held in) □ **SERVES THE ARREST/CUSTODIAL SENTENCE** (from to) (held in)	2.8. **IF THE ACCUSED IS A MINOR, A LEGAL REPRESENTATIVE is involved in the proceedings** □ **YES** **HAS THE PRE-TRIAL INVESTIGATION OFFICER OR PUBLIC PROSECUTOR ADOPTED DECISIONS ON ALLOW THE AFORE-MENTIONED PERSONS TO PARTICIPATE IN THE PROCEEDINGS?** **∇ YES ∇ NO** **IS THERE NO CONFLICT OF INTERESTS OF THE REPRESENTATIVE AND THE REPRESENTED PERSON?** **∇ YES ∇ NO** □ **NO**	2.9. **IF THE MINOR WAS QUESTIONED BY THE PRE-TRIAL INVESTIGATION JUDGE, SHOULD HE BE SUMMONED TO THE TRIAL AND REPEATED QUESTIONED?** □ **YES** because… (the question to be asked, the question that has not been asked and that is relevant to the proceedings before the court) □ **NO** Paragraph 2 of Article 186 of the CCrP!
2.10. **IF THE VICTIM IS A MINOR AND WAS NOT QUESTIONED BY THE PRE-TRIAL INVESTIGATION JUDGE, SHOULD BE BEEN SUMMONED TO THE TRIAL AND QUESTIONED?** □ **REPRESENTATIVE OF THE CHILD RIGHTS INSTITUTION** o **YES** o **NO** □ **PSYCHOLOGIST** o **YES** o **NO**	2.11. **REMARKS**	

Article 283 of the CCrP		

3. PLAINTIFF IN A CIVIL ACTION

(IF ANY DAMAGE WAS POSSIBLY CAUSED TO A LEGAL PERSON BY THE CRIMINAL ACT)

3.1.	3.2.	3.3.
A CIVIL ACTION HAS BEEN BROUGHT □ **YES** **HAS THE PRE-TRIAL INVESTIGATION OFFICER OR PUBLIC PROSECUTOR ADOPTED A DECISION ON RECOGNITION OF THE PERSON AS THE PLAINTIFF IN A CIVIL ACTION?** ∇ **YES** ∇ **NO** **HAS A MEASURE SECURING THE ACTION BEEN APPLIED?** Articles 116, 151–153 of the CCrP - **YES** **SHOULD THE ISSUE CONCERNING EXTENSION BEEN DELT WITH?** ∇ **YES** ∇ **NO** - **NO** □ **NO** **SHOULD IT BE APPLICABLE?** ∇ **YES** ∇ **NO** **HAS THE RIGHT TO BRING A CIVIL ACTION BEEN EXPLAINED?** ∇ **YES** ∇ **NO**	**REPRESENTATIVE** □ **EXISTS/PARTICIPATES** **HAS A PRE-TRIAL INVESTIGATION OFFICER OR PUBLIC PROSECUTOR ADOPTED A DECISION TO ALLOW THE AFORE-MENTIONED PERSON TO PARTICIPATE IN THE PROCEEDINGS?** ∇ **TAIP** ∇ **NE** **IS REPRESENTATION APPROPRIATE?** ∇ **TAIP** ∇ **NE** □ **DOES NOT EXIST/ABSENT**	**REMARKS**

4. THIRD PARTY

(IF RESOLUTION OF THE CIVIL ACTION MAY AFFECT THE RIGHTS AND OBLIGATIONS OF THE PERSON.

ALTHOUGH THE CCRP DOES NOT PROVIDE FOR SUCH PERSONS, HOWEVER, WHEN EXAMINING A CIVIL ACTION IN A CRIMINAL CASE, THERE ARISE QUESTIONS WHICH ARE NOT REGULATED BY THE CCRP, THE CORRESPONDING RULES OF CIVIL PROCEDURE APPLY IF THEY ARE NOT IN CONFLICT WITH THE RULES OF CRIMINAL PROCEDURE (Article 113 of the CCrP), e.g. vehicle driven by the victim and damaged in the accident was operated by the victim on the basis of a leasing contract, and the lessor, i.e. the credit institution, was not aware of the accident, the pre-trial investigation and the criminal proceedings before the court)

4.1.	4.2.	4.3.
HAS THE RIGHT TO BRING A CIVIL ACTION BEEN EXPLAINED? ∇ **YES** ∇ **NO** **HAS THE PRE-TRIAL INVESTIGATION OFFICER OR PUBLIC PROSECUTOR ADOPTED A DECISION ON RECOGNITION/INVOLVEMENT OF THE PERSON AS A THIRD PARTY?** ∇ **TAIP** ∇ **NE**	**REPRESENTATIVE** □ **EXISTS/PARTICIPATES** **HAS A PRE-TRIAL INVESTIGATION OFFICER OR PUBLIC PROSECUTOR ADOPTED A DECISION TO ALLOW THE AFORE-MENTIONED PERSON TO PARTICIPATE IN THE PROCEEDINGS?** ∇ **TAIP** ∇ **NE** **IS REPRESENTATION APPROPRIATE?** ∇ **TAIP** ∇ **NE** **DOES NOT EXIST/ABSENT**	**REMARKS**

5. WITNESS

5.1.	5.2.	5.3.
□ **ADULT** □ **MINOR.**	□ **UNDERSTANDS THE LITHUANIAN LANGUAGE**	**CAN TESTIFY** (Articles 79–80 of the CCrP) □ **YES**

□ **SPECIAL FEATURES** (blind, deaf, dumb, unable to walk etc.) □ **PECULIARITIES** (Article 82 of the CCrP) □ **APPLIED ANONYMITY** ∇ **YES** ∇ **NO** **HAS A PRE-TRIAL INVESTIGATION OFFICER OR PUBLIC PROSECUTOR ADOPTED A DECISION TO APPLY ANONYMITY?** ∇ **YES** ∇ **NO**	□ **INTERPRETER IS NECESSARY** (what language?)	□ **NO**
5.4. **SWORN** (Article 278 of the CCrP) □ **YES** □ **NO**	5.5. **REPRESENTATIVE** □ **EXISTS/PARTICIPATES** **HAS A PRE-TRIAL INVESTIGATION OFFICER OR PUBLIC PROSECUTOR ADOPTED A DECISION TO ALLOW THE AFORE-MENTIONED PERSON TO PARTICIPATE IN THE PROCEEDINGS?** ∇ **TAIP** ∇ **NE** □ **DOES NOT EXIST/ABSENT**	5.6. **IF THE ACCUSED IS A MINOR, A LEGAL REPRESENTATIVE is involved in the proceedings** □ **YES** **HAS THE PRE-TRIAL INVESTIGATION OFFICER OR PUBLIC PROSECUTOR ADOPTED DECISIONS ON ALLOW THE AFORE-MENTIONED PERSONS TO PARTICIPATE IN THE PROCEEDINGS?** ∇ **YES** ∇ **NO** **IS THERE NO CONFLICT OF INTERESTS OF THE REPRESENTATIVE AND THE REPRESENTED PERSON?** ∇ **YES** ∇ **NO** □ **NO**
5.7. **IF THE MINOR WAS QUESTIONED BY THE PRE-TRIAL INVESTIGATION JUDGE, SHOULD HE BE SUMMONED TO THE TRIAL AND REPEATED QUESTIONED?** □ **YES** because… (the question to be asked, the question that has not been asked and that is relevant to the proceedings before the court) □ **NO** Paragraph 2 of Article 186 of the CCrP!	5.8. **IF THE VICTIM IS A MINOR AND WAS NOT QUESTIONED BY THE PRE-TRIAL INVESTIGATION JUDGE, SHOULD BE BEEN SUMMONED TO THE TRIAL AND QUESTIONED?** □ **REPRESENTATIVE OF THE CHILD RIGHTS INSTITUTION** ○ **YES** ○ **NO** □ **PSYCHOLOGIST** ○ **YES** ○ **NO** Article 283 of the CCrP	5.9. **REMARKS**

CRIMINAL ACT/CRIMINAL ACTS

6.1. **THE STATUTE OF LIMITATIONS OF CRIMINAL LIABILITY HAS LAPSED** □ **YES** (when.....) □ **NE** (when it will lapse.....)	6.2. **FALL(S) WITHIN THE JURISDICTION OF THE COURT OF FIRST INSTANCE** □ **YES** □ **NO**	6.3. **REMARKS**

PROCEEDINGS

7.1. **A DECISION ON INITIATION OF A PRE-TRIAL INVESTIGATION HAS BEEN ADOPTED** □ **YES** □ **NO** **IS A PRE-TRIAL INVESTIGATION INITIATED ONLY ACCORDING TO THE COMPLAINT OF THE VICTIM OR HIS LEGAL REPRESENTATIVE?** ∇ **YES** ∇ **NO** Article 167 of the CCrP	7.2. **DOES THE CASE FALLS WITHIN THE JURISDICTION OF THE COURT** □ **YES** □ **NO** **POSSIBLE ABRIDGED EVIDENCE EXAMINATION** □ **YES** □ **NO**	7.3. **A CHAMBER MUST BE FORMED** □ **YES** because... □ **NO**
7.4. **IS IT NECESSARY TO APPOINT A SUBSTITUTE JUDGE?** □ **YES** because... □ **NO**	7.5. **THE CASE IS HIGH-PROFILE** (has a resonance in the society) □ **YES** □ **NO**	7.6. **THE CASE WAS HEARD** □ **OPENLY** □ **IN CAMERA** because...
7.7. **SHOULD A FIELD HEARING BE ORGANISED** □ **YES** because... □ **NO**	7.8. **AN EXPERT/SPECIALIST PARTICIPATES** □ **YES** □ **NO**	7.9. **INFORMATION TECHNOLOGIES TO BE USED** □ **YES** (for the entire proceedings or only certain actions) because... □ **NO**
7.10. **THE CASE SHOULD BE HEARD ACCORDING TO THE SCHEDULE** □ **YES** because... □ **NO**	7.11. **THE CASE SHOULD BE RECOGNISED AS THE CASE SUBJECT TO MORE SPEEDY TRIAL** □ **YES** because... □ **NO**	7.12. **RELEVANT ITEMS AND DOCUMENTS RELEVANT SHOULD BE TRANSFERRED TO THE COURT** □ **YES** □ **NO** **MUST BE OBTAINED** because...
7.13. **COSTS HAVE BEEN INCURRED IN THE PROCEEDINGS:** □ **YES** (Article 103 of the CCrP, e.g. the EAW) □ **NO**	7.14. **ALL REQUESTS HAVE BEEN RESOLVED** □ **YES** □ **NO**	7.15. **REMARKS**

PREPARATION FOR HEARING A CRIMINAL CASE IN COURT

GUIDE No 2

To be completed taking into account the results of GUIDE No 1

PARTIES:	**HOW MANY**	**PERSONS TO BE ATTRACTED:**	**YES**
THE ACCUSED		CONVOY (police, public security service, prison service – for the purpose of bringing persons involved in the proceedings who	

		are detained and serve an arrest or a custodial sentence to court)	
COUNSELS FOR THE DEFENCE AND REPRESENTATIVES OF THE ACCUSED		INFORMATION TECHNOLOGY SPECIALIST/SPECIALISTS (for information technologies/remote court hearings)	
VICTIMS		SPECIALIST RESPONSIBLE FOR MEDIA AND PUBLIC RELATIONS (for communication with the media, referral of persons involved in the proceedings to the courtrooms, etc.)	
REPRESENTATIVES OF THE VICTIMS		VOLUNTEERS (for referring persons involved in the proceedings to the courtroom, supporting victims and witnesses, etc.)	
PERSONS ACCOMPANYING THE VICTIMS		REPRESENTATIVES OF THE PRISON SERVICE OR LOCAL SELF-GOVERNMENT (for the field court hearings, e.g. in the premises of prisons or municipalities/subdistricts)	
DEFENDANTS IN A CIVIL ACTION EXCEPT FOR THE ACCUSED AND THEIR REPRESENTATIVES			
PLAINTIFFS INA CIVIL ACTION EXCEPT FOR THE VICTIMS AND THEIR REPRESENTATIVES		DRIVER (for the field court hearing or court hearings in other courtrooms of the court)	
THIRD PARTIES AND THEIR REPRESENTATIVES			
INTERPRETERS			
EXPERTS/SPECIALISTS		ASSET MANAGEMENT SPECIALIST/SPECIALISTS (for preparing the courtroom: bringing extra chairs, tables or monitors, arrangement of the bringing/delivery of large criminal files, e.g. consisting of 60 volumes, to the courtroom, etc..)	
PSYCHOLOGISTS			
REPRESENTATIVES OF CHILD RIGHTS INSTITUTIONS			
WITNESSES AND THEIR REPRESENTATIVES			
TOTAL:			

REMARKS:

PREPARATION FOR HEARING A CRIMINAL CASE IN COURT

GUIDE No 3

To be completed taking into account the results of GUIDE No 2

EXPECTED DURATION OF A CRIMINAL CASE – number of trials, e.g. 5, and duration, e.g. 8 hours	
PLAN FOR HEARING A CASE IN COURT:	
	REMARKS
1. TRIAL: PREPARATORY PART OF THE TRIAL AND START OF EXAMINATION OF EVIDENCE: announcement of the indictment, examination of the accused A. A. and B. B. and/or the victims C. C. and D. D.	till the lunch time (2–3 hours)
break	
2. TRIAL: CONTINUATION OF EXAMINATION OF EVIDENCE: examination of the witnesses E. E., F. F., G. G., H. H. and/or a specialist/expert	after the lunch time (on the same day or on the next day) (2–3 hours) on the next day till the lunch time/all day (2–3 hours or 4–5 hours)
break	on the next day after the lunch time (2–3 hours)
3. TRIAL: CONTINUATION AND END OF EXAMINATION OF EVIDENCE: examination of documents and items relevant to investigation and examination of the criminal act, publication of the material of the criminal case, resolution of additional requests and performance of additional actions (if possible on the same day)	on the next day in the morning (2–3 hours)
break	
4. TRIAL: CLOSING SPEECHES AND THE LAST WORD OF THE ACCUSED PERSON(S)	
break	after 14 or 45 days (paragraph 4 of Article 302 of the CCrP) (up to 1 hours)
5. TRIAL: ANNOUNCEMENT OF THE JUDGEMENT	

An alternative plan for hearing the case in court in case of any changes in the circumstances, for example, if a victim or witness, specialist, etc. does not appear, may also be drawn up.

As a rule, in practice, in large-scale and complex cases, the pre-arranged case hearing plan is constantly changed, taking into account the current situation because it is simply impossible to predict all the circumstances, for example, a serious injury of one of the accused, the death of the victim or a

failure to bring all items relevant to investigation of the criminal act and stored in the pre-trial investigation institution to the court in advance.

2.2. REFERRAL OF A CRIMINAL CASE FOR HEARING IN THE TRIAL

When deciding on the organisation of the hearing of a criminal case in the trial, the judge may, and even must, call on members of his team: the assistant judge and/or the registrar, the president of the court or his deputies for the formation of a chamber of judges, the allocation of a larger courtroom, a service car, etc., as well as other professionals of the court (psychologist, interpreter, computer science or even asset management specialists).

The judge and his team members may also cooperate with the police, public security and penal system officials, the public prosecutor supporting the prosecutors and the counsels for the defence (e.g., in complex large-scale cases, coordinating the dates of the first hearings (at the stage of referral of the case to trial), etc.

IMPORTANT. Due to the high workload and emotional exhaustion, the judge should try not to be left alone with the criminal cases assigned to him, but to communicate and cooperate with colleagues, ask questions, be interested in the most recent case-law, exchange good practices, share the work of organising the hearing of the case in the trial with his team members at the hearing, i.e. the assistant judge and/or registrar, i.e. not to be afraid to delegate certain tasks to others, use other court or even other institutional specialists if necessary, not to be afraid to ask for assistance. The benevolent, understanding and attentive cooperation of a judge with colleagues, the staff of the court and representatives of other institutions is a very important prerequisite for the effective hearing of criminal cases in court.

2.2.1. ROLE OF THE JUDGE IN ORGANISATION OF THE HEARING OF A CRIMINAL CASE IN COURT

The judge is the main figure in the trial of a criminal case, i.e. he organises and conducts the hearing of the case in court, i.e. he basically controls the entire proceedings from the receipt of the criminal case (assignment to it for trial) to the announcement of the judgement and its enforcement.

Having familiarised with the criminal case and having satisfied that there are no obstacles to hearing the case in the trial (Article 232 of the CCrP) and taking into account the time limits for referral of the criminal case for hearing at the trial and the initiation of hearing the case at the trial (Article 240 of the CCrP) set out in the CCrP and the number of the parties to the proceedings, their personal characteristics (age, disability, knowledge of the official language, etc.), their place of residence, the occupancy of the persons involved in the proceedings, the judge, as well as the courtrooms and other relevant circumstances, the judge settles all organisational issues which are relevant at the time, e.g.:

- the date of commencement of the proceedings;
- the appointment of a single hearing or of several hearings at once;
- whether the proceedings are to be conducted according to a schedule;
- what to summon to the court hearing and what to bring/transport if one of the parties is in custody or are serving a custodial sentence;
- whether to use an interpreter or even several interpreters;
- whether it is necessary to enable a party to the proceedings to provide the court with explanations by computer if he is able to hear and write but unable to speak;
- whether the case should be heard in court hearings in camera;

- whether to use information technologies for the entire case or a part of the case;
- whether to hear the case in other courtrooms if the majority of the parties live closer to other courtrooms etc.;
- whether a field court hearing should be organised if the majority of the parties to the proceedings live in one place or in the vicinity and public transport to the place of the court hearing the case is inconvenient or not available at all, and is not adjacent to or close to the court hearing the case or another courtroom.

In order to facilitate the judge's decision-making in the procedural matters provided for in Article 232 of the CCrP and prepare the criminal case for hearing in court, it is suggested to use the Guides Nos. 1 2, No 3 helping to consistently resolve the issues relating to the referral of the case for hearing in the trial.

The recommended wording of the operative parts of the court orders on referral of the case for hearing at the trial, e.g.:

Following Article 233 and paragraph 3 of Article 240 of the Code of Criminal Procedure of the Republic of Lithuania, the court has has decided as follows:

To refer the criminal case No 1-XXXX-XXXX/ 2023 in which A. B., born on X XXXX XXXX, is accused according to paragraph 1 of Article 140 and paragraph 1 of Article 140 of the Criminal Code of the Republic of Lithuania; C. D., born on X XXXX XXXX, is accused according to paragraph 1 of Article 140 of the Criminal Code of the Republic of Lithuania; E. F., born on X XXXX XXXX, is accused according to paragraph 1 of Article 140, subparagraph 6 of paragraph 2 of Article 138 and paragraph 1 of Article 140 of the Criminal Code of the Republic of Lithuania; G. H., born on X XXXX XXXX, is accused according to paragraph 1 of Article 140, subparagraph 6 of paragraph 2 of Article 138 and paragraph 1 of Article 140 of the Criminal Code of the Republic of Lithuania for hearing in the trial.

To hear the case in the courtroom of the District Court of XXXX XXXX (address) according to the schedule of trials:

- on X XXXX XXXX X at 10:00;

- on Y YYYY XXXX at 10:00;

- on Z ZZZZ XXXX at 10:00.

To appoint a counsel for the defence to the accused A. B., born on X XXXX XXXX (during the pre-trial investigation, the attorney-at-law Ž. Z. was present, paragraph 2 of Article 51 of the Code of Criminal Code of the Republic of Lithuania).

To appoint a counsel for the defence to the accused C. D., born on X XXXX XXXX (during the pre-trial investigation, the attorney-at-law V. U. was present, paragraph 2 of Article 51 of the Code of Criminal Code of the Republic of Lithuania).

To appoint a counsel for the defence to the accused E. F., born on X XXXX XXXX (during the pre-trial investigation, the attorney-at-law T. Š. was present, paragraph 2 of Article 51 of the Code of Criminal Code of the Republic of Lithuania).

To appoint a counsel for the defence to the accused G. H., born on X XXXX XXXX (during the pre-trial investigation, the attorney-at-law S. R. was present, paragraph 2 of Article 51 of the Code of Criminal Code of the Republic of Lithuania).

To notify XXXX Division of the State Guaranteed Legal Aid Service of appointment of the counsels for the defence.

To oblige XXXX Division of the State Guaranteed Legal Aid Service to choose counsels for the defence to the accused till Q XXXX XXXX and notify the court.

To accept an action brought by the National Health Insurance Fund under the Ministry of Health (legal entity registration number XXXX) and send its copies to the accused A. B., C. D., E. F. and G. H. for familiarisation.

To recognise National Health Insurance Fund under the Ministry of Health (legal entity registration number XXXX) as the plaintiff in a civil action.

To summon the public prosecutor (the indictment was drawn up by the public prosecutor P. O.) and the representative of the plaintiff in a civil action, namely, the National Health Insurance Fund under the Ministry of Health to the trials.

To transport the following detained persons to the trials held on X XXXX XXXX at 10:00, Y YYYY XXXX at 10:00 and Z ZZZZ XXXX at 10:00:

- the accused A. B., born on X XXXX XXXX;

- the accused C. D., born on X XXXX XXXX;

- the accused E. F., born on X XXXX XXXX;

- the accused G. H., born on X XXXX XXXX;

- the accused N. M., born on X XXXX XXXX;

- the accused L. K., born on X XXXX XXXX.

To summon the witnesses J. Y., H. G. and F. E. to the trial held on Y YYYY XXXX at 10:00.

To assign enforcement of the part of the order concerning transportation of the accused and victims to trials to the officers of XXXX prison, the Public Security Service under the Ministry of the Interior of the Republic of Lithuania and XXXX Police Unit of XXXX County Police Headquarters. To oblige XXXX prison to provide the dossiers, character references, data on disciplinary penalties and incentives and certificates on the remaining part of the not served custodial sentence concerning the accused A. B., C. D., E. F. and G. H till Q XXXX XXXX.

The order is not subject to appeal.

OR

To hear the case in the field court hearings in XXXX prison (address) according to the schedule of trials:

- on X XXXX XXXX X at 10:00;

- on Y YYYY XXXX at 10:00;

- on Z ZZZZ XXXX at 10:00

To oblige the administration of XXXX prison to ensure the field court hearings: prepare the room meeting the requirements of paragraph 1 of Article 35 of the Republic of Lithuania Law on Courts and ensure attendance of the accused A. B., born on X XXXX XXXX, C. D., born on X XXXX XXXX, E. F., born on X XXXX XXXX, and G. H., born on X XXXX XXXX, the victims N. M., born on X XXXX XXXX, and L. K., born on X XXXX XXXX, and the witnesses J. Y, born on X XXXX XXXX, H. G., born on X XXXX XXXX, and F. E, born on X XXXX XXXX, in the trials.

OR

To ensure attendance of the victims N. M., born on X XXXX XXXX, and L. K., born on X XXXX. XXXX, currently serving the custodial sentence in XXXX prison, at the trials held on X XXXX XXXX at 10:00, on Y YYYY XXXX at 10:00 and on Z ZZZZ XXXX at 10:00 by audio and video remote transmission means.

To oblige XXXX prison to ensure technical conditions for attendance of the victims N. M. and L. K. at the trials held on X XXXX XXXX at 10:00, on Y YYYY XXXX at 10:00 and on Z ZZZZ XXXX at 10:00 by audio and video remote transmission means and that the victims swear and were warned about criminal liability against signed acknowledgment under Articles 163 and 235 of the Criminal Code of the Republic of Lithuania.

To oblige the information technology specialist (computer scientist) of XXXX district court to ensure the technical conditions for attendance of the victims N. M. and L. K. at the trials held on X XXXX XXXX at 10:00, on Y YYYY XXXX at 10:00 and on Z ZZZZ XXXX at 10:00 by audio and video remote transmission means at XXXX district court.

IMPORTANT. Before entering into the court order, i.e. before deciding on the place, time of the hearing of the criminal case, information technology to be used, additional tools (tables, chairs, monitors, etc.) and public prosecutors, counsels for the defence, specialists/experts, interpreters and/or psychologists, it is necessary to coordinate all afore-mentioned issues in advance, i.e. communicate and cooperate.

CASES SUBJECT TO MORE SPEEDY TRIAL

The Description of the Procedure for Recognition of Cases as Cases Subject to More Speedy Trial and Coordination of Hearings Therein approved by 29 September 2023 Decision No 13P-131-(7.1.2)[13] of the Judicial Council (hereinafter referred to as the "Description") is a measure that ensures the operational efficiency of hearing of a criminal case in court intended for large-scale and complex criminal cases and criminal cases the hearing of which have been prolonged or may be prolonged.

IMPORTANT. Currently, there are two levels of criminal cases subject to more speedy hearing:
1) first-level case subject to more speedy hearing – a large-scale and complex case or another case the hearing of which has been prolonged or may be prolonged and in which it is necessary to apply the measures established in the afore-mentioned Description and/or other court hearing coordination measures aimed at ensuring that the case is examined in the shortest possible time;
2) second (higher) level case subject to more speedy hearing – a large-scale and complex criminal case or other criminal case the hearing of which has been prolonged or may be prolonged and in which, in order to ensure the public interest, it is necessary to apply the court hearing coordination measures set out in the above Description, which are aimed at ensuring the hearing of the case in the order of priority.

In order to initiate the recognition of a criminal case heard by him as a case subject to more speedy trial, the judge must be aware that the following circumstances are taken into account when the case is recognised as the first-level or second-level case subject to more speedy trail:

- ✓ the complexity and scope of the case;
- ✓ the nature of the case and the stage at which it is heard before the court;
- ✓ the number and nature of the parties to the proceedings (the number of parties who do not know the language of the proceedings and the need for interpreters; the interests of the children involved in the proceedings and the special protection measures applicable to the victims; the use of supervision and/or procedural coercive measures, etc.);
- ✓ the preliminary number of hearings and the preliminary plan for hearing of the case negotiated with the parties of the proceedings at the preliminary hearing or other hearing or the agreed schedule of court hearings (if known)
- ✓ organisational difficulties in ensuring smooth hearing of the case;
- ✓ the length of the proceedings at an earlier stage of the proceedings and the reasons for this;
- ✓ the circumstances which led to the case being recognised at an earlier stage of the proceedings as being complex, particularly complex or subject to more speedy trial (first-level or second-level cases)
- ✓ other significant circumstances (approaching the statute of limitations for the adoption of a judgement of conviction or the enforcement of a judgement, etc.);
- ✓ the nature of the administrative and/or organisational measures to be applied, which could speed up the examination of the case, and the circumstances in which it is necessary to apply such measures of coordination of hearings with a view to ensuring the priority of one case over other cases (for example, an overriding public interest); the case regarding the possibly committed criminal acts provided for in paragraph 2 of Article 225 of the CC; a case that received a lot of attention and resonance in the society, and the unjustifiably long duration of the proceedings could undermine the public's trust in the courts and the state, etc.).

In the course of such trial of the case before the court of first instance, the judge hearing the case must be able to deal with the case according to an intensive trial schedule, normally, without breaks of more than three working days (in such case, the judge does not normally hear other cases, except

[13] Published in the Register of Legal Acts on 4 October 2023, Identification code 2023-19484.

where it is necessary during the recess to continue the hearing of cases previously received which could not be assigned to other judges or examined before the hearing of the case to be heard was opened; as well as when the recess announced in the case under consideration is longer than three working days, and due to the length of the announced recess, the judge can consider new cases, requests, statements or complaints of the parties in the proceedings received during the recess).

Attention should be drawn to another **measure ensuring the operational efficiency of criminal proceedings** before the court provided for in paragraph 1 of Article 222 of the CCrP if hearing of the criminal proceedings requires a long time, **a substitute judge may be appointed**. The afore-mentioned measure is effective because in the event that the judge hearing the case withdraws and a substitute judge takes his place, there is no need to repeat the court's actions and the criminal case can be continued.

As a general rule, a substitute judge in the court of first instance is not appointed or is appointed very rarely. It is understood that a substitute judge may be appointed only in exceptional cases, for example, where a large-scale and complex criminal case is to be heard by a judge who has six months to serve before the end of his term of office; if the judge who is assigned to hear a criminal case is sick and intends to withdraw from work for some time for treatment, i.e. he plans to undergo a complex surgery and rehabilitation, or even does not know and cannot predict the duration of complex treatment.

Another important measure ensuring the operational efficiency of criminal proceedings in court is also provided for in the law on criminal procedure (paragraph 1 of Article 222), the President of the court may form a chamber of three judges to hear criminal cases.

In practice, a chamber of three judges is normally formed to hear large-scale and complex criminal cases or cases of high public interest (high-profile cases).

It should be considered whether a panel of judges should also be formed in cases where a judge with limited experience is assigned to hear a simple but large-scale criminal case, where a large number of persons, especially minors, are involved in the proceedings. This would give a judge with limited experience more confidence and would enable him to learn from his more experienced colleagues how to effectively conduct the criminal proceedings in court. Of course, in cases where courts are short of judges and they have to work under conditions of increased workload, a judge with little experience could also improve his skills by observing court hearings conducted by other judges. However, the only way to improve is to do own job and at the same time learn indirectly from more experienced colleagues. It would also ensure a more efficient prosecution of a specific criminal case assigned to a less experienced judge.
It is also worth considering the formation of mixed three-judge chambers when examining those criminal cases where non-everyday and non-simple questions requiring knowledge of civil law are raised, e.g. the statute of limitations of a civil claim brought in a criminal case or questions of civil defendants and third parties to be involved, i.e. it is suggested to consider whether it would be worthwhile to include one civil judge in the three-judge chamber hearing the criminal case.

2.2.2. TEAMWORK OF THE JUDICIARY: ROLES, FUNCTIONS AND RESPONSIBILITIES

The process of administering justice consists not only of "visible" works such as the examination of the case-file, the conduct of the hearing, the drafting and publication of the judgment, but also of a

number of other activities which are often "invisible": the collection of the information necessary for hearing of the case, the search and analysis of case-law, the fixing of the date of the hearing, the issuing and dispatch of summonses, the provision of information to the parties to the proceedings, etc. A judge may not, on his own or with the assistance of others, carry out all the work involved in the hearing of cases. To do this, he has a team: an assistant judge and the registrar. The smooth and efficient work of the whole team falls within the responsibility of the judge who organises and conducts the criminal proceedings in court, i.e. who essentially controls the whole proceedings, while other members of the team are responsible for the tasks specifically assigned to them in the job descriptions, the Judicial Council and specific legislation adopted by the President of the Court.

Effective planning of teamwork is of particular importance. Otherwise, not only does it create tension, demotivation, but it also increases the likelihood of mistakes, and the process of administering justice is affected. This can happen where the judge does not take into account his own workload and that of his team when planning his work, i.e. if, when assigning court hearings, the judge evaluates the time limits for initiating hearing of criminal cases in court set by the CCrP and the duration of possible interruptions in court hearings, but does not take into account the number of criminal cases already available and the fact that the assistant judge and the registrar are assigned to work with other judges as well, also does not take into account the number of draft procedural decisions already assigned to the assistant judge, the fact that the assistant judge also fulfils the orders of the President of the court and his deputies (is involved in various working groups, commissions, etc.), also does not take into account the duration of the participation of the registrar, the duration of the drafting and correction of the minutes of the court hearings, the management of audio recordings of court hearings, the management of criminal cases (binding, numbering of the case pages, drawing up of circulars, etc.), the work of securing the trials (preparation for work in the courtroom (inspection of organisational equipment, connecting, etc.), telephone calls to persons participating in the proceedings, the dispatch of court summonses and procedural decisions, uploading of data in the Lithuanian court information system LITEKO, etc.

Particular attention shall be paid to the rest time, i.e. the lunch break for the court's servants to rest and eat. Criminal cases should not be heard during the lunch break, i.e. court hearings should not take place during the lunch break, although this is very often requested by the parties to the proceedings. An employee who has rested and eaten is able to do the tasks assigned to him in a proper and timely manner.

In order to prepare for the criminal proceedings in court in an efficient manner and to enable the judge to concentrate not on tasks of a technical nature but on the substance of the case, to which he can devote the maximum of his time, **it is recommended that the judge share the work of organising the proceedings at the hearing with the members of his team, i.e. the assistant judge and/or the registrar**. For example, an assistant judge familiar with the criminal case could fill in Guide No 1 and Gude No 2, anticipate possible risks to the efficient prosecution of the criminal case (e.g. there are indications that one of the victims or witnesses, or perhaps even the defendant, may have travelled abroad, etc.) and submit proposals the organisation of the proceedings. By filling out Guide No 2, an assistant judge could cooperate with the registrar, who would check whether all the contact details of the persons involved in the proceedings are available (address of residence and/or e-mail address, telephone numbers) and suggest which persons, in his opinion, should be attracted (the necessary size of the courtroom, whether additional measures would be needed and where they should be obtained, who would bring (transport) the convicts to the court, whether there is an interpreter of the required language in the court, whether the registrar is able to use the information technologies required for a possible remote court hearing and whether he can provide them, or whether the assistance of an information technology specialist is necessary, whether volunteers are necessary, etc.), who would

assist the judge to plan the time of the hearing of the criminal case in court, by filling out Guide No 3, i.e. by drawing up a plan for the trial of the criminal case in court.

IMPORTANT. Cooperation and mutual assistance are the main principles of effective work of a team of judges; interpersonal relations within the team are based on acceptance, mutual understanding, mutual respect, trust and recognition; the team of judges must be able to adapt to the changing circumstances and environment, evaluate their activities, change them without losing a certain level of efficiency

2.2.3. COLLABORATION AND COOPERATION WITH THE PARTIES TO THE PROCEEDINGS, OTHER INSTITUTIONS AND OTHER SERVANTS OF THE COURT

Having familiarised with the criminal case and having satisfied that there are no obstacles to hearing of the criminal case in court, the judge should, before deciding to refer the case for hearing at the trial (Article 232 of the CCrP) and having considered all the circumstances mentioned above (in accordance with Guides Nos. 1 and 2), consider the place of the criminal case, that is to say, whether to hear the case in court or to hold the field trials in absentia.

IMPORTANT. Field hearings may be held only in exceptional cases, excluding the possibility of remote or mixed court hearings, and only after obtaining the approval of the President of the court or his deputy.

Field hearings may be relevant in criminal cases related to criminal acts committed in prisons, when the accused, victims and witnesses are serving custodial sentences and where, in the opinion of the court, remote hearing is not possible or is not the most appropriate means in the particular case. Hearing of a criminal case in prison would be faster and more cost-efficient – there would be no need to bring/transport all the afore-mentioned persons to court and attract a convoy (public safety and/or police officers), but the security aspect must also be considered, i.e. the safety of the judge and of the registrar accompanying him to the court hearing, as well as of the other persons involved in the case (prosecutor and counsel for the defence) should always be considered before considering hearing of the criminal case in prison.

In order to organise hearing of a criminal case in prison, the judge's team should first contact the prison warden by telephone and inquire about such possibility. If hearing a criminal case in prison is in principle possible, inquire with which person (official) the registrar should coordinate all the details of such hearing:

1) the requirements for the courtroom in which the criminal case would be heard:

- the State flag of Lithuania and the State emblem of Lithuania in a courtroom (paragraph 1 of Article 35 of the LC) – not self-made but meeting the requirements set in the legislation;
- table/tables for the judge and registrar, public prosecutor and counsel for the defence;
- the ability to plug computers, voice recorders to electrical sockets;
- access to the internet, printing or digitising documents if required by the court, the public prosecutor or the counsel for the defence,

2) the time of the hearing of the case (before the lunch time, after the lunch time, or all day – after all, the employment of the officers of the penal system is also important);

3) the employment of the accused, victims and witnesses (whether their removal from prison for pre-trial investigation or court proceedings is scheduled, whether their participation in remote court hearings is scheduled, whether their visits to medical treatment facilities are scheduled, etc.) etc.

Before coordinating the details of the field court hearing, it is recommended to inform the chairman of the court and/or his deputies about the intention to hold a field court hearing as well as find out about the court vehicle (with a driver). The opportunity to use the court vehicle may best be ascertained by the judge's team, e.g. the secretary of court hearings – to find out the availability of the court vehicle (with a driver) (available days and times). The Registrar could also inquire about the availability of the public prosecutor and the possibility of attending the trial of the criminal case in prison. The availability of attorneys-at-law, if they are already known, can be found in the column "AVAILABILITY" of the information system of the Lithuanian courts LITEKO.

Furthermore, field court hearings may be relevant in hearing criminal cases where almost all the accused, victims and witnesses live not in the place of the registered office of the court but if the court consists of a courthouse, outside the place of the courthouse for which hearing of the criminal case is to be assigned, e.g. in Elektrėnai, where there is no court (courthouse). In such case, in order to speed up the trial of a criminal case and reduce the costs of the trial of a criminal case, it is recommended to hold court hearings in the premises of the municipal administration or its structural units (municipalities). It is recommended for that the judge's team to contact the director of the municipal administration by telephone and inquire about such possibility. If hearing of the criminal case is basically possible in the head offices of the municipal administration or its structural units (municipalities), it should be inquired with which person (servant) the registrar should coordinate all details of such hearing. The court vehicle (with a driver) and other previously mentioned issues should also be coordinated.

If the case is to be heard in court, it must be decided whether it should be heard in the courthouse where the judge hearing the case works, or if the case should be heard in another courthouse if that courthouse is closer to the places of residence of the accused, victims and witnesses, or if public transport would be significantly more convenient for them, or if those courthouses have a large courtroom that better meets the needs of this case or there is a special room for the examination of minors. It is recommended that the judge coordinate the afore-mentioned issue with the President or Vice-Presidents of the other courthouse. Before coordinating the details of the criminal proceedings in other courthouse, the registrar could inquire about the availability of the court vehicle (with a driver), i.e. find out about the availability of the court vehicle (with a driver) (available days and times). The registrar could also inquire about the availability of the public prosecutor and the possibility of attending the trial of the criminal case in other courtrooms. The availability of attorneys-at-law, if they are already known, can be found in the column "AVAILABILITY" of the information system of the Lithuanian courts LITEKO

In the event that **information technology is required for hearing of a criminal case, it should be recommended to that the judge order the registrar with responsible persons (information technology specialists) to find out the availability of the (certified/licensed) information technology to be used in court (stationary and/or mobile video conferencing equipment, Zoom and (or) Teams applications),** i.e. available days and times, learn how to use them, if necessary, with the assistance of information technology specialists, and identify when information technology is required for hearing of a criminal case in an available prison or other courtroom if it is to be used to communicate with persons in or visiting such facilities. It should also be ascertained whether the persons involved in the criminal proceedings, i.e. interpreters, experts, victims, witnesses, etc., are able to use the envisaged technologies and ensure their safe use and confidentiality.

IMPORTANT. The registrar could find out the availability of public prosecutors, counsels for the defence, interpreters, specialists/experts, representatives, psychologists and representatives of the child rights institution who should be invited to the hearing of the criminal case, and in certain cases, also the days of the hearing of the criminal case suitable for the victims and witnesses. In cases where vulnerable persons (minors or disabled victims and/or witnesses) participate in the criminal proceedings, or the person participating in the proceedings came to the court with young children because they have no one to look after them, it is recommended to use court volunteers. The afore-mentioned issue could also be handled by the registrar.

The registrar performs all afore-mentioned actions and resolves issues only on the order of the judge.

In practice, it happens that the court is unable to contact the accused, victims and/or witnesses with available telephone numbers, residence and workplaces and/or e-mail addresses, but the material of the criminal case shows that one of them is registered with the Employment Service under the Lithuania Ministry of Social Security and Labor of the Republic, is a probationer and his behaviour is controlled by the Lithuanian Probation Service, is disabled and/or is in a treatment facility, is involved in other pre-trial investigations, etc. In such cases, it is recommended to **cooperate with the public prosecutor, pre-trial investigation and/or probation officers, as well as employment officers and specialists from other institutions, and obtain the necessary contact details of the persons involved in the criminal proceedings in accordance with the legal acts governing the protection of personal data**.

IMPORTANT. The public prosecutor and the attorney-at-law can always be contacted by telephone or their e-mail addresses, as well as other persons involved in the criminal proceedings: the accused, the victim, the representative of the plaintiff in a civil action, the witness, the specialist/expert, the interpreter, the psychologist, the representative of the child rights institution, the media relations and socially responsible specialist, driver, information technology specialist, volunteer, etc.

Attention should be paid to the fact that the law on criminal procedure **does not prohibit the court to resolve organisational issues at the trials of the criminal case during the organisational/administrative court hearings**, i.e. to ask the opinion of the persons participating in the proceedings regarding the procedure for hearing the case, e.g.:

- regarding the time of the start of the trial (to be heard according to a pre-agreed schedule or not);
- regarding the place of hearing of the case (organise mobile court hearings, go to other courthouses or not);
- regarding the time of examination of specific evidence (summoning specific witnesses, specialists/experts to the court at different times, instead of sending court summonses/calls to all persons participating in the proceedings at the same time, when it is well known that the trial of criminal case will begin only at the relevant time, i.e. the preparatory part of the trial (presentation at the trial, clarification of the rights and obligations of the persons involved in the proceedings) and the start of examination of evidence (announcement of the indictment, giving testimony by the accused and victims; paragraphs 3 of Article 236 of the CCrP).

IMPORTANT. Such organisational court hearings are especially relevant when criminal cases are particularly voluminous and involve a large number of persons, they have been used in practice more than once. When planning the hearing of a criminal case in court in this way, respect is shown to all persons involved in the proceedings is shown, allowing them to feel like equal parties to the proceedings, reducing tension and ensuring a smoother and faster trial of the criminal case trial.

2.2.4. PLANNING OF THE PROCEEDINGS: RESOLUTION OF THE ISSUES OF THE DATES OF THE TRIALS AND OTHER RELEVANT ORGANISATIONAL ISSUES, DRAWING UP OF THE PRELIMINARY CASE HEARING SCHEDULE

The importance of planning the hearing of criminal case in court has been repeatedly emphasised in previous chapters of this Guide.

In order to make it easier for the judge to plan the dates of trials and other relevant organisational issues, it is once again recommended to use the prepared Guides Nos. 1, 2 and 3 helping to consistently solve all issues of criminal proceedings in court.

It is recommended that the judge prepare a criminal case trial plan (Guide No 3) that addresses the following issues:

- regarding the predicted duration of criminal proceedings in court, for example, how many trials should be held and for what duration, so that the criminal case is not only heard in court quickly but also in detail, so as not to cause resentment among the persons involved in the proceedings due to waiting too long outside the door of the courtroom (e.g. the witness is called to the hearing at 9:00 but is questioned by the court only at 15:30);
- regarding the repeated calls/summons to the court (e.g., a witness living more than 100 km from the court where the criminal case is being heard is summoned to the court three times but is questioned by the court only at the last of the three hearings);
- regarding ensuring attention (the judge hearing a criminal case all day was distracted, inattentive, fidgeting in his gown and did not hear some details, cross-examining the witness, or the judge hearing a criminal case all day only took a lunch break, did not ask whether the persons participating in the proceedings were tired or whether more breaks were necessary);
- regarding the quality of communication (the witness who had been waiting for the examination in the court since morning was never questioned that day, he was not explained for what reasons, no one apologised to him, only after the end of the working day, i.e. after the court was adjourned, the exhausted registrar told him to sign that he knew the date and time of the next court hearing and that he was being summoned again, and if he needed a summons, call the next day and ask for it to be issued).

It is also recommended that the judge have an alternative part of the criminal case trial plan in case the planned course of the trial starts to change, for example, a witness summoned to the court at a certain time does not appear (is late, misses the train or gets into a traffic accident) but a witness summoned much later has already arrived.

IMPORTANT. Selection of dates for scheduled trials. It is common practice that trials are not scheduled or are scheduled significantly less frequently on the day of the general meeting of attorneys-at-law announced in advance by the Bar Association and notified to the courts. The same practice could be on the Prosecutor's Office Day, namely, the 30th of March. It should be borne in mind that for some parties to the proceedings other dates which are not recommended for court hearings, such as the 2nd of January, immediately after the New Year's holidays, may also be important or may influence their behaviour, i.e. their failure to appear in court; on the Defenders of Freedom Day (the 13th of January), as well as the Day of Mourning and Hope (the 14th of June), when solemn commemorations are organised in the Seimas of the Republic of Lithuania and throughout Lithuania; on the International Children's Day (the 1st of June) and the Science and Knowledge Day (the 1st of September) if a criminal case involving minors is heard. Furthermore, when deciding on summoning of forensic experts to the hearing, the Day of the Forensic Experts (the 29th of October) should be taken into account, and when deciding on summoning of victims and/or witnesses, the date of their birthday should be taken into account.

In addition, when planning the course of each criminal case assigned to him, the judge should take into account already planned criminal cases, which would help to avoid fatigue, burnout, haste and the resulting mistakes, both his own mistakes and the mistakes of the entire team.

3. HEARING OF A CRIMINAL CASE IN THE TRIAL

The trial of a criminal case in court is conducted by a judge, who, according to the law on criminal procedure, must: ensure that the criminal case is heard in court in the shortest possible time; seek to have the case examined with as few interruptions of the trials as possible; take all the measures provided for in the law in order to thoroughly and impartially investigate the circumstances of the case, and remove from the judicial proceedings everything that is not related to the case and that unreasonably prolongs the trial of the case (Articles 241 and 242^2 of the CCrP).

When hearing a criminal case, the court must directly examine the evidence of the case: question the accused, the victims, witnesses, listen to the conclusions and explanations of the experts and specialists summoned to the court hearing, examine the material evidence, read aloud the records and other documents (Article 242 of the CCrP).

3.1. PRELIMINARY PART OF THE TRIAL

Proper commencement of the trial is a guarantee of a smooth criminal trial. At this stage of the proceedings, the judge gets to know all the parties to the proceedings and, by giving them due attention (explaining their rights and obligations, the procedure and course of the hearing of a criminal case, and resolving requests), establishes a relationship, reduces tension and ensures cooperation in the proceedings.

The order of precedence of the preliminary part of the hearing is established in the CCrP:

1) the judge (presiding judge) assigned to hearing of the criminal case commences the trial in time and announces which case shall be heard;

2) the registrar, after the president of the trial has given the floor, informs the court of the names of the parties to the proceedings, witnesses, experts, specialists and interpreters who have appeared and the reasons for the absence of those who have not appeared (Article 262);

3) the judge explains to the interpreter, if he is present, the duty to interpret the content of testimonies, statements, documents read in court, as well as orders of the President of the trial and court judgements for the parties to the proceedings who do not know the Lithuanian language; furthermore, the judge warns the interpreter about liability for refusal to perform one's duty without good reasons and for liability provided for in Article 163 of the CCrP and about the liability for false translation and translation known to be incorrect provided for in Article 235 of the CC and takes the interpreter's oath (Article 263);

4) witnesses who appear after the interpreter's oath are removed from the courtroom (Article 263) and the identity of the accused is established (Article 265);

5) the question of whether it is possible to hear the case when one of the summoned persons did not come to the hearing is decided (Article 266);

6) the composition of the court is announced, i.e. the names of the judge hearing the criminal case, the names of the public prosecutors, counsel for the defence, representatives, experts, specialists, interpreters and the registrar are announced (Article 267);

7) the parties to the proceedings are asked whether they challenge the judge, public prosecutor, counsel for the defence, representative, expert, specialist, interpreter and registrar (Article 267).

In practice, some judges strictly follow the procedure established in the law and some judges**, taking into account the interest of all parties to the criminal proceedings, including witnesses, announce the composition of the court much earlier, i.e. immediately after the announcement of the case to be heard. Such practice should be considered as effective** because this is how the court first introduces itself to the persons who appeared at the court (the public), i.e. it gets closer to the person, and the persons who have attended the court hearings, as well as the witnesses who have not yet been removed from the courtroom, already know the main parties to the proceedings who appeared at the court for persons, maybe even for the first time, brings clarity and reduces tension.

Procedural justice studies also emphasise the fact that persons get their first impression of justice based on whether the judge greets the parties to the proceedings. A study conducted in Lithuania 2018 showed that only in about 44 per cent of the studied cases the judges greeted the parties to the proceedings at the beginning of the trial[14].

Before removing the witnesses from the courtroom, it is recommended to briefly explain to them the course of the criminal proceedings so that they can get an idea of how long it may take in court and when they may be called into the courtroom for examination. Witnesses will be able to feel at ease outside the door of the courtroom, for example, have a cup of coffee. It is also advisable to ask which witness needs to be questioned first because of the urgency of the situation or other urgent matters, such as going to a doctor's appointment scheduled many months in advance, feeding a breast-fed baby, etc.

The procedural justice studies conducted in Lithuania in 2018 have showed that witnesses in our country's courts are still rarely explained why they are summoned, why they cannot stay in the courtroom until the examination, how long they will have to wait outside the door, etc. Such information is especially important for those persons who have appeared in court for the first time and do not know how to proceed. The analysis of audio recordings of court hearings has showed that there were situations when, even after the witness asked how long he would have to wait outside the

[14] Teisėjų elgesio ir įvaizdžio socialinė percepcija (Social Perception of Judges' Behaviour and Image). Editor. G. Valickas. VU, 2018. P. 69.

door, the judge did not explain anything in more detail (for example, the answer would be "we well invite you when necessary"[15].

IMPORTANT. **It is necessary to show understanding to people**, respond to expressed dissatisfaction, perhaps even apologise on behalf of the court, e.g. the court apologises for the inconvenience caused to you, and explain that the entire process is aimed at finding out the truth and bringing justice. In addition, the judge can explain to the witnesses that the court can reimburse them for the travel expenses to and from the court according to the supporting documents and suggest that after the court hearing, they should apply to the registry of the court or the registrar to receive a special request form for reimbursement of travel expenses.
Practice shows that people often get angry when they are called to court and do not realise that this is an obligation. The tension can be reduced by explaining that each of us can become a witness, it is usually not up to us, and there may be a situation in life when the testimony of another person will be important to you. Conducting the examination in a respectful but sound manner also reduces tension.

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The judge may also explain that a witness is obliged to appear in court when summoned, and a witness who fails to appear in court without a valid reason may be fined up to 30 MSLs, may be brought to the police and may even be sentenced by an arrest up to 1 month (Articles 83, 142 and 163 of the CCrP).

Furthermore, it may be pointed out that witnesses who are unable to appear in court due to illness must present a special document, i.e. a medical certificate for a failure to appear at a pre-trial investigation institution, prosecutor's office or court[17] instead of a certificate of incapacity for work.

If it is obvious to the judge that the criminal case cannot be initiated and the trial will have to be postponed, for example, the accused did not appear, it is recommended not to even remove the witnesses from the courtroom and give them the opportunity to examine the reasons for the postponement of the criminal case in court, which also reduces tension and dissatisfaction regarding repeated calls (summons) to appear in court. It also reduces the emotional burden on the registrar when he has to explain to the witnesses waiting outside the door of the courtroom why the court hearing did not take place and that they are being called back to the next court hearing. In addition, the dates and times convenient for witnesses can be taken into account when planning the next court hearing.

It should also be considered whether it would not be appropriate for the judge to more often use the possibility of examination the witnesses who appeared, thus, avoiding the need to summon them a second time as provided for in paragraph 3 of Article 266 of the CCrP. It is, of course, not appropriate to use the afore-mentioned opportunity in cases where there is a major dispute

[15] Teisėjų elgesio ir įvaizdžio socialinė percepcija (Social Perception of Judges' Behaviour and Image). Editor. G. Valickas. VU, 2018. P. 77.
[16] Articles 103–104 of the CCrP; Procedure for the Determination of the Amounts of the Sums to Be Paid to the Witnesses, Victims, Experts, Specialists and Interpreters and Payment Thereof in Criminal Proceedings and Administrative Proceedings approved by 25 April 2003 Resolution No 524 of the Government of the Republic of Lithuania; published: Official Gazette *Valstybės žinios*, 30 April 2003, Nr. 40-1843; Register of Legal Acts; Identification code 1031100NUTA00000524.
[17] Form No 094-1/a (Oreder No V-989 " of the Minister of Health of the Republic of Lithuania of 4 December 2007 "On the Approval of the Statistical Accounting Form No 094-1/a "Medical Certificate for Absence from the Pre-trial Investigation Institution, Prosecutor's Office, Court", published: Official Gazette *Valstybės žinios*, 11 December 2007, No 130-5275; Register of Legal Acts, Identification code 1072250ISAK000V-989).

over the testimony of a witness in a criminal case, for example, where the prosecution is based on the testimony of a single witness and the accused denies guilt (the CCrP states that witnesses who have been questioned may be summoned to the trial at a later date "in cases of urgency" and that such situation is likely to fall within the definition "case of urgency").

Having found out that no challenges against the judge, the public prosecutor, the counsels for the defence, the representatives, the expert, the specialist, the interpreter and the registrar are filed, or having decided that the case is admissible, the judge explains to the accused, his legal representative, the victim, the plaintiff in a civil action, the defendant in a civil action and their representatives, as well as the specialist and the expert, their rights and obligations set forth in the CCrP (Articles 268–269 of the CCrP).

IMPORTANT. The explanation of rights and duties must not be formal, i.e. not limited to just reading of the rights and duties. Each right and duty must be read clearly, taking short pauses, observing the reactions of the person to whom the rights and duties are read. The judge can provide a short but simple explanation of each right and duty. After reading and explaining all the rights and duties, the judge should ask the person to whom the rights and duties have been read and briefly explained whether all the rights and duties are clear to him, whether he has any questions concerning his rights and duties, briefly answer the questions asked and ask again whether everything is clear at this stage, and emphasise that in case of uncertainty he can always ask his attorney-at-law, representative or, if there is no such person, the judge.

P.S. However, it should be noted that the judge should only answer questions about the procedure in court, the course of the trial and not provide legal advice on the best course of action or otherwise represent the advice of an absent counsel for the defence. A good practice would be to emphasise the possibility of having a counsel for the defence for the accused, who has many questions about the case itself, the accusation, clarify the right to apply to the SGLAS, instead of answering this kind of questions of the parties to the proceedings.

The procedural justice studies show that the more informed individuals are about everything related to the decision of their case, the more likely they are to perceive the judge's behaviour and the decision as being as fair.[18].

At the end of the preparator part of the hearing, the judge asks the parties to the proceedings present at the hearing whether they have any claims and settles them all by rulings (Article 270 of the CCrP) and starts the examination of the evidence. In the course of resolution of requests, the judge may consult with the parties to the proceedings on the order of hearing the criminal case in court, i.e. on the course of investigation of evidence, for example, on the order of examination of witnesses; the sequence of the evidence examination (we first question the witnesses or specialist/expert, or whether we first examine the material evidence or read and examine important documents, etc.).

The afore-mentioned actions are important factors of the court's communication and cooperation with all the persons participating in the trial of the criminal case, which usually help to establish a connection and bring everyone together to cooperate for the common goal, i.e. to examine the criminal case as quickly and thoroughly as possible.

[18] Teisėjų elgesio ir įvaizdžio socialinė percepcija (Social Perception of Judges' Behaviour and Image). Editor. G. Valickas. VU, 2018. P. 41.

3.2. CONDUCT OF EXAMINATIONS

It should be noted that a smooth and appropriate examination of a specialist and/or expert, accused, victim, witness, in particular, a minor or other vulnerable person, is possible only after proper preparation, which should be emphasised in Part 2 of this Guide. Therefore, after discussing the general basic principles of examination in this Section of the Guide, special attention is paid to the examination of minors, persons with disabilities and victims or witnesses who are subject to anonymity (participation of representatives of the afore-mentioned persons and representatives of competent institutions, interpreters, psychologists, information technology and other court specialists; tools to be used etc.).

General principles of examination. This Guide has repeatedly emphasised the need for a judge to be properly prepared for the hearing of a criminal case in court, which not only ensures a smooth, fast and thorough process, but also prevents from possible resumption of the examination of evidence in court, which always prolongs the trial of the criminal case and slightly frustrates the parties to the proceedings.

Each examination of the accused, victim, witness, specialist and/or expert in court must be:

- respectful;
- indirect – all persons involved in the proceedings must be given the opportunity to participate in the examination (to be seen, heard and asked questions);
- concentrated – concern only the essence of the case (only what is significant for a specific case, i.e. what confirms or denies one or another circumstance/fact; it is recommended to even write down the questions you want to ask one or another person before the examination);
- structured – the questions asked by individual criminal acts, when several criminal acts are examined, or by committed/uncommitted acts, when the criminal act consists of several or even a series of acts, must be particularly clearly distinguished.

Examination of a minor, disabled person and victim or witness subject to anonymity.
When the law-maker obligatorily included a competent person, namely, a psychologist (Articles 280 and 283 of the CCrP) who helps the judge to conduct the examination, in the examination of minors (victims or witnesses) in the court, the examination of minors in the court significantly reduced not only the tension of the questioned persons and their relatives, but also the tension of judges. This has also been facilitated by the equipment of premises adapted to examination of children in the courts, i.e. children's examination rooms. If they are not available in any court or courthouse, you can always apply for official assistance to another court, other courthouses, or even other institutions, such as the police (children's examination rooms are equipped in some police stations), the Help Centre for Childre Who Were Victims of Sexual Abuse of the care house "Užuovėja" etc. Psychologists assisting courts in conducting examination of minors are listed on the website of Lithuanian courts (https://www.teismai.lt/lt/visuomenei-ir-ziniasklaidai/pagalba-liudytojams-ir-nukentejusiesiems/pagalba-vaikams-teisminiame-procese/4765) and are always ready to advise the judge on how to prepare for the examination of a minor.

When planning the examination of a minor in court, it is recommended to always coordinate its date and time with a psychologist as well as with an information technology specialist who ensures the technical means to be used during the examination of a minor and the making of a video and audio recording in advance (Articles 186, 280 and 283 of the CCrP). The afore-mentioned questions can be coordinated by the registrar on the order of the judge.

The fact that, under the law of criminal procedure**, a minor is normally questioned only once by a pre-trial judge** has also contributed to the expeditiousness of hearing the criminal case in court (Article 186 of the CCrP). Only in exceptional cases, a minor can be repeatedly questioned in court (Articles 186, 280 and 283 of the CCrP), i.e. if the minor has already been questioned by a pre-trial judge, he is no longer summoned to the court for examination, as indicated in the operative part of the court order for the referral of the criminal case to the trial.

In practice, it happens that the suspects and their counsels for the defence ask the court to repeatedly question a minor, in particular, a victim of sexual abuse, during the hearing of the criminal case in court, even though he has already been questioned by the pre-trial investigation judge. In such cases, the judge is recommended to ask the persons who made such request to very clearly formulate the questions they want to ask the minor, i.e. find out what they want to ask and whether it was not done by the pre-trial investigation judge, or whether the questions were already answered during the examination before the pre-trial investigation judge, e.g. the victim freely speaking about the circumstances of the event in question, although such specific question was not asked. In such cases, **before deciding on the request, it is recommended that the judge publish the minor examination record and review and listen to the video and audio recording of the examination of the minor (paragraph 2 of Article 276 of the CCrP), i.e. deal with the afore-mentioned issue not in the preparatory part of the trial, but already during the examination of evidence** (in the preparatory part of the hearing, it is recommended to defer the resolution on this request, i.e. "the court decides to defer the resolution on the request until the examination of the minor conducted by the pre-trial investigation judge is published, reviewed and listened to"). The judge must keep in mind the deferred examination of the request (should be noted in his records) and resolve all of them later.

IMPORTANT. If it happens that the court still decides to repeatedly question the minor and summons him to the court, the minor must be questioned strictly in accordance with the requirements of the law on criminal procedure, i.e. in the child examination room (Articles 280 and 283 of the CCrP), protecting the minor from comments, rude tone of voice and/or even threats, secondary and repeated victimisation from the parties to the criminal proceedings.

A representative of the state child rights protection institution who, like other persons participating in the hearing of a criminal case, observes from the courtroom whether the rights of the minor are not violated during the examination of children in the examination room is also present during the examination of minors in the court. The representative of the state child rights protection institution may ask questions to the person being questioned and make requests for examination. **A representative of the minor is entitled to participate in the examination only after assessing if he would not have influence to the minor** (Articles 280 and 283 of the CCrP). If the judge suspects that a minor is being influenced by a representative, it is advisable to consult a psychologist about the presence of a representative in the children's interview room with a minor, especially a young child, before the examination.

The National Courts Administration conducts regular training for judges to enhance their capacities to conduct appropriate examinations of minors. More information on examination of minors is available in the following publications: Recommendations on the Methodology on Examination of Young Children, Minors (https://sat.teismas.lt/data/public/uploads/2018/01/apklausejams.pdf) and Psychological Recommendations for Pre-Trial Investigation Officers Working with Minors" (https://vrm.lrv.lt/uploads/vrm/documents/files/LT_versija/Viesasis_saugumas/Metodikos/Psichologinesrekomendacijospdf01.pdf) which are not the most recent publications; nevertheless, they have not lost their relevance yet. See also the article "A Child Testifies in Court. What One Should Know

About the Examinations of Children?" (https://www.teismai.lt/lt/naujienos/teismu-sistemos-naujienos/vaikai-liudija-teisme.-ka-reikia-zinoti-apie-vaiku-apklausas/8920).

The examination of a victim or a witness subject to full or partial anonymity (Articles 199 to 200 of the CCrP) before the court is governed by Articles 279, 282 and 283 of the CCrP. The court orders the prosecutor to organise the appearance of the victim or witness, who is subject to anonymity, to the court in such a way as to ensure his anonymity. It is recommended to indicate this in the operative part of the order on referral of the criminal case to trial. A witness who is subject to anonymity is heard in a court hearing in camera with acoustic and visual barriers preventing other participants in the court hearing from identifying the person being examined. If it is not possible to create acoustic and visual barriers in the courtroom, the victim or witness who is subject to anonymity is examined not in the courtroom but in another place without the presence of other participants in the court hearing. Before the questioning of such person, the other parties to the proceedings in the court submit to the judge the questions they wish to ask that witness in writing. The testimony of the victim or witness heard in this way is recorded in the minutes of the trial by the judge. The judge reads these statements aloud at the trial.

Repeated and additional questions of other participants in the court hearing that they want to ask after the judge reads the testimony of the examined victim or witness aloud at the trial are asked and answered in the same order. In individual cases, where the presence of the victim or witness who is subject to anonymity, at the court would pose a serious danger to his life, health or freedom, the life, health or freedom of his family members or close relatives, he may not be summoned to the trial, and his testimony given during the pre-trial investigation is read aloud in court to the judge, or he may be heard by means of remote audio and video transmission with acoustic and visual barriers.

IMPORTANT. Before examining a victim or a witness subject to full or partial anonymity, the judge is recommended to warn the registrar and the information technology specialist or specialists assisting during the court hearing, creating acoustic and visual barriers, that the person being examined is subject to anonymity and his data is classified, i.e. that information about person being examined cannot be disclosed to anyone (neither his gender, nor his age, nor the colour of his skin, hair or eyes, nor other characteristics) learned during the work cannot be disclosed to anyone.

The law on criminal procedure provides for a person accompanying the victim (Article 56^1 of the CCrP). As a general rule, it is close relatives or friends who help a victim who has difficulty in walking or are elderly. However, **such accompanying person may be needed not only for those who are elderly or have a disability but also for the victim who is suffering emotionally as a result of the criminal act and the criminal proceedings.** Although the law does not provide for a person accompanying the witness, the witness has the right to have a representative (paragraph 7 of Article 81 of the CCrP). However, in the absence of such persons, **vulnerable victims and witnesses involved in criminal proceedings may be assisted by the volunteers of the court** as already described in Part 2 of this Guide.

When examining a criminal case, the judge is advised to pay attention to the personal characteristics of the victims and witnesses (age, disability, knowledge of the official language, etc.) who are summoned to the trial and examined there as already described in Part 2 of this Guide.

If the victim or witness has a mobility disability or is blind or visually impaired, before summoning him to the court, it is recommended to find out if there are people in his environment who could help

him to come to the court if he intends to go by public transport, or whether the municipality of his place of residence would be addressed (the Social Support Division or the subdistrict) and request for assistance, i.e. organise bringing of a person with mobility or vision disabilities to the court and bringing them home. It is important to ensure that the afore-mentioned persons are met by a court official or volunteer in the lobby of the court and escorted to the courtroom.

In practice, there have been cases when a victim with a mobility disability was brought to the hearing of a criminal case in a wheelchair by an invited neighbour to testify in the morning. At the end of the working day, well after the hearing of the criminal case, when the court employee came to lock the courtroom, the victim sitting in a wheelchair was still in the courtroom because he was unable to turn around in the courtroom and leave it.

If the victim or witness is deaf-and-dumb (unable to hear and speak), dumb (unable to speak) or deaf (unable to hear), a sign language interpreter may be required if the victim or witness knows the sign language. It is important to find out what sign language he knows, i.e. the Lithuanian or another language. If there are two or more such persons, a sign interpreter is required for each such person. As for sign language interpreters, you may consult the specialists of the Lithuanian Sign Language Interpreters Centre (https://www.vertimaigestais.lt/). Sometimes it is possible to communicate with such persons in writing, for example, through a computer. In practice, there have been cases where a computer of the court was provided to the person being examined. Thanks to the information technology specialist, the person being examined and all parties to the criminal proceedings could see all the asked questions as well as all the answers of the person being examined on a large TV screen of the courtroom.

IMPORTANT. If possible, it should be ensured that the victim or witness with severe visual impairment can read the summons, oath and warning about criminal responsibility in Braille. It is also important that all victims and witnesses with disabilities can receive all necessary information about the process of hearing a criminal case in court in an easy-to-understand language, i.e. i.e. prepared in an easy-to-understand language (using the "easy-to-read" method). For more information on easy-to-understand language, please visit the website of the Department of the Affairs of Disabled under the Ministry of Social Security and Labour. (https://www.ndt.lt/lengvai-suprantama-kalba-2/).

3.3. DIFFICULT SITUATION DURING THE TRIAL AND POSSIBLE SOLUTIONS

Judges hearing criminal cases have, on several situations, faced situations the solutions of which require complex knowledge, life experience and even creativity because the law on criminal procedure does not regulate all possible cases.

For example, true story: the accused did not appear at the trial. It is evident that hearing of the criminal case is not possible, i.e. hearing of the case is deferred (Article 246 of the CCrP). After the judge started the preparatory part of the trial, making an audio recording of the trial (paragraph 3 of Article 261 of the CCrP), the accused whose face was covered with bruises and scabs opened the door of the courtroom, entered the courtroom at a brisk pace and sat down. Grabbing his head and staring at the table, he immediately demanded to adjourn the criminal case. He kept repeating rattling off: "This case must be postponed, this case needs to be postponed somehow, this case needs to be postponed, I can't hear anything, I can't hear anything, this case needs to be postponed". The judge tried to interfere with the words of the accused asking what happened, whether the accused was feeling well, whether it was necessary to call an ambulance but all the questions of the judge were answered in the same way: " This case must be postponed, this case needs to be postponed somehow, this case needs to be postponed, I can't hear anything, I can't hear anything, this case needs to be postponed". It seemed that the accused did not answer any questions asked by the judge, i.e. he did not hear. Suddenly, the judge asked: "Do you see me?" The accused calmly answered: "Yes, I do." And he looked at the judge. After a short silence, the judge said: "Well, if you can see and hear me, please stand up and introduce yourself", which the accused did.

This section of the Guide discusses the most common situations not covered by the law of criminal procedure and encountered during a trial and presents possible solutions to them.

SITUATION	SUGGESTED SOLUTIONS
The accused refuses to introduce himself or, when he is asked to give the details specified in Article 265 of the CCrP, he is silent.	At the end of each file of the criminal case, there is a material characterising the accused, which usually provides all data set out in Article 265 of the CCrP as well as a photograph of the accused (in a copy of the identity document of the person, an extract from the Population Register or the dossier of the accused). The judge should be advised to indicate that, if the accused refuses to introduce himself, the accused is identified on the basis of the photograph of the accused available in the criminal file (volume 9, case pages 189). The court has no doubt that the accused A.B., born on ZZ YY 19XX in Rokiškis, married, living at the address Saulės g. X-Y, Šiauliai, repeatedly convicted and currently serving a custodial sentence in M prison, is present in the courtroom (volume 9, case pages 165–198).
The victim does not have his identity document.	Examination of an unidentified person is not possible. The assurance of the spectators or even the counsels for the defence/public prosecutor who appeared at the courtroom that he is exactly the person is not

	recognised as the means of identification of the person.
The accused, victim, witness or other person participating in the hearing of a criminal case appeared under the influence of alcohol.	The judge expresses his doubt as to the person's sobriety and indicates the circumstances which have led to this doubt (the person speaks incoherently, staggers while standing and/or walking, a pink and sweaty face, a strong smell of alcohol, etc.). If the person does not dispel the doubts with his answer, the judge explains that a person under the influence of alcohol cannot be examined in court (examination of a person under the influence of alcohol is inappropriate evidence); therefore, the trial is adjourned and the police are called to determine the person's intoxication. If it turns out that the person is sober, he can be examined. If he is not sober, he cannot be examined. The police is called by the registrar on the order of the judge.
The accused threatens the prosecutor and/or the judge to dispose.	The judge warns the accused about possible criminal liability for such actions and informs that the court must initiate an investigation (Article 257 of the CCrP). After the court hearing, the judge passes a separate order; informs the public prosecutor about the criminal act possibly committed by the accused. An extract from the minutes of the trial and a part of the audio recording of the court hearing may be provided together with the order.
The accused, the counsel for the defence or any other person involved in the proceedings expresses dissatisfaction with the work of the court, expressing clear dissatisfaction with the criminal proceedings, expressing doubts about the competence of the judge or even accusing him of incompetence.	The judge must not make excuses or convince that he is doing everything well (in accordance with the provisions of the CCrP), but calmly explain that the person who expressed his dissatisfaction has the right to appeal the actions of the court/judge, i.e. he will be able to state the circumstances specified during the trial in an appeal if the court passes a procedural decision which is not acceptable to him.
The arrested accused demands to remove the handcuffs, and his mother who appeared at the trial tries to give him cigarettes, food or warmer clothes.	The judge presides only over hearing of a criminal case in court. The convoy (police, public security or prison service officers) is responsible for bringing arrested or imprisoned accused persons to the court and protecting them. Parcels to arrested persons or persons serving a custodial sentence are handed over in accordance with the special procedure established by the Prison Service. The court is not a place of

	delivery of parcels to prisoners or persons serving a custodial sentence. The judge should, with regret and understanding, explain this to the accused and his mother. It should be recalled that the items brought by the mother of the accused may include items prohibited for arrested persons, such as narcotic substances, therefore, it is necessary to check the delivered parcel.
The arrested accused jumps out of the glass enclosure for the accused and runs out of the courtroom.	As mentioned above, the convoy (police, public security or prison officers) is responsible for the transport of the accused who are arrested or are serving a custodial sentence to court and their protection. The judge and the registrar should not try to arrest him, it is the duty of the convoy.
A spectator, the accused, the public prosecutor or another person participating in the hearing of a criminal case faints.	Immediately call the ambulance. At the request of the judge, ambulance is called by persons with a telephone in the courtroom or by the registrar.
The accused, the victim or the witness, at the time of examination or at any other moment of the trial, says that he will commit suicide.	The judge who has taken an oath to be humane should not ignore this hint of the person as not related to the criminal case being heard but should allocate time to the person and determine the level of risk of suicide. More information on how to identify the risk of suicide and what to do about it can be found on this website https://tuesi.lt/ieskau-pagalbos-kitam/atpazink-savizudybes-rizikos-zenklus/. It would be great if judges and court officials had listened to the suicide prevention training SafeTALK (https://savizudybiuprevencija.lt/mokymai/). In the event that an arrested person or a person serving a custodial sentence talks about suicide, it is recommended to write to the prison psychologist asking to monitor the accused and provide him with the necessary assistance.
The accused, the victim or the witness cries.	The judge should show understanding that it is difficult for the examined person to talk about the event under consideration in court, and explain that it is still necessary to find out all the circumstances and establish the truth. The person may be asked to sit down, drink some water in the courtroom, and ask

Feltkode endret

	if a break is needed. If, even after the break, the examined person is still crying and cannot calm down, you should think about whether you should stop the examination and agree on the continuation of the examination next time

IMPORTANT. Whenever there is emotional tension in a trial and the judge is finding it increasingly difficult to control the process, it is recommended not to get involved in a dispute with the parties to the proceedings but that a 10 to 15-minute break be announced during which the judge can control his recognised emotions and consider the further course of the case.

3.4. OPTIMISATION OF EXAMINATION OF EVIDENCE

Currently, there is an increasing discussion about the optimisation of criminal proceedings in court among judges, public prosecutors and attorneys-at-law as well as the academic community. Some propose to change the legal act regulating the criminal proceedings, others – already now, without waiting for the end of the legislative process, try to optimise the hearing of criminal cases, in particular, the examination of evidence with the available means.

The examination of evidence in a criminal case begins with the announcement of the indictment. It is read aloud by the public prosecutor. If the indictment is lengthy, the public prosecutor may summarise its content indicating the substance of the indictment (paragraph 1 of Article 271 of the CCrP).

In practice, the public prosecutor normally reads aloud only a part of the indictment, i.e. the charges against the accused person or the accused persons, i.e. the description of the criminal act allegedly committed by the accused, and indicates the article of the CC which provides for liability for the committed criminal act. The public prosecutor also states that the charges against him are based on the evidence presented to the court and very briefly lists them, for example, the allegations filed against the accused A. B. are based on the testimony given by the victim C. D. and witness E. F., G. H and N. M. E, the examinations of the forensic examination and material evidence taken at the scene of the crime. This practice allows to optimise the hearing of the case in court because usually all persons participating in the trial of a criminal case (Article 245 of the CCrP) are familiar with all pre-trial investigation material, even have some copies of it, and the indictment is handed to the accused against signed acknowledgement, i.e. in principle, everyone knows the substance of the criminal case. As for the spectators (representatives of the public) participating in the open hearing of the criminal case, the information published by the public prosecutor is completely sufficient.

After the announcement of the indictment in accordance with the provisions of the CCrP, the following are to be examined: the accused, the victim, the witnesses and the expert or specialist (Articles 272, 279, 283 and 285 of the CCrP). Very often, persons participating in the hearing of a criminal case as well as persons being heard are resentful about lengthy examinations in court. This can be avoided if the judge, **before examining each person, asks him to speak only about the circumstances related to the case, and also not only listens to the testimony of the persons being examined and asks them questions but, in principle, gets involved in the management of the questions asked by the persons participating in the hearing of the case to the persons being examined, i.e. unconditionally asking persons and persons being examined would be allowed to speak only about the substance of the case** (only what is significant for a specific case), i.e. would reject questions that are not related to the case, would remove prohibited questions that suggest an

answer (Article 275 of the CCrP) and would not be allowed to ask the same questions, except in cases where they are deliberately control questions. The judge should warn all persons participating in the hearing of the criminal case about this immediately before the start of the examination.

The CCrP provides for that, in certain cases provided for by law, the testimony of the accused, the victim and the witness, given to the pre-trial judge or before the court, may be read aloud at the hearing, and that audio and video recordings of such examinations may be listened and viewed. The hearing may also include reading aloud of the testimony given to the investigating judge by persons who have been examined by the court after the adjournment of the case or after an interruption in the proceedings in accordance with the procedure laid down in Articles 243 and 244 of the CCrP as well as the testimony of a witness or a victim who has not been summoned to the hearing by order of the court on the ground that they have been treated anonymously or they are minors or that this is necessary because of the special protection needs of the victim, or the publication of the video and audio recording of such a hearing. Audio and video recordings may be heard and viewed at the request of the parties to the hearing.

Before listening and viewing the audio and video recordings, the testimony of the accused, the victim or the witness contained in the relevant record of examination or trial conducted by the pre-trial investigation judge may be read aloud. In addition, in order to verify the evidence in the case, the statements of the accused, the victim and the witness given to the pre-trial investigation officer or the public prosecutor may also be read, as well as the audio and video recordings of such interviews may be listened to and viewed. When the previous judgment or order of the court is set aside or in other cases when the case is re-heard by the court, the witnesses and the victims, who were examined earlier during the hearing of this case, are not called for re-examination if it is not necessary in the interests of justice and their testimony was given earlier during the court hearing , are published and investigated in accordance with the procedure prescribed in Article 290 of the CCrP (Article 276).

Usually, during the pre-trial investigation, and sometimes sometimes during the hearing of a criminal case in court, one person, such as the accused, the victim or even a witness, is questioned more than once and there are more than one audio and video recordings.

Reading, listening to and reviewing all of them can take some time and considerably protract the hearing of a criminal trial in court. Usually, all persons participating in the hearing of a a criminal case in court are familiar with all material of the pre-trial investigation, even have some copies or had such opportunity but deliberately failed to do so. Therefore, **it is recommended to read, listen to and view only those parts that are really significant during the court hearing**. This can be done only if the judge is vary well acquainted with the material of the criminal case and has prepared for it in advance, knowing precisely where the evidence is to be read, listened and viewed, e.g. a part (case pages 103–108) of the record of examination of the accused A.B. held on 3 October 2000 at 12:00–14:00 (volume 10, case pages 100–110), should be read aloud, a part (case pages 103–108) of the audio and video record of the examination of the accused A.B. which took place on 5 September 2000 at 16:00–17:00 kept in the Prison Department (volume 11, case page 115, 23:05 – 45:13) should be listened and viewed.

IMPORTANT. Only the judge decides what is relevant to a particular criminal case to be properly examined.

This is also recommended to act in the afore-mentioned way when examining material evidence (Article 289 of the CCrD), when examining and reading documents (Article 290 of the CCrP) only

to the extent that it is relevant/necessary (according to paragraph 1 of Article 290 of the CCrP, during the trial, the judge announces the documents obtained during the pre-trial investigation and the court hearing and attached to the case, which are of importance for the hearing of the case, listing them, and only when it is necessary to thoroughly investigate the circumstances of the case, at the request of the participants in the trial or on the initiative of the court, the afore-mentioned documents or their parts are announced when reading and examining them).

3.5. MEASURES TO PREVENT ABUSE OF THE PROCEEDINGS

The law regulating the criminal proceedings of Lithuania provides for a number of measures to be applied to persons who do not comply with the court/judge's instructions (Articles 142, 163, 247, 259–260 and 274 of the CCrP): bringing, fine, arrest, imposition of a coercive measure or its replacement with a more severe measure, exclusion from the courtroom or even removal from further proceedings.

The CCrP provides for measures to be applied to persons who do not appear in court without a valid reason and who do not follow the procedure of the trial.

Furthermore, the law also provides for applicable sanctions in respect of other persons who do not comply with the lawful instructions of the court/judge, given on the basis of the CCrP or other laws or who obstruct the investigation and trial of a criminal case.

An **accused, victim or witness** who fails to appear at the trial without a valid reason **is usually brought to court** (Article 142 of the CCrP; a written order is adopted).

If a coercive measure is not imposed on the accused who has failed to appear in court without a valid reasons, the court may, in accordance with the provisions governing the imposition of coercive measures, impose it and if any coercive measure has been imposed, it may replace it with a stricter one (Article 247 of the CCrP; a written order is adopted).

If the witness is employed or is engaged in business and does not appear in court without valid reasons, he can be fined up to 30 MSLs and if he does not appear in court without valid reasons for more than the second or third time, an arrest for up to 1 month may be imposed on him (Article 163 of the CCrP; written orders which are subject to appeal are adopted). Such measures may also be imposed by the court to other persons who do not comply with the lawful instructions of the court/judge under the CCrP or other laws or who obstruct the investigation and prosecution of a criminal case, e.g. the absence of a lawyer, public prosecutor, interpreter, representative or specialist of a child rights institution in court without a valid reason; the failure of the bailiff to provide findings, material required for the forensic examination, etc.

IMPORTANT. An arrest cannot be imposed on a public prosecutor and counsel for the defence (paragraph 4 of Article 259 of the CCrP).

If, during the trial, the accused leaves the courtroom without a valid reason or fails to attend the trial after being summoned, the court has the right to apply the measures provided for in Article 247 of the CCrP in respect of him: bringing, imposition of a coercive measure or replacement of a coercive measure with a stricter one. An accused who, despite a warning from the judge (the presiding judge), repeatedly violates the rules of procedure or disrespects the court may be temporarily or permanently excluded from the courtroom by a court order (paragraph 1 of Article 259 of the CCrP; an order on temporary removal is adopted orally, whereas an order on permanent removal is adopted in writing).

A prosecutor or a counsel for the defence who, after a warning by a judge, repeatedly breaches the rules of procedure or disrespects the court may be removed from the hearing by a court order (paragraph 2 of Article 259 of the CCrP; a written order on the basis of which disciplinary procedures against the prosecutor or counsel for the defence may be initiated is adopted).

Other participants in the trial of a criminal case in court who, after being warned by the judge, repeatedly violate the procedure of the trial or show contempt to the court, may be removed from the courtroom by a court order, and persons not participating in the case may be removed from the courtroom by an order of the registrar (paragraph 3 of Article 259 of the CCrP; an oral order or a disposition is adopted).

Participants in the trail or persons not involved in the case who do not obey the court or do not observe the decision of the registrar of the trial to remove them from the hearing or remove them from the courtroom, or even if they obey but do so by making noise or showing other contempt to the court, may be immediately fined or arrested on the basis of Article 163 of the CCrP. A written order may be adopted against the prosecutor or counsel for the defence (paragraph 4 of Article 259 of the CCrP).

The penalties provided for in paragraph 4 of Article 259 of the CCrP shall be imposed on persons who, during a trial, breach the procedure for the use of technical means, are warned by the judge or removed from the courtroom, and on persons who disobey the judge's decision or who do so by making noise or otherwise showing contempt to the court.

All afore-mentioned measures are aimed at ensuring the smooth and speedy trial of criminal cases in court. In practice, judges are not always principled and sometimes they even avoid applying the afore-mentioned measures, for example, the judge does not always dare to order the appearance of a police officer or a prison officer who fails to appear at the trial for the third time without a valid reason (he is working, on leave, his official report is available in a criminal case, etc.). If the judge feels tentative or uncomfortable to order appearance to court for such person, it is always possible to call the witness or his immediate supervisor by telephone before ordering appearance for him and politely remind him of the obligation to appear in court when summoned and of possible consequences of his failure to appear as provided for in Articles 142 and 163 of the CCrP, and explain that the summons of a witness is not a an interpretation of the court but a legal requirement, i.e. the fulfilment of the functions entrusted to the court and that the failure of a witness to appear in court prevents the court from performing its duties. Such an interview could be conducted by the registrar or the judge's assistant at the request of the judge, without waiting for the second or third witness to fail to appear in court.

It is to be noted that, in practice, a letter from the court to the head of such official informing him of the number and time of absences and requesting him to ensure the appearance of the official at the hearing are particularly effective, since it is not uncommon for officials to fail to appear for reasons of sickness but they are prevented from appearing in court by service matters (before this, they were on night shift, delayed in an incident, missed the hearing), are on leave, etc.

It happens that persons participating in the trial of a criminal case (the accused, counsels for the defence and witnesses requested by them) fail to appear in court one after the other, allegedly for valid reasons, i.e. due to illness, provide a medical certificate in the prescribed form for not appearing at the pre-trial investigation institution, prosecutor's office or court (form No 094-1/a) in order to delay the trial of the criminal case

In such cases, it is recommended that the judge immediately express his views on the possible abuse of the procedure and warn all persons participating in the trial of the criminal case that he will in each case contact the medical institution which issued the medical certificate in order to ascertain whether the person who failed to appear in court because of illness was in fact suffering from such a illness or form of illness that he was unable to appear in court immediately to take part in the hearing of the criminal case.

3.6. PECULIARITIES OF THE CONDUCT OF PROCEEDINGS IN CASES OF HIGH PUBLIC INTEREST (HIGH-PROFILE CASES)

Public trust in the courts and justice administration process depends not only on a professional, impartial investigation of the case, but also on the perception of the parties to the proceedings and persons interested in the proceedings about the process and the decision made. It is therefore essential for courts to proactively communicate and cooperate with the media during the proceedings, especially in so-called high-profile cases, i.e. cases that generate greater public interest[19]. It is equally important to clearly and simply explain the decisions made and the reasoning of the court.

In providing information to the media or to any person, the principles of communication of the Lithuanian courts which are also based on the main principles of the Code of Ethics of the Judiciary of the Republic of Lithuania, should be respected:
- **principles of transparency and publicity**; judges must ensure the publicity and clarity of their actions and decisions, and provide the public with the reasons for their decisions;
- **principles of independence and impartiality**; when communicating with journalists and the public, judges must not show their likes or dislikes, have no prejudice, respect the presumption of innocence;
- **principles of exemplary conduct and confidentiality**; when communicating with the media and the public, judges must set an example in their behaviour, language, discipline and appearance, refrain from anger, rage, act professionally, patiently and courteously, and refrain from revealing state or official secrets and confidential information obtained during the hearing of cases;

Information on cases is **usually provided to public information officers by the court's public relations officer, by the press judge (if one is present at the court) or by the president of the court**. However, the **judge hearing the case is often the first person to be contacted directly by journalists attending the hearing**, as he is in control of the information on the case. Therefore, it is very important for the judge to cooperate with the person who performs the functions of the press representative in the court from the very beginning of the trial, so that the process of information about the case is smooth and professional.

[19] See the Rules for the Provision of Information on the Activities of Courts and Cases to Public Information Producers approved by 28 March 2014 Resolution No 13P-51-(7.1.2) of the Council of the judiciary (version of 1 July 2016 Resolution No 13P-83-(7.1.2)); the Description of the Procedure for Ensuring the Publicity of the Judicial Proceedings by Use of Technical Means approved by 25 May 2018 Resolution No 13P-46-(7.1.2) of the Council of the judiciary (version of 20 December 2021 Resolution No 13P-162-(7.1.2.); the Recommended Quality Standards for the Procedural Decisions of the Court approved by 27 May 2016 Resolution No 13P-65-(7.1.2).

IMPORTANT. Proper communication of court judgements and work with the media during judicial proceedings is effective when the judge and his team actively cooperate with the employee responsible for relations with the media and/or the press judge, so that the judge hearing the case is not left alone with questions about how to communicate, what to communicate and when to communicate

A judge who has determined that the case heard by him should be considered as a case of public interest according to the criteria approved by the Council of the Judiciary, i.e. where the course of the case are of interest to the public information producers, a public person is involved in the case and it is in the public interest of the society to be informed about the course and outcome of the trial of such a case, the case concerns the issues of importance to the society or issues that are significant to a large part of the society, should report this to the court's public relations representative, the press judge (if one is present in the court) or the president of the court in order to be properly prepared for communication with the media and people interested in the case. It is also recommended that the judge consult his colleagues in charge of communications in cases where, even in the absence of the afore-mentioned features, the judge, on the basis of certain circumstances, assumes that the case may be of greater interest to the public.

In preparation for the hearing of a high-profile case, the **issues concerning organisation of the hearing related to the possibilities for representatives of the public and the media to comfortably observe the hearing, make videos before the hearing or when the decision is announced, manage the flow of participants in the hearing so as not to disturb the order of the hearing** etc. (selection of the room, directing journalists to the place where the commentary will be given, participation of a representative for media relations in informing journalists about the video production procedure before the hearing) are dealt with in cooperation with the court's representative for public relations and the president of the court.

IMPORTANT. When planning a hearing in a highly publicised case involving a large number of parties to the proceedings, it is recommended that, in cooperation with the President of the Court, the clerk of the court and the representative of the press, a suitable courtroom be arranged for large-scale cases and that, in order to ensure the principle of publicity, it be possible for non-resident observers to watch the proceedings via screens in a designated room (in the lobby or another courtroom). *For example, in the case of January 13, persons wishing to watch the hearing were given the opportunity to do so in the lobby of the Lithuanian Court of Appeal, where the screens were turned on.*

Often, in particular when dealing with high-profile cases, representatives of television or other media outlets prefer to film, take photos, make audio or video recordings. They are allowed to do this in the courtroom before the start of the court hearing or after the court hearing.

IMPORTANT. The public relations representative of the court or the registrar must inform the public information producers about the ban on filming, taking photos, making audio or video records before the judge or chamber of judges appears in the courtroom, at the beginning of the court hearing and asks them to prepare to turn off or, if possible, remove their available video and audio recording equipment from the courtroom and enable the judge or the chamber of judges to enter the courtroom and start the court hearing unhindered. When the judge or the chamber of judges enters the courtroom, all technical devices used to record sound and/or image must be turned off in order not to disturb the start of the court hearing. If the afore-mentioned requirement is ignored, the judge orders such persons to leave the courtroom.

The public relations representative helps to choose the best form and channel to inform about the course of the case and the adopted verdict. The most common form of communication about a case is a **press release. This method is chosen when it is necessary to quickly reach the media and inform about the case with the least possibility of interpretation**, therefore, it is usually recommended to inform about the decisions made in cases.

SVARBU. Pranešimas spaudai yra skirtas plačiajai visuomenei, ne tik teisinį išsilavinimą turintiems žmonėms, todėl, visų pirma, turi būti parašytas aiškia, žmonėms suprantama kalba. Pirmuoju smuiku rengiant pranešimą turi groti komunikacijos profesionalas – atstovas spaudai, kuris išmano komunikacijos su visuomene ir žmonių informacijos priėmimo principus, o teisėjui ar jo komandai tenka patariamasis vaidmuo pastebint ir patikslinant vietas (bet nesiekiant jų įvardinti byloje vartojamais tiksliais teisiniais terminais, kurie teisinio išsilavinimo neturintiems žmonėms yra nesuprantami), kurios gali būti neteisingai interpretuojamos iškraipant bylos esmę.

A press conference to inform about the case is held in exceptional cases, when extremely complex cases with a high public profile are being heard.

A **briefing** differs from a press conference in its objectives, duration and the smaller number of participants and questions asked by journalists. It may be **held to provide a relevant comment following a sensitive judgement** (e.g. judgement of acquittal in a case with a public profile).

A brief comment by the judge may also be provided following the hearing of the case by one or more media outlets when additional clarification regarding the announced verdict is needed. The commentary presents the procedural decision made by the court, the procedural actions carried out by the court and briefly summarises the reasons for the adoption of the court judgement. It is recommended that **journalists be asked to prepare for at least 10 minutes and consult the press representative and/or the press judge on the content and emphasis of the comment. It is advisable for the media to give their comments in a convenient place, i.e. to invite journalists to move to a more spacious room (not to speak in a hallway, corridor or stairway).** Furthermore, after the hearing, conditions to film or record the judge's comment in the courtroom may be created.

3.7. ENSURING THE BALANCE BETWEEN THE RIGHT OF THE SOCIETY TO INFORMATION AND PROTECTION OF THE PARTIES TO THE PROCEEDINGS

The principles of publicity of criminal proceedings before the court and the publicity of the material of heard criminal cases are set forth in the Lithuanian law governing the criminal proceedings; however, in order to ensure the protection of state, official, professional or commercial secrets and/or the parties to the proceedings, exceptions to publicity are applicable Articles 9–9[1], 260 of the CCrP).

The Rules for the Provision of Information on the Activities of Courts and Cases to Public Information Producers set out the cases and information which is not provided to journalists, i.e. information:

- the publication and disclosure of which would violate the right of individuals to inviolability of private life or would violate or limit other human rights and freedoms;
- which according to the laws of the Republic of Lithuania constitutes a state, official, professional, commercial or bank secret;
- which may humiliate the honour and dignity of a person;
- which relates to a case being heard (heard) in court concerning adoption, granting of political asylum in the Republic of Lithuania or other case being heard (heard) in camera and may disclose data for the protection of which the court heard the case in a court hearing in camera;
- which discloses the identification data of the minor party to the proceedings;
- the publication and disclosure of which would interfere with the hearing of the case by the court;
- which discloses the data of the pre-trial investigation, with the exception of data related to the actions performed by the court (data on the court hearing, the decisions made in it, the reasoning, etc.), if their publication will not interfere with the investigation;
- material relating to pending cases other than personalised judicial procedural decisions, including those which have not yet become effective, which have been made public in accordance with the procedure established by the Council of the Judiciary;
- other information the disclosure of which is prohibited by the law.

4. ADOPTION AND ANNOUNCEMENT OF JUDGEMENTS

The adoption and announcement of the verdict is the last and most important stage of the trial of a criminal case in court, during which the court, having thoroughly, comprehensively and impartially examined the criminal case, properly applies the law and passes the verdict on behalf of the State (Article 297 of the CCrP), i.e. provides a legal assessment – states whether a criminal act was committed, if so, whether it was committed by the accused person, whether he he guilty, if he is guilty, whether he is fairly punished fairly, and if he is not guilty, he is acquitted (Articles 1 and 6 of the CCrP).

4.1. PRINCIPLES OF HIGH-QUALITY TEXT WRITING (STRUCTURING, FORMULATION OF CONCLUSIONS, EMPHASIS, MEANING OF REPETITIONS, REFERENCES)

A well-written verdict is an important prerequisite for the parties to the proceedings to understand the court judgment, its arguments and accept even an unfavourable judgment as reasonable and lawful. The structure and content of the judgement must ensure that it is clear and understandable, consistent and sufficiently reasoned, transparent, persuasive, fair and lawful. The guidelines for drafting court judgements are established in the Recommended Standards for the Quality of Procedural Decisions of the Court[20].

The key principles recommended to be followed when drafting a court judgement:

[20] 27 May 2016 Resolution No 13P-65-(7.1.2) of the Council of the Judiciary "On the Recommended Standards for the Quality of Procedural Decisions of the Court" (valid version since 1 January 2018).

- Reasons for the judgment should not be limited to general reasoning or statements. The excessive of general wording (such as "these arguments are unfounded and contrary to the material of the case" etc), without providing any additional details or reasons for a specific judgement, is not adequate reasoning.
- It is important to indicate why certain evidence or arguments of the parties are rejected. **The court's verdict has the highest probability of not convincing those against whom it was passed, therefore, for example, in the statement of reasons of the judgement of conviction sufficient attention must be paid to the evaluation of the position, arguments of the accused, the commission of the criminal act and the evidence supporting the guilt.**
- The judgment of the court should be **written in an easy-to-understand, everyday standard Lithuanian language**. Scientific, technical, artistic or other specific terms should be used as rarely as possible or explained. The use of non-Lithuanian words, Latin terms and phrases should be avoided in the judgment (if they are used, they should be translated).
- If reference is made to a legal act or source of legal interpretation written in a foreign language, a translation into Lithuanian of the relevant provision or a its part is usually provided. The translation must be appropriate and of high quality. The foreign language text is not normally transcribed into the content of the court judgment.
- If the reasoning for the judgment is lengthy, it is recommended to write down clear summary conclusions for each resolved main issue, if possible, provide a summary of the arguments previously detailed in the text of the judgment.
- The judgment may contain pictures, photographs or other visual (graphic) information if it is directly related to the case and can help make the judgment clearer, more understandable and transparent. Graphs and tables can be used as a means of presenting complex information in a clear and comprehensible manner. If certain calculations are required to make a judgment, detailed calculations, applied formulas, specific arithmetic operations, etc. (e.g., EUR 1,750 X 20 per cent / 100 per cent = EUR 350) are provided.
- The operative part of the judgment must be clearly worded. The court order set out in the operative part of the court judgement must not create opportunities for different interpretations of the content of the court judgement, how specifically and to what extent it should be enforced.
- If the sentence is lengthy, the content and/or a summary of the judgment may be given below the introduction.
- A separate paragraph in the statement of reasons of a judgment should not normally consist of one or more sentences. However, paragraphs should also not be too long (generally no more than 0.5 pages).

IMPORTANT. The judgment of the court of first instance is written and must be understood by the parties to the proceedings, which include not only lawyers. The court must avoid moralising, attempting to impose its ethical, moral, religious, other beliefs or worldview. The judgment should be restrained and impartial, without sarcasm or humour directed at the parties to the proceedings, dogmatic posturing, pomposity or rhetorical questions.

4.2. OPTIMISATION OF THE SCOPE OF THE JUDGEMENT

Court judgements of the court of first instance and court of appeal must first of all be clear and understandable to the parties to the proceedings, therefore, when preparing them, it is taken into account who are the parties, their ability to understand the content of the specific reasons for the court judgement, whether they are provided with professional legal assistance, etc.

IMPORTANT. The legality and reasonableness of the judgement does not depend on the scope of the judgement. The scope must be optimal, i.e. to the extent that it is necessary to formulate the legally important circumstances, the legal norms on the basis of which the case was decided, the arguments that justify the court's conclusions and the court's decision in an understandable and clear manner

The case-law is intended to assist in the correct settlement of the case and substantiate the judgment, and should therefore be given only to the extent necessary. The principle "only to the extent necessary to substantiate the judgment" also applies to the indication of the sources of law, citation of legal acts – all relevant legal rules set out in the European Conventions for the Protection of Human Rights and Fundamental Freedoms, the Constitution, the CCrP legal norms related to the case must not be specified and the entire articles of the law must not be cited – the legal rules that are precisely applicable to a specific situation, fact etc. must be indicated.

Similarly, the arguments must be sufficient to justify the judgment. A lesser number of arguments are sufficient to support a judgement in a case in which the accused admits to commission of the crime and his guilt, the circumstances of the crime are clear, and there is no evidence to the contrary. The court's duty to provide reasons for its judgements cannot be understood as a requirement to respond to each argument in detail. Sometimes a very concise reasoning may suffice. A detailed statement of reasons is unnecessary when the response to arguments which are obviously irrelevant is unfounded in the light of express provisions of law or established case-law on arguments of a similar nature.

The judgment does not need to contain information that is not relevant to the case, in particular, personal data that are not necessary for the resolution of a specific case (e.g. vehicle numbers, model, colour in a case where the car was neither the instrument of the crime nor related to the crime scene, etc.), or repeat information previously contained in the judgment (e.g. already listed invoice numbers, etc.).

4.3. ANNOUNCEMENT AND CLARIFICATION OF THE JUDGEMENT TO THE PARTICIPANTS IN THE HEARING OF THE CRIMINAL CASE IN COURT

A structured, clear judgment ensures smooth announcement of the judgment, better understanding of the contents of the judgment by the parties to the proceedings.

According to the CCrP, **the court may announce the verdict by reading only its introductory part and operative part and may give an oral explanation of the reasons for the adopted verdict**, which can be supplemented by reading individual parts of the verdict. This makes it possible to use the time of the judicial proceedings more efficiently and focus the attention of the parties to the proceedings on the essential moments of the verdict because the most important thing for the parties to the proceedings is to understand what and why the court has decided.

IMPORTANT. In addition, the judge may, if necessary, clarify the substance of the verdict. It is advisable to ask the parties to the proceedings after announcement of the judgment whether they understand what the judge has decided and why. Particular attention should be paid to the accused in the event of a conviction; it is important to ensure that the person understands what he has been found guilty of and what the penalty is. All this helps to make the activities of the court more transparent, clearer and more understandable, both for the participants in the criminal proceedings and for the public.

A copy of a procedural decision adopted in a case of major public interest and announced in open court hearing and/or its electronic version is/are transmitted to the entities providing information at their request in the most expeditious manner.

IMPORTANT. After hearing a case of great public interest, in order to promptly communicate the court's decision through the media, it is recommended to schedule the announcement of the court's procedural decision no later than 14:00.

Copies of depersonalised procedural decisions of courts made in open court hearings are provided to public information producers as quickly as possible. When providing copies of non-effective court decisions to journalists who receive them, it is explained that although the procedural decision of the court is announced in an open court hearing, it is not effective and may still be appealed against; therefore, this fact should be mentioned in the information to the public.