

# **Chapter 18**

## **Lithuania**

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# **1 HISTORICAL DEVELOPMENT OF THE PROBATION SERVICE SYSTEM**

## **1.1 The start of probation in Lithuania**

The development of the Lithuanian legal system was influenced by political and social changes within the country, namely, the consequences of World War Two. Despite the fact that certain rudiments of probation could be found in the legal system of Lithuania as early as in 1928, still, a clear-cut system of probation does not exist yet. Law on Conditional Sentencing dated 24 September 1928 published in the government bulletin "Vyriausybės žinios" ("Government News") No. 284 - 1821 provided for a possibility of conditional release (which can be very roughly considered as analogous to suspended sentence) for persons sentenced to financial fine, arrest, placement at a disciplinary educational institution or an ordinary prison and characterised as "holding forth a hope of living a law-abiding and crime-free life in the future due to their personal characteristics, or regarding the nature of the offence committed, its motives and circumstances". The court taking into consideration the age and education of the conditionally sentenced person, as well as his living conditions and motives for committing an offence, was obliged to set a probation period for the duration of 1 - 5 years. Besides, certain guardianship and restrictions could have been imposed on such persons for the period of their probation: reimbursement of court costs amends of damages, non-consumption of liquor, returning home on time, etc. ("Vyriausybės žinios" No. 288-1890). It is worth mentioning that similar restrictions could be found in the contemporary penal laws too. Probation period was terminated either in the case when a sentenced person was convicted of a crime committed during the probation period and for which a punishment more severe than three months of arrest or imprisonment was imposed, or when a sentenced person violated the imposed restrictions. It is interesting to note that the court would carry out supervision of the sentenced person during his probation period. If guardianship was assigned to a sentenced person, persons of reputation and those enjoying the confidence of the public were selected to act as guardians of a sentenced person. Hence we may conclude that at the beginning of the 20th century in Lithuania there already existed certain alternatives to the execution of the imposed punishments, and a possibility of involvement of the public was provided. The Penal Statute of 1903 validated on 16 January 1919 also provided for conditional release from a penitentiary institution analogous to what we have now, i. e. the term of imprisonment for a well-behaved prisoner could be reduced by one third. However, once the released person committed a new crime during the period of the unserved term within 3 years after release, the unserved part of the term was restored and added up to the new term to be served. This Criminal Code adapted for Lithuania by the German government during the occupation of Lithuania is considered to be one of the best-chartered statute books of the beginning of the 20th century. (V. Andriulis, 2000).

During the years of Soviet occupation social development of Lithuania was determined by communist ideology. That was the reason why the reformation of the legal system of the country was defined as one of the numerous objectives after the restoration of the statehood of Lithuania on 11 March 1990. The construction of

the national legal system aimed for the conformity of the system with the conception of the rule-of-law state and the legal practice of the European Union. Until the restoration of independence of Lithuania the execution of punishments was under the jurisdiction of the Ministry of the Interior. The Draft of the Legal Reform of 1994 provided for the incorporation of the Corrections Department within the framework of the Ministry of Justice after having passed the new Penal Enforcement Code in 1998. The New Edition of the Draft of the Legal Reform presented in 1998 elaborated on the reform of the penal enforcement system. Notwithstanding the fact that the reform was intended to focus on the execution of custodial punishments it was also foreseen that the penal policy would be targeted at a wider enforcement of punishments alternative to imprisonment. Consequently, after this legal system reform had been implemented Prison Department at the Ministry of Justice of the Republic of Lithuania (further on referred to as Prison Department) was made responsible for the enforcement of all types of punishments (excluding fine and attainder) as well as the execution of suspended sentence, conditional release from the correction house and such penal measures and sanctions as community work.

In 2000, following the provisions of the Draft of the Legal Reform, 52 towns and district correction inspections subordinate to the Prison Department were instituted. They took over the functions previously carried out by Correctional Labour Inspections of the police units. In December 2001 5 regional correction inspections, Vilnius, Kaunas, Klaipeda, Siauliai and Panevezys, were instituted. They were assigned to coordinate the activities of the 48 territorial correction inspections operating within the territory of one or several municipalities.

In the Long-term State Strategy approved in 2002 it was planned to create a model of conditional suspension of sentence and conditional release from penal institutions (probation) that would be in conformity with the requirements defined in international legal acts. Besides, the list of types of punishments was extended. There were such types of punishment alternative to imprisonment entered as deprivation of public rights, i.e. deprivation of the right to be elected or assigned to a working position at state or municipal institutions, enterprises or non-governmental institutions, deprivation of the right to work at certain jobs or to be engaged in certain activities, community works and restrictions of freedom. The enforcement of the above-mentioned punishments is delegated to correction inspections. In this article the conceptions "correction inspections", "probation services" and "institutions effectuating probation" are being used as synonyms.

In 2001 alongside with the task of control of obligations and restrictions imposed by the court on probationers the task of assistance for conditionally released persons in their re-entry and provision of social support for them was assigned to correction inspections. Nevertheless, it is important to mention that until now the content of "social support" conception is not clearly defined; the implementation of this task by a probation officer has not been itemized either. It is being considered that qualifications, experience and intuition of probation officers would warrant the implementation of this task. It should be noted that there no requirements set regarding the education of probation officers, nevertheless, before starting work at correction inspection they are obliged to take the Introductory Training Course at the Training Centre of the Prison Department. Despite the training mentioned above, the role of a probation officer in the

provision of social assistance is usually limited to that of an intermediate between a probationer and other public and non-governmental institutions providing social or medical aid: a probation officer presents the list of such institutions to the probationer as well as provides information on the possibilities and criteria of application to these institutions. The quality of the assistance provided and individual work with a client very often depends on the education, qualification, motivation and priorities of the probation officers working at a certain subdivision or regional correction inspection.

In February 2007 the Concept of Probation in Lithuania and the Plan of the Measures for Implementation of the Concept were finally approved by the Government of the Republic of Lithuania. Such conceptions as “supervision of a probationer” and “social support” are already defined in the Concept of the Probation System in Lithuania. The need for the development of penal laws is acknowledged, new functions to correction inspections are assigned (e.g. arrangement of pre-trial findings), and the need for methodology of risk assessment of repeated offences by probationers and specialised behaviour correction programs are also indicated. The statement on insufficiency of cooperation between public institutions implementing probation and community as well as scarcity of non-governmental organisations taking part in the process of re-integration of probationers was made in the above-mentioned document. In the Concept “probation” is defined as “a form of realisation of criminal responsibility - suspended sentence, conditional release from a penitentiary institution and conditional release from penitentiary institutions before the end of the term - are employed in order to execute the imposed punishment through supervision of a probationer and providing social assistance for him.” Hence the Concept of the Probation System in Lithuania does not include punishments alternative to imprisonment, i.e. freedom restrictions and community works, or penal measures and sanctions, i.e. unpaid work, enforced by correction inspections.

Summarising the historical development of the probation in Lithuania we have to admit that even if the rudiments of probations can be traced as early as in at the beginning of the 20<sup>th</sup> century, the pace of its development, however, was slowed down due to the political realities of the country. Even though historically the public was also permitted to be involved in the social reintegration of a sentenced person the main bulk of probation functions have been carried out by public institutions, both from historical and contemporary perspectives. Until now the forms of volunteers’ participation in the process of probation is not defined. After the restoration of independence of Lithuania and implementation of the legal reform the functions assigned to correction inspections include supervision of probationers on whom freedom restrictions or community works had been imposed, and those with suspended sentence or conditional release, as well as provision of social assistance to them. Correction inspections do not participate in other stages of the penal process. The Concept also introduces the present situation in Lithuania regarding suspended sentences, early conditional release and conditional release from penitentiary institutions, defines the existing drawbacks and possibilities for further improvement of the probation system: encouragement of volunteers to take a more active part in the probationers’ re-entry process, assignment of the function of presentation of pre-trial investigation conclusions to

correction inspections and design of qualitative methodologies for working with probationers.

## **2 LEGISLATIVE BASIS AND MISSION**

### **2.1 Legislative basis**

As has already been mentioned in Chapter 1 correction inspections are subordinate to the Prison Department that is headed by Director General. The Director General allocates financial means for correction inspections, assigns and discharges all probation officers except for regional correction inspection directors, approves various specifications and methods related to working with probationers. The legislative basis for the activities of correction inspections is determined by the Penal Enforcement Code of the Republic of Lithuania (further on referred to as the Penal Enforcement Code), the Penal Code of the Republic of Lithuania (further on referred to as the Penal Code), also by the Working Procedure of Correction Inspections approved by the Minister of Justice of the Republic of Lithuania and other post-legislative acts. In the Working Procedure of Correction Inspections it is stipulated that probation officers in their work “combine social aid with the means of supervision of probationers’ behaviour, focus on the process of the social adaptation and rehabilitation of probationers which insures their re-entry”.

The main objectives of the correction inspections are as follows: to ensure the enforcement of non-custodial sentences and court decisions (except for the punishments related to the restraint of possession rights), suspended sentences, conditional release from penitentiary institutions, early conditional release from penitentiary institutions, penal sanctions and measures (community work) and to assist probationers in their attempts to re-enter the community as well as to provide social support to them within the scope of correction inspections. Hence correction inspection enforces the above mentioned court sentences and decisions imposed on persons irrespective of their age or gender – adults and juveniles, men and women. According to the Penal Code persons are held responsible if they were at the age of 16 when they committed a crime or a criminal offence, and in particular cases (e.g. homicide, rape, sexual abuse, racket and the like) – at the age of 14. Besides, penal sanctions and measures could be imposed on persons who were younger than 14 years of age when they committed a criminal offence. Despite the lack of regulations in Lithuanian law regarding the agency that should enforce penal sanctions and measures in practice this function is being carried out by correction inspections.

As probation in this article is comprehended in a broader sense than it has been defined in the Concept of Probation in Lithuania it could be stated that probation is applicable to more than half of all convicted persons in Lithuania. Persons with suspended custodial sentence are in the vast majority of all probationers. Persons conditionally released from penitentiary institutions and sentenced to freedom restrictions are not that numerous. Persons sentenced to community works, deprivation of public rights or the right to work at a certain job or to be engaged in certain activities together with those acquitted of criminal responsibility form the smallest part of all probationers in Lithuania. Execution of punishment could be

postponed for one to three years for the persons sentenced to imprisonment for one or several minor or petty crimes for the term of imprisonment not longer than three years, or for crimes of negligence for the term of imprisonment not longer than six years provided the court decides so on the presumption that the aims of the punishment will be achieved without imposition of practical imprisonment. The Penal Enforcement Code establishes the ground on which a person could be released from penitentiary institutions while the Penal Code establishes the grounds for an early conditional release of a person.

## **2.2 Mission and mission statement**

Despite the fact that neither the mission nor the mission statement of correction inspections is clearly defined the criteria for evaluation of correction inspections (the amount of the damages inflicted by the crime, the number of pre-trial investigation cases started, the number of employees) apply the aims pursued by the institutions implementing probation: prevention of crime recidivism, restoration of the rights of the aggrieved, reintegration into labour market. The mission statement of the probation has been already formed in the Concept of Probation in Lithuania. It is as follows: to warrant the public security allowing for implementation of crime prevention, to reduce crime recidivism and the number of prison population. The main principles followed by correction inspections in their activities are: legitimacy, equality of sentenced persons while applying penal enforcement laws, humanism, and individualisation of penal enforcement, also public involvement in the process of reformation of convicts and a fair and progressive service of one's sentence.

- The principle of legitimacy implies that the only ground for penal enforcement is a judgement of conviction imposed by the court. Also, the restriction of convicted persons' rights and freedoms as well as their duties is determined solely by the laws of the Republic of Lithuania. The behaviour of a convicted person can be restricted only by prohibition or obligation. This principle also implies that the legitimacy of activities of penal enforcement institutions and officers is supervised by Lithuanian courts, prosecutors, ombudsmen, Ministry of Justice and other state institutions as the laws of the Republic of Lithuania provide.
- The principle of equality of sentenced persons while applying penal enforcement laws implies that all convicted persons are considered equal disregarding their origin, gender, social status or material circumstances, nationality or race, political creed or belonging to a party, education, language, religious or other beliefs, genetic characteristics, disability, sexual orientation, kind and type of activities, place of residence and other circumstances not determined by the laws of the Republic of Lithuania.
- The principle of humanism determines that penal enforcement does not aim at torture, cruel behaviour or degrading human dignity of a person; medical, biological and other scientific experiments with convicted persons whose freedom is restricted are prohibited, even with their own consent, except for the cases defined in the legal acts of the Republic of Lithuania. It is also prohibited to film or take pictures of a convicted person whose freedom is restricted without his/her consent.

- The principle of individualisation of penal enforcement and participation of community in the process of reformation of convicts implies that correction measures are applied to convicts taking into consideration their personality and behaviour during the implementation of the sentence as well as the gravity and the nature of the crime committed. It also implies that public organisations, confessional communities and societies and their members as well as other natural persons and legal entities may participate in the process of reformation of convicts.
- The principle of fair and progressive implementation of one's sentence determines that the legal position of convicts could be mitigated or tightened with regard to their behaviour during the implementation of their sentence, observation of the established obligations and restrictions, their attitude towards work and learning, reacting towards psychological impact and social rehabilitation measures.

Correction inspections are implementing these principles while securing the rights and rightful interests of probationers. As it is impossible to regulate all legal terms developing during the process of penal enforcement there is a rule in the Penal Enforcement Code providing for obligation to act in accordance with the principles of penal enforcement in the case of a gap in penal enforcement laws. After having analysed the principles of penal enforcement it becomes evident that in most cases they are orientated towards securing of the rights and rightful interests of the convicts, while the public security or the interests of the aggrieved are not even mentioned. Therefore taking into consideration the experience of Lithuanian correction inspections and the experience of probation implementation in other countries the Concept of Probation in Lithuania provides the principle of balance between the interests of re-socialisation of convicts and the rights of the aggrieved while enforcing probation.

There exist quite a number of national programs in which correction inspections are also partly participating while carrying out measures delegated by the Prison Department for their execution. As an example of this type of measures related to the activities of correction inspections could be education of probation officers and probationers on the prevention of sexually transmitted diseases, their spread and preventive measures; also early intervention in drug addiction as well as other medical, psychological, social rehabilitation issues. These include collection and summary of the information about the functioning drug addicts' treatment institutions and rehabilitation facilities as well as provision of this information to the convicts and their family members (giving priority to juveniles and children using psychotropic substances), and employment of persons conditionally released from correction houses. Development of programs designed for the treatment of persons convicted for sexual crimes against children and rendering psychological assistance to them as well as the programs for the rehabilitation of violent offenders are also included. It is worth mentioning that national programs involve other institutions and organisations working in the sphere of reintegration of sentenced persons. For example, the Ministry of Social Welfare and Labour of the Republic of Lithuania takes part in vocational training of sentenced persons. This ministry also supports various projects of non-governmental organisations designed for social rehabilitation and reintegration of the sentenced persons into the community. It is the national programs that define

the state priorities in the sphere of penal enforcement. The existing programs of juvenile justice or prevention of child abuse are a clear indication of the growing interest of the state in children and juveniles (including the sentenced ones) as well as rehabilitation of violent offenders. Nevertheless, the best way to set priorities in the sphere of penal enforcement is according to the contents of the Concept of Probation in Lithuania and its Plan of Measures for Implementation of the Concept. In spite of the above-mentioned fact that the Concept of Probation in Lithuania does not include all activities carried out by correction inspections the concepts regarding the punishments and penal measures and sanctions are enforced by correction inspections. There are impediments in the Concept of Probation in Lithuania that prevent sufficient reduction of crime probability and the legal regulation of the number of prison population. The organisational framework of the Prison Department does not provide for the adequate consideration of the problems related to the coordination of the activities of correction inspections resulting in the lack of material and human resources. Among other drawbacks could be mentioned the poorly defined forms of participation of other state and non-governmental organisations in probation, lack of scientifically based methods of evaluation of sentenced persons and correction of their behaviour. There are plans to remove all these obstacles by the end of 2009. Allocations of 23, 746, 000 litas (twenty three million seven hundred and forty six thousand litas) are budgeted for the implementation of the Concept of Probation in Lithuania.

## **2.3 Crime prevention**

As mentioned above the mission of correction inspections in Lithuania is not consolidated in laws so crime prevention is not referred to as a goal of correction inspections. Nevertheless, the criteria for evaluation of correction inspections activities imply that prevention of recidivism is a goal pursued by correction inspections. Besides, in the Concept of Probation in Lithuania crime prevention is mentioned among other goals such as public security, reduction of recidivism and decrease of the number of prison population. At present, correction inspections take part in crime prevention activities only on a local level, i.e. deliver lectures on prevention issues, give seminars at educational institutions, organise leisure activities of sentenced juveniles and the like.

## **2.4 Victim protection**

Correction inspections in Lithuania do not provide any services for victims of crime. The focus of attention is a person having committed a crime – rendering assistance to him/her and his/her monitoring. However, correction inspections contribute to warranting the rights of the aggrieved by control of amends of damages imposed on the offender by the court. Moreover, the amount of amends for the damage inflicted by a crime and the number of people having made restitution are among the main criteria for evaluation of the activities of correction inspections.

# **3 THE ORGANIZATION OF PROBATION SERVICES**

## **3.1 Main characteristics**

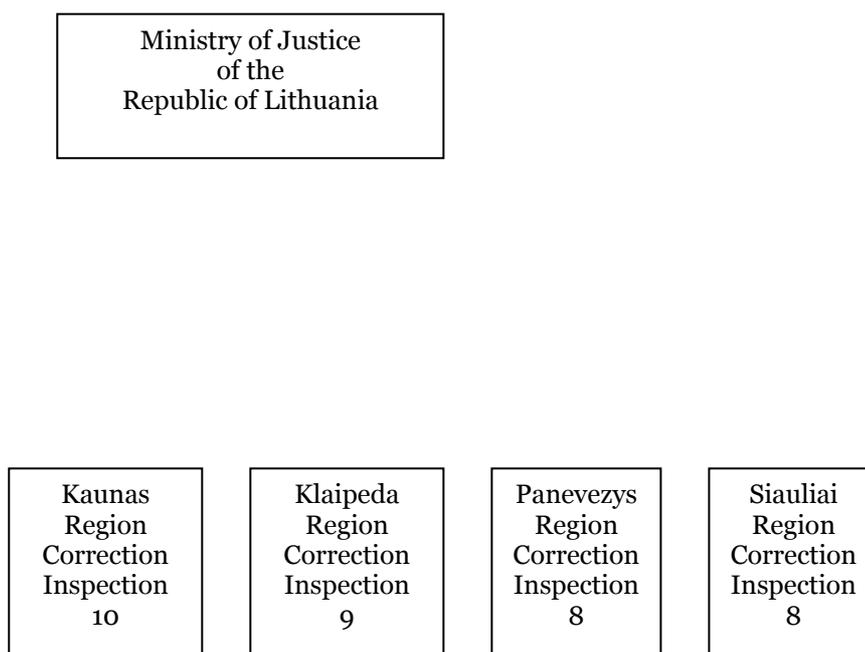
The five regional correction inspections are subordinate to the Prison Department that is headed by the Director General. There are two Deputy Directors General at the Prison Department, and one of them is in charge of the work of correction inspections. This involves such spheres of activities as coordination of social rehabilitation at correction houses, guard and surveillance of convicted persons as well as their registration. Correction Inspections Division is under direct supervision of this Deputy Director General. This division monitors and supervises the activities of correction inspections, and provides methodical aid to them. These notwithstanding regional correction inspections are directly subordinated to the Director General of Prison Department and only orders given by the Director General are obligatory to them. The five regional correction inspections are made of up 48 (since 1 July 2007–49) town and district correction inspections. Regional correction inspections administrate the activities of their subordinate territorial subdivisions: provide them with methodical aid, deal with staff issues and logistics. The town and district correction inspections are not legal entities, they simply perform the tasks as the law provides, i.e. supervision of probationers, rendering social assistance to them and organisation of their own activities. Town and district correction inspections report on the results of their activities and statistical data to regional correction inspections that, in their turn, summarise the data before

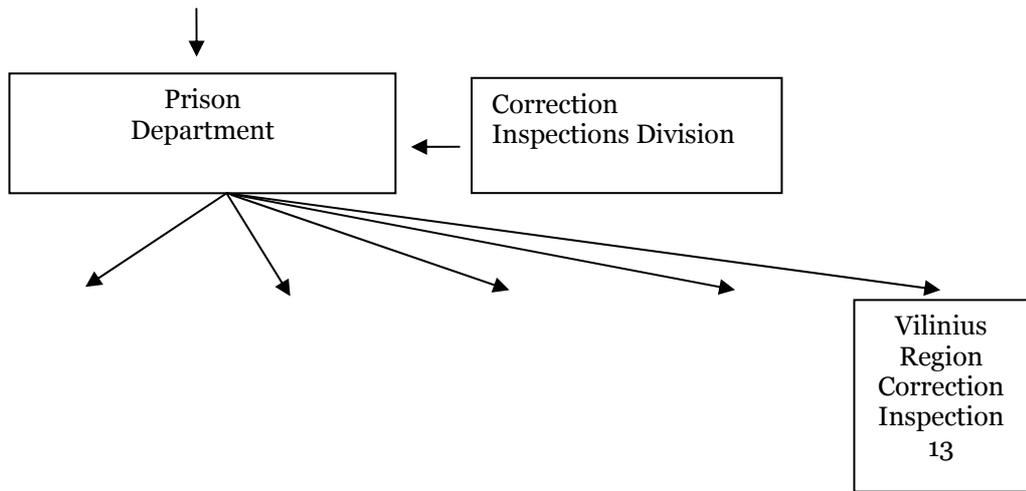
submitting it to the Prison Department. The data collected is submitted to the Statistical Department under the Government of the Republic of Lithuania by the Prison Department.

### 3.2 Internal organization

Each regional correction inspection consists of two – Administrative and Accounting – divisions. As has been mentioned above, the five regional correction inspections are made of 48 (since 1 July 2007– 49) town and district correction inspections: Kaunas Region Correction Inspection has 10 territorial subdivisions, Klaipeda Region Correction Inspection has 9 subdivisions, Panevezys Region Correction Inspection has 8 subdivisions, Siauliai Region Correction Inspection has 8 subdivisions and Vilnius Region Correction Inspection has 13 (since 1 July 2007–14) subdivisions. Each correction inspection unit enforces sentences imposed by the court at the place of residence of the probationer. The assignment of activities based on the territorial principle suits the best warrant of both supervision of probationers and provision of social assistance to them. The two town and district correction inspections with the biggest workload (Vilnius Town and District Correction Inspection and Kaunas Town and District Correction Inspection) are managed by the Head and the Deputy Head for administration of activities while the other three big correction inspections are managed by their Heads without a deputy. In such cases senior inspectors are responsible for the activities of territorial subdivisions. The number of staff working in different town and district correction inspections varies from 2 to 37 depending on the number of court sentences they enforce. Besides, the two correction inspections with the biggest workload are staffed with two senior specialists (psychologists), and the other three correction inspections have one senior specialist (psychologist) each.

**Figure 1**





The Director General of the Prison Department employs probation officers. In order to select the best possible candidates to take the position of the heads of the correction inspection, deputy heads and deputy directors internal tenders are announced which means that officers with some working experience within the system of the Prison Department are being employed. The Minister of Justice employs the directors of regional correction inspections. When an officer is employed to work at the Prison Department or institutions and state enterprises subordinate to the Prison Department the executive employing the officer sets a trial period of 1 to 6 months. A correction inspector must have a college education while in the smaller territorial subdivisions where there is no position of the Head a senior inspector must have a university education. Priority is given to persons with legal or social education.

### **3.2.1 Probation workers.**

#### **3.2.1.1 Staff issues (administration, average age, fluctuation.)**

Probation officers working individually with registered probationers introduce them to the order and conditions of the service of their sentence; explicate them their rights and duties and the possibilities for incentives. Besides, probation officers collect information on probationers' education, residence place, working place or school, their closest surroundings, hobbies, addictions; they also evaluate probationers' attitude towards work and learning and their needs for social support. Conditionally released person and persons conditionally released before the end of their term are handed in a list of institutions rendering social assistance. After having established that a probationer does not comply with the imposed obligations a probation officer finds out the reasons for such disobedience and reports on either assignment of penal sanctions and measures or enforcement of these sanctions and measures to the head of the correction inspections. He also files the material to the court. Probation officers are in direct subordination to the head of the subdivision – that is the person who supervises them and monitors their activities. Furthermore, probation officers cooperate with state and non-governmental organisations operating on the territory of the correction inspection while carrying out the tasks assigned to them. There is also a close interaction among correction inspections, police, labour exchange, municipalities, addiction treatment centres and similar institutions in order to ensure supervision of probationers and to provide them with social aid.

In order to facilitate this close cooperation, regional correction inspections sign agreements of cooperation with some of these institutions. As has already been mentioned before, the Concept of Probation in Lithuania notes insufficient cooperation of other state and non-governmental organisations in the sphere of penal enforcement as one of the numerous existing problems. Therefore it is planned to determine the functions and the mandate of the institutions enforcing probation, to define the legal status of associations and volunteers engaged in probation, to find possibilities to reimburse the expenses of the latter incurred while working with probationers.

The officers' workload is calculated according to the number of probationers assigned to them. In 2006 the average workload was 45.4 (to compare, in 2001 it

was 158.7). The maximum workload of a probation officer approved by the written order of Director General of the Prison Department is 70 adult probationers or 30 probationers at the age of 21 – 30 years.

### **3.2.2 Education, training requirements and opportunities**

Every year introductory courses are being organised at the Training Centre of the Prison Department. These mandatory courses are designed for newly employed officers. The aim of the introductory courses is to prepare probation officers for carrying out their functions efficiently and to apply professionally the acquired legal, social and psychological knowledge in their everyday activities. During these courses officers familiarise with European standards and national legal acts regulating penal enforcement and execution, they develop their skills of practical use of the relevant legal acts; they also gain social and psychological knowledge indispensable when trying to solve probationers' problems. At the end of the courses the level of the faculties and practical skills is being evaluated during the test. The duration of the introductory courses is 106 academic hours. Officers upgrade their qualifications both at the Training Centre and other institutions for professional development. Qualification is upgraded with respect to the needs of the officers to fill in the gap in a certain sphere. The most common professional spheres to be upgraded are: work with addict probationers, motivating them to change their way of living, work with documents and other relevant issues.

### **3.2.3 Other organizations involved in probation work**

In the sphere of rehabilitation and social integration of probationers, confessional organisations such as Lithuanian Caritas, daily engagement centres and groups of social risk for juveniles, shelter homes at monasteries as well as non-governmental organisations of Red Cross and Prisoners' Guardianship Association of Lithuania play a rather important role. It should be noted that Lithuanian Labour Exchange plays an active role in the social reintegration of probationers: they organise various vocational training and professional development courses; they also institute working places that are subsidised from their budget. Both state and non-governmental organisations in most cases prepare projects for reintegration of sentenced persons and present them to the European Social Fund Agency in order to obtain financing. Nevertheless, it should be noted that at present there are too few non-governmental organisations that deal with the problems of ex-prisoners, even if we take into consideration the increased attention towards the problems of sentenced persons.

## **4 PROBATION IN DIFFERENT PHASES OF THE CRIMINAL PROCESS**

### **4.1 General**

The Penal Code and the Penal Enforcement Code form the basis for activities of correction inspections. Their guiding documents are: Constitution of the Republic of Lithuania, treaties of the Republic of Lithuania, resolutions of the Government of the Republic of Lithuania, written orders of the Minister of Justice and Director General of the Prison Department of the Republic of Lithuania as well as other legal acts. The Penal Code determines punishments, penal sanctions and measures

for criminal offences as defined in this code, the grounds for their imposition or absolute discharge. The Penal Enforcement Code determines the order, conditions and principles of the execution and service of punishment. The activities of probation during different stages of criminal procedure are listed in the table below and elaborated in paragraphs 4.2, 4.3, 4.4.

**Table 1: activities of probation during the different stages of criminal procedure**

	Pre-trial phase see: 4.2	Trial and enforcement phase see: 4.4	Post release phase see: 4.4
Social care and support and information		x	x
Enforcement of community works sentence		x	
Enforcement of penal sanctions and measures like unpaid works		x	
Enforcement of freedom restriction sentence		x	
Enforcement of suspension of custodial sentence		x	
Enforcement of conditional release		x	
Application of an educational measure – behaviour restriction		x	
Elaboration and management of individual sentence service plan with conditionally released persons		x	x
Execution of the program of social reintegration for persons conditionally released from penitentiary institutions		x	x
Execution of rehabilitation program for the people having committed criminal offences under alcohol intoxication		x	
Execution of rehabilitation program for the people having committed offences against property		x	
Execution of rehabilitation program for the people having committed offences endangering traffic security		x	
Execution of rehabilitation program for the people having committed violent crimes		x	

Probation guidance and supervision  
of terms and conditions

x

## **4.2 Pre-trial phase**

The initial phase of the penal process is pre-trial investigation. It is carried out by pre-trial investigation officers. Pre-trial investigation is organised and headed by a prosecutor. The prosecutor may decide to perform the entire pre-trial investigation or a part of it himself. In particular cases certain pre-trial investigations acts are performed by a judge of pre-trial investigation. Police is an institution of pre-trial investigation. State Border Guard Service, Special Investigation Service, Military Police, State Security Department, Financial Crime Investigation Service, Lithuanian Customs, Fire and Rescue Department are also pre-trial investigation institutions in the cases of investigation of criminal offences found out while the above mentioned institutions were performing their direct functions as provided by the laws regulating their activities. Pre-trial investigation is also carried out by sea captains on sea-going ships concerning criminal offences committed by the crewmembers or passengers during the voyage. Officers of the Prison Department, arrest houses, directors of remand prisons and penitentiary institutions or officers authorised by them also perform pre-trial investigation concerning criminal offences committed in these institutions. The decision on initiating pre-trial investigation is made by a prosecutor, head of a pre-trial investigation institution or a person authorised by him.

The Court system of the Republic of Lithuania consists of courts of general jurisdiction and special – administrative courts. Criminal cases are being heard in courts of general jurisdiction which are of four instances: The Supreme Court of Lithuania, the Court of Appeals of Lithuania, district courts and regional courts. Regional courts are first instance for criminal cases assigned to their jurisdiction where they hear the cases of criminal offences (non-custodial punishment is provided), petty crimes (term of imprisonment up to three years is provided) or minor crimes (term of imprisonment up to six years is provided) as well as the cases where people are accused of committing grave crimes (term of imprisonment up to ten years is provided) and very grave crimes (term of imprisonment longer than ten years is provided) following the provisions of particular chapters of the Penal Code. Also, judges of regional courts perform certain functions as judges of pre-trial investigation, e.g. assign and sanction the imposition of procedural coercive measures, swear in and interrogate witnesses and the aggrieved, hear the complaints of the participants of the trial regarding the actions of the pre-trial investigators or prosecutor. They also perform the functions of a penal enforcement judge. District courts are first instance for criminal cases assigned to their jurisdiction where they hear the cases of grave and very grave crimes with certain exceptions as provided by the Penal Code and the cases where the accused persons at the moment of committing the crime were President of the Republic, Member of Parliament or Government, also judges of Constitutional Court, judges and prosecutors. District courts also sanction certain operational actions and extend detention provided a person is detained for a period longer than six months. These courts are also an appeal instance for court decisions, sentences, judgements, rulings and orders.

Pre-trial investigation is finalised with producing an indictment and filing it with court. The prosecutor draws up the indictment. It contains the name of the court with the jurisdiction over the case, the full name of the suspect, his/her date

of birth, national identification code, marital status, occupation, working place, information on previous convictions. Any other information could also be included at the prosecutor's discretion regarding the criminal offence like the place, the time, the ways, the after-effects of the offence committed and other important circumstances. The prosecutor may also include information on the aggrieved person, the aggravating or the mitigating circumstances of the offence, the prime facts the accusation is based on, the Chapter of the Penal Code of the Republic of Lithuania determining the responsibility for the offence committed, the full name of the defender of the suspect provided the suspect had one during the pre-trial investigation, the position of the suspect provided he/she does not accept the allegations. The prosecutor also hands in or posts the duplicate of the indictment to the accused person. All the participants of the trial – the suspect, his/her defender, the aggrieved person, both the civil plaintiff and the civil defendant, as well as their representatives - have the right to get acquainted with the materials of pre-trial investigation.

Correction inspections do not participate in the pre-trial investigation phase. Nevertheless, the Concept of Probation in Lithuania suggests that international experience (especially the grounds and the order of probation enforcement, treatment for drug or other psychotropic substances addiction as the basis for probation, also the framing of pre-trial conclusions on the personality of the accused) would be of great use for the development of juridical regulation of probation in Lithuania. Consequently, one of the planned results of this concept is the set procedure of the framing of pre-trial conclusions and filing them with court. It will assist the court in the individualization of the criminal responsibility and selection of the form of the execution of the penal enforcement - that is most suited for the person having committed the crime.

#### **4.3 Trial and enforcement phase**

As has already been mentioned above, the phase of pre-trial investigation is finalised with producing of indictment and filing it with court. The hearing takes place with the prosecutor, the aggrieved person and his/her representative, the accused person, his/her representative appointed following the provisions of the law and the defender, the civil plaintiff, the civil defendant and their representatives (all of them are summoned by the court). Witnesses, experts, specialists and interpreters could also be summoned to the trial session. Probation service workers do not participate during the case hearing. Normally, the case hearing concludes with the announcement of acquittal or the verdict of guilty. By announcement of such verdict the person is held guilty for the criminal offence committed and a punishment is imposed on him. Court imposes the punishment applying the sanction according to the chapter of the Penal Code that determines the responsibility for the criminal offence committed following the provisions of the general part of the Penal Code. While imposing a punishment the court takes into consideration the degree of the gravity of the criminal offence, its form and type as well as its motives and aims. The court also considers the stage of the criminal activity, the personality of the culprit, the form and the type of the actions of the person as an accomplice of the criminal offence, the circumstances aggravating or mitigating the responsibility. The greatest importance in the

evaluation of the gravity of the criminal offence is attached to objective evidence, such as the nature, the consequences, the site, the time of the offence committed as well as some other circumstances, for these evidence are more conspicuous and easier to assess than subjective evidence (the aim, the motive, the personality). Besides, the methods for assessment subjective evidence do not exist. The Penal Code provides for the following types of punishment of natural persons:

- deprivation of public rights (for the period of 1 – 5 years);
- deprivation of the right to work at certain jobs or to be engaged in certain activities;
- community works (for the period of 1 – 12 months);
- fine (1 MLL - 300 MLL<sup>1</sup>);
- freedom restriction (3 - 24 months);
- arrest (10 - 90 days);
- custodial term (3 months - 20 years);
- life sentence.

Furthermore, the penal law provides for the possibility of enforcement of penal sanctions and measures (on adults) and educational sanctions and measures (on juveniles) discharged of criminal responsibility, also absolution due to the illness or suspension of sentence.

Correction inspection while enforcing the court sentences on people deprived of the right to work at certain jobs or to be engaged in certain activities and those deprived of the civil rights monitor if the sentenced person does not exercise the rights he/she was deprived of. While enforcing the sentences on persons on whom the punishment of community work or penal sanctions and measures like unpaid work were imposed correction inspection appoints the site and the work for the service of the sentence, monitors whether the sentenced person does the imposed community or unpaid work in the way the court sentence prescribes, renders personal and social assistance to the sentenced, monitors whether the employer for the community work observes the established obligations and the like.

The subject matter of the types of punishment such as freedom restriction, suspension of custodial sentence, conditional release from penitentiary institutions, early conditional release from penitentiary institutions, and application of an educational measure – behaviour restriction consists of certain obligations imposed by the court and prohibitions determined in the Penal Code. The peculiarity of the freedom restriction as a form of punishment is that the court may impose other prohibitions and obligations that are not provided in the Penal Code following the request of the convict or other participants of the trial that will influence favourably the behaviour of the convict. Staying at home at a set time, learning, further schooling or working, not being absent from home for a longer than seven days' period without informing correction inspection, amendment of damages incurred by the criminal offence, treatment for alcoholism and drug addiction with the consent of the convict himself, etc. – all the above mentioned restrictions are examples of such obligations. Other examples of prohibitions are: visiting certain places, communication with certain persons or groups of people, gambling, etc. The cases when convicts do not obey the restrictions or fail to submit to prohibitions imposed by the court as well as administrative or public

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<sup>1</sup> The fine is calculated by the amount of MLL (Minimal Living Level).

order offences committed by the convicts being conditionally discharged from imprisonment before the end of the term or being conditionally released from penitentiary institutions or with suspended custodial sentence may serve as the grounds for imposition of certain sanctions by correction inspection or filing the application with the court for imposition of certain sanctions. The normally imposed sanction is a verbal warning that does not alter the nature of the supervision.

Probation inspection enforcing the decisions and rulings of the court administer the registry of the following: persons sentenced to punishments alternative to imprisonment (excluding the limitation of property rights); persons with suspended sentence of paying a fine, serving an arrest or suspended custodial sentence; persons on conditional release from penitentiary institutions or conditionally discharged from imprisonment before the end of the term; and persons with imposed penal sanction such as unpaid work. Correction inspection also administers the control of the compliance with obligations and prohibitions imposed on the convicts by the court. Probation officers visit the convicts and communicate with them, revise information on their residence place, administer the imposed penalties and assigned incentives as provided by the law, produce and present materials to the court. They also assist the police in obtaining the required information on persons sentenced to community work or restrictions of freedom or conditionally released from penitentiary institutions whose place of residence are unknown. Probation workers also work individually with convicts with regard to their personality, behaviour during the service of the sentence and other circumstances; register their legal status, cooperate with state and municipal institutions, public and confessional organisations, legal entities and natural persons while organising and implementing measures for offence prevention among persons registered with correction inspections and dealing with the issues of their social reintegration into the community.

As has been already mentioned above, correction inspection does not participate either in the pre-trial process or in the hearing before the conviction of a person. It receives already standing sentences or court decisions to be enforced. Consequently, the participation of correction inspection in the judicature starts with the process of enforcement of the sentence or court decision once the convict does not obey the imposed obligations and prohibitions.

When a person sentenced to community work fails to keep to this punishment, correction inspection following the provisions of the law, applies to the court regarding substitution of community work with other forms of punishment (arrest or fine). When a person sentenced to freedom limitation does not comply with the obligations or prohibitions imposed by the court correction inspection, following the provisions of the law, applies to the court regarding substitution of this form of punishment by arrest. When a person conditionally released from imprisonment before the end of the term or with suspended custodial sentence does not comply with the obligations and prohibitions imposed by the court and commits administrative offences correction inspection, following the provisions of the law, applies to the court regarding the warning addressed to this person; if such person still departs from the conditions imposed by the court or goes on committing offences correction inspection applies to the court regarding the withdrawal of conditional release before the end of the term or suspended sentence. On the other

hand, correction inspection also applies to the court regarding the discharge of the conviction provided the person in compliance with the conditions imposed by the court during the entire period of sentence suspension has not committed any offences or new crimes. If an employable person conditionally released from a correction institution avoids working or violates work discipline, and breaks the peace or obligations imposed on him, correction inspection following the provisions of the law, applies to the court regarding the withdrawal of conditional release.

Summarising, it can be stated that the principal decisions on the penal enforcement regarding persons who avoid complying with the enforcement of punishment, or disobey the imposed conditions of the punishment are taken up in court during the process. In their presentation to the court correction inspection notes the conditions the convict violates and presents a short report concerning the compliance with the obligations and prohibitions imposed by the court. It is necessary to mention that correction inspection cannot apply to the court regarding the substitution of the existing imposed obligations and prohibitions by others, even if they are of the opinion that this could influence favourably the process of reform of the convict.

#### **4.3.1 Probation procedures and processes**

After having received the conviction verdict or the ruling of the court correction inspection invites the convict for the first talk during which the convict is being acquainted with the order and conditions of his sentence service, and the information on his personal details, education, residence and working place, marital status, associates, dependency diseases, need for social support, etc. are registered. Individual work with probationers (excluding the convicts deprived of the right to work at a certain job or to be engaged in certain activities, or those deprived of public rights) is carried out with regard to the personality of the convict, his behaviour during the service of the sentence if other legal acts or the courts do not determine otherwise. Persons conditionally released from correction houses or conditionally released before the end of the term are invited for a talk at least once a month, while persons with suspended deferred fine, arrest or custodial sentence and persons sentenced to community work, freedom restrictions or on whom a penal measure such as unpaid work is imposed are invited for a talk at least twice a month. These visits are registered in reference notes.

Furthermore, an individual sentence service plan is compiled together with the persons conditionally released from imprisonment before the end of the term and persons on conditional release during the first month of the probationer's registration with the correction inspection (see format probation documents). This plan is revised once in three months. In this plan the main problems of the convict at the given period are pointed out as well as the possible ways of solving them. Such issues as obligations of conditionally released and conditionally discharged persons as well as holding of personal documents, the residence place, social support, employment, family, friends, leisure activities, the role of non-governmental organisations in providing support for conditionally released and conditionally discharged persons are discussed and entered into the plan. Any other probationers' evaluation instruments that would be based on survey results

and approved are not used by probation officers in their everyday activities. As has already been mentioned, the implementation of instruments for evaluation of crime recidivism and criminological needs is being planned in Lithuania. It is important to note that correction inspections in Lithuania execute programs of rehabilitation designed for the people having committed criminal offences under alcohol intoxication, violent crimes, offences against property and offences endangering traffic security. A program of social reintegration for persons conditionally released from penitentiary institutions is also being implemented. The Director General of the Prison Department approves the above-mentioned programs. These programs are of educational character, in most cases they are executed in the form of lectures and seminars working in groups or with individuals. Normally, the program consists of 4 – 5 sessions; the duration of the session is about 45 minutes. Participation in these programs is voluntary.

Nevertheless, these issues are rather problematic as they are not based on any theoretical paradigm and criteria for evaluation of effectiveness of such programs do not exist. These programs can indeed be called “home made”. As mentioned above, the programs are voluntary and do not influence the legal status of the convict. The only exception is regarding the persons conditionally released from penitentiary institutions as the head of correction inspection may reduce the number of registration visits per months (from obligatory 4 visits to 1 visit) – such decision is based on the convict’s resolve to participate in the programs – and other accumulated material that would characterise his personality. All the programs mentioned are educational in nature. In the Concept of Probation in Lithuania they are characterised as “not encouraging alteration of offensive behaviour or development of pro-social habits properly” therefore new programs of supervision of convicts are being projected. The assessment of the need for programs and new convict management methodology as well as their implementation is within the competence of the Prison Department.

Correction inspection ensures the monitoring of obligations and prohibitions imposed by the court by collecting documents from appropriate organisations, police, elderships, institutions for psychological and social rehabilitation and, also, by associating with the convict and paying visits to his residence place. These visits contribute to the enforcement of such obligations as staying at a certain place at the time appointed by the court or not leaving one’s residence place for the period longer than seven days without the consent of correction inspection.

The tasks of reintegration into the community of the persons conditionally released from penitentiary institutions or conditionally discharged from the punishment before the end of the term and rendering social assistance to them are performed by correction inspection while providing information on labour exchange services and social privileges; correction inspection also assists in putting personal documents in order. Probationers are encouraged to acquire a profession or re-train and to participate in the social reintegration and rehabilitation programs approved by Director General of the Prison Department.

Probationers are assigned to the officers according to their residence place, i. e. officers’ work with probationers is organised according to the territorial principle. Nevertheless, there exists certain specialisation of work concerning juvenile convicts. At the five major correction inspections there are officers assigned to work with juveniles while in other correction inspections working with juveniles is

within the competence of senior inspectors (heads of territorial subdivisions). Distribution of work according to the residential place of convicts implies more efficient supervision of obligations imposed by the court, especially the ones related to home visits, facilitates cooperation with police and elderships. Administration of the implementation of social reintegration and rehabilitation programs stay within the competence of a separate correction inspection. Very often representatives from other state institutions and non-governmental organisations are invited to participate in the meeting sessions of the programs though, when necessary the sessions are conducted by senior specialists (psychologists) of correction inspections.

As a rule, the first contact of the correction inspection officer with a person conditionally released from a penitentiary institution is established after the convicted person has been already released. That means that correction inspection officer does not work with him/her individually while he/she is still in prison. However, correction inspection officers ought to attend meeting sessions of the legal and social education programmes for the convicted people to be released from custodial institutions once a month. Therefore, the role of correction inspection in the process of preparation of convicts for release is very minimal. Representatives of correction inspection do not participate in the court session regarding release either. The functions performed by correction inspection while the convicted person is serving his custodial sentence are of informative nature and rather symbolic.

In order to implement the underlying decision of Council of Ministers of the European Union regarding the situation of the aggrieved in criminal cases (decreed in 2001) supplements to the Penal Enforcement Code were made in 2006. Following the provisions of the supplements the aggrieved person, if he/she wishes, is informed about the fact of release of the convict from a penitentiary institution. However, correction inspection is not involved in this process either – it is the responsibility of the administration of the penitentiary institution.

#### **4.4 Post-release phase**

As mentioned above, correction inspection starts working with persons conditionally released from penitentiary institutions or conditionally discharged from imprisonment before the end of the term only after their release. Persons whose reform could be continued without isolating them from community by having them supervised may be conditionally released from correction institutions. The Penal Enforcement Code specifies the terms under which the convict may apply for conditional release or discharge. The court makes the decision regarding conditional release. The supervision of conditionally released or conditionally discharged persons continues until the end of the sentence, provided the convicts are not returned to penitentiary institutions for non-compliance with obligations imposed on them or commitment of new crimes. The term of conditional release could vary from several days up to six years (approximately). Correction inspection exercises the control on how obligations and prohibitions imposed by the court on these convicts are complied with, provides social support if necessary, assists in employment and performs other functions prescribed. Besides, conditionally

released persons are motivated to participate in the programs implemented by correction inspection as discussed above.

#### **4.4.1 Care and after-care outside the criminal justice system**

Social, medical and other assistance are rendered to persons after having served the non-custodial sentence, also a penal or educational sanction, as well as after the expiration of the term of conditional release or after the discharge in the same way as the rest of the people in Lithuania. Correction inspection is not involved in this process – it may only indicate the person or the institution competent to deal with the matter of concern.

### **5 FINANCES, REGISTRATION, EVALUATION AND OUTSIDE OPINION**

Correction inspections in Lithuania are financed from the state budget, i.e. financial allocations are made by the Ministry of Finance. Nevertheless, the allocations are administered by the Prison Department: the decisions regarding the amount of allocations and the proportion of wages fund are made there. Therefore, correction inspections cannot adjust the fund for wages while the rest of expenditure is planned by correction inspections themselves. (For information on allocations to correction inspections and penitentiary institutions for the years 2004 – 2006 see the table below.)

**Table 2**

	Probation services	Prison system
Total yearly expenditure (Euro)	1 611 544	31 565 217
Average number of employed staff	170	3178,25
Daily average number of offenders dealt with	11 186	7 916
	2005	
	Probation services	Prison system
Total yearly expenditure (Euro)	2 060 870	34 023 188
Average number of employed staff	219,5	3207
Daily average number of offenders dealt with	10 017	8 020
	2006	
	Probation services	Prison system
Total yearly expenditure (Euro)	2 350 725	40 005 797
Average number of employed staff	226	3248,25
Daily average number of offenders dealt with	8 784	8 063

Allocation to correction inspections for 2007 totalled 2 991 304 euros and to penitentiary institutions – 42 113 043 euros. Besides, correction inspections may participate in various tenders for obtaining finance for projects related to the social rehabilitation and reintegration of convicted persons provided the projects meet the requirements defined in the rulebook. Such projects could be financed from the state budget or by European Union as well as other organisations. Following the provisions of the Lithuanian law private people also have the possibility to transfer some of their income tax (up to 2 per cent) to any state institutions or non-governmental organisations, therefore correction officers are encouraged to transfer the share of their income tax to correction inspections.

## 5.2 Accounting

Correction inspections account for their expenditure to the Prison Department once in three months by filling in and producing the financial accounting forms approved by the Ministry of Finance. These documents contain the detailed information on the amount and the objective of the expenditures. The internal audit of the expenditures is performed monthly by the staff of accounting units together with the heads of the correction inspections. External audit of expenditures is within the competence of the Prison Department and National Audit Office. As correction inspections are financed from the state budget there is

no independent audit as the function of monitoring expenditures is delegated to state institutions.

### **5.3 Registration systems and evaluation procedures**

Entering the name of the person into the registry starts a personal file. In this file all documents related to the enforcement of the person's sentence are stored: court sentences or decisions, references to the talks with him, documents received from other institutions, information on the service of the sentence, etc. All the material accumulated in the personal file provides the characteristics of the convict and the way he is serving his sentence or whether he complies with the prohibitions and obligations imposed by the court. When the issue of either mitigation or aggravation of the convict's legal status is being raised, all materials accumulated in his personal file are presented to the person taking the decision – the head of the correction inspection or court, within their competence. The head of the correction inspection may reduce the number of registration times at the correction inspection of a conditionally released person. The head of the correction inspection may, on the one hand, make acknowledgments, cancel the previously assigned penalty before the end of its term, file an application with court to recall one or several obligations imposed on the convict, and on the other hand, he may assign a warning or reprimand to those conditionally released persons who are constantly violating working discipline, public peace or obligations imposed on them. The convict has the right to get acquainted with all the materials accumulated in his personal file. Personal files are destroyed after the expiration of the term provided by law. In Lithuania information on the person and his/her previous convictions could be provided to the third persons without the convict's consent only in the cases provided by law – when the information is required during the court trial – or in order to prevent a new crime and the like. This information is also used while working individually with the convict, and some of the data accumulated in the file is included into reports on the work with convicts.

Correction inspections present quarterly reports on their work with convicts and references on the work results to the Prison Department. After the received materials have been summarised there, comments and proposals regarding the refinement of activities are produced. Reports on the work with convicts are public and easy to access (could be found on the web-sites of the Prison Department and the Crime Prevention Centre of Lithuania) so that everyone interested to find out this information can do it. Reports on the work with convicts contain statistical data on probationers: how many of them are registered at correction inspections, pre-trial investigations initiated against them, administrative offences committed, also number of persons with certain obligations and prohibitions imposed by the court. The reports also include certain social characteristics of convicts – how many of them go to school, work and are registered at Labour Exchange, also information on their education. A computer-based correction inspection registry of convicts does not exist yet; all data, statistics and rating reports are registered manually.

Until recently activities of correction inspections could not boast of great attention from scientists, therefore scientific research in this field is very scarce. The law provides for processing (delivery, publishing, making use of, etc.) personal data without the person's consent for scientific purposes only after having informed the State Data Protection Inspectorate. However, due to the growing

interest towards probation an increase of scientists' involvement in this field is expected.

The evaluation of efficiency of correction inspection activities is based on the above mentioned criteria such as: the number of pre-trial investigations initiated against probationers registered at correction inspections (percentage), the amount of restitution in order to make amendment for the damages done (percentage), the size of the area of the refurbished working premises, also the number probationers going to school or working (percentage). The rates are obtained from correction inspection reports on their work with convicts registered at correction inspections. The reports submitted quarterly serve as the basis for the efficiency evaluation criteria that are calculated quarterly as well.

As correction inspections implement social reintegration and rehabilitation programs approved by Director General of the Prison Department the reports on the program implementation are being submitted too. The following are considered as program efficiency criteria: the number of probationers having attended at least one meeting session within the framework of a program and the number of probationers who have attended all the meeting sessions, the number of attendees who go to school or work, also the number of pre-trial investigations initiated against probationers as well as penalties enforced by administrative justice and the articles of non-compliance with (neglect of) obligations, commitments and prohibitions imposed on probationers by the court.

Scientific publications on activities of correction inspections appeared only recently. For instance, in 2005 an article of Julius Dermontas entitled "Rehabilitation of Convicts with Non-Custodial Sentences" was published in a journal of scientific studies "Acta pedagogica Vilnensis mokslo darbai". In the same year articles by Tomas Mackevicius entitled "Community Work: Legal and Social Aspects" and "Legal Aspects of Suspended: Sentences for Persons with Dependency on Drugs: Lithuanian experience" by Marta Gavriloviene were published in the journal "Jurisprudencija: mokslo darbai". A compilation of articles on "Alternatives to Imprisonment and their Implementation" by Tomas Mackevicius was also published in 2005 and a year later, in 2006 he submitted a doctoral thesis under the same title at Mykolas Romeris University. This year also witnessed the publication of the article "Legal Comparative Aspects of Release from Penitentiary Institutions" by Simona Mesoniene and "Amends of Damages Incurred by Criminal Offence while Imposing Punishments Alternative to Imprisonment" by Marta Gavriloviene. The majority of these publications are based on the analysis of legal acts, comparison of national and international practice on the issues of punishments alternative to imprisonment as well as suspended sentences and conditional release from penitentiary institutions. Still, there are no scientific studies or publications in Lithuania on the assessment of efficiency of activities carried out by correction inspections.

#### **5.4 Societal support and client's views**

Societal support for the activities carried out by correction inspections has not been researched in an academic way. It is only natural as correction inspection is a conditionally new type of institution and its activities are not yet widely known to the community.

There were no scientific studies on probationers' views on the activities of correction inspections either. Nevertheless, surveys of the activities of correction inspections with convicts are planned in order to establish the quality of the services provided by correction inspections and the degree of satisfaction of convicts with the activities of correction inspections. For instance, in the second half of the year 2006 Vilnius Region Correction Inspection compiled questionnaire forms filled in anonymously and carried out the survey with the view of improvement of the services provided by the Vilnius Region Correction Inspection to the probationers and other people. The forms were compiled by the staff of Administrative Division of the Vilnius Region Correction Inspection and filled in by probationers registered at territorial subdivisions of the Vilnius Region Correction Inspection. The convicts were questioned on: whether the appointed reception time is convenient for them, whether they are treated politely and the relevant questions are being dealt with in a qualified way; whether the responses to their applications and complaints are timely and whether the clients were informed on the measures taken correction inspection in order to solve the problems concerned. 443 probationers participated in the survey. Summarising the results of the survey it should be stated that the majority of probationers are satisfied with the quality of the services provided by correction inspections. For instance, 95 per cent of probationers described the office hours as convenient, 98 per cent of the clients admitted that they are treated politely and only 3,2 per cent of the questioned claimed to have been waiting for an appointment for a very long time.

Despite the fact that not much resources are being allocated to finance public relations, correction inspections try their best to inform community about their activities. This is done on their web sites, through local and national dailies, local TV, etc.

## **6 PROBATION CLIENTS' RIGHTS**

While speaking about the principles of penal enforcement the issues of convicts' rights was touched upon. As has already been mentioned, the principal of legitimacy consolidates the general provision that the restrictions on the rights and freedoms of convicted persons as well as their obligations may be determined only by the law of the Republic of Lithuania, and the convict's behaviour could be restricted only by a prohibition or obligation. It has also been mentioned that convicted persons are being informed on their rights and obligations during their first appointment with correction inspection officer. Moreover, the opportunities for incentives and responsibility for violation of the conditions imposed by the court are also clarified during the first appointment. Convicts, in their turn, can lodge a complaint with the superior of the head of correction inspection against the penalty imposed by the head of correction inspection for violations of conditions imposed by the court during the five-day period since the imposition of the penalty. The superior of the head of correction inspection may either mitigate or cancel the penalty if the officer imposing it went beyond his commission or the penalty was imposed on the convict who did not make the violation. If the convict does not comply with the decision of the superior officer who has been investigating his complaint he (the convict) has the right to file his complaint with

Director General of the Prison Department whose actions and decisions could be appealed in the Supreme Administrative Court. It has to be noted that convicts seldom file complaints against officers' actions and decisions: for instance, in 2006 there were 32 complaints received by regional correction inspections about actions and decisions of territorial correction inspections officers while the Prison Department received 13 complains of this kind. The majority of the complaints (approximately 95 per cent) were declared groundless. Furthermore, everybody presuming that his/her rights have been violated due to misuse of officer's power or bureaucracy may file a complaint with Ombudsman. However, such complaints have never been filed.

In the chapter on registration systems and evaluation procedures it was briefly mentioned that the Law on Juridical Protection of Personal Data protects personal data in the Republic of Lithuania. This law defines the data on previous convictions as specific personal data that can be administered only with the person's consent and in the cases as provided by law when prevention of a crime or criminal activity is concerned or when the data is required during the court hearing or in some other case as provided by law. Information may be accessed in relation to official or professional position or while carrying out a special assignment related to the complaint of the aggrieved. Persons who use other people's personal data publicly, or use this information for the benefit of themselves or others without the consent of the person concerned are in violation of the law. A natural person who violates this law may be sentenced to community work, fined, his freedom may be limited and he may be sentenced to imprisonment for the term up to three years. The same liability is applied to a legal entity as well. A person having suffered the harm inflicted by illegal administration of personal data has the right to demand amends for property or non-pecuniary damage as evaluated by the court.

All citizens of the Republic of Lithuania, people of other European Union Member States, also legal residents in Lithuania and other European Union Member States as well as other citizens defined in the international treaties of the Republic of Lithuania are have the right to receive primary juridical assistance free of charge. This assistance is defined as provision of juridical information, law consultations and arrangement of legal documents for state and municipal institution. Persons have the right to receive the secondary juridical information, defined as arrangement of legal documents, defence and representation in the cases, including the process of enforcement, representation in the cases of disputes being set outside court as provided by law or a court decision, only when their annual income does not exceed the property and income level that qualify for the receipt of juridical assistance.

Each person suspected of having committed a criminal offence or a person accused of it has the right to be informed promptly and accurately in the language he/she understands about the nature and the ground for the charges against him/her; this person is entitled to have the services of an interpreter free of charge in case he/she does not speak Lithuanian.

## **7 NEW DEVELOPMENTS**

As in the opening of this chapter, the demand for the model of suspended sentence and conditional release from penitentiary institutions (probation) was recognised in the State Long-Term Strategic Development Plan approved in 2002. This demand materialised on 21 February 2007 after the Concept of Probation in Lithuania and the Plan of Measures for Implementation of the Concept of Probation in Lithuania was approved. This concept applies for the period until the end of 2009. It ought to influence the activities of correction inspection greatly. It has already been noted that the concepts of “probation”, “supervision of the convict” and “rendering social support to him” are defined; the existing drawbacks are pointed out, the aim and principles of the probation system are stated. The aim of the probation system is to guarantee security within the community, to promote crime prevention, to reduce crime recidivism and to decrease the number of prison population. As defined in the Concept of Probation in Lithuania the probation system is based on the following:

- warrant balance between the re-socialisation of the convict and public security;
- individualisation of probation measures when these measures are applied taking into consideration the personality of the convict (his/her personal characteristics, family status, personal health as well as other of his/her faculties, abilities and altitudes), also the nature and the gravity of the crime committed, the convict's behaviour before and after the crime was committed and other important circumstances;
- versatility of probation measures implying that probation is not only supervision of convicts but also efficient rendering of social support to them;
- protection of the rights of the aggrieved person once the probation was enforced to facilitate amendments for the inflicted property and pecuniary damages;
- societal support of the process of convicts' reform when various associations and volunteers are involved in probation enforcement, development of legal education and consciousness of society.

The aims of the probation in Lithuania will be reached through the implementation of these objectives:

- development of legal regulation of probation;
- making proper methodological provisions for probation monitoring;
- creation of integral network of institutions enforcing probation;
- accessibility of social services for probationers;
- promotion of societal support in the process of probation.

The future mechanism of the preparation and presentation of pre-trial conclusions to the court will have the greatest influence on the activities of correction inspections in Lithuania: it will assist the court in the individualisation of the criminal responsibility and selection of the best suited form of exercising criminal responsibility for the person who committed a crime. The implementation of this measure implies involvement of correction inspections in the trial before a sentence is pronounced. Simultaneously, implementation of risk evaluation method of persons having committed repeated crimes is being planned. Pre-trial conclusions and planning of more efficient probation measures will be based on this method. The quality of the group and individual work should improve in the phase of pre-trial investigation as the implementation of specific measures of probation supervision devoted to development of social skills is planned. It is also expected that the activity of community members in the process of implementation

of the Concept of Probation in Lithuania will improve after readjustment of legal regulation.

## **8 IMPORTANT PUBLICATIONS**

There are not many books or articles published in Lithuania on the subject of enforcement of punishments, penal sanctions and measures within the competence of correction inspections, conditional release from penitentiary institutions or suspended sentence. Information in the Chapter on Historical Background was based on material from the anthological survey "Crime Prevention Experience in Lithuania in 1918 – 1940" by Vytautas Andriulis. The book was published in Vilnius in 2000. Several more recent publications have already been mentioned and in this chapter a few more books will be introduced. A book by Gintaras Svedas "The Law of Penal Enforcement" was published in 2003. General aspects of penal enforcement such as policy of penal enforcement, the subject matter, the method and the conception of penal enforcement, the system of penal enforcement, its principles, sources as well as the system of institutions enforcing punishment and the status of the convicted person are being analysed there. This is a learning aid for students and officers of penal institutions. The same author has prepared the commentary on the chapters of the Penal Enforcement Code regulating the execution of punishments excluding those on imprisonment and made a scientific edition of the Code.

The Commentary on the Penal Enforcement Code was published in 2004. The need for the commentary emerged after the new Code of Penal Enforcement came into force. It aims at promotion of the correct interpretation of the contents of the new standards and their implementation.

Another scientist, Tomas Mackevičius defended a thesis for a doctor's degree "Punishment alternative to imprisonment and their materialisation". The thesis aims to reveal and evaluate the punishments as well as other forms of materialisation criminal responsibility legitimised by the legal acts of Lithuania considered as forms of probation in other states, also their rationality and efficiency with regards to the provisions of international documents. The thesis also deals with the issues of the best foreign practice of legal regulation of probation forms and their implementation. The author also makes his conclusion and suggestions regarding the legal regulation and the development of implementation of national probation forms. The subject matter of the thesis was punishments and other forms of materialisation of criminal responsibility with elements of probation involved as well as the activities of correction inspection while realising them. Analysis of materialisation of punishments and other forms of criminal responsibility as well as legal and practical factors determinant of the efficiency of the activities of correction inspections are presented in this thesis.

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## ANNEX 1

### 1. Information on persons convicted in 2004-2006 and the types of the enforced punishments

	2004	2005	2006
1. Total number of crimes and criminal offences registered in Lithuania	93419	89815	82155
2. Number of convicted persons	17882	16007	14697
3. Types of enforced punishments:			
3.1 Deprivation of public rights	1	11	4
3.2 Deprivation of the right to work at certain jobs or to be engaged on certain activities	49	35	39
3.3 Community work	819	569	470
3.4 Fine	4238	4359	4474
3.5 Restriction of freedom	962	1558	1752
3.6 Arrest	2879	1386	1185
3.7 Imprisonment for a term	8928	8081	6767
3.8 Life imprisonment	6	8	6

### 2. Information on the convicts' participation in social reintegration and rehabilitation programs in 2004-2006

	2004	2005	2006
1. Program of social reintegration of persons conditionally released from penitentiary institutions and conditionally discharged before the end of the term	1129	1001	1024
1.1 Number of persons having attended at least one meeting session of the program			
1.2 Number of persons having attended all meeting sessions of the program	569	611	663
2. Program of social rehabilitation of persons having committed violent crimes			
2.1 Number of persons having attended at least one meeting session of the program	394	419	355
2.2 Number of persons having attended all meeting sessions of the program	192	246	190

	<b>2004</b>	<b>2005</b>	<b>2006</b>
3. Program of social rehabilitation of persons having committed crimes under alcoholic intoxication	306	309	270
<i>3.1 Number of persons having attended at least one meeting session of the program</i>			
<i>3.2 Number of persons having attended all meeting sessions of the program</i>	154	184	151
4. Program of social rehabilitation of persons having committed crimes against traffic	154	111	129
<i>4.1 Number of persons having attended at least one meeting session of the program</i>			
<i>4.2 Number of persons having attended all meeting sessions of the program</i>	88	82	89
5. Program of social rehabilitation of persons having committed crimes against property, property rights and interests.		419	360
<i>5.1 Number of persons having attended at least one meeting session of the program</i>			
<i>5.2 Number of persons having attended all meeting sessions of the program</i>	-	220	197
6. Number of persons having attended at least one meeting session of the program	1983	2259	2138
7. Number of persons having attended all meeting sessions of the program	1003	1343	1290