THE EUROPEAN JUDICIAL AREA IN PRACTICE: “EVIDENCE IN CRIMINAL PROCEEDINGS FOR SERIOUS TRANS – NATIONAL CRIME

Luis Arroyo Zapatero, Víctor Moreno Catena y Elena Domínguez

LITHUANIA

Institute of European and International Criminal Law

Universidad de Castilla – La Mancha (Spain)

Centre for Legal Studies (Ministerio de Justicia, Spain)

http://www.cienciaspenales.net

The European Judicial Area in practice: "Evidence in criminal proceedings for serious trans-national crime"

Questionnaire about different ways to obtain evidence in Member States: national conditions of evidence in criminal proceedings in the European Judicial Area

LITHUANIA

Institute of European and International Criminal Law
Universidad de Castilla-La Mancha (Spain)
Centre for Legal Studies (Ministerio de Justicia, Spain)

Luis Arroyo Zapatero
Víctor Moreno Catena
Elena Domínguez

Questionnaire regarding evidence-collecting methods within the different Member States of the European Union

CONTENTS

A. Instructions--3

B. Preliminary Questions --4

C. Specific Methods of Cooperation ---5

1. *Hearing of Witnesses, Experts and Suspects*. José Antonio Colmenero. Senior University Lecturer. Universidad Carlos III de Madrid and v*ideo Conferences*. Amaya Arnáiz. Assistant Lecturer. Universidad Carlos III de Madrid (Spain)..............................5

3. *Telephone Tapping*. Marta M. Morales Romero. Institute of European and International Criminal Law (Universidad de Castilla-La Mancha, Spain)……………..19

4. *Search Warrants*. Ignacio Flores Prada. Senior University Lecturer. Universidad Pablo de Olavide (Seville, Spain)………………………………………………………20

5. *Protection of Privacy and Personal Data Processing in Criminal Proceedings*. Ignacio Flores Prada. Senior University Lecturer. Universidad Pablo de Olavide (Seville, Spain)………………………………………………………………………22

6. *Delivery of Documents by Individuals and Public Bodies. Banking Confidentiality*. Asunción Ribas. Clerk, Audiencia Provincial de Barcelona (Barcelona Provincial Criminal Court, Spain)…………………………………………………………………22

7. *Genetic Markers*. José Luis Albiñana. Judge, Audiencia Provincial de Barcelona (Barcelona Provincial Criminal Court, Spain)…………………………………………23

A. Instructions

The aim of this questionnaire is to provide detailed and up-to-date information concerning certain activities which take place during the investigation stages of criminal proceedings, prior to trial. These include certain restrictions on fundamental rights, collecting certain effects and instruments used in the crime, and evidence sources, as well as advancing and pre-establishing evidence in each of the Member States of the European Union. The aim is to assess compatibility and propose a set of minimum standards ensuring that the collection of evidence in one Member State shall have the probative value in an open criminal case in another Member State.

To this end, a team of Spanish researches, led by Dr. Luis Arroyo Zapatero, Professor and Director of the Institute of European and International Criminal Law (Universidad Castilla-La Mancha, Spain), along with Víctor Moreno Catena (Professor in Procedural Law, Universidad Carlos III de Madrid, Spain), Vicente Carlos Guzmán Flujá (Professor in Procedural Law, Universidad Pablo de Olavide, Seville, Spain), Gonzalo Quintero Olivares (Universidad Rovira i Virgili, Tarragona, Spain), José Antonio Colmenero (Senior University Lecturer in Procedural Law, Universidad Carlos III de Madrid, Spain), Amaya Arnaiz (Assistant Lecturer, Universidad Carlos III de Madrid, Spain), Ignacio Flores Prada (Senior University Lecturer in Procedural Law, Universidad Pablo Olavide, Seville, Spain), Emilio de Llera Suárez-Bárcena (Coordinating Prosecutor at the Seville Provincial Criminal Court, Spain), Asunción Rivas (Clerk, Barcelona Provincial Criminal Court, Spain), José Luis Albiñana (Prosecutor at the Barcelona Provincial Criminal Court, Spain), Rocío Zafra Espinosa de los Monteros (Assistant Lecturer, Universidad Pablo de Olavide, Seville, Spain) and Marta M. Morales Romero (Intern, Institute of European and International Criminal Law (Universidad Castilla-La Mancha, Spain) have drawn up this questionnaire in order to establish, with the help of experts from each of the Member State countries, a general framework regarding the different evidence-collecting methods within the European Union. Also participating in this project is Centre for Legal Studies pertaining to the Spanish Ministry of Justice and the prestigious German Institute Max Planck.

Please fill out this questionnaire in either English or French and return it to the following e-mail address: Marta.MMorales@uclm.es. However, should you have any doubts regarding the questionnaire; you may contact the author of each questionnaire directly:

1. Hearing of Witnesses, Experts and Suspects. José Antonio Colmenero Guerra. Tel: +34 616099839. E-mail: jcolmene@der-pu.uc3m.es and acolgue@upo.es.

2. Video Conferences. Amaya Arnaiz. Tel: +34 916245790. E-mail: aarnaiz@der-pu.uc3m.es.

3. Telephone Tapping. Marta M. Morales Romero. Tel. +34 926295234. Email: Marta.MMorales@uclm.es.

4. Data Protection and Search Warrants. Ignacio Flores Prada Tel: +34 656318568. E-mail: iflopra@upo.es.

5. Voluntary Exchange of Information. Emilio de Llera Suárez-Bárcena. Tel: +34 607937829. E-mail: emilio.llera@telefonica.net.

6. Undercover Agents: Vicente Carlos Guzmán Fluja and Rocío Zafra Espinosa de los Monteros. Tel: +34 639785537. E-mail: vguzflu@upo.es and mrzafesp@upo.es.

7. Delivery of Documents from Individuals and Public Bodies. Banking Confidentiality. Asunción Ribas.

8. Genetic Markers. José Luis Albiñana.

The questionnaire must be completed and returned at any time between 1 October and 1 November 2005. Should you be unable to do so within the set timeframe, please contact us as soon as possible.

As indicated above, the information collected from each questionnaire will be processed and used to draw up a practical guide in Spanish and English which will include a set of proposals and common standards for the collection of evidence in criminal proceedings.

B. Preliminary Questions

1. Has the Convention on Mutual Assistance in Criminal Matters been ratified by your country? **Yes, entry into force since 23-08-2005**

- If so,

a. Has your country made any reservation or unilateral statement? **Yes, all of it you could see** http://ue.eu.int

b. If you know of any specific example, could you please relay it to us?

- If not so, do you believe that your country has the intent to ratify it?

2. Has your country ratified the 2000 Convention Protocol? **Yes, entry into force since 05-10-2005**

- If so,

a. Has your country made any reservation or unilateral statement? **No.**

b. If you know of any specific example, could you please relay it to us?

- If not so, do you believe that your country has the intent to ratify it?

3. A proposal of framework decision relating to evidence warrant has been made recently. Do you know of any discussions being conducted in your country over its constitutionality or legality? **No.**

4. Do you know if the framework decision on the execution of orders freezing assets or evidence in the European Union...

a. ... has been implemented by your country? **No.**

b. ... is being discussed in your country in terms of constitutionality or legality?

C. Specific Methods of Cooperation

1. Hearing of witnesses and experts and defendants' depositions

Witnesses

- 01 May 2003 new edition of the CPC (earlier, the wording of year 161 with later amendments was valid)
- Provisions of Protection from Criminal Influence (13/02/1997, with amendments since 01/05/2005)
- Law on protection of participants of criminal procedure and operative activity, officers of justice and law-enforcement institutions from criminal influence (13 February 1996, with amendments of 01 May 2003):

Article 2. Purpose of applying measures of protection from criminal influence
Purpose of applying measures of protection from criminal influence is to protect lives, health, property, constitutional rights and freedoms of participants of operative activity, witnesses, victims and other persons related to a criminal case, also, to ensure thorough and objective investigation of circumstances of a case.

Article 3. Persons to whom measures of protection from criminal influence are applied
1. Measures of protection from criminal influence may be applied to:
1) participants of operative activity;
2) persons, participating in criminal procedure: witnesses, victims, experts, advocates, suspects, charged persons, convicts, discharged persons;
3) officers of justice and law-enforcement institutions: judges, prosecutors, pre-trial investigation officers, bailiffs;
4) relatives of persons indicated in the points 1-3 of part 1: parents, stepparents, children, adoptees, brothers, sisters, grandparents, grandchildren, spouses.
2. Persons indicated in the part 1 of this article, regarding whom a decision was made to apply measures of protection from criminal influence, shall hereinafter be referred to as protected persons.

Article 4. Grounds for applying measures of protection from criminal influence
1. Measures of protection from criminal influence may be applied in respect of persons, indicated in the part 1 article 3, if during pre-trial investigation of hearing of a criminal case regarding major or grave crimes, there are real grounds to assume that:
1) Life of health of the person is in danger;
2) Property of a person may be damaged or destroyed;
3) Constitutional rights and freedoms of persons are in danger.
2. Measures of protection from criminal influence may be applied in respect of persons, indicated in the point 2 article 3, (except for experts and advocates) and their relatives if these persons actively cooperated with officers of justice and law-enforcement institutions, helped to reveal a criminal act or provided other valuable information to officers of justice and law-enforcement institutions.

3. Measures of protection from criminal influence may be imposed and applied during operative activity, pre-trial investigation, hearing of a criminal case, also after operative activity of hearing of a criminal case is over.

Article 5. Kinds of measures of protection from criminal influence

1. Kinds of measures of protection from criminal influence are as follows:
1) physical protection of person and his property;
2) temporary taking of person to a safe place;
3) establishing special regime, pursuant to which data of the person shall be provided in the passport subdivisions and other official information funds;
4) changing of place of residence or work of the persons;
5) changing of personal data of the person;
6) plastic surgery, changing appearance of a person;
7) issuing of a fire-arm, special protective measures to a person.
2. One or several exact measures of protection from criminal influence shall be chosen by the Head of the Police Department of the Ministry of Interior, regarding exact circumstances and wishes of protected person.
3. Procedure and conditions of applying exact measure of protection from criminal influence are established by Provision of Protection from Criminal Influence.

Article 12. procedure of imposing measures of protection from criminal influence

1. Persons, indicated in the points 1 and 2 part 1 article 3 of this Law, under reasonable grounds, have the right to present a request to the Head of the Police Department of the Ministry of Interior or Head of a City (district) Police Commissariat, Prosecutor General or his deputies, Chief Prosecutor of a region or his deputies, Chief Prosecutor of a District regarding imposing means of protection from criminal influence.

Article 13. Institutions, responsible for application of measures of protection from criminal influence

1implementation of the decision of protection from criminal influence shall be organized by the Head of the Police Department of the Ministry of Interior or City (district) Police Commissariat, who shall also be liable for it.

According to the Chapter Four of the Code of the Criminal procedure "**Procedural Actions in respect of the Victim or the witness who are SUBJECT TO NON-DISCLOSURE OF THEIR IDENTITY:**

Article 198. The Right of the Victim or the Witness to Request to be Granted Non-Disclosure of Their identity

1. Following the procedure established by this Code, the victim or the witness my request that the prosecutor or a pre-trial investigation officer grant to them non-disclosure of their identity.
2. Where there are grounds the prosecutor or the pre-trial investigation officer shall grant to the victim or witness non-disclosure of their identity; in addition, he shall make use of measures provided for in this Code to ensure confidentiality of the identification documents of the victim or witness who are subject to non-disclosure of identity.

Article 199. Principles of Ensuring Non-Disclosure of Identity of the Victim and Witness

1. Non-disclosure of identity of the victim and witness may be used where:

1) there is a threat of real danger for the life, health, freedom or property of the victim, the witness or the members of their family or close relatives;
2) the evidence of the victim or the witness is of great importance for the criminal case;
3) the victim or the witness are taking part in a case relating to a grave or very grave crime;
2. Non-disclosure of identity shall be applied in respect of the victim or the witness where there are all the grounds listed in this Article.

Article 200. Procedure of Ensuring Non-Disclosure of Identity of the Victim or the Witness

1. The victim or witness may request to be ensured non-disclosure of identity during the examination by having an appropriate entry made in the record or by a separate application.
2. Having determined that there is a reasonable basis to ensure non-disclosure of identity, the prosecutor or the pre-trial investigation officer must, in addition, check whether the victim or the witness:
1) has no physical or mental handicap which prevent him from clearly understanding the circumstances relevant to the case and provide truthful testimony about them;
2) has any previous convictions for perjury;
3) had any previous contact with the suspect and on what terms they are;
4) may give false evidence against the suspect for personal or egoistic motives.
3. If there is a reasonable basis to ensure non-disclosure of identity and in the absence of the circumstances referred to in paragraph 2 of this Article, the prosecutor or an officer of a pre-trial institution shall make a reasoned decision. The decision of ran officer of a pre-trial investigation institution must be confirmed by the prosecutor.
4. A decision or an order to ensure non-disclosure of identity shall be held separately from the dossier of the case and shall be kept in accordance with the procedure set forth in Article 201(2).

Article 201. Characteristics of the Contents of the Documents Relating to Investigation and Other Documents of the Case where the Victim and the Witness Are Subject to Non-Disclosure of Identity

1. The victim and the witness who are subject to non-disclosure of identity shall be indicated in the documents of investigation and other documents of the case by a number.
2. The real data about the identity of the person shall be recorded in a special supplement to the record of an investigation act. The supplement shall be kept in an envelope. The prosecutor or an officer of a pre-trial investigation institution shall seal the envelope, sign it and keep it separately from the criminal case dossier. The special supplement in the envelope may be inspected by the prosecutor or the pre-trial investigation officer, or the pre-trial judge. After inspecting the document inside the envelope, the aforesaid persons shall seal it again and sign it.
3. The envelope shall be kept by the prosecutor or at the pre-trial investigation institution which is conducting investigation of the case. Upon the request of the court the envelope shall be personally delivered to the judge.
4. In cases when non-disclosure of identity is ensured, the record of an investigation act, a decision or any other case document shall be made and signed by the prosecutor, a pre-trial investigation officer or the pre-trial judge who performed the act. After each step in the investigation or making of a decision, it shall be noted in the special supplement to the record referred to in paragraph 2 of this Article that the victim or the witness studied the record of an investigation act and the decision. This shall be confirmed by them by their signature.
5. No information shall be put in the records of investigation acts, decisions, orders and other documents of the case which could make possible establishment of the identity of the victim

or the witness subject to non-disclosure of identity who participated in the investigation act or who were mentioned in any other document.

Article 202. Liability for Disclosure of Identity of the Victim or the Witness Who are Subject to Non-Disclosure of Identity
Information which enables to disclose the identity of the victim or the witness documented and made confidential following the procedure indicated in Article 196 of this Code shall be a state secret. Only the prosecutor, a pre-trial investigation officer and the judge participating in the case shall have the right to have access to the information about the witness's identity. They shall be held liable for the disclosure of confidential information under Article 125 of the Criminal Code of the Republic of Lithuania.

(According to Article 125 of the Criminal Code Disclosure of a State Secret"
1. Any person who discloses information considered to be a state secret of the Republic of Lithuania and who is a person who is entrusted with this information or learns about it through his position or work,
shall be punished by deprivation of the right to work in a certain job or engage in a certain activity, or by a fine or by restriction of liberty, or imprisonment for a term of up to 3 years.
2. The act specified in paragraph l of this Article shall also be considered unlawful in cases when it is committed through negligence.)

Article 203. Questioning by the Pre-Trial Judge of the Victim Subject to Non-Disclosure of Identity
1. The pre-trial judge shall question the victim or the witness subject to non-disclosure of identity in accordance with the rules laid down in Articles 183(178) and 184(179), and exceptions provided by this Article.
2 Questioning of the victim or the witness who is subject to non-disclosure of identity shall be conducted by providing acoustic and visual obstacles for establishing the identity of the afore mention persons or shall be conduct in accordance with the procedure set forth in part 3 of this Article.
3. The pre-trial judge may determine that the questioning must be conducted without the presence of the counsel for the defence at the place where the questioning is taking place. In such a case after questioning the person shall inform the counsel for the defence about the evidence obtained. After that, the counsel for the defence shall have the right to put questions to the victim or the witness thought the judge. If the questions asked may help divulge the identity of the person subject to questioning, the pre-trial judge shall have the right not to ask the questions or re-formulate them. The answers to the counsel for the defence's questions shall be entered in the record of the questioning which the counsel for the defence shall be entitled to examine after the questioning.
4. The prosecutor may be present during the questioning of the victim or the witness who is subject to non-disclosure of identity.

Article 204. Characteristics of the Identification Parade and Identification by Confrontation for the Victim or Witness
1. If the person who is to make identification is a person subject to non-disclosure of identity the identification parade shall be conducted by providing acoustic and visual obstacles for establishing the identity of the identifier.
2. If the person to be presented for identification by confrontation is subject to non-disclosure of identity the identification by confrontation shall be conducted by providing measure provided for in paragraph 1 of this Article.

***According to the Code of the Criminal procedure:**
Article 164. Entities of pre-trial Investigation
1. Pre-trial investigation shall be conducted by officers of pre-trial investigation institutions. Pre-trial investigation shall be organised and led by a prosecutor. The prosecutor may decide to conduct himself the pre-trial investigation or part.
2. In cases provided for by this Code certain investigation actions may be conducted by a pre-trial judge.

Article 165. Pre-trial Investigation Institutions
1. Pre-trial investigation shall be conducted by the police, the State Border Guard Service, the Special Investigations Service, the Military Police, institutions of State Security, the State Control, the State Tax Inspectorate, the State Labour Inspectorate, the State Fire Prevention Service, the Customs - in respect of criminal acts which come to their notice when discharging their primary functions provided for in the laws regulating their activities.
2. Pre-trial investigation shall also be conducted by:
1) heads of correctional institutions and detention centres – where a criminal act is committed by the employees of these institutions in the course of their work or at the work place, also in respect of criminal acts committed in the place where these institutions are located.
2) captains of ships on a long voyage - in respect of criminal acts committed by the members of the crew and passengers during a long voyage.

Article 169. Actions of a Prosecutor when Commencing the Pre-Trial Investigation
1. If the prosecutor receives a complaint, an application or communication about a criminal act or where the prosecutor himself establishes elements of a criminal act he shall commence the pre-trial investigation at the earliest opportunity.
2. After the commencement of the pre-trial investigation the prosecutor either performs the actions of the pre-trial investigation himself or directs a pre-trial investigation institution to perform them.

Article 170. Powers of the Prosecutor in the Pre-Trial Investigation
1. The prosecutor shall have the right to conduct by himself the whole of the pre-trial investigation or its separate steps.
2. Where the pre-trial investigation or its separate steps are conducted by institutions of pre-trial investigation the prosecutor shall be obliged to supervise the course of pre-trial investigation conducted by these institutions.
3. The prosecutor shall give directions to these institutions, rescind unlawful or unfounded decisions made by them.
4. The following decisions may be issued only by the prosecutor:
1) on the joinder and separation of the investigation;
2) on a temporary stay of the proceeding following the procedure laid down in Article 207-211 of this Code;
3) on the discontinuation of the proceeding;
4) on the termination of the proceeding by drawing up the indictment.
5. Only the prosecutor may make an application to the pre-trial judge in respect of the conduct of steps within his competence.

Article 171. Actions of Pre-Trial Investigation Institutions Before the Commencement of a Pre-Trial Investigation
1. If a complaint, a statement or a report about a criminal offence is received by a pre-trial investigation institution or a pre-trial investigation institution itself establishes elements of a

criminal offence, the institution shall forthwith commence a pre-trial investigation and shall, at the same time, notify a prosecutor about it.
2. Upon receiving such a notification, the prosecutor shall determine who must conduct the investigation. The prosecutor may make a decision:
1) to conduct the entire investigation or perform its separate actions by himself;
2) to instruct a pre-trial investigation institution which notified him about the pre-trial investigation it commenced to perform the actions of a pre-trial investigation
3) to instruct another pre-trial investigation institution to conduct the pre-trial investigation.
3. The prosecutor shall have the right to form an investigating group out of several officers of the same pre-trial investigation institution or of officers from different pre-trial investigation institutions.

Article 172. Rights and Duties of Pre-Trial Investigation Institutions During a Pre-Trial Investigation
1. When conducting a pre-trial investigation, pre-trial investigation institutions shall have the right to perform all the actions provided for in this Code, with the exception of those which may be performed solely by the prosecutor or a pre-trial judge.
2. Pre-trial institutions must:
1) comply with all the instructions;
2) report to the prosecutor at the time he appoints about the course of the pre-trial investigation.

Article 173. Powers of the Pre-trial Judge
1. Following the procedure established by this Code the pre-trial judge shall:
1) impose and order the application of coercive measures;
2) swear and examine the witnesses and the victims;
3) examine the suspects;
4) carry out the other actions in obtaining the evidence;
5) approve the prosecutor’s decisions to stay or suspend a pre-trial investigation;
6) approve the prosecutor’s decisions to resume the stayed or suspended pre-trial investigation;
7) examine the complaints of parties to the proceeding concerning the actions of the pre-trial investigation officers and the prosecutor.
2. The actions indicated in paragraph 1(1-6) of this Article shall be performed by the pre-trial judge subject to an appropriate request from the prosecutor who shall submit it either on its own initiative or on the initiative of a party to the proceeding. The pre-trial judge may not decline to examine the prosecutor’s requests. Where the pre-trial judge declines to grant the prosecutor’s request he shall render a reasoned order pertaining to it. The order may be appealed against by the prosecutor following the procedure specified in Article 62 of this Code.
3. The pre-trial judge shall also perform procedural actions upon an request of the court seised of the criminal case.
4. The pre-trial judge shall not perform any actions on his own initiative.

***According to the Code of the Criminal procedure:**
Article 78. Witness
Any person about whom there is evidence that he has knowledge of any circumstances relevant for the disposition of the case shall be summoned as a witness.

Article 79. Persons Who May not be Witnesses
The following persons shall be precluded from being witnesses:

1) a person who, under a certificate of a medical institution or a conclusion of a psychiatrist or medical examiner, is not able, owing to his physical or mental disability, to have a clear understanding of the facts relevant for the case, and cannot, therefore, testify about them;
2) a person who can testify about a criminal act he himself committed;
3) a judge having knowledge of a secret of the conference room;
4) the counsel for the defence of the suspect and the accused, representatives of the plaintiff and the defendant in a civil action owing to the circumstances which came to their knowledge in their capacity as counsel or representatives;
5) clergymen - because of the secrets of the confessional;
6) producers, disseminators of information for the public, the owners of producers and/or disseminators of information for the public, journalists for the reason of confidentiality of the source of information under the Law of the Republic of Lithuania on Providing Information to the Public.

Article 81. Rights of a Witness
A witness shall have the right:
1) to testify in his mother tongue and to make use of the services of an interpreter if the examination is conducted in a language he does not know;
2) to examine the record of his testimony and make revisions in it;
3) to request sound and video recording during his testimony;
4) to write a deposition himself;
5) to provide to him, on the grounds and in accordance with the procedure established by law, protection from undue interference;
6) to be reimbursed for the expenses he incurred.

Article 82. Special Cases of Giving Evidence
1. The President of the Republic of Lithuania, subject to his consent, shall be examined by a pre-trial judge at the residence of the President. The President of the Republic of Lithuania shall not be summoned to a court hearing.
2. Members of the family or close relatives of the suspect and the accused may not give evidence or not to reply to some of the questions put to them.

Article 83. Duties and Liability of a Witness
1. Every person summoned as a witness must appear before the pre-trial investigation officer, the prosecutor or the court and give truthful testimony about his knowledge of the circumstances which are relevant for the case.
2. If a witness fails, for no good reason, to appear before the pre-trial investigation officer, the prosecutor or the court, or refuses, without a lawful cause, or avoids to give evidence, procedural coercive measures provided for in Article 163 of this Law shall be applied against him.
3. Where a witness fails to appear before the court or, without a lawful basis, refuses or avoids to give evidence, the judge or the court may also order his detention provided for in Article 158(1) of this Code.
4. A witness shall be held liable for perjury under Article 235 of the Criminal Code of the Republic of Lithuania.

Article 163 of the Code of the Criminal procedure "Coercive Measures in Respect of Persons Who Fail to Comply with the Directions of a Pre-Trial Investigation Officer, Prosecutor, Judge or the Court

1. The suspect, the accused, a witness or any other person who do not enter appearance without good cause at the proceedings or who fail to comply with the directions of a pre-trial investigation officer, a prosecutor or the court issued pursuant to this Code or other legislation, or who obstruct investigation and hearing of the criminal case, may be imposed a fine in the amount of up to 30 minimum living standards (MLS), and in cases laid down in this Code- detention for a term of up to one month. The right to impose a fine shall vest in the prosecutor, the judge or the court and the right to impose detention shall vest only in the judge or the court.
2. The prosecutor shall impose a fine by a decision at his own discretion or on the basis of an application by a pre-trial investigation officer; the judge or the court shall impose a fine or detention at their own discretion or on the basis of the prosecutor's application.
3. The prosecutor's decision to impose a fine may be appealed against following the procedure laid down in Article 62 of this Code and the order of the judge or the court to impose a fine or detention may be appealed against following the procedure laid down in Part Ten of this Code.

(According to Article 235 of the Criminal Code „Perjury, False Conclusions and Interpretation"

1. Any person who, during the pre-trial investigation or during the trial, being a witness or the victim, gives false evidence, or being an expert or a specialist, gives false conclusions or a false explanation, or, being an interpreter, makes a false or deliberately misleading interpretation,
shall be punished by community service, or a fine, or restriction of liberty, or detention, or imprisonment for a term of up to 2 years.
2. Any person who commits an act specified in paragraph 1 of this Article, charging another person with committing a major or grave crime,
shall be punished by a fine, or restriction of liberty, or detention, or imprisonment for a term of up to 3 years.
3. The victim or the witness shall not be held liable for perjury if, under law, he has the right to refuse to give evidence but before examination he was not informed about this right.)

***Questioning in a pre-trial investigation**

Code of the Criminal procedure

Article 182. Summons to the Questioning

1. A person shall be called for questioning by a summons which shall indicate the person to be summoned and for what purpose, the place and to whom he is being summoned, the day and hour when he has to present himself, the consequences of failure to present himself as provided for in Article 158 of this Code. .
2. A person may also be summoned for questioning by telephone or any other way, except that if such is the case, procedural coercive measures provided for in Article 158 of this Code may not be applied for failure to present himself.

Article 183. Examination of a Witness

1. Before commencing the examination of a witness the prosecutor or a pre-trial investigation officer shall determine the identity of the witness, obtain the necessary information about the

character of the witness and his relations with the suspect, inform him about his rights and responsibilities provided for in Articles 77 and 79 of this Code.
2. The examination shall open with an invitation to the witness to tell everything he knows about the circumstances relevant to the disposition of the case. Afterwards the witness may be asked questions.
3. A record of the examination of a witness shall be made following the requirements set forth in Article 174 of this Code. The testimony of the witness shall be recorded in the first person and verbatim as much as possible. Where necessary, the question put to the witness and his replies shall be recorded.

Article 184. Examination of a Witness by the Pre-Trial Judge
1. A prosecutor shall apply to the pre-trial judge to have the witnesses examination where:
1) it is thought that it will not be possible to examine the witness during the trial;
2) it is thought that the witness may change his testimony during the trial or exercise his right to refuse to testify;
3) it is thought that witness shall give a more detailed testimony to the pre-trial judge.
2. Before starting the examination of a witness the pre-trial judge must put the person to be examined under oath. The person to be examined shall not be put under oath if there are grounds referred to in article 274 of this Code.
3. A prosecutor must participate in the examination of a witness conducted by the pre-trial judge. During the examination the prosecutor shall have the right to put to the person under examination additional questions.
4. The pre-trial judge must notify the suspect and his counsel for the defence about the place and time of the examination to be conducted where such an examination is conducted in the case specified in paragraph 1(1) of this Article. The detained suspect shall be brought to the place of the examination. The suspect and his counsel shall have the right to participate in such an examination and put questions to the person under examination, and after the close of the examination - to study the record of the examination and make comments about it.
5. Failure of a suspect who is not in custody and his counsel for the defence to appear during the examination of a witness shall not prevent proceeding with such an examination.

Article 185. Questioning of the Victim
The victim shall be summoned and examined as a witness.

Article 186. Questioning of a Juvenile Witness and Victim
1. A juvenile witness or a victim who are under fourteen years of age shall be examined by the pre-trial judge following the procedure established by this Code, with the exception of cases set forth in this Article.
2. A juvenile witness and a victim who are under fourteen years of age shall, as a rule, be examined during a pre-trial investigation not more than once. A video and audio recording must be made during their examination.
3. An agent of a juvenile witness who is under fourteen years of age shall have the right to be present during the examination.
4. At the request of the [parties to the proceeding or at the discretion of the pre-trial judge, a pedagogue or a psychologist may be called to the examination of a juvenile witness who is under fourteen years of age.

Article 188. Questioning of the Suspect During the Pre-Trial Investigation
1. The suspect must be questioned at least once during the pre-trial investigation, before drawing up the indictment
2. The suspect must be always questioned before imposing a preventive measure on him.

3. Before the start of the first questioning, the suspect must be informed subject to his signature about the criminal offence on the basis of which he is being charged; the suspect must also be informed about his rights.
4. At the start of the questioning the suspect shall be asked whether he pleads guilty to the charge of a criminal act of which he is suspected; after that he shall be invited to make a testimony about the basic points of the suspicion. Finally he shall be asked questions.
5. The record of the questioning of the suspect shall be made following the requirements laid down in Article 174 of this Code. The testimony of the suspect shall be entered in the record in the first person singular and be as much verbatim as possible. Where necessary, the questions put to the suspect and his replies shall be noted.

Article 189. Questioning of the Suspect by the Pre-Trial Judge
1. Upon receiving an appropriate application from the prosecutor, which may be filed on the initiative of the suspect, his counsel for the defence or the prosecutor, during the pre-trial investigation the suspect may be questioned by the pre-trial judge.
2. On the application of the suspect the prosecutor must bring him before the pre-trial judge within a reasonable time after filing of such an application.
3. On the initiative of the prosecutor the suspect shall be brought before the pre-trial judge for questioning when it is thought that during the trial the accused may change his evidence testimony or exercise his right not to testify.
4. During the questioning of the suspect on the initiative of the prosecutor the provisions of Article 183(5) shall apply.
5. The prosecutor must be present during the questioning held on the application of the suspect. The questioning of the suspect shall open by inviting the suspect to tell about the circumstances on the ground of which he wanted to be questioned by the judge. After that the counsel for the defence and the prosecutor may put questions to the suspect.

Article 190. Identification by Confrontation
1. Two previously questioned persons whose testimonies show material contradictions may be brought for identification by confrontation in order to discover the reasons for the contradictions and to eliminate them.
2. When questioning the persons brought for identification by confrontation, general rules of questioning of a witness and a suspect provided for in this Code shall be followed.
3. When starting the questioning of the persons brought for face-to-face identification they shall be questioned whether they know each other and in what relation they are to each other. After that the persons shall be asked in turn to testify about the circumstances for the reason of whose discovery they have been brought for face-to face identification. After the testimony of each of the persons questioned, they may be asked questioned. . If a person questioned during the face-to-face identification changes his earlier testimony, he must be asked about the reasons for changing his earlier testimony.
4. The persons brought for the face-to face identification may put questions to each other. The other persons present during the face-to- face identification may put questions to the persons brought for the face-to-face identification.
5. It shall be permitted to make public the testimonies of the participants of the face-to-face identification contained in the records of previous questionings as well as to review the audio and video recordings of those questionings only after their testimonies during the face-to-face identification and after entering them in the record.

Experts

Code of the Criminal procedure

Article 84. An Expert

1. A person who has special knowledge in a particular field and whose name is on the Experts' List of the Republic of Lithuania may be appointed an expert.
2. Where no experts in a field needed are to be found on the Experts' List of the Republic of Lithuania, a person whose name is not on the Experts' List may be appointed an expert.
3. Where necessary, a person qualified to be an expert in criminal cases in a Member State of the European Union may be appointed an expert.

Article 85. Experts' List

1. Persons shall be put on the Experts' List of the Republic of Lithuania following the procedure established by law.
2. Experts on the Experts' List have warned about their liability for giving an untruthful conclusion; for this reason, during the proceedings, no separate warning on this issue shall be made.

Article 86. The Rights of an Expert

1. An expert shall have a right:

1) to examine the materials of the case relating to the subject of expert examination;

2) to request to be provided additional information necessary for presenting a conclusion;

3) to be present when actions related to the subject of expert examination are performed and during the hearing.

2. An expert shall refuse to present his conclusion if the materials submitted to him are insufficient for making a conclusion or are outside the scope of his special knowledge. In these cases the expert shall make a written statement that he is not able to give a conclusion.

Article 87. Duties and Responsibility of an Expert

1. An expert must, when called, make his appearance before the court and give an objective conclusion about the questions put to him.
2. Where an expert, for no good reason, fails to make his appearance before the court or where he refuses to perform his duty without a lawful ground, procedural coercive measures may be applied against him under Article 158 of this Code.
3. An expert shall be held liable for giving a false conclusion under Article 235 of the Criminal Code of the Republic of Lithuania.

Article 88. Contents of an Expert's Statement

1. Upon carrying out appropriate examinations, an expert shall draw up a statement of expert examination comprising the introductory part, the analytical part and conclusions.
2. The analytical part shall state the following: the date and place of drawing up the statement; a court order to have expert examination; the material submitted for expert examination and questions; information about the expert – his name, surname, education, field of knowledge, qualifications and record of work as an expert; the date of the beginning and the end of expert examination; and the persons who participated in carrying out the expert examination.
3. The analytical part shall state the following: the condition of the objects to be examined; the results of their examination; the analysis carried out, the methods and instruments used; the results of the analysis and their evaluation.
4. The conclusions shall formulate answers to the questions that have been submitted. The conclusions of then expert may not go beyond the scope of his special knowledge.

Article 89. Specialists
1. A specialist shall be a person who has adequate special knowledge and skills, and who has been appointed by a pre-trial investigation institution to conduct examination of tangible objects and submit a conclusion on the issues within his competence.
2. An officer of a pre-trial investigation institution or a person not employed at that institution may be a specialist. Specialists who are officers of a pre-trial investigation institution have been warned, in their official capacity, about liability under Article 235 of the Criminal Code of the Republic of Lithuania for giving a false conclusion or explanation.
3. Forensic pathologists shall be specialists conducting an examination of a human body or a cadaver.
4. Forensic psychiatrists shall be specialists conducting examination of a person's mental condition.

Article 90. Specialist's Conclusion
1. Upon completing the examination of the items assigned to him, a specialist shall submit his conclusion.
2. A specialist's conclusion may be included in the record of the examination conducted. A specialist shall sign the conclusion included into the record of the examination conducted.
3. Where it is necessary to examine the items at a laboratory, a specialist's conclusion shall be drawn in the form of a separate document. The conclusion shall indicate: the specialist, the examination conducted, the items examined; the methods and technical facilities used; the circumstances established by the specialist relevant for the investigation of a criminal act. Illustrative material shall be adduced to the conclusion of a specialist.

Article 284. Participation of the Specialist in the Hearing and the Examination of the Specialist
1. If the conclusion given by the specialist at the preliminary hearing is sufficiently clear and all-embracing, it shall be announced at the hearing with the specialist not attending.
2.The specialist shall be summoned to the hearing for questioning only when the court recognises that his testimony is necessary for clarifying or supplementing the conclusion.
3. The specialist shall be questioned in accordance with the rules laid down for the questioning of witnesses.

Article 285. Participation of the Expert in the Hearing if the Expert Examination was Performed during the Preliminary Hearing
If the expert examination was performed during the preliminary hearing and the report of expert examination presented to the court is sufficiently clear and comprehensive, the report shall be read out during the hearing in the absence of the expert. The expert shall be summoned to the hearing for questioning only after the court recognises that his testimony is necessary for explaining or supplementing the expert examination report. The expert shall be questioned in accordance with the procedure for putting questions as laid down in Article 275 of this Code.

The Defendant

Code of the Criminal procedure
Article 47. The Counsel for the Defence
1. Lawyers may act as counsel for the defence. The same lawyer may not act as a counsel for the defence for two or more persons where the interests of the defence of one such person are against the interests of defence of another person.
2. A lawyer's assistant may act as a counsel for the defence upon instructions of the lawyer provided there is no objection of the accused. A lawyer's assistant may not take part in the trial involving a grave or very grave criminal offence.
3. One person may have several but not more than three counsel for the defences. Where the suspect or the accused has several counsel for the defences and where at least one of them is present, the hearing may proceed.

Article 48. Rights and Duties of Counsel for the Defence
1. The counsel for the defence shall have the right:
1) to examine the record of the arrest of the suspect;
2) to be present during the questioning of the suspect;
3) to meet, from the very first questioning of the suspect, with the arrested or detained suspect without the presence of any other person, without any limitations on the number or duration of the meetings, save in the cases specified in Article 46 of this Code;
4) to take part in gathering evidence during the procedural stages involving the suspect as well as during the procedural stages conducted on the motion of the suspect or his counsel for the defence;
5) by leave of the pre-trial investigation officer, the prosecutor or the judge, to take part in any other actions of gathering evidence;
6) to gather independently the materials necessary for the defence which may be obtained by the counsel without procedural coercive measures: to obtain from enterprises, institutions, organisations and individuals documents and objects necessary for the defence, to talk with individuals about the circumstances of the incident that are known to them, to inspect and take photos of the scene of the offence, means of transport or record in any other way the information necessary for the defence;
7) to examine, during the pre-trial investigation, the procedural documents in the cases and in accordance with the procedure prescribed by this Code;
8) to make motions and challenges;
9) the counsel for the defence shall also have other rights provided by this Code.
2. The counsel for the defence must:
1) use all means and modes of defence provided by law in order to determine the circumstances exonerating the accused or mitigating his culpability, and provide to the accused adequate legal assistance;
2) appear before the pre-trial investigation officer, the prosecutor and the court at the time indicated by them; if the counsel for the defence, without good reason, fails to appear he may be fined under Article 158 of this Code;
3) follow the procedure of the proceedings and the hearing established by law, comply with the lawful requests of the pre-trial investigation officer, the prosecutor, the judge and the court;
4) keep a professional secret; the counsel for the defence and his assistant shall have no right to disclose information which they obtained in the discharge of the defence duties;
5) after assuming the obligation to defend the suspect, the accused or the convicted person, the counsel for the defence shall have no right to relinquish this obligation, save in the cases when the circumstances specified in Article 58(1) of this Code become known;

6) not to use unlawful means of defence.

Article 49. Disqualification of the Counsel for the Defence in the Event of Resorting to Unlawful Means of Defence

1. Where the prosecutor, during the pre-trial investigation, and the court seised of the case, during the hearing, establish that the counsel for the defence uses unlawful means of defence, they may disqualify the counsel for the defence from taking part in the proceedings. If such is the case, another counsel for the defence shall be invited or appointed in accordance with the procedure specified in Article 47 of this Code

2. The counsel for the defence and the suspect may appeal the decision of the prosecutor on the disqualification of the counsel to the pre-trial investigation judge who must examine the appeal within three days. The court order on the disqualification of the counsel may be appealed by the counsel and the accused in the manner specified in Part Ten of this Code.

Article 50. Engagement and Appointment of the Counsel for the Defence

1. The pre-trial investigation officer, the prosecutor and the court must advise the suspect and the accused of the right for obtaining counsel and provide an opportunity for him to exercise this right.

2. The suspect, the accused, and the convicted person are entitled to select and obtain a counsel for the defence of their choosing. They may authorise a legal representative or other persons whom the suspect, the accused or the convicted person entrust, to obtain a counsel for the defence for them.

3. At the request of the suspect, the accused or the convicted person, the participation of the counsel for the defence shall be ensured by the pre-trial investigation officer, the prosecutor or the court.

4. Where the counsel for the defence chosen by the suspect, the accused or the convicted person cannot participate in the proceedings for more than five days, the pre-trial investigation officer, the prosecutor or the court shall have the right to advise the suspect, the accused or the convicted person to engage another counsel; where they fail to do that, the judicial officers must themselves appoint a counsel for the defence. Where the counsel for the defence chosen by the suspect, the accused or the convicted person is not able to arrive within six hours to participate during the first questioning or during the examination where motives for arrest are presented, the pre-trial investigation officer, the prosecutor or the court shall have the right to advise the suspect, the accused or the convicted person to engage another counsel for this examination; where they fail to do that, the judicial officer must himself obtain the counsel who is on duty. Under this part, a counsel for the defence shall be appointed with account of the wish of accused to have a specific counsel.

Article 51. Obligatory Presence of Counsel for the Defence

1. The presence of the counsel for the defence shall be obligatory:

1) in cases where the suspect is a minor;

2) in cases involving blind, deaf, mute and other persons who because of physical or mental disabilities are not able to exercise their right to counsel;

3) in cases involving persons who do not know the language of the proceedings;

4) when there is a conflict of interests between the defence of the suspects where at least one of the suspects has a counsel for the defence;

5) in cases involving crimes punishable by life imprisonment;

6) during the hearing when the accused person is absent, following the procedure specified in Chapter Six, Part Nine of this;

7) in cases where the accused is in detention.

2. The counsel for the defence shall be present during the hearing if such is the request of the accused.
3. The pre-trial investigation officer, the prosecutor or the court shall have the right to determine that the participation of counsel is obligatory where, in their opinion, the rights of the suspect or the accused will not be adequately defended without legal assistance..
4. In the cases listed above, where the suspect, the accused or the convicted person himself or, if other persons, under his instruction or by his consent, have not engaged a counsel for the defence, the pre-trial investigation officer, the prosecutor or the court must appoint a counsel for the defence.

Article 52. Waiver of the Right to Counsel
1. The suspect or the accused shall be entitled to waive the right to counsel at any stage of the proceedings, with the exception of the case referred to in Article 443 of this Code. Waiver of the right to counsel shall be permitted only on the initiative of the suspect or the accused. Waiver of the right to counsel shall be entered in the record.
2. Declaration about waiver of the right to counsel made by a minor or a person who, because of physical and mental disabilities, is not able to exercise his right to defence, also by a person who does not know the language in which the proceedings are conducted, shall not be obligatory to the pre-trial investigation officer, the prosecutor and the court.
3. Refusal to have counsel shall not deprive the suspect, the accused or the convicted person of the right to have counsel again at any stage of the proceedings.

3. *Telephone tapping*

Code of the Criminal procedure
Monitoring and Recording of the Information Transmitted through the Telecommunications Networks
1. Where there is a prosecutor’s request, by an order of the investigating judge, a pre-trial investigation officer may intercept telephone conversations, monitor other information transmitted via telecommunications networks and make recordings if there are grounds to believe that in this way information may be obtained about a very serious or serious crime in preparation, being committed or committed, or if there is a danger that violence, coercion or other illegal actions may be used against a victim, witness or other parties to the proceedings or their relatives. In cases of extreme urgency, these actions may be also applied by a decision of a prosecutor; however, if this is the case, within three days from the start of these actions a consent of the investigating judge must be obtained. If no such consent is obtained, the actions that have been initiated must be cancelled.
2. Interception of telephone conversations or monitoring of other information transmitted via telecommunication networks may not last longer than for six months. When investigating a complicated or large-scale criminal act, this measure may be extended once for another three months.
3. The communications enterprises must provide conditions for interception of telephone conversations or monitor other information transmitted via the telecommunications networks and make recordings. The employees of the communications enterprises who fail to discharge this obligation or who obstruct carrying out of the actions specified in this Article may be punished by a fine pursuant to Article 163 of this Code.
4. Interception of conversations over the telephones of the victims, witnesses or other parties to the proceedings may be effected at the request of these persons or with their consent even where there is no order of the investigating judge and where the services and facilities of a communications enterprise are not used.

5. A record made by a pre-trial investigation officer about the fact of monitoring of the contents of the information transmitted via the telecommunications networks shall outline only the contents of an audio recording relevant for the case. Audio recordings immaterial for the case shall not be attached to the case and shall be destroyed forthwith, and an appropriate statement shall be drawn up by a decision of a prosecutor.

4. Search warrants in the course of a criminal investigation.

Code of the Criminal procedure
Article 139. Search
1. Upon reasonable belief that there are, in some premises or any other place, instruments of an offence, tangible objects obtained or acquired in a criminal way also objects or documents that might be relevant for the investigation. A pre-trial investigation officer or a prosecutor may carry out search with a view of discovering and seizing them.
2. A seizure may be carried out with the purpose of finding the wanted persons or bodies.
3. A search shall be carried out subject to an order of a pre-trial investigation judge. In cases of utmost urgency a search may also be carried out by a decision of a pre-trial investigation officer or a prosecutor but in this case, within three days an approval of a pre-trial investigation judge on the lawfulness of a search must be obtained.
4. A search must be carried out in the presence of the owner, tenant, manager of the flat, house or other premises where the search is being conducted, a member or their family or a close relative, and where a search is being carried out an enterprise of an office – in the presence of a representative of that enterprise or office. Where there is no possibility to ensure the presence of the above persons, a search shall be carried out in the presence of any other two persons or a representative of a municipal institution.

Article 140. Person's Search
1, A person's search shall be carried out subject to the same rules as search of a flat, house or other premises.
2. A person's search, without a prior order relating to the search, may be carried out:
1) when effecting arrest or detention;
2) when there are substantial grounds for believing that a person present on the premises or any other place where a seizure or a search are being carried out is hiding tangible objects or documents of relevance for the case.
3. A person's search may be carried out only by person of the same sex.
4. When carrying out a person's search the persons referred to in paragraph 4 of Article 139 of this Code do not have to be present.

Article 141. Seizure
1. If it is necessary to seize tangible objects or documents of value for the investigation, and if is known where and at whose place precisely they are, the pre-trial investigation officer or the prosecutor may effect a seizure. A seizure shall be effected under a reasoned order of the pre-trial judge. In cases of utmost urgency, a seizure may be effected under a decision of the pre-trial investigation officer or the prosecutor; however, in such cases, within three days, an approval of the pre-trial judge must be obtained about the lawfulness of such a seizure.
2. Persons having possession of the tangible objects or documents subject to seizure must not interfere with the officers carrying out a seizure. Persons who fail to comply with this requirement may be fined under Article 158 of this Code.
3. A seizure shall be effected in the presence of the persons referred to in paragraph 4 of Article 139 of this Code.

4. if persons having possession of the tangible objects or documents subject to seizure agree to surrender these objects and documents voluntarily, a seizure may be effected even without a warrant of an investigating judge, or a decision of a pre-trial investigation officer or a prosecutor.

Article 142. Interception of Postal and Telegraph Correspondence
1. Interception of postal and telegraph messages shall be authorised under a warrant of an investigating judge. Instructions of an officer effecting interception of postal and telegraph messages shall be mandatory for the employees of a postal-telegraph institution. Persons not complying with these directions shall be fined under Article 158 of this Code.
2. A prosecutor and the court shall have the right to examine the content of postal-telegraph correspondence.

Article 143. Procedure of Effecting Seizure and Search
1. Before starting to effect a seizure or a search, an officer must read out a decision or an order on this issue after which he must suggest the tangible objects or documents specified in the decision or the order be surrendered or the place where the person in hiding is staying be disclosed.
2. When effecting a seizure or a search an officer shall have the right to open them; when doing this the officer must avoid unnecessary damage to the locks, doors and other objects.
3. An officer shall have the right to forbid the persons present in the premises or a place where a seizure or a search are being effected also the persons who come to these premises or the place to leave the premises or the place, to communicate among themselves or with other persons until the seizure or the search are over.
4. The premises or the place where a seizure or a search are being effected may be surrounded by officers.
5. It shall be prohibited to effect seizures or searches at night, with the exception of cases of utmost urgency/
6. An officer conducting a seizure or a search must limit himself to the seizure only of those objects or documents which may be of relevance for the investigation. Tangible objects and documents the circulation whereof is prohibited by law must be seized irrespective of whether they are relevant or not for the investigation.
7. All the seized tangible objects and documents must be shown to the persons present and must be listed in the record of a seizure or search or in a list attached to it, by indicating their quantity, measurements, weight, individual marks and their physical condition. The objects and documents seized must be packaged, however possible, and sealed at the place of seizure.
8. An officer effecting a seizure or search must take measures to prevent disclosure of the circumstances of private life, unrelated to the case, of a person living in the premises and other persons which come to light during the seizure or search.
9. A record about the seizure or search shall be drafted. The record must specify the objects and documents seized and their main features must be described. If no objects and documents were seized during the search this must also be indicated in the record. One copy of the record of a seizure and search shall be left with the person at whose place the seizure or search were conducted.

5. Protection of privacy and personal data processing relating to criminal trials.

Code of the Criminal procedure
Article 155. The Prosecutor's Right to Examine the Information
1. Upon passing a decision and having obtained a consent of an investigating judge, the prosecutor shall have the right to come to ant State, public or private agency, enterprise or organisation and request to be provided for the examination of the necessary documents or any other appropriate information, make recordings or make copies of document s and information if this is necessary for the investigation of a criminal act.
2. Persons who refuse to provide the requested information or documents to the prosecutor may be punished by a fine pursuant to Article 158 of this Code.
3. The prosecutor may use the information gathered in the manner specified in paragraph 1 of this Article only for the investigation of a criminal act. The prosecutor must immediately destroy the information not necessary for this.
4. A pre-trial investigation officer, under the prosecutor's instruction, may also examine the information in the manner specified in this Article
5. Separate laws may lay down restrictions on the prosecutor's rights to examine the information

Article 162. Use of the Information in Other Criminal Proceedings
Information about the private life of a person gathered in one criminal case through the use of procedural coercive measures provided for in this Code may be used in another criminal case subject to an order of a pre-trial judge or the court..

Article 177. Confidentiality of the Information about a Pre-Trial Investigation
1. Information about a pre-trial investigation shall not be made public. It may be made public only subject to a prosecutor's leave and only to such an extent as is determined as permissible.
2. When necessary, a prosecutor or a pre-trial judge shall warn the parties to the proceedings or other persons who were witnesses to the procedural actions of the pre-trial proceedings that it is not permissible, without his authorisation, to make the information about the pre-trial investigation public. In such cases a person shall be warned and shall attest it by his signature about his liability under Article 247 of the Criminal Code of the Republic of Lithuania.

Criminal Code
Article 247. Unlawful Disclosure of the Findings of Pre-trial Investigation
Any person who prior to a court hearing , without authorisation by a judge, a prosecutor or an officer of pre-trial investigation, discloses findings of a pre-trial investigation which are not subject to disclosure, commits a misdemeanour, and shall be punished by community service, or a fine, or restriction of liberty, or detention.

6. Documentary evidence. Banking confidentiality and trade secrets.

Code of the Criminal procedure
Article 95. Documents Relevant for the Investigation of a Criminal Act and the Trial
Documents relevant for the investigation of a criminal act and the trial shall be material objects in which an enterprise, agency, organisation, an official or a natural person record by appropriate signs information which enables to detect a criminal act and determine the circumstances related to the act.

Article 96. Categories of Documents Relevant for Investigation of Criminal Act and Court Hearing

1. Documents relevant for the investigation of a criminal act and the court hearing shall be as follows:
1) records of the survey, search, seizure, identification parade, verification of evidence in situ, reconstruction of the crime, the experiment, and other procedural steps as well as records of the trial;
2) documents of agencies, enterprises, and organisations; written instruments, certificates, accounting reports, minutes of meetings and other official documents;
3) private papers, statements, applications, complaints, letters, diaries and other writings of a private nature of natural persons;
4) magnetic, laser and electronic recordings: audio and video recordings, compact discs and other electronic forms of recording information;
5) other physical objects bearing information recorded graphically or in other signs which is of relevance for the investigation of a criminal act and the court hearing.

Article 155. The Prosecutor's Right to Examine the Information

1. Upon passing a decision and having obtained a consent of an investigating judge, the prosecutor shall have the right to come to ant State, public or private agency, enterprise or organisation and request to be provided for the examination of the necessary documents or any other appropriate information, make recordings or make copies of document s and information if this is necessary for the investigation of a criminal act.
2. Persons who refuse to provide the requested information or documents to the prosecutor may be punished by a fine pursuant to Article 158 of this Code.
3. The prosecutor may use the information gathered in the manner specified in paragraph 1 of this Article only for the investigation of a criminal act. The prosecutor must immediately destroy the information not necessary for this.
4. A pre-trial investigation officer, under the prosecutor's instruction, may also examine the information in the manner specified in this Article.
5. Separate laws may lay down restrictions on the prosecutor's rights to examine the information.

7. Genetic markers.

Article 143. Search of the Person

1. A pre-trial investigation officer or a prosecutor shall have the right to carry out a body search of a suspect, a victim or any other person when there is a need to find traces of the offence or any special marks on his body, where medical examination is not necessary.
2. Where the person objects to be subjected to a body search, a pre-trial investigation officer or a prosecutor shall adopt a decision obligatory for the person in respect of whom it was adopted.
3. If the search involves exposure of the person's body it will be carried out by a pre-trial officer, a prosecutor or a medical doctor of the same sex as the person searched.
4. When carrying out a personal search on a person, actions humiliating to his dignity or actions which are detrimental to his health shall not be permitted.
5. A record about a personal search on a person shall be drawn up.

Article 144. Taking of Samples for Comparative Analysis

1. The pre-trial investigation officer or the prosecutor shall have the right to take samples from the suspect for a comparative analysis. Such samples may be taken from the victim or

the witness but only where there is a need to inspect whether these persons have left any traces at the scene of crime or on the tangible objects.
2. If a person refuses to give samples for comparative analysis the prosecutor shall make a decision binding on the person in respect of whom it has been made.
3. A record shall be made about taking of samples for comparative analysis.

Article 145. Search
1. Upon reasonable belief that there are, in some premises or any other place, instruments of an offence, tangible objects obtained or acquired in a criminal way also objects or documents that might be relevant for the investigation. A pre-trial investigation officer or a prosecutor may carry out search with a view of discovering and seizing them.
2. A seizure may be carried out with the purpose of finding the wanted persons or bodies.
3. A search shall be carried out subject to an order of a pre-trial investigation judge. In cases of utmost urgency a search may also be carried out by a decision of a pre-trial investigation officer or a prosecutor but in this case, within three days an approval of a pre-trial investigation judge on the lawfulness of a search must be obtained.
4. A search must be carried out in the presence of the owner, tenant, manager of the flat, house or other premises where the search is being conducted, a member or their family or a close relative, and where a search is being carried out an enterprise of an office – in the presence of a representative of that enterprise or office. Where there is no possibility to ensure the presence of the above persons, a search shall be carried out in the presence of any other two persons or a representative of a municipal institution..

Article 146. Person's Search
1, A person's search shall be carried out subject to the same rules as search of a flat, house or other premises.
2. A person's search, without a prior order relating to the search, may be carried out:
1) when effecting arrest or detention;
2) when there are substantial grounds for believing that a person present on the premises or any other place where a seizure or a search are being carried out is hiding tangible objects or documents of relevance for the case.
3. A person's search may be carried out only by person of the same sex.
4. When carrying out a person's search the persons referred to in paragraph 4 of Article 145 of this Code do not have to be present.