



The implementation of individual assessment – challenges, international perspective and good-practice examples

PROCEDURAL SAFEGUARDS OF ACCUSED OR SUSPECTED CHILDREN:
IMPROVING THE IMPLEMENTATION OF THE RIGHT TO INDIVIDUAL
ASSESSMENT

5th December, Zagreb

Actual regulation

Assessment of victims in CP

Participation of psychologist during interrogation in CP

Social inquiry reports (probation)

New amendments (implementation of directive)

Individual assessment of suspected (accused) minors in CP

CPC Art. 186¹ Assessment of the victim's special protection needs

At the latest during the first interview of the victim, the pre-trial investigation officer or prosecutor **shall carry out an assessment of the victim's special protection needs.**

If necessary, a psychologist or other persons with specific knowledge or skills may be involved.

The data collected during the victim's special protection needs assessment shall be taken into account when organizing the criminal proceedings

and, in the cases provided for in this Code, in deciding whether the victim is required to apply one or more of the guarantees provided for in this Code due to his or her special protection needs.

CPC Art. 186.2 Mandatory involvement of a psychologist in an interview with a minor victim or witness

- Interviews with children **under 14 years** of age
- When the interview concerns **crimes against human life, health, freedom, sexual freedom and inviolability, child and family, exploitation of a minor for prostitution**
- **at the request** of the participants of the proceedings or on the initiative of a pre-trial investigation officer, prosecutor or pre-trial judge

Draft of CCP Art. 188. Interrogation of a suspect.

<...>At the request of the participants of the proceedings or on the initiative of a pre-trial investigation officer, prosecutor or pre-trial judge, a **psychologist is invited who helps to interview the minor, taking into account his or her social and psychological maturity** <...>

CPC Art. 36¹ Social inquiry report.

The social report is a document prepared by a specialist (probation officer) describing the social environment of the accused or convicted person, criminogenic factors, as well as other information that **helps the court to individualize the conditions of probation.**

CPC Art 253¹ Assignment to draw the social inquiry report.

Depending on the **request of the prosecutor, the accused or his counsel, and at his discretion, the judge** may assign the probation service to prepare the social report. At the same time, the court sets a deadline of at least 20 working days to prepare the social report.

Probation Law, Art. 9. The content of social report.

The social inquiry report shall include:

- the accused (convicted) and his **social environment**;
- risk assessment results and **criminogenic factors**;
- **the conduct of the sentenced person** during the period of imprisonment, participation in behavioral correction programs and the results thereof, performance of the personal duties of the parents provided for in the Civil Code of the Republic of Lithuania, when the conclusion of the social investigation is drawn up regarding the person to be released from parole;
- other significant data;
- reasoned **opinion on individualization of probation conditions**.

Probation Law, Art. 10. Risk assessment.

1. The risk is assessed by drawing up the social report or in other necessary cases.
2. The results of the risk assessment may be used to judge deciding on the probation assignment, to determine or change the probation conditions or to establish or modify the individual probation supervision plan and other necessary cases.
3. **Risk assessment shall be carried out according to methodologies and programs approved by the Director of the Prison Department.**

Individual assessment of a Minor in the draft of CPC Art. 189¹

After the first interview of the juvenile suspect, but not later than at the end of the pre-trial investigation,

the pre-trial investigation officer or prosecutor shall apply **to the State Children's Rights Protection Institution** specialist for individual assessment of the juvenile suspect in accordance with the procedure established by the Minister of Social Security and Labor of the Republic of Lithuania.

The individual assessment of the minor shall be made **no later than twenty working days** from the date of receipt of the request of the pre-trial investigation officer or prosecutor.

The conclusion of the individual assessment of the minor is attached to the case.

If the **individual assessment of the minor has not been performed before the date of the transfer of the indictment to the court, the indictment may be transferred to the court if this is not contrary to the interests of the minor.** In such a case, the conclusion of the individual assessment of the juvenile accused shall be submitted to the trial court before the beginning of the hearing in court.

Individual assessment of a Minor in the draft of CPC Art. 189¹

The data provided in the individual assessment report of the juvenile shall be taken into account when

selecting the pre-trial and other procedural coercive measures for the juvenile,

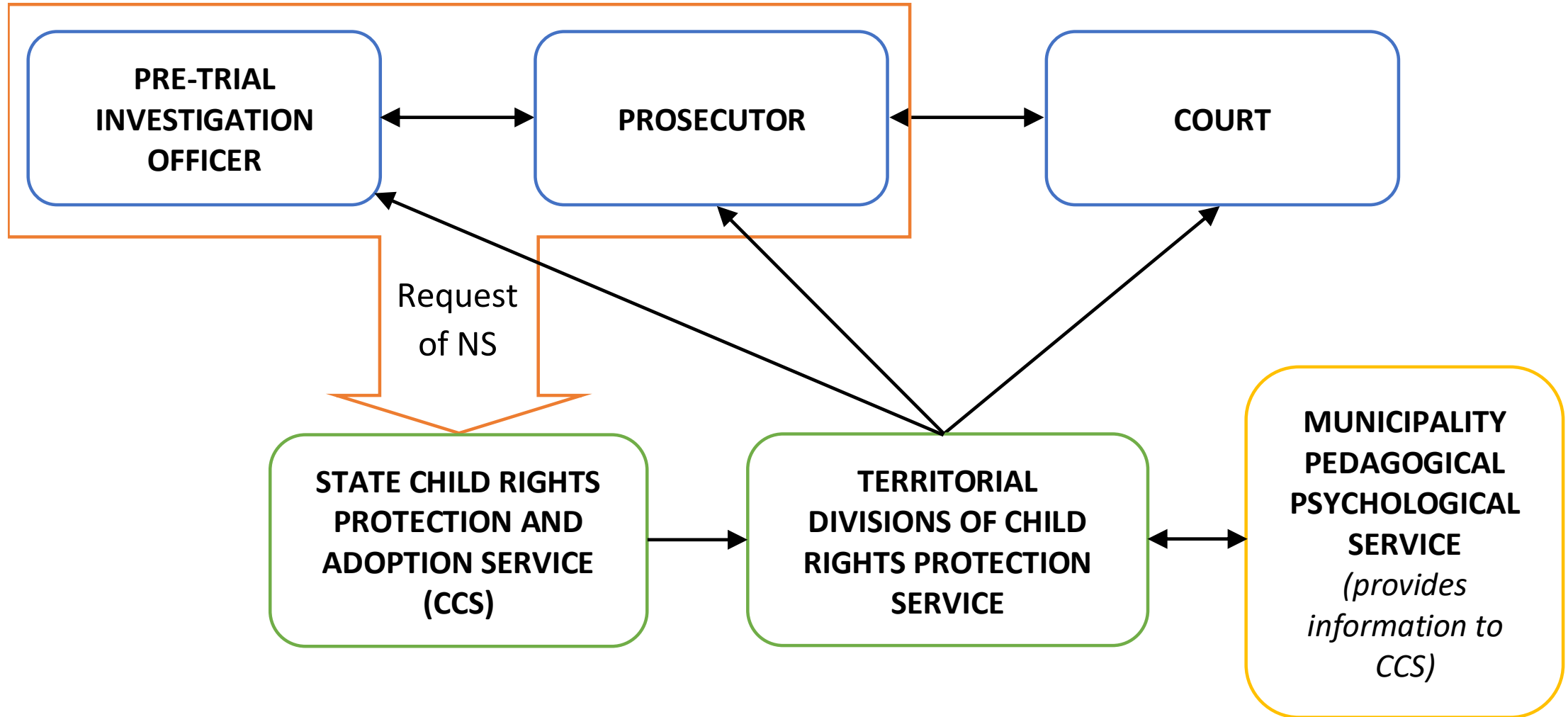
deciding on the termination of the pre-trial investigation or transferring the case to the court,

organizing the proceedings with the minor suspect or accused,

deciding on the punishment, imposing penal or educational measures on the juvenile.

Individual assessment of a Minor in the draft of CPC Art. 189¹

In cases which are investigated under the **accelerated procedure**, as well as in cases of **minor or negligent crimes or misdemeanors**, the individual assessment of the minor **may be refused** if this is not in the best interests of the minor.



Questions to answer

Is the State Children's Rights Service is the right institution? (e.g., probation service has more than 10 years of experience implementing individual risk assessment tools and social reports)?

What methods of risk assessment should be used?

Will the duplication of different institution functions avoided?

Will the continuity of individual assessment be ensured?

What are the criteria for case identification and selection?

	Interview No.	Institution (7)	Position (17)
Experts doing IA	1.	State Forensic Psychiatry Service under the Ministry of Health	Forensic psychologist
	2.	State Forensic Psychiatry Service under the Ministry of Health	Forensic psychiatrist
	3.	Territorial division of Klaipėda, Lithuanian Probation Service.	Chief specialist
			Specialist
			Specialist
	4.	Kaunas Juvenile Remand Prison- Corection House	Psychologist
	5.	Kaunas Juvenile Remand Prison- Corection House	Psychologist
6.	State Child Rights Protection and Adoption Service under the Ministry of Social Security	Chief specialist	
		Specialist of territorial unit.	
7.	Ministry of Social Security and Labour	Specialist	
Experts using IA	8.	Kaunas District Prosecutor's Office	Prosecutor
	9.	Klaipėda District Prosecutor's Office	Prosecutor
			Prosecutor
	10.	Vilnius District Prosecutor's Office	Prosecutor
			Prosecutor
			Prosecutor
Prosecutor			

Assessment of minor in criminal proceedings

		SOCIAL ENQUIRY REPORT	EXPERTISE
1.	Decision point of process in justice system	<ul style="list-style-type: none"> ~ At the stage of hearing the case ~ At the stage of execution of penalty 	<ul style="list-style-type: none"> ~ At the stage of pre-trial investigation ~ At the stage of hearing the case
2.	Assignment	~ Judge may assign the social inquiry report at his own discretion or at the request of the prosecutor, the accused or his lawyer	~ The prosecutor shall apply with the statement for the expertise to the pre-trial judge together with any requests made by the other parties, interested in the results of expertise
3.	Purpose	~ To identify the criminogenic needs and risk of reoffending in order to help the court to individualize the conditions of probation	<p>~ To assist the court or judge in answering the specific legal questions requiring knowledge of forensic psychology or psychiatry by assessing the mental health of the individual</p> <p>* The focus is not only on gathering information about a person to make a diagnosis or conclusion about his mental health, but to do so in accordance with legal significance.</p>
4.	Who does?	<ul style="list-style-type: none"> ~ Probation officers ~ Specialists, officers of the correctional institution 	~ Experts, who have the qualification of a forensic expert and are on the list of forensic experts of the Republic of Lithuania
5.	Outcome of assessment/ Form	<p>Three parts:</p> <p>~ <u>General information:</u> (1) about an assessor,; (2) about the accused person or offender, who are assessed; (3) the enquiry techniques</p> <p>~ <u>Data of enquiry :</u> (1) an accused person (offender) and his social environment (offences, accommodation, education, training and employability, financial management and income, relationships, lifestyle and associates, substance abuse, emotional well-being, thinking and behavior, attitudes); (2) in a case of parole- release consideration- the behavior of an offender during his imprisonment, his participation in the correctional programs and the outcomes, the performance of the parents' duties,; (3) other significant data.</p> <p>~ <u>Conclusion:</u> (1) the results of risk of offending assessment and criminogenic needs,(2) reasoned opinion on the individualization of probation conditions</p>	<p>Three parts:</p> <p>~ <u>Introductory :</u> States: the date and place of the expertise report; judge/court decision to assign the expertise; material and questions presented for the expertise; the expert's information (name, surname, education, specialty, expert's qualification, years of experience as the expert); the dates of beginning and end of examinations; the date of request for additional material and its receipt; persons who participated in the expertise.</p> <p>~ <u>Exploratory :</u> Contains: objects to be assessed by the expert; the state of the objects and the results of their examination; examinations, their methods and tools; the results and their reasonable evaluation.</p> <p>~ <u>Conclusions:</u> States: the motivated answers to all referral questions</p>

Cooperation agreement of five parties

(Prosecutor General's Office, Police department under the Ministry of the Interior of the Republic of Lithuania, Ministry of Social Security and Labour, State Child Rights Protection and Adoption Service, Children's Rights Ombudsman Institution of the Republic of Lithuania).

Upon request of the prosecutor or police State Child Rights Protection and Adoption Service examines family environment and submit all the available or newly checked information about the residential and educational conditions of a minor to the prosecutor or police.

Prosecutors emphasize that they collect data describing the suspected minors from various institutions,

It consists of separate characteristics, certificates, information about previous convictions, probation, health facilities, etc.

This data is interpreted and evaluated mainly by prosecutors themselves.

The diversity of the collected data, the scope of data depends on the prosecutors and it shows a lack of the united system.



Advantages

- Unified and explicitly regulated, systematized form of data collection in criminal proceedings;
- The obligation to provide data in particular form in every case of suspected or accused minor will be executed by the State Child Rights Protection and Adoption Service;
- The obligation to include data from Municipal Pedagogical Psychological Service (only in cases when the assessment of minor provided by Municipal Pedagogical Psychological Service is already done) is also seen as an improvement of minor assessment procedure.

Disadvantages

- IA would reflect only one objective, which aim is to assess economic, social and family circumstances;
- Based on their functions and competences, specialists of Child Rights Protection and Adoption Service will be able to provide data that is mostly related to the actual information of a minor;
- Personality and maturity of a child will not be assessed or will be assessed only in part after the Pedagogical-Psychological Service provides a conclusion about peculiarities of personal development of a child, exclusively related to participation in the educational process;
- Data collected by various institutions should be summarised by providing an expert conclusion. An IA of suspected or accused minor without the submitted conclusion will be equal to the descriptive data, which was collected until now.



Opportunities/ recommendations

- The experts emphasised the need for more intensive involvement of psychologists and significance of the involvement of probation officers;
- Lithuanian Probation Service involvement in the procedure of individual assessment is essential because they, having the instrument assessing dangers and strengths of a minor, could significantly contribute to the determination of objectives, set out in the Directive, the scope of criminal liability and proper selection of a relevant sanction or educational measure.
- Teamwork of different institutions, as well as collection, provision and final generalisation of versatile information, is crucial ensuring the quality of individual assessment.