

**RECOVER**  
CRIME DOESN'T PAY



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# RECOVER

**Mutual recognition of freezing and confiscation  
orders between efficiency and the rule of law**

*Grant Agreement No. 101091375*

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**PROSECUTOR GENERAL'S OFFICE  
OF THE REPUBLIC OF LITHUANIA**

**Hard cases in implementation  
of the Regulation (EU) 2018/1805**

**Report on confiscation models, problems in  
the praxis and best practices**

**29/30 November 2023  
Milan**

**PROSECUTOR GENERAL'S OFFICE  
OF THE REPUBLIC OF LITHUANIA**

**1. Article 72 of CC. Confiscation of Property** (object, scope, direct confiscation, confiscation of the value, confiscation against third parties).

**2. Article 72(3) of CC. Extended Confiscation of Property** (object, scope, confiscation of the value, confiscation against third parties).

**3. Non-conviction based confiscation.**

## Article 94 CPC. Measures to be taken regarding tangible objects relevant for investigation and trial when terminating the proceedings and making a judgment

1. When making a judgment, or **terminating the proceedings** the issue of tangible objects relevant for the investigation of a criminal act and the trial should be solved in the following way:

1) **instruments, means and results of a criminal act, corresponding to the signs indicated in Articles 72 and 72<sup>3</sup> of the Criminal Code, shall be confiscated**'.

<...>

3. If the issue concerning property confiscation according to Article 72 or 72<sup>3</sup> of the Criminal Code has to be solved before the discontinuation of the pre-trial investigation, the pre-trial investigation is discontinued **by the decision of a pre-trial judge approving the decisions of the prosecutor to discontinue the pre-trial investigation**. When the issue of property confiscation or extended property confiscation has to be solved, a **meeting is organised** with the participation of the prosecutor, a person in relation to whom the decision of confiscation was adopted, as well as the representative of that person. <...>.

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## **RELEASE FROM CRIMINAL LIABILITY:**

**Article 36 CC. Release from Criminal Liability When a Person or Criminal Act Loses Its Dangerousness.**

**Article 37 CC. Release from Criminal Liability due to Minor Relevance of a Crime.**

**Article 38 CC. Release from Criminal Liability upon Reconciliation between the Offender and the Victim.**

**Article 39 CC. Release from Criminal Liability on the Basis of Mitigating Circumstances.**

**Article 39(1) CC. Release from Criminal Liability When a Person Actively Assisted in Detecting the Criminal Acts Committed by Members of an Organised Group or a Criminal Association.**

**Article 40 CC. Release from Criminal Liability on Bail.**

## Law on Civil Confiscation

Property and the proceeds thereof may be confiscated on the grounds and in accordance with the procedure laid down in this Law, where there are grounds for believing that the property has not been lawfully obtained, and where the total value of the property is not in accordance with the legitimate earnings of the person or persons referred to in paragraph (2) of this Article, and where the difference is more than the amount of the amount of 100'000 EUR.

Assets shall be presumed not to be lawfully acquired when they are owned and cannot be substantiated by lawful means by persons meeting at least one of the following conditions:

- who have been suspected, accused or convicted of offences (list of offences);
- for whom criminal proceedings in respect of the offences referred have been refused or the proceedings have been discontinued;
- who are included in the lists of members of organised criminal groups drawn up in accordance with the criteria laid down in the Law;
- who is the spouse of a person referred to in paragraph or a person with whom a person is engaged in a joint management of a household.
- etc.

## EXTENTION OF TIME PERIODS

CPC Art. 151 Para 6. Provisional restraint of the ownership rights imposed further to the prosecutor's decision **may not last longer than for a period of six months. This term may be extended by the ruling of a pre-trial judge but for not more than six months.** The pre-trial judge rulings on either extending or refusing to extend the time period of provisional restraint of the ownership rights shall be appealed in accordance with the procedure established in Part X of this Code. Where the case has been referred to the court, the imposition of provisional restraint of the ownership rights or the extension of the time period of this penal measure shall be decided (in the form of a court ruling) by the court having jurisdiction over the case. The court ruling shall be appealed against in accordance with the procedure established in Part X of this Code.

CPC Art. 151 Para 7. In cases involving **medium crimes provided** for under Article 189 Parts 1 and 2 of the Criminal Code of the Republic of Lithuania, **serious or particularly serious (grave) crimes** or in criminal cases where **a civil action has been brought with regard to reimbursement of damages** caused by the criminal offence or **where the suspect has gone into hiding, the number of extensions of the time periods of provisional restraint of ownership rights shall be unlimited.**

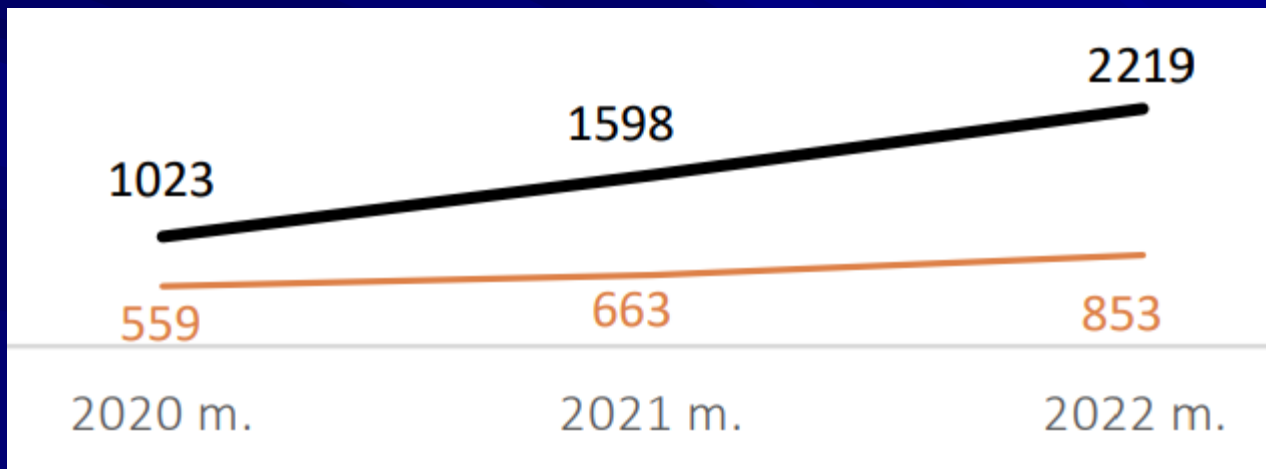




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## LITHUANIA

### STATISTICS ON INCOMING AND OUTGOING EUROPEAN INVESTIGATION ORDERS



**EIO INCOMING**

**EIO OUTGOING**



# LITHUANIA

## STATISTICS ON INCOMING AND OUTGOING FREEZING ORDERS

2021		2022	
Incoming	Outgoing	Incoming	Outgoing
<b>95 Total</b>	<b>25 Total</b>	<b>161 Total</b>	<b>35 Total</b>
81 recognised	23 recognised	156 recognised	24 recognised
14 non-recognised	2 non-recognised	5 non-recognised	1 non-recognised

Based on data from the Integrated Criminal Procedure Information System (IBPS)

# LITHUANIA

## STATISTICS ON INCOMING AND OUTGOING CONFISCATION ORDERS

2021		2022	
Incoming	Outgoinig	Incoming	Outgoing
<b>Total 6</b>	<b>Total 5</b>	<b>Total 4</b>	<b>Total 1</b>
4 Germany		2 Germany	
2 Poland		1 Estonia	
		1 Finland	

Based on information provided by National Courts Administration (data source LITEKO (Information system of Lithuanian courts))

# LITHUANIA

## PROBLEMS REGARDING INCOMING FREEZING ORDERS

- 1. The freezing certificates are sent without a translation into Lithuanian, even though the Republic of Lithuania has declared that it accepts these only in Lithuanian. Sometimes freezing certificates are received in other Member languages (even not English).**
- 2. Member States do not fill in all the fields required by the Regulation correctly:**
  - mistakes (bank account numbers, etc.),**
  - references to the relevant articles of the national law of the Member State are not always included,**
  - do not tick the boxes even though it is clear from the freezing certificate that the relevant boxes should have been ticked,**
  - etc.**

# LITHUANIA

## PROBLEMS REGARDING INCOMING FREEZING ORDERS

3. There are cases where the competent judicial authorities of the European Union still use the form set out in Council Decision 2003/577/JHA of 22 July 2003 on the execution of freezing orders against property or evidence in the European Union instead of the Regulation's freezing certificate (Annex I).
4. There are cases where a copy of the national decision is not attached.
5. Failure to keep tracking deadlines and failing to inform the Prosecution Office that an extension of the asset freezing is still relevant.
6. Poor account balance is found in financial institutions.
7. **RESTITUTION:** No proof provided that the grounds of ART 29 REG are met.

# Questions?

**Jūratė Radišauskienė**  
**Prosecutor**

**Criminal Prosecution Department**  
**Prosecutor General's Office of the Republic of Lithuania**  
**+370 52 662 473**  
**E-mail: [Jurate.Radisauskiene@prokuraturos.lt](mailto:Jurate.Radisauskiene@prokuraturos.lt)**