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COOPERATION BETWEEN INVESTIGATORS AND PROSECUTORS IN PRE-TRIAL INVESTIGATION: INVESTIGATORS' VIEWPOINT

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Abstract. *Nowadays, it would be difficult to imagine a person investigating a case individually, without coordination of actions with other subjects, especially when complex, multi-episodic cases are investigated. The efficiency of solved crimes, investigation and prevention partly depends on cooperation between prosecutors and investigators. The work of the subjects in crime investigation is multiple; therefore, it is necessary to coordinate reciprocal understanding between them. The Code of Criminal Procedure raises doubts and discussions about cooperation between prosecutors and investigators. In juridical literature, much information on cooperation among pre-trial officers exists. However, the practical question of cooperation between an investigator and a prosecutor has not yet received sufficient attention. Therefore, the main purpose of this article is to examine the pre-trial investigators' attitude to cooperation between prosecutors and investigators, to single out the main forms of cooperation, and to make suggestions for more effective cooperation. The article deals with an empirical research done by the author in the form of a questionnaire, in which pre-trial investigators from national police institutions were questioned about the problems of cooperation between prosecutors and investigators. The research revealed the pre-trial investigators' attitude to cooperation between prosecutors and investigators. According to the results of the research, cooperation among prosecutors and investigators is insufficient and formal. It is*

evident that it is necessary to pay attention to the content and forms of cooperation between prosecutors and investigators as well as to solve the problem of establishing juridical regulation regarding this institution.

Keywords: pre-trial investigation, prosecutor, investigator, cooperation, investigators' viewpoint, criminalistics tactics.

Introduction

As one of its main goals, the modern crime investigation conception involves examining the existing state of criminal procedure, striving to make it more democratic and reasoned, stimulating efficient, quick and useful crime investigation.¹ In order to uncover criminal acts in a quick and thorough way, it is not enough to merely apply the norms of criminal procedure. Procedural law prescribes rules for the processes of criminal cases in order for the law to be applied in an appropriate way, whereas criminalistics prefigures typical methods which help to achieve efficiency and efficacy of procedural work. The science of criminalistics is in search for new ways and forms of crime investigation which would help to uncover crimes in a quicker and more thorough way, to use tactical methods and recommendations in a more optimal and reasoned way. In foreign countries, a lot of attention has been recently paid to the actualities of criminal procedure; criminalistics, especially pre-trial tactics, has also received a great deal of concern. In the U.S., a great deal of attention has been paid to investigator's professionalism in the process of investigation² as well as primary investigation actions tactics³. These topics are also relevant in Lithuania. One of the topical questions is the problem of cooperation tactics.

The conception, principles and forms of cooperation had been regarded as a part of common criminalistics tactics for a long time; however, nowadays this aspect raises discussions as scientists have diverse attitudes towards the question of cooperation. Some of them state that cooperation should be regarded as an element belonging to the tactics of criminalistics, others believe that it is the fifth part of criminalistics, while yet others treat it as an issue of the first part of criminalistics, i.e. theoretical basis. Propositions about cooperation have gradually evolved into a quite wide system of views which is relevant from both theoretical and practical perspectives. Statements of cooperation are

- 1 Kurapka, V. E.; Malevski, H. Šiuolaikinė nusikaltimų tyrimo koncepcija ir jos kriminalistinis bei procesinis užtikrinimas – dabarties mokslinis įdirbis ir ateities perspektyvos [Modern Crime Investigation Conception and Its Criminalistic and Procedural Provision – Present Scientific Implementations and Future Perspectives]. *Jurisprudencija*. 2005, 65(57): 110.
- 2 Byrd, M. Duty Description for the Crime Scene Investigator. *Miami-Dade Police Department Crime Scene Investigations* [interactive]. [accessed 12-09-2009]. <<http://www.crime-scene-investigator.net/dutydescription.html>>.
- 3 Baldwin, B. *Crime Scene Interpretation*. *Illinois State Police* [interactive]. [accessed 12-09-2009]. <<http://www.feinc.net/cs-int.htm>>.

relevant for the officers investigating criminal acts, as they help to use efficient tactical methods and recommendations in an expedient way.

Nowadays it is probably appropriate to analyze the process of cooperation between an investigator and a prosecutor not only from the point of view of criminalistics tactics, but in a wider perspective, with reference to the knowledge of management. It is relevant to treat the prosecutor and investigator cooperation as a certain process of management.

The aims and objectives of the subjects participating in the process of cooperation, their force and means used to achieve truth in a case, unite all the subjects working on a particular case. According to the Code of Criminal Procedure of the Republic of Lithuania (hereinafter referred to as the CCP), a prosecutor and a pre-trial investigation officer have to take all competent measures allowed by the law in order to uncover a criminal act. The content of this norm can be said to stipulate the compatibility of the actions of a prosecutor and an investigator, i.e. each of them has to do particular actions according to his/her competences, having one main purpose—to uncover a criminal act. However, in the Lithuanian CCP, the notion of cooperation is not defined. It is paradoxical that procedural norms do not provide for the compatibility of the subjects on the basis of law, while cooperation is one of the efficient ways helping to uncover and investigate crimes. It has been noticed that ‘cooperation between an investigator and a prosecutor is especially important in regard to the aim of the norms of the CCP adopted on 1 May 2003, according to which it is sought to implement justice in the cheapest and quickest way possible, without wasting people’s time’⁴.

The subject of the present research is the pre-trial investigators’ attitude towards cooperation between prosecutors and investigators in pre-trial investigation.

The aim of the study is to examine the pre-trial investigators’ attitude towards cooperation between an investigator and a prosecutor in Lithuania, to offer suggestions on improving cooperation in the process of investigation.

A quantitative research in a form of a questionnaire was carried out in 2007–2008: 400 pre-trial investigation officers (investigators) have been questioned in order to find out the peculiarities of the organization of their activities, problems, the forms and the content of cooperation with prosecutors.

1. Conception of Cooperation

The concept of ‘cooperation’ involves methods and means used by interrelated subjects. The Dictionary of Contemporary Lithuanian gives the following definition of the word ‘to cooperate’: ‘to work together with others’⁵. Cooperation is important not

4 Šatas, M. Prokuroro ir ikiteisminio tyrimo pareigūnų bendradarbiavimo ypatumai [Peculiarities of Cooperation between Prosecutors and Pre-trial Officers]. *Kriminalistika ir teismo ekspertizė: mokslas, studijos, praktika. Kolektyvinė monografija*. Vilnius: Mykolo Romerio universiteto Leidybos centras, 2007, p. 115.

5 *Dabartinės lietuvių kalbos žodynas* [Dictionary of Contemporary Lithuanian]. Vilnius: Mokslo ir enciklopedijų leidybos institutas, 2000.

only for criminalistics. For instance, Vileikienė, who analyzed the problems of juvenile justice, concluded that there is a problem of cooperation among diverse institutions in that field.⁶ Ulrich and Brockbank, who investigated the aspects of personnel management, stated that ‘cooperation stimulates productive work through common services, technology and economies of scales, as well as learning, crossing the boundaries of a company and sharing ideas, allotment of resources according to needs and combination of strategies, offering several products at once and serving the clients’⁷. Capability to cooperate is the most important aspect in order to get and maintain the best result at work. Kouzes and Posner, in the context of management, define cooperation as ‘an activity which cannot exist without common creative work and common responsibility’⁸. They state that cooperation needs the atmosphere of trust, positive inter-dependence and personal collaboration. In the process of investigating criminal acts, as far as cooperation is concerned, it is important to concentrate all the efforts on desirable aims, i.e. to investigate criminal acts efficiently.

In terms of management, cooperation is common team work. ‘A team is two or more people who are interrelated and influence one another in the process of pursuing a common goal.’⁹ It is appropriate to relate cooperation to the functions of management. In the field of management, every process of administration is perceived as a systematic order of performance, consisting of planning, organization, leadership and control. Despite their capabilities and skills, participants of every single process take interrelated measures in order to implement desirable aims.¹⁰ Personnel management treats cooperation not only as common work but also as relations based on trust. Management specialists state that ‘in order to collaborate as an organization, <...> employees have to learn to work with others and to be able to form relations of trust and confidence’¹¹. This is as well important for an investigator and a prosecutor in their work.

2. Guidelines for the Cooperation between Investigators and Prosecutors

As it has been already mentioned before, the process of cooperation between an investigator and a prosecutor could be represented as interrelated connections between the elements of the process of management. The functions of planning and organizing comprise the work of both an investigator and a prosecutor. In a particular pre-trial investigation, both the investigator and the prosecutor plan corresponding pre-trial acti-

6 Vileikienė, E. *Lietuvos nepilnamečių justicijos problemos: sociologinė analizė* [Problems of Juvenile Justice in Lithuania: Sociological Analysis]. Vilnius, 2007, p. 129–130.

7 Ulrich, D.; Brockbank, W. *Personalo vadyba: vertės pasiūlymas* [Personnel Management: the Offer of Value]. Vilnius: Verslo žinios, 2007, p. 78.

8 Kouzes, J. M.; Posner, B. Z. *Iššūkis vadybai* [Challenge for Management]. Kaunas: Smaltija, 2003, p. 229.

9 Stoner, J. A. F.; Freeman, R. E.; Gilbert, D. R. Jr. *Vadyba* [Management]. Kaunas: Poligrafija ir informatika, 1999, p. 489.

10 *Ibid.*, p. 12–13.

11 Ulrich, D.; Brockbank, W., *op. cit.*, p. 91.

vities and their order, solve organizational problems related to the direction of the pre-trial investigation. Meanwhile, the functions of leadership and control are implemented merely by the prosecutor, as he/she controls the process of pre-trial investigation and the intensity of the investigator's activities (see Figure 1).

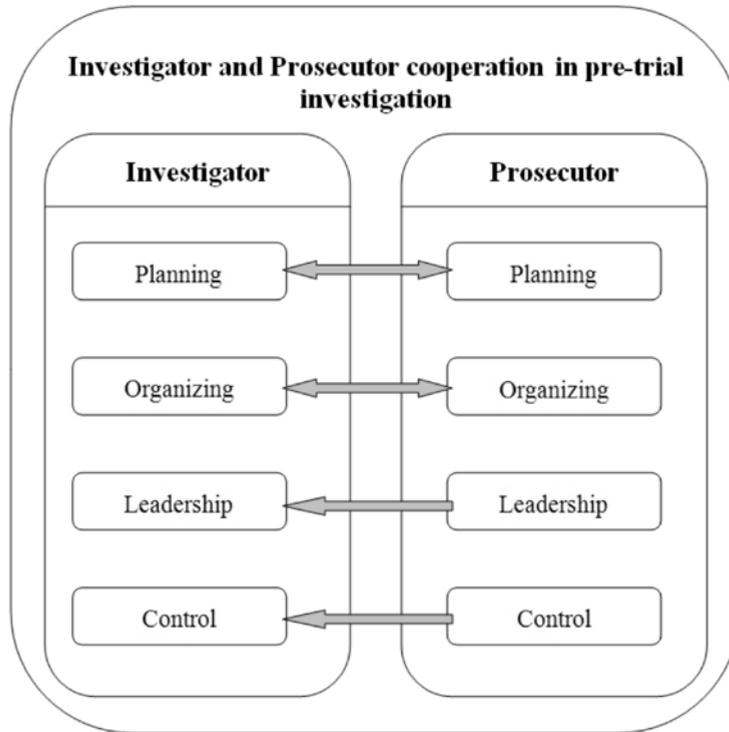


Figure 1. Investigator and prosecutor cooperation in pre-trial investigation

In this case, an investigator and a prosecutor cooperate seeking for one aim, which is to investigate a criminal act. However, the CCP of Lithuania does not specify it. Article 175 of the CCP of Lithuania mentions separate assignments; however, no detailed norms specifying the forms and the content of cooperation are identified. Cooperation among pre-trial officers is perceived not only as common work in the process of investigating criminal acts but also as efficient and united actions which can help to investigate these acts in a quick and thorough way. The aims of cooperation define its content.

It is possible to distinguish the following features characteristic of cooperation:

1. It is a legitimate process justified by law.
2. It is a process combined of the subjects' interrelations.
3. It is a process comprising correct methods and forms of work.

Juridical literature offers similar propositions defining the process of cooperation. For example, Javdokimov defines cooperation in the sphere of investigating and uncovering crimes as an interrelated process justified by law, which occurs among particular

diverse authorized institutions or responsible people, and contains the right content of methods, means and commissions chosen, characteristic of every participant who has the main goal to uncover, investigate or prevent crimes, and to find the people hiding¹². According to the author, this definition is quite exhaustive as it describes cooperation as an inter-coordinated process accomplished by the subjects.

Consequently, if the coordination of actions is emphasized as an important feature of the process of cooperation, it would be possible to incorporate it into the notion of cooperation, treating cooperation as an inter-coordinated process accomplished by the subjects. Kazlauskas distinguishes one more feature characteristic of cooperation—coordination of mutual efforts and work. While analyzing cooperation between investigating agencies, he defines this process as a legislate and rationally coordinated process, which uses work methods characteristic of these agencies and seeks to investigate and uncover crimes as well as to prevent them¹³.

There is one more important aspect related to this process—psychological compatibility. Javdokimov argues that the process of cooperation can be efficient only if there is social and psychological compatibility between the subjects¹⁴.

Juridical literature involves a great deal of information on cooperation among pre-trial officers.¹⁵ Such aspects of cooperation as subjects' competence, isolation, use of complex means and methods¹⁶, forms of internal cooperation among pre-trial investigators are mentioned in it¹⁷. On the basis of scientific literature analysis, Šatas examined the problems of the conception of cooperation in terms of revealing and investigating criminal acts and proposed the following conception of cooperation: cooperation is a coordinated activity, directed at a common purpose achieved by optimal usage of the functions, powers, measures and methods ascribed to different subjects in order to solve the tasks of crime detection, disclosure, investigation and prevention, as effectively as possible¹⁸. However, the practical question of cooperation between an investigator and a prosecutor has not achieved such a great attention; therefore, juridical literature is deprived of the analysis of this cooperation. In the process of the organization of a pre-trial investigation, the scope of the prosecutor's powers has increased. These powers have been taken from the former investigator (interrogator). This, in its turn, influenced the changes of cooperation, one of the components of a composite process—organization of pre-trial investigation¹⁹. The importance of organization and cooperation in pre-trial

12 Averjanova, T. V., et al. *Kriminalistika* [Criminalistics]. Moskva: Norma, 2002, p. 483.

13 Palskys, E.; Kazlauskas, M.; Danisevičius, P. *Kriminalistika* [Criminalistics]. Vilnius: Mintis, 1985, p. 28.

14 Averjanova, T. V., et al., op. cit., p. 499.

15 Ishhenko, E. P.; Toporkov, A. A. *Kriminalistika* [Criminalistics]. Moskva: INFRA-M, 2007, p. 506–508.

16 Zhelezniak, A. S. *Kriminalistika* [Criminalistics]. Moskva: MGIU, 2007, p. 107–108.

17 Jablovok, N. P. *Kriminalistika* [Criminalistics]. Moskva: LeksEst, 2006, p. 72–74.

18 Šatas, M. Bendradarbiavimo atskleidžiant ir tiriant nusikalstamas veikas samprata [The Conception of Cooperation when Revealing and Investigating criminal Acts]. *Kriminalistika ir teismo ekspertizė: mokslas, studijos, praktika. Kolektyvinė monografija*. Vilnius: Lietuvos teismo ekspertizės centras, 2009, p. 249.

19 Ancelis, P. Nusikalstamų veikų atskleidimo ir tyrimo prielaidos ikiteisminio tyrimo įstaigose [Preconditions for Investigation and Disclosure of Criminal Acts in the Pre-trial Investigation Institutions]. *Kriminalistika ir teismo ekspertizė: mokslas, studijos, praktika. Kolektyvinė monografija*. Vilnius: Lietuvos teismo ekspertizės centras, 2009, p. 146.

investigation is emphasized by discussions about the possible combination of these elements into a separate part of the criminalistics science.²⁰

It has been noticed that ‘the role of a prosecutor in pre-trial investigation has changed, he or she cannot remain confined to the questions of juridical control anymore, and it has become equally important for him or her to be able to cooperate with investigators efficiently’²¹. This attitude is relevant in many countries. For instance, lawyers from Belgium acclaim that questions of cooperation among investigators and prosecutors are extremely important, as ‘in the process of investigating crimes a prosecutor has to “play” in the same field with the police’²².

Ancelis, while analyzing the CCP of Lithuania and comparing it to the CCP of other countries, emphasizes that the CCP of Latvia, Azerbaijan and Moldova specify interaction among the people participating in a pre-trial process, organizational questions related to the formation of investigation groups, and officers’ interrelations in a more detailed way, on the basis of law and the norms of procedural codices²³.

As far as experience of other countries in this field is concerned, it can be stated that guidelines for cooperation between an investigator and a prosecutor are specified not only by the law of criminal procedure but also by other laws or bylaws. In Slovenia, questions of cooperation between an investigator and a prosecutor are discussed not only in the CCP, but also in the Prosecutor law and the Police law. A prosecutor is called *domus litis* in pre-trial investigation; however, efficient cooperation between an investigator and a prosecutor is one of the most important aspects while organizing the process of investigation. As changes in the CCP were accepted in 2003, Article 160 defined the guidelines for cooperation between an investigator and a prosecutor in a very precise way. This article provides for a prosecutor being able to give instructions to the police, to render diverse proposals and means while gathering the information considering police competence²⁴. On the other hand, it is not specified whether a prosecutor can take any means as for police officers who do not follow his or her instructions. The police must inform the Prosecutor’s Office about every crime under investigation not later than three days after the beginning of investigation. It is interesting that in 2004 the Government of Slovenia accepted the resolution on cooperation between a prosecutor and an investigator, which states that the Prosecutor’s Office and the police must closely cooperate in the process of investigating crimes; the police must inform the prosecutor about every single case under investigation.

20 Filipov, A. G. *Kriminalistika v Rossii i strannakh Evropy* [Criminalistics in Russia and Countries of Europe]. *Kriminalistika ir teismo ekspertizė: mokslas, studijos, praktika VI: kolektyvinė monografija*. Vilnius: Lietuvos teismo ekspertizės centras, 2009, p. 30.

21 Jurka, R., et al. *Baudžiamojo proceso optimizavimo ir spartinimo galimybės ir būdai* [Possibilities and Ways of Optimizing and Accelerating Criminal Procedure]. Vilnius: Petro ofsetas, 2004, p. 15.

22 Relation between the Public Prosecutor and the Police [interactive]. [accessed 20-08-2009]. <http://www.eurojustice.org/memberstates/belgium/country_report/1478/>.

23 Ancelis, P. *Baudžiamojo proceso ikiteisminis etapas* [Pre-trial Stage of Criminal Procedure]. Vilnius: Saulelė, 2007, p. 137.

24 Relation between the State Prosecutor and the Police [interactive]. [accessed 20-08-2009]. <http://www.eurojustice.org/member_states/slovenia/country_report/2846/>.

If we consider questions of cooperation between a prosecutor and an investigator in Italy, it will become obvious that in the CCP they are specified in a detailed way. In spite of the fact that in that country a prosecutor is as well considered as *domus litis* in pre-trial case, Italian lawyers notice that the role of the police in the process of investigating crimes is only getting stronger²⁵. They state that cooperation between the police and the Prosecutor's Office begins when the former inform the prosecutor about the start of pre-trial investigation. The Italian CCP assigns the police to inform the prosecutor about the started pre-trial investigation not later than in 24 hours, while he or she has to be informed about a serious crime immediately.

In Belgium, guidelines for prosecutor and investigator cooperation are also embedded in the law. A prosecutor is not the only subject responsible for pre-trial investigation. As Article 28 of the CCP stipulates, a prosecutor ensures the legitimacy of gathering evidentiary materials²⁶.

As far as Russia's CCP is concerned, it is clear that organizational questions related to forming investigating groups are also specified by the norms of law. Article 163 of the CCP of Russia includes the basis for the formation of investigating groups and actions ascribed to the chief of the group in the process of investigation²⁷.

As far as the process of cooperation is concerned, all the participants' efforts put are important in order to achieve appropriate goals. Efficient pre-trial investigation and proceedings are influenced not only by harmonious cooperation between an investigator and a prosecutor, but also by productive cooperation between other individuals, for example, an investigator and a specialist. In terms of contemporary organization and cooperation questions in the U.S., it has been noticed that a great deal of attention is paid to cooperation between a police investigator and a specialist. The role of the specialist in this process is unquestionable. Quite often an investigator can answer lots of questions only with the help of a person having knowledge in a special subject. Such a person's role is as well important in the court, when an expert or a specialist explains 'a complex of science and technique in the way comprehensible for the jury'²⁸.

In the process of analyzing pre-trial investigation problems in Lithuania, it becomes evident that organizational questions of pre-trial investigation are especially topical. As the Lithuanian Parliament analyzed the report on the work of the Lithuanian Prosecutor's Office in 2007, it first of all decided to improve prosecutors' work in 2008-2009 by organizing pre-trial investigation and supervising it in criminal cases²⁹.

Having analyzed the features of cooperation, the following notion of cooperation can be suggested: **as far as investigation and uncovering criminal acts are concer-**

25 Relation between the Public Prosecutor and the Police [interactive]. [accessed 20-08-2009]. <http://www.eurojustice.org/member_states/italy/country_report/4512/>.

26 Relation between the Public Prosecutor and the Police [interactive]. [accessed 20-08-2009]. <http://www.eurojustice.org/member_states/belgium/country_report/1478/>.

27 Ugolovno-processualnyj kodeks Rossijskoj Federacii [Penal Code of the Russian Federation]. Moskva: Elit, 2000, 2003, p. 69.

28 Siegel, J. A. *Forensic Science. The Basics*. New York: Taylor and Francis Group, 2007, p. 15.

29 Resolution of Seimas of the Republic of Lithuania 'Concerning the Report on the Work of the Lithuanian Prosecutor's Office in 2007'. *Official Gazette*. 2008, No. 58-2168.

ned, cooperation is an interrelated process based on the law and performed by particular subjects, which requires reasoned methods, ways and means in order to uncover, investigate or prevent criminal acts. Thus, it is obvious that cooperation among pre-trial subjects is inevitable. In terms of cooperation among pre-trial participants in Lithuania, compatibility of investigator's and prosecutor's actions is especially relevant.

3. Main Problems of Cooperation between Investigators and Prosecutors: Investigators' Viewpoint

Having done a survey on the question of cooperation between an investigator and a prosecutor in Lithuania, several major problems have showed up: cooperation is mainly formal, the forms of cooperation implemented are not always efficient, and it is not based on law. In the common part of the CCP guidelines, cooperation is not mentioned as one of the main theses³⁰.

According to the results of the analysis of the Lithuanian investigators' attitude towards cooperation with the prosecutor, 37% of the questioned investigators tended to state that cooperation with the prosecutor directly controlling their cases was quite efficient. However, 50.67% of the respondents treated their cooperation with the prosecutor as formal (see Figure 2).

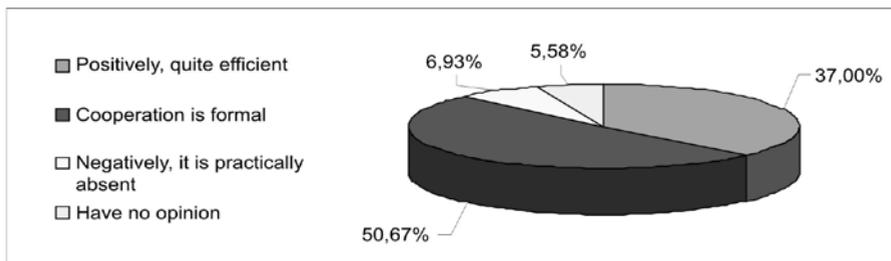


Figure 2. Investigators' attitude towards cooperation with the controlling prosecutor in the process of investigating criminal cases.

The results of the survey illustrate that cooperation among pre-trial officers themselves is not efficient in the process of investigating crimes. 52.06% of survey participants believed that cooperation among pre-trial officers was quite efficient; however, 36.54% thought it was merely formal (see Figure 3).

30 Ažubalytė, R.; Zajančauskienė, J. *Baudžiamojo proceso teisė* [Law of Criminal Procedure]. Vilnius: Mūsų Saulužė, 2006.

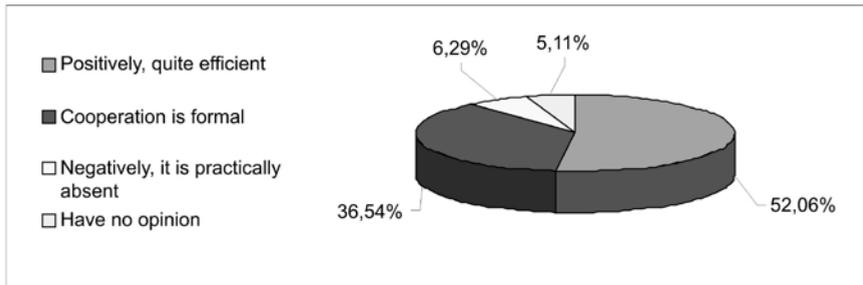


Figure 3. Pre-trial investigators' attitude towards the efficiency of cooperation among pre-trial officers.

Having analyzed the forms of cooperation between an investigator and a prosecutor, it has been found out that the most frequently used form was a report on the course of pre-trial investigation presented in a written form (26.69%). From the author's point of view, it is not an efficient form of cooperation, as it is more unilateral and obviously embodies the controlling function of a prosecutor. It is as well interesting that 23.97% of the investigators questioned stated that the most common form of cooperation was the sending of the pre-trial investigation case to be checked in the Prosecutor's Office. Only 18.30% affirmed that the most frequently used form of cooperation was meeting the prosecutor face to face (see Figure 4).

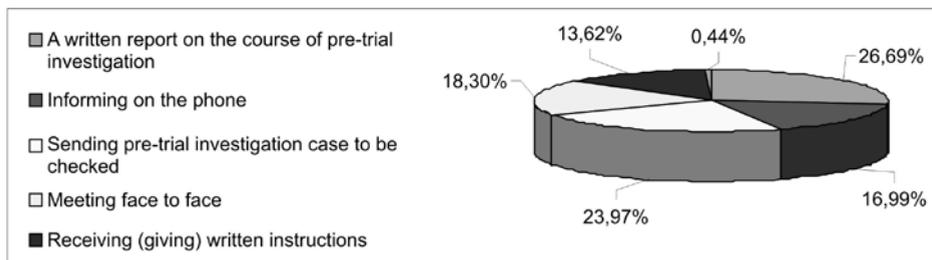


Figure 4. Investigators' opinion about the most frequent forms of cooperation between investigators and prosecutors.

When asked about the most efficient form of communication between investigators and prosecutors, 40.93% of the respondents stated that a face to face meeting was the most effective. Only 12.66% of investigators believed that a written report on the process of pre-trial investigation was an efficient form of cooperation (see Figure 5).

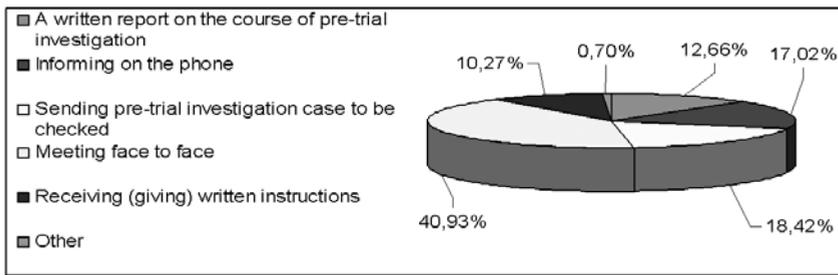


Figure 5. Investigators’ opinion about the most efficient forms of cooperation between investigators and prosecutors.

However, the submission of a report on the process of pre-trial investigation is not understood merely as a form of cooperation. According to the guidelines approved by the order of the Prosecutor General on 11 April 2003, a report on the process of pre-trial investigation is one of the ways to control the time spent on pre-trial investigations³¹. In his order³² confirmed on 8 August 2008, the Prosecutor General of the Republic of Lithuania declared that a written report on the process of pre-trial investigation is going to be applied further on.

The frequency of cooperation between an investigator and a prosecutor is one of the aspects indicating the efficiency of that process. The results of the survey showed that 34.98% of the questioned investigators cooperated with the controlling prosecutor once a week, and quite a large proportion of them (24.20%)—twice a month or even more often. Only 5.48% of the respondents stated to have cooperated with the prosecutor less often than once a month (see Figure 6).

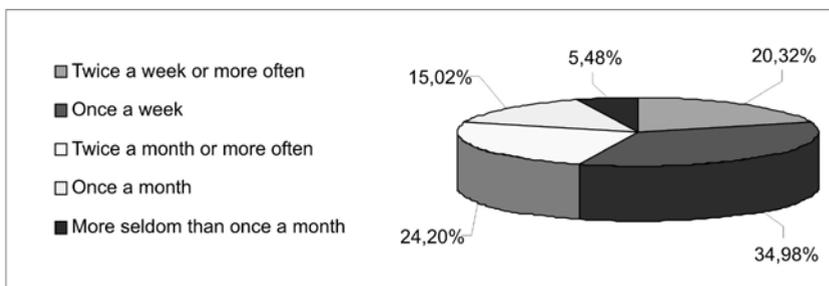


Figure 6. Investigators’ opinion about the intensity of cooperation in a particular case between the investigator and the controlling prosecutor.

31 Poįstatyminių teisės aktų, reglamentuojančių ikiteisminio tyrimo pradžią, registraciją, eigą ir apskaitą, sąvadas Nr. 1 [Digest No. 1 of Bylaws Finetuning the Beginning, Registration, Process and Accounting of Pre-trial Investigation.]. Vilnius: LP APC sp., 2003, p. 56–57.

32 Order No. I-109 of the Prosecutor General of the Republic of Lithuania of 8 August 2008 ‘Concerning the Change of the Order No. I-47 of the Prosecutor General of the Republic of Lithuania of 11 April 2003 ‘Concerning the Approval of Pre-trial Terms Control and Validation of Recommendations’’. *Official Gazette*. 2008, No. 94-3712.

As far as the most frequent problems in the process of cooperation among investigators and prosecutors are concerned, the survey proved them to be very different. They may be related to pre-trial investigation direction, degree of intensity of actions, and the order of accomplishing these actions or the use of compulsory procedural measures and others. Pre-trial investigators did not define any dominant problems. It proves that in different police institutions, problems of cooperation between an investigator and a prosecutor appear due to very diverse reasons. The most frequent problems are related to the scope of pre-trial investigation (17.58%), the intensity of pre-trial investigation (12.93%), advance incompatibility between an investigator and a prosecutor (11.17%).

Only 4.34% of the respondents supposed that problems of cooperation occurred due to the lack of knowledge, 5.38% believed that problems appeared because of their own initiative, 9.82% thought that the reason for that was the lack of prosecutors' initiative (see Figure 7).

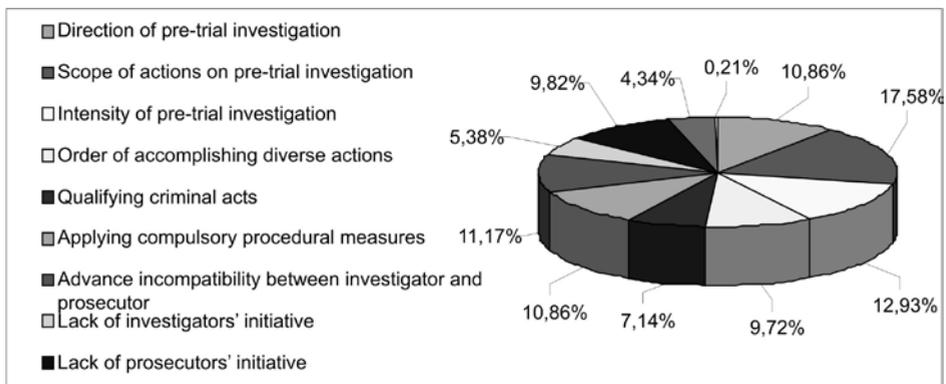


Figure 7. Investigators' opinion about the aspects, to which the most frequent problems of cooperation are related.

When asked about the ways to improve cooperation between investigators and prosecutors, respondents indicated three main aspects. The first is a greater prosecutors' initiative (26.79%), the second is guidelines for organizing the work both in pre-trial investigation institutions and in the Prosecutor's Office or its divisions (26.79%), and the third is an investigator's own initiative (19.75%). Only 11.95% of investigators believed that cooperation with prosecutors could be improved with the help of recommendations, while 14.59% tended to think it could be done after establishing guidelines for cooperation in the CCP (see Figure 8).

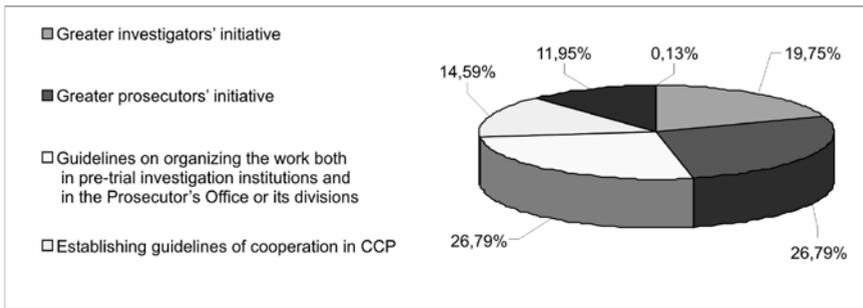


Figure 8. Investigators' opinion about the most relevant conditions of efficient cooperation.

However, 45% of the respondents believed that the establishment of guidelines for cooperation in the CCP of Lithuania could improve cooperation between a prosecutor and an investigator and have influence on its results (see Figure 9).

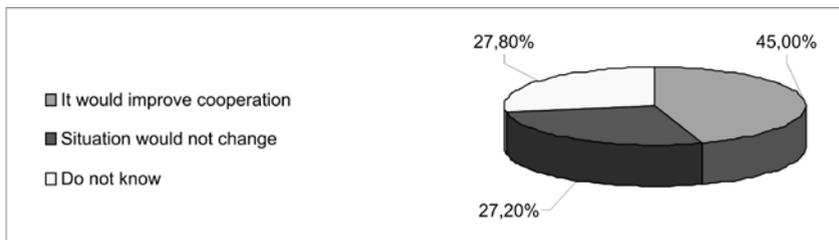


Figure 9. Investigators' opinion about the necessity of establishing guidelines for cooperation in the CCP.

As the survey indicates, there are a lot of gaps in terms of the practical side as well as in terms of regulating criminal acts. Specifying the institution of cooperation on the basis of law could help to clearly define its principles, forms, content and responsibility of the subjects cooperating. As a result, it could lead to achieving a more reasoned criminal procedure and a more efficient and productive investigation of crimes.

Conclusions

1. The present empirical research shows the pre-trial investigators' attitude to cooperation between prosecutors and investigators in pre-trial investigation. On the basis of the findings of the present research as well as the findings of other surveys, it is possible to state that cooperation is one of the most significant parts of the organization of pre-trial investigation.

2. Regarding the investigators' viewpoint, it is possible to state that there are serious problems in the process of organizing pre-trial investigation as far as prosecutors'

and investigators' work is concerned: principles, forms and content of cooperation are not defined, responsibility of the subjects taking part in the process of cooperation is not declared.

3. As the survey on pre-trial investigation indicates, the most frequently used form of cooperation with prosecutors is a formal written report on the course of pre-trial investigation, while more efficient forms of cooperation such as notification by phone or meeting the prosecutor face to face and discussing the course of a particular case are hardly used.

4. One of the ways to organize the process of investigating crimes in a more efficient way as well as to form an advanced practice of cooperation based on technologies of modern management is specifying the institution of cooperation on the basis of law in the CCP of Lithuania.

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TYRĖJO IR PROKURORO BENDRADARBIAVIMAS IKITEISMINIAME TYRIME: TYRĖJO POŽIŪRIS

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Santrauka. Dabartiniu metu, ko gero, būtų sunku įsivaizduoti ikiteisminio tyrimo bylą tiriančio asmens darbą be jo veiksmų suderinamumo su kitais subjektais, ypač tiriant sudėtingas, daugiaepizodines, didelės apimties ikiteisminio tyrimo bylas. Nusikalstamų veikų atskleidimo, ištyrimo bei užkardymo efektyvumas tam tikru aspektu priklauso ir nuo tyrėjo bendradarbiavimo su prokuroru, specialistu. Tik teisingai organizuojant bendradarbiavimo procesą galima užtikrinti, kad tiriant nusikalstamas veikas būtų išnaudoti visi galimi tinkamiausi būdai ir pasirinkti tinkami subjektų veiklos koordinavimo metodai, siekiant iširti nusikaltimą.

Subjektų veikla atskleidžiant ir tiriant nusikalstamas veikas yra daugialypė, o tai reikalauja tarpusavio veiksmų suderinamumo. Bendradarbiavimo samprata, principai, formos ilgą laiką buvo nagrinėjami kaip kriminalistikos taktikos bendrosios dalies teiginiai, kurie vėliau laipsniškai išaugo į gana plačią, ir teoriniu, ir praktiniu požiūriu aktualią sistemą. Todėl dabartiniu metu šis klausimas kelia daug diskusijų, nes atskirų mokslininkų nuomonės dėl bendradarbiavimo instituto nesutampa. Diskutuojama apie keturnarę arba penkianarę kriminalistikos mokslo sistemą: bendradarbiavimas yra kriminalistikos taktikos elementas, ar penktosios kriminalistikos mokslo sistemos dalies – ikiteisminio tyrimo organizavimo – sudėtinis elementas.

Lietuvos Respublikos baudžiamojo proceso kodeksas sukėlė naujų diskusijų apie ikiteisminio tyrimo pareigūno ir prokuroro bendradarbiavimą. Teisinėje literatūroje nemažai diskutuojama apie ikiteisminio tyrimo subjektų bendradarbiavimą, analizuojama bendradarbiavimo samprata, šių subjektų kompetencijos atskyrimo klausimai, tačiau ne tiek daug dėmesio skirta praktiniams tyrėjo ir prokuroro bendradarbiavimo klausimams nagrinėti.

Atlikus empirinį tyrimą buvo atskleistas ikiteisminio tyrimo pareigūnų požiūris į prokurorų ir tyrėjų bendradarbiavimą ikiteisminiame tyrime. Tyrimo rezultatai parodė, jog dažnai ikiteisminio tyrimo pareigūnas ir prokuroras bendradarbiauja nepakankamai, formaliai, taikomos neefektyvios bendradarbiavimo formos. Viena dažniausių bendradarbiavimo formų – ikiteisminio tyrimo pareigūno formalus pranešimas apie ikiteisminio tyrimo eigą raštu. Beveik nebendravama telefonu, prokuroras tiesiogiai nesusitinka su tyrėju aptarti bylos eigą. Tai daug efektyvesnės bendradarbiavimo formos. Tad akivaizdu, jog būtina didesnę dėmesį skirti bendradarbiavimo turiniui, formoms, spręsti klausimą dėl teisinio bendradarbiavimo įtvirtinimo.

Straipsnyje autorė analizuoja ikiteisminio tyrimo subjektų bendradarbiavimo sampratą, nagrinėja ikiteisminio tyrimo pareigūnų požiūrį į prokuroro ir tyrėjo bendradarbiavimą ikiteisminiame tyrime bei pateikia siūlymus, kaip pagerinti minėtų subjektų bendradarbiavimą nusikalstamų veikų tyrimo procese: siūloma apibrėžti bendradarbiavimo principus, formas, turinį, reglamentuoti bendradarbiaujančių subjektų atsakomybę, bendradarbiavimo procese taikyti efektyvesnes bendradarbiavimo formas ir Baudžiamojo proceso kodekse įtvirtinti bendradarbiavimo institutą.

Reikšminiai žodžiai: *ikiteisminis tyrimas, prokuroras, tyrėjas, bendradarbiavimas, tyrėjo požiūris, kriminalistikos taktika.*

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