

THE CHALLENGES AND PROSPECTS OF STRENGTHENING THE PROCEDURAL ROLE OF THE PRE-TRIAL INVESTIGATION OFFICER IN LITHUANIAN LAW

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Abstract

The situation with the powers of pre-trial investigation officers in Lithuanian criminal proceedings has not changed for more than two decades, so this necessitates the need to systematically analyse the limits of the procedural autonomy of the pre-trial investigation officer at the pre-trial investigation stage, as well as possible levers that encourage this subject of criminal proceedings to strive for the quality and efficiency of criminal investigation. Therefore, the purpose of this research paper is to analyse the possibilities of regulating the procedural status of the pre-trial investigation officer and expanding it in Lithuanian criminal process, in order to optimize and accelerate the pre-trial investigation. So, this study aims to analyse the possibilities of expanding the procedural functions of the pre-trial investigation officer in three different areas of pre-trial investigation in Lithuanian criminal proceedings: in the area of initiating procedural investigative actions that are sanctioned by the pre-trial investigation judge, in the area of imposing milder preventive measures and temporary restrictions on property rights, and in the area of making final procedural decisions summarizing the pre-trial investigation. The research was carried out by employing the document analysis, the systematic analysis, the deduction analysis and the generalization method. The results of research analysis objectively substantiated the real possibilities and need to expand the functions of the pre-trial investigation officer in these areas of pre-trial investigation.

Keywords: Lithuanian law, prosecutor, pre-trial investigation officer, criminal procedure law

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Introduction

After the entry into force of the new Criminal Procedure Code of the Republic of Lithuania (CPC) in 2003, the first version of this legislation left the pre-trial investigation officer only with the right to draw up reports of investigative actions and the obligation to unconditionally comply with the prosecutor's instructions, and although the current version of the CPC provides for slightly broader functions of this subject of criminal proceedings, its status has not changed significantly in more than two decades of the Code's existence. Practitioners and academics argue that, on the one hand, the extension of the powers of the more qualified lawyer-prosecutor has a positive impact on the legality of the decisions taken during pre-trial investigations. However, given that the pre-trial investigation officer, who is the one who actually carries out most of the pre-trial investigation activities, is not in a position to make independent, rapid decisions due to his limited powers, this slows down the pre-trial investigation and may have a negative impact on the achievement of the objectives set out in Article 1 of the CPC. As a

result, this situation may have a negative impact on the speed and completeness of pre-trial investigations. The situation with the powers of pre-trial investigation officers, which has remained unchanged for more than two decades, makes it necessary to systematically analyse the limits of the procedural autonomy of the pre-trial investigation officer in the pre-trial phase of the criminal investigation, as well as the possible levers that encourage this criminal procedure subject to strive for the quality and efficiency of the investigation of a criminal offence. There are many areas where the procedural autonomy of the pre-trial investigation officer could be extended in pre-trial investigations, including the initiation of procedural investigative actions authorised by the pre-trial judge, the imposition of milder preventive measures and temporary restraint of property rights, as well as the extension of procedural functions in the process of taking final procedural decisions summarising the pre-trial investigation.

Moreover, the relevance of the topic is also due to the fact that in Lithuania the problem of the procedural position of the pre-trial investigation officer and its impact on the quality of pre-trial investigation has not been analysed by academics or practitioners. The most frequent studies and publications are about the pre-trial investigation phase and the problems of its organisation and management were analysed in general terms by Prof. P. Ancelis (2007) in his studies. The study conducted by Prof. R. Jurka and other authors, mainly took into account the norms regulated by the CPC on the problems of organisation of pre-trial investigation, the practice of cooperation between prosecutors' offices, pre-trial investigation bodies and courts in the implementation of the objectives of the criminal procedure (2005). The procedural status of the pre-trial investigation officer and its influence on the quality and efficiency of the pre-trial investigation were mentioned only fragmentarily.

The object of the research – procedural status of a pre-trial investigation officer in Lithuanian criminal proceedings.

The purpose of the research – to examine the possibilities of regulating the procedural status of the pre-trial investigation officer and its extension in the Lithuanian criminal procedure in order to optimise and speed up pre-trial investigation.

The tasks of the research:

- 1) To analyse the possibilities of extending the procedural functions of the pre-trial investigation officer in the field of initiation of procedural investigative actions sanctioned by the pre-trial judge;
- 2) To examine the possibility of extending the procedural functions of the pre-trial investigation officer in the area of milder preventive measures and temporary restraint of property rights;
- 3) To examine the possibilities of extending the procedural functions of the pre-trial investigation officer in the area of final procedural decisions summarising the pre-trial investigation.

The methods of the research: depending on the topic, goals and objectives of the scientific article, the following research methods are used: the document analysis method and the systematic analysis method are used in detailing the analysed issues in legal regulation; the deduction analysis method made it possible to define specific problems arising in legal practice from the general requirements, while the generalization method helps to systematize the entire analysis and to provide structured conclusions.

Abbreviation: the CPC- the Criminal Procedure Code of the Republic of Lithuania.

Discussion

The scope of initiation of procedural investigative actions that are sanctioned by the pre-trial investigation judge

The establishment of the institution of a pre-trial judge in Lithuania is based on the efficiency of the law on criminal procedure and the protection of human rights and freedoms, i.e., it was created in order to enable an independent procedural entity to ensure the protection of the interests of the persons involved in the pre-trial investigation and to perform the function of controlling the legality of pre-trial investigation (Kukaišis, 2006). However, it is clear from the provisions of Section 5 of Article 170 and Point 6 of Section 1 of Article 173 of the CPC that only the prosecutor or the participants in the proceedings may appeal to the pre-trial judge against the actions of the investigator and the public prosecutor, and that the legislator does not provide for such a right to the pre-trial investigation officer. It is therefore appropriate to discuss whether giving the pre-trial investigation officer the discretion to directly address the pre-trial judge to carry out or approve actions falling within his/her competence would help to optimise and rationalise the criminal procedure.

According to the CPC, the prosecutor's requests to the pre-trial judge can be conditionally divided into two categories: 1) requests in the course of which the suspect, his/her representative and the defence counsel are not entitled to be present and are not aware of the initiation of the request - searches (Article 145 of the CPC), seizure (Article 147 of the CPC), seizure of postal items (Article 148 of the CPC), control of information transmitted via electronic communications networks, the procedure for its recording and storage (Article 154 of the CPC), obtaining information from institutions and organizations (Article 155 of the CPC); 2) applications in the course of which the suspect, his/her representative and defence counsel are present or are aware of their initiation - questioning of a witness (Article 183 of the CPC), questioning of a suspect (Article 188 of the CPC), arrest (Articles 122-131 of the CPC), house arrest (Article 132 of the CPC), ordering to live separately from the injured party (Article 132-1 of the CPC), extension of the pre-trial investigation period (Section 5 of Article 215 of the CPC).

The latter category of pre-trial proceedings is characterised by the implementation of the principle of adversarial proceedings before the pre-trial judge, and it is therefore natural that these applications are initiated and dealt with by lawyers of a higher calibre, i.e. prosecutors, who are in parallel competition with the lawyer of a higher calibre, the suspect's defence lawyer (Article 7 of the CPC). Therefore, there is no room for debate on the latter category of pre-trial proceedings, whether it would be appropriate to give more discretion to pre-trial officers to act in relation to the pre-trial judge. However, with regard to the first category of procedural actions mentioned above, such a discussion, the right of initiation to carry out such procedural actions could be granted not only to the prosecutor, but also to the investigator, is possible.

Under the current procedure laid down in the CPC, the pre-trial investigation officer, who is responsible for carrying out specific actions in a pre-trial investigation, must obtain the consent of the pre-trial judge to carry out procedural coercive measures falling under the first category of procedural coercive measures against a suspect, his/her representative and defence counsel are not entitled to be present and are not aware of their initiation, he/she must apply to the public prosecutor, who, on the basis of the same pre-trial investigation data submitted, shall, as practice has shown, initiate, by means of a separate application or petition, the measures authorised by the pre-trial judge. Such mediation by the prosecutor between the two parties to the criminal proceedings not only makes the criminal proceedings and the pre-trial investigation itself unduly formal and less expeditious but may also undermine the quality of the pre-trial investigation. Firstly, the criminal procedure law provides for the possibility for the pre-trial

investigation officer to carry out a search, seizure or secret surveillance on his own in certain urgent cases (Section 1 of Article 160-1 of the CPC), although the number of such situations that meet the requirements of legitimacy of an urgent case is limited. The fact that the legislator has provided for a specific procedure allowing the pre-trial investigation officer to carry out, on his or her own initiative, specific pre-trial investigative actions which require the subsequent approval of the pre-trial judge, shows the existing formal nature of the general procedure, i.e. no longer giving him or her the discretion to apply directly to the pre-trial judge in order to ask for, and justify the need for, the procedural coercive measure in question, leaving him or her with only the right of choice as to whether or not to apply to the prosecutor for the initiation of a procedural coercive measure. In particular, it should be noted that a pre-trial investigation officer is more familiar with the situation of the investigation of a criminal offence in a particular case, whereas a prosecutor, controlling dozens of pre-trial investigations, is not always in a position to quickly analyse the details of the situation presented by the investigator and to ascertain the need for the application of a specific procedural coercive measure, which is authorised by the judge (Ancelis, 2009). Secondly, such a lengthy general procedure provided by the legislator for obtaining the consent of the pre-trial judge to carry out certain procedural steps of the pre-trial investigation cannot be considered as a legal provision that promotes the expeditiousness of proceedings. It should be noted that pre-trial investigation is a dynamic process and that the outcome and the overall prospect of any investigative action, including those approved by the judge, depend on the timeliness of that action (Kukaitis, 2006). As a result, enabling the pre-trial investigation officer to initiate proceedings would shorten the procedure for obtaining the consent of the pre-trial judge. Especially when most of the investigative actions are carried out by the pre-trial investigation officer, who is the first person, after the investigative action has been carried out, to be aware of the need to carry out the procedural steps authorised by the pre-trial judge (Jurka et al, 2009).

On the other hand, there are a number of other aspects of the debate that may arise from the difficulties that may arise in practice from giving more discretion to the pre-trial investigation officer. In particular, it is doubtful whether the fact that not all pre-trial investigation officers have a legal background would undermine the quality of the requests made by these officers to the pre-trial judge (Jurka et al, 2005). However, while the low legal qualifications of some pre-trial investigators would seem to jeopardise the legal basis for such requests, the factual basis for the request would be similar if the prosecutor were to make such a request to the pre-trial judge. In this case, it is particularly important to note that the purpose of the institution of the pre-trial judge is to assess whether both grounds are present in a pre-trial investigation and to decide whether these grounds are sufficient to grant an application which would result in the restriction of human rights and freedoms (Gušauskienė, 2004). Therefore, the very existence of the institution of the pre-trial judge is a safeguard that prevents, without sufficient factual and legal grounds, specific procedural steps in pre-trial investigations that restrict human rights and freedoms. Secondly, granting the pre-trial investigation officer the right to directly address the pre-trial judge would threaten to make the prosecutor unaware of the progress of the pre-trial investigation and to remove him/her from directing and controlling the lawfulness of the pre-trial investigation, as the legislator has established by the provision of Section 1 of Article 164 of the CPC. However, in order to avoid such a potential threat, this issue can be addressed in various practical ways, for example, by providing that the pre-trial investigation officer inform the prosecutor of his/her referral to the pre-trial judge within a short period of time, or that such a referral by the pre-trial investigation officer should be accompanied by the prosecutor's confirmation of the prosecutor's decision, etc.

Thus, it is clear that if the legislator gives the pre-trial investigation officer the right to initiate investigative actions sanctioned by the pre-trial investigation judge, in the course of which the suspect, the suspect's representative and the defence counsel are not entitled to be present and are not aware of the initiation of such actions, while at the same time ensuring the possibility

of informing the prosecutor, the pre-trial investigation process will not only become more efficient and expeditious, but will also have a positive impact on the quality of pre-trial investigation.

Scope for the imposition of milder preventive measures and temporary restraint of property rights

As of October 1st, 2010, the legislator, in Section 1 of Article 121 of the CPC, empowered the pre-trial investigation officer to impose the mildest preventive measures, ranging from the seizure of the document to the surrender of the minor, in cases of urgency, however, the "urgent case" clause of the legislator complicates the pre-trial investigation itself, since under the current procedure, once a person has been served with a notice of suspicion and questioned, the pre-trial investigation officer has to present the suspect and the pre-trial investigation file to the prosecutor in order to impose a preventive measure on the suspect. This requires additional working time and material costs and given that the prosecutor plans his/her work independently, and that the pre-trial investigation itself is fluid and the timing of procedural actions cannot always be predicted, this also has a negative impact on the efficiency of the pre-trial investigation and complicates the procedure for imposing pre-trial detention measures. In addition, the "urgent case" clause leaves room for a wide range of interpretations as to the content of this clause, which not only hampers the pre-trial investigation process, but also leads to possible breaches of the provisions of the CPC in question.

It should be noted that the preventive measure at the pre-trial stage is inseparable from the status of the suspect, which is defined in Section 2 of Article 21 of the CPC as a person detained on suspicion of having committed a criminal offence, or a person questioned about the offence he is suspected of having committed, or a person summoned for questioning and for whom a notice of suspicion has been issued, and when a person has absconded or his/her whereabouts are unknown during the pre-trial investigation, he/she shall be recognised as a suspect, pursuant to Section 3 of Article 21 of the CPC, by a decision of the public prosecutor or by a decision of the pre-trial judge, and in urgent cases - by a decision of the pre-trial investigation officer. This definition of suspect status raises the natural question of when such a person can become a suspect "suddenly", i.e., what circumstances might give rise to an "emergency" decision to impose a preventive measure order, when such a decision could already have been taken by the pre-trial judge. When assessing this problematic issue and analysing in more detail one of the cases of granting the status of a suspect - the temporary detention of a person on the basis of Article 140 of the CPC - it is necessary to draw attention to the fact that the temporary detention of a person is often the basis for the further application of arrest, which is already within the competence of the pre-trial judge. Otherwise, a temporary detention of up to 48 hours is sufficient time to decide which precautionary measure to impose. Consequently, such situations involving the temporary detention of a person do not, in principle, fall within the criterion of "urgent case" laid down in Section 1 of Article 121 of the CPC for the selection and imposition of a preventive measure by a pre-trial investigation officer.

Meanwhile, the other situation concerning the recognition of a person as a suspect is the summoning of a person who has been issued with a notice of suspicion for questioning in accordance with the procedure laid down in Article 182 of the CPC. However, in assessing such situations, it should be noted that the pre-trial investigation officer is still obliged to first assess the sufficiency of the information to make a suspicion, after which a report of suspicion must be drawn up and only then the person concerned must be summoned for questioning. Therefore, it is natural that the pre-trial investigation officer's assessment of the data gathered during the pre-trial investigation, the drafting of the report on suspicion and the questioning of a particular person as a suspect may not coincide, and that there may be a considerable time lag between these procedural steps, which is why, in this case, there will be no criterion of an urgent case,

where the decision on the most lenient preventive measure should be able to be taken by the pre-trial investigation officer without delay. Finally, in the third case, where the recognition of a person as a suspect is due to the fact that the perpetrator has absconded or his whereabouts are unknown, the pre-trial investigation officer must first collect sufficient data to prove the person's guilt and check all possible locations of the person, and, if he is not found, announce a search on the basis of Section 3 of Article 142 of the CPC. Therefore, in such situations, the selection and imposition of a preventive measure cannot be an urgent and immediate case, which is why the competence of the pre-trial investigation officer to make such relevant decisions is not possible under the criminal procedure law. It follows that in all three cases of the appearance of a suspect in criminal proceedings, the criterion of "urgency" laid down in Section 1 of Article 121 of the CPC is not substantially fulfilled, which, according to the legislator's regulation, generally raises doubts as to whether the pre-trial investigation officer can legitimately participate in the process of imposing milder preventive measures, and at the same time it means that the legislator's "urgent case" clause is redundant and that it is appropriate to give more powers to the pre-trial investigation officer to impose milder preventive measures. In this context, in order to justify the importance of extending the powers of pre-trial investigation officers, it is also necessary to note that some preventive measures, which are equivalent to the mildest pre-trial detention measures in terms of the degree of restriction of human freedoms and human rights, such as temporary detention in accordance with the procedure laid down in Article 140 of the CPC or bringing somebody to court in accordance with the procedure laid down in Article 142 of the CPC, are independently imposed by a pre-trial investigation officer. At the same time, it should also be noted that the most lenient pre-trial detention measures do not absolutely guarantee the objectives set out in Article 119 of the CPC, and at the same time such pre-trial detention measures restrict the rights and freedoms of individuals to a much lesser extent, as the suspect is free to leave his/her place of residence, to meet and influence the victim or a witness, and to commit new offences. Moreover, the criminal procedure law also provides for an expeditious mechanism for appealing against a decision of a pre-trial investigation officer on this matter to the public prosecutor (Article 63 of the CPC). However, in such considerations of giving the pre-trial investigation officer the right to impose the mildest preventive measures in all cases, and in order to avoid possible abuse of this procedural right, it would be appropriate to consider an additional safeguard to avoid possible unjustified and unlawful violation of human rights, by providing for a mandatory requirement to obtain the approval of the pre-trial investigation officer's order to impose the milder preventive measures from the public prosecutor supervising the pre-trial investigation.

Another area of pre-trial proceedings in which the autonomy of the pre-trial investigation officer could be considered is the temporary restriction of the right of ownership, where no such competence is provided for the officer in general (Section 6 of Article 151 of the CPC). In this case, it should be noted that, in accordance with the provisions of Articles 110 and 111 of the CPC, the pre-trial investigation officer has broad powers to decide on the validity of the civil action brought, as well as to decide on the inclusion of civil claimants and defendants in the proceedings for the damages caused by the alleged criminal offence. Moreover, the legislator provides for an even broader power to take measures to secure a civil action under Article 116 of the CPC. However, despite such broad powers of pre-trial investigators in the areas of civil action and enforcement proceedings, Section 6 of Article 151 of the CPC provides for the exclusive right of the prosecutor to take procedural decisions on the temporary restriction of property rights at the pre-trial stage of the investigation, which does not provide a clear and rational justification for the imbalance in the division of powers between the entities. It is therefore reasonable to assume that a positive result in the pre-trial investigation would be achieved if such procedural decisions could also be taken by the pre-trial investigation officer, whose powers at the earlier stages, even before the adoption of this final decision, are quite extensive, as mentioned above. This would not only be a logical solution to the current

problematic situation in the legal framework, eventually harmonising the norms of Article 116 and Article 151 of the CPC, but also a measure that would speed up and make the pre-trial investigation process more efficient and help to avoid cases of concealment and loss of property, especially when the pre-trial investigation officer has a wide discretion to impose procedural coercive measures: bringing somebody to court, temporary detention (Articles 140, 141 of the CPC) which, compared to the temporary restriction of the property right, are much more stringent procedural measures, more restrictive of the individual's liberties. However, in order to avoid possible abuse of this procedural right by pre-trial investigators, it would be appropriate, as in the cases mentioned above, to consider an additional safeguard by providing for a mandatory requirement to obtain confirmation of the pre-trial investigator's decision to impose milder preventive measures from the public prosecutor supervising the pre-trial investigation.

In summary, giving the pre-trial investigation officer the possibility to impose the mildest pre-trial detention measures in all cases and the discretion to temporarily restrict the right to property would make the pre-trial investigation process more efficient and expeditious, with the safeguard of a mandatory requirement to obtain the confirmation of the public prosecutor in charge of the pre-trial investigation.

Scope of the process of taking final procedural decisions summarising the pre-trial investigation

When discussing the process of making final procedural decisions summarizing the pre-trial investigation, it is necessary to start with the fact that, according to the criminal procedure law, the termination of the pre-trial investigation (Section 1 of Article 214 of the CPC), the drafting of an indictment (Article 218 of the CPC), the release of the suspect from criminal liability on the grounds of Points 3-8 of Article 212 of the CPC (Section 2 of Article 214, of the CPC), the completion of the investigation of a criminal offense by a criminal order (Article 418 of the CPC), or the expedited procedure (Article 426 of the CPC) is the exclusive discretion of the prosecutor to either make such decisions or, respectively, to initiate the making of such decisions, when this falls within the competence of the pre-trial investigation judge. However, the pre-trial investigation officer's ability to participate in such summary final procedural decisions is limited. The legislator only gives him the right to refuse to open a pre-trial investigation (Article 168 of the CPC) and to draw up a brief report at the request of the public prosecutor (Section 6 of Article 218 of the CPC). Therefore, it is relevant to discuss whether giving the pre-trial investigation officer the possibility to participate in the final summary procedural decisions discussed above would encourage the pre-trial investigation officer to carry out the pre-trial investigation in a focused and proactive manner and would contribute to the achievement of a positive outcome in the investigation of a criminal offence.

It should be noted that since October 1st, 2010, with the extension of the specification of information on the criminal offence in accordance with Section 1 of Article 168 of the CPC, part of the prosecutor's competences have been transferred to the pre-trial investigation officer (Law No. 113-5742). Under the current legal framework, the pre-trial investigation officer, after having carried out a relatively large number of procedural investigative steps that do not involve procedural coercive measures, shall, when drawing up a decision to refuse to open a pre-trial investigation, organise and summarise the data collected and state the reasons for the conclusion that the information on the criminal offence is manifestly false or that there are circumstances which make criminal proceedings impossible. As a result, some of the prosecutor's decisions to discontinue a pre-trial investigation in the past have become decisions to refuse to open an investigation into a criminal offence, and although in both cases the content of such final procedural decisions is essentially identical (analysis of the data, summarisation and reasoned application of the law on criminal procedure), it is nevertheless impossible for the pre-trial

investigation officer to take the same important procedural decisions on the closure of the pre-trial investigation. According to Section 6 of Article 218 of the CPC, if the prosecutor decides to draw up an indictment in a case where a pre-trial investigation or most of the investigative steps were carried out by a pre-trial investigation officer, the latter must, unless the prosecutor states otherwise, submit a brief report on the investigative steps carried out. Although the legislator provides for the submission of a report to the investigator, it may be concluded, on the basis of the Guidelines “on the preparation of a report at the conclusion of a pre-trial investigation” (Recommendations No I-47), that the content of such a report is equivalent to the content of an indictment, the requirements of which are laid down in Article 219 of the CPC. Thus, it can be seen from the data provided that the drafting of the indictment is, however, based on the reports submitted by the pre-trial investigators, which means that the time-consuming and labour-intensive summary and final documents (the report of the pre-trial investigator and the corresponding final acts of the prosecutor) are written twice in the course of the conclusion of the pre-trial investigation with a judicial perspective, therefore, there is merit in considering the extension of the competence of the pre-trial investigation officer in this area as well. Although giving the pre-trial investigation officer the right to terminate a pre-trial investigation independently risks weakening the prosecutor's functions to organise and manage the pre-trial investigation, this can be successfully addressed by introducing a minimum control mechanism for the prosecutor, i.e. by giving the pre-trial investigation officer the right to adopt a decision to discontinue the pre-trial investigation, which would have to be approved by the public prosecutor, which would be a kind of logical analogy to Section 2 of Article 168 of the CPC, where the consent of the head of the relevant pre-trial investigation body or his/her authorised representative would be necessary, and would speed up the expeditiousness of the pre-trial investigation.

While referring in more detail to the conclusion of a pre-trial investigation by drawing up an indictment in accordance with Article 218 of the CPC, it is necessary to emphasise that what is important is not the form of such a final document, but the right to conclude that the investigation has gathered sufficient evidence to substantiate the suspect's guilt of a criminal offence. Although in this case there is a legitimate question as to whether the extension of the competences of the pre-trial investigation officer to the pre-trial investigation will not have a negative impact on the pre-trial investigation itself, i.e. unlike the pre-trial investigation officer, the prosecutor is involved in all stages of the criminal proceedings, and is therefore in a better position to objectively assess the data collected during the pre-trial investigation and to predict what data will be accepted by the court as evidence, and therefore to conclude on the adequacy of the data gathered (Goda et al, 2003). However, it should be noted that in certain narrow cases, such as in Article 187 of the CPC, the legislator gives the pre-trial investigation officer the right to decide on the sufficiency of the data for the issuing of a report on suspicion, and it seems that the officer could also be given the discretion to assess the sufficiency of the data gathered in one of the final procedural decisions. Moreover, both the indictment and the other final procedural document of the pre-trial investigation are only a structured reflection of the data collected during the pre-trial investigation, which can be seen from a comparison of the analogous requirements for pre-trial investigation officers' reports according to the Guideline “on the drafting of the report following the conclusion of the pre-trial investigation” and the indictment according to Article 219 of the CPC, and this means that the indictment does not contain any new factual information, but is based solely on the information gathered mainly by the pre-trial investigation officer. Therefore, it can be argued that the quality of the final procedural document depends not so much on its form or structure, but on the quality of the overall investigative process, which is mainly carried out by the pre-trial investigation officer rather than the prosecutor. However, this issue also raises another threat of eliminating the prosecutor's leadership of the pre-trial investigation, especially at the final stage of the investigation, thus expanding the competence of the pre-trial investigation officer, but this issue

should be seen in a broader context, and not limited to the final stage of the pre-trial investigation. Taking into account the rather broad competence of the public prosecutor in relation to pre-trial investigation officers, laid down in Section 3 of Article 170 of the CPC, it can be concluded that the public prosecutor, when issuing binding instructions to a pre-trial investigation officer on the performance of certain pre-trial investigation actions, organises the investigation itself - he foresees the possible results of such an investigation, the future situation, and the amount of incriminating data to be collected against a suspect. Therefore, as can be seen, the extension of the competences of the pre-trial investigation officers in the area in question will not substantially diminish or abolish the functions of the public prosecutor, but rather, by establishing a closer relationship between the two procedural entities, the conduct of the pre-trial investigation and the outcome of the investigation should be the joint work of the two officers, who will both have to take a decision on the adequacy of the evidence collected for the preparation of a final act of pre-trial investigation, with a clear role for the public prosecutor. Therefore, substantial changes in the regulation of the final stage of the pre-trial investigation should be considered, which would give more legal force to the pre-trial investigation report prepared by the pre-trial investigation officer, as set out in Section 6 of Article 218 of the CPC, which could even be seen as a draft final act of the pre-trial investigation, which would also imply a proposal to conclude the investigation in one of the forms of closure of the pre-trial investigation, while still leaving the prosecutor with the power to approve such a decision, without which such a draft would not have legal force. Such a solution would be a rational way of not only reducing the cost of the pre-trial investigation (by completing the pre-trial investigation without the need for two time-consuming and labour-intensive summary and concluding documents) but also making it faster.

It can therefore be concluded that the pre-trial investigation would be more efficient and expeditious if more legal force were given to the pre-trial investigation report prepared by the pre-trial investigator, which could even be regarded as a specific draft of the final act of the pre-trial investigation, and which would also imply a proposal for the closure of the investigation in one of the forms of the conclusion of a pre-trial investigation, while still leaving to the prosecutor the power to approve the decision.

Conclusions

1. Having analysed the scope of initiation of procedural investigative actions that are sanctioned by the pre-trial investigation judge, it was determined that granting the pre-trial investigation officer the procedural right to initiate only such investigative actions in the examination of which the suspect, his representative and defence counsel do not have the right to participate and are not aware of their initiation, while also ensuring the possibility of informing the prosecutor about it, the pre-trial investigation process would not only become more efficient and operative, but it would also have a positive impact on the quality of the pre-trial investigation.
2. After conducting an examination of the areas of imposing milder preventive measures and temporary restriction of property rights, it was observed that the "urgent case" criterion established in all three cases of the suspect's appearance in criminal proceedings is excessive and it would be appropriate to grant the pre-trial investigation officer full powers to impose more lenient preventive measures, it could also be considered to give the pre-trial investigation officer the autonomy to take final procedural decisions on temporary restraint of possession, which would not only reconcile the contradictory legal regulation but also give this procedural coercive measure the much needed speed. And in order to avoid possible abuse of these procedural rights, an additional safeguard could be retained by

making it mandatory to obtain the approval of the prosecutor supervising the pre-trial investigation.

3. Having analysed the area of the process of making final procedural decisions summarising the pre-trial investigation, substantial changes in the regulation of the final stage of the pre-trial investigation are to be considered, which would give more legal force to the report on the pre-trial investigation actions prepared by the pre-trial investigation officer and would be equivalent to even a possible draft of the final act of the pre-trial investigation, which would not acquire legal force without the approval of the public prosecutor, thus preserving the role of the public prosecutor in the pre-trial investigation, which would not only legitimise the factual situation on the matter at hand, but also reduce the cost of the pre-trial investigation.

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