

REPUBLIC OF LITHUANIA
LAW ON
THE FINANCIAL CRIME INVESTIGATION SERVICE

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Vilnius

CHAPTER I
GENERAL PROVISIONS

Article 1. Purpose of the Law

This Law shall establish the purpose, principles and legal basis of the activities of the Financial Crime Investigation Service under the Ministry of the Interior of the Republic of Lithuania, the tasks, functions, organisational structure, funding, control of the activities of the Service, the framework for co-operation with state or municipal institutions and agencies, other natural and legal persons, the powers, rights and duties, liability of the officers of this Service as well as the conditions of lawfulness of the use of coercion.

Article 2. Financial Crime Investigation Service under the Ministry of the Interior of the Republic of Lithuania

The Financial Crime Investigation Service under the Ministry of the Interior of the Republic of Lithuania (hereinafter referred to as the “Service”) is a state law enforcement agency accountable to the Ministry of the Interior of the Republic of Lithuania and having the purpose of detection and investigation of crimes, other violations of law against the financial system and related crimes, other violations of law.

Article 3. Legal Status of and Legal Basis for the Activities of the Service

1. The Service shall be a public legal entity having a seal with the Lithuanian state emblem and its name inscribed therein.
2. In its activities, the Service shall be guided by the Constitution of the Republic of Lithuania, treaties of the Republic of Lithuania, this Law, other laws of the Republic of Lithuania as well as other legal acts.

Article 4. Principles of Activities of the Service

Activities of the Service shall be based on the principles of lawfulness, respect for human rights and freedoms, equality of persons before law, co-ordination of publicity and confidentiality of activities, co-ordination of personal initiative and official discipline.

Article 5. Co-operation of the Service with Other State and Municipal Institutions and Agencies, the Media and the Public

1. The Service shall co-operate with law enforcement institutions and agencies in accordance with the procedure laid down by laws and other legal acts.

2. The Service shall co-operate with other state and municipal institutions and agencies in implementing crime control and prevention programmes and involving in these activities public organisations, natural and legal persons. The manner of its co-operation with tax administrators shall be established by the Ministry of the Interior and the Ministry of Finance. The Service shall co-operate with public organisations, natural and legal persons in accordance with the procedure laid down by laws and other legal acts.

3. The Service shall support legal education programmes by promoting acquisition of legal knowledge at educational establishments, also in the mass media.

4. The Service shall co-operate with the mass media in accordance with the procedure laid down by laws.

5. The Service shall inform the public, via the mass media and by issuing non-periodical information publications, about the implementation of preventive measures against criminal acts and other violations of law and the set goals, as well as other information related to the activities of the Service.

CHAPTER II

TASKS AND FUNCTIONS OF THE SERVICE

Article 6. Tasks of the Service

The tasks of the Service shall be as follows:

- 1) protection of the financial system of the State against criminal influence;
- 2) ensuring of detection and investigation of criminal acts and other offences related to receipt and use of financial assistance of the European Union and foreign states;
- 3) detection and investigation of crimes, other offences against the financial system and related crimes and other offences;
- 4) carry out prevention of crimes and other offences against the financial system and related offences;
- 5) performance of other tasks assigned to the Service by other laws.

Article 7. Functions of the Service

The functions of the Service shall be as follows:

1) in accordance with the procedure and on the grounds established by laws, to detect and investigate the acts related to fraudulent or negligent keeping of accounts of taxpayers, submission of knowingly false data on taxes, state (municipal) fees and charges and other payments to responsible institutions and agencies, evasion of taxes, state (municipal) fees and charges, state social insurance contributions and other payments, a failure to submit reports approved in accordance with the established procedure and other offences related to taxes, state (municipal) fees and charges, state social security contributions and other payments;

2) in accordance with the procedure and on the grounds established by laws, to detect and investigate the acts related to legalisation of money or property derived from criminal activity, illegal circulation of securities, other illegal acts related to the financial system, except for the acts related to counterfeit money;

3) in accordance with the procedure and on the grounds established by laws, detect and investigate criminal acts and other offences related to receipt and use of financial assistance of the European Union and foreign states;

4) in accordance with the procedure laid down by laws, to carry out operational activities, conduct pre-trial investigation, investigation of economic and financial activities;

5) in performing the functions assigned to the Service in this Article in accordance with the procedure and on the grounds established by laws and acting within the sphere of its competence, to provide written information on the reliability of persons participating in privatisation of state assets;

6) to co-operate with law enforcement and other institutions and agencies of the Republic of Lithuania and foreign states, international organisations on issues within the sphere of competence of the Service;

7) to implement preventive measures against evasion of taxes, state (municipal) fees and charges and other payments, misappropriation and squander of funds of the state and municipal budgets and funds, financial assistance of the European Union and foreign states, as well as anti-money laundering measures;

8) to collect, accumulate, analyse and generalise information on illegal receipt and use of financial assistance of the European Union and foreign states;

9) to co-ordinate the co-operation of state institutions and other agencies with the European Anti-Fraud Office (OLAF);

10) to prepare motions concerning improvement of the laws and other legal acts regulating investigation of crimes, other offences against the financial system and related offences as well to draft the legal acts regulating investigation of crimes, other offences against

the financial system and related offences, submit conclusions and proposals concerning the influence of the draft legal acts on crime rate;

11) in conducting detection and investigation of and implementing preventive measures against crimes and other offences against the financial system, to co-ordinate the interaction of other institutions and their information systems;

12) to accumulate, store and analyse the information required for the performance of tasks and functions of the Service;

13) to perform other functions provided for by laws.

CHAPTER III

STRUCTURE AND MANAGEMENT OF THE SERVICE

Article 8. Establishment and Liquidation of the Service and Units Thereof

1. The Service shall be established and regulations thereof shall be approved by the Government. The Service shall be reorganised, transformed or liquidated in accordance with the procedure laid down by laws and other legal acts.

2. The Service shall consist of divisions, subdivisions and other units.

3. The units of the Service shall be established, reorganised or liquidated, and the list of positions shall be approved by the Minister of the Interior on the recommendation of the Director of the Service.

Article 9. Civil Servants of the Service

The status of officers of the Service shall be established by the Law on Civil Service, this Law and other legal acts regulating the service relationships of statutory civil servants, and that of other servants – by the Law on Civil Service and other legal acts regulating the legal relationships of civil service.

Article 10. Management of the Service

1. The Service shall be headed by the Director of the Service, who shall co-ordinate and be responsible for the activities of the Service.

2. The Director of the Service shall be appointed for a term of five years and dismissed by the Minister of the Interior in accordance with the procedure laid down by the Law on Civil Service. The Director of the Service shall be directly subordinate and accountable to the Minister of the Interior.

3. The Deputy Directors of the Service shall be appointed and dismissed by the Minister of the Interior on the recommendation of the Director of the Service in accordance with the procedure laid down by the Law on Civil Service.

CHAPTER IV

RIGHTS AND DUTIES OF OFFICERS OF THE SERVICE

Article 11. Rights of Officers of the Service

1. In ensuring performance of the tasks and functions assigned to them during investigation and provided there are reasonable grounds, an officer of the Service shall have the right to:

1) inspect economic, financial or other activities of natural and legal persons, the facts of presence of property, the legitimacy of acquisition, production, use, and disposal thereof, and production, administrative and other premises, including the sealed ones;

2) order or require the state tax inspectorate and other state institutions exercising control of taxes and other payments to state funds to conduct inspections, audits, stock taking, check measurements of natural and legal persons on the issues of payment of taxes and making of other payments to the state funds; access and seize the material and other documents of account keeping, personnel, inspections and audits in accordance with the procedure specified in subparagraph 3 of paragraph 1 of this Article; seize the samples of raw materials, products, goods and other articles and examine them; require that accounts be kept properly; suspend the production process if it is not otherwise possible to perform the necessary actions;

3) obtain from the Bank of Lithuania, commercial banks and other credit and financial institutions, also other legal and natural persons the necessary information required for the performance of the tasks and functions of the Service, explanations, copies of certificates and documents concerning the property and income of a legal or natural person, as well as economic, financial operations; if there are grounds for believing that data or evidence might be destroyed, seize original documents in order to perform an inspection or audit upon drawing up a document seizure statement and, within three working days, make copies of the seized documents at the request of the persons indicated in this subparagraph;

4) have unimpeded access to premises of natural and legal persons used for the carrying out of activities or earning of income, or a territory during their working hours, and during non-working hours enter the said premises accompanied by the administrative representative, owner or a representative of the owner of the premises or the enterprise, institution or organisation, inspect the property and equipment, and finished products used for economic, financial or other

activities, open premises or vehicles by force in the cases and in accordance with the procedure established by laws;

5) seal and stamp the areas used for the storage of documents, securities, money and property, as well as equipment, close the production premises of natural and legal persons, territories or sections thereof, make copies or excerpts of documents, mark documents in order to prevent their falsification;

6) in the cases specified by laws, issue instructions to banks to cease money disbursement and transfers from accounts of natural and legal persons if they failed to timely furnish to the tax administrator tax returns and calculations of other payments to state and municipal budgets, do not allow to check the financial standing or if in the course of an inspection the facts of concealment of income or incorrect calculation of taxes, fees and charges or other payments are established;

7) in accordance with the procedure laid down by laws, detain offenders and bring them to official premises of the Service or other law enforcement institutions and agencies for the purpose of establishing their identity, drawing up protocols, statements and reports, examining persons and their personal belongings;

8) without prejudice to inviolability of the person's private life guaranteed by laws, take photographs and make audio or video recordings;

9) within their sphere of competence, carry out operational activities, obtain necessary intelligence from other entities of operational activities and make use thereof;

10) being in possession of information about a crime or another offence against the financial system which is being planned or committed or has been committed, issue mandatory instructions to the State Tax Inspectorate under the Ministry of Finance to suspend the refunding (crediting) of taxes;

11) in the cases and in accordance with the procedure specified by laws, use firearms, physical force and other means of coercion.

2. In performing their official duties and in the course of investigation, if there are reasonable grounds, in the facilities and territories of the State Border Guard Service and customs authorities an officer of the Service shall, subject to presentation of an official identification card, have the right to:

1) check the documents of individuals and officials;

2) detain the offenders of the border and customs regime and other persons, examine persons and their personal belongings and bring them to the official premises of the Service, the State Border Guard Service, customs authorities or other law enforcement institutions and

agencies in compliance with the laws regulating the procedure for detaining persons and the rights and legitimate interests of the detained persons;

3) stop and inspect vehicles, seize items or documents in accordance with the procedure laid down by laws.

3. An officer of the Service shall also have other rights granted to them by law.

Article 12. Duties of Officers of the Service

1. An officer of the Service must:

1) respect and defend a person's dignity, legitimate interests, ensure and protect his rights and freedoms;

2) steer clear of conflicts of public and private interest, abuse of office, unnecessary restrictions on economical and financial interests and legitimate business activity;

3) upon receipt of information on a crime or another offence being planned, committed or having been committed or if being a witness to an accident, report to the Service, the police or other competent authorities and agencies, if necessary take immediate measures to prevent the crime or another offence being planned or committed, protect the place of the accident, establish the suspects and witnesses of the accident;

4) ensure the rights and legitimate interests of detained persons, provide immediate medical or other necessary aid to the victims of crimes or offences and to the persons who are in a helpless state;

5) protect state, Service, bank and commercial secrets made known to them in the course of the official duties.

2. An officer of the Service must perform other duties established for them by law.

3. In performing his official duties, an officer of the Service must introduce himself and present an official identification card.

Article 13. Restrictions Applicable to Officers of the Service

1. Officers of the Service shall be prohibited from:

1) being members of political parties or political organisations and participating in political activities;

2) being members of the governing bodies of undertakings, agencies or organisations, receiving remuneration for work at these bodies;

3) entering into transactions on behalf of the Service with undertakings whose owners or stakeholders are members of their families, or holding by proxy the shares owned by another person;

4) representing the interests of domestic and foreign undertakings;

5) being employed on a contract basis, working in the capacity of an advisor, expert or consultant at undertakings, agencies, organisations and other institutions, also getting remuneration other than laid down by this Law, except for remuneration for teaching and creative activities;

6) participating in strikes or pickets, meetings, which would directly impede activities of the Service or performance of official duties of officers of the Service.

2. An officer of the Service may not accept gifts or services directly or indirectly related to the post held by him, except for the cases specified by laws.

3. An officer of the Service shall also be subject to other restrictions stipulated by the Law on State Secrets and Official Secrets.

Article 14. Liability of Officers of the Service

1. An officer of the Service shall be personally liable for his own acts and decisions as well as consequences thereof and for those of officers subordinate to him under authorisations and within the sphere of his competence.

2. An officer of the Service who violates the requirements of laws while performing his duties shall, in accordance with the procedure established by law and other legal acts, be subject to disciplinary, administrative, material, or criminal liability depending on the nature of the violation.

3. An officer of the Service shall not be relieved of liability in execution of a knowingly unlawful order or instruction.

4. The damage caused to a natural or legal person by unlawful acts of an officer of the Service shall be compensated in accordance with the procedure laid down by laws.

CHAPTER V

USE OF FIREARMS, PHYSICAL OR OTHER COERCION

Article 15. Types of Coercion and Cases of Use Thereof

1. An officer of the Service shall have the right to use coercion where it is necessary to prevent offences, detain the persons who have committed the offences or in other cases when safeguarding and defending the legitimate interests of the individual, the public and the State. The type of coercion and limits of use thereof shall be selected by an officer of the Service taking account of a specific situation, the nature of an offence as well as individual characteristics of the offender. In using coercion, the officer of the Service must attempt to avoid serious consequences.

2. In the cases and in accordance with the procedure specified by laws, an officer of the Service may use mental or physical coercion and firearms.

3. Mental coercion shall be understood in this Law as a warning of the intention to use physical coercion, firearms. Demonstration of a firearm as well as warning shots shall be equal to mental coercion, however, such means of mental coercion may be used only in the cases listed in paragraph 2 of Article 17 of this Law.

4. Physical coercion shall be understood in this Law as:

- 1) the use of any type of physical force as well as methods of combat wrestling;
- 2) the use of special means, that is, rubber batons, handcuffs as well as restraining devices, gas, stopping of vehicles by force and other means at the disposal of the Service as permitted by laws and approved by an order of the Minister of the Interior, use of means of active and passive defence of the Service.

5. Prior to using physical coercion or a firearm, an officer of the Service must warn of such an intention, providing a person with an opportunity to comply with lawful requirements, with the exception of the cases when a delay poses a threat to the life or health of the officer or another person or when such a warning is impossible.

6. Where an officer of the Service does not carry special means or firearms with him, he may make use of any additional means necessary to repel an attempt or to neutralise the source of danger.

7. No liability shall be incurred by an officer of the Service who has used coercion in compliance with the requirements of this Law and has inflicted damage on the valuables protected by law.

8. A prosecutor shall be immediately notified of the coercion used by an officer and leading to a person's death or injury.

9. Officers of the Service must undergo special training and examination at least on a yearly basis as to their ability to act in the situations related to the use of physical coercion and firearms.

Article 16. Basics for the Use of Physical Coercion

1. An officer of the Service shall have the right to use physical coercion in the cases provided for in paragraph 1 of Article 15 of this Law as well as:

- 1) in self-defence or when defending another person from an encroachment initiated or posing an immediate threat to life or health;

2) where an attempt is made against a facility under the control of or guarded by the Service, a vehicle, a firearm, special communication means, means of active or passive defence or another property of the Service.

2. The use of methods of combat wrestling and special means shall be prohibited in respect of women, where their pregnancy is evident, also against persons, where their invalidity is evident, against minors (where their age is known to an officer or their appearance corresponds to their age, with the exception of the cases when they resist in a way which poses a threat to life or health or when a group of such persons attacks and this attack poses a threat to life or health).

Article 17. Use of a Firearm

1. When other means of coercion prove to be ineffective, an officer of the Service shall have the right to use a firearm as an extraordinary measure.

2. An officer of the Service shall have the right to use a firearm against a person in the following cases:

1) when defending himself or another person against a criminal encroachment initiated or posing an immediate threat to life or health;

2) when detaining a person who has committed a criminal act and is evading detention by active actions, where it is impossible to detain him otherwise, also in the cases when a person refuses to comply with a lawful requirement to put down a weapon or another item which could be used to injure a person, where a threat is posed to life or health of the officer of the Service or another person and it is impossible to disarm him otherwise;

3) when repelling an attack on guarded facilities.

3. An officer of the Service shall have the right to use a firearm against a vehicle and animals in the cases provided for in paragraph 2 of this Article.

4. The use of firearms in public gathering places shall be prohibited, where this may cause injuries in respect of accidental persons, against women, where their pregnancy is evident, also against persons, where their invalidity is evident, against minors, where their age is known to an officer or their appearance corresponds to their age, with the exception of the cases when they resist in a way which poses a threat to life or health of a person or when a group of such persons attacks and this attack poses a threat to life or health.

Article 18. Personal Security Guarantees of Armed Officers of the Service

1. An officer of the Service shall have the right to take out a firearm from the holster and to prepare it for use where he believes that he may be forced to use it in a specific situation.

2. An officer of the Service shall have the right to fire from a firearm not posing a threat to the valuables protected by law, where it is necessary to give an alarm signal, to call for help or to warn about a possible use of the firearm.

3. An officer of the Service shall have the right to use mental or physical coercion where a person being detained or detained is attempting to use coercion or is approaching the officer of the Service and does not comply with his demand to keep a specified distance or is attempting to seize the Service officer's firearm. Where the used means of coercion prove to be ineffective or it is impossible to use them because of the actions actively carried out by the person, whereas a delay poses a threat to the Service officer's life, the officer of the Service may use a firearm.

CHAPTER VI

FINANCING, SUPPLY SUPPORT AND CONTROL OF ACTIVITIES OF THE SERVICE

Article 19. Financing of the Service

1. The Service shall be financed from the state budget of Lithuania. The appropriations manager shall be the Director of the Service.

2. The Service may be also financed from other funds received in accordance with the procedure laid down by the legal acts.

Article 20. Control of Activities of the Service

1. The activities of the Service shall be controlled by the Minister of the Interior and other authorised state institutions and agencies in accordance with the procedure laid down by laws and other legal acts.

2. Pre-trial investigation conducted by the Service shall be organized and managed by a prosecutor in accordance with the procedure laid down by laws.

3. The internal working arrangements of the Service shall be established by the Director of the Service.

CHAPTER VII

FINAL PROVISIONS

Article 21. Uniforms, Insignia, Official Ranks, Certificates and Social Guarantees of Officers of the Service

1. Upon the entry into force of this Law, officers of the Service shall wear uniforms of police officers with insignia until the Government or an institution authorised by it approves the official uniform and insignia of the officers of the Service.

2. Officers of the Service shall retain their official ranks held prior to the restructuring.

3. Upon the entry into force of this Law, the certificates of officers of the Service shall remain valid until their expiry date, but not longer than for one year.

4. Officers of the Service shall be granted the social guarantees of police officers.

Article 22. Proposals to the Government

Within six months of the entry into force of this Law, the Government shall:

1) restructure the Tax Police Department under the Ministry of the Interior of the Republic of Lithuania into the Financial Crime Investigation Service under the Ministry of the Interior of the Republic of Lithuania;

2) draft and submit to the Seimas draft laws, also approve or amend other legal acts required for the implementation of provisions of this Law;

3) review the laws and other legal acts currently in force and related to the provisions of the Law on the Financial Crime Investigation Service and, where necessary, adopt appropriate amendments thereof or draft new legal acts.

Article 23. Repealed Legal Act

Upon the entry into force of this Law, Article 8⁽¹⁾ of the Law of the Republic of Lithuania on Police shall be repealed (Official Gazette, No 2-22, 1991; No 109-3478, 2000; No 60-2139, No112-4091, 2001).

Article 24. Entry into Force of the Law

This Law shall enter into force on 1 April 2002.

I promulgate this Law passed by the Seimas of the Republic of Lithuania

PRESIDENT OF THE REPUBLIC

VALDAS ADAMKUS