Are prosecutors regarded as members of the judiciary?

Justice in Lithuania is exercised by judiciary exclusively.

When discharging their functions, prosecutors in Lithuania are independent and observe only the law. They are not considered the members of judiciary. Prosecutor General is appointed and dismissed from office by the President of the Republic, with the consent of the Parliament. The procedure for the appointment and dismissal from office of prosecutors, as well as their status, is established by separate law.

Is there security of tenure once a judge has been appointed?

Law on Courts of Lithuania Article 45 says that a judge may be appointed, transferred, suspended or removed from office only on the grounds and in accordance with the procedure specified in the Constitution. A person is appointed to hold the post of a judge for a definite period of time. The term of office of an appointed judge may not be shortened.

Article 57 says that a person is appointed to a judicial office for a term until he is 65 years of age. When a judge reaches the age of 65, his term of office shall expire. If a judge's term of office expires during the hearing of a case, he may continue in office to complete the hearing of the case or until the hearing is postponed. The President of the Republic shall be suggested on the extension of the term of office of the judge by the Judicial Council. Before the expiry of the terms of office specified in paragraphs 1 of this Article the powers of a judge may be terminated only in cases of suspension or removal of a judge from office as laid down in the Constitution of the Republic of Lithuania.

Does an independent body regulate appointment and promotion of judges? If so, are judges in majority? Is its advice binding?

The judges are appointed or promoted by the President. In some cases it is required to get the approval of the Parliament to appoint or promote certain judges (for example Supreme Court judges, judges of the Court of Appeal, etc.).

In all cases the President is advised by the Judicial Council. If the Council advises to appoint or promote the judge, its advice is not binding to the President, but if it disapproves, its decision becomes binding, that is, the President cannot appoint or promote the judge without the approval of the Judicial Council.

At present the Judicial Council is composed of judges only. There are lots of discussions in society and political levels whether this should change.

Is salary determined by an independent body? Is its advice binding? Can salaries be reduced?

The salaries of judges in Lithuania are established by law, which is passed by the Parliament.

During the judge’s tenure it is prohibited to reduce his salary with the exception of cases such as the weakening of the material and financial situation of the state when salaries are to be reduced for all the officials and clerks of the state proportionally.
Are disciplinary matters dealt with by an independent body? If so, are judges in a majority? Is its advice binding?

The Judicial Ethics and Discipline Commission is an institution of self-governance of courts deciding the issues of instituting disciplinary actions against judges.

The Judicial Ethics and Discipline Commission shall be composed of seven members. Two members of the Commission shall be appointed by the President of the Republic, one candidate to the commission shall be appointed by the Speaker of the Seimas, four candidates – by the Judicial Council. The President of the Republic and the Speaker of the Seimas shall appoint members of the public to members of the Commission. The Judicial Council shall approve the Chairman of the Commission from the appointed members of the Judicial Ethics and Discipline Commission.

A disciplinary action may be instituted against a judge immediately after at least one of the violations specified in Article 83, paragraph 2 of the Law on Courts comes to light but not later than within three months from the day when this violation came to the notice of the Judicial Ethics and Discipline Commission which has the right to institute a disciplinary action. Excluded from this time period shall be the time when the judge was absent from work due to ill health or a vacation.

A disciplinary action may be brought against a judge:

1) for an action demeaning the judicial office;
2) for violation of other requirements of the Code of Ethics of the Judges;
3) for non-compliance with the limitations on the work and political activities of judges provided by law.

A disciplinary action may not be instituted after a lapse of more than three years from the moment of commission of the violation.

The instituted disciplinary action shall be transferred to the Judicial Court of Honour.

The Judicial Court of Honour is an institution of judicial autonomy hearing disciplinary cases of judges and petitions of judges against defamation. The Judicial Court of Honour is formed for four years and consists of nine members. The Supreme Court, the Court of Appeal and the Supreme Administrative Court each appoint two members to the Judicial Court of Honour. Three members are elected by the Judicial Council to the Judicial Court of Honour from all regional administrative courts, regional courts and district courts. Members of the Judicial Court of Honour elect the Chairman and Deputy Chairman of the Judicial Court of Honour.

The Judicial Court of Honour may impose one of the following disciplinary sanctions:
1) censure;
2) reprimand;
3) severe reprimand.

The Judicial Court of Honour may, by its judgement:
1) suggest the President of the Republic or the Parliament to dismiss the judge from office according to the procedure established by law;
2) suggest to the President of the Republic to apply to the Parliament to institute impeachment proceedings against the judge.
The decision of the Court of Honour shall become effective after ten days following its adoption, provided that it is not appealed to the Supreme Court of Lithuania.

Is training organized by an independent body?

Training of judges is organized by the Training Center of the Ministry of Justice. The Training Centre of the Ministry of Justice is a state budgetary institution financed from the budget of state financial funds; it is founded by and is accountable to an executive institution – the Ministry of Justice.

The Law on Courts provides initial training and obligatory in-service training for judges, i.e. duty to keep training for judges.

Initial training shall be intended for persons who have been appointed judges to the district court for the first time, with a view to expanding their knowledge and building professional skills. Initial training for judges shall last at least a month before the judge assumes the duties of the judicial office.

Obligatory in-service training involving broadening special professional knowledge and skill building shall be aimed at by judges: when they are given a promotion; when they are appointed or transferred from a court of general jurisdiction to a court of special jurisdiction and also in other cases when the judge's qualifications undergo a change; when regulation of public relations undergoes a fundamental change; at least every five years starting from the period of previous training and in other cases when appropriate.

Training of judges shall be organised, programmes and methodological materials shall be developed by the Judicial Council and the Ministry of Justice. With the Judicial Council approved and adopted by the Minister of Justice the Training Centre of the Ministry of Justice comply education and training plans and programs for judges.

The aims of activities of the Training centre are training and refresher training of judges, judges’ assistants, chairmen of courts, and advisors of chairmen of departments of courts. Implementation and organization of refresher training programmes for prosecutors, training and refresher training programmes for lawyers by agreements, and organization of other kind of training, seminars, meetings, conferences and provision of other paid services in Lithuania and abroad. The Training centre organizes seminars and participation in judicial internships in foreign countries in collaboration with other foreign legal institutions that carry out training for judiciaries. The National Courts Administration is also providing information on training and conferences abroad to the courts of Lithuania.

Is the court administration independent of other executive departments?

In the last decade of 1999 the the infringement of judges’ independence. Additionally, in accordance with legal regulations Constitutional court adopted a resolution on the conformity of provisions of the Law on Courts with the Constitution. The present and subsequent resolutions declare that only independent judicial institutional system may guarantee the autonomy of court organisation, so as organise the court administration without identified by the law national institutions that secure the independence of court administration shall be situated alongside the judicial government.
On 14th March, 2002 Valdas Adamkus, President of the Republic of Lithuania signed the Law on the National Courts Administration and since 1st May 2002 authorized a newly formed institution, which is independent from the executive authorities – the National Courts Administration – to provide services to the institutions of self-governance of courts in pursuance of ensuring the efficiency of the court system, its government and organisation of work as well as the independence of judges and self-governance of courts.

**Is there a separate budget for the court system? Who determines the budget? Who decides spending priorities?**

Courts are funded from the State budget. Each court has its own expenditure estimate. In cases provided by law, the court system may be funded from other financial sources of the State. Budgets and investment programs are drawn up by the appropriations managers – the courts. Appropriation managers – the courts submit their proposals in respect of their budget drafts to the Judicial Council for consideration. The Judicial Council, following its approval of the proposals in respect of the submitted draft budgets, puts them before the Government. Budget is adopted by the Parliament.

The financial independence of courts is secured in such a legal regulation, when the funds are allocated to the court system or each court according to the state budget ratified by law, and not according to the subordinate legislations of executive power.

**Is there immunity from criminal/civil suit against judges?**

Criminal proceedings may be instituted against the judge, he may be subject to detention or any other restriction of his freedom only by and with the consent of the Parliament, and during the period when the Parliament is not in session – by and with the consent of the President of the Republic, with the exception of cases.

It is prohibited to enter the residential or office premises of the judge, to carry out examination, search or seizure therein or in his personal or official car or any other personal vehicle, to carry out his personal examination or body search, examination or seizure of his personal belongings except in the cases established by law.

Operational investigation of the criminal activity likely committed by the judge may be opened only by the head of the entity of operational activity on the consent of the Prosecutor General and the pre-trial investigation may be commenced only by the Prosecutor General. The powers of the judge suspected or accused of the commission of criminal act may be suspended by the Parliament and in the period between the sessions of the parliament by the President of the Republic. The judge is suspended from office until the final judgement in the criminal proceedings is adopted. If during the pre-trial investigation the circumstances are disclosed which prove that the proceedings are impossible or that not enough evidence has been collected to prove the judge’s guilt in committing criminal act or the judge has not been convicted guilty by court decision in a criminal case, the powers of the judge will be renewed and he will be paid the salary due to him during the period of his suspension.

The judge who commits an administrative offence punishable by a non-custodial penalty will be held administratively liable according to the general procedure. The officer who recorded the administrative violation committed by the judge has to within 3 days notify thereof the Judicial Council.
The judge who commits an administrative violation punishable by a custodial penalty will be held administratively liable upon receipt of the consent of the Parliament and in the period between the Parliament sessions – of the President of the Republic.

The judge detained without any personal documents and brought to any law enforcement institution has to be released immediately after his identity has been established.

The judge or the court will not be liable for the damage caused to a party to the proceedings because of an unlawful or ungrounded decision. The damage shall be compensated by the State in the cases and in accordance with the procedure prescribed by law. Property and moral damage caused to an individual by a criminal act of the judge when administering justice and compensated by the State shall be recovered from the judge by recourse.

Is there freedom of association of judges?

Yes.

Freedom of association of judges, Judicial freedom of expression

The Law on Courts settles that judges may freely form and join into associations of judges or any other non-political organisations representing the interests of the judiciary.

Judges shall have the right to freely form professional judicial associations and other non-political organisations protecting the rights of judges, representing their interests and meeting their professional needs.

There are two voluntary organizations of judges in Lithuania:
1) Lithuanian Association of Judges;
2) Judges’ union of district courts.

- Lithuanian Association of Judges (LAJ) – is a public organisation which unites judges of the courts of the Republic of Lithuania under professional ground and principle of voluntariness.

The goals of the association are: cherish and develop independency of the courts and judges; help judges to implement their rights; co-operate with the lawyer organizations in Lithuania and abroad; participate in preparation and improvement of legal acts, related to the activities of court and judges, raise prestige of judge profession; participate in the development activities of profession of judge. The ways the association acts: organization of the conferences, seminars, discussions for the judges, consideration of actual questions in general meeting and board, adoption and implementation of decisions, resolutions and declarations.

Since 1997 LAJ is a member of International Association of Judges. LAJ actively participates in the activities of the European Association of Judges, Baltic Council of Judges. LAJ also co-operates with Lithuanian Law and other universities, Ministry of Justice, Lithuanian Lawyers’ Association, Open Society Fund of Lithuania, Lithuanian Centre for Human Rights, United Nations Development Programme, American centre, embassies of Finland, Austria, Great Britain and other institutions in Lithuania and abroad.

In the first meeting of newly elected board on the 18th of December 2009 was decided to settle these committees of the Association: International relations, Ethics, consultation and representation of members of association, preparation and consideration of drafts of legal acts, Events’ organization, Public relations, Judicial education and judges’ training.

- Judges’ union of district courts - is a voluntary, non-profit association, joining the judges of the district courts of Lithuania by professional basis and on a voluntary principle and implementing the union members identified challenges. District courts judges' union established in 2008, 7 November. Currently, 104 judges of Lithuanian district courts are members of the union.
The main objective of the Union – the coordination of the members’ activities, to meet their public-service needs and other public interest, represent and defend the interests of the members of the Union.

The activities of the Union: participation in the legislative process, to provide comments, offers to the Parliament or to the committees of the Parliament, communications with members of the Parliament, participation in the considerations of draft, participation in the activities of judicial autonomy, providing of the suggestions, comments to the Judicial Council, the National Courts Administration, fostering communication between the judges, defending the professional interests of judges, communication with the public and the media, distribution of information about the courts and the courts work, explanation and promotion of the courts work.

**What is the public opinion/press of the independence of the judges in your country?**

Confidence in the judiciary in Lithuania is quite low at the moment. One of the reasons - quite an active role of mass media in shaping the negative image of the judiciary. Positive things in mass media remain uncovered, highlighting only the negative and quite biased. When there is public debate on the independence of the judiciary, the public turns toward the media and said that the courts are not only totally independent, but generally not under control at all, ie, it is not explained to the public that the high independence of judiciary is in public interest and not a luxury of courts. It is vital that public understood that a judge not only enjoys certain privileges but also undertakes high responsibilities in delivering his decisions in the name of State.

**Are there any reports by the international organizations on the independence of judges in your country?**

No.

**The objective criteria of the independence of courts:**

1. The provision of the Constitution that the judges and the courts shall be independent while administering justice. This aspect is closely related to the order of appointment and dismissal of judges when the President and Parliament shall be advised about the appointment, promotion and dismissal of judges by a special institution related to the judicial autonomy.
2. The provision of the Constitution that the state institutions, officials and citizens are forbidden to influence the activity of the courts and judges.
3. The establishment of the judges’ term of office.
4. There shall be an institution of judicial autonomy hearing disciplinary cases of judges and petitions of judges.
5. The security of the material and financial guarantees of the courts.

**The subjective criteria of the independence of courts:**

1. Public opinion (mass media, parties to the proceedings)
2. Finding of the independent institutions.