

Lithuanian Act on the Use of Polygraph Examinations

The Republic of Lithuania is one of few European countries where the use of polygraph examinations is governed by a separate act of law.

Believing that both the very fact of statutory regulation of polygraph examinations, and the form and specific provisions of this act may be of interest to our readers, we have decided to publish its full text in English. Naturally, the original language of the act is Lithuanian.

The Editors

REPUBLIC OF LITHUANIA

LAW

ON THE USE OF THE POLYGRAPH

29 August 2000 No VIII-1906

(As last mended on 19 May 2016 No XII-2377)

Vilnius

Article 1. Purpose of the Law

This Law shall establish the procedure for the use of the polygraph and the rights and duties of entities conducting a polygraph examination, examiners and persons subject to a polygraph examination.

Article 2. Definitions

1. **Polygraph** shall mean an instrument conforming to the requirements regarding electromagnetic compatibility of equipment and safety of electrotechnical products stipulated in legal acts which records changes in a person's respiration, cardiovascular and electrodermal activity and other physiological changes occurring in the person's body in the course of an examination with the use of this instrument and on which the evaluation of statements by the person subject to the examination with this instrument is based.

2. **Polygraph examination** (hereinafter: the ‘examination’) shall mean a complex psychophysiological examination for the evaluation of truthfulness of a person’s statements using the polygraph.

3. **Examiner** shall mean a person meeting the requirements set out in this Law and conducting examinations in the cases and according to the procedure laid down in this Law.

4. **Entities conducting an examination** shall mean state institutions authorised to conduct a polygraph examination under this Law.

5. *Repealed as of 1 October 2016.*

Article 3. Legal grounds for the activities of entities conducting an examination

1. In their activities, entities conducting an examination shall act in compliance with the Constitution of the Republic of Lithuania, this Law and other laws as well as other legal acts adopted by the Seimas, international treaties of the Republic of Lithuania, decrees of the President of the Republic, Government resolutions and other legal acts.

2. A polygraph examination shall be prohibited with the exception of the entities conducting an examination provided for by this Law.

Article 4. Entities conducting an examination and subjects of an examination

1. Entities conducting an examination shall be the following state institutions:

- 1) institutions authorised by the Ministry of the Interior;
- 2) in the national defence system – the Second Investigation Department under the Ministry of National Defence;
- 3) the State Security Department;
- 4) an institution authorised by the Ministry of Finance;
- 5) the Special Investigation Service.

2. In the cases specified in Article 5(2) of this Law, entities conducting an examination shall conduct a polygraph examination of persons whose activities are related to the use of, protection of or familiarisation with classified information:

- 1) civil servants from respective institutions, employees working under employment contracts, officials and servicemen, persons selected for service or work at these institutions as well as covert participants of criminal intelligence and covert human intelligence sources;
- 2) civil servants, employees working under employment contracts, officials and servicemen, persons selected for civil service or work as well as covert participants of criminal intelligence where this is requested by other state institutions of the Republic of Lithuania.

Article 5. Objective and cases of an examination

1. The objective of an examination shall be to verify the reliability of the persons referred to in Article 4(2) of this Law and information provided by them or collected by respective state institutions relating to the persons specified in this Article and their environment.

2. The persons referred to in Article 4(2) of this Law may be subject to an examination in the following cases:

- 1) when deciding on the issuance or withdrawal of an authorisation to handle or familiarise with classified information, where there are grounds for believing that the person concealed or submitted false biographical facts or other information about himself and his environment;
- 2) when conducting counterintelligence activities;
- 3) when evaluating the reliability of covert participants of criminal intelligence and/or information provided by them;
- 4) when evaluating the reliability of officials performing the functions of ensuring the protection of protected persons, also when evaluating whether there are any reasons likely to pose a threat to the security of protected persons;
- 5) when investigating criminal acts and preventing them or investigating other offences where such acts and other offences are related to a breach of the established

procedure for handling of or familiarisation with classified information or the use and storage of such information;

6) where there are grounds for believing that unlawful influence has been exerted on a person which is of relevance to the established procedure for handling of or familiarisation with classified information and the use and storage of such information;

7) upon the person's application to conduct a re-examination.

Article 6. Restrictions of an examination

1. An examination shall not be conducted or shall be postponed where:

1) a person is under the influence of alcohol or intoxicated with narcotic, toxic or psychotropic substances or has used medicines likely to affect the examination;

2) a person suffers from a mental illness or due to a pathological condition is incapable of understanding the essence of his actions or control them;

3) a person is temporarily incapable of working due to his health condition;

4) it is established that the mental, psychological, physiological or physical condition of the person subject to the examination will impede the quality of the examination.

2. The condition of the person subject to the examination shall be evaluated by the person conducting the examination and, where necessary, also by a health care professional.

Article 7. Procedure for conducting an examination

1. A decision on conducting an examination shall, taking account of the objective and cases of an examination specified in Article 5 of this Law, be adopted by the head of an entity conducting the examination. The decision to conduct the examination shall indicate: the name and surname of the person who is to undergo an examination and the objective and grounds for the examination (the case specified in Article 5(2) of this Law). An examiner or another person authorised by the head of an entity conducting the examination shall familiarise the person who is to undergo

the examination with the decision to conduct the examination against his signature and shall also fix the time and venue for the examination.

2. An application to conduct an examination in respect of the persons referred to in Article 4(2)(2) of this Law and material about the person subject to the examination shall be submitted to the head of an entity conducting the examination by the head of or a person authorised by him from the state institution at which the person subject to the examination serves, works or has been selected for service or work. The head of the entity conducting the examination shall, not later than within five working days from receipt of the application to conduct the examination, process the application and inform the applicant about the adopted decision in writing. In the case of a decision to not conduct an examination, substantiated reasons for such a decision shall be provided.

3. An examination shall be conducted not earlier than two working days after the person who is to undergo the examination is familiarised with the decision to conduct the examination, and upon consent of the person subject to the examination, the examination may be conducted immediately.

4. A conclusion regarding a polygraph examination of the person referred to in Article 4(2)(2) of this Law shall be submitted to the person who lodged the application to conduct the polygraph examination.

5. An examination shall be conducted where the person subject to the examination expresses his consent in writing.

6. The applicable criteria for examination methodologies, the list thereof and rules for conducting an examination shall be established by the Government of the Republic of Lithuania.

7. The applicable examination methodologies shall, in the course of an examination, be selected from the list specified in paragraph 6 of this Article by an examiner conducting the examination.

Article 8. Legal status of an examiner

1. An examiner must meet the following requirements:

1) be a citizen of the Republic of Lithuania;

2) hold a university degree;

3) hold the evidence of qualifications attesting to the completion of integrated specialised polygraph examination courses of at least 400 hours, including the duration of practical training attended, at training institutions of the Member States of the European Union or members of the North Atlantic Treaty Organisation;

4) hold an authorisation to handle or familiarise with classified information.

2. An examiner must:

1) perform his duties in an impartial manner;

2) respect the rights, freedoms and dignity of a person subject to an examination;

3) observe service ethics;

4) comply with the set procedure for handling the polygraph;

5) use monitoring, audio and/or video recording equipment in the course of an examination;

6) store information comprising a state or official secret;

7) base the conclusion regarding the person subject to an examination only on the data obtained in the course of the examination;

8) inform the person to undergo an examination about the examination procedure.

3. An examiner shall have the right:

1) to obtain all the necessary information about the person subject to an examination prior to the beginning of the scheduled examination;

2) to refuse to conduct an examination where he has grounds for believing that he will be unable to issue an impartial conclusion or in the event of at least one of the cases provided for in Article 6(1) of this Law;

3) to discontinue an examination where the mental, psychological or physical condition of the person subject to the examination impedes the quality of the examination.

4. In the cases provided for in point 3 of paragraph 3 of this Article, an examiner shall forthwith inform the head of an entity conducting the examination about the

discontinuation of the examination, stating the reasons for it, and the latter shall adopt a decision to conduct a re-examination or to terminate the examination. The decision of the head of an entity conducting the examination to conduct the re-examination in respect of the persons specified in Article 4(2)(2) of this Law or to terminate the examination must be coordinated with the person who lodged the application to conduct the examination.

5. An examiner who has drawn up a false conclusion of the examination shall be held liable in accordance with the procedure established by law.

Article 9. Rights of a person subject to a polygraph examination

1. A person subject to a polygraph examination shall have the right:

- 1) to refuse to continue the examination at any time during the examination or to take a break;
- 2) to be aware that the examination is recorded using monitoring, audio and/or video recording equipment;
- 3) to be familiarised with the course of the examination, the equipment used and the examination procedure;
- 4) to receive the final conclusion of the examination.

2. A person who was subject to a polygraph examination may, within one month from familiarisation with the final conclusion of the examination, refer to another entity conducting an examination with an application to conduct a re-examination. A final decision on such an application shall be adopted by the head of the entity conducting the examination with whom the application to conduct the re-examination was lodged.

Article 10. Consequences of an examination or refusal to undergo an examination

The conclusion of an examination shall be used as additional information describing the person subject to the examination and his environment. Where the conclusion of a person's examination is negative also where a person refuses to undergo a polygraph examination and having regard to all the available information about

the person subject to the examination and his environment, an authorisation to handle or familiarise with classified information shall not be issued to him or his current authorisation shall be withdrawn in the cases and in accordance with the procedure established by the Law of the Republic of Lithuania on State Secrets and Official Secrets.

**Article 11. Use and protection of information obtained
in the course of an examination**

1. It shall be prohibited to use information obtained in the course of a polygraph examination for the purposes other than those that were to be attained, except for the cases where information is obtained about a crime attempted, planned or committed.
2. The head of an entity conducting an examination must, in accordance with the procedure laid down by laws and other legal acts, ensure the protection of information comprising a state or official secret.
3. Audio and/or video recordings made in the course of an examination shall be stored in accordance with the procedure established by the Law on State Secrets and Official Secrets.

Article 12. Entry into force of the Law

This Law shall enter into force as of 1 November 2000.

Article 13. Proposal to the Government

By 1 November 2000, the Government shall approve legal acts required for the implementation of this Law.

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

PRESIDENT OF THE REPUBLIC

VALDAS ADAMKUS