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**COMMISSION STAFF WORKING DOCUMENT**

**2022 Rule of Law Report  
Country Chapter on the rule of law situation in Lithuania**

*Accompanying the document*

**Communication from the Commission to the European Parliament, the Council, the  
European Economic and Social Committee and the Committee of the Regions**

**2022 Rule of Law Report  
The rule of law situation in the European Union**

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## **ABSTRACT**

The Lithuanian justice system continues to have good results in terms of efficiency, although new challenges regarding the increasing disposition time and cases backlogs are emerging. A new development programme of the justice system aims to further improve the efficiency of the system, and discussions are ongoing regarding the criteria for allocating the budget to courts. Procedural legislation is being adapted to ensure the use of digital tools, which continues to be widespread. Delays in appointments to high judicial positions persist, and the President of the Supreme Court remains in function *ad interim* since September 2019. There are concerns regarding the transparency of the selection procedure for judicial functions, and there are calls to bring it in line with European standards. Initiatives to strengthen the anti-corruption culture in the judiciary continue to be implemented. Changes to the legal aid system remain under preparation, while the low remuneration currently provided to lawyers may act as a deterrent to their participation.

The new Anti-Corruption Agenda of 2022-2033 has been adopted. The new amendment to the Law on the prevention of corruption entered into force on 1 January 2022, broadening its scope to include state-owned enterprises and their subsidiaries. The Special Investigation Service continues to regularly monitor and assess the public procurement sector, which remains at high-risk of corruption. The register for private interests became operational in January 2021 and contributes to increased transparency in the public sector. In parallel, the rules on lobbying adopted in January 2021 as well as the ‘revolving doors’ and cooling off period provisions adopted in July 2020 are achieving their objectives. Efforts to improve the capacities of the Asset Recovery Division are ongoing. A new legal framework on whistleblower protection adopted in December 2021 actively supports the investigation and prosecution of corruption-related offences.

The legal framework for media pluralism and freedom in Lithuania guarantees the fundamental right of freedom of expression and the right to information. Following a public debate, legislation is in preparation to improve the effectiveness and impartiality of media self-regulatory bodies. To strengthen media ownership transparency, the Ministry of Culture has launched a publicly available Information System of Producers and Disseminators of Public Information. The authorities have taken steps to alleviate the financial burden on audiovisual media and radio service providers. The professional environment for journalists is largely safe in Lithuania, although online threats against journalists remain an issue. Legislative changes to tackle abusive litigation have been prepared. There are concerns that the authorities’ interpretation of data protection rules has led to restrictions on access to information, in particular by journalists, and efforts are being undertaken to resolve the issue.

Legislative amendments to the Law on the Parliamentary Ombudspersons are under discussion, where concerns have been voiced over a possible impact on the effective functioning of that institution. There are also concerns regarding the adequacy of the resources allocated to the institution. The Constitutional Court has been called to review emergency measures adopted in the context of the COVID-19 pandemic. A state of emergency was declared in November 2021 in response to the instrumentalisation of migrants by Belarus, under which certain restrictions to rights apply. Civil society space remains open, and the new NGO fund has launched its first funding programmes.

## **RECOMMENDATIONS**

It is recommended to Lithuania to:

- Continue the reform of the legal aid system, including by ensuring adequate conditions for the participation of legal aid providers, taking into account European standards on legal aid.
- Proceed with the appointments to ensure the full composition of the Supreme Court and with the appointment of the President of the Supreme Court.
- Initiate a process in view of adapting the system of appointments to judicial positions, notably to the Supreme Court, including to improve transparency and taking into account European standards on judicial appointments.
- Start implementing the anti-corruption agenda 2022-2033.
- Continue improving the practice of granting access to official documents, in particular by making sure that the grounds for rejection of disclosure requests are not used to unduly limit access, including by journalists, taking into account European standards on access to official documents.
- Provide adequate human and financial resources for the functioning of the Office of the Parliamentary Ombudspersons, taking into account European standards on resources for Ombudsinstitutions and the UN Paris Principles.

## I. JUSTICE SYSTEM

The justice system is composed of the Constitutional Court<sup>1</sup>, courts of general jurisdiction (the Supreme Court, the Court of Appeal, regional courts and district courts) and courts of special jurisdiction (the Supreme Administrative Court and two regional administrative courts). The judges of the Supreme Court, as well as its President chosen from among them, shall be appointed and released by the Parliament (*Seimas*) upon submission by the President of the Republic. The judges of the Court of Appeal, as well as its President chosen from among them, shall be appointed by the President of the Republic upon the assent of the Parliament. The judges and presidents of district, regional, and specialised courts shall be appointed, and their places of work shall be changed, by the President of the Republic. Judicial Council. The Judicial Council, entirely composed of judges appointed by their peers, is the executive body of judicial self-governance, and ensures the independence of courts and judges<sup>2</sup>. The Judicial Council shall advise the President of the Republic on the appointment, promotion, and transfer of judges, or their release from duties. The National Courts Administration, which is independent from the executive, is competent for providing material and technical support to the courts, ensuring the efficient functioning of the court system and the training of judges. Prosecutors are independent; the Prosecutor General is appointed and dismissed by the President of the Republic upon the assent of the Parliament<sup>3</sup>. Lower-ranked prosecutors are appointed by the Prosecutor General, on the recommendation of a Selection Commission<sup>4</sup>. Lithuania participates in the European Public Prosecutor's Office (EPPO). The Bar Association is an independent part of the legal system and is financed from contributions paid by advocates and from other sources.

### Independence

**The level of perceived judicial independence in Lithuania continues to be average among the general public and high among companies.** Overall, 52% of the general population and 61% of companies perceive the level of independence of courts and judges to be 'fairly or very good' in 2022<sup>5</sup>. According to data in the 2022 EU Justice Scoreboard, the perceived judicial independence among the general public has decreased slightly in comparison with 2021 (55%), inverting a previously increasing trend. The perceived judicial independence among companies has confirmed its positive trend, further consolidating in comparison with 2021 (60%), and now well above the level in 2016 (48%).

**The delay in the appointment of the President of the Supreme Court continues.** The appointment of the President of the Supreme Court is pending since September 2019<sup>6</sup>, and further delays are possible. Although the President of the Republic announced the opening of the selection procedure for the position of President of the Supreme Court on 10 September

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<sup>1</sup> The Constitutional Court is composed of nine judges, appointed by Parliament, from among candidates presented by the President of the Republic, the Speaker of the Parliament, and the President of the Supreme Court.

<sup>2</sup> Law on Courts, Art. 119.

<sup>3</sup> Deputy Prosecutors General are appointed and dismissed by the President of the Republic on the proposal of the Prosecutor General.

<sup>4</sup> Law on the amendment of the law on the prosecutor's office, No. I-599, of 13 October 1994, Arts. 22 and 26.

<sup>5</sup> Figures 50 and 52, 2022 EU Justice Scoreboard. The level of perceived judicial independence is categorised as follows: very low (below 30% of respondents perceive judicial independence as fairly good and very good); low (between 30-39%), average (between 40-59%), high (between 60-75%), very high (above 75%).

<sup>6</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 2.

2020, the procedure remains in standstill. The reason is that, according to the Constitution, the President of the Supreme Court can only be appointed once the full composition of the Supreme Court is ensured<sup>7</sup> - which has not been the case since 2019. Following the appointment of a new judge to the Supreme Court on 31 March 2022, one vacancy remains open, for which the selection procedure is ongoing<sup>8</sup>. The law does not regulate the deadlines in selection procedure and gives discretion to the President of the Republic when to announce selection procedures to judicial positions in the Supreme Court<sup>9</sup>. Stakeholders have raised concerns regarding the existence of repeated delays in appointments of judges to the Supreme Court<sup>10</sup>, as well as regarding the very lengthy procedures<sup>11</sup>. The President remains in function *ad interim*<sup>12</sup>, and although it appears that this circumstance has so far not affected the functioning of the Supreme Court<sup>13</sup>, it is important to proceed with the appointment procedure. As recalled by the Venice Commission, the existence of anti-deadlock mechanisms, such as continuation in function *ad interim*, in order to ensure the functioning of state institutions, should not act as a disincentive to reaching an agreement<sup>14</sup>.

**Stakeholders have raised concerns regarding the selection procedure for judicial functions.** In 2021, the National Courts Administration (NCA) established a ‘Study on Judges’ Selection and Evaluation’, on the basis of which recommendations for the improvement of the current selection process were prepared. The new selection and evaluation model is being used for all newly launched selection procedures since 1 January 2022<sup>15</sup>. In parallel, the President of the Republic submitted draft amendments to the Law on Courts to Parliament, proposing changes to the procedure for the selection of judges. However, stakeholders have signalled that the proposed amendments do not address longstanding issues, such as the discretion conferred to the President of the Republic not to follow the proposal of the Selection Commission of Candidates to Judicial Office regarding the most suitable candidates for the respective position of judge, and to appoint a different candidate<sup>16</sup>. In particular, stakeholders have criticised the absence of a legal provision establishing the obligation to motivate this decision<sup>17</sup>. The Judicial Council has called for the amendment to the Law on Courts to clarify these aspects, in order to ensure the transparency

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<sup>7</sup> Art. 84, ‘The President [...] (11) shall propose candidates for the posts of the justices of the Supreme Court for consideration by the Seimas and, upon the appointment of all the justices of the Supreme Court, propose the candidate from among them for the post of the President of the Supreme Court to be appointed by the Seimas’. Regarding the standards on procedures for the appointment of Presidents of Supreme Courts, see also CCJE, Opinion No. 19(2016), para. 53.

<sup>8</sup> The procedure for the dismissal of another Supreme Court judge due to health reasons has been suspended, pending discussion and adoption of Draft Law No. XIVP-285(3), amending the Law on State Pensions of Judges.

<sup>9</sup> Input from Lithuania for the 2022 Rule of Law Report, p. 3. See also Figure 52, 2021 EU Justice Scoreboard.

<sup>10</sup> Contribution from the European Association of Administrative Judges for the 2022 Rule of Law Report, p. 10; Contribution from the European Association of Judges for the 2022 Rule of Law Report, p. 6.

<sup>11</sup> Information received from the Council for the Judiciary in the context of the country visit to Lithuania.

<sup>12</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 2.

<sup>13</sup> Information received from the Supreme Court in the context of the country visit to Lithuania.

<sup>14</sup> Venice Commission Opinion (CDL-AD(2013)028), paras. 5-8.

<sup>15</sup> Input from Lithuania for the 2022 Rule of Law Report, p. 4.

<sup>16</sup> Input from Lithuania for the 2022 Rule of Law Report, pp. 3-4. For an overview of the selection and appointment procedures, see 2020 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 2.

<sup>17</sup> Information received from the Council for the Judiciary in the context of the country visit to Lithuania; Contribution from the European Association of Administrative Judges for the 2022 Rule of Law Report, p. 8; Contribution from the European Association of Judges for the 2022 Rule of Law Report, p. 11.

of the selection process and bring it in line with European standards<sup>18</sup>. According to European standards, in cases where the head of state, the government or the legislative power takes decisions concerning the selection of judges, an independent and competent authority drawn in substantial part from the judiciary should be authorised to make recommendations or express opinions which the relevant appointing authority follows in practice<sup>19</sup>.

**Legislation introduced the possibility for temporary transfers of judges to address the increased workload in asylum cases.** Amendments to the Law on Administrative Proceedings provide for a right of the President of the Supreme Administrative Court to redistribute cases (including asylum and migration-related cases) between the regional administrative courts in order to ensure a reasonable and equal workload<sup>20</sup>. In this context, new possibilities for temporary transfers of judges were also introduced<sup>21</sup>. Whereas the new provisions allow for a transfer without consent of the judge concerned, this possibility is limited to situations where the Judicial Council establishes the need for the temporary transfer of the judge to another court, or to other chambers of the same court to which the judge was appointed, in order to ensure their proper operation. The transfer has no negative impact on remuneration, must not exceed one year, and cannot occur more frequently than once every three years. When deciding on the transfer of the judge in such cases, the length of service of the judge being transferred, the specialisation, family situation, the distance from the judge's place of residence to the court or chamber of the court to which the judge is transferred, the judge's opinion and arguments concerning possible transfer and other essential facts shall be evaluated<sup>22</sup>. The judiciary considers that the safeguards introduced are adequate to ensure respect for the principles of irremovability of judges and judicial independence<sup>23</sup>. It should be recalled that, in line with European standards, transfers against the will of the judge may be permissible only in exceptional cases<sup>24</sup>.

**Initiatives to strengthen the anti-corruption environment in the judiciary continue to be implemented<sup>25</sup>.** The Special Investigation Service (STT) conducted an analysis on possible corruption risks regarding the system of allocation of cases, formation of judicial panels, and formation of selection panels in the Supreme Court<sup>26</sup>. In the sequence of this study, the Judicial Council and the National Courts Administration (NCA) are implementing the

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<sup>18</sup> Information received from the Council for the Judiciary in the context of the country visit to Lithuania; Input from Lithuania for the 2022 Rule of Law Report, p. 4.

<sup>19</sup> Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, para. 47. The Court of Justice of the European Union has declared that the rules on appointment decisions cannot give rise to reasonable doubts as to judges' neutrality and imperviousness to external factors (Court of Justice of the European Union, judgments of 20 April 2021, *Repubblika*, C-896/19, para. 57; 19 November 2019, *A.K. and Others (Independence of the Disciplinary Chamber of the Supreme Court)*, C- 585/18, C- 624/18 and C- 625/18, paras 134 and 135, and of 2 March 2021, *A.B. and Others (Appointment of judges to the Supreme Court – Actions)*, C- 824/18, para. 123.

<sup>20</sup> Art. 69(1).

<sup>21</sup> Input from Lithuania for the 2022 Rule of Law Report, p. 5.

<sup>22</sup> Article 63 (6)(8), Law on Courts.

<sup>23</sup> Information received from the Council for the Judiciary in the context of the country visit to Lithuania.

<sup>24</sup> Venice Commission, Independence of the Judicial System, Part I, CDL-AD(2010)004, The Independence of Judges, para. 43. According to the Court of Justice of the European Union, transfers without consent may only be ordered on legitimate grounds, in particular relating to distribution of available resources to ensure the proper administration of justice and should be legally challengeable in a procedure fully safeguarding rights of defence (Judgment of 6 October 2021, Case C-487/19, *W.Z. (Chamber of Extraordinary Control and Public Affairs of the Supreme Court – Appointment)*, ECLI:EU:C:2021:798, para. 118).

<sup>25</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 4.

<sup>26</sup> Input from Lithuania for the 2022 Rule of Law Report, p. 8.

recommendations addressed to them, and continue to report to the STT on the progress of the implementation<sup>27</sup>. The NCA has also prepared drafts of the Judicial Corruption Prevention Programme and of the plan for its implementation, which have been submitted to the STT for comments. On 25 February 2022, the branch action plan for the prevention of corruption in the Lithuanian judicial system for 2022–2025 and a plan for measures for its implementation for 2022–2023 were approved by the Judicial Council<sup>28</sup>. The central entity responsible for the creation of an environment resistant to corruption in the entire judicial system has been established, and operates within the NCA<sup>29</sup>. Draft guidelines on the management of conflicts of interest for judges and assistant judges are also being prepared by the Chief Official Ethics Commission, in coordination with the Judicial Council<sup>30</sup>.

**Questions regarding the respect for professional secrecy of lawyers remain under judicial review.** As referred to in the 2021 Rule of Law Report<sup>31</sup>, concerns regarding alleged control of communications between lawyers and their clients led the Bar Association to bring an application before the European Court of Human Rights. Following the submission of written observations by the parties, the case is still pending<sup>32</sup>. The appeal submitted to the Supreme Administrative Court, referred to in the 2021 Rule of Law Report<sup>33</sup> was dismissed and the administrative court proceedings were discontinued on 6 October 2021, as there had already been adopted a final domestic court decision made in relation to the dispute between the same parties, in relation to the same subject matter and on the same grounds. The Bar Association submitted a plea to reopen the case<sup>34</sup>, which was rejected by the Supreme Administrative Court by final decision of 25 May 2022, based on the lack of legal grounds. In line with European standards, all necessary measures should be taken to ensure the respect of the confidentiality of the lawyer-client relationship<sup>35</sup>.

## Quality

**A new Development Programme for the justice system was approved in 2021.** In October 2021, the Government approved the development programme for the period 2021-2030<sup>36</sup>. The programme, which focuses on two main areas – improving the efficiency and effectiveness of the justice system and improving the efficiency of the penal enforcement system, identifies the possible root causes of inefficiencies, and establishes tools to address them. Stakeholders are involved both in the identification of the problems and in the implementation of the tools.

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<sup>27</sup> Input from Lithuania for the 2022 Rule of Law Report, p. 8.

<sup>28</sup> Resolution No. 13P-46- (7.1.2.).

<sup>29</sup> The central entity operates from 1 March 2022.

<sup>30</sup> Input from Lithuania for the 2022 Rule of Law Report, p. 8

<sup>31</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 4.

<sup>32</sup> Application no. 64301/19. See contribution from the Council of Bars and Law Societies of Europe (CCBE) for the 2022 Rule of Law Report, p. 42.

<sup>33</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 4.

<sup>34</sup> Contribution from the Council of Bars and Law Societies of Europe (CCBE) for the 2022 Rule of Law Report, p. 42.

<sup>35</sup> Recommendation No. R(2000)21 of the Committee of Ministers of the Council of Europe on the freedom of exercise of the profession of lawyer, para. 6.

<sup>36</sup> Ministry of Justice of the Republic of Lithuania, *Justice System Development Programme* (Resolution of the Government No. 861, of 20 October 2021).

**Discussions regarding the criteria for allocating budget to courts continue.** As described in the 2021 Rule of Law Report<sup>37</sup>, the Judicial Council has raised concerns regarding the allocation of funds to the judiciary and the criteria thereto. While no relevant changes occurred during the reporting period, the executive has addressed the issue that the current funding allocation model is not linked to the legal status and needs of the courts as independent authorities in the Justice System Development Programme<sup>38</sup>. In this context, the National Courts Administration has been tasked with exploring best practices and alternative solutions to the current funding model. The President of the Republic has also acknowledged that the salaries of judges are low, in line with concerns expressed by stakeholders<sup>39</sup>. To be noted that, while the total expenditure on law courts has registered a slight increase in 2020, it remains comparatively low<sup>40</sup>.

**Amendments to the judicial map are under discussion.** In 2021, the Parliament started discussing the amendments to the Law on Courts, the Law on Administrative Proceedings and the Law on Establishment of Administrative Courts submitted by the President of the Republic, which propose the reorganisation of the system of regional administrative courts<sup>41</sup>. The objective of the amendments under discussion is to continue the reform of the judicial map launched in 2018<sup>42</sup>, with the aim of equalising the workload and conditions of judges and court staff, and increase judicial efficiency. Discussion of the draft amendments will continue in the Parliament in 2022. It is important that these amendments take into account European standards regarding judicial maps<sup>43</sup>.

**Changes to the legal aid system remain under preparation.** As referred to in the 2021 Rule of Law Report<sup>44</sup>, the Government intends to implement a project aimed at improving the quality of the legal aid system. To this end, a feasibility study to assess the efficiency and quality of the state-guaranteed legal aid system is being carried out<sup>45</sup>. Based on the conclusions of the study, the Ministry of Justice intends to propose changes to the current legislative framework<sup>46</sup>. Stakeholders report concerns regarding the low remuneration currently provided to lawyers<sup>47</sup>, which deters lawyers from participating in the legal aid system<sup>48</sup>. According to European standards, Member States should ensure an appropriate level of remuneration for legal aid providers<sup>49</sup>.

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<sup>37</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 5.

<sup>38</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 5. Problem 1.2 – ‘The current funding allocation model is not linked to the legal status and needs of the courts as independent public authorities’.

<sup>39</sup> Contribution from the European Association of Judges for the 2022 Rule of Law Report, pp. 2 and 15.

<sup>40</sup> Figures 34 and 35, 2022 EU Justice Scoreboard.

<sup>41</sup> Input from Lithuania for the 2022 Rule of Law Report, p. 14.

<sup>42</sup> 2020 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 4.

<sup>43</sup> CEPEJ, Revised Guidelines on the Creation of Judicial Maps to Support Access to Justice within a Quality judicial System, CEPEJ (2013)7Rev1 (criteria for judicial maps, indicators, implementation of revised judicial maps, impact measuring).

<sup>44</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 5.

<sup>45</sup> Input from Lithuania for the 2022 Rule of Law Report, p. 10.

<sup>46</sup> Information received from the Ministry of Justice in the context of the country visit to Lithuania.

<sup>47</sup> The hourly rate is currently fixed at EUR 20/hour.

<sup>48</sup> Information received from the Bar Association in the context of the country visit to Lithuania.

<sup>49</sup> Guidelines of the Committee of Ministers of the Council of Europe on the efficiency and the effectiveness of legal aid schemes in the areas of civil and administrative law, CM(2021)36, para. 22.

**Digitalisation of the justice system continues to be promoted.** As referred to in the previous editions of the Rule of Law Report<sup>50</sup>, the use of digital tools in the justice system is widespread. Whereas data show that procedural rules are already in place to allow digital technology in courts in civil, commercial, administrative and criminal cases<sup>51</sup>, new legislative amendments were adopted regarding the use of videoconferencing tools in criminal, civil and administrative cases, in order to ensure the publicity of hearings<sup>52</sup>. The Judicial Council also approved recommendations for the organisation of remote court hearings<sup>53</sup>. In 2021, the executive allocated funding for the acquisition of laptops and video conferencing equipment for courts<sup>54</sup>. Moreover, secure electronic communication among courts and between courts and other institutions is ensured<sup>55</sup>, and digital solutions to initiate and follow proceedings are available<sup>56</sup>. Whereas data show that the use of digital technology by the prosecution service is not as widespread as in courts<sup>57</sup>, on 22 March 2022 the Digital Service Portal was launched, allowing private and legal persons, lawyers to submit, to receive the documents and to communicate digitally with the pre-trial investigation officers and prosecutors during pre-trial investigation<sup>58</sup>. While stakeholders acknowledge the key role of digital tools to ensure the work of courts during the COVID-19 pandemic, they also warned the resorting to distance hearings over a prolonged period may harm the quality of justice<sup>59</sup>.

## Efficiency

**The justice system continues to present good results in terms of efficiency, although new challenges are emerging<sup>60</sup>.** Despite an increase in the disposition time, it remains comparatively low in first instance, both in civil and commercial cases<sup>61</sup> and administrative cases<sup>62</sup>. In higher instances, the disposition time decreased both in civil and commercial cases<sup>63</sup> and in administrative cases<sup>64</sup>. However, while the case backlog in Lithuania remains comparatively low, the trend of reduction of backlogs has been interrupted, with more cases entering the system than those resolved in 2020, in all categories of cases considered<sup>65</sup>.

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<sup>50</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 5; 2020 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 5

<sup>51</sup> Figure 42, 2022 EU Justice Scoreboard.

<sup>52</sup> Order of the Minister of Justice of 23 February 2022 No. 1R-58 and 1R-59. Input from Lithuania for the 2022 Rule of Law Report, p. 12.

<sup>53</sup> Contribution from the European Network of Councils for the Judiciary (ENCJ) for the 2022 Rule of Law Report, p. 27.

<sup>54</sup> Contribution from the European Network of Councils for the Judiciary (ENCJ) for the 2022 Rule of Law Report, p. 27.

<sup>55</sup> Figure 44, 2022 EU Justice Scoreboard.

<sup>56</sup> Figure 46, 2022 EU Justice Scoreboard.

<sup>57</sup> Figure 45, 2022 EU Justice Scoreboard.

<sup>58</sup> The Lithuanian Government refers that, in criminal procedures, the digital technologies are used much more by prosecution service because all pre-trial investigations are conducted using case management system (Integrated Criminal Procedure Information System (IBPS) and the criminal case during pre-trial case is completely digital. However, the courts do not use digital case during court hearings stage.

<sup>59</sup> Contribution from the European Association of Administrative Judges for the 2022 Rule of Law Report, p. 24.

<sup>60</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 6.

<sup>61</sup> 117 days in 2020, from 87 days in 2019, Figure 7, 2022 EU Justice Scoreboard.

<sup>62</sup> 112 days in 2020, from 96 days in 2019, Figure 9, 2022 EU Justice Scoreboard.

<sup>63</sup> Figure 8, 2022 EU Justice Scoreboard.

<sup>64</sup> Figure 10, 2022 EU Justice Scoreboard.

<sup>65</sup> Figure 11, 2022 EU Justice Scoreboard.

**Measures to improve the efficiency of the justice system are being implemented.** In the context of the initiatives to improve court efficiency referred to in the 2021 Rule of Law Report<sup>66</sup>, the Ministry of Justice has prepared draft laws which, if approved, will enable the transfer of non-judicial cases to other institutions (such as notaries and bailiffs)<sup>67</sup>. It is expected that these measures will reduce the workload of courts<sup>68</sup>. The amendments being prepared will ensure judicial review of decisions taken by non-judicial authorities, which is essential to safeguard the parties' rights. These measures, as envisaged, appear to be in line with European standards<sup>69</sup>. The Judicial Council is being consulted in this context<sup>70</sup>. The draft laws were submitted to the Government for consideration<sup>71</sup>, and it is expected that they will be voted Parliament during the spring session. The Judicial Council has also included the increase of the efficiency of court activities as one of its strategic directions for 2021-2024<sup>72</sup>. The measures considered include balancing the workload of judges and improving the conditions for the administration of justice<sup>73</sup>.

## **II. ANTI-CORRUPTION FRAMEWORK**

The Ministry of Justice and the Special Investigation Service (STT) are the main bodies in charge of the coordination of anti-corruption preventive measures at national level. The Chief Official Ethics Commission supervises the institutional ethics standards. Furthermore, the STT is tasked with preparing and implementing certain anti-corruption preventive measures. The task to fight against corruption is shared among several authorities. While the STT has competences to detect and investigate the most serious corruption-related criminal offenses<sup>74</sup>, the Prosecution Service conducts and coordinates pre-trial investigations.

**The perception among experts and business executives is that the level of corruption in the public sector remains relatively low.** In the 2021 Corruption Perceptions Index by Transparency International, Lithuania scores 61/100 and ranks 12<sup>th</sup> in the European Union and 34<sup>th</sup> globally<sup>75</sup>. This perception has been relatively stable over the past five years<sup>76</sup>. The 2022 Special Eurobarometer on Corruption shows that 81% of respondents consider corruption widespread in their country (EU average 68%) and 21% of respondents feel

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<sup>66</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 6.

<sup>67</sup> In particular, amendments to the Civil Code of the Republic and to the Code of Civil Procedure.

<sup>68</sup> Information received from the Ministry of Justice in the context of the country visit to Lithuania.

<sup>69</sup> Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, para. 36.

<sup>70</sup> Contribution from the European Network of Councils for the Judiciary (ENCJ) for the 2022 Rule of Law Report, p. 29.

<sup>71</sup> Input from Lithuania for the 2022 Rule of Law Report, p. 15.

<sup>72</sup> Council for the Judiciary, Resolution No. 13P-27-(7.1.2) of 26 February 2021.

<sup>73</sup> Contribution from the European Network of Councils for the Judiciary (ENCJ) for the 2022 Rule of Law Report, p. 120.

<sup>74</sup> Other investigation authorities are the police, the State Border Guard Service, the Financial Crime Investigation Service and Custom but their competence is limited to offences committed by one of their officials.

<sup>75</sup> Transparency International (2022), Corruption Perceptions Index 2021, pp. 2-3. The level of perceived corruption is categorised as follows: low (the perception among experts and business executives of public sector corruption scores above 79); relatively low (scores between 79-60), relatively high (scores between 59-50), high (scores below 50).

<sup>76</sup> In 2017 the score was 59, while, in 2021, the score is 61. The score significantly increases/decreases when it changes more than five points; improves/deteriorates (changes between 4-5 points); is relatively stable (changes from 1-3 points) in the last five years.

personally affected by corruption in their daily lives (EU average 24%)<sup>77</sup>. As regards businesses, 58% of companies consider that corruption is widespread (EU average 63%) and 22% consider that that corruption is a problem when doing business (EU average 34%)<sup>78</sup>. Furthermore, 36% of respondents find that there are enough successful prosecutions to deter people from corrupt practices (EU average 34%)<sup>79</sup>, while 39% of companies believe that people and businesses caught for bribing a senior official are appropriately punished (EU average 29%)<sup>80</sup>.

**A new anti-corruption agenda 2022-2033 was adopted.** As referred to in the 2021 Rule of Law Report<sup>81</sup>, the current anti-corruption strategic framework<sup>82</sup> will be updated with the adoption of the new anti-corruption agenda 2022-2033. The text endorsed by the Government is based on three main pillars: education; prevention; and control<sup>83</sup>. The implementation of the Agenda will be ensured by three four-year agenda plans. On 28 June 2022, Parliament approved the new anti-corruption agenda 2022-2033. The STT is also implementing a project on the effective implementation of the national anticorruption strategy, to be finalised in 2023. The project will assist the authorities in implementing the revamped anti-corruption strategy and action plan, and will support the design and operationalisation of a system of monitoring and reporting on anti-corruption measures<sup>84</sup>.

**The new law on corruption prevention aims at creating a resilient anti-corruption environment.** Overall, the law on the Prevention of Corruption<sup>85</sup> provides definitions, aims, tasks and principles, and creates a system of measures to ensure an anti-corruption environment for various entities<sup>86</sup>. The new amendment to this law that entered into force on 1 January 2022 extends the scope to state-owned enterprises and their subsidiaries<sup>87</sup>. This amendment was welcomed by GRECO<sup>88</sup>. Public entities now have the obligation to adopt dedicated sector-targeted anti-corruption measures. Therefore, both public and private sector entities are now primarily responsible for managing corruption risks. Moreover, this new law provides for a specific set of measures to prevent corruption, raise awareness, introduce staff

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<sup>77</sup> Special Eurobarometer 523 (2022). The Eurobarometer data on citizens' corruption perception and experience is updated every second year. The previous data set is the Special Eurobarometer 502 (2020).

<sup>78</sup> Flash Eurobarometer 507 (2022). The Eurobarometer data on business attitudes towards corruption as is updated every second year. The previous data set is the Flash Eurobarometer 482 (2019).

<sup>79</sup> Special Eurobarometer 523 (2022).

<sup>80</sup> Flash Eurobarometer 507 (2022).

<sup>81</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 8.

<sup>82</sup> The Inter-institutional Action Plan Monitoring Report (2020) provides detailed information about the implemented measures resulting from the National Anti-Corruption Programme. Out of 45 planned measures, 36 have been implemented, six have been delayed, one has been partially implemented, one has not been implemented, and one has been abandoned.

<sup>83</sup> Under the first pillar, specific educational activities as well as awareness campaign will be carried out, with the aim to increase the anti-corruption expertise of civil servants. Under the prevention pillar, a more effective management of conflict of interest, more transparency in the lobbying relations as well as a stronger control mechanism on political party financing will be developed, in order to improve transparency in the public administration. Finally, the control pillar aims at increasing awareness and resilience against corruption in the judiciary.

<sup>84</sup> This project is receiving support through the European Commission's Technical Support Instrument.

<sup>85</sup> Law No. XIV-471 of 29 June 2021 Amending Law No. IX-904 on the Prevention of Corruption.

<sup>86</sup> The main measures to prevent corruption according to the law are inter alia the corruption risk analysis, anti-corruption assessment of (draft) legal acts, reporting of corruption-related criminal acts, determination of the probability of manifestation of corruption, assessment of corruption risk management and vetting procedures.

<sup>87</sup> Input from Lithuania for the 2022 Rule of Law Report, p. 19.

<sup>88</sup> GRECO Fifth Evaluation Report – Evaluation Report, p. 4.

clearance, as well as obligations to declare private interests and lobbying activities<sup>89</sup>. The Special Investigation Service is responsible for monitoring the implementation of the Law<sup>90</sup>.

**The number of investigations and prosecutions of corruption related offences remained relatively stable in 2021 in comparison to 2020.** In 2021, 376 persons were investigated for corruption offences as suspects, 38 persons were convicted for corruption offences (compared to 69 in 2020), and 22 persons were convicted for corruption offences by a final court decision. Based on STT data, the number of corruption-related offences increased by 3% in 2021 compared to the previous year<sup>91</sup>. For 2021, the STT reports to have investigated six high-level and complex corruption cases and three cases involving EU funds<sup>92</sup>. At the same time, the legislative framework to investigate and prosecute corruption offences was strengthened by amending the Code of Criminal Procedure and introducing the possibility to carry out procedural activities using digital tools.

**Efforts are being undertaken to improve asset recovery.** An Asset Recovery Division has been in place since November 2020, with the task of recovering assets of corruption related offences. In 2021, there were 10 cases opened (i.e. eight cases for illicit enrichment and two cases for money laundering), with overall EUR 2.8 million seized, which amounts to approximately four times the total amount of assets seized in 2020<sup>93</sup>. The Asset Recovery Division is also responsible for performing asset tracing, using intelligence tools. In 2021, 16 asset tracing analyses were carried out on properties and suspicious transactions<sup>94</sup>. The Asset Recovery Division cooperates with the National Asset Recovery Office and is planning to expand its cooperation agreements with its counterparts including EU Member States, as well as third countries.

**The STT is implementing measures to address shortcomings in public procurement, which remains a high-risk area for corruption.** The STT continues to analyse potential risks in the public procurement sector and has, since the publication of the 2021 Rule of Law Report, identified several weaknesses in the system<sup>95</sup>. For example, open negotiations procedures were used beyond merely unavoidable and urgent cases and lacked transparency, especially in the context of public procurement during the health crisis. To address these shortcomings, the STT proposed specific actions, while also supporting the idea of a more centralised system that could improve transparency. Such measures include, for instance, establishing rotation in internal public procurement services, publishing of public procurement decisions, and separation of functions in public procurement<sup>96</sup>. Moreover, the STT is continuing its monitoring of the implementation of COVID-19 pandemic mitigating measures, in particular in the area of public procurement, and is also actively participating in the exchange of best practices at international level and sharing knowledge on the corruption risks linked to the COVID-19 pandemic<sup>97</sup>.

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<sup>89</sup> Information received from STT in the context of the country visit to Lithuania.

<sup>90</sup> Chapter V, Law No. XIV-471 of 29 June 2021 Amending Law No. IX-904 on the Prevention of Corruption.

<sup>91</sup> Information received from STT in the context of the country visit to Lithuania.

<sup>92</sup> Information received from STT in the context of the country visit to Lithuania.

<sup>93</sup> Information received from STT in the context of the country visit to Lithuania.

<sup>94</sup> Information received from STT in the context of the country visit to Lithuania.

<sup>95</sup> Input from Lithuania for the 2022 Rule of Law Report, p. 23.

<sup>96</sup> Information received from STT in the context of the country visit to Lithuania.

<sup>97</sup> A specific webinar on 'COVID-19 vaccination and managing corruption risks' was organised by the STT on behalf of the European anti-corruption and police oversight body (EPAC/EACN), with the participation of

**The Register for Private Interests (PINREG) has started to deliver positive results in terms of simplification of the process.** More than 150 000 persons are now obliged to declare interests. The Law of Public and Private Interests in the Public Service for elected and appointed persons<sup>98</sup> was amended to ensure more effective and quicker declarations of private interests, prevent corruption and ensure transparency in the public sector. As a result, the data entry on PINREG was simplified, and now the system generates declarations using data from national databases and pre-filled forms. In consequence, since the launch of PINREG, the number of enquiries about the declaration of private interests, the completion of the declaration and the use of the PINREG tools increased significantly<sup>99</sup>. The Chief Official Ethics Commission (COEC) now controls and analyses the data quality while the system also sends reminders whenever the data needs to be declared or corrected<sup>100</sup>. While this development was overall welcomed by GRECO, it was also noted that the declarations of the top political officials should be subject to a thorough accuracy control in a routine manner and not only in the context of specific investigations<sup>101</sup>.

**The updated lobbying rules which entered into force in January 2021 are contributing to increased transparency.** As described in the 2021 Rule of Law Report<sup>102</sup>, the law provides for a cross declaration scheme where lobbyists, politicians and public servants must report their meetings in the Register of Lobbyists maintained by the COEC. This scheme is assessed as a positive step forward<sup>103</sup>. According to the latest COEC annual report, the number of registered lobbyists increased considerably in 2021<sup>104</sup>. The COEC has continued to actively provide persons with training in the topics concerning the lobbying framework<sup>105</sup>. However, COEC acknowledges that there is still a need to improve transparent and public law-making<sup>106</sup>.

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more than 70 experts from all EU Member States. The objective of this webinar was to discuss potential corruption risks in the context of the vaccination campaign, as well as in other high-risk areas related to the measures to limit the impact of the COVID-19 pandemic.

<sup>98</sup> The amendment to the Law of Public and Private Interests in the Public Service also changed the name of the Law which is now Law on the Adjustment of Public and Private Interests. It was adopted in July 2020.

<sup>99</sup> COEC Annual Activity Report 2021, p. 18.

<sup>100</sup> The PINREG is intended not only for declaring persons, but also for the public, whose members can easily search for relevant declarations of private interests, as well as for the management of the institution or its authorised representatives, who can create in the PINREG the structure of the institution, the list of declaring employees, easily analyse the data of their declarations of private interests, and ensure control (COEC Annual Activity Report 2021, p. 16).

<sup>101</sup> GRECO Fifth Evaluation Report – Evaluation Report, para. 143.

<sup>102</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 8.

<sup>103</sup> Information received from Transparency International in the context of the country visit to Lithuania.

<sup>104</sup> Overall, 133 lobbyists added to the list, bringing the total number of lobbyists to 255. Of the latter, 120 are legal entities and 135 natural persons. According to COEC, this is due to, among others, such as the right of legal persons to act as lobbyists (COEC Annual Activity Report 2021, p. 23).

<sup>105</sup> Nearly 2000 persons took part in the seminars. The training activities were targeted at several types of audiences: members of the municipal councils, other public service employees, registered lobbyists, potential lobbyists and influencers on law-making. The COEC aimed to familiarise them with the concept of legal and illegal lobbying, involvement of lobbyist in the legislative process, interaction and cooperation between lobbyists and public officials, and the regulatory novelty – influence over law-making (COEC Annual Activity Report 2021, p. 7).

<sup>106</sup> For instance, with regard to the activities that are currently not considered lobbying, such as those involving persons in the public sector that participate in the activities of advisory collegiate bodies (i.e. councils, commissions, working parties) set up by state and municipal institutions and agencies (COEC Annual Activity Report 2021, p. 10).

**The implementation of the ‘revolving doors’ and cooling-off provisions continues with positive results.** ‘Revolving doors’ and cooling-off periods are regulated in the Law on the Adjustment of Public and Private Interests (LAPPI)<sup>107</sup>, which establishes a one-year cooling-off period<sup>108</sup>. Additionally, the COEC has the power to derogate from the general rules on a case-by-case basis<sup>109</sup>. In 2021, COEC examined 358 notifications regarding potential violation of provisions of the LAPPI by 500 persons<sup>110</sup>. In the same year, 60 investigations were opened and notifications in respect of 13 persons were referred to the head of the institution or agency in which the person worked<sup>111</sup>. Regarding the 71 investigations concluded in 2021, the COEC found that the provisions of the LAPPI had been breached in 62% of the cases (44)<sup>112</sup>.

**Whistleblower protection rules in place are contributing to the investigation and prosecution of corruption related offences.** In 2021, the Office of the Prosecutor General recognised 43 persons as whistleblowers<sup>113</sup>. Based on the information provided by whistleblowers, 10 pre-trial investigations were initiated. Furthermore, internal audits were carried out and breaches were identified in one case. The most frequent types of misconduct include false accounting in private companies, abuse of powers, bribery and corruption in the public sector<sup>114</sup>. In December 2021, an amendment to the Law on the protection of whistleblowers was adopted. This amendment aims at transposing the Whistleblowers Directive<sup>115</sup>. In order to further raise awareness on the importance of protecting whistleblowers, the Office of the Prosecutor General organises public consultations with private companies and public bodies<sup>116</sup>. These consultations provide specific guidance on how to set up and manage internal reporting channels. GRECO recommended a dedicated training and awareness-raising activities on whistleblowing and the protection of whistleblowers for all levels of hierarchy and chains of command in the Police and State Border Guard Service<sup>117</sup>.

### **III. MEDIA PLURALISM AND MEDIA FREEDOM**

In Lithuania, the legal framework concerning media pluralism and media freedom is based on constitutional safeguards and sectorial legislation. The Constitution prohibits censorship and monopolisation of the media and guarantees the right to freedom of expression and information. The Law on the Provision of Information to the Public is the main media law. Legislation to transpose the Audiovisual Media Services Directive has been adopted<sup>118</sup>. The institutional framework consists of the Lithuanian Radio and Television Commission

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<sup>107</sup> The Law on the Adjustment of Public and Private Interests, latest amendment entered into force in July 2020.

<sup>108</sup> Art. 15 and 17 of the Law of Public and Private Interests in the Public Service.

<sup>109</sup> Art. 18, *idem*.

<sup>110</sup> COEC Annual Activity Report 2021, p. 32.

<sup>111</sup> COEC Annual Activity Report 2021, p. 33.

<sup>112</sup> COEC Annual Activity Report 2021, p. 35.

<sup>113</sup> According to statistics provided by the Office of the Prosecutor General, 73 decisions were taken, 43 people were recognized as whistleblowers while 30 people were not. Information received from the Office of the Prosecutor General in the context of the country visit to Lithuania.

<sup>114</sup> Information received from the Office of the Prosecutor General in the context of the country visit to Lithuania.

<sup>115</sup> Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law.

<sup>116</sup> In 2022, the first consultation took place with the representatives of the Lithuanian Business Confederation.

<sup>117</sup> GRECO Fifth Evaluation Report – Evaluation Report, p. 60.

<sup>118</sup> Complete transposition of the AVMSD was notified to the Commission on 27 January 2021.

(LRTK), the Office of the Inspector of Journalist Ethics and the Public Information Ethics Association<sup>119</sup>.

**There have been no significant changes in the legal framework concerning the regulator for audio-visual media services.** Financial and human resources of the LRTK are considered adequate and have remained stable, especially since its budget is funded by fees collected from the market players rather than allocations from the state budget decided each year. No attempts by public or private parties to interfere in the independent functioning of the LRTK have been reported<sup>120</sup>. The Media Pluralism Monitor (MPM 2022) reports a very low risk for the independence and effectiveness of the media authority<sup>121</sup>.

**Legislation is in preparation to improve the effectiveness and impartiality of media self-regulatory bodies.** Following public discussions about the effectiveness and impartiality of the Public Information Ethics Commission; the composition of the Public Information Ethics Association; and the extent to which the functioning of media self-regulation bodies should be prescribed by law, on 19 May 2021 the Parliament established a working group tasked to review the current institutional framework and suggest legislative improvements. The mandate of the working group extends until 30 June 2022<sup>122</sup>. Stakeholders have expressed different opinions about the desired direction of the improvements. Some suggested that few changes are needed and that the public service broadcaster should rejoin the self-regulatory structure. Others argued for better representation of NGOs, academia, journalists and business associations, as well as new requirements to increase the professionalism of the Ethics Commission. These requirements would provide for its members to have a substantial prior experience in the media sector<sup>123</sup>.

**To enhance media ownership transparency, the Ministry of Culture has launched a publicly available Information System of Producers and Disseminators of Public Information.** The system, called ‘VIRISIS’ and envisaged by the Law on the Provision of Information to the Public and Strategic Directions of the Public Information Policy 2019-2022, provides data on media owners and amounts of funds obtained from public bodies<sup>124</sup>. In line with the general requirements for the websites and mobile applications of state and municipal institutions and bodies, as of 2022 all websites of public bodies have to contain a link to the VIRISIS<sup>125</sup>. According to the MPM 2022, media ownership transparency is at low risk<sup>126</sup>. While news media concentration is very high, Lithuanian law does not provide for specific rules on market concentration in the media sector<sup>127</sup>.

**The authorities have reduced the fees payable by audiovisual media and radio service providers.** The Law on the Provision of Information to the Public guarantees editorial independence by prohibiting to exert influence on media, their owners and journalists with

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<sup>119</sup> Lithuania ranks 9th in the 2022 Reporters without Borders World Press Freedom Index compared to 28th in the previous year.

<sup>120</sup> Information received from LRTK in the context of the country visit to Lithuania.

<sup>121</sup> 2022 Media Pluralism Monitor, country report for Lithuania, p. 11. Nevertheless, MPM 2022 refers to several recent ‘potentially political’ appointments of the members of LRTK.

<sup>122</sup> Input from Lithuania for the 2022 Rule of Law Report, p. 29.

<sup>123</sup> Information received from the Public Information Ethics Association and Lithuanian Radio and Television (LRT) in the context of the country visit to Lithuania.

<sup>124</sup> See also 2021 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 11.

<sup>125</sup> Input from Lithuania for the 2022 Rule of Law Report, p. 29.

<sup>126</sup> 2022 Media Pluralism Monitor, country report for Lithuania, p. 12.

<sup>127</sup> 2022 Media Pluralism Monitor, country report for Lithuania, p. 12-13.

the objective of obtaining incorrect or biased reporting<sup>128</sup>. The Law also sets out the types of media activities that are subject to licensing, such as TV or radio broadcasting, and the main principles of licensing, such as organising tenders and giving priority to entities undertaking to ensure the provision of truthful and impartial information. It further establishes safeguards against the control of media by individuals with links to third countries not belonging either to the EU or NATO and that are deemed to threaten national security<sup>129</sup>. Audiovisual media service providers and radio broadcasters are required to pay fees to the LRTK and an annual fee which is transferred to the Public Information Ethics Commission. Following complaints from the companies concerned about the high financial burden, the LRTK proposed lowering the annual fees. On 25 April 2022, the Ministry of Culture made the necessary amendments to lower the fees<sup>130</sup>. In addition, the size of the Press, Radio and TV Fund has been increased by EUR 0.5 million (to EUR 3.2 million) for the year 2022<sup>131</sup>.

**Robust legal safeguards ensure the independence of Lithuanian public service media.** State advertising is allocated to media under the public procurement rules and, in the case of production of TV and radio programmes, under the specific rules adopted by the Government. In line with the public procurement rules, ‘prior serious professional misconduct’ can be used by a purchasing entity as grounds for eliminating a media outlet from the procurement procedure<sup>132</sup>. The Law on Lithuanian National Radio and Television contains specific safeguards for the independence of public service media (LRT). In particular, the ‘Council’<sup>133</sup> is entrusted with representing the whole society in its management supervision activities. The term of office of Council members does not coincide with those of the different appointing institutions and bodies. Also, the members of the Council cannot be members of political parties and cannot be removed from the office before the end of the term, save on the limited grounds specified in the Law. The LRT’s Director General is selected through a public competition and can be dismissed only by a two thirds’ majority of the members of the Council. The LRT is financed from fixed shares of tax income. Its annual report is prepared by the Director General and submitted to the Parliament by the Council<sup>134</sup>. According to the MPM 2022, both ‘state regulation of resources and support to the media sector’ and ‘independence of public service media governance and funding’ are at low risk<sup>135</sup>.

**There are concerns that the authorities’ interpretation of data protection rules has led to restrictions on journalists’ access to information**<sup>136</sup>. In particular, there are instances of

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<sup>128</sup> Art. 7 of the Law on the Provision of Information to the Public.

<sup>129</sup> Arts. 22 and 31 of the Law on the Provision of Information to the Public.

<sup>130</sup> Input from Lithuania for the 2022 Rule of Law Report, p. 30 and information available on the website of the Ministry of Culture - <https://lrkm.lrv.lt/lt/naujienos/audiovizualiniu-ziniasklaidos-paslaugu-teikejams-mazes-metines-imokos>.

<sup>131</sup> Information received from the Ministry of Culture in the context of the country visit to Lithuania.

<sup>132</sup> Art. 46 of the Public Procurement Law.

<sup>133</sup> The Council forms the strategy of the LRT programming and LRT website, supervises the implementation of the LRT’s mission and approves the annual income and spending by LRT administration. The Council comprises twelve members prominent in social, scientific and cultural fields, appointed for a six-year term. Four members are appointed by the President of the Republic of Lithuania, four by the Seimas (two are chosen from the candidates put forth by the opposition in the parliament), while the Lithuanian Science Council, the Lithuanian Education Council, the Lithuanian Creative Artists Association and the Lithuanian Bishops’ Conference delegate one member each. <https://apie.lrt.lt/en/management/lrt-council>

<sup>134</sup> Information received from LRT in the context of the country visit to Lithuania.

<sup>135</sup> 2022 Media Pluralism Monitor, country report for Lithuania, p. 15.

<sup>136</sup> According to Art. 3 of the 2009 Council of Europe Convention on Access to Official Documents, any limitation to the right of access to official documents, such as a limitation aiming to protect privacy and other legitimate private interests, should be set down precisely in law, be necessary in a democratic society

journalists having to enforce their right to information through courts. By the time a judgment is issued, the information has often become outdated<sup>137</sup>. In a case that attracted public attention, the Office of the Inspector of Journalist Ethics decided that a media service provider had violated personal data protection rules by disclosing in its publication the names of and the kinship between a head of a company that won a public procurement and an employee of the procuring municipal company<sup>138</sup>. Initially, in October 2021, the Supreme Administrative Court of Lithuania upheld that decision<sup>139</sup>. Following a wide public debate and protests by the media, the judicial proceedings were renewed and the earlier court ruling was reversed in February 2022<sup>140</sup>. Moreover, the Law on the Provision of Information to the Public was amended in December 2021 to broaden the definition of a public person<sup>141</sup>, making access to and publication of information about such persons easier. In addition, concerns were expressed about the pressure on an investigative journalism project by the State Data Protection Inspectorate<sup>142</sup>. The Office of the Inspector of Journalist Ethics is taking part in an EU-funded project<sup>143</sup> aimed at solving this issue through practical measures, such as roundtable discussions and guidance. The Ministry of Justice has launched a series of targeted public consultations on the regulation of personal data protection. One of them was dedicated to the application of data protection rules to media<sup>144</sup>.

**While the professional environment for journalists continues to be largely safe, journalists' access to information and online threats against journalists remain an issue.** Since the publication of the 2021 Rule of Law Report, no new alerts have been published for Lithuania on the Council of Europe's Platform to promote the protection of journalism and safety of journalists<sup>145</sup>, or the Mapping Media Freedom platform<sup>146</sup>, and the country has significantly improved its ranking in the Reporters without Borders' World Press Freedom Index<sup>147</sup>. In 2021, the work of journalists was restricted by the Ministry of Internal affairs at the border with Belarus<sup>148</sup> for a few months, without however issuing a decree or proposing legislative changes. The matter was solved through direct exchanges between journalists and

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and be proportionate to the stated objective; access to information contained in an official document should not be refused if there is an overriding public interest in disclosure; parties to the Convention are encouraged to consider setting time limits beyond which the limitations to the right of access to official documents would no longer apply.

<sup>137</sup> Information received from LRT in the context of the country visit to Lithuania.

<sup>138</sup> The decision has not been published.

<sup>139</sup> Supreme Administrative Court, judgment of 6 October 2021, Case No. eA-2398-525/2021. The ruling of the Court is available in the Information System of Lithuanian Courts: <https://liteko.teismai.lt/viesasprendimupaieska/tekstas.aspx?id=916676bf-fc3a-4554-839d-3ef4ba619270>.

<sup>140</sup> Supreme Administrative Court, judgment of 3 February 2022, Case No. eA-51-822/2022. The ruling of the Court is available in the Information System of Lithuanian Courts: <https://liteko.teismai.lt/viesasprendimupaieska/tekstas.aspx?id=1aa9816e-b92f-470c-9fe2-83ee67b436bd>.

<sup>141</sup> Law No XIV-867 of 23 December 2021, available in the Information System of Lithuanian Parliament: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/34230bb066f711ecb2fe9975f8a9e52e?jfwid=-1ckebls2nk>.

<sup>142</sup> Media Freedom Rapid Response, Open Letter of 27 January 2022.

<sup>143</sup> Connecting not conflicting: removing the tension between personal data protection and freedom of expression and information, <https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/how-to-participate/org-details/999999999/project/101005477/program/31076817/details>.

<sup>144</sup> Information available on the website of the Ministry of Justice: <https://tm.lrv.lt/lt/struktura-ir-kontaktai/administracine-informacija/viesosios-konsultacijos/vykstancios-viesosios-konsultacijos-1>.

<sup>145</sup> Council of Europe, Platform to promote the protection of journalism and safety of journalists, Lithuania.

<sup>146</sup> European Centre for Press and Media Freedom, Mapping Media Freedom, Lithuania country profile.

<sup>147</sup> See footnote 119.

<sup>148</sup> See Section IV.

the competent authorities<sup>149</sup>. Online threats and harassment on social media networks, especially directed at investigative journalists and those who cover protests, remains an issue<sup>150</sup>. In order to tackle the problem of Strategic Lawsuits against Public Participation (SLAPPs), legislative amendments to the Code of Civil Procedure and the Criminal Code have been prepared. The former provides a new possibility of early dismissal of a lawsuit in case a court establishes that it may be categorised as a SLAPP. The amendment to the Criminal Code revises the criminal liability for defamation, in order to strengthen the protection of journalists and other disseminators of public information from unjustified prosecution<sup>151</sup>.

#### **IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES**

Lithuania is a representative democratic republic with a directly elected President and a unicameral Parliament (*Seimas*). The Constitutional Court in charge of constitutional review of enacted legislation and of the acts of the President and the Government (*a posteriori* control). The Parliament, the President, the Government, and a group of at least 50 000 citizens have the right of legislative initiative. The Parliamentary Ombudspersons are tasked with protecting and promoting human rights and fundamental freedoms.

**The project aiming at improving the quality of law-making is being implemented.** As noted in the 2021 Rule of Law Report<sup>152</sup>, the Ministry of Justice is carrying out a project to improve the quality of legislation initiated by the Government. In this context, amendments were introduced to the recommendations for drafting legislation<sup>153</sup>. Moreover, as the programme also aims at eliminating outdated or disproportionate regulation, a methodology for *ex post* evaluation of the impact of existing legislation was adopted in May 2021. It is to be noted that the quality of law-making and frequent changes to the law are the most stated concern about effectiveness of investment protection among companies in Lithuania (39%)<sup>154</sup>.

**The Constitutional Court is reviewing several measures adopted in the context of the COVID-19 pandemic.** The nationwide situation of emergency declared by the Government and referred to in the 2021 Rule of Law Report<sup>155</sup> was lifted on 1 May 2022. Restrictive measures have gradually been withdrawn. Whereas the Constitutional Court had found admissible the petition by 36 members of Parliament to examine the constitutionality of the requirement of the ‘Certificate of opportunities’<sup>156</sup>, it also adopted a decision to dismiss the proceedings, as it found that they were no longer needed, following the Government’s decision to abolish the challenged regulation<sup>157</sup>. Three other cases concerning COVID-19-related measures are currently pending before the Constitutional Court<sup>158</sup>, and the decision on

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<sup>149</sup> Information received from Freedom House and Lithuanian Journalists’ Union in the context of the country visit to Lithuania.

<sup>150</sup> Information received from LRT in the context of the country visit to Lithuania and the Reporters without Borders 2022 World Press Freedom Index.

<sup>151</sup> Input from Lithuania for the 2022 Rule of Law Report, p. 31.

<sup>152</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 12.

<sup>153</sup> Input from Lithuania for the 2022 Rule of Law Report, p. 32.

<sup>154</sup> Figure 55, 2022 EU Justice Scoreboard.

<sup>155</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 12.

<sup>156</sup> Certificates of vaccination, recovery or negative test result.

<sup>157</sup> Constitutional Court, decision of 9 February 2022, Case No 21/202.

<sup>158</sup> Information received from the Constitutional Court in the context of the country visit to Lithuania.

admissibility is pending for the fourth one. The Constitutional Court has not received any individual requests for constitutionality review of COVID-19-related measures<sup>159</sup>.

**On 1 January 2022, Lithuania had 16 leading judgments of the European Court of Human Rights pending implementation<sup>160</sup>.** While Lithuania's rate of leading judgments from the past 10 years that remain pending was at that time at 24%, the average time that the judgments have been pending implementation was 3 years and 9 months<sup>161</sup>. The oldest leading judgment, pending implementation for 14 years, concerns the lack of legislation governing the conditions and procedures relating to gender reassignment<sup>162</sup>. On 21 April 2022, Parliament adopted in the second vote the constitutional amendment aimed at implementing the European Court of Human Rights judgment in case *Paksas v. Lithuania*<sup>163</sup>, which remains under enhanced supervision<sup>164</sup>. The case is included in the indicative list of cases for the 1443<sup>rd</sup> meeting of the Department for the Execution of Judgments of the European Court of Human Rights (September 2022). On 1 July 2022, the number of leading judgments pending implementation has increased to 19<sup>165</sup>.

**A state of emergency was declared in 2021 in response to the instrumentalisation of migrants by Belarus.** From November 2021 until January 2022, the Parliament declared a state of emergency at the state border with Belarus, covering the border zone, as well as areas surrounding migrant reception facilities<sup>166</sup>. The state of emergency included certain restrictions on the rights of individuals such as migrants' right to receive and disseminate information, and the right to travel within the territory<sup>167</sup>. During the earlier phase of the state of emergency, concerns were raised, including by the UN Committee against Torture<sup>168</sup>, regarding restrictions on the monitoring by the National Human Rights Institution, non-

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<sup>159</sup> Information received from the Constitutional Court in the context of the country visit to Lithuania.

<sup>160</sup> The adoption of necessary execution measures for a judgment by the European Court of Human Rights is supervised by the Committee of Ministers of the Council of Europe. It is the Committee's practice to group cases against a State requiring similar execution measures, particularly general measures, and examine them jointly. The first case in the group is designated as the leading case as regards the supervision of the general measures and repetitive cases within the group can be closed when it is assessed that all possible individual measures needed to provide redress to the applicant have been taken.

<sup>161</sup> All figures are calculated by the European Implementation Network and are based on the number of cases that are considered pending at the annual cut-off date of 1 January 2022. See the Contribution from the European Implementation Network for the 2022 Rule of Law Report, p. 54.

<sup>162</sup> Judgment of the European Court of Human Rights of 11 September 2007, *L. v. Lithuania*, 27527/03, pending implementation since 2008.

<sup>163</sup> Judgment of European Court of Human Rights of 6 January 2011, *Paksas v. Lithuania*, 34932/04. The case concerns the violation of the right to free elections due to the permanent and irreversible nature of the applicant's disqualification from standing for elections to Parliament as a result of his removal from presidential office following impeachment proceedings conducted against him.

<sup>164</sup> CM/Del/Dec(2021)1406/H46-18. See also Department for the Execution of Judgments of the European Court of Human Rights, Press release of 21 April 2022.

<sup>165</sup> Data according to the online database of the Council of Europe (HUDOC).

<sup>166</sup> Resolution No XIV-617 of the Seimas of the Republic of Lithuania of 9 November 2021. The state of emergency was initially declared for the period of one month, starting on 10 November 2021, and was further extended until 14 January 2022.

<sup>167</sup> Resolution No XIV-617 of the Seimas of the Republic of Lithuania of 9 November 2021. See also Press release of the Lithuanian Parliament of 9 November 2021. On 30 June 2022, the Court of Justice of the European Union ruled on an urgent preliminary ruling proceeding regarding some of the restrictive measures applied during the state of emergency (Judgment of 30 June 2022, Case C-72/22, *M.A.*, ECLI:EU:C:2022:505).

<sup>168</sup> Contribution from the UN Human Rights Regional Office for Europe – Lithuania for the 2022 Rule of Law Report, p. 2.

governmental organisations (NGOs) and journalists of the situation of asylum seekers, refugees and migrants at the border zones. Stakeholders report that authorities were responsive to the criticism, and that activities of NGOs were gradually facilitated in the areas in question<sup>169</sup>.

**The Office of the Parliamentary Ombudspersons lacks the resources needed to fulfil its mandate.** The Office of the Parliamentary Ombudspersons, accredited with ‘A’ status by the United Nations Global Alliance of National Human Rights Institutions, has an extensive mandate, which covers the investigation of complaints regarding activities of officials, institutions and agencies both at state and municipal level, while also acting as National Human Rights Institution and National Preventive Mechanism against Torture. However, the Office has raised concerns that the funding allocated is not sufficient to efficiently carry out its mandate<sup>170</sup>. The Office currently counts 38 employees, significantly below the maximum number of positions (50) approved by the Board of Parliament<sup>171</sup>. The lack of specialised personnel also limits the capacity to implement the tasks stemming from the mandate<sup>172</sup>. In December 2021, the UN Committee against Torture expressed concerns about the shortage of staff of the Office assigned to tasks and activities related to the mechanism and recommended that Lithuania ensure the necessary financial and human resources for the performance of its work<sup>173</sup>. According to European standards, Member States should provide Ombudsinstitutions with adequate, sufficient and sustainable resources to allow them to carry out their mandate in a fully independent manner<sup>174</sup>.

**Parliament is discussing amendments to the Law on the Parliamentary Ombudspersons where concerns have been voiced over a possible impact on the effective functioning of that institution.** Currently, the law allows the investigation of complaints to continue beyond the time-limit of three months, when required by the complexity of the case<sup>175</sup>. The draft law tabled in Parliament proposes to subject the examination of complaints to strict deadlines<sup>176</sup>. The Office of the Parliamentary Ombudspersons has raised concerns that this amendment could limit its independence<sup>177</sup>. In particular, that this amendment would limit its capacity to thoroughly investigate complaints, to identify the causes of the infringements and to take action to remedy them. In face of this criticism, Parliament has postponed the discussion of this draft law to the spring session, without, however, removing it from the agenda<sup>178</sup>.

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<sup>169</sup> Information received from NGO Coalition and Freedom House in the context of the country visit to Lithuania.

<sup>170</sup> Input from Lithuania for the 2022 Rule of Law Report, p. 37.

<sup>171</sup> Pursuant to Art. 25(3) of the Law on the Parliamentary Ombudspersons, the Board of Parliament shall approve the maximum number of positions of the Office.

<sup>172</sup> Input from Lithuania for the 2022 Rule of Law Report, p.

<sup>173</sup> Contribution from the UN Human Rights Regional Office for Europe – Lithuania for the 2022 Rule of Law Report, p. 2.

<sup>174</sup> Recommendation CM/Rec(2019)6 of the Committee of Ministers of the Council of Europe on the development of the Ombudsman institution, para. 6.

<sup>175</sup> Law No. NoVIII-950, of 3 December 1998.

<sup>176</sup> Draft Law No. XIIIIP-5306, amending Arts. 18 and 22 of Law No. NoVIII-950.

<sup>177</sup> Input from Lithuania for the 2022 Rule of Law Report, p. 37.

<sup>178</sup> In line with European standards, Member States shall refrain from taking any action aiming at or resulting in any hurdles to the effective functioning of the Ombudsperson institution (Venice Commission, Principles on the Protection and Promotion of the Ombudsman Institution (‘The Venice Principles’), CDL-AD(2019)005, para 24).

**Civil society remains active, despite challenges.** In the context of the COVID-19 pandemic, stakeholders report that the Government increased coordination and collaboration with civil society organisations (CSOs), namely by creating regular working groups and round-table discussions to identify main challenges and lessons learned and preparing recommendations on how to organise volunteer activities during extreme situations, in line with the identified national and international best practices<sup>179</sup>. CSOs were also granted financial support to overcome the challenges posed by the pandemic<sup>180</sup>. Although the civil society space in Lithuania continues to be considered open<sup>181</sup>, isolated cases of threats to members of NGOs and attempts to limit the operation of NGOs have been reported by stakeholders<sup>182</sup>.

**Amendments to the Law on Development of NGOs are being discussed following a decision of the Constitutional Court.** The Law on Development of NGOs is the legal basis for a National NGO fund, aiming to provide sustainable institutional support for NGOs<sup>183</sup>. However, as a consequence of the Constitutional Court's ruling stating that the laws on programmes' financing must not set a specific amount of state budget funds allocated to them<sup>184</sup>, amendments to the law were prepared. These amendments are currently pending before Parliament<sup>185</sup>. In parallel to the legislative amendments, the National NGO Fund, operating under the Ministry of Social Security and Labour, launched its funding programmes in 2021<sup>186</sup>. Their main priorities are strengthening the institutional capacity of NGOs<sup>187</sup>, and extending their opportunities to participate in crisis and emergency management<sup>188</sup>.

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<sup>179</sup> Franet (2022), Country research – Legal environment and space of civil society organisations in supporting fundamental rights – Lithuania, p. 6.

<sup>180</sup> The Ministry of Social Security and Labour dedicated EUR 3.5 million in subsidies to CSOs that provide social services to society during quarantine, allocated to 500 NGOs; the Ministry of Education, Science and Sport granted EUR 49 980 to one non-governmental organisation coordinating the activities of volunteers providing assistance to educational establishments affected by the distance learning effects of the COVID-19 pandemic.

<sup>181</sup> Rating given by Civicus, Lithuania; ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed.

<sup>182</sup> Contribution from Civil Society Europe for the 2022 Rule of Law Report, p. 3.

<sup>183</sup> 2020 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 12.

<sup>184</sup> Constitutional Court, decision of 3 November 2020, Case No 8/2019 on compliance of the provisions of legal acts, which regulates financing certain programs, funds or institutions, to the Constitution of the Republic of Lithuania.

<sup>185</sup> Parliament of the Republic of Lithuania, 17 December 2021.

<sup>186</sup> Franet (2022), Country research – Legal environment and space of civil society organisations in supporting fundamental rights – Lithuania, p. 4.

<sup>187</sup> Total amount EUR 973 000.

<sup>188</sup> Total amount EUR 417 000.

## **Annex I: List of sources in alphabetical order\***

\* *The list of contributions received in the context of the consultation for the 2022 Rule of Law report can be found at [https://ec.europa.eu/info/publications/2022-rule-law-report-targeted-stakeholder-consultation\\_en](https://ec.europa.eu/info/publications/2022-rule-law-report-targeted-stakeholder-consultation_en).*

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## **Annex II: Country visit to Lithuania**

The Commission services held virtual meetings in February 2022 with:

- Bar Association
- COEC
- Constitutional Court
- Judicial Council
- Freedom House
- Human Rights Monitoring Institute
- Lithuanian Journalists Union
- Lithuanian Radio and Television
- Media Authority – Radio and Television Commission of Lithuania
- Ministry of Culture
- Ministry of Foreign Affairs
- Ministry of Justice
- National Courts Administration
- National NGO Coalition
- Office of the Prosecutor General
- Office of the Seimas Ombudspersons
- Public Information Ethics Association
- Public Procurement Service
- Special Investigation Service
- Supreme Court
- Transparency International Lithuania

\* The Commission also met the following organisations in a number of horizontal meetings:

- Amnesty International
- Article 19
- Civil Liberties Union for Europe
- Civil Society Europe
- European Centre for Press and Media Freedom
- European Civic Forum
- European Federation of Journalists
- European Partnership for Democracy
- European Youth Forum
- Free Press Unlimited
- Human Rights Watch
- ILGA Europe
- International Federation for Human Rights (FIDH)
- International Press Institute
- Open Society European Policy Institute ( OSEPI)
- Osservatorio Balcani e Caucaso Transeuropa
- Philea
- Reporters Without Borders
- Transparency International Europe