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## COMMISSION STAFF WORKING DOCUMENT

### **2023 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**

#### **2023 Rule of Law Report**

#### **The rule of law situation in the European Union**

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## **ABSTRACT**

The justice system continues to perform efficiently, and the use of digital tools is widespread. The appointments to the Supreme Court have been finalised, leading to the appointment of a new President. New legislation was adopted, improving the transparency of judicial appointments. Stakeholders continue to raise the need for additional safeguards in this regard. The Constitutional Court clarified the principles regarding the dismissal of the judges of higher courts, reaffirming the role of the Judicial Council. There are serious concerns regarding the level of remuneration for prosecutors and court staff, which were only partially addressed by the legislative reform. The reform of the legal aid system advanced, while the workload and remuneration of legal aid providers remains to be addressed.

The implementation of the anti-corruption agenda 2022-2033 advanced well with the adoption of the first implementation action plan. Investigations and prosecutions of corruption related offences continue to be carried out efficiently while shortcomings in relation to investigation and prosecution of foreign bribery cases were raised. Public procurement remains a high-risk area for corruption. Laws such as the Law on Corruption Prevention, the Law on the Adjustment of Public and Private Interests and the whistleblower legislation are being efficiently implemented. Further efforts were taken in view of efficient implementation of the integrity rules. The current rules concerning lobbying give positive results in terms of submitted declarations. New rules have been adopted regarding political party financing, specifically for municipal elections and elections to the European Parliament.

The legal framework for media pluralism and freedom in Lithuania guarantees the fundamental right of freedom of expression and the right to information. Following public discussions, legislation to improve the effectiveness and impartiality of media self-regulatory bodies was adopted. As of 2023, public institutions and bodies have to make public on their websites information about the funds they have used for state advertising. Several measures were taken to improve journalists' access to information held by public authorities and bodies. The professional environment for journalists is largely safe in Lithuania, and both public authorities and media took several measures to improve the safety of journalists and their protection against abusive lawsuits.

Concerns regarding the adequacy of the resources allocated to the Parliamentary Ombudspersons persist. The project aiming at improving the quality of law-making continues to be implemented. The civic space continues to be considered open, and non-governmental organisations are increasingly recognised as partners in decision-making processes. A state of emergency in the border regions has been lifted, and amendments to the Law on State Border Protection were adopted in Parliament. The Constitutional Court continues to scrutinise measures adopted during the COVID-19 pandemic.

## **RECOMMENDATIONS**

Overall, concerning the recommendations in the 2022 Rule of Law Report, Lithuania has (made):

- Some progress on continuing 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.
- Fully implemented the recommendation to proceed with the appointments to ensure the full composition of the Supreme Court and with the appointment of the President of the Supreme Court.
- Some progress on initiating 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.
- Fully implemented the recommendation to start implementing the anti-corruption agenda 2022-2033.
- Significant progress on continuing to improve 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.
- No further progress on providing 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.

On this basis, and considering other developments that took place in the period of reference, it is recommended to Lithuania to:

- Continue the reform of the legal aid system by ensuring adequate conditions for the participation of legal aid providers, taking into account European standards on legal aid.
- Continue efforts to improve the transparency of the system of appointments to judicial positions, notably to the Supreme Court, taking into account European standards on judicial appointments.
- Continue efforts to provide adequate resources for the justice system, including on the level of remuneration for prosecutors and non-judicial staff, taking into account European standards on resources and remuneration for the justice system.
- 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.

## 1. 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 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 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. 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 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, 57% of the general population and 64% of companies perceive the level of independence of courts and judges to be 'fairly or very good' in 2023<sup>5</sup>. According to data in the 2023 EU Justice Scoreboard, no clear trend can be identified in the evolution of the perceived level of independence among the general public since 2016. Nevertheless, this figure has increased in comparison with 2022 (52%), as well as with 2016 (49%). The perceived level of independence among companies has consistently increased since 2016 (48%), as well as in comparison with 2022 (61%).

**A new President of the Supreme Court has been appointed.** The 2022 Rule of Law Report recommended to Lithuania to 'proceed with the appointments to ensure the full composition of the Supreme Court and with the appointment of the President of the Supreme Court'<sup>6</sup>. On 28 December 2022, Parliament finalised the appointments to the Supreme Court, which ensured

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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 Parliament, and the President of the Supreme Court.

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

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

<sup>5</sup> Figures 49 and 51, 2023 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> 2022 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 2.

its full composition<sup>7</sup>. As stated in the 2022 Rule of Law Report<sup>8</sup>, the full composition of the Supreme Court is a Constitutional condition for proceeding with the appointment of the President of the Supreme Court<sup>9</sup>. On 14 March 2023, Parliament appointed a new President of the Supreme Court<sup>10</sup>. The appointment put an end to a long period of standstill lasting since September 2019, during which the President of the Supreme Court remained in function *ad interim*<sup>11</sup>. Therefore, the recommendation made in the 2022 Rule of Law Report has been fully implemented.

**There was some progress in improving the transparency of judicial appointments, as new legislation has been adopted.** The 2022 Rule of Law Report recommended to Lithuania to ‘[i]nitiate 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’<sup>12</sup>. Following the presentation of a draft law by the Office of the President of the Republic<sup>13</sup>, on 24 November 2022, amendments to the Law on Courts were adopted, which introduced changes to the selection procedures for candidates for judicial office<sup>14</sup>. These amendments, which include the creation of reserve lists of candidates and the possibility of *ad hoc* selection procedures, came into force in January 2023 and are expected to improve the celerity of the process of appointments<sup>15</sup>, which stakeholders assess as positive for the efficiency of the appointment procedures<sup>16</sup>. However, the longstanding concerns raised by the Judicial Council – as mentioned in the 2022 Rule of Law Report<sup>17</sup> – are not addressed by these amendments, in particular on the discretion of the President of the Republic and Parliament not to follow the proposal of the Selection

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<sup>7</sup> Input from Lithuania for the 2023 Rule of Law Report, p. 3.

<sup>8</sup> 2022 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, pp. 3-4. The list of candidates was compiled by Parliament on 6 January 2023.

<sup>9</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’.

<sup>10</sup> Supreme Court of Lithuania, Press Release of 15 March 2023.

<sup>11</sup> 2022 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, pp. 3-4.

<sup>12</sup> 2022 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 2.

<sup>13</sup> Input from Lithuania for the 2023 Rule of Law Report, p. 5. Regarding the draft legislation presented by the Office of the President of the Republic, see also 2022 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 4.

<sup>14</sup> Input from Lithuania for the 2023 Rule of Law Report, p. 3.

<sup>15</sup> The main changes introduced refer to the following: (1) selections of candidates seeking appointment to judicial office in the district, regional and regional administrative courts are carried out continuously, which means the selection procedures are carried out not to a specific court (or court chamber), but by creating constantly updated reserve lists of evaluated candidates to a judicial office of the relevant level and/or specialization of courts; (2) selections are carried out *ad hoc* when there is a vacancy or vacating seat of a judge of the Supreme Court of Lithuania, the Supreme Administrative Court of Lithuania, and the Court of Appeal of Lithuania, also in all cases where it is intended to hold vacant or vacating leadership positions in the courts; (3) selections are not carried out in cases where the judge claims to move from one court of the same level to another court or other chambers of the same court (Input from Lithuania for the 2023 Rule of Law Report, p. 3).

<sup>16</sup> Contribution from the Association of European Administrative Judges for the 2023 Rule of Law Report, p. 14.

<sup>17</sup> 2022 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 4.

Commission of Candidates to Judicial Office (which remains consultative<sup>18</sup>) without an obligation to state reasons when rejecting a proposed appointment<sup>19</sup> and no possibility for a candidate judge, who is not appointed, to request judicial review<sup>20</sup>. It is recalled that, 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>21</sup>. Concerns remain regarding the possible repetition of prolonged delays in appointments to the Supreme Court, as only the time limits for the announcement of the selection for a vacancy of the Supreme Court of Lithuania have been defined.<sup>22</sup> Therefore, there has been some progress on the implementation of the recommendation made in the 2022 Rule of Law Report.

**The Constitutional Court clarified the principles regarding the dismissal of judges of higher courts, reaffirming the role of the Judicial Council.** Called to review the lawfulness of concrete cases of dismissals of judges of the Supreme Court and the Court of Appeal, the Constitutional Court clarified that two authorities can initiate the dismissal of judges of the courts of highest instance, as this creates preconditions for ensuring a higher standard of responsibility for judges in these courts<sup>23</sup>. The Constitutional Court confirmed that both the President of the Republic and Parliament can initiate the procedure for dismissal of a judge whose conduct discredits the reputation of judges. In this same decision, the Constitutional Court recalled the impossibility, which stems from the Constitution, to dismiss a judge without the advice of a ‘special institution of judges’ (the Judicial Council), which is an important guarantee for the independence of judges and courts. Moreover, the Constitutional Court underlined that, after the Judicial Council provides its advice, neither the President of the Republic, nor Parliament has the powers to assess its validity or lawfulness, stressing that if such reassessment would be possible, this would amount to disregarding the constitutional powers of the Judicial Council.

**Initiatives to support integrity in the justice system continue to be implemented.** The 2022 Rule of Law Report took note that a central entity responsible for the creation of an environment resistant to corruption in the entire judicial system had been established, operating within the National Courts Administration (NCA)<sup>24</sup>. The position of an ‘integrity officer of

<sup>18</sup> Information received from the Ministry of Justice in the context of the country visit to Lithuania. According to the jurisprudence of the Constitutional Court (judgment of 9 May 2006), the President may not make a decision on the appointment, promotion or transfer of a judge without the proposal of Judicial Council.

<sup>19</sup> The Judicial Council submitted comments in this regard during the consultation of the draft law, which were not considered (information received from the Judicial Council in the context of the country visit to Lithuania). See also contribution from the Association of European Administrative Judges for the 2023 Rule of Law Report, p. 14.

<sup>20</sup> Figure 56, 2023 EU Justice Scoreboard.

<sup>21</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 underlined that it is necessary to ensure that the substantive conditions and procedural rules governing the adoption of judicial appointment decisions are such that they cannot give rise to reasonable doubts, in the minds of individuals, as to the imperviousness of the judges concerned to external factors and as to their neutrality with respect to the interests before them, once they have been appointed as judges (see e.g. Court of Justice of the European Union, judgment of 20 April 2021, *Repubblika*, C-896/19, para. 57, and the case law cited).

<sup>22</sup> Information received from the Judicial Council in the context of the country visit to Lithuania. See also 2022 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, pp. 3-4.

<sup>23</sup> Constitutional Court, Judgment of 15 April 2022, No. KT45-N3/2022.

<sup>24</sup> 2022 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 6.



Lithuanian courts' has been established, with the objective to ensure the principles of judicial independence through instruments of corruption prevention<sup>25</sup>. Since its creation in March 2022, the integrity officer has taken several actions, including the coordination of the implementation of the action plan for the prevention of corruption in the Lithuanian judicial system for 2022–2025, conducting the corruption resilience assessment of the judiciary, as well as creating the risk map of the judiciary, intended as a tool for managing corruption appearances within the judiciary<sup>26</sup>.

**The procedure for the partial renewal of the Constitutional Court has been finalised and has triggered discussions on the need to regulate ‘revolving doors’.** Pursuant to the Constitution<sup>27</sup>, one third of the judges of the Constitutional Court should be renewed in 2023, namely the three judges whose term of office of nine years has expired on 16 March 2023. The selection procedures were initiated on 16 December 2022 and on 16 March 2023, Parliament appointed three new judges from candidates submitted by the President of the Republic, the Speaker of Parliament, and the President of the Supreme Court. The procedure did not suffer delays, unlike for the previous partial renewal in 2020<sup>28</sup>, although no amendments have been introduced to improve the rules concerning the appointment of constitutional judges, in particular regarding the terms of presentation of new candidacies in case the first submission fails<sup>29</sup>. The selection procedures have triggered discussions among legislators and within the judiciary on the need to regulate ‘revolving doors’ in the Constitutional Court<sup>30</sup>, as currently there are no limitations for political officials to become a justice of the Constitutional Court if the other requirements set out in the Constitution are met<sup>31</sup>. Certain limitations on political activities for judges of the Constitutional Court apply after their appointment<sup>32</sup>.

**Concerns regarding the respect for professional secrecy of lawyers are still present.** As noted in the 2022 Rule of Law Report<sup>33</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<sup>34</sup>, and the case remains pending<sup>35</sup>. Moreover, new concerns emerged after certain meetings of detained persons with their lawyer in police detention facilities had been subject to video surveillance<sup>36</sup>. In this respect, the Police Department

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<sup>25</sup> In line with the Law on Corruption Prevention, the integrity officer is an independent body, whose functions include, among others, investigating or participating in the investigation of corruption offences in the judiciary; conducting a determination of the likelihood of corruption; carrying out anti-corruption assessments of draft legislation; conducting a corruption resilience assessment; controlling and monitoring the declaration of public and private interests; organising anti-corruption awareness-raising for the staff; drawing up an action plan for the prevention of corruption and monitoring its implementation.

<sup>26</sup> Information received from the NCA in the context of the country visit to Lithuania.

<sup>27</sup> Art. 103 of the Constitution.

<sup>28</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 3.

<sup>29</sup> Information received from the Constitutional Court in the context of the country visit to Lithuania.

<sup>30</sup> Information received in the context of the country visit to Lithuania. See also LRT, ‘Lithuanian parliament appoints three Constitutional Court justices’, 16 March 2023.

<sup>31</sup> Being a citizen of the Republic of Lithuania with an impeccable reputation, higher education in law, and not less than a 10-year length of service in the field of law or in a branch of science and education as a lawyer, according to Art. 103 of the Constitution.

<sup>32</sup> Art. 104, Part 3, of the Constitution.

<sup>33</sup> 2022 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 6.

<sup>34</sup> Application no. 64301/19.

<sup>35</sup> Information received from the Bar Association in the context of the country visit to Lithuania.

<sup>36</sup> Contribution from the Council of Bars and Law Societies of Europe (CCBE) for the 2023 Rule of Law Report, p. 10; Contribution from the Lithuanian Bar Association for the 2023 Rule of Law Report, p. 11.

informed that no audio recordings were made, and that video recordings were made according to the law to ensure security<sup>37</sup>. It is recalled that, in line with European standards, all necessary measures should be taken to ensure the respect of the confidentiality of the lawyer-client relationship<sup>38</sup>. The Bar Association has also raised concerns regarding the impact on the independence of lawyers of the initiation by the Minister of Justice of two disciplinary actions against two lawyers<sup>39</sup>, which were triggered not on the basis of their professional activity, but for positions expressed on social media<sup>40</sup>, which were considered as amounting to a breach of the provisions of the Law on the Bar and the Lithuanian Code of Ethics for Advocates regarding the provision of information to the public<sup>41</sup>. In one of the cases initiated, the lawyer submitted a request to the court to consider the impartiality of two members of the Disciplinary Court who, according to the Law on Bar, are appointed by the Minister of Justice. The Disciplinary Court rejected this request<sup>42</sup>. The disciplinary proceedings remain pending<sup>43</sup>.

## Quality

**New legislation aims at addressing the serious concerns regarding the level of remuneration for judges, prosecutors and court staff, which has remained largely unchanged since 2008.** The 2022 Rule of Law Report took note of discussions regarding the low salaries of judges<sup>44</sup>. In this context, on 16 September 2022, the General Meeting of Judges adopted the ‘Resolution on the situation in the courts of the Republic of Lithuania’, calling on Parliament, the President of the Republic and the Government to address the issue of insufficient and inadequate funding of the judicial system and ensure that the salaries of judges and persons working in courts are appropriate for their positions<sup>45</sup>. The concerns regarding low salaries have also been raised by the Judicial Council, which has warned of the possible negative impact of the situation on the independence of the judiciary, recalling also that the jurisprudence of the Constitutional Court states that the material and social guarantees of a judge must correspond to the judge’s constitutional status and ensure the dignity of the judge<sup>46</sup>. The remuneration of judges has remained largely unchanged since 2008<sup>47</sup>, which has led to a discrepancy in salaries compared to other public officials and a material decrease in purchasing

<sup>37</sup> Information received from the Lithuanian Government.

<sup>38</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>39</sup> According to the Law on Bar, that the Minister of Justice can decide to initiate the disciplinary proceedings. See also Figure 65, 2023 EU Justice Scoreboard.

<sup>40</sup> Contribution from the Council of Bars and Law Societies of Europe (CCBE) for the 2023 Rule of Law Report, p. 69; Contribution from the Lithuanian Bar Association for the 2023 Rule of Law Report, p. 11.

<sup>41</sup> In one of the cases, the Inspector of Journalist Ethics has confirmed that the lawyer’s disseminated content in social media should be considered as disinformation and war propaganda. The Lithuanian Code of Ethics for Advocates provides that an advocate is prohibited from engaging in any actions or conduct, which are incompatible with honesty, other generally accepted norms of ethics and morality and/or which undermine the society’s confidence in advocates, harm the reputation of the Lithuanian Bar Association or degrade the advocate’s professional title. Information received from the Lithuanian Government.

<sup>42</sup> The Disciplinary Court. has not found reasons to doubt impartiality of its members (information received from the Lithuanian Government).

<sup>43</sup> Information received from the Bar Association in the context of the country visit to Lithuania.

<sup>44</sup> 2022 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 6.

<sup>45</sup> Input from Lithuania for the 2023 Rule of Law Report, p. 12. See also Council of the Baltic Associations of Judges, ‘Statement regarding the financing of Lithuanian Courts’, of 11 May 2023.

<sup>46</sup> Ibid., p. 13.

<sup>47</sup> Information received from the Judicial Council in the context of the country visit to Lithuania.



power<sup>48</sup>. The Judicial Council expressed concerns that the situation is making the profession of judge less attractive, which is shown by unsuccessful selection procedures for judicial office due to a lack of suitable candidates. Furthermore, a growing number of judges is resigning, while referring to the insufficient remuneration as the reason<sup>49</sup>. This is expected to result in higher workload for the remaining judges and longer court proceedings for parties<sup>50</sup>. Similar concerns were also expressed by public prosecutors<sup>51</sup>. It should be noted that the entry-level salaries for judges and prosecutors in Lithuania, in comparison with the annual average gross salary in the country, is among the lowest in the EU<sup>52</sup>. There are also concerns regarding the salaries of court staff, such as judicial assistants and court hearing clerks<sup>53</sup>, which leads to difficulties in recruiting qualified staff<sup>54</sup>. The Constitutional Court has received two applications for constitutional review of the regulation of judicial salaries<sup>55</sup>. The Government prepared draft legislation to improve the civil service system, which includes amendments to the remuneration system for judges of the Constitutional Court, ordinary courts, and specialised courts<sup>56</sup>. The draft laws were subject to amendments following discussion in Parliament, and adopted on 25 May 2023<sup>57</sup>. The Law on Remuneration of Judges of the Republic of Lithuania was promulgated by the President of the Republic, and will come into force on 1 July 2023. The judiciary has assessed these changes positively<sup>58</sup>. The provisions regarding the Civil Services Reform, as well as civil servants', including non-judicial court staff's salaries, shall come into force from 1 January 2024 and are considered as a compromise solution. However, prosecutors have raised concerns that the proposed amendments do not clearly outline the changes to prosecutors' remuneration<sup>59</sup>, and have expressed concerns that the fact that the reform of the civil service does not cover prosecutors will make the profession less attractive<sup>60</sup>. The fact that these amendments do not apply to certain categories of court staff has also been criticised<sup>61</sup>. On 15 June 2023, the President of the Republic, exercising the right of legislative initiative, submitted to Parliament a proposal for amendments to the Law on Prosecution Service, which, if approved, would provide for an increase of the salaries of prosecutors as of 1 October 2023. The legislative proposal has not yet been discussed<sup>62</sup>. According to European standards, judges' remuneration should be commensurate with their profession and

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<sup>48</sup> Input from Lithuania for the 2023 Rule of Law Report, p. 13.

<sup>49</sup> Ibid.

<sup>50</sup> According to the data of 7 November 2022, there were 74 vacant judicial positions in Lithuania, out of 786.

<sup>51</sup> Input from Lithuania for the 2023 Rule of Law Report, p. 13.

<sup>52</sup> Figure 34, 2023 EU Justice Scoreboard.

<sup>53</sup> Information received from the Judicial Council in the context of the country visit to Lithuania.

<sup>54</sup> Courts are currently looking for up to 100 judicial assistants and more than 70 court hearing clerks (input from Lithuania for the 2023 Rule of Law Report, p. 15). It is estimated that 20% of the vacancies for the position of assistants to judges of the Supreme Court remain vacant. See also contribution from the Association of European Administrative Judges for the 2023 Rule of Law Report, p. 17.

<sup>55</sup> The petitioners – two administrative courts – claim that, according to the existing legal regulation, it is not clear which criteria determine the amount of judicial salaries, and argue that the judicial salary has not reached the level applicable before the economic crisis of 2008 (information received from the Constitutional Court in the context of the country visit to Lithuania).

<sup>56</sup> Input from Lithuania for the 2023 Rule of Law Report, p. 14.

<sup>57</sup> Legislative proposal No. X-1771.

<sup>58</sup> Information received from the National Courts Administration.

<sup>59</sup> Input from Lithuania for the 2023 Rule of Law Report, pp. 13-14.

<sup>60</sup> LRT, 'Grunskienė: civil service reform will increase the gap between the salaries of judges and prosecutors', 29 May 2023.

<sup>61</sup> Information received from the Judicial Council and the Supreme Court in the context of the country visit to Lithuania.

<sup>62</sup> Information received from the Lithuanian Government.

responsibilities, and be sufficient to shield them from inducements aimed at influencing their decisions<sup>63</sup>.

**Amendments to the judicial map have been adopted, which provide for the reorganisation of administrative courts.** The 2022 Rule of Law Report took note of discussions on the reorganisation of the system of regional administrative courts<sup>64</sup>. On 28 June 2022, Parliament adopted a resolution initiating the reorganisation of the regional administrative courts, which came into force on 1 January 2023. The reform of the regional administrative courts is expected to be implemented as from 1 January 2024 and will introduce a Regional Administrative Court, operating in the entire territory of Lithuania, which will replace the two existing regional administrative courts. According to the Law on the Reorganisation of Administrative Courts, the judges in the two existing regional administrative courts affected by the reform will be considered to be appointed to the same chamber of the newly created Regional Administrative Court. Therefore, the reform would not lead to a transfer of judges<sup>65</sup>. The Judicial Council and the NCA have been consulted in the context of the preparation of the reform, and have assessed it positively<sup>66</sup>.

**There has been some progress on the reform of the legal aid, while the situation of legal aid providers remains to be addressed.** The 2022 Rule of Law Report recommended to Lithuania to '[c]ontinue 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'<sup>67</sup>. As referred in the 2022 Rule of Law Report<sup>68</sup>, the Government conducted a feasibility study to assess the efficiency and quality of the state-guaranteed legal aid system. The conclusions of the study indicated that in general the current legal aid system functions well, and highlighted areas needing improvement<sup>69</sup>. Based on the study, amendments to the Law on State-Guaranteed Legal Aid were submitted to Parliament in December 2022. The proposed amendments do not overhaul the existing system, but introduce more targeted changes, which, according to the Bar Association, do not address the most important concerns raised by legal aid providers, such as their workload and remuneration<sup>70</sup>. The Government has announced further steps regarding the remuneration of legal aid providers for 2024<sup>71</sup>. Concrete proposals have yet to be presented. Due to the high inflation, the fees for legal aid providers

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<sup>63</sup> Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe to member states on judges: independence, efficiency and responsibilities, para. 54 and para 33. The Court of Justice of the European Union has declared that the receipt by the members of the judiciary of a level of remuneration commensurate with the importance of the functions they carry out constitutes a guarantee essential to judicial independence (Court of Justice of the European Union, judgment of 27 February 2018, C-64/16, *Associação Sindical dos Juizes Portugueses*, ECLI:EU:C:2018:117, para. 45). The Venice Commission has also recalled the importance of ensuring a sufficient remuneration of prosecutors (Venice Commission, Independence of the Judicial System, Part II: The Prosecution Service, CDL-AD(2010)040, para. 69).

<sup>64</sup> 2022 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 7.

<sup>65</sup> Input from Lithuania for the 2023 Rule of Law Report, p. 7.

<sup>66</sup> Information received from the Judicial Council in the context of the country visit to Lithuania.

<sup>67</sup> 2022 Rule of Law Report, Country chapter on the rule of law situation in Lithuania, p. 2.

<sup>68</sup> 2022 Rule of Law Report, Country chapter on the rule of law situation in Lithuania, p. 7.

<sup>69</sup> These include the need for specialisation of lawyers; balancing the workload of lawyers; setting quality standards; and establishing additional measures for the protection of vulnerable groups (input from Lithuania for the 2023 Rule of Law Report, p. 3).

<sup>70</sup> Information received from the Bar Association in the context of the country visit to Lithuania.

<sup>71</sup> Input from Lithuania for the 2023 Rule of Law Report, p. 3

have *de facto* become less adequate<sup>72</sup>. According to European standards, Member States should ensure an appropriate level of remuneration for legal aid providers<sup>73</sup>. Therefore, there has been some progress on the implementation of the recommendation made in the 2022 Rule of Law Report.

**The use of digital tools in the justice system is widespread.** This is the result of the multiple developments in the area of digitalisation in recent years, including new regulations on the use of videoconferencing in court proceedings to ensure the publicity of hearings, the acquisition of laptops and video conferencing equipment for courts as well as the launch of the Digital Service Portal<sup>74</sup>. The procedural rules allow the use of digital technology in civil, commercial, administrative and criminal cases to a large extent. For example, the oral part of the procedure can be conducted entirely via distance communication technology, including the hearing of parties, witnesses and experts<sup>75</sup>. Furthermore, there are extensive possibilities to initiate and follow proceedings in civil, commercial and administrative cases online<sup>76</sup>. This possibility is less extended in criminal cases, leaving room for improvement<sup>77</sup>.

## Efficiency

**The justice system continues to perform efficiently.** According to data in the 2023 EU Justice Scoreboard, after increasing in 2020<sup>78</sup>, the disposition time in first instance civil, commercial and administrative cases decreased again in 2021<sup>79</sup>, making it one of the lowest in the European Union<sup>80</sup>. However, at higher instances, the disposition time in civil and commercial cases increased, reaching 403 days<sup>81</sup>. The number of pending non-criminal first instance cases remained stable and comparatively low at 1.2 per 100 inhabitants<sup>82</sup>. After the trend of reduction of backlogs was interrupted in 2020<sup>83</sup>, it picked-up again in 2021, with courts resolving more cases than they receive<sup>84</sup>.

**Measures to improve the efficiency of the justice systems have been implemented and new projects are ongoing.** On 1 January 2023, amendments to the Civil Code and to the Code of Civil Procedure came into force, which enable the transfer of non-judicial cases to notaries and bailiffs<sup>85</sup>. This is expected to result in a reduction of approximately 14-15% in courts' workload<sup>86</sup>. Furthermore, the project 'Improvement of Quality, Services and Infrastructure in

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<sup>72</sup> Contribution from the Council of Bars and Law Societies of Europe (CCBE) for the 2023 Rule of Law Report, p. 69.

<sup>73</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.

<sup>74</sup> 2022 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 8.

<sup>75</sup> Figure 42, 2023 EU Justice Scoreboard.

<sup>76</sup> Figure 45, 2023 EU Justice Scoreboard.

<sup>77</sup> Figure 46, 2023 EU Justice Scoreboard.

<sup>78</sup> 2022 Rule of Law Report, Country chapter on the rule of law situation in Lithuania, p. 8.

<sup>79</sup> Civil and commercial cases: 106 days in 2021, from 117 days in 2020, Figure 7, 2023 EU Justice Scoreboard. Administrative cases: 106 days in 2021, from 112 days in 2020, Figure 9, 2023 EU Justice Scoreboard.

<sup>80</sup> Figures 7 and 9, 2023 EU Justice Scoreboard.

<sup>81</sup> Compared to 389 days in 2020. Figure 8, 2023 EU Justice Scoreboard and Figure 8, 2022 EU Justice Scoreboard.

<sup>82</sup> Figure 13, 2023 Justice Scoreboard.

<sup>83</sup> 2022 Rule of Law Report, Country chapter on the rule of law situation in Lithuania, p. 8.

<sup>84</sup> Figure 10, 2023 EU Justice Scoreboard.

<sup>85</sup> Input from Lithuania for the 2023 Rule of Law Report, pp. 20, 21.

<sup>86</sup> Information received from the Ministry of Justice in the context of the country visit to Lithuania.

Lithuanian Courts' is ongoing<sup>87</sup>. In this context, a study aimed at enhancing the quality of the conduct of judicial proceedings and at ensuring a more effective implementation of justice, was finalised<sup>88</sup>. A study on strengthening the competency of court managers for effective management of judicial resources is being prepared<sup>89</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 ethics standards in public administration. 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. The STT has competences to detect and investigate corruption-related criminal offences and conduct pre-trial investigations, and is in charge of investigating most serious corruption crimes<sup>90</sup>. The Prosecution Service organises and coordinates pre-trial investigations and may also decide to conduct the entire or part of the pre-trial investigation by itself.

**The perception among experts and business executives is that the level of corruption in the public sector remains relatively high.** In the 2022 Corruption Perceptions Index by Transparency International, Lithuania scores 62/100 and ranks 12<sup>th</sup> in the European Union and 33<sup>rd</sup> globally<sup>91</sup>. This perception has been relatively stable over the past five years<sup>92</sup>. The 2023 Special Eurobarometer on Corruption shows that 83% of respondents consider corruption widespread in their country (EU average 70%) and 21% of respondents feel personally affected by corruption in their daily lives (EU average 24%)<sup>93</sup>. As regards businesses, 62% of companies consider that corruption is widespread (EU average 65%) and 17% consider that corruption is a problem when doing business (EU average 35%)<sup>94</sup>. Furthermore, 35% of respondents find that there are enough successful prosecutions to deter people from corrupt

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<sup>87</sup> Input from Lithuania for the 2023 Rule of Law Report, p. 20.

<sup>88</sup> The study mapped the main organisational, legal and technical issues considered to be detrimental to the effectiveness of the justice system, and on this basis addressed recommendations, both regarding aspects of the organisation of judicial procedures, and regarding targeted legal amendments (National Courts Administration, 'Study of the Conduct of Judicial Proceedings').

<sup>89</sup> Input from Lithuania for the 2023 Rule of Law Report, p. 21.

<sup>90</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>91</sup> Transparency International, Corruption Perceptions Index 2022, 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>92</sup> In 2018 the score was 59, while, in 2022, the score is 62. 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.

<sup>93</sup> Special Eurobarometer 534 on Corruption (2023). The Eurobarometer data on citizens' corruption perception and experience is updated every year. The previous data set is the Special Eurobarometer 523 (2022).

<sup>94</sup> Flash Eurobarometer 524 on Businesses' attitudes towards corruption in the EU (2023). The Eurobarometer data on business attitudes towards corruption as is updated every year. The previous data set is the Flash Eurobarometer 507 (2022).

practices (EU average 32%)<sup>95</sup>, while 38% of companies believe that people and businesses caught for bribing a senior official are appropriately punished (EU average 30%)<sup>96</sup>.

**Full progress has been made regarding the implementation of the anti-corruption agenda 2022-2033.** The 2022 Rule of Law Report recommended to Lithuania to ‘start implementing the anti-corruption agenda 2022-2033’<sup>97</sup>. As reported in the 2022 Rule of Law Report<sup>98</sup>, on 28 June 2022, Parliament approved the new anti-corruption agenda 2022-2033<sup>99</sup>. On 3 May 2023, the first implementation plan of the National Anti-Corruption Agenda for 2023-2025 was adopted and is now being implemented<sup>100</sup>. The OECD has formulated a number of suggestions in relation to ensuring the appropriate implementation of the anti-corruption agenda 2023-2033<sup>101</sup>. Therefore, the 2022 Rule of Law Report recommendation has been fully implemented.

**The effect of the revised law on corruption prevention remains to be assessed.** As mentioned in the 2022 Rule of Law Report<sup>102</sup>, a revised Law on Prevention of Corruption<sup>103</sup> entered into force on 1 January 2022. It aims at a more coordinated systemic approach on prevention of corruption by making all public sector institutions responsible for mitigating corruption risks. Stakeholders welcomed the new rules. Currently, the methodologies for evaluation of the implementation of the new law are being elaborated. By 1 March 2025, the Ministry of Justice is expected to assess the impact of the new legislation and, if needed, submit proposals for improvements<sup>104</sup>. The Special Investigation Service (STT), responsible for monitoring the implementation of the Law, is currently receiving a high number of inquiries regarding the functioning of the new Law<sup>105</sup>. The STT also reported on the increasing number of notifications received in accordance with the obligation for public sector employees to report cases of potential corruption known to them under the Law on Prevention of Corruption. As part of their reporting obligations, individuals submitted 97 notifications in 2022, which is an increase of 45% in comparison to 2021, when 67 reports were received<sup>106</sup>. In order to improve the anticorruption capacities of public sector officials, STT launched an ‘Integrity Academy’

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<sup>95</sup> Special Eurobarometer 534 on Corruption (2023).

<sup>96</sup> Flash Eurobarometer 524 on Businesses’ attitudes towards corruption in the EU (2023).

<sup>97</sup> 2022 Rule of Law Report, Country chapter on the rule of law situation in Lithuania, p. 2.

<sup>98</sup> 2022 Rule of Law Report, Country chapter on the rule of law situation in Lithuania, p. 10.

<sup>99</sup> Resolution No. XIV-1178 of 28 June 2022.

<sup>100</sup> Ministry of Justice, Press release of 3 May 2023 ‘E. Jablonskas: initiatives on digitalisation and data opening will contribute to an anti-corruption breakthrough’. Based on the risks identified in 2022, the draft Plan for implementation of National Anti-Corruption Agenda in the period of 2022-2025 (Order No 324 of 3 May 2023) foresees, among others, 9 measures in the field of health protection, 7 measures to reduce risk of corruption in territorial planning and construction supervision, 4 measures to reduce risk of corruption in environmental protection. Input from Lithuania for the 2023 Rule of Law Report, pp. 32-36.

<sup>101</sup> Those are related i.a. enhancing transparency, ensuring the continuous engagement of stakeholders as well as considering to broaden its scope additional elements, such as money laundering, foreign bribery and asset recovery (OECD, Review of Lithuania’s National Agenda on the Prevention of Corruption: Strengthening Public Sector Integrity Strategies, p. 89-90).

<sup>102</sup> 2022 Rule of Law Report, Country chapter on the rule of law situation in Lithuania, p. 10.

<sup>103</sup> Law No. XIV-471, of 29 June 2021, Amending Law No. IX-904 on the Prevention of Corruption.

<sup>104</sup> Information received from STT in the context of the country visit to Lithuania.

<sup>105</sup> Based on the Chapter V, Law No. XIV-471, of 29 June 2021, Amending Law No. IX-904 on the Prevention of Corruption. Information received from STT in the context of the country visit to Lithuania.

<sup>106</sup> Special Investigation Service, 2022 Activity Report, p. 41.



which is a learning platform aimed at sharing best practices<sup>107</sup>. In addition, STT launched an e-learning platform<sup>108</sup> for public sector entities, which has already more than 35 000 users and issued more than 50 000 digital certificates.

**Investigations and prosecutions of corruption-related offences continue to be carried out efficiently.** In 2022, 126 pre-trial investigations were ongoing in STT and, 71 pre-trial investigations were opened specifically in 2022<sup>109</sup>. The STT closed and brought to court 33 pre-trial investigation cases in 2022, which constitutes an increase of 6 cases compared to 2021<sup>110</sup>. The courts dealt with 69 criminal cases in 2022, where the pre-trial investigation was conducted by STT officers. As in 2021, 74 persons were found guilty in 59 criminal cases (or 86 % of all cases handled) by the Court, of which 70 were convicted and 4 exempted from criminal liability<sup>111</sup>. At the same time, the proportion of final acquittals for corruption-related offences remains much higher than the average ratio of acquittals for criminal offences<sup>112</sup>. For 2022, the STT reports investigations in seven high-level and complex corruption cases and other five cases involving EU funds, including one case carried out by the EPPO<sup>113</sup>. The most common sanction for corruption-related offences is a fine (83% of total sanctions imposed by courts in 2022)<sup>114</sup>.

**Public procurement remains a high-risk area for corruption, with further dedicated anti-corruption measures being prepared.** Planning and executing public procurement, overseeing the performance of public purchase are still some of the riskiest areas for corruption in Lithuania<sup>115</sup>. Lithuania still faces some challenges related to the public procurement market

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<sup>107</sup> Over the last 1,5 years, more than four thousand public sector representatives have participated in anticorruption sessions. Integrity Academy, Special Investigation Service, official website, <https://skaidrumoakademija.lt/apie/>.

<sup>108</sup> Available at: [emokymai.stt.lt](https://emokymai.stt.lt)

<sup>109</sup> In 2022, STT received 4729 reports from individuals on possible breaches (8.7 % increase in the number of reports compared to 2021) which led to opening of 28 pre-trial investigations were opened at the Office in 2022 (which represent 5 more investigations based on reports from individuals in comparison to 2021). Special Investigation Service, 2022 Activity Report, pp. 16, 20.

<sup>110</sup> Special Investigation Service, 2022 Activity Report, p. 25.

<sup>111</sup> Special Investigation Service, 2022 Activity Report, p. 32. E.g. in October 2022, the Court of Appeal of Lithuania maintained the effect of the judgment of the court of first instance, which found the Political Party 'Order and Justice', currently undergoing liquidation, and five natural persons guilty of trading in influence and of other corruption crimes. The fine of EUR 112 000 was upheld, and the assets belonging to the party, worth more than EUR 279 000, were confiscated. Special Investigation Service (2022), Political party "Order and Justice" and 5 persons remain convicted of corrupt crimes of 26 October 2022; Special Investigation Service (2022), A former adviser to the State Labour Inspectorate was found guilty of bribery and trafficking in influence – a fine of EUR 7000 was imposed of 18 November 2018.

<sup>112</sup> In 2020: general percentage of acquittals versus percentage of acquittals in corruption offences was 1,5%/ 6%, in 2021 it was 1.4%/11%, and in 2022 it was 1.9%/18%. Information received from the Prosecution Service in the context of the country visit in Lithuania.

<sup>113</sup> EPPO, 'Tobacco smuggling case leads to first EPPO indictment in Lithuania' (Press release of 28 January 2022). EPPO reports good cooperation with Lithuania but calls for more support from the authorities (Contribution from the EPPO for the 2023 Rule of Law Report, p. 40-41). Also, media report a possible large case of corruption regarding the misuse of public allowances involving high-ranked public officials.

<sup>114</sup> Input from Lithuania for the 2023 Rule of Law Report, p. 39.

<sup>115</sup> In June 2022, 15 suspects who were allegedly involved in an illicit enrichment worth at least EUR 250 000 and linked to a public procurement procedure funded by the European Union (EU), were arrested. They illicitly enriched themselves by acting with representatives of private companies that paid them for services. The payments of these services might have been used to obtain favourable treatment in public procurement procedures organised and carried out by the National Food and Veterinary Risk Assessment Institute and financed by EU funds (Special Investigation Service (2022), 15 arrests and 50 seizures in Lithuania in illicit

and its lack of competition<sup>116</sup>, even though the experience of businesses in dealing with potentially corrupt situations in public procurement has decreased significantly<sup>117</sup>. Those challenges<sup>118</sup> will be addressed through reforms to promote the centralisation of public procurement and the professionalisation of staff<sup>119</sup>. The Public Procurement Office is planning to launch a new e-procurement system, ‘SAULE’, in the second half of 2023<sup>120</sup>. The new system is expected to address corruption risks by allowing for easier gathering, handling and analysis of public procurement data throughout the procurement process, which is expected to become simpler and more user friendly. The system is expected to be integrated with other state registers such as the Register for Private Interests (PINREG). The draft Plan for the implementation of the National Anti-Corruption Agenda in the period of 2022-2025 envisages two measures to reduce the risk of corruption in public procurement<sup>121</sup>. As a follow-up to the STT detected risks to public procurement, amendments were put forward to the Law on Public Procurement in December 2022. These amendments aim at increasing transparency and facilitate control in the area of public procurement<sup>122</sup>.

**Shortcomings remain in relation to the investigation and prosecution of foreign bribery cases.** Lithuania committed to investigating bribery of foreign officials abroad by businesses and their employees in 2017, when it signed the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions<sup>123</sup>. A recent report concerning the implementation of this OECD Convention puts Lithuania among countries with ‘little or no enforcement’ related to deterring and investigating foreign bribery for the period 2018-2021 which constitutes a decrease from the previous reporting period when enforcement in Lithuania

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enrichment case amounting to EUR 250 000, of 14 June 2022). See also Special Investigation Service, 2022 Activity Report, p. 50. The Flash Eurobarometer 524 on Businesses’ attitudes towards corruption in the EU (2023) shows that 25% of companies in Lithuania (EU average 26%) think that corruption has prevented them from winning a public tender or a public procurement contract in practice in the last three years.

<sup>116</sup> The percentage of single bids has increased significantly in the last two years (28% in 2020 to 34% in 2022). Moreover, the number of contracts awarded based on the lowest price remains above the EEA average at 93%. 2023 European Semester Country Report for Lithuania, p. 12.

<sup>117</sup> According to the survey, 24% of CEOs said they encountered with collusive bidding (31% in 2021), 23% – tailor-made criteria for a certain participant (37% in 2021), 23% – public contracts that were usually signed with the same participants (32% in 2021), 11% – contract winner was known in advance (17% in 2021), 10% – contract was awarded due to personal connections (20% in 2020), 8% – contract was awarded due to political pressure (14% in 2021). Lithuanian Corruption Map 2022/2023.

<sup>118</sup> Those are related to the high number of awards with a single bidder, low levels of centralised procurement and reliance on price criteria for making award decisions (2023 European Semester Country Report for Lithuania, p. 55).

<sup>119</sup> 2023 European Semester Country Report for Lithuania, p. 57.

<sup>120</sup> The progress of the project can be followed here: SAULE IS projekto eiga | Viešųjų pirkimų tarnyba (lr.v.lt).

<sup>121</sup> Firstly, it is to create and implement a digital tool that would ensure the integrity and openness of public procurement data and would enable to conduct analysis and make databased decisions. Secondly, it is to analyse the practice of application of the institute of unreliable suppliers and factors potentially reducing the effectiveness of the application of this institute (Input from Lithuania for the 2023 Rule of Law Report, p. 36).

<sup>122</sup> These amendments, among others, aim to establish the duty of procuring organizations while reporting on public procurement to inform the Public Procurement Office about the persons (names and surnames) that were related to the procurement (employees of the procuring organisation, initiators of the procurement, members of the procurement commission, experts, and observers), if these persons have an obligation to provide declarations of interest according to the Law (Information received from STT in the context of the country visit to Lithuania).

<sup>123</sup> OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

was identified as ‘limited’<sup>124</sup>. Currently there are two ongoing investigations regarding foreign bribery<sup>125</sup>.

**Further measures were taken in view of an efficient implementation of the integrity rules.** While stakeholders consider PINREG<sup>126</sup> to be well functioning<sup>127</sup>, it is reported that in some cases politicians started to declare less interest due to flexibility of the current rules which rendered optional providing some categories of information<sup>128</sup>. The Chief Official Ethics Commission (COEC) is currently completing the testing of the Official Ethics Standards Framework (TESS) which is an interactive platform for the official ethics advisers and a module of PINREG. This platform is expected to provide access to training materials prepared by the COEC<sup>129</sup>. Furthermore, the COEC created a website<sup>130</sup> aimed at expanding the knowledge of persons working in the civil service in the areas of declaration, management of conflicts of interest, restrictions after the end of the service and other areas of implementation of the provisions of the Law on the Adjustment of Public and Private Interests (LAPPI).

**The current rules concerning lobbying give positive results in terms of submitted declarations.** Data show that politicians have started disclosing their meetings and do this on a larger scale compared with the previous years<sup>131</sup>. According to the COEC report, the number of registered lobbyists raised from 255 in 2021 to 295 in 2022<sup>132</sup>. Stakeholders consider the

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<sup>124</sup> Exporting Corruption, Transparency International, Report, 2022. A Phase 3 Report by the OECD Working Group in Bribery is expected to be delivered at the end of 2023.

<sup>125</sup> Information received from STT in the context of the country visit to Lithuania.

<sup>126</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>127</sup> Information received from COEC, STT and Transparency International in the context of the country visit in Lithuania.

<sup>128</sup> Information received from Transparency International in the context of the country visit to Lithuania. It is raised that the new system made the persons in question declare less information in practice. There are initial discussions on bringing further clarity to this process regarding mandatory and optional elements. Information received from COEC and Transparency International in the context of the country visit in Lithuania.

<sup>129</sup> The aim is to build and strengthen the network of the official ethics advisers responsible for monitoring compliance with the Law on Adjustment of Public and Private Interests (LAPPI) in public sector institutions. TESS consists of three main components: the Official Ethics Adviser Knowledge Centre, the 24/7 Official Ethics Training and the Official Ethics Level. The official ethics advisers will be able to improve their knowledge in the field of implementing the LAPPI, as well as be able to train other employees, adapting the training material according to the relevant needs of their institution, activity or specific needs of employees’ input.

<sup>130</sup> Information available at: [www.prevencijavtek.lt](http://www.prevencijavtek.lt).

<sup>131</sup> Data shows that politicians most often meet with business representatives (1 418 meetings in total), education, culture, and sport professionals (1 002) and healthcare sector representatives (955). Only one politician from Lithuanian municipalities declared a meeting with an official lobbyist. More municipal representatives publish their meetings (Transparency International Lithuania (2022), One third more municipal leaders publicise long-term agendas, 14 June 2022).

<sup>132</sup> COEC Annual Activity Report 2022, p. 9.

online Register of Lobbyists and of lobbying activities, SKAIDRIS<sup>133</sup>, to be well functioning<sup>134</sup>.

**The implementation of the Law on the Adjustment of Public and Private Interests (LAPPI) continues to be carried out efficiently.** In 2022, 55 complaints were submitted to the COEC regarding potential violation of provisions on conflicts of interest covered by the LAPPI. COEC opened 47 investigations into possible violations of the provisions of LAPPI<sup>135</sup>. Overall, in 2022, there were fewer appeals<sup>136</sup> to courts against decisions issued by COEC and the number of opinions and recommendations issued by COEC is on the rise<sup>137</sup>.

**New rules have been adopted regarding the accountability for the financing of political parties and political campaigns.** In view of addressing the challenges of properly controlling and monitoring election committees for municipal elections<sup>138</sup> by the Central Electoral Commission<sup>139</sup>, the Parliament adopted the new Electoral Code in June 2022<sup>140</sup>. The new code establishes procedures and accountability for the financing of political parties and political campaigns. Under the new rules, election committees that can put forward lists of candidates for municipal and European Parliament elections will have to be established as legal entities at least six months before the elections. Based on the new rules, legal persons are prohibited from making any form of donations to political parties or political campaigners and paid political advertising is regulated more strictly.

**The whistleblower protection legislation is being efficiently implemented.** In 2022, the Office of the Prosecutor General recognised 31 persons as whistleblowers (in comparison to 43 persons in 2021)<sup>141</sup>. In 2022, in line with the GRECO recommendation<sup>142</sup>, the Prosecutor General's Office organised training on whistleblowing and the protection of whistleblowers for

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<sup>133</sup> SKAIDRIS, the Register of Lobbyists and of lobbying activities official website, <https://skaidris.vtek.lt/public/lobbyistDeclaration/listPublic?filter=%7B%22page%22%3A1%22pageSize%22%3A10%22dateRange%22%3A%7B%7D%7D>.

<sup>134</sup> Information received from the Prosecution Service and Transparency International in the context of the country visit to Lithuania.

<sup>135</sup> COEC Annual Activity Report 2022, p. 12.

<sup>136</sup> The indicator is considered achieved if the share of appealed decisions is below 40% of the number of decisions adopted regarding possible violations by the COEC in the respective calendar year. In 2022, 8 out of 60 decisions were appealed (against 12 out of 92 in 2021). COEC Annual Activity Report 2022, p. 5.

<sup>137</sup> The opinions and recommendations of the COEC aim to provide information on the implementation of specific provisions of LAPPI to instruct declarants on the specific actions or standards of conduct which they should follow. The outcome indicator chosen in the COEC Action Plan to monitor this task is the number of opinions and recommendations made by the COEC. The target is to steadily increase the number of opinions and recommendations provided by the COEC by 5% annually from the starting year 2021. The initial target of 300 opinions and recommendations was set in 2021. In 2022, 468 opinions and recommendations were issued against 400 in 2021. COEC Annual Activity Report 2022, p. 6.

<sup>138</sup> Every citizen has the right form committees to be able to compete in elections; however, they were not obliged to financial accountability after the elections ended. Additionally, those committees were often linked to corporate interests.

<sup>139</sup> The financing of political parties and of political campaigns is monitored by the Central Electoral Commission. It is the state institution responsible for organising and conducting elections and referendums, be it the elections of the Parliament, the President of Lithuania, mayors or municipal councils.

<sup>140</sup> Electoral Code, No. XIV-1154, of 22 June 2022.

<sup>141</sup> Input from Lithuania for the 2023 Rule of Law Report, p. 31.

<sup>142</sup> 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. GRECO Fifth Evaluation Report – Evaluation Report on Lithuania, p. 60.

all levels of hierarchy and chains of command in the Police and State Border Guard Service, prosecutors and other employees of the Prosecutor's Office, judges and other employees of the judicial system and attorneys<sup>143</sup>. In 2022, information and advice with regard to the application of the rules in place was provided by the Prosecutor's Office to 265 persons which is regarded as an important awareness-raising tool<sup>144</sup>. Furthermore, the representatives of Prosecutor General's Office participated in various events to make the general public aware of the issues related to whistleblower protection. STT continued to carry out an information and awareness campaign to inform the public about how to report corruption crimes and to encourage it to do so<sup>145</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. Access to information held by public authorities is regulated by the Law on the Right to Obtain Information and Data Reuse. The institutional framework consists of the Lithuanian Radio and Television Commission (LRTK), the Office of the Inspector of Journalist Ethics and the Public Information Ethics Association<sup>146</sup>.

**The legal framework concerning the regulator for audiovisual media services has been revised to expand its tasks and to clarify the independence requirements.** In September 2022, the Law on the Provision of Information to the Public was amended<sup>147</sup> to prohibit the retransmission and internet distribution of TV and radio channels and programmes that can be linked to Russia or Belarus, except when authorised by the LRTK. For the purposes of implementing that prohibition and for the purposes of implementing the EU restrictive measures applicable to Russian and Belorussian outlets, the LRTK monitors media content on websites and can issue blocking orders in case of detected violations<sup>148</sup>. Another recent amendment<sup>149</sup> of the Law clarified the independence requirements applicable to the LRTK,

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<sup>143</sup> Input from Lithuania for the 2023 Rule of Law Report, p. 30.

<sup>144</sup> Based on the current rules, information and advice to individuals on whistleblower protection issues are provided both by phone (Hotline for Whistleblowers) and upon arrival at the Prosecutor's Office. For example, competent employees can advise persons on how to fill up report form and what documents and information needs to be provided. Information and advice are also provided to the persons who already have the status of whistleblower and have experienced adverse actions against them or wish to receive legal assistance guaranteed by the state. Input from Lithuania for the 2023 Rule of Law Report, p. 30.

<sup>145</sup> The campaign 'Corruption is a vanishing species' aimed at informing the public about how to report corruption crimes and to encourage it to do so. Various campaign elements (video on the national TV and social media, public transport, outdoor stand, "YouTube" bumper ads, banners in local news portals, visuals in social media) were shown about 3 million times. After this campaign, the number of received reports increased. In the first week of the campaign the number of reports received increased by 81% (comparing to the week before the campaign start). During the first month of the campaign STT received 40% more reports (comparing to the same month of the previous year), during the second month 19%. Proportion of anonymous reports decreased 3.5 times. Input from Lithuania for the 2023 Rule of Law Report, p. 30-31.

<sup>146</sup> Lithuania ranks 7<sup>th</sup> in the 2023 Reporters without Borders World Press Freedom Index compared to 9<sup>th</sup> in the previous year.

<sup>147</sup> Law No XIV-1425 of 22 September 2022.

<sup>148</sup> Information received from LRTK in the context of the country visit to Lithuania. One such order was issued on 8 March 2023.

<sup>149</sup> Law No XIV-1079 of 12 May 2022.



stipulating that the chair and deputy chair cannot engage in any other activity, except academic work and creative activities that do not give rise to a conflict of interest. The Media Pluralism Monitor (MPM 2023) reports a very low risk for the independence and effectiveness of the media authority<sup>150</sup>.

**Legislation to improve the effectiveness and impartiality of media self-regulatory bodies was adopted.** 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 in 2021<sup>151</sup>, a parliamentary working group completed its review of the applicable legal provisions and proposed legislative amendments in 2022<sup>152</sup>. The amendments, adopted on 25 May 2023<sup>153</sup>, in particular broaden the composition of the Ethics Commission by including the representatives of public service media (LRT) and the Media Council together with academia.

**To enhance the transparency of media ownership, the Ministry of Culture continued to develop the publicly available Information System of Producers and Disseminators of Public Information.** As mentioned in the 2022 Rule of Law Report, 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>154</sup>. The system is rolled out progressively: media service providers have to submit their ownership data by 30 June 2023. In order to facilitate the roll-out, the Ministry organised training for the market players. Civil society organisations contribute to improving the transparency of the media market too<sup>155</sup>. According to the MPM 2023, media ownership transparency is at low risk<sup>156</sup>. While news media concentration is very high, Lithuanian law does not provide for specific rules on market concentration in the media sector<sup>157</sup>.

**Transparency of state advertising expenditure has been improved, and a reform of media funding has been launched.** 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. As of 2023, public institutions and bodies have to make information about the funds they have used for state advertising public on their websites<sup>158</sup>. In order to improve the financial support to the media, legislative amendments establishing a new Media Support Fund were adopted<sup>159</sup>. The reform strengthens efficiency, flexibility and self-governance of media funding that will be channelled through four main programmes: news, investigative and educational journalism, cultural media, regional media as well as media in the languages of national minorities and media of the Lithuanian

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<sup>150</sup> 2023 Media Pluralism Monitor, country report for Lithuania, p. 13.

<sup>151</sup> 2022 Rule of Law Report, Country chapter on the rule of law situation in Lithuania, p. 14.

<sup>152</sup> Input from Lithuania for the 2023 Rule of Law Report, p. 45.

<sup>153</sup> Law No XIV-2018 of 25 May 2023.

<sup>154</sup> 2022 Rule of Law Report, Country chapter on the rule of law situation in Lithuania, p. 14.

<sup>155</sup> The Lithuanian section of Transparency International has created a website called ‘S.T.I.R.NA’ to present information on media owners in a structured and easily accessible way.

<sup>156</sup> 2023 Media Pluralism Monitor, country report for Lithuania, p. 14. Nevertheless, MPM 2023 notes that disclosure of news media ownership is effectively provided to public bodies and the public only partially.

<sup>157</sup> 2023 Media Pluralism Monitor, country report for Lithuania, p. 14-15.

<sup>158</sup> Law No XIV-1080 of 12 May 2022.

<sup>159</sup> Law No XIV-1904 of 25 April 2023.

diaspora<sup>160</sup>. Also, amended legislation now allows to partially compensate the costs of the delivery of newspapers and magazines in cities that fall into sparsely and moderately densely populated residential areas. According to the MPM 2023, ‘state regulation of resources and support to the media sector’ are at low risk<sup>161</sup>.

**The public service broadcaster continues to operate independently, under a robust legal framework.** 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 the objective of obtaining incorrect or biased reporting<sup>162</sup>. The Law on Lithuanian National Radio and Television contains specific and robust safeguards for the independence of LRT, in particular its independent governance<sup>163</sup>. The recent elections of the Director General of LRT resulted in a split vote with none of the two candidates gaining the required number of votes<sup>164</sup>. The new competition will take place in autumn 2023. According to the MPM 2023, ‘independence of public service media’ is at low risk<sup>165</sup>.

**Significant progress has been made on access to official documents, as several measures were taken to improve journalists’ access to information held by public authorities and bodies.** The 2022 Rule of Law Report recommended to Lithuania to “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”<sup>166</sup>. The December 2022 amendments to the Real Estate Registry Law improved journalists’ access to the data of the Registry<sup>167</sup>. As a result of participation in an EU-funded project<sup>168</sup> aimed at finding practical ways to reconcile personal data protection requirements and freedom of expression and information, the Office of the Inspector of Journalist Ethics issued guidance on the matter in February 2023. The guidance underlines the role of media as a watchdog and the possibility to get access to personal data in that context. Furthermore, it contains a step-by-step guide helping the public authorities and bodies to decide whether to disclose personal data, and provides templates for journalists’ requests<sup>169</sup>. It remains to be seen to what extent the guidance will improve journalists’ access to information held by public authorities and bodies in practice. In view of these measures, there has been significant progress in addressing the 2022 Recommendation.

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<sup>160</sup> Input from Lithuania for the 2023 Rule of Law Report, p. 46 and information received from the Ministry of Culture in the context of the country visit to Lithuania.

<sup>161</sup> 2023 Media Pluralism Monitor, country report for Lithuania, p. 18.

<sup>162</sup> Art. 7, Law on the Provision of Information to the Public.

<sup>163</sup> 2022 Rule of Law Report, Country chapter on the rule of law situation in Lithuania, p. 15. According to European Parliament’s Flash Eurobarometer: News & Media Survey 2022, 56% of respondents in Lithuania stated that they trust public TV and radio stations, above the EU average of 49%.

<sup>164</sup> LRT, ‘LRT Council fails to elect new director general’, 21.03.2023.

<sup>165</sup> 2023 Media Pluralism Monitor, country report for Lithuania, p. 18.

<sup>166</sup> 2022 Rule of Law Report, Country chapter on the rule of law situation in Lithuania, p. 2.

<sup>167</sup> Law No XIV-1770 of 23 December 2022.

<sup>168</sup> ‘Connecting not conflicting: removing the tension between personal data protection and freedom of expression and information’. For further information, see: <https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/how-to-participate/org-details/999999999/project/101005477/program/31076817/details>.

<sup>169</sup> Information received from the Office of the Inspector of Journalist Ethics in the context of the country visit to Lithuania.

**Public authorities and media took several measures to improve the safety of journalists and their protection against abusive lawsuits.** Since the publication of the 2022 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>170</sup>, or the Mapping Media Freedom platform<sup>171</sup>. Also, online threats and harassment on social media networks, especially directed at investigative journalists and those who cover protests, have receded<sup>172</sup>. The Ministry of Culture established a working group to coordinate the putting into practice of the Commission’s Safety of Journalists Recommendation<sup>173</sup>. A draft action plan was prepared, comprising training by judicial and law enforcement authorities of their staff as well as police briefings for journalists ahead of major events<sup>174</sup>, followed by the outreach to stakeholders. In 2022, the LRT renewed their safety and occupational health policy, providing for additional health insurance as well as training on physical protection for its journalists<sup>175</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 were adopted in December 2022<sup>176</sup>. 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 latter revises the criminal liability for defamation, in order to strengthen the protection of journalists and other disseminators of public information from unjustified prosecution<sup>177</sup>. The proposed amendments to the Law on State-Guaranteed Legal Aid, deliberated in the Parliament, include the right to receive state-guaranteed legal aid regardless of income and assets in SLAPP cases<sup>178</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 is in charge of constitutional review of enacted legislation and of acts of the President and the Government (ex post 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 the National Human Rights Institution and are tasked with protecting and promoting human rights and fundamental freedoms.

**The implementation of the project aiming at improving the quality of law-making continues.** The 2022 Rule of Law Report took note of the project to improve the quality of legislation initiated by the Government<sup>179</sup>. In this context, the Ministry of Justice is preparing recommendations for the codification of existing legislation, as well as methodological recommendations which are expected to ensure the quality of legislation<sup>180</sup>. These methodological recommendations have been prepared in line with the Government’s rules on impact assessment and monitoring of implementation of draft legal acts. The quality of law-

<sup>170</sup> Council of Europe, Platform to promote the protection of journalism and safety of journalists, Lithuania.

<sup>171</sup> European Centre for Press and Media Freedom, Mapping Media Freedom, Lithuania country profile.

<sup>172</sup> 2023 Media Pluralism Monitor, country report for Lithuania, p. 12.

<sup>173</sup> Commission Recommendation (EU) 2021/1534 of 16 September 2021 on ensuring the protection, safety and empowerment of journalists and other media professionals in the European Union.

<sup>174</sup> Input from Lithuania for the 2023 Rule of Law Report, p. 47.

<sup>175</sup> Information received from LRT in the context of the country visit to Lithuania.

<sup>176</sup> Law No XIV-1748 of 22 December 2022 and Law No XIV-1749 of 22 December 2022.

<sup>177</sup> Input from Lithuania for the 2023 Rule of Law Report, p. 48.

<sup>178</sup> Information received from Lithuanian Journalists’ Union in the context of the country visit to Lithuania.

<sup>179</sup> 2022 Rule of Law Report, Country chapter on the rule of law situation in Lithuania, p. 17.

<sup>180</sup> Input from Lithuania for the 2023 Rule of Law Report, p. 49.

making and frequent changes in legislation remains a significant reason for concern about the effectiveness of investment protection among companies in Lithuania<sup>181</sup>.

**The Constitutional Court continues to scrutinise measures adopted during the COVID-19 pandemic, including upon individual constitutional complaints.** In 2022 and 2023, the Constitutional Court adopted three decisions on merits regarding emergency measures adopted in the context of the COVID-19 pandemic<sup>182</sup>. In all three cases, the emergency measures were found to be compatible with the Constitution. Several other cases related to COVID-19 measures remain pending before the Constitutional Court, including cases that have been referred by ordinary courts, and cases of individual requests for constitutionality review of COVID-19-related measures<sup>183</sup>. Although the measures whose constitutionality is being challenged have all been repealed, the Constitutional Court has the obligation to examine the cases when the request originates in a court or an individual constitutional complaint<sup>184</sup>.

**On 1 January 2023, Lithuania had 19 leading judgments of the European Court of Human Rights pending implementation, an increase of three compared to the previous year<sup>185</sup>.** At that time, Lithuania's rate of leading judgments from the past 10 years that remain pending was at 31% (compared to 24% in 2022), the average time that the judgments have been pending implementation was almost 3 year and 4 months (compared to 3 years and 9 months in 2022)<sup>186</sup>. The oldest leading judgment, pending implementation for almost 15 years, concerns the lack of legislation governing the conditions and procedures relating to gender reassignment<sup>187</sup>. Following the adoption of a constitutional amendment aimed at implementing the European Court of Human Rights judgment in case *Paksas v. Lithuania*<sup>188</sup>, the Committee of Ministers considered that it had been fully implemented and closed its examination<sup>189</sup>. On 15 June 2023, the number of leading judgments pending implementation has increased to 20<sup>190</sup>.

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<sup>181</sup> Figure 54, 2023 EU Justice Scoreboard indicates that 'Frequent changes in legislation or concerns about quality of the law-making process' are of concern to 26% of companies in Lithuania. Compared to 2022, the total share of companies saying they are confident on the effectiveness of investment protection has increased in Lithuania by 8 percentage points.

<sup>182</sup> Constitutional Court, Judgments of 21 June 2022, No. KT79-N8/2022; 12 October 2022, No. KT128-N12/2022; 24 January 2023, No. KT8-N1/2023.

<sup>183</sup> Information received from the Constitutional Court in the context of the country visit to Lithuania.

<sup>184</sup> Ibid.

<sup>185</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>186</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 2023. See the Contribution from the European Implementation Network for the 2023 Rule of Law Report, p. 5.

<sup>187</sup> Judgment of the European Court of Human Rights of 11 September 2007, *L. v. Lithuania*, 27527/03, pending implementation since 2008.

<sup>188</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. See also 2022 Rule of Law Report, Country chapter on the rule of law situation in Lithuania, p. 18.

<sup>189</sup> Committee of Ministers, Resolution CM/ResDH(2022)253, of 22 September 2022.

<sup>190</sup> Data according to the online database of the Council of Europe (HUDOC-EXEC).

**The state of emergency in the border regions has been lifted.** As referred in the 2022 Rule of Law Report, a state of emergency was in place from November 2021 until January 2022, in response to the instrumentalisation of migrants by Belarus<sup>191</sup>. On 24 February 2022, following Russia's military aggression against Ukraine, the President of the Republic introduced a state of emergency throughout the national territory for a period extending to 10 March 2022. On 24 February 2022, Parliament adopted a resolution endorsing the decision by the President<sup>192</sup>. Since then, the state of emergency was extended several times, and ceased to apply on 2 May 2023<sup>193</sup>. The territorial scope of the emergency measures was gradually reduced<sup>194</sup>, and the measures consisted of enhanced border surveillance and border checks, as well as stricter visa regimes for Russian and Belarussian citizens. Initial limitations to the activities of non-governmental organisations (NGOs) and journalists in border areas have been withdrawn<sup>195</sup>, and positive developments are reported concerning the right of asylum seekers and migrants to move freely after a favourable decision from a migration department<sup>196</sup>. On 30 June 2022, the Court of Justice of the European Union (CJEU) ruled in an urgent preliminary ruling proceeding regarding a number of restrictive measures applied during the state of emergency<sup>197</sup>, having declared incompatible with EU law certain measures considered to deprive migrants from access to applications for international protection, as well as certain measures implying a mandatory detention for the sole reason of illegal entry into the territory. Stakeholders expressed concerns regarding the amendments to the Law on State Border Protection, which came into force on 3 May 2023, questioning their compliance with the Court of Justice ruling of June 2022<sup>198</sup>. There is currently an ongoing dialogue between Lithuania and the Commission with a view to better understanding the modalities of the law, in particular as regards its implementation, so as to ensure that it is compliant with EU law.

**There has been no further progress in addressing the 2022 recommendation on resources for the Parliamentary Ombudspersons.** The 2022 Rule of Law Report recommended to Lithuania to '[p]rovide 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'<sup>199</sup>. The Office of the Parliamentary Ombudspersons is accredited with 'A' status by the UN Global Alliance of National Human Rights Institutions (GANHRI)<sup>200</sup>. In June 2022, the Government approved the recommendations addressed to Lithuania during the third cycle of the Universal Periodic Review conducted by the Human Rights Council of the United Nations to allocate sufficient

<sup>191</sup> 2022 Rule of Law Report, Country chapter on the rule of law situation in Lithuania, p. 18.

<sup>192</sup> Parliament, Press release of 13 September 2022.

<sup>193</sup> Government of Lithuania, Press release of 8 March 2023.

<sup>194</sup> During the last applicable period, the emergency measures applied to the state border with Belarus and the border section with the Kaliningrad Oblast of the Russian Federation as well as at border control posts located outside of the border section territory.

<sup>195</sup> Information received from NGO Coalition and Freedom House in the context of the country visit to Lithuania.

<sup>196</sup> Contribution from the Lithuanian Human Rights Monitoring Institute for the 2023 Rule of Law Report, p. 2.

<sup>197</sup> Court of Justice of the European Union, Judgment of 30 June 2022, *Case C-72/22, M.A.*, ECLI:EU:C:2022:505.

<sup>198</sup> Information received from the Office of the Seimas Ombudspersons in the context of the country visit to Lithuania. See also contribution from the European Network of National Human Rights Institutions (ENNHRI) for the 2023 Rule of Law Report, p. 412; contribution from the Lithuanian Human Rights Monitoring Institute for the 2023 Rule of Law Report, p. 3.

<sup>199</sup> 2022 Rule of Law Report, Country chapter on the rule of law situation in Lithuania, p. 2.

<sup>200</sup> The Office of the Parliamentary Ombudspersons is accredited with 'A' status by the United Nations Global Alliance of National Human Rights Institutions.



funding to the Office of the Parliamentary Ombudspersons<sup>201</sup>. However, it is reported that, whereas the Office of the Ombudspersons raised the issue of the shortage of resources with Parliament and the Government, the request to allocate funds for the recruitment of new human rights officers was not considered<sup>202</sup>. The shortage of resources is considered to limit the possibilities for specialisation in specific areas of competence, as well as the capacities for the scrutiny of the questions under supervision<sup>203</sup>. It is recalled that, 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>204</sup>. Therefore, there has been no further progress on the implementation of the recommendation made in the 2022 Rule of Law Report.

**Non-governmental organisations are increasingly recognised as partners in decision making processes.** The civic space continues to be considered open<sup>205</sup> and civil society organisations (CSOs) have been actively involved in decision-making and implementation regarding the support to refugees from Ukraine<sup>206</sup>. It is reported that the Government increasingly recognises NGOs as vital partners, particularly in emergency situations. In this context, the new Law on crisis management and civil protection<sup>207</sup> expressly foresees that NGOs may be included in the prevention and management of an emergency. The Government is also promoting instruments to improve citizens' participation in decision-making, through the creation of citizens' councils to discuss the State Progress Strategy 'Lithuania 2050'<sup>208</sup>. Responding to calls from civil society, the Law on Personal Income Tax, which provides that taxpayers can allocate a certain percentage of their income tax to non-profit organisations, was amended to reduce the categories of recipients of such tax treatment, allowing its granting only to NGOs and trade unions, thus excluding public authorities. While stakeholders welcome these amendments<sup>209</sup>, they will only come into force in 2025<sup>210</sup>.

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<sup>201</sup> Contribution from the UN Human Rights Regional Office for Europe – Lithuania for the 2023 Rule of Law Report, p. 3.

<sup>202</sup> Input from Lithuania for the 2023 Rule of Law Report, pp. 53-54.

<sup>203</sup> Information received from the Office of the Seimas Ombudspersons in the context of the country visit to Lithuania. Contribution from the European Network of National Human Rights Institutions (ENNHRI) for the 2023 Rule of Law Report, p. 406.

<sup>204</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>205</sup> Rating by CIVICUS; ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed.

<sup>206</sup> Franet (2023), Country research – Legal environment and space of civil society organisations in supporting fundamental rights – Lithuania, p. 3.

<sup>207</sup> Law on Civil Protection, of 23 December 2022. The law came into force on 1 January 2023.

<sup>208</sup> Government of Lithuania, Press release of 13 October 2022.

<sup>209</sup> Information received from NGO Coalition in the context of the country visit to Lithuania.

<sup>210</sup> Franet (2023), Country research – Legal environment and space of civil society organisations in supporting fundamental rights – Lithuania, pp. 4-5.

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

\* *The list of contributions received in the context of the consultation for the 2023 Rule of Law report can be found at [https://commission.europa.eu/publications/2023-rule-law-report-targeted-stakeholder-consultation\\_en](https://commission.europa.eu/publications/2023-rule-law-report-targeted-stakeholder-consultation_en).*

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

The Commission services held virtual meetings in March 2023 with:

- Bar Association
- COEC
- Confederation of Lithuanian Industrialists
- 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 Inspector of Journalist Ethics
- 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:

- ALDA (European Association for Local Democracy)
- Amnesty International
- Civil Liberties Union for Europe
- Civil Society Europe
- Culture Action 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
- Front Line Defenders
- ILGA Europe
- International Commission of Jurists
- International Federation for Human Rights (FIDH)



- International Planned Parenthood Federation European Network
- International Press Institute
- JEF Europe
- Osservatorio Balcani e Caucaso Transeuropa
- Philea
- Reporters Without Borders
- SOLIDAR
- Transparency International EU